

4TH ANNUAL STUDENT CONFERENCE

“STUDENTS AS DIPLOMATS”



**COMMITTEE ON
ECONOMIC, SOCIAL
AND CULTURAL RIGHTS**

*“The Right to an Adequate
Standard of Living”*

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STUDY GUIDE

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1. Welcoming Letter

Dear Participants,

We are delighted to welcome you to the 4th Annual Student Conference “Students as Diplomats”, and, in particular, to the Committee on Economic, Social and Cultural Rights. As members of this Committee, you will have the chance to represent your country as specialists in the area of achieving an adequate standard of living for everyone and present your ideas and thoughts on matters of international importance.

We hope that this experience will help you in your journey to learn more about the United Nations and the way basic human rights are protected at an international level. In an effort to assist you in your preparation for our conference, we have written this Study Guide in order to analyze the basic concepts of this Committee and of the Article we will be discussing about together, as well as address key points that you will have to keep in mind when conducting your personal research.

We are happy to call you *specialists* and we are looking forward to meeting each and every one of you. We hope this will be the beginning of a path full of unforgettable educational experiences for all of you.

Good Luck, Specialists!

Kind Regards,

Elizabeth Glavinis, Chairperson

Zoi Papakyritsi, Vice-Chairperson

2. Historical background: The United Nations and the International Covenant on Economic, Social and Cultural Rights

The United Nations is an international Organization that was founded by 51 Member-States in San Francisco on the 26th of June 1945 and entered into force on the 24th of October the exact same year, following the signing of the United Nations Charter by the governments of all the founding Member-States. Today, the UN is constituted of 193 Member-States.

The primary goals of the United Nations can be found in Article 1 of the UN Charter, and more specifically in Paragraph 3 of Article 1: *"To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion;"*¹ where the importance of international cooperation in achieving a better social and economic standard is highlighted.

The General Assembly of the United Nations adopted the International Covenant on Economic, Social and Cultural Rights on December 16th 1966, which entered into force on January 3rd, 1976. Taking into consideration the General Principles of the UN, the Covenant promotes the expression of personal freedoms and the dignity of the human person by guaranteeing the protection of Social, Cultural and Economic Rights of every single citizen of the signatory member-states.²

¹ <http://legal.un.org/reperatory/art1.shtml> Article 1 of the United Nations Charter

² <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx> Preamble of the UN Covenant on Economic, Social and Cultural Rights

3. Committee on Economic, Social and Cultural Rights: Role, Mandate and Responsibilities

The Committee on Economic, Social and Cultural Rights is a body that constitutes of 18 independent experts³. It was established on May 28th1985 with the Resolution 1985/17 by the Economic and Social Council of the United Nations.⁴ Its purpose is to assess and ensure that the Countries that have signed the International Covenant on Economic, Social and Cultural Rights are implementing its goals according to the document. The Committee, in its efforts to maintain the integrity and efficiency of the International Covenant, interprets the provisions of the Articles and explains in detail their meaning and the purpose for which they were signed upon. For that reason, the Committee publishes General Comments for every Article of the International Covenant.⁵

The Committee may also release and adopt statements concerning crucial matters of international importance that fall within the scope of its mandate. Meaning that, the Committee remains actively seized on matters that may risk the protection of Human Rights of Economic, Social or Cultural nature, such as climate change, education, women's rights, adequate standard

³ <https://www.ohchr.org/EN/HRBodies/CESCR/Pages/Membership.aspx> *Membership of the CESCR*

⁴ <https://www.un.org/ecosoc/en/home> *The UN Economic and Social Council*

⁵ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11 *The General Comments of the CESCR on the United Nations Database*

living etc. The Committee reviews reports made by the State Parties and follows-up with observations on the reports.⁶ The Committee publishes annual reports after its annual sessions.⁷

4. Article 11 of the International Covenant on Economic, Social and Cultural Rights

"Article 11

1. *The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.*

2. *The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:*
 - a. *To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a*

⁶ Article 17 of the International Covenant on Economic, Social and Cultural Rights

⁷https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=27 Annual Reports of the CESCR Database

way as to achieve the most efficient development and utilization of natural resources;

- b. Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need."*⁸

Brief Summary of Article 11

At first glance, Article 11 of the International Covenant on Economic, Social and Cultural Rights seems to be stating the obvious: that everyone, without any form of discrimination, should enjoy a life within a home, with food on his plate and water to drink. However, this simple truth is not so obvious to every state on this planet, and it is yet to be a reality for every single individual. It is a fact that not all States are in a position to provide an adequate standard of living to their citizens, meaning that housing conditions, clothing, alimentation and nutrition are compromised by the conditions that may be present within the country. Political, economic, or any other sort of imbalance within the State may cause the disruption of a life of dignity for the people living in the country that is hit by warfare, hunger, bad agricultural infrastructure and so on and so forth.

Article 11 underlines that the State, no matter its financial standpoint, or level of development, shall see to guarantee a basic level of living for its citizens. Starting from making sure that everyone has a house, food to eat and clothes to wear. That is considered as the most basic, adequate standard of living for an individual, according to the provisions of the

⁸ <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx> Article 11 as stated in the International Covenant on Economic, Social and Cultural Rights

International Covenant. The Member-States that have signed and ratified the Covenant are bound by the obligation to ensure that their people are housed, fed and clothed within the standards set by the United Nations and by the Universal Declaration on Human Rights.

Article 11, however, does not set the point after which the standard of living is to be considered adequate, but also elaborates on the way a State shall distribute its wealth in order to achieve such a standard for everyone. Paragraph 2 of Article 11 highlights that the methods of production and utilization of natural resources should aim first and foremost to the actualization of the goal set by the Covenant for an adequate standard of living. In that, the States should cooperate in a way that will promote the efficient exploitation of the productive capabilities of the countries.

It is important to note the globalized character of Article 11. As the epitome of an Article understanding and enforcing international cooperation, Paragraph 2 refers to the collaboration of countries through the regulation of their importing and exporting systems, so as to achieve a global balancing of food distribution. The economic nature of this Article is also evident via its persistence in developing the Nation as a whole, meaning that Article 11 focuses on improving the technical knowledge, the know-how, the agricultural domain, the natural resources exploitation and the export and import mechanisms, in order to develop the country's economy.

The significance of this Article to the actualization of the basic principles of the United Nations on human dignity and respect for human rights is highlighted through its focus on making the States more developed in a way with which they can be of aid to their citizens. By being financially independent and prosperous, the Member-States of the Covenant can guarantee a better life for their people in a long-term and efficient manner. A state that invests in the quality of living of its citizens understands the importance of freedom, peace and unity amongst all nations. All these principles are exactly what the United Nations was built upon.

5. Understanding of key terminology

Human Rights: They consist the foundation for freedom, justice and peace in the world. Human rights are inherent in every human being, regardless of nationality, sex, national or ethnic origin, color, religion, language, or any other status. They cannot be given or taken away. International human rights law sets out the obligations of states to respect, protect, and fulfil human rights for all. These obligations impose specific duties upon states, regardless of their political, economic, and cultural systems.

Standard of living: As article 25 of the Universal Declaration of Human Rights states, everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.⁹ The standard of living includes basic material factors such as income, life expectancy, and economic opportunity and is closely related to quality of life, which can also include factors such as economic and political stability, political and religious freedom, environmental quality, climate, and safety.

Adequate: enough or satisfactory for a particular purpose

Agrarian system: the dynamic set of economic and technological factors that affect agricultural practices. It is a continuously growing domain, also affected by political factors, that has gained recently a lot of attention due to the massive population growth and the increasing need to be more effective and productive.

⁹ http://www.claiminghumanrights.org/udhr_article_25.html#at27

6. Analysis of Article 11 of the International Covenant through the CESCR General Comments

The Committee, exercising its duties and aiming at an appropriate implementation of the Covenant, has published three different comments on article 11, concerning the adequate standard of living. These general comments serve as an interpretation to the aforementioned article, so as to clarify its purposes at the State parties and enable them to take the most suitable measures.

Analysis of Article 11 (General Comment no.4: The right to adequate housing)

This general comment on article 11 was the first to be published, after the sixth session of the Committee, in 1991, giving particular emphasis on the first part of the article, dealing with the matter of adequate housing. According to the Committee's view this particular right is of central importance in human life, since its fulfilment leads to the enjoyment of all economic, social and cultural rights. Even though this right has been examined by several international instruments and has also been present in many covenants, it seems, unfortunately, that there is still a large gap between the standards set and many parts of the world.

The Committee has observed that this is not a situation present only in the developing countries, as anyone assumes, but is a current fact in some of the most economically developed societies. It is particularly worrying that recently the United Nations have counted more than 100 million homeless people and over 1 billion inadequately housed, and even more worrying that these numbers are not estimated to decrease, taking into account that it is a right "of everyone", as the article of the Covenant mentions. At this point, we should highlight the fact that the exact words "himself and his family" of the article depict only the gender roles of the society of 1966, when the Covenant was adopted. In fact, nowadays, under no circumstances exist

discriminations of that kind when it comes to human rights and female-headed households have equal access to every right.

According to the Committee's opinion this particular right should not be interpreted in a narrow way. It needs to be seen as the right of every person to leave in peace, security and dignity and not just a mere roof over one's head. This is the reason why adequacy has to be served by every State party in all possible means and under any circumstances or external factors. Regardless the development of any country housing has to be at first priority available, affordable, habitable and accessible. Even when a state has reached a dead end and no possible solutions are available, international cooperation based on article 11 paragraph 1 of the Covenant will provide the necessary help. It may seem quite impossible to fulfil this crucial right, but in fact it is not. In a national and international scale, the Committee advises each state to take its own measures according to the existing living conditions, giving always priority to the most vulnerable and unfavorable social groups. There exist, in fact, guidelines in order to construct a particular and smart policy, such as the Global Strategy for Shelter, that can help a state make the necessary steps in relation with the existing problems and the available resources minor the housing problem day by day.

Analysis of Article 11 (General Comment no.7: Forced evictions)

The next comment to be published, was in reality competing the first one. General comment no.7 on the right to adequate housing and especially forced evictions was published at the sixteenth session of the Committee, during the year 1997. Its purpose is to make clear some of the last remarks made in the previous comment. The Committee highlights the fact that forced evictions are *prima facie* incompatible with the requirements of the Covenant.

Although it is a serious issue that has been recognized by the international community both in United Nations Conferences and in the Commission on Human Rights as a "gross violation of human rights" it seems, according to the Committee's reports, that it affects people not only in developing but also in developed countries.

Evictions occur all around the world for various reasons. Sometimes they consist part of armed conflicts and refugee movements or even occur in the name of development. However, since the State parties are obliged according to article 2 paragraph 1 to promote "by all appropriate means" the rights described in the Covenant, it is obvious that they are led to a contrast by following a policy of evictions, when evictions constitute a violation of the essential right to adequate housing. This violation resulting in further violations of civil and political rights, as mentioned in article 17 paragraph 1 of International Covenant on Civil and Political Rights, oblige State parties to adopt a particular policy or even change their policy on this matter.

There are cases where evictions can be justified as the ultimate measure that a state can take. However even these cases need to be made with respect to human rights, with the right provisions and without the purpose of rendering homeless the victims of the eviction providing them support through some kind of funding. Apart from this cases the state parties need to form a legislation to avoid and punish these evictions since they only function as a burden to the enjoyment of the are human rights.

Analysis of Article 11 (General Comment no.12: The right to adequate food)

The last elaboration on the adequate standard of living was made through general comment no.12, published during the twentieth session of the Committee in 1999. It faces the right of adequate food, which, even though has been recognized by many instruments under international law, it is dealt in this Covenant in a more comprehensive way. Since the beginning

of human existence. adequate food has consisted a link to the inherent dignity of the human being and an indispensable mean for the fulfilment of any other human right.

Nevertheless, despite the massive recognition of this right, that was previously mentioned, the Committee observes a disturbing gap between the standards being set and the reality of the world. More that 840 million people, the huge majority in the developing countries, are chronically hungry. This lack of supplies and the state of malnutrition also exists in the most of developing countries proving that poverty is linked to a non-satisfying use of the resources being available. This is the issue that the second paragraph of this article tries to confront. The Committee has reached the conclusion that in the current situation necessary steps have to be made so as to alleviate hunger. No State party, even if it has undergone some kind of disaster, can neglect these actions, as mentioned in paragraph 2.

Adequate food is the main goal of the Committee, and, as a result, of every State. In order to be achieved, it would be more practical to distinguish two main sections. At first, food has to be available in quantity and of sufficient quality and, secondly, it needs to be accessible, both economically and physically, in sustainable ways, which aims mostly at food being accessible for both present and future generations. It is obvious that each State has an obligation to follow this guideline by taking progressive steps in order to achieve this goal. The steps to be taken are related to the existing national conditions even if it seems difficult due to internal problems. Every state should prove its efforts because only through that way inability turns out different from unwillingness to comply. Although every state party forms its own policy, a "framework law" needs to be made in order to monitor subsequently national and international measures. According to the Committee, every time a particular thing has to be checked at first: whether the three levels of the states' obligations are part of the national policy. Respect, Protect and Fulfil consist the key to every success in the field of human rights. As a result, following the Committee's lead, international cooperation and precise policy are the only means to prevent food from being used on regular basis as a political weapon.

7. Key Questions for the Participants

1. In what ways do you believe that the international community could contribute to the amelioration of the living conditions of the displaced persons and the ones living under extreme poverty?
2. In what ways do you think the Member-States can reduce the amount of waste that they produce? Is over-production of food and clothing a problem that aggravates the imbalance of food distribution and clothing around the world? What measures could be taken at a regional and international level?

8. Suggestions for Further Research

- i. The General Comments of the CESCR on Article 11, General Comment No 4, No 7 and No 12.
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11
- ii. The description and details on the Committee on Economic, Social and Cultural Rights
<https://www.ohchr.org/EN/HRBodies/CESCR/pages/cescrindex.aspx>
- iii. The International Covenant on Economic, Social and Cultural Rights
<https://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>
- iv. The United Nations CESCR Database on States concerning the Ratification of Treaties and Reports
https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx
- v. Human Rights Declaration
<https://www.un.org/en/universal-declaration-human-rights/>
- vi. United Nations Human Rights Council
<https://www.ohchr.org/EN/HRBodies/HRC/Pages/Home.aspx>
- vii. The Vancouver Declaration on Human Settlements
http://mirror.unhabitat.org/downloads/docs/The_Vancouver_Declaration.pdf
- viii. Global Shelter Strategy
<https://www.unhcr.org/protection/livelihoods/530f13aa9/global-strategy-settlement-shelter.html>
- ix. World Food Summit
<http://www.fao.org/WFS/>

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<https://link.springer.com/article/10.1007/s11205-017-1650-0>
- b. Claiming Human Rights: Definition of Adequate Living
http://www.claiminghumanrights.org/adequate_living_definition.html
- c. Homelessness as a Global Human Rights Crisis
<http://www.unhousingrapp.org/user/pages/04.resources/Thematic-Report-5-Homelessness-as-a-Global-Human-Rights-Crisis.pdf>

10. Online Sources

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- b. The International Standards on Housing according to the United Nations <https://www.ohchr.org/EN/Issues/Housing/Pages/InternationalStandards.aspx>
- c. General Comment No. 20 on Non-Discrimination in Economic, Social and Cultural Rights https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/GC/20&Lang=en
- d. Where does the Right to an adequate standard of living come from? <https://www.ag.gov.au/RightsAndProtections/HumanRights/Human-rights-scrutiny/PublicSectorGuidanceSheets/Pages/Righttoanadequatestandardoflivingincludingfoodwaterandhousing.aspx#1what>
- e. Claiming Human Rights: Article 25 of the Universal Declaration on Human Rights: The Right to an adequate standard of living http://www.claiminghumanrights.org/udhr_article_25.html#at27