

Course Description – Economic, Social, and Cultural Rights

Instructor: Srinjoy Sarkar

Credits: 4

Duration: 15 weeks

Ever since the International Covenant on Economic, Social, and Cultural Rights (ICESCR) entered into force on 3 January 1976, academic and legal scholars have doubted the justiciability of these rights in courts. However, the emergence of judicial activism and progressive constitutional interpretation by courts in developing countries it would be safe to suggest that the justiciability of Economics, Social, and Cultural rights is currently at its most robust phase than ever before. In addition to the existing legal obligation on states, and the activation of the Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights suggests state practice that these rights are tangible rights.

The course shall begin with an introduction to the concepts of i. economic, social and cultural rights, ii. respect-protect-fulfil doctrine, and iii. state obligations under Article 2.1 of ICESCR. Thereafter, the course shall adopt a comparative approach to state obligation and justiciability of Economics, Social, and Cultural rights through the lens of international, regional, and domestic courts and committees. This may include case studies from the European Court of Human Rights, the European Committee on Social Rights, the African Commission on Human and People's Rights, the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. Apart from the focus on the thematic issue (listed below), the course shall also devote time to the analysis of the procedural hurdles required to make a successful individual complaint to the Committee on Economic, Social, and Cultural Rights under the Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights. Finally, the course will move to focus on some thematic Economics, Social, and Cultural rights in India.

Thematic issues:

1. Right to Work
2. Right to Health
3. Right to Education
4. The right to an adequate standard of living: the right to adequate housing, adequate food
5. Cultural Rights.
6. Economic, Social and Cultural Rights in the context of business activities
7. Social Security
8. ESC rights in post-conflict situations
 - a. There is emerging scholarship in this area, that I need to explore.