

**Advancing knowledge-led  
development through the  
right to science in Africa**

11 November 2019

Addis Ababa University - School of Law

# FRAMING THE RIGHT TO SCIENCE: FROM SAFEGUARDS TO PROMOTION

Prof. Ludovica Poli  
University of Turin (Italy) – Department of Law

[ludovica.poli@unito.it](mailto:ludovica.poli@unito.it)

# The right to science has old roots...

## Universal Declaration of Human Rights Art. 27

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. (...)

International  
treaties on  
Human Rights

International  
customary law  
on Human Rights

UNIVERSAL DECLARATION  
OF HUMAN RIGHTS, 1948



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# ...but it is still the 'sleeping beauty' of HR

## Main reasons for historical neglect

Difficulty in defining normative contents and interpreting its practical implications

*«Scientific innovations are changing human existence in ways that were inconceivable a few decades ago»*

F. Shahrood

Perceived risk that science and technology might endangered other rights

'Let sleeping dog lie'.. rather than the sleeping beauty

# ***Faith in or fear of science?***

- International Covenant on Economic, Social and Cultural Rights, 1966

**Science is considered a key instrument to achieve other rights enshrined in the Covenant.**

- Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, 1988
- Arab Charter of Human Rights, 2004
- ASEAN Declaration on human rights, 2012

- Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind, UN General Assembly, 1975
- Convention on Human Rights and Biomedicine of the Council of Europe (Oviedo Convention), 1998
- UNESCO Universal Declaration on the Human Genome and Human Rights, in 1997

**Need to prevent the use of scientific and technological achievements to the detriment of human rights and fundamental freedoms and the dignity of the human person.**



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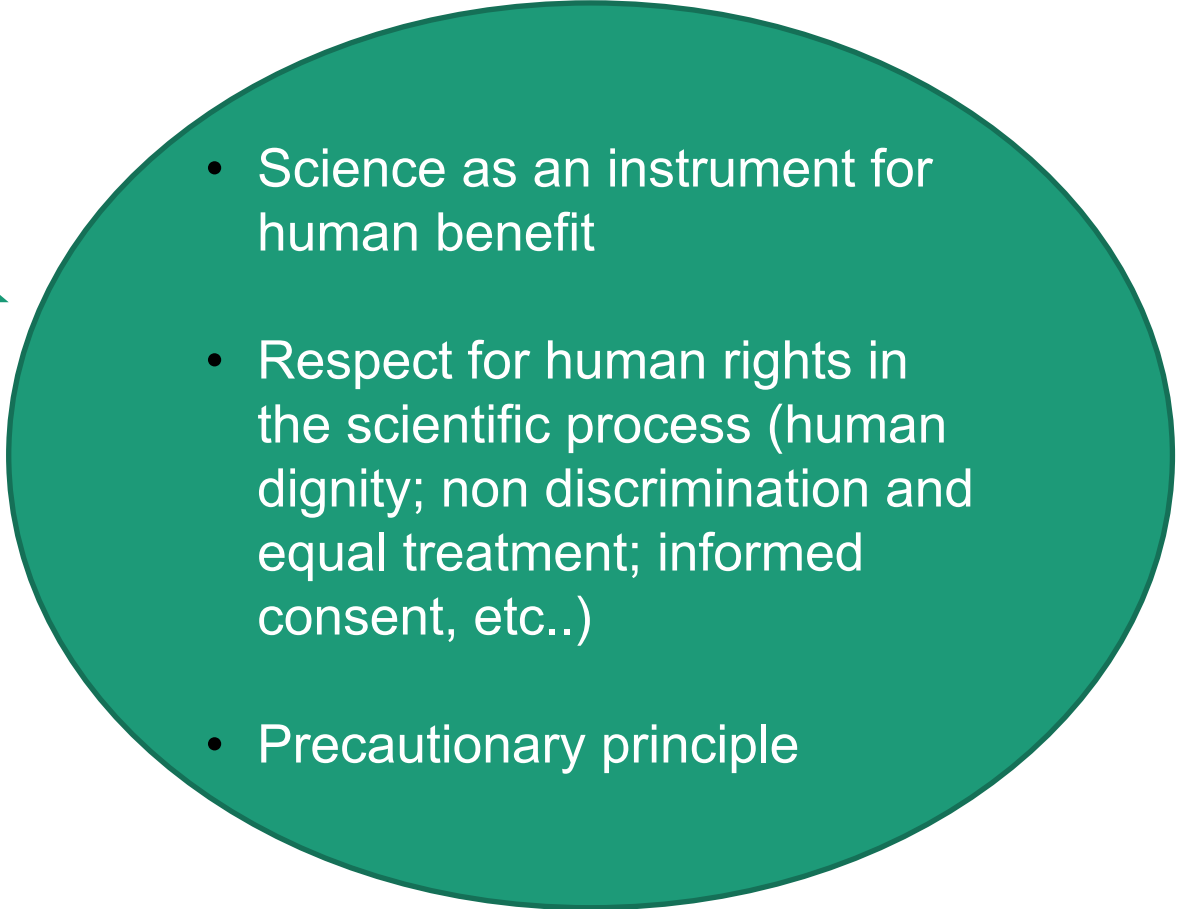
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# Therefore, we need:

1. To improve the human rights based approach to science
2. Elaborate on the right to science

- 
- Science as an instrument for human benefit
  - Respect for human rights in the scientific process (human dignity; non discrimination and equal treatment; informed consent, etc..)
  - Precautionary principle

# Therefore, we need:

1. To improve the human rights based approach to science
2. Elaborate on the right to science

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graph LR; A[1. To improve the human rights based approach to science] --> B([In view of the contribution that it may provide to the realization of other HR]); C[2. Elaborate on the right to science] --> D([As having an autonomous standing]);
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In view of the contribution that it may provide to the realization of other HR

As having an autonomous standing

# The intrinsic value of right to science 1



UNESCO Recommendation on Science and Scientific Researchers, 13 November 2017

“the word “science” signifies the **enterprise** whereby **humankind**, acting individually or in small or large groups, makes an organized attempt, (...), to discover and master the chain of causalities, relations or interactions; (...)”



# The intrinsic value of right to science 2

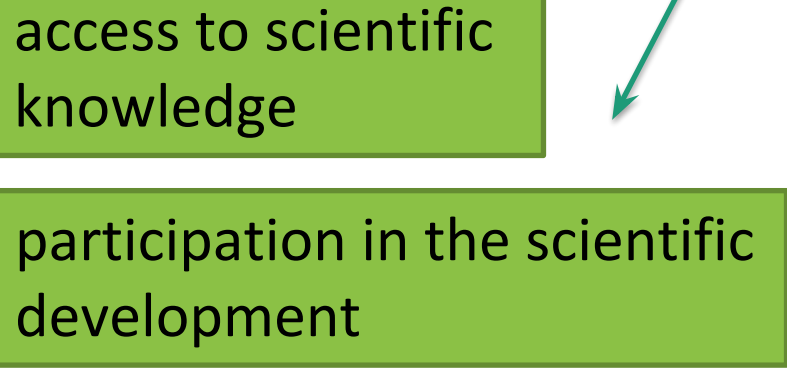
Report of the Special Rapporteur in the field of cultural rights, F. Shaheed, 2012

*“(...) the ability to aspire – namely, to conceive of a better future that is not only desirable but attainable – is an important cultural capability that needs to be supported and developed, (...) New scientific knowledge and innovations increase available options, thereby strengthening people’s capacity to envisage a better future for which access to specific technologies may sometimes be pivotal.*



# Elements of the right to science - art. 15 ICESCR

Art. 15 par 1: The States Parties to the present Covenant recognize the right of everyone: (b) **To enjoy the benefits of scientific progress and its applications;**



access to scientific knowledge

participation in the scientific development



not only scientific results but also the scientific process, its methodologies and tools

Art. 15 par. 3: The States Parties to the present Covenant undertake to respect the **freedom indispensable for scientific research** and creative activity.

# Elements of the right to science - art. 15 ICESCR

Art. 15 par. 2: **The steps to be taken** by the States Parties to the present Covenant to achieve the full realization of this right **shall include those necessary for the conservation, the development and the diffusion of science and culture.**

Art. 2.1: Each State Party (...) **undertakes to take steps, (...) to the maximum of its available resources, with a view to achieving progressively the full realization of the rights** recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

A RIGHT OF PROGRESSIVE REALIZATION REQUIRING QUALIFIED ACTION  
(CONSERVATION, DEVELOPMENT AND DIFFUSION)

# Elements of the right to science - art. 15 ICESCR

Art. 15 par. 4: The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

INTERNATIONAL COOPERATION IS IN LINE WITH THE OBLIGATION TO TAKE STEPS TO GUARANTEE DEVELOPMENT AND DIFFUSION

# What do we need to get a full realization of the right to science?

- to identify clear obligations bearing upon States
- to deal with challenges to a full realization of this right
- to guarantee its enforcement



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**THANK YOU!**

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