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Subject: Comment for upcoming report on the right to access and take part in scientific progress to the Human Rights Council (March 2024)

To Ms. Alexandra Xanthaki  
UN Special Rapporteur in the Field of Cultural Rights  
[hrc-sr-culturalrights@un.org](mailto:hrc-sr-culturalrights@un.org)

Dear Special Rapporteur,

This is a submission following your call to provide input for your upcoming report on the right to access and take part in scientific progress to the Human Rights Council to be presented in March 2024.

1. Among the sources for your report you mention:

- 2012: UN Special Rapporteur on Cultural Rights, Report on the right to enjoy the benefits of scientific progress and its applications, A/HRC/20/26.
- 2020: Committee on Economic, Social and Cultural Rights [CESCR], General Comment 25 on Science and Economic, Social and Cultural rights.

Other possibly relevant documents include:

- 1975: [UNGA Resolution 3384 \(XXX\)](#) [2 pp.].
- 1992: CESCR, UN Doc. [E/C.12/1992/2](#), paragraphs 202–223, pp. 57–59.
- 1999: UNESCO, [Declaration on Science and the Use of Scientific Knowledge](#) (1999) [8 pp.].
- 2009: CESCR, General Comment 21 on the right of everyone to take part in cultural life [18 pp.]
- 2009: UNESCO, The Right to Enjoy the Benefits of Scientific Progress and Its Applications [22 pp.]
- 2009: Venice Statement on the Right to Enjoy the Benefits of Scientific Progress and its Applications [8 pp.]
- 2013: AAAS, Defining the Right to Enjoy the Benefits of Scientific Progress and Its Applications: American Scientists' Perspectives [including the diagram "Continuum of Access"] [30 pp.]
- 2013: OHCHR, Seminar on the right to enjoy the benefits of scientific progress and its applications [UN Doc: OHCHR/RRDD/HRESI Section/CM/CC/LG/is] [4 pp.]
- 2018: <https://www.ohchr.org/en/events/days-general-discussion-dgd/2018/general-discussion-draft-general-comment-article-15-icescr> [including the discussion paper, 6 pp.]

And of course, there are also the *Travaux Préparatoires* of the ICESCR (2016), edited by Ben Saul; the *Commentary* on the ICESCR (2014), edited by Ben Saul and others; and the book *The Right to Science: Then and Now*. (2022).

Please tell me whether you need these documents; I can send most, if necessary.

2. My main substantial comment regards your title “The right to access and take part in scientific progress”. I explain this in a few interconnected steps:

- If I break down this title, I read “The right to access scientific progress” and “The right to take part in scientific progress.” In my view, both components are unclear because how can you “access progress” or “take part in progress”? Progress is a term that is used for judging a development in hindsight.
- I think that the confusion arises from your amalgamation of ICESCR Article 15.1(a) (To take part in cultural life [in which you include scientific life]) and ICESCR Article 15.1(b) (To enjoy the benefits of scientific progress and its applications). You cannot take part in progress, but yes you can take part in cultural or scientific life.
- In addition, I believe that alongside the concepts of “access” and “participation”, a third key concept is “benefit”. If you add this concept to the others, you create an analogy with Article 19.2 ICCPR, which speaks of three operations: seek, receive and impart information and ideas. The analogy between Article 19.2 ICCPR and the Report would look as follows:  
 Seek = access  
 Receive = benefit  
 Impart = contribute.
- From the above I would like to suggest that a better title for the Report would be: **The right to take part in scientific life**, with the understanding that “participation” is an umbrella term for the three operations: access, benefit, and contribution.
- I think that the discussion about the relationship of “everyone” and “science” is only possible if you subdivide the operation of “science” into stages and then discuss participation (that is, the triad access, benefit, contribution) with regard to each stage. In my view, a doable design could be:

Stages in the operation of science ↓	The right to take part in scientific life ↓		
	Access	Contribution	Benefit
Incubation			
Preparation	X	X	X
Data collection		X	
Data analysis			
Post-publication	X	X	X

- I will abstain from commenting on the design as its purpose is only to suggest ideas on how to approach the complicated field to cover in the Report. You will notice, however, that, as much as members of society (that is, “everyone”) have rights to take part in scientific life, there are two stages that should remain shielded from any interference: (1) the stage of incubation which is protected by the right to freedom of thought (Article 18 ICCPR), and the stage of data analysis, which is protected by academic freedom and should therefore remain the exclusive domain of scholars/scientists and their peers, without any pressure from non-experts. Failure to protect these stages threatens the unique character of science. The other three stages, however, give several opportunities for participation.

With best wishes,

Antoon De Baets