



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Statement on the obligations of States parties regarding the corporate sector and economic, social and cultural rights*

1. As a result of globalization and the growing role played by non-State actors, the Committee increasingly addresses the obligations of States Parties regarding the impact of the corporate sector on the implementation of the rights under the Covenant. The corporate sector in many instances contributes to the realization of the economic, social and cultural rights enshrined in the Covenant through, inter alia, input to economic development, employment generation, and productive investment. However the Committee has also frequently observed that corporate activities can adversely affect the enjoyment of Covenant rights. Multiple examples of related problems range from child labour and unsafe working conditions through restrictions on trade union rights and discrimination against female workers, to harmful impact on the right to health, standard of living, including of indigenous peoples, and the natural environment, to the destructive role of corruption. The Committee reiterates the obligation of States Parties to ensure that all economic, social and cultural rights laid down in the Covenant are fully respected and rights holders adequately protected in the context of corporate activities.

2. The Committee recalls that, in 1998, it issued its statement on globalization and its impact on the enjoyment of economic, social and cultural rights,¹ which is relevant to the present statement. The Committee also acknowledges the initiatives related to corporate responsibilities in the context of human rights and takes them into consideration in the implementation of its mandate. At the international level, further to its 1977 Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy,² the International Labour Organization (ILO) in 1998 adopted the Declaration of Fundamental Principles and Rights at Work.³ The latter addresses, inter alia, freedom of association and the effective recognition of the right to collective bargaining, elimination of all forms of forced or compulsory labour, effective abolition of child labour, and elimination of discrimination in respect of employment and occupation. In 2000, the United Nations launched the United Nations Global Compact, which has been signed to date by more than

* Adopted by the Committee on Economic, Social and Cultural Rights at its forty-sixth session.

¹ *Official Records of the Economic and Social Council*, 2005, Supplement No. 2, chap.6, sect. A (E/1999/22-E/C.12/1998/26).

² ILO DOCNO:28197701.

³ <http://www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm>

7,700 companies and other stakeholders, committing themselves to adhere to corporate responsibilities covering human rights, labour, the environment and anti-corruption.⁴ The Committee takes note that in 2008, the Human Rights Council welcomed the “Protect, Respect and Remedy” Framework for Business and Human Rights, presented by the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises.⁵

3. States parties have the primary obligation to respect, protect and fulfil the Covenant rights of all persons under their jurisdiction in the context of corporate activities undertaken by State-owned or private enterprises. This derives from article 2(1) of the Covenant, which defines the nature of the obligations of States parties, referring to legislative and other appropriate implementation steps, which include administrative, financial, educational and social measures, domestic and global needs assessments, and the provision of judicial or other effective remedies.⁶

4. **Respecting rights** requires States Parties to guarantee the conformity of their laws and policies regarding corporate activities with the economic, social and cultural rights set forth in the Covenant. As part of this obligation, States Parties shall ensure that companies demonstrate due diligence to make certain that they do not impede the enjoyment of the Covenant rights by those who depend on or are negatively affected by their activities.

5. **Protecting rights** means that States Parties effectively safeguard rights holders against infringements of their economic, social and cultural rights involving corporate actors, by establishing appropriate laws and regulations, together with monitoring, investigation and accountability procedures to set and enforce standards for the performance of corporations. As the Committee has repeatedly explained, non-compliance with this obligation can come about through action or inaction. It is of the utmost importance that States parties ensure access to effective remedies to victims of corporate abuse of economic, social and cultural rights, through judicial, administrative, legislative or other appropriate means. States parties should also take steps to prevent human rights contraventions abroad by corporations which have their main offices under their jurisdiction, without infringing the sovereignty or diminishing the obligations of the host States under the Covenant. For example, in its general comment No. 15 (2002) on the right to water, the Committee states that “steps should be taken by States Parties to prevent their own citizens and companies from violating the right to water of individuals and communities in other countries”. It also emphasizes that “where States Parties can take steps to influence other third parties to respect the right, through legal or political means, such steps should be taken in accordance with the Charter of the United Nations and applicable international law.” In its general comment No. 18 (2005) on the right to work, the Committee underlines that private enterprises, both national and multinational, “have a particular role to play in job creation, hiring policies and non-discriminatory access to work. They should conduct their activities on the basis of legislation, administrative measures, codes of conduct and other appropriate measures promoting respect for the right to work, agreed between the government and civil society.” In its general comment No. 19 on the right to social security, the Committee underscores that “States Parties should extraterritorially protect the right to social security by preventing their own citizens and national entities from violating this right in other countries”.⁷

⁴ See: United Nations Global Compact *Corporate Sustainability in The World Economy*, UN Global Compact Office, United Nations (New York, February 2011).

⁵ See: A/HRC/Res/8/7 and A/HRC/8/5.

⁶ See: the Committee’s general comment No. 3 (1990).

6. **Fulfilling rights** entails that States parties undertake to obtain the corporate sector's support for the realization of economic, social and cultural rights. States parties which are home to companies active abroad shall also encourage such companies to assist host States, as appropriate, including in situations of armed conflict and natural disaster, in building the capacities needed to address the corporate responsibility for the observance of economic, social and cultural rights.

7. The Committee is, therefore, determined to devote special attention to the obligations of States Parties related to corporate responsibilities in the context of the rights protected by the Covenant with a view to contributing to their full realization. In order to enable effective follow-up on the issues addressed in this Statement, the Committee calls on States parties to include information in their initial and periodic reports on challenges faced and measures taken in relation to the role and impact of the corporate sector on the realization of economic, social and cultural rights. Other stakeholders are also encouraged to include relevant information in their presentations to the Committee, as appropriate.
