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This article looks at the potential for individual communications under common article 1 of the Human Rights Covenants, in particular, under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. It first outlines the problems posed by the drafting of common article 1, in particular, the identity of peoples. It then considers how individuals might be able to claim peoples' rights through representation and the collectivization of individual rights.

The legal implementation of the right of peoples to self-determination has always been difficult. After the right was initially popularized in the period following the First World War, Sarah Wambaugh mused: "No group, however small, should be without its day in court."[1] Legal mechanisms for claiming such a right, however, have proved far from straightforward. Many human rights treaties have mechanisms that allow individuals to bring claims over the violation of their rights. These procedures have been integral to enforcement of the regional European, Inter-American, and African systems and are also an option for the twin Human Rights Covenants. The International Covenant on Civil and Political Rights (ICCPR) has the most established and widely used communications procedure, with 116 parties to its Optional Protocol I 1966.[2] The International Covenant on Economic, Social and Cultural Rights' (ICESCR) Optional Protocol 2008 is more recent and currently has 24 states parties.[3]

The ability to bring a complaint over self-determination through such systems, however, is limited. Few human rights instruments actually proclaim such a right. The African Charter on Human and Peoples' Rights, in articles 19–24, and the twin covenants, in common article 1, are the only human rights treaties that do so. Moreover, while the individuals claiming a human rights violation are intended to be self-evident, the "peoples" claiming peoples' rights are more ambiguous and contested. The Human Rights Committee (HRC), which implements the ICCPR, has effectively closed the door on individual communications under article 1 of that covenant. The Committee on Economic, Social and Cultural Rights (CESCR), which implements the ICESCR, by contrast, has not excluded the potential for communications under article 1 for its covenant, and this body forms the focus for this article.

This article explores an obstacle that claims under article 1 inevitably face under the ICESCR Optional Protocol: how individuals can bring a claim on behalf of a people. It looks at the content of common article 1 and potential obstacles to communications that might arise from it. It examines the drafting of the article and practice by the two committees. It also draws from jurisprudence under the African Charter, the only regional human rights system to directly recognize peoples' rights, and the Inter-American system, where they have been recognized indirectly.

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The Two Committees and Rights in Article 1 of the Human Rights Covenants

The right of peoples to self-determination in common article 1 of the human rights covenants differs from the other rights in the covenants in two ways. First, unlike the other covenant rights, which are individually focused, the article is held by a collective group, a people. Second, it is the only right common to the two covenants, though it could have different significance for each one. The first paragraph of the article reads:

> 1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

This statement reflects a division between political status, which can be freely determined, and economic, social, and cultural development, which can be freely pursued, reflecting a distinction between civil and political and economic, social, and cultural rights. The economic aspects of self-determination are then expanded on in the second paragraph, through a right to dispose of resources:

> 2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

The right to resources in article 1(2) is phrased in qualified terms as a balance of five interconnected elements.[4] The right of peoples to dispose of their resources is subject to obligations from international economic cooperation, the principle of mutual benefit, and international law. The drafting left the content of each of these elements and their relationship ambiguous,[5] though they can be seen essentially to frame a relationship between states or between states and investors.[6] The last sentence provides that regardless of this balance, peoples are not to be deprived of their means of subsistence, which suggests a relationship between a state's government and its people. This provision reflects an ultimate guarantee to prevent, as the Saudi representative explained at the time, "a weak or penniless government from seriously compromising a country's future by granting concessions in the economic sphere—a frequent occurrence in the nineteenth century."[7] While deprivation of means of subsistence, like other elements in article 1(2), was never defined, this provision underlines an intention for it to provide a basic level of economic protection. Moreover, one of the few examples cited to illustrate the provision, the removal of a tribe from their ancestral land in Tanganyika, also suggests a relationship between a government and communities within a state or a similar territory.[8]

Although the content of paragraph 2 was never clarified, another ambiguity in article 1 posed an even greater challenge to its implementation—the identity of the peoples who held the right. While the inclusion of the article was inspired by the then ongoing decolonization process and justified on the basis that self-determination was the prerequisite for human rights, it was less clear how individuals related to a people as a collective group. The concept of peoples was subject to competing claims and some of those envisioned the break-up of states. Article 1, unlike other provisions on self-determination, does not explicitly protect the territorial integrity of states. It does so implicitly.[9] Nonetheless, the right could be seen as an existential threat by many states' parties and this possibility of secession has made it a difficult right for the HRC and CESCR to implement.

These difficulties have expressed themselves most decisively in the practice of the HRC. This committee can receive communications from individuals over potential violations of ICCPR rights by states parties to its Optional Protocol I. But the HRC quickly took the

position that the rights in article 1 were not available for individual communication and has consistently maintained this stance.[10] This was the only instance where the committee refused to receive communications over a right in the covenant.

The issues behind this refusal—controversy over the identity of peoples and the scope of self-determination—were evident in the first communication brought under the protocol. In *A. D. v. Canada (Mikmaq Tribal Society)* the grand captain of the society asserted that Canada had denied self-determination for the Mikmaq people and insisted that "the Mikmaq nation be recognised as a State."[11] The committee dismissed this claim in 1984 on the grounds that the author had not shown himself to be the authorized representative of the society.[12] This decision, committee member Roger Errera noted, left open whether the Mikmaq constituted a "people" and whether self-determination could be claimed by individuals.[13] In *Kitok v. Sweden* (1988), however, the committee simply adopted the stand that individuals cannot claim to be victims of a breach of article 1,[14] a stance it has consistently maintained.[15] The committee also explained that this position meant that it did not need to address whether the groups in question were peoples.[16] The committee's approach on the article is more restrictive than the actual wording of Optional Protocol I, which provides for the committee's competence over communications on "any of the rights set forth in the Covenant."[17] It also sat uncomfortably with the committee's finding in General Comment No. 12 (1984) that self-determination was "essential . . . for the effective guarantee of observance of individual rights and for promotion and strengthening of those rights."[18] The committee has subsequently recognized a role for article 1 in the interpretation of other covenant rights. These are the rights of persons belonging to ethnic, religious, and linguistic minorities in article 27[19] and rights to vote and participate in government in article 25.[20] Nonetheless, the effect of this interpretative role has been marginal because there has been little clarification on what article 1 actually contributes to those articles.

The context in the ICESCR is somewhat different. The framework for individual communications under this covenant developed much later than the ICCPR. In contrast to civil and political rights, which could be immediately violated by state actions, it was questioned whether economic and social rights, which are progressively realized, lend themselves to a communications procedure. Nevertheless, an individual communications procedure was established in the ICESCR Optional Protocol 2008, which entered into force in 2013. Article 2 of the protocol allows communications over "a violation of any of the economic, social and cultural rights set forth in the Covenant." This phrase has significance for article 1 because by being narrower than the equivalent provision in the ICCPR Protocol it provides a focus for potential claims. The CESCR in drafting the protocol was conscious of the danger of being seen to encourage secession[21] but also reluctant to follow the restrictive stance of the HRC.[22] The solution was that "only the economic, social and cultural aspects of the right to self-determination could be the subject of communications."[23] This narrowed focus not only followed the committee's mandate but enabled them to avoid the difficult political questions that fell more squarely within the scope of the HRC. Conversely, this focus allowed the committee to concentrate on the economic, social, and cultural role of peoples' rights in the covenant. Committee member Philip Alston in a discussion on the protocol cited the protection of a people's means of subsistence as an example of how self-determination relates to economic, social, and cultural rights.[24] Thus, the Optional Protocol creates the potential for communications against states parties under article 1 within an economic, social, and cultural context.

The Authors of Communications and Connections between Individual and Peoples' Rights

Potential article 1 communications under the ICESCR Optional Protocol necessarily raise the issue of the connection between peoples' rights and the individuals who bring the communication, a relationship that has remained unresolved since *Mikmaq Tribal Society*. Individuals certainly form the collective groups known as "peoples," but peoples' rights are exercised by the group as a whole, not by particular individuals. Individuals have been able to bring complaints over violations of peoples' rights in a relatively small number of cases under the African Charter on Human and Peoples' Rights. Individuals and organizations have successfully raised peoples' rights violations for groups within states—in the Southern Cameroons, Darfur, and for the Ogoni, the Endrois, and the Ogiek. But there is a crucial difference in the African system. The African Charter does not require the authors of a communication to be the actual victim of a violation of one of its rights.[25] Thus, there is no obstacle to individuals' raising a peoples' rights violation that can then be judged on its own merits.

By contrast, both the ICECR Optional Protocol and the ICCPR Optional Protocol require authors of a communication to be the "victim" of a breach of the right in the relevant covenant.[26] Article 2 of the ICESCR Optional Protocol refers to claims "by or on behalf of individuals or groups of individuals" that are "claiming to be victims of a violation" of the covenant's rights.[27] This provision requires a specific connection between peoples' rights and the rights of individuals claiming a breach of those rights. If a clear distinction is maintained between collective rights and individual rights then the two simply do not connect. The HRC has essentially taken this position.

If the collective nature of peoples' rights does not form an insurmountable barrier to individual communication, however, there needs to be a way to connect them. There are two potential ways to link individuals to peoples' rights. The first is representation. Article 2 allows communications "on behalf of" a "group of individuals," which might equate to a people, with their consent, unless the author can justify acting on their behalf without such consent. Individuals might be able to bring claims over peoples' rights if they have this consent. In self-governing communities, essentially indigenous and tribal peoples, there may be leaders who can express the relevant consent, either individually or by a delegation. This authority was partially addressed in *Mikmaq Tribal Society*, because the inability of the author to show himself as the authorized representative of the society led to the rejection of the communication.[28] Whether an individual could demonstrate this authority was left open in the later, *Lubicon Lake* decision. In this communication, an alleged article 1 violation was raised by Bernard Ominayak, chief of the Lubicon Lake Band, who was described as the band's "leader and representative."[29] The HRC, though, did not engage with this issue; it simply dismissed individual claims over article 1 in their entirety.[30] Thus, the issue of representation remains to be decided.

The second approach would be to treat peoples' rights as collective counterparts to individually framed rights. This approach requires establishing a nexus between peoples' rights and the other rights in the covenant so that a violation of those rights would determine a breach of article 1. Such a connection can be seen in African jurisprudence. In *COHRE v. Sudan* (2009) the "nature and magnitude" of a violation of economic, social, and cultural rights and other individual rights in Darfur supported a violation of the peoples' right to development in article 22 of the charter.[31] Likewise, in *Ogoniland* (2001) widespread human rights violations were cited as contributing to a breach of the right to dispose of resources in article 21 of the charter.[32] Alternatively, in *Endorois* (2009) and *Ogiek Community* (2017) the

peoples' right to resources drew from a communal interpretation of the right to property, which was itself based on the traditions of the group.[33]

The protection of means of subsistence provides an obvious potential nexus between economic and social rights and article 1. The CESCR made such a connection in relation to the right to water in General Comment No. 15. The committee called on states parties to "ensure that there is adequate access to water for subsistence farming and for securing the livelihoods of indigenous peoples" under article 1(2).[34] Moreover, this connection might not be limited just to the right to water but might encompass other aspects of the right to an adequate standard of living in article 11 of the ICESCR, including the right to food[35] and housing[36] and the right to health.[37] CESCR in General Comment No. 21 also emphasized the importance of respect for rights to land and resources in protecting the right to culture for indigenous communities.[38]

This nexus also corresponds to jurisprudence in regional systems that has addressed either peoples' rights or a communal interpretation of individual rights. There is an overlap between the two. The survival of an indigenous community was a crucial element in the a communal interpretation of the right to property developed by the Inter-American Court of Human Rights in its landmark *Mayagna (Sumo) Awas Tingni v. Nicaragua* case (2001).[39] The court identified three aspects to "survival"—physical, cultural, and intergenerational—and in later cases treated the concept as interchangeable with "subsistence."[40] Physical survival involved protecting the land and resources necessary for the physical integrity of an indigenous community, such as food, water, housing, and medicinal plants.[41] Cultural survival focused on the necessary resources for spiritual ties,[42] while intergenerational survival concerned the transmission of culture to future generations.[43] The African Commission in *Endorois* built on this jurisprudence, with physical and cultural survival once again equated with subsistence,[44] providing the touchstone for both a communal interpretation of the right to property[45] and the peoples' right to resources.[46]

Survival has also defined the conditions for legitimate interference with those rights. In Inter-American and African cases involving resources, interference required consultation, which needed to be timely, conducted in good faith with the aim to achieve consent, based on respect for local institutions and informed by social and environmental-impact assessment.[47] This approach corresponds with standards supported by the CESCR in relation to the exploitation of resources under article 1. The committee considered that consultation in those circumstances should be (1) timely, with "sufficient time and opportunity to reflect and take a decision,"[48] (2) inclusive, reflecting the traditions and culture of the community,[49] (3) informed by a human rights and environmental impact assessment,[50] and (4) effective, though the role of consent has varied.[51]

The two approaches to connecting individual claimants with peoples' rights emphasize different aspects of a group. The first focuses on the leadership of a community and the second on the rights of its individual members. While these two approaches could complement each other, there is also potential for conflict between them.

Practice by the HRC on communications over article 27 of the ICCPR has pointed to the potential for different interpretations of rights within sections of an indigenous community. In *Apirina Mahuika v. New Zealand* (2000), the authors represented seven tribes (*iwi*) within the Maori people who objected to a memorandum of understanding that had been agreed to by a majority of tribes with the government.[52] They raised their objections under the right to resources in article 1, though the committee considered it only as a minority rights issue under article 27. The committee considered that there might be circumstances in which individuals belonging to a minority within a group might be considered separately, but there needed to be "reasonable and objective justification" to do so.[53] In *Paadar v. Finland* (2014), the authors, who were Sami reindeer herders, alleged a violation of article 27 read with article

1 due to common limits on the number of reindeer across two communities. They argued that different natural conditions and higher exposure to predators meant that those limits disproportionately affected them. The committee as a whole concluded that it did not have sufficient information to determine a breach.[54] A dissenting opinion by four members argued, however, that a reasonable and objective justification necessary for the continued viability and welfare of the minority did not support those measures.[55]

Further guidance can also be found in the Inter-American Court's decision in *Saramaka v. Suriname* (2005). In this case, Suriname argued that the authors of the complaint had not been authorized to represent the Saramaka people by its paramount leader, the Gaa'man. The court, however, dismissed this objection under the principle of effectiveness, which meant that the authority to make communications needed to be interpreted broadly.[56] This decision might support a broader approach to the individuals who might be able to represent a community.

Conclusion

Self-determination remains a controversial right, and ambiguities in the drafting of the human rights covenants have created problems for the HRC and CESCR. These ambiguities have led the HRC to refuse to accept individual communications under article 1. The CESCR, though, has indicated that it could consider article 1 communications within an economic, social, and cultural context. This still leaves the issue of the connection between individual complainants and peoples' rights violation to be resolved. The ICESCR Optional Protocol requires that communications are brought by or on behalf of a victim of a right, but individuals may not necessarily connect to such rights. There are two possible approaches to such a connection. First, representatives of a people could give consent to the communication. Second, an overlap might be found between individual economic, social, and cultural rights and peoples' rights. The protection of a peoples' means of subsistence provides the most obvious connection. Moreover, while drawing from individual rights, this approach is not duplicative. Article 1(2) focuses on the right to resources, which in the context of indigenous communities has meant the protection of property rights. Neither covenant contains a specific right to property, so making article 1 available to communications partially fills this gap. Moreover, the deprivation of a people's means of subsistence reflects the gravity of some violations of economic and social rights, depriving a community of its means of support. As such, the availability of article 1 to individual communications could serve an important role in strengthening the ICESCR.

Notes

[1] Sarah Wambaugh, *A Monograph on Plebiscites with a Collection of Official Documents* (Oxford: Oxford University Press, 1920), 33.
[2] UN OHCHR website, last modified, August 26, 2019, https://indicators.ohchr.org/.
[3] Ibid.
[4] See Dominic McGoldrick, *The Human Rights Committee: Its Role in the Development of the International Covenant on Civil and Political Rights* (Oxford: Clarendon Press, 1991), 15; Antonio Cassese, *Self-determination of Peoples* (Cambridge: Cambridge University Press, 1995), 55–57.
[5] James Summers, *Peoples and International Law*, 2nd ed. (Leiden: Nijhoff, 2014), 344–355.
[6] See Peru, UN Doc. A/C.3/SR.647, October 28, 1955, para. 54; Costa Rica, UN Doc. A/C.3/SR.670, November 24, 1955, para. 24; Argentina, UN Doc. A/C.3/SR.672, November 25, 1955, para. 28.
[7] Saudi Arabia, UN Doc. A/C.3/SR.672, November 25, 1955, para. 36.
[8] El Salvador, UN Doc. A/C.3/674, November 28, 1955, para. 8.
[9] Summers, *Peoples and International Law*, 302–303, 310–311.
[10] See, e.g., *Bernard Ominayak, Chief of the Lubicon Lake Band v. Canada* (1990) UNHRC Communication No.

167/1984, March 26, 1990, para. 32.1.
[11] *A. D. v. Canada (Mikmaq Tribal Society)*, Communication No. 78/1980, July 29, 1984, para. 2.2.
[12] Ibid., para. 8.2.
[13] Roger Errera raised three questions that he considered were not addressed by the decision: "(1) Does the right of 'all peoples' to 'self-determination', as enunciated in article 1, paragraph 1, of the Covenant, constitute one 'of the rights set forth in the Covenant' in accordance with the terms of article 1 of the Optional Protocol? (2) If it does, may its violation by a State party which has acceded to the Optional Protocol be the subject of a communication from individuals? (3) Do the Mikmaq constitute a 'people' within the meaning of the above-mentioned provisions of article 1, paragraph 1, of the Covenant?" Roger Errera, Individual Opinion, in ibid.
[14] *Kitok v. Sweden*, Communication No. 197/1985, July 27, 1988, para. 6.3.
[15] See *E. P. et al. v. Columbia*, Communication No. 318/1988, July 25, 1990, para. 8.2; *A. B. et al. v. Italy (South Tirol)*, Communication No. 413/1990, November 2, 1990, para. 3.2; *R. L. et al. v Canada (Whispering Pines Indian Band)*, Communication No. 35.
8/1989, November 5, 1991, para. 6.2.
[16] *Bernard Ominayak, Chief of the Lubicon Lake Band v. Canada*, para. 32.1; *A. B. et al. v. Italy*, para. 3.2; *J. G. A. Diergaardt et al. v. Namibia*, Communication No. 760/1997, July 25, 2000, para. 10.3; *Gillot v. France*, Communication No. 932/2000, July 15, 2002, para. 13.16.
[17] See Manfred Nowak, *UN Covenant on Civil and Political Rights: CCPR Commentary* (Kehl, Germany: N. P. Engel, 1993), 19; James Crawford, "The Right of Self-Determination in International Law: Its Development and Future," in *Peoples' Rights*, ed. Philip Alston (Oxford: Oxford University Press, 2001), 36.
[18] HRC General Comment No. 12, 1984.
[19] *Diergaardt et al. v. Namibia*, Communication, para. 10.3; *Apirana Mahuika et al. v. New Zealand*, Communication No. 547/1993, October 27, 2000, para. 9.2.
[20] *Gillot v. France*, paras. 13.4 and 13.16.
[21] Mr. Ceausu, UN Doc. E/CN.12/1996/SR.46/Add.1, paras. 33 and 38; Mr. Simma, E/CN.12/1996/SR.20, para. 14.
[22] Mr. Alston, E/CN.12/1996/SR.46/Add.1, para. 40. See Report of the Open-Ended Working Group on an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, 5th Session, 4–8 February and 31 March–4 April 2008, paras. 214, 245, 249, and 251. See also M. Ssenyonjo, "Reflections on State Obligations with Respect to Economic, Social and Cultural Rights in International Human Rights Law" *International Journal of Human Rights* 15 (2011): 994.
[23] Mr. Simma, E/CN.12/1996/SR.46/Add.1, paras. 36 and 43.
[24] Mr. Alston, E/CN.12/1996/SR.46/Add.1, para. 37.
[25] Article 56, African Charter on Human and Peoples' Rights 1981. See *Kevin Mgwanga Gunme v. Cameroon*, Communication No. 266/2003, 27 May 2009, ACHPR, para. 67.
[26] Article 2 ICCPR Optional Protocol I 1966; Article 2, ICESCR Optional Protocol 2008.
[27] Article 2: "Communications may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the economic, social and cultural rights set forth in the Covenant by that State Party. Where a communication is submitted on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent." ICESCR Optional Protocol, 2008.
[28] *A. D. v. Canada (Mikmaq Tribal Society)*, para. 8.2.
[29] *Bernard Ominayak, Chief of the Lubicon Lake Band v. Canada*, para. 2.2.
[30] "The Optional Protocol provides a procedure under which individuals can claim that their individual rights have been violated. These rights are set out in part III of the Covenant, articles 6 to 27, inclusive." Ibid., para. 32.1.
[31] *COHRE* v. *Sudan*, Communication Nos. 279/03 and 296/05, 27 May 2009, ACHPR, para. 224.
[32] *Social and Economic Rights Action Center and the Center for Economic and Social Rights* v. *Nigeria* [*'Ogoniland'*], Communication No. 155/96, 27 October 2001, ACHPR, para. 58.
[33] *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of the Endorois Welfare Council* v. *Kenya ('Endorois')*, Communication No. 276/2003, 25 November 2009, ACHPR, paras. 260–261; *African Commission on Human and Peoples' Rights* v. *Kenya* [*'Ogiek Community'*], Application No. 006/2012, 26 May 2017, ACtHPR, Judgment, para. 201.
[34] CESCR General Comment No. 15, November 29, 2002, UN Doc. E/C.12/2002/11, para. 7.
[35] CESCR General Comment No. 12, May 12, 1999, UN Doc. E/C.12/1999/5, paras. 13 and 15.
[36] CESCR General Comment No. 7, May 20, 1997, UN Doc. E/1998/22, Annex IV, paras. 10 and 13.
[37] CESCR General Comment No. 14, August 11, 2000, UN Doc. E/C.12/2000/4, para. 43.
[38] CESCR General Comment No. 21, December 21, 2009, UN Doc. E/C.12/GC/21, para. 36. See also HRC General Comment No. 23, April 26, 1994, UN Doc. CCPR/C/21/REV.1/Add,5, para. 7.

[39] *Mayagna (Sumo) Awas Tingni Community* v. *Nicaragua*, August 31, 2001, IACtHR, Judgment, para. 126.
[40] See, e.g., *Saramaka*: "[T]he forests within Saramaka territory provide a home for the various animals they hunt for subsistence, and it is where they gather fruits and other resources essential for their survival. . . . In this sense, wood-logging activities in the forest would also likely affect such subsistence resources. That is, the extraction of one natural resource is most likely to affect the use and enjoyment of other natural resources that are necessary for the survival of the Saramakas." *Saramaka People* v. *Suriname*, November 28, 2007, IACtHR, Judgment, para. 90.
[41] *See Yakye Axa Indigenous Community* v. *Paraguay*, 17 June 2005, IACtHR, Judgment, para. 168;
[42] *Kichwa Indigenous People of Sarayaku* v. *Ecuador*, 27 June 2012, IACtHR, Judgment, para. 155. *Kaliña and Lokono Peoples* v. *Suriname*, 25 November 2015, IAtCHR, Judgment, paras. 130, 167.
[43] *Yakye Axa Indigenous Community* v. *Paraguay*, para. 154.
[44] *Endorois*, paras. 287–288.
[45] Ibid., paras. 197 and 212.
[46] Ibid., paras. 260 and 261. Citing the *Yakye Axa* and *Sawhoyamaxa* cases.
[47] *Saramaka v. Suriname*, paras. 129 and 133; *Endorois*, paras. 227–228, 266–268.
[48] CESCR, *Concluding Observations . . . Guatemala*, November 28, 2014, UN Doc. E/C.12/GTM/CO/3, para. 7.
[49] CESCR, *Concluding Observations . . . on Mexico*, March 29, 2018, UN Doc. E/C.12/MEX/CO/5-6, para. 13.
[50] Ibid.
[51] See, e.g., CESCR, *Concluding Observations . . . on Honduras*, June 24, 2016, UN Doc. E/C.12/HND/CO/2, paras. 11–12; CESCR, *Concluding Observation s . . . on Bangladesh*, March 29, 2018, UN Doc. E/C.12/BDG/CO/1, para. 16.
[52] *Mahuika v. New Zealand*, paras. 5.1–5.7.
[53] Ibid., para. 9.6.
[54] *Kalevi Paadar et al. v. Finland*, UNHRC Communication No. 2102/2011, March 26, 2014, para. 7.7.
[55] Individual Opinion of Committee Members Walter Kälin, Víctor Manuel Rodríguez Rescia, Anja Seibert-Fohr and Yuval Shany, ibid.
[56] *Saramaka v. Suriname*, paras. 19–24.