

The Puzzle - The Right to Enjoy the Benefits of Scientific Progress and Its Applications ("Article 15")

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Outline

- Right – language of Article 15 and definition
- Definition – UN, UNESCO and academic consideration
- Analysis – ‘benefits’, ‘science’, whose right?

The Right Language and Significance

Right – Recognition in Law

American Declaration on
the Rights and Duties of
Man (1948)

“...the right to ... participate in the benefits that result from intellectual progress, especially scientific discoveries.”
(Art. 13)

Universal Declaration of
Human Rights (1948)

“...the right freely to ... share in scientific advancement and its benefits.” (Art. 27)

International Covenant on
Economic, Social and
Cultural Rights (1966)

“...the right of everyone ... to enjoy the benefits of scientific progress and its applications.” (Art. 15)

Additional Protocol to the
San Salvador Convention
in the Area of Economic,
Social and Cultural Rights
(1988)

“...the right of everyone ... to enjoy the benefits of scientific and technological progress” (Art. 14)

Right – Article 15 in its entirety

Governments shall:

1. recognize the right of everyone to:
 - (a) take part in cultural life
 - (b) **enjoy the benefits of scientific progress and its applications;**
 - (c) benefit the moral and material interests in their scientific, literary or artistic production;
2. **conserve, develop and diffuse science** and culture;
3. respect the **freedom indispensable for scientific research** and creative activity; and
4. recognize the benefits of **international contacts and co-operation** in the scientific and cultural fields.

Right – Legal Significance

- 160 governments have ratified the International Covenant on Economic, Social and Cultural Rights
- The right is recognized in several national Constitutions:
Armenia (1995); Ecuador (2008); Moldova (1994); Paraguay (1992)

Definition

What does the right mean?
Who can say?

Definition – UN Committee on Economic, Social and Cultural Rights

- | | |
|----------|---------------------------------------------------------------------------------------------------------------|
| 1985 | Committee created to guide and monitor implementation of the Covenant on Economic, Social and Cultural Rights |
| 1991 | Committee issues Guidelines to States Party on questions to address re. Article 15(1)(b) in reports |
| 2006 | Committee states that it will develop a General Comment on Article 15 (1)(b) |
| On-going | Committee considers periodic reports of States Party to the Covenant |

Definition – State Reports

Top Three Reported Categories in State Reports (n=117)											
Constitutional		Funding		Institutional		Judicial		Legislative		Programmatic	
Protecting Intellectual Property or "moral and material rights"	37	National (or subnational) S&T Research Portfolio	44	Institutions Supporting/Organizing National or Regional Research Enterprise	29	Punishing Unfair Business Practices in the Pharmaceutical Industry	1	Protecting Intellectual Property	74	Government Supported Research and Infrastructure (General)	39
Protecting Scientific Freedom	35	Support/ Training of Researchers	22	General S&T Research Institutions	25			Protecting Scientific Freedom	38	Hosting/ Subsidizing Lectures/ Seminars/ Conferences/ Exhibitions	36
Promoting or encouraging research/the development of science and technology	18	Travel Grants for Scientists	17	Institutions for the Dissemination/ Diffusion of S&T Knowledge	16			Providing Funding or Supporting Infrastructural Growth of Scientific Enterprise	25	S&T Human Resources Development/ Postsecondary Science Education	21

Definition – Who else has had a say?

2007-2009	UNESCO Process (2007-2009): Venice Statement
2010	American Association for the Advancement of Science
2012	Report of the Special Rapporteur in the field of cultural rights, Farida Shaheed, 'The right to enjoy the benefits of scientific progress and its applications' (2012)

Definition – UNESCO: Venice Statement

The right:

- Is applicable across all disciplines
- Can be enjoyed individually and collectively

Implementation requires:

- Close international cooperation
- Creation of an enabling and participatory environment
- Particular attention be paid to the needs of marginalized and vulnerable population
- Protection from abuse and adverse effects of science and its applications

Definition - AAAS

Basic tenets of the right include:

- ensuring equitable access to the benefits of scientific progress, with particular focus on vulnerable and marginalized groups;
- investing in R&D and creating incentives for innovation to address forms of suffering experienced by these groups;
- ensuring the freedom of scientists to engage in scientific inquiry while also conducting their work responsibly; and
- fostering international cooperation in science.

AAAS Board of Directors, Statement, April 2010

Definition- Shaheed

Core components of the right:

- access by everyone without discrimination to the benefits of science and its applications, including scientific knowledge;
- opportunities for all to contribute to the scientific enterprise and the freedom indispensable for scientific research;
- participation of individuals and communities in decision-making about science; and
- development of an enabling environment fostering the conservation, development and diffusion of science and technology.

F. Shaheed, "The right to enjoy the benefits of scientific progress and its applications," 14 May 2012 (A/HRC/20/26, HRC, Geneva, 2012).

Definition – Who else has had a say?

- 2002 Claude, R., ‘Scientists’ Rights and the Human Right to the Benefits of Science’
- 2007 Schabas, WA., ‘Study of the Right to Enjoy the Benefits of Scientific and Technological Progress and Its Applications
- 2009 Chapman, A., ‘Towards an Understanding of the Right to Enjoy the Benefits of Scientific Progress’
- 2010 Marks, S., ‘Out of Obscurity: The Right to Benefit from Advances in Science and Technology and Its Implications for Global Health
- 2010 Shaver, L., ‘The Right to Science and Culture’
- 2012 Haugen, HM., ‘Technology and Human Rights – Friends or Foes? (Ch.2)
- 2013 Timmermann, C., ‘Sharing in or Benefiting from Scientific Advancement?’
- 2013 Chapman, A. and Wyndham, J., ‘A Human Right to Science’

Analysis

Core Questions and Concerns

#1 How have the benefits of science been defined?

- Venice Statement – “contemporary relevance” to food, health, information and communication technologies
- Shaheed – “benefits of science encompass not only scientific results and outcomes but also the scientific process, its methodologies and tools”

#1 How have the benefits of science been defined?

- Chapman - benefits “is to be understood as material benefits that every person should be able to enjoy in everyday life”
- Travaux – Mr Havet (UNESCO) dissemination of scientific knowledge can “contribute largely to the removal of certain prejudices, for example racial prejudices”
- State Reports – “research areas of priority” = environment (12), agriculture (7), general health (6), economics (5), ICTs (4), education (3), energy (2), social science (2), space (1), engineering (1), autism (1), genomics (1), AIDS (1)

#2 From which fields of S&E are benefits derived?

- Reports and commentary reflect an emphasis on the life and physical sciences
- Venice Statement – “This right is applicable to all fields of science and its applications”
- Shaheed – “Science must be understood as knowledge that is testable and refutable, in all fields of inquiry, including social sciences, and encompassing all research.”

#3 Whose right is this?

- Claude – while recognizing the rights of everyone emphasized the rights of scientists
- Venice Statement and Shaheed – recognizes relevance of the right to scientists, the scientific community and general public

AAAS Science and Human Rights Coalition

Providing Key Pieces of the Puzzle

Venice Statement: Next Steps

17. “The comprehensive elucidation of this right, raising awareness of it, its implementation, and the monitoring of its realization require the cooperation and participation of [among others]... **the scientific and academic communities.**”

AAAS

“Recognizing that this right lies at the heart of the AAAS mission and the social responsibilities of scientists, AAAS will:

pursue opportunities to collaborate with the global scientific community so that the voice, interests and concerns of scientists can be brought to this process [and]

engage the domestic and global scientific communities in defining the content of the right and determining its application to a diverse range of scientific disciplines and issues of concern to the scientific community”

AAAS Board of Directors, Statement, April 2010

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Thank you!

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