

STATE PARTY REPORTING GUIDELINES FOR ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

(TUNIS REPORTING GUIDELINES)

Introduction

1. These reporting guidelines are adopted to give further guidance to states parties to the African Charter on Human and Peoples' Rights (the Charter) in reporting, pursuant to article 62 of the Charter, on the implementation of their obligations to realise the enjoyment of economic, social and cultural rights under the Charter. These guidelines are to be used in conjunction with the 1989 Guidelines for National Periodic Reports under the African Charter. Further reference should be made to the Principles and Guidelines on the implementation of economic, social and cultural rights in the African Charter on Human and Peoples' Rights, adopted on 26 may 2010 (Principles and Guidelines) which give a more detailed explanation of States Parties obligations under the Charter.

General Contents of State Reports on Economic, Social and Cultural Rights

2. In relation to the economic, social and cultural rights detailed below the State party report should indicate:
 - a) Whether the State party has adopted a national framework law, policies and strategies for the implementation of each right, identifying the resources available for that purpose and the most cost-effective ways of using such resources (please note that a recitation of legislative steps without an indication of policies and implementation will be regarded as insufficient measures towards the realisation of the protected rights);
 - b) Any mechanisms in place to monitor progress towards the full realization of the rights, including identification of indicators and related national benchmarks in relation to each right;
 - c) The incorporation and direct applicability of each right in the domestic legal order, with reference to specific examples of relevant case law;
 - d) The judicial and other appropriate remedies in place enabling victims to obtain redress in cases where their rights have been violated; and
 - e) Structural or other significant obstacles arising from factors beyond the State party's control which impede the full realization of the rights guaranteed in the Charter.
3. Provide statistics on the enjoyment of each right, disaggregated by age, gender, ethnic origin, urban/rural population and other relevant status, particularly with reference to groups identified as vulnerable or marginalised in the Principles and Guidelines, on an annual comparative basis over the past five years.
4. Provide information on steps taken to make the reporting process as transparent and accountable as possible, particularly regarding how the process was publicised and which members of civil society were involved in drafting the report.

NATIONAL ACTION PLANS AND POLICIES

5. Provide summaries of national plans and policies and indicate how these were developed, demonstrating public participation, how they were being implemented and what steps have been taken to monitor such implementation, including disaggregated statistics where appropriate.

NON DISCRIMINATION IN THE ENJOYMENT OF RIGHTS

6. Provide information on legislative and practical steps taken to ensure enjoyment of the rights on a non-discriminatory basis by members of vulnerable or marginalised groups as defined in the Principles and Guidelines. Reports should particularly indicate what steps have been taken to ensure gender equality.

CONTENT OF INDIVIDUAL RIGHTS

7. The following issues should be considered as priorities in the initial and periodic reports for each of the rights protected under the African Charter:

A. Right to Property

- i) Report on legislative and practical measures taken to ensure peaceful enjoyment of property.
- ii) Indicate the laws that govern the terms and conditions for the acquisition, nationalisation or expropriation of property to ensure that this is conducted transparently, in the public interest.
- iii) Indicate what measures have been taken to ensure that compensation for public acquisition of property fairly balances the rights of the individual and the wider interests of society.
- iv) Indicate what measures have been taken to ensure that members of vulnerable and disadvantaged groups, including indigenous populations/communities, where applicable, who are victims of historical land injustices, have independent access to and use of land and the right to reclaim their ancestral rights, and are adequately compensated for both historical and current destruction or alienation of wealth and resources.
- v) Indicate what steps have been taken to ensure equitable and non-discriminatory access, acquisition, ownership, inheritance and control of land and housing, especially by women and members of low income groups.

B. Right to Work

- i) Indicate what legislative and administrative measures have been taken to prohibit slavery, forced labour, and child labour. Provide information on measures taken to prevent the economic exploitation of members of vulnerable and disadvantaged groups. Include details

of criminal laws, penalties and examples of the implementation of such laws.

- ii) Indicate the legislative and administrative measures taken to ensure the rights to unionise, to collective bargaining, and to strike.
- iii) Give details on efforts made to provide adequate protection against unfair or unjustified, arbitrary and constructive dismissal, and other unfair labour practices.
- iv) Indicate what practical steps have been taken to realise the right of everyone to gain their living by work which they freely choose and accept. Attention should be given to steps identified in the Principles and Guidelines to foster creation of employment.
- v) Indicate the legislative and administrative steps taken to ensure the right of everyone to equitable and satisfactory conditions of work, including safe and hygienic working conditions, equal pay for equal work, rest, leisure and reasonable limitation of working hours, periodic holidays with pay, public holidays with pay, and parental leave.
- vi) Indicate what legislative and administrative steps have been taken to ensure equality and non-discrimination in access to decent work and promotion without discrimination of any kind to members of vulnerable and disadvantaged groups. Please indicate what steps have been taken to comply with paras 59 (x) to (xvi) of the Principles and Guidelines¹ in this respect.

C. Right to Health

- i) Indicate what legislative and administrative steps have been taken to ensure the provision of essential drugs to all those who need them, as periodically defined under the WHO Action Programme on Essential Drugs, and particularly anti-retroviral drugs.
- ii) Indicate what legislative and administrative steps have been taken to ensure universal immunisation against major infectious diseases and to prevent, treat and control epidemic and endemic diseases.
- iii) Indicate how national plans and policies adopted and implemented by the State meet the requirements of paras 67 (vi) to (xviii),² particularly what plans aim to ensure access for all to adequate medical care and treatment in the event of sickness or accident. This should include proximity of the individual to affordable, quality health facilities.
- iv) Indicate measures that have been taken to ensure that any privatisation of the health sector does not constitute a threat to the availability, accessibility, acceptability and quality of health facilities, goods and services.

¹ These refer to the obligations of the states to take special measures to ensure Equality and Non-Discrimination and the rights of members of vulnerable and disadvantaged groups.

² Obligations relating to developing and implementing National Plans, Policies and Systems, which should ensure access for all, without discrimination, to adequate medical care and treatment in the event of sickness or accident.

- v) Indicate the legislative and other measures taken to protect individuals and peoples against environmental, industrial and occupational hazards; to prevent air, land and water pollution; to alleviate the adverse effects of urban development, industrialisation, and global warming; and to ensure food security.
- vi) Indicate legislative and other measures taken to ensure the right not to be subjected to medical or scientific experimentation without free and informed consent.
- vii) Indicate the legislative and other measures taken to ensure the recognition, acceptance, development, efficacy, modernisation and integration of traditional medicine into the public health care system.
- viii) Indicate the legislative and other measures taken to ensure that the obligations under paras 67 (xxiv) to (xxxvii) of the Principles and Guidelines³ as regarding the rights of members of vulnerable and marginalised people are met, including particularly the following:
 - a) Specific measures to encourage members of vulnerable and disadvantaged groups to study medicine and public health and to join health systems as service providers;
 - b) Legislative and other measures, including criminalisation, social mobilisation, information and education to discourage harmful traditional practices, including particularly female genital mutilation, that interfere with the right to health; and
 - c) Measures to ensure provision of those specific health services needed by persons with psychosocial, intellectual and physical disabilities, including early diagnosis and access to humane and dignified care and treatment to enable their full enjoyment of life.
- ix) Indicate what particular steps have been taken to protect the rights of individuals infected or otherwise affected by epidemic, endemic, occupational and other diseases, including in particular malaria, HIV/AIDS, tuberculosis, neglected tropical and other infectious diseases.
- x) Indicate what steps have been taken to ensure sexual and reproductive health in accordance with the obligation of the state set out in paras 67 (lxiv) to (lxx) of the Principles and Guidelines.⁴ Particular emphasis should be given to statistics that demonstrate efforts to reduce the maternal mortality, stillbirth, infant and child mortality rates.

³ These refer to the obligations of the states to take special measures to ensure Equality and Non-Discrimination and the rights of members of vulnerable and disadvantaged groups.

⁴ These refer to the special obligations of the state with reference to ensuring sexual and reproductive health.

D. Right to Education

- i) Indicate what legislative and administrative steps have been taken to ensure that all children enjoy their right to free and compulsory primary education.
- ii) Indicate what legislative and administrative steps have been taken to implement policies to eliminate or reduce the costs of attending primary school which include the provision of stipends, providing free or subsidised uniforms (or lifting of uniform requirements), provision of free textbooks, provision of free or subsidised transportation or free school meals to encourage the attendance of poor children at school.
- iii) Indicate what legislative and administrative steps have been taken to ensure that secondary education is made generally available and accessible to all by appropriate means, and in particular by the progressive introduction of free education.
- iv) Indicate what legislative and administrative steps have been taken to ensure that tertiary education is made generally available and accessible to all, on the basis of capacity, by all appropriate means, and in particular by the progressive introduction of free education.
- v) Indicate what steps have been taken to ensure continuing education.
- vi) Indicate how national plans and policies adopted and implemented by the State meet the requirements of paras 71 (iii) to (xv)⁵ of the Principles and Guidelines and particularly what steps have been taken to ensure:
 - a) That the teaching of African national languages is introduced at primary school level.
 - b) The liberty of parents and guardians to establish and choose schools for their children, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State, and to ensure the religious and moral education of their children in conformity with their own convictions.
 - c) Academic freedom and institutional autonomy in all institutions of higher learning.
- vii) Indicate what steps have been taken to implement the obligations set out in paras 71 (xvi) to (xxv)⁶ of the Principles and Guidelines, particularly the obligation to ensure that all children, including those belonging to such groups, enjoy equal access to the educational system. Indicate what steps have been taken to ensure gender equality at all levels of education.

⁵ These are obligations relating to developing and implementing National Plans, Policies and Systems, which should ensure access for all, without discrimination, to education.

⁶ These refer to the obligations of the states to take special measures to ensure Equality and Non-Discrimination and the rights of members of vulnerable and disadvantaged groups.

E. Right to Culture

- i) Indicate how national plans and policies adopted and implemented by the State to ensure that the right to culture protects positive African values consistent with international human rights standards.
- ii) Indicate what measures have been taken to ensure that languages of minorities and those of indigenous populations/communities are protected and promoted.
- iii) Indicate what legislative and other measures have been taken to eliminate harmful social and cultural practices.
- iv) Indicate what measures have been taken to encourage and protect cultural art and traditional knowledge systems.

F. Right to Housing

- i) Indicate what legislative steps have been taken to ensure that the state refrains from and protects against forced evictions from home(s) and land, as defined in the Principles and Guidelines and under international law. Also provide figures on forced evictions and all other evictions conducted during the reporting process.
- ii) Indicate what legislative and other measures have been taken to guarantee to all persons a degree of security of tenure which confers legal protection upon those persons, households and communities currently lacking such protection, including all those who do not have formal titles to home and land, against forced evictions, harassment and other threats.
- iii) Indicate what steps have been taken to ensure at the very least basic shelter for everybody. Provide in this regard information on the extent of homelessness.
- iv) Indicate what legislative and other steps have been taken to realise the obligations established under paras 79 (iv) to (xiii) of the Principles and Guidelines⁷ particularly on the obligations to:
 - a) Implement housing programmes, including subsidies and tax incentives, to expand housing construction to meet the needs of all categories of the population, particularly low-income families; and
 - b) Prioritise in national plans and policies the provision of shelter for all persons in need of emergency housing.

G. Right to Social Security

Provide information on legislative and other measures taken to ensure access to a social security system which provides for minimum coverage of health and retirement benefits to individuals and their families.

⁷ These are obligations relating to developing and implementing National Plans, Policies and Systems, which should ensure access for all, without discrimination, to adequate housing.

H. Right to Food

- i) Indicate what steps have been taken to ensure the right of everyone to be free from hunger and to mitigate and alleviate hunger including in times of natural or other disasters;
- ii) Indicate what legislative and other steps have been taken to ensure that the state refrains from and protects against destruction and/or contamination of food sources;
- iii) Indicate what steps have been taken to ensure that access to food is not used as a political tool to reward supporters, punish opponents or recruit militias.
- iv) Indicate what steps have been taken to meet the obligations set out in paras 86 (iv) to (xxiii)⁸ of the Principles and Guidelines particularly regarding the obligations to:
 - a) Take measures to develop or reform existing agrarian systems, in order to achieve the most sustainable and efficient development and utilisation of natural resources.
 - b) Take measures to ensure that surplus food production is safely stored to guard against famine, drought and other hardships.
 - c) Adopt and implement adequate strategies regarding nutrition.
 - d) Ensure that food aid does not adversely affect local producers and local markets, is targeted towards those who need it and is complemented by programmes that ensure the return to food self-reliance of the beneficiaries.

I. Right to Water and Sanitation

- i) Indicate what legislative and other measures have been taken to ensure access to the minimum essential amount of water, which is sufficient and safe for personal and domestic use, including for preventing disease, together with access to adequate sanitation.
- ii) Indicate what legislative and other measures have been taken to ensure safe physical access to water facilities or services that provide sufficient, safe and regular water; that have an adequate number of water outlets to avoid prohibitive waiting times; and that are at a reasonable distance from the household, educational institution, workplace or health institution.
- iii) Indicate what legislative and other measures have been taken to ensure that the obligations set out in paras 92 (iv) to (xv)⁹ have been complied with, particularly with reference to the obligations to ensure:

⁸ These are obligations relating to developing and implementing National Plans, Policies and Systems, which should ensure access for all, without discrimination, to food and to ensure freedom from hunger.

⁹ These are obligations relating to developing and implementing National Plans, Policies and Systems, which should ensure access for all, without discrimination, to water and sanitation.

- a) That the private ownership of water and sanitation services, or their privatisation, complies with a clear and efficient regulatory framework that ensures sustainable access to safe, sufficient, physically accessible and affordable water and sanitation.
- b) That procedures for the disconnection of water and sanitation services are reasonable and only occur after timely and full disclosure of information and include legal recourse and remedies as well as legal assistance.
- c) That natural water resources are protected from contamination by harmful substances and pathogens. This includes strict controls of the use and pollution of water resources for industrial purposes, and especially of extractive industries in rural areas.

J. Right to Protection of the Family

- i) Indicate what steps have been taken to guarantee in law and practice the rights of all persons to enter into marriage only with their full and free consent.
- ii) Indicate what legislative and other measures have been taken to abolish such customs, customary laws and practices as may affect the freedom of choice of a spouse.
- iii) Indicate what steps have been taken to ensure that no marriage is entered into by parties less than 18 years old.
- iv) Indicate what steps have been taken to ensure the equal rights and responsibilities of spouses during marriage and at its dissolution.
- v) Indicate what legislative and other measures have been taken to ensure that the obligations set out in paras 95 (vi) to (xxviii) of the Principles and Guidelines¹⁰ have been complied with, making particular reference to the obligations to ensure:
 - a) That monogamy is encouraged as the preferred form of marriage and that the rights of women in marriage and family, including in polygamous marital relationships, are promoted and protected.
 - b) Protection from undue interference in the life of the family, except where the welfare of the children or any member of the family is threatened.
 - c) Equality of rights and responsibilities of spouses with regard to children during marriage and in the event of its dissolution.

¹⁰ These refer to the obligations of the states to take special measures to ensure Equality and Non-Discrimination and the rights of members of vulnerable and disadvantaged groups.

State Party Reporting Guidelines for Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights: Tunis Reporting Guidelines

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