



Economic and Social Council

Distr.: General
21 December 2009

Original: English

Committee on Economic, Social and Cultural Rights

Forty-third session

2–20 November 2009

General comment No. 21

Right of everyone to take part in cultural life (art. 15, para. 1 (a), of the International Covenant on Economic, Social and Cultural Rights)

I. Introduction and basic premises

1. Cultural rights are an integral part of human rights and, like other rights, are universal, indivisible and interdependent. The full promotion of and respect for cultural rights is essential for the maintenance of human dignity and positive social interaction between individuals and communities in a diverse and multicultural world.

2. The right of everyone to take part in cultural life is closely related to the other cultural rights contained in article 15: the right to enjoy the benefits of scientific progress and its applications (art. 15, para. 1 (b)); the right of everyone to benefit from the protection of moral and material interests resulting from any scientific, literary or artistic production of which they are the author (art. 15, para. 1 (c)); and the right to freedom indispensable for scientific research and creative activity (art. 15, para. 3). The right of everyone to take part in cultural life is also intrinsically linked to the right to education (arts. 13 and 14), through which individuals and communities pass on their values, religion, customs, language and other cultural references, and which helps to foster an atmosphere of mutual understanding and respect for cultural values. The right to take part in cultural life is also interdependent on other rights enshrined in the Covenant, including the right of all peoples to self-determination (art. 1) and the right to an adequate standard of living (art. 11).

3. The right of everyone to take part in cultural life is also recognized in article 27, paragraph 1, of the Universal Declaration of Human Rights, which states that “everyone has the right freely to participate in the cultural life of the community”. Other international instruments refer to the right to equal participation in cultural activities;¹ the right to participate in all aspects of social and cultural life;² the right to participate fully in cultural

¹ International Convention on the Elimination of All Forms of Racial Discrimination, art. 5 (e) (vi).

² Convention on the Elimination of All Forms of Discrimination against Women, art. 13 (c).

the right to their cultural diversity, traditions, customs, religion, forms of education, languages, communication media (press, radio, television, Internet) and other manifestations of their cultural identity and membership.

33. Minorities, as well as persons belonging to minorities, have the right not only to their own identity but also to development in all areas of cultural life. Any programme intended to promote the constructive integration of minorities and persons belonging to minorities into the society of a State party should thus be based on inclusion, participation and non-discrimination, with a view to preserving the distinctive character of minority cultures.

6. Migrants

34. States parties should pay particular attention to the protection of the cultural identities of migrants, as well as their language, religion and folklore, and of their right to hold cultural, artistic and intercultural events. States parties should not prevent migrants from maintaining their cultural links with their countries of origin.³²

35. As education is intrinsically related to culture, the Committee recommends that States parties adopt appropriate measures to enable the children of migrants to attend, on a basis of equal treatment, State-run educational institution and programmes.

7. Indigenous peoples

36. States parties should take measures to guarantee that the exercise of the right to take part in cultural life takes due account of the values of cultural life, which may be strongly communal or which can only be expressed and enjoyed as a community by indigenous peoples.³³ The strong communal dimension of indigenous peoples' cultural life is indispensable to their existence, well-being and full development, and includes the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.³⁴ Indigenous peoples' cultural values and rights associated with their ancestral lands and their relationship with nature should be regarded with respect and protected, in order to prevent the degradation of their particular way of life, including their means of subsistence, the loss of their natural resources and, ultimately, their cultural identity.³⁵ States parties must therefore take measures to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources, and, where they have been otherwise inhabited or used without their free and informed consent, take steps to return these lands and territories.

37. Indigenous peoples have the right to act collectively to ensure respect for their right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literature, designs, sports and traditional games, and visual and performing arts.³⁶ States parties should respect the principle of free,

³² International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 31.

³³ See Declaration on the Rights of Indigenous Peoples, art. 1. See also ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries (Convention No. 169), art. 1, para. 2.

³⁴ United Nations Declaration on the Rights of Indigenous Peoples, art. 26 (a).

³⁵ Convention No. 169, arts. 13–16. See also the United Nations Declaration on the Rights of Indigenous Peoples, arts. 20 and 33.

³⁶ ILO Convention No. 169, arts. 5 and 31. See also the United Nations Declaration on the Rights of Indigenous Peoples, arts. 11–13.

prior and informed consent of indigenous peoples in all matters covered by their specific rights.³⁷

8. Persons living in poverty

38. The Committee considers that every person or group of persons is endowed with a cultural richness inherent in their humanity and therefore can make, and continues to make, a significant contribution to the development of culture. Nevertheless, it must be borne in mind that, in practice, poverty seriously restricts the ability of a person or a group of persons to exercise the right to take part in, gain access and contribute to, on equal terms, all spheres of cultural life, and more importantly, seriously affects their hopes for the future and their ability to enjoy effectively their own culture. The common underlying theme in the experience of persons living in poverty is a sense of powerlessness that is often a consequence of their situation. Awareness of their human rights, and particularly the right of every person to take part in cultural life, can significantly empower persons or groups of persons living in poverty.³⁸

39. Culture as a social product must be brought within the reach of all, on the basis of equality, non-discrimination and participation. Therefore, in implementing the legal obligations enshrined in article 15, paragraph 1 (a), of the Covenant, States parties must adopt, without delay, concrete measures to ensure adequate protection and the full exercise of the right of persons living in poverty and their communities to enjoy and take part in cultural life. In this respect, the Committee refers States parties to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights.³⁹

F. Cultural diversity and the right to take part in cultural life

40. The protection of cultural diversity is an ethical imperative, inseparable from respect for human dignity. It implies a commitment to human rights and fundamental freedoms, and requires the full implementation of cultural rights, including the right to take part in cultural life.⁴⁰

41. Cultures have no fixed borders. The phenomena of migration, integration, assimilation and globalization have brought cultures, groups and individuals into closer contact than ever before, at a time when each of them is striving to keep their own identity.

42. Given that globalization has positive and negative effects, States parties must take appropriate steps to avoid its adverse consequences on the right to take part in cultural life, particularly for the most disadvantaged and marginalized individuals and groups, such as persons living in poverty. Far from having produced a single world culture, globalization has demonstrated that the concept of culture implies the coexistence of different cultures.

43. States parties should also bear in mind that cultural activities, goods and services have economic and cultural dimensions, conveying identity, values and meanings. They must not be treated as having solely a commercial value.⁴¹ In particular, bearing in mind article 15 (2) of the Covenant, States parties should adopt measures to protect and promote

³⁷ ILO Convention No. 169, art. 6 (a). See also the United Nations Declaration on the Rights of Indigenous Peoples, art. 19.

³⁸ See E/C.12/2001/10, para. 5.

³⁹ *Ibid.*, para. 14.

⁴⁰ See the Universal Declaration on Cultural Diversity, arts. 4 and 5.

⁴¹ UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, preamble, para. 18. See also the Universal Declaration on Cultural Diversity, art. 8.