



## BACKGROUND NOTE TO THE SEMINAR

### Mobilising and advocating for fulfilment of human rights commitments: Seminar on understanding the ICESCR and the MDGs

15 September 2010

South Africa is one of only a handful of countries around the world that have not ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR). This treaty aims to enhance local and global social justice. It is important for enforcing the rights of those living in poverty, which has particular relevance to the vast majority of communities in South Africa, who do not have access to some of the most basic human rights.

Over fifteen years ago, Nelson Mandela signed the ICESCR. But signing a treaty is not legally binding, it only shows that the country agrees with the treaty in principle and has intention to ratify the treaty at a later stage. Only after a treaty has been ratified does it become legally binding.

In 2008, an Optional Protocol to the ICESCR was adopted, which creates a new international mechanism that will enable people whose rights have been denied -- and do not have a remedy in their own country -- to seek justice through the United Nations (UN). South Africa supported and played an active role in the drafting of this Protocol, but cannot ratify the Protocol until it has ratified the ICESCR.

President Zuma made a statement at the United Nations in 2000, arguing that the 'ratification and implementation of international human rights instruments', along with the 'mechanisms to monitor the implementation and protection of such rights' are a key component of the global human rights agenda. This statement must also be applied to the ratification of the ICESCR and its Optional Protocol.

President Zuma has also indicated in a response to a question in parliament on 4 May 2010 that the reasons for the delay in South Africa ratifying the ICESCR are due to possible conflict between the ICESCR and the South African Constitution and due to difficulty in identifying a lead department to oversee the implementation of ICESCR once it is ratified. He indicated in his reply that *the issue has been placed on the agendas of key government bodies for resolution*.

The **ICESCR Campaign** has shown that the majority of the rights and obligations in the ICESCR are already guaranteed by our own Constitution, as well as other international instruments which South Africa has ratified such as the African Charter on Human and Peoples' Rights. This tells us that that failure to ratify is more likely to be due to lack of political will and not policy concerns.

South Africa has committed to reducing poverty and meeting the UN Millennium Development Goals (MDGs). But people living in poverty are often denied their rights and have no real opportunity to hold government accountable. For too many people, the rights to adequate housing, food, water, health, work and education are denied on a daily basis.

When South Africa ratifies the ICESCR and its Optional Protocol, it will clearly signal its commitment to be legally bound by the full range of human rights that are recognised under international law, and to develop effective remedies for victims of socio-economic rights violations. This will signal South Africa's dedication to alleviate poverty and ensure social justice for all. It will also strengthen the legal recognition and implementation of socio-economic rights in South Africa.

The seminar is aimed at community-based and civil society organisations in general, and those who wish to examine and explore issues and begin a process to take up some of the issues to Parliament. To begin a process where community-based organisations could be afforded opportunities to participate in parliamentary processes that they ordinarily would not be able to access due to high cost of transport. In addition, it will include a broader group of organisations interested in coming together as a collective to analyse, reflect on the MDGs and promote the ratification of the ICESCR and its Optional Protocol.

The seminar aims to:

- Foster awareness of the ICESCR and the MDGs and South Africa's compliance with its reporting obligations in terms of the MDGs;
- Establish the link between ratification of the ICESCR and meeting the MDGs; and
- Integrate the ICESCR and the MDGs in local/community-based programmes.

The timing of the seminar is important, as two related events are taking place during this month (September 2010):

- From 21 to 23 and 27 to 28 September, the annual treaty event of the UN -- '2010 Treaty Event: Towards Universal Participation and Implementation' -- will be held in New York. A letter by the UN Secretary General has been sent to governments inviting them make use of the event by signing and depositing instruments of ratification, acceptance or accession to those treaties to which the country is not party already.
- From 20-22 September, the MDG Summit will be held in New York. With only five years left until the 2015 deadline to achieve the MDGs, world leaders (including from South Africa) will be meeting in order to speed up progress towards the MDGs.

### **Post seminar**

The groups involved in the seminar are already involved in processes of coalition building in which the sharing and learning from this process will be enhanced. The organisations involved in this process are committed to continuing to work together in the future in a joint effort to continue to reflect and contribute to civil society activism and social movements to promote the realisation of human rights for vulnerable groups.

In addition, we intend to produce a collaborative report bringing together the analysis of the issues and a summary of the discussions. This report can then be used by the various organisations and individuals involved to take the issues further and build on the discussions at this seminar.

### **Campaign for the Ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and its Optional Protocol**

**Drivers:** Community Law Centre; Black Sash; People's Health Movement South Africa; National Welfare Social Service and Development Forum are the drivers of the Campaign; and Global Call to Action against Poverty South Africa

**Other organisations currently signed up to the campaign:** Amnesty International South Africa; Black Sash; Centre for Applied Legal Studies, University of the Witwatersrand; Centre for Human Rights, University of Pretoria; Centre on Housing Rights and Evictions; Citizens' Advice Bureau, Khayelitsha; Community Development Resource Association; Community Law Centre, University of the Western Cape; Foundation for Human Rights; GCAP SA (Global Call to Action Against Poverty); Global Water Foundation; Johannesburg Child Welfare Society; National Welfare Social Service & Development Forum; National Council of Women of South Africa; Nelson Mandela Children's Fund; People's Health Movement South Africa; PASSOP (People Against Suffering, Suppression, Oppression and Poverty); Planact; SANGOCO Western Cape; School of Public Health, University of Cape Town; South African First Indigenous and Human Rights Organisation; South African Council of Churches; Treatment Action Campaign; Tshwaranang Legal Advocacy Centre; Unity for Tertiary Refugee Students; National Women's Coalition; Socio-Economic Rights Institute of South Africa.