

International Law Seminar Winter 2019/2020

Economic, Social and Cultural Rights in Theory and Practice

For a long time, the general public as well as academics have disregarded the rights enshrined in the International Covenant on Economic, Social and Cultural Rights of 1966 which has been ratified by 169 State parties. Legal scholars mostly focused their studies on civil and political rights of the so called first generation due to their “legal” nature. However, in recent years, the so called second generation rights, i.e. economic, social and cultural rights, increasingly gained importance and attention, inter alia because they might serve as a basis for combatting global challenges, such as climate change, financial crises or during political, economic and social emancipation processes in the Global South. It can thus be argued that economic, social and cultural rights do not only secure basic human needs but are also able to fuel progress in transition countries and support the ability of individuals to take part in political processes.

Our seminar will question the categorisation of human rights into first and second generation rights, positive and negative rights, absolute and programmatic rights or legal and political rights. Starting from their theoretical basis, the seminar aims at identifying the role and potential of economic, social and cultural rights in addressing current global challenges with regard to the promotion of global justice and plurality in political processes. Moreover, it will analyse the role and implications of ESC-Rights to democracy and democratic processes and institutions.

Seminar Topics:

I. Theoretical Basis of ESC-Rights

1. Covenant on Uneconomic, Socialist and Collective Rights? The Philosophical Foundation of ESC-Rights
2. Indivisibility of Human Rights: On the Nature and Existence of Positive and Negative Human Rights
3. Defining the Content of ESC-Rights: What is the minimum core?
4. The Separation of Powers Doctrine - Do ESC-Rights replace or undermine Democratic Processes?
5. Typology of Judicial Review: Strategies to implement ESC-Rights in Courts
6. Protecting Human Rights beyond Borders: Extraterritorial State Obligations and Economic, Social and Cultural Rights

II. Enforcement of and Compliance with ESC-Rights

7. The Enforcement of Social, Economic and Cultural Rights under the African Charter on Human Rights and Peoples' Rights
8. South Africa – A Model for the Enforcement of Economic, Social and Cultural Rights?
9. Individual Complaint Procedure: The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008)

III. The Role and Potential of ESC-Rights in Tackling Current Global Challenges

10. The Interplay between Economic, Social and Cultural Rights and the UN Sustainable Development Goals 2030
11. Climate Change and the Role of Economic, Social and Cultural Rights
12. A Humane Standard of Living for Everyone: The Promotion of the Right to Social Security
13. Economic, Social and Cultural Rights in the Context of the Right to Development
14. Human Rights Responsibilities of Transnational Corporations: Economic, Social and Cultural Rights in the Context of Business Activities

IV. ESC-Rights in Action: Fostering Democracy?

15. The Realisation of Socio-Economic Rights through effective Participation of Individuals in Political and Decision-Making Processes
16. The Right to Health and the Case Poblete Vilchez v. Chile at the Inter-American Court of Human Rights (2018)
17. Representing the Economic, Social and Cultural Interests of Employees: The Right of Everyone to form and join Trade Unions
18. The Right to Education as an Essential Prerequisite for Active Participation in a free Society and Exercise of Socio-Economic Rights