

# **Amsterdam Center for International Law**

## **Seminar on The right to benefit from scientific progress - Background**

Over the past century, research and science have been driving forces behind technological advance and economic growth. However, many peoples from developing countries do not benefit from scientific and technological advancement, because too little of the knowledge and technology is accessible or applicable in these countries. At the same time, scientific research plays an important role in development and poverty reduction. The development of vaccines against smallpox, polio and other childhood diseases, for instance, has done much to prolong life expectancy. The development and use of cheap oral dehydration therapy has prevented the deaths of millions of babies from diarrhoea.

The above shows that there is an inherent link between the right to enjoy the benefits of scientific progress and other human rights, in particular the right to an adequate standard of living, the right to education, the right to health, the right to information and the right to food. Within the larger debate on the effects of globalization on the promotion and protection of human rights, there is further a tension between the right to enjoy the benefits of scientific progress and the protection of intellectual property. It is recognized, for example, that the trade-related aspects of intellectual property (TRIPS) may impact negatively the realization of human rights. Another relevant issue concerns scientific research devoted to objectives that are inherently harmful for human beings (for example, the development of modern weaponry), as well as possible abuse of scientific progress.

Although the right to enjoy the benefits of scientific progress and its applications is included in the Universal Declaration of Human Rights (Article 27) and the International Covenant on Economic, Social and Cultural Rights (Article 15), it is generally agreed that this right has not received adequate attention by the international human rights community, and is considered as an “underdeveloped” human right. No comprehensive study and analysis have been conducted by human rights specialists and States have not paid much attention to it in their State reports to the Committee on Economic, Social and Cultural Rights, the international treaty body supervising the implementation of this right.

The main purpose of the meeting is therefore to map the various issues involved in the promotion and protection of the right to enjoy the benefits of scientific progress and its applications. The specific aim is to further elucidate the nature and normative content of this right and the corresponding obligations of States, as well as to discuss the interdependence and interrelatedness of this right with other human rights and the existing obstacles to its non-discriminatory application. Since not much scientific work has been done on the elaboration of this right, a broad approach has been chosen for.

After a first state-of-the-art study was conducted by Professor William Schabas in 2006, drawing a picture of the great variety of issues involved, studies will be prepared on several specific topics related to the right to enjoy the benefits of scientific progress. One of them will deal with the tension between this right and the intellectual property protection of, among others, the WTO. Other papers deal with the relationship of this right with other human rights, such as the

right to food, the right to health and the right to information. One of the central issues is that investments in research are often determined by commercial interest, rather than by development needs. For example, much more funds are devoted to research to developing drugs for 'erectile dysfunction' and similar real or imagined maladies of the rich, rather than to eliminating the scourge of malaria or other tropical diseases among the world's poor. Access to existing medication, for example for HIV/AIDS, is also fundamental to enjoyment of the benefits of scientific progress. Scientific research with respect to food suffers from the same problems as medical and pharmaceutical research. It is often driven by profit, neglecting those who are the hungriest by not investing in the most important crops of the poorest, because they are commercially not attractive. Finally, science and technology in terms of access to information are also rapidly evolving, including developments, such as mobile telephones, internet and satellite television. The benefits have been enormous and have particular potential for developing countries. For example, in the past, education and research at university-level institutions was hindered by poor library resources. Nowadays, much academic research is internet-based. However, there is still a great divide in equal participation in, access to and use of, information and communications technology.

The meeting on the right to enjoy the benefits of scientific progress and its applications is meant to bring together the authors of the studies, other human rights experts from well-known research centres, as well as representatives of United Nations Programmes, Bodies and Specialized Agencies dealing with the issues described above. The studies will be shared among the participants in advance. During the meeting, a session will be dedicated to each of the studies, whereby the author provides for an introduction into the topic, after which there will be room for discussion, analysis and assessment of possible follow-up. Ideas on the normative content, corresponding State obligations and main obstacles to the implementation of this right will be extracted on the basis of the discussions.

The studies are expected to be published in a book, which will contribute to the elucidation of this right and may encourage further research, in order to increase the knowledge and awareness of this right targeting States that have to implement it, as well as NGOs that can advocate for its implementation. The meeting could also contribute to the work of the Committee on Economic, Social and Cultural Rights in view of a possible elaboration of a general comment on this right.

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