

Economic and Social Rights in the U.S.

"[T]he ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights."

– Preamble to the International Covenant on Civil and Political Rights

What are Economic and Social Rights?

Human rights are based on principles of dignity, equality, and freedom. All are severely compromised when human beings are not afforded the conditions to develop themselves or meet their basic needs. Economic and social rights standards obligate governments to progressively create the conditions under which every person can meet his or her needs. In particular, economic and social rights include:

- *The right to health* ensuring the right to the highest attainable standard of physical and mental health, including access to all medical services, nutrition, sanitation, safe workplace conditions, and clean water and air.
- *The right to food* guaranteeing freedom from hunger and access to safe and nutritious food.
- *The right to housing* ensuring access to a safe, secure, habitable, and affordable home with freedom from forced eviction.
- *The right to work* guaranteeing the opportunity to have fulfilling and dignified work under safe and healthy conditions and with fair wages affording a decent living for oneself and one's family.
- *The right to education* ensuring an education that enables all persons to participate effectively in a free society and is directed to the full development of the human personality.
- *The right to social security* guaranteeing that everyone, regardless of age or ability to work, is guaranteed the means necessary to procure basic needs and services.

Where are Economic and Social Rights Protected?

Economic and social rights are protected under a wide range of international and regional documents including declarations and covenants. Human rights declarations represent a commitment by signatory countries to meet stated human rights standards. Covenants, also known as treaties or conventions, are international law agreements entered into by governments. Once covenants or treaties are ratified they become part of domestic law.

Declarations and covenants that protect economic and social rights include:

Universal Declaration of Human Rights

International Covenant on Economic, Social and Cultural Rights

Convention on the Rights of the Child

Convention on the Elimination of All Forms of Racial Discrimination

Convention on the Elimination of All Forms of Discrimination Against Women

American Declaration on the Rights and Duties of Man

What Obligations do Governments have Under Economic and Social Rights Standards?

Governments must respect (not interfere with the exercise of rights), protect (ensure that private actors do not interfere with the exercise of rights), fulfill (create the conditions under which rights can be fulfilled) and promote all human rights. Governments must also progressively implement economic and social rights through a transparent, flexible, and reasonable plan to advance the fulfillment of rights within the maximum available resources. Such a plan must take into account those with the greatest need. Governments must also monitor the protection of economic and social rights.

What Commitments has the U.S. Made Under International Law to Ensure Economic and Social Rights?

The U.S., as one of the primary drafters of the Universal Declaration of Human Rights, was one of the first countries to commit to protecting human rights. Since then, the U.S. has been recalcitrant in meeting its promise to the people within its own borders. The U.S. has signed but not ratified both the *International Covenant on Economic, Social and Cultural Rights* and the *Convention on the Rights of the Child*. By signing these treaties, the U.S. has at a minimum agreed not to violate the spirit and purpose of the treaties, but it has failed to fully commit to the human rights standards within them. The U.S. has ratified the *Convention on the Elimination of All Forms of Racial Discrimination*, which prohibits economic and social discrimination based on race, color, descent or national or ethnic origin.

The U.S. is also a member of the Organization of American States (OAS) and has ratified the OAS Charter. The Charter binds the U.S. under regional law to the *American Declaration on the Rights and Duties of Man*, which fully protects economic and social rights. Yet, despite rulings by the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights finding that the Declaration is binding on all member states, the U.S. consistently rejects this position and claims it is not legally bound to uphold the Declaration.

Are Economic and Social Rights Relevant at the State Level?

Human rights are relevant to every official and every level of government in the U.S. Indeed, the federal government has consistently recognized that human rights obligations also extend to state and local government. Indeed, the federal government has reaffirmed the role of the individual states every time it has ratified a treaty involving human rights, and the U.S. State Department explains on its website that: "In the context of certain human rights treaties, [the U.S.] has attached reservations or understandings that accept all of the treaty's obligations, but clarify that they will be implemented at the appropriate government level -- federal, state or local."¹

"Human rights are best secured when they have taken root in the local culture. International human rights standards can only be effective when they have been incorporated in local, state and national legislation and are promoted through national institutions."

- Representative Lawrence Curry of the Pennsylvania State Legislature, sponsor of Pennsylvania's Human Rights Resolution HR 144.

¹ See <http://www.state.gov/s//38637.htm>