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Economic, social and cultural rights overlooked in databases?

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[Lina Malagón](#), [Fionnuala Ní Aoláin](#) and [Rory O'Connell](#) detail their findings from a critical analysis of the inclusion of economic, social and cultural rights (ESCRs) in peace agreements through the analysis of five key databases, and in doing so highlight the importance of evaluating the methodologies used in incorporating ESCRs peace provisions in databases and the importance of the definitions of rights to constructing our understanding of state practice.

In the framework of peace agreements, negotiation parties face multiple challenges in addressing structural violence and economic, social and cultural rights (ESCR) issues rooted in long-standing conflicts. Over the last two decades, peace agreements have gradually included provisions

referring to ESC concerns. Despite that, the impact and substance of such provisions is under-explored in scholarly literature. It remains unclear when and how these agreements engage with ESC matters; the relationship of such provisions to peace agreements as a whole is under-addressed; and the relationship between gender and ESCRs is not well mapped.

Similarly, in recent decades, databases have acquired relevance in measuring and assessing peace and transition processes. Databases have facilitated the analysis, comparison and use of data for addressing large cross-national studies. They have also provided access to this knowledge to practitioners and policymakers in the field, allowing for knowledge exchange and comparison of good (and bad) practice. Thus, the categorisation of the types of provisions in databases is critical to understanding how these provisions – from an integral approach-, deal with all kinds of human rights violations, in post-conflict scenarios.

This makes it all the more important that databases enable us to assess how ESCRs provisions are included in peace agreements. How are ESCRs categorised in databases? What kinds of ESC rights have been included? Do they specifically look at ESCRs for women and girls? Through critical analysis we can address these questions, as well as the production of knowledge around peace agreements and the importance of definitions of rights to constructing our understanding of state practice.

How are ESC rights categorised in databases?

This analysis draws on the existing cross-national databases of peace agreements. We focus on both academic and non-academic databases:

- *Language of Peace* that is a joint project of the Lauterpacht Centre for International Law at the University of Cambridge and the Mediation Support Unit in the UN Department of Political Affairs.
- *Peace Accords Matrix (PAM)*, which is hosted by the University of Notre Dame (USA).
- The *UCDP Peace Agreement Dataset (PA_D)* developed by the Uppsala University (Sweden).

- *PA-X* and *PA-X Women and Gender (Gender PA-X)* Databases, both hosted by the University of Edinburgh.

All these databases use different definitions of what constitutes a peace agreement; therefore, they differ in the universe of peace agreements under study. Our first structural question is whether there is a category of ESC *issues* included *per se* in their categorisation framework. Only one, *PA_D* does not have any category on ESC provisions. *PAM* and *Gender PA-X* have similar categories of development and socio-economic issues. *Language of Peace* and *PA-X* contain two different categories for socio-economic and cultural peace provisions: socio-economic rights as an independent category, and other categories related to other socio-economic concerns, like development, socio-economic reconstruction or financial and territorial arrangements. Thus, on this preliminary assessment, socio-economic categories are integrated into peace databases, but only two of them have included framing through a language of rights to categorise these provisions in peace agreements.

What kind of ESC rights have been included in databases?

Language of Peace does not provide sub-categories for searching types of ESC rights. *PA-X* is the only one that offers eight sub-categories of rights: health, shelter/housing, property, education, social security, work, cultural rights and an adequate standard of living. This is a significant classification taxonomy as it is based on the rights in the International Covenant on Economic, Social and Cultural Rights (ICESCR), plus the right to property and makes visible the existence of these provisions in peace agreements and their use in practice. Whilst this is far and away the most comprehensive treatment of ESC rights in a peace agreements database, the categories are not exhaustive.

On close examination, it became evident that other socio-economic rights were included in unrelated categories. For example, in *PAX*, the right to water is under the 'Land, property and environment' category. Equally, some categories were not considered rights but rather placed in general categories such as 'environment' instead of 'environmental rights'. Other

rights were included as civil and political rights such as freedom of association, but other trade union rights such as collective bargaining or strike are not explicitly included as categories or sub-categories.

The inconsistency of categorization underscores the challenges of cohesive approaches to what constitute ESC rights in peace agreement practice. This reflects underlying issues in the human rights system as well. Under the international framework of human rights, certain ESC rights have been classified under different labels or left aside. For instance, in the [International Covenant on Economic, Social and Cultural Rights \(ICESCR\)](#) food is included under 'adequate standard of living', water is not explicitly mentioned, and the environment is only mentioned in relation to health.

Have ESC rights for women and girls provisions been included in the databases?

We mentioned that *Gender PA-X* has a general category of 'development' to incorporate some ESC provisions. It contains sub-categories of 'health' and 'education', that although they are not conceived as categories of rights, they enable a search regarding these two topics for women and girls. While it sheds light on the minimum level of inclusion of those specific ESC provisions for women and girls, it also reveals the lack of other categories such as housing, property, work, etc, that would contribute to the understanding of the inclusion/exclusion of a gendered approach and ESC rights in peace agreements.

PA-X contains the category 'Gender/Women and girls' and the 'and' function to include the 'Socio-economic rights' and the eight ESCRs sub-categories aforementioned. With this type of search, the databases provide relevant mentions related to the specific right/s and also references to women and girls in the same agreement but not linked to each other; as well as ESC rights provisions for women and girls in peace agreements.

Equally, *PA-X* allows the researcher or policy maker to mix all its categories with a free search by words, with which the database displays appropriate results, as well as random findings. Although the search produces relevant

results, it also generates multiple outcomes that are less relevant, making it difficult to determine the degree and substance of ESCRs provisions for women and girls. *Language of peace* has the categories of 'Gender' and as mentioned, 'socio-economic and cultural rights'. However, it is not possible to combine both in the search function in order to identify socio-economic and cultural provisions for women and girls. Thus, it becomes difficult to track patterns and insights into the overlay of different forms of discrimination against, or gains, for women and girls from peace agreements.

As it may be observed, the data delivered by all the databases, when included, remains in broad categories, which hinders the investigation and analysis on ESCRs provisions for women and girls.

Findings

- ESC rights clauses have been integrated by some databases and in varied ways. This reflects the interests of the database designers and their priorities. The limited coverage of ESC rights may reflect a relative lack of interest in these either among peace negotiators or database creators.
- ESC provisions are, most of the time, encapsulated under categories of development or similar topics unrelated to the language of human rights in databases leading to a lack of visibility of the ESCRs in most databases. The creation of specific and consistent ESCRs categories in databases would provide a comprehensive panorama of their inclusion/exclusion in peace agreements.
- When ESC rights are included, there are diverse approaches in the identification of the rights that make up the category. Some of them are left out or are not categorised as rights. It becomes hard to track the ESCRs provisions and patterns which impedes accessible knowledge to practitioners and policymakers in the field, as well as further academic analysis.
- Most of the databases under study have included gender as a category; however, only one of them enabled the search for gender/women and some

ESCRs. This contributes to these issues being under-researched and hinders the acknowledgement of patterns of discrimination against, and measures in favour of, women and girls adopted in peace agreements.

These findings support the need to re-think the methodologies that databases use to understand and codify economic, social and cultural concerns in peace agreements. A deconstruction of knowledge is required to reveal the lack of due inclusion of ESC peace provisions, and the necessity to promote these clauses as a critical tool to deal with all civil, cultural, economic, political and social injustices of the past.

Image credit: [Guillaume Bourdages](#)

About the author



Lina Malagón

Lina Malagón is a Research Associate at the University of Ulster's Transitional Justice Institute. Her career has balanced academic scholarship, with work as a researcher, litigant and advocacy in conflict-affected and post-conflict countries. Her work is based on interdisciplinary research on transitional justice and peacebuilding in Colombia and other countries. On the GCRF Hub, Lina works in the project socio-economic rights and transitions, developing research on the cases study of Northern Ireland, Sri Lanka, Colombia and Sierra Leone. The research engages with diverse stakeholders with experience in using peace agreements and transitional justice measures as leverage to further socioeconomic claims.



Fionnuala Ní Aoláin

Professor Ní Aoláin is concurrently Regents Professor at the University of Minnesota Law School and Professor of Law at the Queens University, Belfast. She is the recipient of numerous academic awards including the Leverhulme Fellowship, Fulbright scholarship, ASIL Certificate of Merit for creative scholarship, Alon Prize, Robert Schumann Scholarship and Lawlor fellowship. She has published extensively on issues of gender, conflict regulation, transitional justice, and counter-terrorism. She has held academic positions at Columbia Law School, Harvard Law School, Princeton University, and the Hebrew University of Jerusalem. Ní Aoláin is currently the United Nations Special Rapporteur on Human Rights and Counter-Terrorism.

**Rory O'Connell**

Rory is Professor of Human Rights and Constitutional Law and Research Director (Law) at Ulster University, Northern Ireland. From 2014-2020 he was the Director of the Transitional Justice Institute. He is a member of the Transformation and Empowerment stream, and sits on the Executive of the Committee on the Administration of Justice (CAJ). His latest book is Law, Democracy and the European Court of Human Rights (forthcoming Cambridge 2020). He was a member of the ESRC funded BrexitLawNI project on the constitutional, legal and human rights implications of Brexit for Northern Ireland. Rory tweets @rjjoconnell.

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