

THE RIGHT TO WORK: HUMAN RIGHTS OBLIGATIONS OF GOVERNMENTS AND NON-STATE ACTORS

Human Rights Obligations of Governments

Human rights identify the minimum conditions – civil, political, economic, social and cultural – for living with dignity. They apply to all of us equally by virtue of our humanity. When people's rights are respected protected and fulfilled, they can live in peace and develop and reach their full potential as human rights.

The international human rights framework places primary responsibility on governments for ensuring that human rights standards are met, including the right to work. Governments are obligated to¹:

- **Respect, protect and fulfill** the right to work, by refraining from any action that deprives people of their rights {respect}; preventing third parties, including individuals, businesses and non-governmental institutions, from depriving people of their rights {protect}; and taking active measures so that individuals and communities can realize their rights {fulfill}.
- **Guarantee equality and non-discrimination** of opportunity and treatment in employment. There can be no discrimination in access to employment, training and working conditions, on grounds of race, color, sex, religion, political opinion, national extraction or social origin.
- **Utilize the maximum available resources** to ensure the right to work based on the resources of society as a whole, not only the resources within the current budget.
- **Meet minimum core obligations** for the right to work based on minimum standards that are shaped and informed by the resources available in a given country.
- **Guarantee human rights in relation to both conduct and results**, so that governments are responsible for their direct action and inaction, as well as, for example, the resulting conditions of work and rates of unemployment.
- **Monitor** the fulfillment of the right to work by the government and non-state actors, provide **effective remedies** when rights are violated, and ensure the **effective participation of civil society** in the ensuring the right to work, for example, by protecting the right to organize.

The Role of Non-State Actors

Under the human rights framework, governments are responsible for protecting human rights by ensuring that non-state actors, including individuals, businesses, corporations and multi-nationals, do not deprive people of their rights, and by ensuring that effective remedies are available when rights are violated. States are responsible for violations of human rights that result from their failure to take adequate action to control the behavior of such non-state actors.

While governments hold the primary obligations for human rights relating to the conduct of non-state actors, those actors do carry some responsibilities themselves. The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally recognized Human Rights and Fundamental Freedoms, for example, states that:

“No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms...” (Article 10)

“Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms...” (Article 11)

With regard to the right to work specifically, the United Nations Slavery Convention also assigns direct obligations to non-state actors, including corporations, to suppress slavery and forced labor.

Such examples are limited and the responsibilities of non-state actors are as of yet undeveloped by the international community. It is important to note, however, that regardless of specific legal obligations on the part of non-state actors, it is essential to demand that businesses, corporations and other private actors adhere to human rights standards and that they be held accountable to those standards by governments and by civil society.

What is a Rights-Based Approach?

A rights-based approach is founded on the conviction that each and every human being by virtue of being human is a holder of rights. A right entails an obligation on the part of the government [or other duty-holders] to respect, protect and fulfill it. The legal and normative character of rights and the associated governmental obligations are based on international human rights treaties and other standards as well as on national constitutional human rights provisions.

Thus, a rights-based approach involves not charity or simple economic development, but a process of enabling those not enjoying their economic, social and cultural rights to claim their rights.

-- Circle of Rights. Economic, Social & Cultural Rights Activism A Training Resource, International Human Rights Internship Program/Forum-Asia, 2000

¹ Government obligations are found in Masstricht Guidelines on Violations of Economic, Social and Cultural Rights, Maastricht, January 22-26, 1997.