



GUIDE TO THE MONTRÉAL PRINCIPLES on Women's Economic, Social and Cultural Rights

PRODUCED BY



Centre for Equality Rights in Accommodation
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INTRODUCTION FOR USERS OF THIS GUIDE

ABOUT THIS GUIDE

The Montréal Principles on the meaning and application of economic, social and cultural rights for women is the first international legal document of its kind. Though experts had met on previous occasions to elaborate on the content of economic, social and cultural rights, the documents that emerged from these meetings – the Limburg Principles and the Maastricht Guidelines – did not reflect a gender perspective.

The Montréal Principles were drafted by leading human rights experts from Africa, Asia, Europe, North America and Latin America. They are intended to be used by a variety of actors: government officials, lawyers, grassroots activists, advocates, non-government organizations, UN officials, educators, researchers, etc.

We have developed this plain language Guide to ensure that the legal nature and language of the Montréal Principles does not interfere with their widest possible understanding and their widest possible use. These Principles, like other documents that have been written to help understand the meaning of human rights, may be further developed over time. We encourage users of this guide to adapt the Principles to fit local realities and struggles. As more human rights advocates and women use the Principles, a deeper understanding of obstacles and challenges to the realization of women's human rights may emerge.

This Guide is comprised of 7 Fact Sheets that focus on key elements of the Montréal Principles. The fact sheets can be used separately or jointly. A full copy of the Montréal Principles is also included.

The Fact Sheets cover the following issues:

- FACT SHEET 1: Introduction to the Montréal Principles: Why A Legal Document on Women's Economic, Social and Cultural Rights?
- FACT SHEET 2: Human Rights in the Montréal Principles
- FACT SHEET 3: Women's Substantive Equality and Non-Discrimination in the Context of Economic, Social and Cultural Rights
- FACT SHEET 4: Legal Obligations
- FACT SHEET 5: Violations of Women's Economic, Social and Cultural Rights
- FACT SHEET 6: Claiming and Enforcing Economic, Social and Cultural Rights
- FACT SHEET 7: The Montréal Principles at Work

We encourage you to copy and distribute all or parts of this Guide to assist you in your work and to promote further discussion and action amongst all those involved in claiming and enforcing economic, social and cultural rights.

The Montreal Principles are available in English, French and Spanish. These Fact Sheets are also available on the CERA website: <www.equalityrights.org/cera/>

Questions regarding the Montréal Principles can be directed to: <cera@equalityrights.org>

FACT SHEET 1 – INTRODUCTION & PRINCIPLE 12

INTRODUCTION TO THE MONTRÉAL PRINCIPLES:

WHY A LEGAL DOCUMENT ON WOMEN'S ECONOMIC, SOCIAL AND CULTURAL RIGHTS?

HOW DID THE MONTRÉAL PRINCIPLES COME INTO BEING?

Since the United Nations World Conference on Human Rights in Vienna (1993), women's groups from around the world have demanded that women's rights be understood and treated as a central element of the human rights framework. Although significant advances have been made in the last twenty-two years in this regard, human rights bodies and policy makers have often ignored women's economic, social and cultural rights.

While other legal documents adopted by human rights experts, such as the Limburg Principles and the Maastricht Guidelines¹, outline different aspects of economic, social and cultural rights, until now, no single international instrument has set out the specific obstacles to women's enjoyment of these rights or the practical significance of these rights for women. The Montréal Principles provide this guidance.

The Montréal Principles were adopted by a group of human rights experts, including women's rights advocates, academics and independent experts from around the world, at a meeting held in Montréal, Canada, in December 2002. While recognizing that the realization of economic, social and cultural rights is an aspiration for both women and men, the Principles highlight the realities of women's lives, their struggles and their claims. The hope is that these Principles will be used to ensure that women and girls across the globe can fully and equally enjoy all of their human rights.

The Principles aim to guide the interpretation and implementation of the economic, social and cultural rights guarantees found in various international human rights instruments to ensure that these rights have practical meaning in the lives of women.

WHY ARE THE MONTRÉAL PRINCIPLES IMPORTANT FOR WOMEN?

The Montréal Principles are important for women because sex (or gender) inequality is a problem experienced primarily by women and because economic, social and cultural rights have a particular significance for women. This is because, as a group, women have less social, economic and political power and are disproportionately poor. Women are also affected disproportionately by the presence or absence of social programs and services that deliver health care, education, child care, and other forms of social care because women are the principal unpaid providers of this care.

The experts who developed the Montréal Principles believe that women's equality is dependant on women's ability to exercise and enjoy rights. This does not just mean rights to vote, to nationality, citizenship and other civil and political rights, but also rights to an adequate standard of living, including food and housing, and rights to work, education,

¹Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights Maastricht, 2-6 June 1986. <<http://www2.law.uu.nl/english/sim/instr/limburg.asp>>

Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, Maastricht, January 22-26, 1997. <http://www1.umn.edu/humanrts/instr/Maastrichtguidelines_.html>

health, social security and other economic, social and cultural rights.

Women's economic, social and cultural rights are especially important in a globalized economy. Women are often hardest hit by the economic policies that are currently being implemented in most countries around the world, such as structural adjustment programs and privatization of services. These policies often jeopardize women's ability to claim and enjoy their economic, social and cultural rights. For example: when public health and other social services are cut, the State often relies on women to fill in the gaps by providing unpaid health, child, and elder care. This makes it harder for women to take up paid employment because women have less time to work outside of the home. In the same way, when governments attach fees to primary education, families often keep girls at home while the boys go to school, because traditional bias dictates that education is more important for boys than for girls. When food becomes scarcer because of increasing poverty, women and girls are the first to go hungry.

Women's experiences of inequality today are rooted in history, as well as current cultural, religious and social beliefs that hold that women are inferior and should be subordinate to men. This means that in order for women to fully and equally enjoy economic, social and cultural rights, public policies meant to implement these rights must be understood, exercised and implemented in ways that account for women's realities and lives. Policies and laws must address the way in which women are subordinated to men, and how women's roles and abilities are assumed to be inferior or inherently different, such as for example, the assumption that all women will be mothers or that housework is "women's work". In order to obtain equality, State policies must address the disadvantage women experience in the very structures and institutions of society, such as:

- the social norms, customs, and traditions that contribute to and legitimize women's inequality and subordination;
- women's under-representation in decision-making bodies;
- women's unequal status in their families; and
- women's unremunerated work.

For example, women will not enjoy equal rights to work and education, until State policies and laws consider and address the restrictions on women's access to paid employment and education that currently follow from women's traditional role as primary caregivers of children, the elderly and the sick.

The Montréal Principles provide assistance in this regard, outlining the steps States, transnational corporations and others must take in order to ensure that women can exercise and enjoy their economic, social and cultural rights.

SUGGESTED QUESTIONS FOR DISCUSSION:

1. What are some of the key economic, social or cultural rights issues facing you or particular groups of women in your community? Think of particular institutions in which women may experience economic, social or cultural disadvantage: the household, the family, the community, the economy, etc.
2. How do assumptions about women and women's roles worsen the issues raised?
3. Has the State addressed any of these issues?

FACT SHEET 2 - PRINCIPLES 1 - 4

HUMAN RIGHTS IN THE MONTRÉAL PRINCIPLES

WHAT RIGHTS ARE INCLUDED IN THE MONTRÉAL PRINCIPLES?

The Montréal Principles list a range of women's economic, social and cultural rights. While the list is not exhaustive, it does provide a fairly comprehensive overview of internationally established human rights and includes the following:

Equality and non-discrimination (See Fact Sheet 3)

Women and men have the right to equal enjoyment of economic, social and cultural rights.

Right to an adequate standard of living

Women have the right to an adequate standard of living and to the continuous improvement of living conditions. This includes the right to food and freedom from hunger, to a safe supply of water, to clothing, to housing and to freedom from forcible eviction.

Rights to health

At all stages of their lives, women have the right to the highest level of mental and physical health they can achieve, including ready access to health services and information related to reproduction and sexual health.

Rights to land and property

Women have the right to equal inheritance, ownership and control over land and property.

Rights to social security and social services

Women have the right to social security, social protection, social insurance and social services, including special assistance before, during and after childbirth.

Rights to education and training

Women have the right to free and compulsory primary education, and to equal access to post-secondary education and vocational guidance, scholarships, and study grants. Women and girls also have the right to be educated in discrimination-free environments and to educational materials that do not stereotype women's and girls' roles in society.

Rights to work

This includes the right to be able to choose work freely, as well as ensuring that women's work has fair and equal wages, that women can work in any trade or occupation and at any level, that they do not experience sexual harassment or discrimination at work, that they can form and join trade unions, and that they are not exploited economically.

Rights relating to marriage

Women have the right to choose when, if, and whom they will marry.

Rights to a clean and healthy environment

This right includes the right to clean and accessible drinking water.

Rights to take part in cultural life

Women have the right to take part in and express their culture. Women's traditional knowledge should not be exploited, and they have the right to claim and enjoy patents and intellectual property rights associated with such knowledge. Women also have the right to benefit from scientific progress equally with men.

Rights relating to nationality

Women have the right to claim nationality, both for themselves and for their children.

Rights to not be trafficked or exploited

Women have the right not to be forced or coerced into crossing borders for work they do not want to do, or that they are not being paid for. Women have the right to migrate for work voluntarily on an equal basis with men.

WHERE DO THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS REFERRED TO IN THE MONTRÉAL PRINCIPLES COME FROM?

All of these rights are set out in United Nations treaties or in authoritative interpretations of these treaties. Many of these rights are also included in regional human rights treaties, declarations, and international agreements, such as the Beijing Platform for Action and the Cairo Programme. These rights have been negotiated and accepted by governments around the world.

Treaties – whether international or regional – are particularly important because they are legally “binding.” This means that if a State has signed and ratified a treaty, it is legally obliged to uphold the rights contained in that treaty. The Montréal Principles refer to the following treaties:

- The International Covenant on Economic, Social and Cultural Rights (ICESCR);
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
- The International Covenant on Civil and Political Rights (ICCPR);
- The American Convention on Human Rights and the San Salvador Protocol;
- The African Charter on Human and Peoples’ Rights; and
- The European Convention for the Protection of Human Rights and Fundamental Freedoms.

The implementation of each UN human rights treaty is overseen by a committee responsible for that treaty that is made up of independent experts who are selected by the states parties to the respective treaty. As part of their work, these committees assist governments in understanding their legal obligations under a treaty by adopting “General Comments” or “General Recommendations”, which provide advice on the current legal interpretation of a particular right in the treaty and the obligations that flow from it. The Montréal Principles refer to several General Comments and Recommendations.

UN Declarations or Programmes or Platforms for Action, on the other hand, are political statements that reflect a consensus among governments on an issue at a particular historical moment. While not legally binding, they reflect broad political agreement negotiated among many governments. The most famous of these is the Universal Declaration on Human Rights. Other consensus documents mentioned in The Montréal Principles include the Beijing Platform for Action, which was adopted at the conclusion of the Fourth World Conference on Women in 1995.

WHAT ABOUT CIVIL AND POLITICAL RIGHTS? DON'T WOMEN ALSO NEED PROTECTIONS IN THOSE AREAS?

Yes - civil and political rights are of key importance to women. Although the Montréal Principles focus on economic, social and cultural rights, they recognize the interconnections between these rights and civil and political rights. For instance, a woman’s right to life and security of the person (called a civil and political right) is threatened as much by lack of food and water as by police intimidation and harassment.

For more information on international legal instruments and on economic, social and cultural rights broadly, the following online resources may be of use:

Center for Economic and Social Rights:

www.cesr.org

International Network for Economic, Social and Cultural Rights:

www.escr-net.org

People's Decade for Human Rights Education

www.pdhre.org

CLADEM - Latin American and Caribbean Committee for the Defense of Women's Rights

www.cladem.org

CLADEM has revisioned the Universal Declaration of Human Rights from a gender perspective.

For more information on this see:

<http://www.cladem.org/english/regional/declaration/text.asp>

Office of the United Nations High Commissioner for Human Rights:

www.ohchr.org

SUGGESTED QUESTIONS FOR DISCUSSION:

1. Having identified key economic, social and cultural rights issues of concern to women in your community (see Fact Sheet 1: Questions for Discussion), identify which specific economic, social and cultural rights you think apply and discuss why. In addition to the list of rights provided in the Montréal Principles, you may want to refer specifically to the following human rights instruments: the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of Discrimination Against Women (CEDAW), and the Universal Declaration of Human Rights (UDHR).

2. Do the economic, social and cultural rights issues facing women in your community also implicate civil and political rights? If yes, which ones, and how?

FACT SHEET 3 - PRINCIPLES 5 - 11

WOMEN'S SUBSTANTIVE EQUALITY AND NON-DISCRIMINATION IN THE CONTEXT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

HOW DO ECONOMIC, SOCIAL AND CULTURAL RIGHTS AND WOMEN'S RIGHT TO EQUALITY FIT TOGETHER?

In two ways.

First, women cannot enjoy equality with men unless they enjoy fully their economic, social and cultural rights. Women who are poor, living in inadequate housing, lacking adequate health care, education, and lacking equal access to work and fair remuneration, cannot escape their sex-based subordination to men. Poverty and the deprivation of economic, social and cultural rights forces women to accept sexual commodification and subordination to men in order to survive. Women lose autonomy to choose freely with whom and when they will have sex, and whether and when they will have children. They are more vulnerable to rape, assault and sexual harassment because they live in unsafe places, and they are not free to leave workplaces where they are exploited and discriminated against. Nor are they free to leave abusive relationships. The poverty and economic and social inequality of women also perpetuates their under-representation in governments and in decision-making processes, as well as their lack of political influence. So the full enjoyment of economic, social and cultural rights is a precondition to, or an integral part of, equality for women.

Secondly, in order for women to fully enjoy their economic, social and cultural rights fully, they must be interpreted and implemented by governments in ways that will benefit women equally. This requires governments to take women's current realities, including their economic and social disadvantage, into account. Simply applying rights in a 'gender neutral' manner, that is, as though women and men were in the same position socially and economically, will not necessarily ensure that women get the same benefit from the rights that men do.

Because of traditions and prejudice, as well as biological differences, women's lives are not the same as men's. Their lives are different because they are the childbearing sex, and because they are considered inferior to men, the lesser sex. Laws and policies that do not take into account women's difference and disadvantage, when it is appropriate to do so, will simply perpetuate women's inequality rather than eliminate it.

For this reason, the Montréal Principles focus on the importance of interpreting economic, social and cultural rights using the concept of 'substantive equality'. Substantive equality is concerned with the effects or results of laws and programs that are intended to deliver economic, social and cultural rights. Governments must ask themselves: given women's actual conditions, do women get the equal benefit of the laws and policies that have been designed to implement economic, social and cultural rights?

International human rights committees and courts have asserted that until women's rights to "substantive equality" are enforced, women will be unable to exercise and enjoy their economic, social and cultural rights.

To ensure that women get the substantively equal benefit of economic, social and cultural rights, governments will have to, for example, meet the different needs of women that flow from their being the bearers of children and the principal caregivers for children. This means providing adequate maternity leave and supports at the time of childbirth, accessible and affordable reproductive healthcare, and programs of childcare. Simply providing the same health care to women and men, or providing no supports for maternity and childcare, will penalize women and perpetuate their disadvantage.

ARE GENDER-NEUTRAL LAWS ENOUGH?

“Gender-neutral” laws and policies — e.g. laws and policies that don’t mention any distinctions between men and women — appear to offer equality because on their face they treat men and women the same way. These laws and policies, however, can create or perpetuate women’s inequality because they do not take into consideration the economic, social and cultural disadvantages particular to women, such as women’s disproportionate levels of poverty, as well as traditional and cultural beliefs that women are inferior to men, and that women should be dependent on men.

To determine whether a law, policy or program discriminates against women the State has an obligation to evaluate the law, policy or program in light of women’s real circumstances. For women to enjoy “de facto” or “substantive” equality means that the State must interpret women’s human rights and implement laws, policies and programs in a way that takes into account women’s actual economic, social, and cultural disadvantage.

Example:

Access to clean water is a problem in a remote village and results in many avoidable diseases. To ensure that all members of the community can access clean water the local government installs a community well and allows all members’ households a ration of water each week for a small fee.

The intention of this policy is not to discriminate; rather, it is to provide all households in a community with clean water. It is a gender-neutral policy – all households, whether headed by single mothers or married couples ostensibly can access the water – all they must do is pay a user fee. The effect of the policy, however, may be to discriminate against women, particularly single mothers, because they tend to be poorer than other households, such as those comprised of married or cohabiting couples. In turn, single-mother households may not be able to afford water or they might have to work harder to secure water for themselves and their children. Also, as the primary carriers of water, even women who can afford the water may be required to walk long distances to fetch it. This may limit their ability to undertake other productive activities. As a result, attaching user fees and making the water easily accessible means that women may not benefit equally from the government’s installation of the well, and thus will not enjoy equally the right to clean drinking water.

In order for the government’s clean water initiative in the village to benefit women, the government would have to take steps to ensure that even the poorest women had access to this water through a subsidy, a sliding pay scale or some other measure. They may also be required to ensure that water is available in close proximity to the areas in which people live.

WHAT IS SEX OR GENDER DISCRIMINATION?

Sex or gender discrimination is discrimination a person suffers because she is a woman. Sex or gender discrimination can also be discrimination because of marital status (for example, discrimination against unmarried women, divorced women or widows), or because of family status (for example, being in a parent-child relationship such as a single mother with children).

Many women experience distinct forms of discrimination because their race, disability, age, marital or family status, religion, sexual orientation, culture or socio-economic class. Where sex discrimination “intersects” with other types of discrimination— women can be many times disadvantaged, and they may suffer distinct forms of discrimination that are directly related to their historical and current positions in society. Racialized women, poor women, disabled women, older women, widows, and single mothers experience particular forms of discrimination.

For example, when an urban property owner refuses to rent a dwelling to an indigenous woman because he

believes that indigenous women are likely to cause trouble, engage in illegal activities such as prostitution, bring noisy drunk men back to their dwellings, and fail to pay their rent, the indigenous woman suffers “intersecting” discrimination. The indigenous woman is discriminated against because she is indigenous and a woman. Discrimination against an indigenous man, or a non-indigenous woman would have a different character and be based on different assumptions.

HOW DO I KNOW IF I HAVE BEEN DISCRIMINATED AGAINST?

Discrimination has occurred when a law, policy, program, or an act or failure to act results in women not receiving the equal benefit of a program designed to implement economic, social and cultural rights.

According to the legal definitions of equality, whether the discrimination was intentional is irrelevant. What matters is whether the effect of the act or failure to act results in discrimination.

SUGGESTED QUESTIONS FOR DISCUSSION:

1. Many banks and lending institutions have “gender-neutral” policies related to the availability of financing for housing. For instance, a bank may provide financing to “anyone” whose income is above a certain level. How might such a policy impact a woman who applies for financing, given disproportionate poverty of women in society?
2. Discrimination occurs when a law, policy, program, act or failure to act results in women not receiving the equal benefit from a law, policy, program, etc.. In the above scenario, how could a bank ensure that women receive equal benefit from its lending policies?

FACT SHEET 4 - PRINCIPLES 13 - 25

LEGAL OBLIGATIONS

WHAT ARE GOVERNMENTS AND OTHERS OBLIGED TO DO TO PROTECT WOMEN'S ECONOMIC, SOCIAL AND CULTURAL RIGHTS?

International law imposes four obligations on States: to respect, protect, fulfil and promote women's economic, social and cultural rights, through the formulation and implementation of public policies and practices. This means States must refrain from acting in a manner that harms women, and States must also take positive steps to promote women's equal enjoyment of economic, social and cultural rights. In other words:

- Ⓜ States must refrain from implementing laws or policies that perpetuate women's unequal enjoyment of economic, social and cultural rights;
- Ⓜ States must protect women from violations of economic, social and cultural rights by third parties, such as employers, landlords, and private service providers; and
- Ⓜ States must design and implement laws and programs that provide, for example, health care, education, and an adequate standard of living in ways that ensure that women will benefit equally.

To this end, States must act immediately, in consultation with women, using the maximum of their available resources.

More precisely, States are required to repeal any laws that discriminate against women either directly or indirectly. This means making certain that all laws – national constitutions, human rights legislation, customary and personal laws – promote and protect women's rights to receive the full and equal benefit of their economic, social and cultural rights.

States must regulate the practices and policies of others, such as employers, landlords, and civil society entities, so that they do not discriminate against women or create obstacles to women's enjoyment and exercise of their economic, social, and cultural rights.

Further, States have an obligation to make sure that women have access to justice to obtain remedies for discrimination related to economic, social and cultural rights. This means that States must establish and maintain independent judicial bodies and administrative tribunals, and make sure that these bodies are accessible to women. These bodies must, in turn, be empowered to enforce economic, social and cultural rights. (See Fact Sheet 7: Claiming and Enforcing Economic, Social and Cultural Rights).

WHAT ARE STATES REQUIRED TO DO IN THE CONTEXT OF TRADE AGREEMENTS?

When entering trade negotiations and agreements, and arrangements with regional and international financial institutions, States must identify and prevent adverse consequences of these agreements on women's human rights. States have an obligation to ensure that women's economic, social and cultural rights are not compromised in any way by commercial agreements or structural adjustment plans. When these agreements do cause harm, the State must make sure that women are compensated for the harm they suffer.

In addition, States must make certain that women benefit equally from the activities of transnational corporations and other providers of services.

DO THESE LEGAL OBLIGATIONS EXTEND TO TIMES OF WAR AND/OR AFTER NATURAL DISASTERS?

When scarcity occurs, States have a special obligation to ensure that women's basic needs are met. This is so, even when other providers, such as international humanitarian organizations, supply services or programs, are available to meet those needs. Basic needs include health care, access to drinkable water and sanitation services, housing, food, education, energy and social protection.

SUGGESTED QUESTION FOR DISCUSSION:

1. Drawing on the list of economic, social and cultural rights issues that you identified as of concern to women in your community (see Fact Sheet 1: Suggested Questions for Discussion), what would the State have to do to meet its legal obligations and ensure that women can exercise and enjoy their rights to substantive equality and to the other economic, social and cultural rights implicated by the issue?

FACT SHEET 5 - PRINCIPLES 26 - 30

VIOLATIONS OF WOMEN'S ECONOMIC, SOCIAL AND CULTURAL RIGHTS

HOW ARE WOMEN'S ECONOMIC, SOCIAL AND CULTURAL RIGHTS VIOLATED?

Every day, governments, community groups, corporations, international institutions and individuals act in ways that violate women's economic, social and cultural rights. (See: Fact Sheet 1)

There are five ways, identified in international law and clarified in the Montréal Principles, in which States violate women's economic, social and cultural rights:

1. By failing to take appropriate actions to ensure that economic, social and cultural rights are realized.

When a State fails to take steps to fully implement the rights in ways that equally benefit women, because they do not put in place programs or mechanisms for claiming and enforcing the rights, or because they have inadequate programs or mechanisms, the rights are violated.

As we saw in Fact Sheet 3, the government of the remote village installed a community well to ensure that all households in the community have access to clean water. However, because the government imposed a user fee, women-led households are less likely to access the well. As such, the government's policy is inadequate and constitutes a violation of women's right to water.

2. By failing to correct violations.

When the economic, social and cultural rights of women, or particular groups of women, have been violated, States must adopt concrete measures to correct the violations and ensure that those rights are implemented.

For example, if a State knows that corruption in distribution networks is diverting food aid from women and children but does not immediately remedy the situation by providing alternative food aid, the state may be in violation of the right to food.

3. By acting in a way that undermines these rights.

States violate women's economic, social and cultural rights by undermining the implementation of these rights. For example, States may:

- Adopt an excessively narrow interpretation of a policy or legal measure that would otherwise enable a number of women in a diverse range of circumstances to enjoy economic, social and cultural rights.
- Argue that some or all economic, social or cultural rights cannot be tested or claimed in a court of law (in legal terms, these rights are not enforceable or justiciable).
- Restrict access by women and organizations that represent them to judicial and quasi-judicial bodies, such as Offices of the Ombudsperson and Administrative Tribunals, etc.

- ❻ Fail to take immediate action to stop discriminatory behaviour; relying instead on “progressive realization” or incremental steps taken when the State deems it is possible to do so.
- ❼ Fail to maintain adequately funded and effective mechanisms that women can use to challenge violations of their rights.

4. By rolling back economic, social and cultural rights.

Women’s economic, social and cultural rights are violated when States roll back legislation, programs or policies that have provided women enjoyment of those rights.

For example, a decision to privatize a public medical system is a rollback if it has a detrimental effect on poor women because they are less able to afford the “fee for service” or “private contributions” required in the privatized system.

5. By failing to allocate resources to make the rights available.

A State violates women’s economic, social and cultural rights when it does not use the maximum of its available resources to implement those rights.

SUGGESTED QUESTIONS FOR DISCUSSION:

1. Can you think of any laws, policies, or programs or rollbacks that would constitute violations of women’s economic, social and cultural rights in your community? What level of government is responsible?
2. Has your government failed to act on an economic, social and cultural rights issue of pertinence to women, such that they may be in violation of their legal obligations?

FACT SHEET 6 - PRINCIPLES 31 - 36

CLAIMING AND ENFORCING ECONOMIC, SOCIAL AND CULTURAL RIGHTS

HOW CAN I ENFORCE ECONOMIC, SOCIAL AND CULTURAL RIGHTS?

States are obliged to establish and maintain effective ways for women to fully claim and enforce their economic, social and cultural rights, for example, by establishing and adequately funding independent courts and tribunals and national human rights and women's commissions.

Those responsible for the enforcement of rights, such as judges and other adjudicators, must be provided with adequate training regarding women's historic and ongoing inequality and structural disadvantage in economic, social and cultural realms.

Beyond these mechanisms, States are required to establish institutions to assist in the development and enforcement of strategies, plans, and policies designed to specifically guarantee women's economic, social and cultural rights and equality. These institutions can take many forms including: national human rights institutions, ombuds offices, and commissions.

Of course, for women, one of the biggest barriers to claiming and enforcing human rights is access. Women often don't know about available mechanisms, or cannot afford to use them. Also, oftentimes, institutions that set or guide policy do not include women's perspectives. States are obliged to remove any obstacles that prevent women or certain groups of women from accessing institutions and mechanisms that enforce and implement economic, social and cultural rights. This means, States must ensure that women have both the necessary information and the financial means to access enforcement mechanisms and institutions engaged in the implementation of rights.

WHAT KIND OF REMEDY CAN I SEEK IF I BELIEVE MY RIGHTS HAVE BEEN VIOLATED?

There are a number of different types of remedies that can be ordered depending on the rights-claiming mechanism used and the infringement suffered. Some possible remedies include but are not limited to:

- Ⓜ Payment of money for the injury suffered
- Ⓜ Public apology
- Ⓜ Revised policy
- Ⓜ New public policy, service or program
- Ⓜ Educational programs
- Ⓜ Guarantee of non-repetition
- Ⓜ Prevention programs

States are obliged, when violations of women's economic, social and cultural rights happen, to ensure that appropriate remedies are ordered and effectively implemented.

For more information on the enforcement of economic, social and cultural rights at the domestic level see:

UN Committee on Economic, Social and Cultural Rights, General Comment 9: The Domestic Application of the Covenant: <www.ohchr.org/english/bodies/cescr/comments.htm>

SUGGESTED QUESTIONS FOR DISCUSSION:

1. What rights-claiming mechanisms are available in your community to address women's economic, social and cultural rights issues – i.e. human rights commissions, Ombudsmen, courts?
2. Are these mechanisms accessible and adequate? Do you know anyone who has availed themselves of these mechanisms? To what effect?
3. Are new mechanisms necessary in order for women to really exercise and enjoy their economic, social and cultural rights? What mechanisms would you create?

FACT SHEET 7

THE MONTRÉAL PRINCIPLES AT WORK

HOW CAN THE MONTRÉAL PRINCIPLES BE USED IN MY WORK?

Advocates for women's economic, social and cultural rights work in a variety of capacities: as grassroots organizers, practicing lawyers, health practitioners, government policy makers, politicians, in non-governmental organizations, and as United Nations officials. As such, the Montréal Principles may be used in a variety of ways to reach very different ends. The suggestions that follow are just a sampling of ideas of how the Montréal Principles might be used in your work:

Bring them to court. The Montréal Principles have been cited in court cases in several countries. They have also been cited in a leading human rights journal. They can be relied upon as a supporting authority in court cases pertaining to women's economic, social and cultural rights. [The sources in Fact Sheet 2 could also be relied upon].

Critique and formulate laws and policies. The Montréal Principles can be used to assist you in critiquing law and policy in a number of ways.

- Use the Montréal Principles to assess whether policies on economic, social or cultural matters in your country contribute to or address women's disadvantage.
- Use them to assist in the development of new laws and policies that effectively address women's economic, social and cultural disadvantage.
- Use the Montréal Principles to assist in the preparation of submissions to government bodies, including the treaty monitoring bodies at the United Nations, regarding your government's performance with respect to the realization of women's economic, social and cultural rights.
- Use the Montréal Principles to assist in critiquing political platforms during election campaigns.

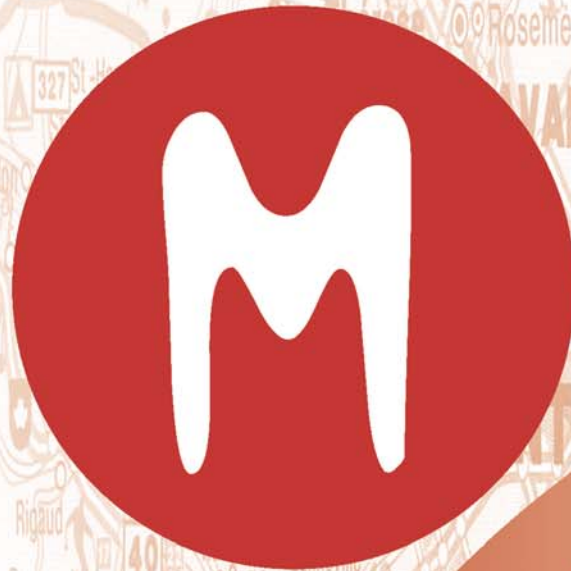
Enlighten and educate. You can use the Montréal Principles in training or education on women's human rights, whether it be in a university course or a workshop for grassroots activists. The materials in this Guide can be used as teaching aids. Copies of this Guide and/or the Montréal Principles can be sent to government officials and other relevant policy makers.

Initiate research. If you are engaged in research related to women's human rights, the Montréal Principles might assist you in the development of a research question and in the analysis of your results.

Initiate organizational discussions. Each of the Fact Sheets in this Guide could be used as a basis for discussing the issues you confront in your work and the realization of women's economic, social and cultural rights. The Principles might assist in setting priorities in your work agenda.

Hold a public advocacy event. The Montréal Principles could provide the framework for a public event on women's economic, social and cultural rights, for example, a women's human rights tribunal.

Make the Montréal Principles your own. Apply the Principles to your local context; to assist in understanding an economic, social and cultural rights issue affecting women in your community.



GUIDE TO THE MONTRÉAL PRINCIPLES on Women's Economic, Social and Cultural Rights



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