

ISBN: 978-65-87823-87-4

A CRISE DA COVID-19 NO BRASIL E SEUS REFLEXOS



Capa: Marcos Vianna e Darel/CEUB

Organizadores:
Gleisse Ribeiro Alves
Gabriel Blouin Genest
Eric Champagne
Nathalie Burlone



UNIVERSITÉ DE
SHERBROOKE

CEUB

THE UNITED NATIONS COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS AND THE FIGHT AGAINST COVID-19

Renato Zerbini Ribeiro Leão*

ABSTRACT

The fight against the Covid-19 pandemic has means of protection that take human rights into account. The International Covenant on Economic, Social and Cultural Rights (ICESCR) provides a consolidated regime for the affirmation and protection of these rights. It consists of institutions such as the Committee on Economic, Social and Cultural Rights (CESCR), of standards (ICESCR and its Protocol), principles (good faith; equality and non-discrimination; *pro homine*; complementarity, indivisibility, and universality of human rights), documents (CESCR Declaration to leave no one behind in light of the 2030 Agenda for Sustainable Development; General Observations #14 and #25; the Covid-19 Pandemic Declaration; and, the Declaration on Universal and Equitable Access to Vaccines from Covid-19) and rules (*Pacta Sunt Servanda*; the rule of the most favorable standard and the rule of exhaustion of domestic remedies) that enshrine the existence of a true health protection regime stemming from the ICESCR.

Keywords: United Nations; Committee on Economic, Social and Cultural Rights; pandemic; Covid-19; human rights.

1 INTRODUCTION

In 2020 humanity experienced an atrocious pandemic that continues to threaten and claim lives incessantly. The current generation has never faced a health situation of this magnitude. One year later, in 2021, the scenario is still very worrying. Despite the vaccines presented, the year began with new waves of contamination by an even more ruthless Coronavirus, found in innovative mutant variants of its original in different corners of the planet.

* Member since 2010 and actual Chair of Committee on Economic, Social and Cultural Rights of United Nations. Ph.D. in International Law and International Relations: Doctor “*Sobresaliente Cum Laude*” by *Universidad Autónoma de Madrid*. Professor at Universitario Center of Brasília – CEUB. Orcid: 0000-0002-0896-3624.

The Covid-19 pandemic, by overflowing public health systems and devastating different sectors of life - such as the economy, education, food production, and social security, among others - is a clear threat to human rights. These, for a successful confrontation of the virus, must be observed from their indivisible and interdependent perspectives. If countries do not act in accordance with human rights, the risk that economic, social, and cultural rights will be undermined, thereby the increasing suffering of the most marginalized and vulnerable groups, is significantly increased.

The International Covenant on Economic, Social and Cultural Rights (ICESCR or Covenant) provides a consolidated regime for the affirmation and protection of these rights, notably the right to health. It consists of institutions such as the Committee on Economic, Social and Cultural Rights (CESCR), of standards (ICESCR and its Protocol), principles (good faith; equality and non-discrimination; *pro homine*; complementarity, indivisibility, and universality of human rights), documents (CESCR Declaration to leave no one behind in light of the 2030 Agenda for Sustainable Development; General Observations #14 and #25; the Covid-19 Pandemic Declaration; and, the Declaration on Universal and Equitable Access to Vaccines from Covid-19) and rules (*Pacta Sunt Servanda*; the rule of the most favorable standard and the rule of exhaustion of domestic remedies) that enshrine the existence of a true health protection regime stemming from the ICESCR.

Since a regime is a set of institutions, norms, principles, and rules capable of influencing countries, international organizations, and individuals on a given agenda or theme, generating a standard of conduct¹, the CESCR is the central organ of the robust protection regime for the right to health, built on the ICESCR and amalgamated by the principles of complementarity, indivisibility, and universality of human rights. These are a harmonic whole; they have a reciprocal dependence in such a way that they complement each other². To contribute to this joint effort to

¹ LEÃO, Renato Zerbini Ribeiro. O regime de proteção aos migrantes, refugiados e solicitantes de refúgio do Pacto Internacional de Direitos Econômicos, Sociais e Culturais das Nações Unidas em **Revista Interdisciplinar da Mobilidade Humana (REMHU)**. Brasília: CSEM, vol. 27, nº 57, dezembro de 2019, p. 175. Disponível em <http://remhu.csem.org.br/index.php/remhu/article/view/1236>.

² LEÃO, Renato Zerbini Ribeiro. *Os 50 anos dos dois pactos internacionais da ONU: um olhar especial sobre o Comitê de Direitos Econômicos, Sociais e Culturais* em CANÇADO TRINDADE, Antônio

combat Covid-19, the CESCER illuminates the pillars of this regime capable of adding to the global mobilization against the ruthless Coronavirus, indicating, moreover, that the responses to the pandemic must be based on the best scientific knowledge available for the protection of public health, according to the right of every person to enjoy the benefits of scientific progress and its applications, explicit in article 15, paragraph 1, subparagraph b of the Covenant.

The ICESCR is legally binding. Its states parties have the obligation to adopt measures to avoid or mitigate the effects of the pandemic's impacts. These measures must be based on the best scientific knowledge to effectively protect the health that every human being has the right to enjoy. Brazil has been a State Party to the Covenant since 1992 and, therefore, in line with the principle of good faith that governs international law, is obliged to follow the guidelines indicated by the CESCER on the matter.

The importance of this article is to identify and recognize this regime, little known to the public, but which, in terms of concerns and recommendations for the development of public policies on the subject, the affirmation of the right to health and the responsibility of countries to confront Covid-19 is very robust from the perspective of international human rights protection. For the CESCER, the interpretation, supervision, and monitoring body of the ICESCR, all persons within the jurisdiction of a state party to the Covenant can enjoy the rights recognized therein.

To identify and recognize this regime, the article is structured around the central characteristics of the ICESCR and the CESCER, as well as the legal pillars of the right to health from the perspective of international human rights law. It then dives into the presentation of the main argumentative and conclusive lines of three important documents recently approved by the Committee on the subject: the General Observation number 25 of 2020, concerning science and the ESCR; as well as the Declaration on the Coronavirus pandemic (Covid-19) and the ESCR of April 17, 2020; the Declaration on universal and equitable access to vaccines for the

Augusto; LEAL, César Barros e LEÃO, Renato Zerbini Ribeiro (Coord.). **O cinquentenário dos dois pactos de direitos humanos da ONU**. Fortaleza: IBDH, p. 259-278, 2016, p. 261.

treatment of HIV/AIDS; and the Declaration on the right to health from the perspective of international human rights law.

2 THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)

The ICESCR is a multilateral international treaty of the UN human rights system. It is one of the essential pillars of the International Bill of Human Rights: a set of international documents that in addition to the ICESCR includes the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights (UDHR) of December 10, 1948. The ICESCR and ICCPR were adopted by the United Nations General Assembly on December 16, 1966 (Resolution 2200 A XXI), entering into force in 1976.

The ICESCR identifies three responsibilities that States have for the protection of the rights contained within them: to respect, that is, States must refrain from interfering directly or indirectly with these rights; to protect, that is, States must take measures to ensure that other actors, such as business, political, religious, or anyone else can interfere with these rights; and, to enjoy, that is, States must take measures for the realization of these rights. By respecting, protecting, and realizing the rights in the Covenant, states parties will be able to fulfill their promises to make sure that no one is left behind³ in the collective effort for a transformed world, in accordance with the United Nations 2030 Agenda⁴.

The ICESCR standards provide for the equal rights of men and women, the right to work, the right to just and favorable conditions of work, the right to form and join trade unions, the right to social security, the right to family protection and assistance, the right to an adequate standard of living, the right to the highest attainable standard of physical and mental health, the right to education, and the

³ ONU. ECOSOC. **Document E/C.12/2019/1**. La promesa de no dejar a nadie atrás: el Pacto Internacional de Derechos Económicos, Sociales y Culturales, y la Agenda 2030 para el Desarrollo Sostenible - Declaración del Comité de Derechos Económicos, Sociales y Culturales de 05/04/2019, § 20, p.7.

⁴ The 2030 Agenda for Sustainable Development constitutes the renewed common global commitment of states to eradicate poverty in all its forms and dimensions, including extreme poverty, by promoting equitable, inclusive, and sustainable societies.

right to culture and to enjoy the benefits of scientific progress. These, considering the principles of free determination, equality, and non-discrimination.

The first paragraph of article 2 of the ICESCR requires states parties to take immediate measures to ensure to all persons within their jurisdiction the full exercise of the rights guaranteed therein. Such measures are to be owned or achieved through international assistance and cooperation. The San Francisco Charter or UN Charter (from the literalness of its articles 1.3 and 55, items "a" and "c", read together with article 56) consecrates the extensive interpretation that the international protection of human rights must be considered as a matter linked to the interests of the international community. Therefore, for the sake of affirming human dignity, international cooperation will constitute a source of restrictions on state discretion. The restriction of any of the current levels of international human rights protection, including those issued by the CESC, could be interpreted as a violation of fundamental principles of international protection of the human being, such as the principle of non-reduction of human rights protection parameters, the principle of the most favorable standard and the *pro homine* principle⁵. This understanding guides the members of the CESC in the application and interpretation of the ICESCR in matters related to the rights to health and scientific progress.

Not by chance, in paragraph 15 of its Declaration on the Coronavirus Pandemic (Covid-19) and Economic, Social and Cultural Rights, the Committee indicates that the States parties to the ICESCR must adopt urgent, special, and specific measures, including through international cooperation, to protect and mitigate the effects of the pandemic on vulnerable groups. These include older persons, persons with disabilities, refugees, as well as communities and groups subjected to discrimination and structural disadvantages. Among such measures, the CESC points out, for example, the adoption of those specially adapted to protect

⁵ LEÃO, Renato Zerbini Ribeiro. *O Comitê de Direitos Econômicos, Sociais e Culturais das Nações Unidas e o enfrentamento à Covid-19* in **Review of Inter-American Institute of Human Rights**. Costa Rica: IIDH, 2021, n° 72, p.20.

the health and livelihoods of vulnerable minority groups, such as indigenous peoples⁶.

As an illustration of the two previous paragraphs, on 07/21/2020 the 27 member countries of the European Union signed the European Recovery Plan (ERP), a historic economic recovery agreement, through which these States allocated 750 billion Euros to rebuild the bloc's economy, affected by the Covid-19 pandemic. Among its main foundations are the allocation of 312.5 billion euros to finance reform and investment programs that each beneficiary country must define in a national recovery plan, and the establishment of a target that 30% of its spending should be dedicated to the fight against climate change⁷.

In this context, international cooperation implies sharing research, professionals, medicines, and medical equipment, as well as best practices for halting Coronavirus. In addition, to coordinate the measures adopted to reduce the economic and social effects of the crisis generated because of the pandemic. In addition, coordinate the measures adopted to reduce the economic and social effects of the crisis generated because of the pandemic, assuming joint efforts by all countries for an effective and equitable economic recovery. Otherwise, at the heart of these international initiatives must be the needs of vulnerable, disadvantaged groups, and fragile countries⁸.

Article 2.1 of the ICESCR deals with the progressive realization of rights. The very expression "undertakes to take steps, by all appropriate means, including the adoption of legislative measures" requires all States parties to begin to adopt immediate measures to achieve the full enjoyment of the rights contained in the Covenant⁹. These include, but are not limited to, administrative, financial, educational, and social measures. In this sense, States parties are legally obliged to

⁶ ONU. ECOSOC. **Document E/C.12/2020/1**. Declaración sobre la pandemia de enfermedad por coronavirus (COVID-19) y los derechos económicos, sociales y culturales. Declaración del Comité de Derechos Económicos, Sociales y Culturales de 17/04/2020, §15, p.4.

⁷ EU. Sítio Web oficial da União Europeia: https://europa.eu/european-union/index_pt , access in 22/07/2020, at 10:45 a.m..

⁸ ONU. ECOSOC. **Document E/C.12/2020/1**. Declaración sobre la pandemia de enfermedad por coronavirus (COVID-19) y los derechos económicos, sociales y culturales. Declaración del Comité de Derechos Económicos, Sociales y Culturales de 17/04/2020, §19, p.5.

⁹ CDESCR. Observação Geral nº 3. ONU. Instrumentos Internacionales de Derechos Humanos. **Documento HRI/GEN/1/Rev.9 (Vol. I)**, de 27 de maio de 2008, §7, p.18.

adopt legislative measures, especially when existing laws are clearly incompatible with the obligations contracted under the ICESCR.

The expression "to ensure progressively the full realization of rights" obliges states parties, regardless of their level of development or national wealth, to move immediately and as quickly as possible to make ESCR effective. About non-discrimination provisions and the obligation of states parties to refrain from violating, by action or omission, legal or other protective measures that require immediate compliance. The CESCR has even stated that this obligation exists regardless of an increase in available resources. This is because all existing resources must be dedicated to the effectiveness of the rights proclaimed by the ICESCR¹⁰. In times of pandemic, which can affect the core of the human right to health, this understanding must prevail without restrictions of any legal, normative, or political order¹¹.

The CESCR has identified as obligations of immediate effect the adoption of measures for the full realization of the rights recognized in the ICESCR and the prohibition of discrimination. Their existence or non-existence offers pillars for evaluating alleged violations by the state, whether by action or omission. ESCR are not purely programmatic. On the contrary, they impose direct operative obligations. Non-compliance with them may be justifiable. For example, the existence of laws or state practices that discriminate based on gender, race, disability, sexual orientation, or nationality, among others, imposing barriers to the enjoyment of ESCR, constitute violations of obligations of immediate effect. Also, the lack of public policies for the realization of rights or the delay in derogating discriminatory legislation or practices constitute violations of this type¹².

In fact, the CESCR, in its General Comment No. 1, noted that the ICESCR attaches particular importance to the concept of progressive realization of ESCR. Indeed, States parties were urged to include in their reports data capable of

¹⁰ Ibidem. **Documento HRI/GEN/1/Rev.9 (Vol. I)**, §7-10, p.11.

¹¹ LEÃO, Renato Zerbini Ribeiro. O Comitê de Direitos Econômicos, Sociais e Culturais das Nações Unidas e o enfrentamento à Covid-19 in **Review of Inter-American Institute of Human Rights**. Costa Rica: IIDH, 2021, n° 72, p.21.

¹² ONU. ECOSOC. **Document E/C.12/GC/20**. Observación general num. 20 (2009). La no discriminación y los derechos económicos, sociales y culturales (artículo 2, párrafo 2 del Pacto Internacional de Derechos Económicos, Sociales y Culturales). 23/11/2009, §30, p.10.

evaluating the progress achieved as to the effective application of these rights within reasonable timeframes¹³. This progressive realization demands a reflection on the real-world difficulties in enforcing ESCR considering states' obligations to achieve these goals as effectively as possible. All deliberately retroactive measures should be considered carefully and only be justified when they concern the maximum available resources. This does not mean, however, that states parties may indefinitely prolong the adoption of measures to guarantee the rights of persons subject to their jurisdiction.

Article 2.2 of the ICESCR obliges states parties to refrain from discriminatory behavior by modifying laws and practices that permit discrimination. It prohibits individuals and public bodies from engaging in discriminatory practices. In cases of discrimination, judicial procedures and other methods of redress must be guaranteed¹⁴.

Even states parties have extraterritorial obligations related to worldwide efforts to address covid-19. Developed countries must avoid making decisions-such as imposing limits on medical equipment exports-that impede access to vital equipment for the pandemic's poorest victims. Likewise, states parties should ensure that unilateral border measures do not hinder the movement of necessary and essential goods, especially basic foodstuffs, and health equipment. Finally, any restriction based on the objective of securing national supplies must be proportionate and address the urgent needs of other countries¹⁵.

In its concluding observations, the CESCR had the opportunity to highlight the inseparability between the environment, indigenous peoples, adequate standard of living and the right to health, as they form an interactive ring for the affirmation

¹³ On the legal requirement by the judicial supervision bodies of international human rights treaties to apply a reasonable term in their decisions, especially in cases involving violations of economic, social and cultural rights, see: LEÃO, Renato Zerbini Ribeiro, *La construcción jurisprudencial de los Sistemas Europeo e Interamericano de Protección de los Derechos Humanos en materia de derechos económicos, sociales y culturales*, Núria Fabris Editora: Porto Alegre, 2009, p. 119-120.

¹⁴ ONU. *Los Derechos Económicos, Sociales y Culturales – Manual para las Instituciones Nacionales de Derechos Humanos*. Serie de Capacitación Profesional nº 12 – Derechos Humanos. ACNUDH: Ginebra, 2004, p. 15.

¹⁵ ONU. ECOSOC. **Document E/C.12/2020/1**. Declaración sobre la pandemia de enfermedad por coronavirus (COVID-19) y los derechos económicos, sociales y culturales. Declaración del Comité de Derechos Económicos, Sociales y Culturales de 17/04/2020, §20, p.5.

of human dignity. Thus, after the constructive dialogue following Canada's sixth periodic report, the Committee was concerned that the indigenous peoples of this State party were living confined in substandard conditions, causing them severe health problems. In addition, the fact that they had limited access to safe drinking water and sanitation services was also of great concern. Consequently, the Committee urged the State party to intensify its efforts to address the crisis of adequate housing for indigenous peoples, in consultation with their respective governments and organizations. Today, free, prior and informed consent is a cornerstone of international indigenous peoples' law. Likewise, the CESCR insisted on the fulfillment of the countries commitment to guarantee access to safe drinking water and sanitation services, while ensuring the active participation of indigenous peoples in the planning and management of water resources. In this sense, the State Party should take into consideration not only the economic right of indigenous peoples, but also the cultural value that water has for them¹⁶. For the CESCR, article 11 of the Covenant, the right to an adequate standard of living, does not denote a stationary situation but rather a continuous improvement of the conditions of existence of every human being, and is inexorably linked, therefore, to the right to health. Such concerns of the Committee towards indigenous peoples should be taken seriously into account by all States parties to the ICESCR, especially in times of the Coronavirus that has indigenous peoples as one of its most vulnerable targets.

3 THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (CESCR)

The CESCR is an international body of the UN system that is made up of 18 independent experts. It applies, interprets, and monitors the ICESCR. It was established by resolution 1985/17 of the UN Economic and Social Council (ECOSOC) on May 28, 1985.

All states parties to the ICESCR are obliged to submit reports to the CESCR on the implementation and enforcement of the rights set out in the Covenant. The first report must be submitted after the initial two years of the ICESCR's validity.

¹⁶ ONU. ECOSOC. **Document E/C.12/CAN/CO/6**. Observaciones finales sobre el sexto informe periódico del Canadá. 23/03/2016.

Then, every five years they must submit their follow-up reports to that first report. The CESCR will examine each report, enter into a constructive dialogue with States parties, and address its concerns and recommendations to them in the form of concluding observations.

The CESCR meets in Geneva at annual session periods, adopting its interpretation of the ICESCR provisions in the form of general observations. It also issues letters and declarations on a wide variety of matters of necessity for the affirmation of ESCR in the international arena.

Since 2013, with the entry into force of the Optional Protocol to the Covenant, the Committee has been empowered to consider individual communications involving alleged violations of the rights contained in the ICESCR. The fourth article of the Protocol's regulations states that communications may be submitted by persons or groups of persons who are under the jurisdiction of a state party, alleging that they are victims of a violation of any of the rights set forth in the Covenant. This gives the CESCR a special position in relation to other international non-judicial and judicial bodies for the protection of economic, social and cultural rights. The possibility for citizens of States parties to the Optional Protocol to the ICESCR to individually denounce their countries makes the CESCR the only international body currently able to receive individual complaints regarding violations of the economic, social and cultural rights contained in the Covenant¹⁷.

Brazil, for example, is a state party to the ICESCR, but has not yet signed its Optional Protocol, which is why it cannot forward individual complaints to the CESCR. Therefore, the Brazilian State, at this moment, is obliged to comply with the provisions of article 16 of the Covenant, that is, to present reports on the measures it has adopted, as well as the progress made, to ensure respect for the rights contained in the ICESCR. Therefore, after constructive dialogue with the Committee, it will publish its concluding observations, with concerns and recommendations, which must be accepted by Brazil. In this sense, it is important to

¹⁷ The Optional Protocol to the ICESCR is an international treaty unanimously adopted by the UN General Assembly on December 10, 2008 (Resolution A/ RES/63/117). It was opened for signature in 2009 and has been in force since May 5, 2013, three months after Uruguay, the tenth State Party to ratify it, proceeded with its deposit, as stated in the text of the Protocol.

highlight that on 06/04/2020 the Brazilian State forwarded its Third Follow-up Report to the CESCR¹⁸. It will be this document that the Committee will take as a basis for the constructive dialogue that should be celebrated in 2021 or 2022, depending on the internal calendar that will emerge from the effects of the pandemic on the work of the supervisory bodies of the human rights treaties of the United Nations system.

The above does not mean that the general citizenry and organized civil society in Brazil are marginalized from the entire official reporting process before the CESCR. The so-called shadow reports, those produced by civil society in opposition to or filling gaps in the official reports of the States parties, are always very welcome by the Committee, since they are excellent sources of information and essential counterpoints to the official information that can positively qualify the constructive dialogue with the States parties¹⁹. Therefore, the CESCR encourages the participation of civil society in all stages of preparation and submission of official reports by States parties. And when it is time for the analysis of the Third Follow-up Report of the Brazilian State, as well as the measures taken by Brazil in the fight against the Coronavirus, the shadow reports produced by the Brazilian civil society will be very important for the Committee to formulate clear conclusions and recommendations on the relevant issues.

As a direct consequence of the effects of the Covid-19 pandemic, the face-to-face sessions of the Committee that were to be held during October 2020 and February/March 2021, at the UN's Swiss headquarters in Geneva, have been cancelled and the CESCR will work remotely, in online mode, with its members in their home countries. For this reason, the constructive dialogues with States Parties to the ICESCR scheduled for these sessions were exceptionally postponed, except in two cases in which States Parties were able to engage in remote dialogues by virtual

¹⁸ CESCR. **Document E/C.12/BRA/3**, 08/06/2020. Third periodic report submitted by Brazil under articles 16 and 17 of the Covenant, due in 2014. 08/06/2020. Disponível em: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fBRA%2f3&Lang=en.

¹⁹ On the importance of civil society for the affirmation of economic, social and cultural rights, see LEÃO, Renato Zerbini Ribeiro. **El rol de la sociedad civil organizada para el fortalecimiento de la protección de los derechos humanos en el siglo XXI: un enfoque especial sobre los DESC** in Revista del Instituto Interamericano de Derechos Humanos. San José: IIDH, n° 51, p. 249-271, 2010.

means, as decided by the CESCR Steering Committee in November 2020²⁰. The Committee, therefore, for as long as it remains impossible to meet in person in Geneva due to the pandemic, has decided to focus primarily on the general observations in development, the individual complaints submitted under the Optional Protocol, the formulations of the list of preliminary issues for countries that will still submit their reports in the near future, and different declarations such as those virtually approved during the year 2020, most of which are presented throughout this article. Thus, the Coronavirus has also impacted the essence of the work of the CESCR.

4 THE HUMAN RIGHT TO HEALTH IN THE CESCR

For the CESCR, health is a fundamental human right and indispensable for the full exercise of all other human rights. Every human being has the right to enjoy the highest attainable standard of health adequate for the enjoyment of a life of dignity, according to article 12 of the ICESCR. The interpretation of this article by the CESCR recognizes the obligation of States parties to ensure their citizens the enjoyment of the highest attainable standard of health, a concept that encompasses everything from equitable access to minimum guarantees of health care in case of illness. Moreover, the right to health is closely linked to and dependent upon the exercise of other human rights, such as an adequate standard of living, food, housing, work, education, human dignity, life, non-discrimination, equality, freedom from torture, privacy, access to information, and freedom of association, assembly,

²⁰ Of the UN human rights treaty body system, only the Human Rights Committee and the CESCR have decided to engage in virtual dialogue with States parties at their inaugural sessions in 2021. In the case of the CESCR, constructive virtual dialogue with only 2 States parties to the ICESCR was approved for the February/March 2021 session, the first of the year. Countries have been contacted, but only a few have expressed interest or technical conditions to move forward with the virtual constructive dialogue with the Committee. The Committee is nevertheless awaiting confirmation from these countries. Nevertheless, there were many technical problems during the internal virtual meetings held by the Committee during 2020. If these continue, they will constitute serious impediments to the quality of a constructive dialogue with the States Parties. Such problems, also observed by the other Committees, have been and are the subject of recurrent concerns by the Chairs of the different human rights treaty bodies of the UN system. These concerns are reflected in several of their official documents.

and movement. These, as well as other rights and freedoms contained in the International Bill of Human Rights, make up the integrality of the right to health²¹.

In its General Comment No. 14, which deals with the right to the enjoyment of the highest attainable standard of health, the Committee warned that States have an obligation to respect this right, in particular by refraining from denying or limiting equal access to preventive, curative and palliative health services for all; by not imposing discriminatory practices as State policies; and by refusing to impose discriminatory practices regarding the health and needs of women and other groups of special concern²².

In addressing the normative content of article 12 of the Covenant, the CESCR indicates that the right to health should not be understood simply as a right to be healthy, as this entails both freedoms and rights. Among the freedoms are the right of every person to control their health and body, including sexual and reproductive freedoms, as well as the right to be free from interference, such as the right to not be subjected to torture or to non-consented medical treatment or experiments. On the other hand, the rights include the right to a health protection system capable of offering equal opportunity to persons to enjoy the highest attainable standard of health, a concept that encompasses both the biological and essential socioeconomic conditions of persons, including the resources available to the State. The Committee has therefore alerted States parties to their obligations to respect the right to health, in particular by refraining from denying or limiting equal access to preventive, curative, and palliative health services for all people; by not imposing discriminatory practices as State policies; and by refusing to impose them in health and the needs of women and other groups that require special attention. The right to health must be understood as a right to the enjoyment of the full range of facilities, goods, services, and conditions necessary to achieve the highest attainable standard of health²³.

²¹ ONU. ECOSOC. **Document E/C.12/2000/4**. Observación general num. 14 (2000) sobre el derecho al disfrute del más alto nivel posible de salud (artículo 12 del Pacto Internacional de Derechos Económicos, Sociales y Culturales). 11/05/2000, §3, p.1.

²² Ibidem. **Document E/C.12/2000/4**, §34, p.13.

²³ Ibidem. **Document E/C.12/2000/4**, §8-9, p.3.

Not only that, the CESCR interprets the right to health as an inclusive right that comprises not only timely and appropriate health care, but also the key determinants of health, such as access to clean drinking water and adequate sanitation, adequate provision of healthy environments, proper nutrition, adequate housing, healthy working conditions and the environment, access to education and information on health-related issues, including sexual and reproductive health. In addition, the decision-making process on health-related issues at the community, national, and international levels must involve the participation of the population at all stages²⁴.

The right to health contains four essential and interrelated elements whose application is subject to the conditions prevailing in each State Party. Availability means that each State party must have enough health care facilities, goods, programs, services, beds, and centers. Accessibility requires States parties to make health care facilities, goods, and services accessible to all without discrimination of any kind. Acceptability means that all health care facilities, goods and services should respect medical ethics and cultures in an appropriate way, i.e., observing the culture of individuals, minorities, peoples, and communities, illuminated by gender and life cycle requirements, and should be designed to respect confidentiality and improve people's health status. Finally, quality, that is, health facilities, goods and services should be appropriate from a scientific and medical point of view. If not, they must be of good quality, such as trained health personnel, medicines, and equipment²⁵.

The CESCR recommends that States Parties incorporate a gender perspective into their health policies, programs, and research to better promote the health of men and women. A gender perspective approach recognizes the importance of biological and socio-cultural factors in their health. In particular, the elimination of discrimination against women requires the development and implementation of a comprehensive national strategy to promote women's right to health throughout their lives. This should focus on the prevention and treatment of diseases that affect

²⁴ Ibidem. Document E/C.12/2000/4, §11, p.4.

²⁵ Ibidem. Document E/C.12/2000/4, §12, p.4-6.

women, as well as policies aimed at providing women with access to affordable, high quality health care, including sexual and reproductive services²⁶.

The CESCR has also identified a right to health specific to indigenous peoples. They are entitled to specific measures to improve their access to health services and care, which must be culturally appropriate, considering preventive care, curative practices, and traditional medicines. It is the duty of the States parties to the ICESCR to provide resources for indigenous peoples to establish, organize and monitor these services so that they may enjoy the highest attainable standard of physical and mental health. They should also protect the medicinal plants, animals, and minerals necessary for the full enjoyment of the health of indigenous peoples. Therefore, the umbilical link between them and the environment is non-negotiable. In carrying out its functions, the Committee notes that in indigenous communities, the health of the individual is connected to the health of society, thus presenting a collective dimension. Consequently, development-related activities that lead to the displacement of indigenous peoples, against their will, from their traditional territories and surroundings, resulting in the loss of their food resources and the disruption of their symbiotic relationship with the land, have a detrimental effect on the health of these indigenous peoples²⁷.

The CESCR has repeatedly concluded, and science has demonstrated, that the link between the environment and human beings is unbreakable, and that their futures are inexorably connected and interdependent. This connection is even deeper in the relationship between indigenous peoples and the environment because they have in the environment the entity that welcomes and shelters them, providing everything necessary for their existence with dignity. Respect for nature, for fauna and flora, is essential for human beings to live in balance and harmony with themselves and with their fellow human beings, enjoying good health and well-being. enjoying spiritual, physical, and mental health.

²⁶ Ibidem. *Document E/C.12/2000/4*, §20-21, p.9.

²⁷ Ibidem. *Document E/C.12/2000/4*, §27, p.11.

5 GENERAL OBSERVATION NUMBER 25 (2020) ON SCIENCE AND ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ARTICLE 15, §§ 1.B, 2, 3 AND 4, ICESCR)²⁸

As of July 2020, the CESCR has adopted 25 general observations. These assist States parties and the community at large to understand the scope and meaning of each of the articles of the ICESCR. They provide guidance to countries, courts of law, administrative bodies and the public about the human rights, fundamental rights, and freedoms that every human being is entitled to enjoy under the Covenant. In their substantiation process, the general observations rely on a rapporteur or co-rapporteurs, support from the technical secretariat of the Office of the United Nations High Commissioner for Human Rights (OHCHR), dialogues with other agencies of the UN system, public hearings with civil society partners and interested entities, debates with universities and foundations related to the specific theme. Its last draft version is available to the public on the CESCR website for a reasonable period to receive pertinent comments and suggestions before the Committee approves its final version.

General Comment No. 25 (GL25) is a key contribution of the CESCR to the global effort to address Covid-19. Through it, the Committee makes it clear that the right to enjoy the benefits of scientific progress and its applications, article 15, §1, paragraph b of the ICESCR, is in deep connection with the right to health, article 12 of the Covenant²⁹. And this inexorable relationship is built on four pillars. The first one states that scientific progress generates medical advances and applications, such as vaccines, which prevent and treat diseases. In the Committee's understanding, the States parties to the ICESCR should promote scientific research, through financial support or other incentives, creating new medical applications, especially for the most vulnerable (e.g., children, migrants, women, indigenous peoples, refugees, etc.). As stated in article 12, paragraph 2, c of the Covenant, the States parties should give priority to the promotion of scientific progress in order to facilitate better and

²⁸ Adopted by the CESCR at its 67th session, held in Geneva from February 17 to March 6, 2020. Published on April 30, 2020.

²⁹ ONU. ECOSOC. *Document E/C.12/GC/25. Observación general num. 25 (2020), relativa a la ciencia y los derechos económicos, sociales y culturales (artículo 15, párrafos 1b), 2, 3 y 4 del Pacto Internacional de Derechos Económicos, Sociales y Culturales*. 30/04/2020, §67, p.16.

more effective means, as well as more accessible means, for the prevention and treatment of epidemic, endemic, and other diseases. This understanding is the fruit of repeated constructive dialogues of the CESCR with States parties regarding the right to health and is currently emerging as one of the main lessons learned in the fight against pandemics, and should therefore, in light of a fine interconnection between health, science, and human rights, be applied in the fight against Covid-19.

A second basis of understanding builds on the fact that some applications of scientific progress are protected by intellectual property regimes. The CESCR believes that these should not be held to the detriment of the right to health. On the contrary, such regimes should be interpreted and applied to support the duty of countries to protect public health, particularly by promoting universal access to medicines. In this regard, States parties to the ICESCR should refrain from granting disproportionately long patent protection periods for new medicines to allow, within a reasonable time, the production of safe and effective generic medicines for the same diseases³⁰.

The third pillar is the duty to make available to all people, without discrimination of any kind, and with special attention to the most vulnerable, the best available applications of the scientific progress needed for the enjoyment of the highest attainable standard of health. Such action should also avail itself of international assistance and cooperation. Finally, as a fourth pillar, it is understood that States parties to the Covenant should make every effort to ensure that drugs and medical treatments are based on scientific experiments and evidence, that the risks arising from them are adequately evaluated, and that patients can give their consent based on clear and transparent information³¹.

The CESCR believes that the principles of transparency and participation are essential for science to be objective and reliable, and not a subject to interests that are not scientific or incompatible with the fundamental principles of human rights and the welfare of society. Countries should harmonize their policies with the best

³⁰ Ibidem. *Document E/C.12/GC/25*, §69, p.17.

³¹ Ibidem. *Document E/C.12/GC/25*, §70-71, p.17.

available scientific knowledge, fostering trust and support throughout society for the available scientific knowledge³².

As previously alerted, it is in times like these, of intense and worrisome vulnerability of public health due to pandemic consequences, that the actions of institutions and political agents are chosen between two very clear and distinct paths regarding the transparency of information³³:

...one centered on the production of reliable data gathered scientifically, used by decision makers, and made available to the public, recognized as active transparency. And another suppressing or restricting the production, decision-making use, or public access to information, dubbed refuted transparency. Taking an attitude of active transparency will require the production and sincere search for credible data, its use in decision making, and honest disclosure to the population, subjecting public authorities to the support, rejection, and criticism inherent in the democratic process. The other path is to adopt political and institutional decisions based on ignorance and permeated by mechanisms of low democratic scrutiny. The choice is simple and will involve lives and deaths; the difference will only be in the future numbers of a reality that is implacable to a greater or lesser extent...

Active transparency is what international human rights law prescribes for dealing with pandemics in general, including Covid-19.

6 THE CORONAVIRUS PANDEMIC DECLARATION (COVID-19) AND ECONOMIC, SOCIAL AND CULTURAL RIGHTS³⁴

The CESCR calls upon States parties to the ICESCR to enhance and improve based on timely and transparent information, early warning mechanisms for emerging epidemics capable of becoming pandemics. Such a call was made within the framework of the Committee Declaration on the Coronavirus pandemic published on April 17, 2020, through which it is highlighted that pandemic are a clear example of the need for international scientific cooperation in the face of

³² Ibidem. *Document E/C.12/GC/25*, §10-11, p.3.

³³ LEÃO, Renato Zerbini Ribeiro e RESENDE, Ranieri Lima. *Pandemia de coronavírus: um teste para a transparência de instituições e agentes políticos in O Estado de São Paulo*, São Paulo, 30/3/2020, política, blogs Fausto Macedo. Disponível em <https://politica.estadao.com.br/blogs/fausto-macedo/pandemia-decoronavirus-um-teste-para-a-transparencia-de-instituicoes-e-agentes-politicos/>

³⁴ Approved by the CESCR on April 6, 2020.

transnational threats, since a local epidemic can quickly turn into a pandemic of devastating consequences if adequate measures are not adopted³⁵.

These appropriate measures must be taken urgently and based on the best scientific knowledge to protect public health. If it is necessary to limit any of the rights contained in the ICESCR, the measures must be reasonable, proportionate, and taken exclusively to combat the Covid-19 public health crisis. They should also be withdrawn as soon as they are no longer necessary for that purpose. Otherwise, access to justice and effective legal remedies must be fully guaranteed, especially for the most vulnerable and marginalized groups³⁶.

The Committee reminds States parties that indigenous peoples, refugees and people living in conflict-affected areas are especially vulnerable during the Covid-19 pandemic. These are groups that often lack adequate access to water, soap, or disinfectant. In addition, they cannot access the infrastructure to test for the virus. They have little or no access to health services and information, and their populations have very high percentages of chronic illnesses and various health disorders, making them a high-risk group for Covid-19 infection³⁷.

As if this were not enough, this pandemic exacerbates gender inequalities as the responsibilities for the care of children, the family, the elderly, and the home fall disproportionately on women. Women, in circumstances of confinement or social isolation, are more likely to experience domestic violence. States parties should take the necessary measures to combat all types of gender-based violence³⁸.

Among the CESCR recommendations for combating the Covid-19 pandemic is also the need to adopt appropriate regulatory measures so that health care resources in both the public and private sectors are mobilized and shared across the population to ensure a comprehensive and coordinated response to the crisis. All health care workers must have easy access to the appropriate protective clothing and

³⁵ ONU. ECOSOC. **Document E/C.12/2020/1**. Declaración sobre la pandemia de enfermedad por coronavirus (COVID-19) y los derechos económicos, sociales y culturales. Declaración del Comité de Derechos Económicos, Sociales y Culturales de 17/04/2020, §23, p.5.

³⁶ Ibidem. **Document E/C.12/2020/1**, §9, p.3.

³⁷ Ibidem. **Document E/C.12/2020/1**, §23, p.5.

³⁸ Ibidem. **Document E/C.12/2020/1**, §8, p.3.

materials to prevent contagion. It is essential that decision makers in States Parties consult and pay due regard to the recommendations of these professionals in developing their actions³⁹.

Special and specific measures of an urgent nature should be taken to protect and mitigate the effects of the pandemic on vulnerable groups such as the elderly, persons with disabilities, refugees, conflict-affected populations, women, indigenous peoples, as well as communities and groups subjected to discrimination and structural disadvantage. Such measures could include, among others, providing water and soap to communities in need; initiating specific programs to protect the jobs, wages and pensions of all workers, including undocumented migrant workers; imposing a moratorium on forced evictions or housing foreclosures during a pandemic; adopting specially tailored measures to protect the health and livelihoods of vulnerable minority groups such as indigenous peoples; and ensuring affordable and equitable access for all to Internet services for educational purposes⁴⁰.

States parties should also strive to ensure that all workers are protected from the risks of infection in the workplace. To this end, they should take appropriate measures to ensure that employees minimize the risks of infection in accordance with best practices in public health standards. Similarly, to protect the jobs, pensions, and other social benefits of workers during a pandemic, and even to mitigate its economic effects, States Parties should take immediate measures such as wage subsidies, tax breaks, and the establishment of supplemental social security and wage protection programs⁴¹.

In a pandemic scenario, speculation with food, hygiene products, medicines, and any other essential product should be avoided. To reduce the risk of transmission of the Coronavirus, as well as to protect the population from the danger posed by misinformation, it is essential to have accurate and accessible information about the Covid-19 pandemic⁴².

³⁹ Ibidem. Document E/C.12/2020/1, §13, p.3.

⁴⁰ Ibidem. Document E/C.12/2020/1, §15, p.4.

⁴¹ Ibidem. Document E/C.12/2020/1, §16, p.4.

⁴² Ibidem. *Document E/C.12/2020/1*, §17-18, p.4.

For the CESCR, Covid-19 highlighted the importance of investing adequately in public health systems, comprehensive social protection programs, decent work, housing, food, water and sanitation systems, as well as institutions to promote gender equality. Finally, the Committee urges States parties to the ICESCR to ensure that the extraordinary mobilization of resources to confront the Covenant's pandemic provides the necessary impetus to mobilize long-term resources for the full and equal enjoyment of the economic, social and cultural rights enshrined in the Covenant⁴³.

7 DECLARATION ON UNIVERSAL AND EQUITABLE ACCESS TO COVID-19 VACCINES & DECLARATION ON UNIVERSAL AFFORDABLE VACCINATION FOR COVID-19, INTERNATIONAL COOPERATION AND INTELLECTUAL PROPERTY

The CESCR adopted on November 27, 2020, the Declaration on Universal and Equitable Access to Covid-19 Vaccines. It illuminates, from a human rights perspective, the main obligations of States parties to the ICESCR to address the current pandemic considering scientifically developed vaccines. Every human being has the right to the highest attainable standard of physical and mental health. This includes access to immunization programs against infectious diseases. Likewise, people have the right to enjoy the benefits of scientific progress, which includes access to an effective and safe vaccine developed from the best scientific knowledge. In pandemics, such as the one caused by the Coronavirus, it is science that should guide all knowledge capable of fighting them.

There are several scientific reasons (of an exact, human, medical and social nature) for every human being to be vaccinated. Among these, not exhausting all the benefits and advantages of vaccination, it is underlined that statistically vaccines save lives and protect health; protect the vulnerable and future generations; protect and support health services; save time, money, and various resources; and, in the age of fake news, prevent the spread of fake news.

⁴³ Ibidem. *Document E/C.12/2020/1*, §24-25, p.6.

According to the CESCR, access to vaccines for all people should be guaranteed by countries to the maximum of their available resources and according to the necessary measures for universal vaccination and without any discrimination. The duty to immunize against major infectious diseases and to prevent and control epidemics is a priority obligation because of the right to health. Therefore, in the current pandemic scenario, countries must give top priority to making available vaccines that can contribute to the fight against Covid-19. This access is a human right and must be facilitated by countries, especially when they are parties to the ICESCR. These countries have the obligation to provide reliable, transparent, and scientifically sound information for citizens to decide whether to be vaccinated. In this sense, all administrative and bureaucratic obstacles must be overcome in favor of fast and effective public policies for universal and equitable access to vaccines⁴⁴.

The right to health requires countries to make health care facilities, services, and goods, including vaccines, accessible, acceptable, and of good quality. Vaccines must not only be produced and made available, but they must also, in accordance with the principle of equality and non-discrimination, be accessible to all: reasons such as religion, nationality, sexual orientation, gender, race, ethnic identity, age, disability, migratory status, social origin, poverty, or any other reason must not be impediments. On the contrary, physical accessibility to vaccines, especially for marginalized and disadvantaged groups, through state or private channels, notably by strengthening the capacity for their delivery and distribution, must be guaranteed. Otherwise, the free provision of vaccines, especially for people on low incomes and in poverty, must be ensured. Moreover, especially in this digital and fake news era, access to relevant information, through credible scientific information about the safety and efficacy of different vaccines, enhanced by public campaigns able to protect people against false, misleading, or pseudoscientific information, must be robustly guaranteed. Finally, no one should be left behind if they decide to get a vaccine⁴⁵.

⁴⁴ ONU. ECOSOC. **Document E/C.12/2020/2**. Statement on universal and equitable access to vaccines for COVID-19 by the Committee on Economic, Social and Cultural Rights of 27/11/2020, §1-3, p.1-2.

⁴⁵ Ibidem. Document E/C.12/2020/2, §4, p.2.

The CESCR further recalls that many vaccines on the verge of approval have been developed by private companies and may be subject to the intellectual property regime. These companies expect to make a profit, and it is only fair that they receive reasonable compensation for their investment. However, intellectual property is a social product with a social function, therefore, the law can subordinate its use and enjoyment to the social interest. Consequently, countries have a duty to prevent intellectual property and patent law regimes from undermining the enjoyment of human rights. Thus, it is also incumbent upon business entities to refrain from invoking intellectual property rights that are incompatible with the human right of access to a safe and effective Covid-19 vaccine. Countries have an obligation to ensure universal and equitable access to vaccines as soon as possible by all means necessary, including through international assistance and cooperation⁴⁶.

Prioritization of access to vaccines should be supported by all and should be organized through transparent and participatory mechanisms that ensure global distribution based on actual medical needs and scientific public health considerations. Every human being who so desires can and should be vaccinated. This is crucial for the control of the Covid-19 pandemic. And the Heads of States and Governments, especially of those countries that are signatories to the ICESCR, must ensure that this is the case.

In the wake of the previous premises, the CESCR adopted on March 12, 2021, the Declaration on Universal Affordable Vaccination for COVID-19, International Cooperation and Intellectual Property. For the Committee, the intellectual property regime must be interpreted and applied in a way that supports the duty of States Parties to the ICESCR to protect public health. The right to health requires countries to make health facilities, services, and goods, including vaccines, accessible, acceptable and of good quality. Vaccines must be produced and made available considering the principle of equality and non-discrimination, i.e., they must be accessible to all, thus including migrants, and without obstacles. In addition, physical accessibility to vaccines, especially for marginalized and disadvantaged groups, must be ensured through state or private channels, especially by

⁴⁶ Ibidem. Document E/C.12/2020/2, §6-11, p.2-3.

strengthening delivery and distribution capacity. The obligation of countries to provide access to vaccines is a reality in international human rights law; however, in the face of obstacles capable of affecting such state compliance, there are viable private avenues that can be pursued considering the principle of subsidiarity in human rights and states should not only facilitate but also guarantee them. Similarly, ensuring that vaccines are free of charge is a duty, especially for people with low incomes areas and in poverty. And particularly in this digital and fake news era, it reiterates the need to access relevant and scientifically proven information on the importance of vaccines. Finally, it underlines the essentiality of international cooperation for the success of all these actions⁴⁷.

8 FINAL CONSIDERATIONS

The existence of a true protection regime for the human right to health derived from the ICESCR is a reality. A set of solid norms (the ICESCR and its Protocol), institutions (UN, CESCR and States parties), recognized principles (good faith, equality and non-discrimination, *pro homine*, complementarity, indivisibility and universality of human rights), documents officially recognized by the States parties (concluding observations, general observations, letters and declarations), capable of generating a standard of conduct in the States parties to the ICESCR and contributing to the affirmation of the human dignity of the people under their jurisdiction, can be observed. The CESCR directed this regime to contribute to the confrontation of the Coronavirus pandemic. Such contribution should be accompanied by joint action among countries, international organizations, and individuals to stop or mitigate the effects of Covid-19. The regime that emerged from the ICESCR can illuminate the path to be followed by these central actors of international relations and contemporary subjects of public international law. Finally, when it comes to the affirmation of human dignity in international law, the fate of each person is inexorably connected to that of others, as well as to that of the planet. Especially when the threat is universal because of a pandemic caused by a virus.

⁴⁷ ONU. ECOSOC. **Document E/C.12/2021/1**. Statement on universal affordable vaccination for COVID-19, international cooperation and intellectual property by the Committee on Economic, Social and Cultural Rights of 12/03/2021.

Therefore, it is primarily the responsibility of the States Parties to the ICESCR to adopt public policies, administrative measures, and legislation oriented to the effective enjoyment of the rights and duties contained in the ICESCR. They are the ones who, in good faith, have made this international commitment.

The CESCR is the main and final interpreter of the ICESCR. It is the one empowered by the Covenant to explain and state the scope of the content of its articles. Therefore, it is the one that is concerned with the fulfillment of the articles by the States parties, recommending administrative, executive, judicial, and legislative actions of all kinds, without any discrimination, so that they are in line with the most up-to-date standards of international human rights law regarding economic, social, and cultural rights. Specifically, regarding the Covid-19 pandemic, the Committee stated that the States parties to the ICESCR have an obligation to adopt measures to prevent, or at least mitigate, the effects of the Coronavirus on the enjoyment of economic, social and cultural rights, especially on the right to health of the most vulnerable groups in society. Finally, no one can be left behind.

To fulfill the obligations and rights contained in the ICESCR, States parties must adopt a series of measures, including urgent ones, based on the best scientific knowledge available for the protection of public health, thereby fostering confidence in and support for the available scientific knowledge throughout society. Moreover, active transparency should govern the information shared by States Parties with society at large.

International cooperation must also be enshrined as an important pillar in the fight against Covid-19. This implies sharing research, professionals, medicines, and medical equipment, as well as best practices for halting the Coronavirus. It also coordinates the measures to be adopted to reduce the economic and social effects of the crisis generated by the pandemic, assuming joint efforts by all countries for an effective and equitable economic recovery.

Universal and free access to vaccines for all people who want them faces challenges of all kinds, whether in countries with more resources or in those experiencing shortages. Public officials must do their utmost to ensure that states, especially those that are parties to the ICESCR, can fulfill their obligations to

facilitate such access. Otherwise, the civilizational and generational duty imposes on every human being to contribute to this collective health effort also individually. In this way, while vaccine immunization does not reach the entire world population, each person must be attentive, spreading and cooperating with the less fortunate ones, as to the practices of the measures prescribed by science to face Covid-19, such as social distancing, epidemiological surveillance, the use of masks, body hygiene, and the non-proliferation of false information or fake news. Finally, the present and the future of each of us are inexorably connected.

Therefore, public officials, from any of the three powers of the Republic and regardless of the administrative spheres of their mandates, must guide their actions, decisions, and manifestations to combat the pandemic in line with the best scientific knowledge available (in this area, immediate vaccination is the main challenge) and in light of the State's commitments on human rights, especially, fully observing the protection regime of the right to health emanating from the International Covenant on Economic, Social and Cultural Rights.

BIBLIOGRAPHY

CESCR. Observação Geral nº 3. ONU. Instrumentos Internacionales de Derechos Humanos. **Documento HRI/GEN/1/Rev.9 (Vol. I)**, de 27 de maio de 2008.

LEÃO, Renato Zerbini Ribeiro, **La construcción jurisprudencial de los Sistemas Europeo e Interamericano de Protección de los Derechos Humanos en materia de derechos económicos, sociales y culturales**, Núria Fabris Editora: Porto Alegre, 2009.

LEÃO, Renato Zerbini Ribeiro. El rol de la sociedad civil organizada para el fortalecimiento de la protección de los derechos humanos en el siglo XXI: un enfoque especial sobre los DESC in **Revista del Instituto Interamericano de Derechos Humanos**. San José: IIDH, nº 51.

LEÃO, Renato Zerbini Ribeiro. Os 50 anos dos dois pactos internacionais da ONU: um olhar especial sobre o Comitê de Direitos Econômicos, Sociais e Culturais em CANÇADO TRINDADE, Antônio Augusto; LEAL, César Barros e LEÃO, Renato Zerbini Ribeiro (Coord.). **O cinquentenário dos dois pactos de direitos humanos da ONU**. Fortaleza: IBDH, p. 259-278, 2016.

LEÃO, Renato Zerbini Ribeiro. O regime de proteção aos migrantes, refugiados e solicitantes de refúgio do Pacto Internacional de Direitos Econômicos, Sociais e

Culturais das Nações Unidas em **Revista Interdisciplinar da Mobilidade Humana (REMHU)**. Brasília: CSEM, vol. 27, nº 57, dezembro de 2019.

LEÃO, Renato Zerbini Ribeiro e RESENDE, Ranieri Lima. **Pandemia de coronavírus: um teste para a transparência de instituições e agentes políticos** in O Estado de São Paulo, São Paulo, 30/3/2020, política, blogs Fausto Macedo.

LEÃO, Renato Zerbini Ribeiro. O Comitê de Direitos Econômicos, Sociais e Culturais das Nações Unidas e o enfrentamento à Covid-19 **in Review of Inter-American Institute of Human Rights**. Costa Rica: IIDH, 2021, nº 72.

ONU. ECOSOC. **Document E/C.12/2000/4**. Observación general num. 14 (2000) sobre el derecho al disfrute del más alto nivel posible de salud (artículo 12 del Pacto Internacional de Derechos Económicos, Sociales y Culturales) de 11/05/2000.

ONU. ECOSOC. **Document E/C.12/GC/20**. Observación general num. 20 (2009). La no discriminación y los derechos económicos, sociales y culturales (artículo 2, párrafo 2 del Pacto Internacional de Derechos Económicos, Sociales y Culturales) de 23/11/2009.

ONU. ECOSOC. **Document E/C.12/2019/1**. La promesa de no dejar a nadie atrás: el Pacto Internacional de Derechos Económicos, Sociales y Culturales, y la Agenda 2030 para el Desarrollo Sostenible - Declaración del Comité de Derechos Económicos, Sociales y Culturales de 05/04/2019.

ONU. ECOSOC. **Document E/C.12/2020/1**. Declaración sobre la pandemia de enfermedad por coronavirus (COVID-19) y los derechos económicos, sociales y culturales. Declaración del Comité de Derechos Económicos, Sociales y Culturales de 17/04/2020.

ONU. ECOSOC. **Document E/C.12/2020/2**. Statement on universal and equitable access to vaccines for COVID-19 by the Committee on Economic, Social and Cultural Rights of 27/11/2020.

ONU. ECOSOC. **Document E/C.12/2021/1**. Statement on universal affordable vaccination for COVID-19, international cooperation and intellectual property by the Committee on Economic, Social and Cultural Rights of 12/03/2021.