

International Covenant on Civil and Political Rights



The International Covenant on Civil and Political Rights

The Covenant in general

The ICCPR ensures the protection of civil and political rights. The Covenant includes two over-arching non-discrimination rights: article 2 guarantees to all individuals, within a State party's territory and subject to its jurisdiction, that the rights enshrined in the ICCPR will be respected and ensured without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status; and article 3 guarantees the equal right of men and women to enjoy all the civil and political rights contained in the Covenant. The rights enshrined in the ICCPR include: the right to life (article 6); freedom from torture (article 7); the right to liberty and security of person (article 9); the rights of detainees (article 10); the right to a fair trial (article 14); the right to privacy (article 17); freedom of religion (article 18); freedom of expression (article 19); the right to political participation (article 25); equality before the law (article 26); and the protection of minorities (article 27). Moreover, if any of the rights or freedoms recognized within the ICCPR are violated a person must have access to an effective remedy (article 2[3][a]).

Limitations of the rights contained in the Covenant

Some of the provisions guaranteeing the rights and freedoms in the ICCPR also include the possibility of States parties to restrict or derogate from them under particular circumstances. For example, in exercising the right to freedom of expression in article 19, certain restrictions apply in order to ensure the respect of the rights or reputation of others or to protect national security, public order, public health or morals. Article 19 is also limited by another article, article 20, which prohibits any propaganda of war or any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.³ In addition, in accordance with article 4, States parties, in time of a public emergency which threatens the life of the nation, may take such measures which derogate from their obligations under the Covenant. However, such measures may only be taken to the extent strictly required by the exigencies of the situation provided that they are not inconsistent with a State party's other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. A State party which avails itself of the right of derogation

Introduction

Even before the adoption of the Universal Declaration on Human Rights (a non-legally binding document) in 1948, broad agreement existed that the rights which were to be enshrined in the Declaration were to be transformed into legally binding obligations through the negotiation of one or more treaties. In 1966, two separate treaties, covering almost entirely all the rights enshrined in the Universal Declaration of Human Rights, were adopted after approximately 20 years of negotiations: one for civil and political rights, the International Covenant on Civil and Political Rights (ICCPR); and one for economic, social and cultural rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR). The ICCPR¹ was adopted by the United Nations General Assembly on 16 December 1966 and entered into force on 23 March 1976.²

¹ The International Covenant on Civil and Political Rights will herein be referred to as the Covenant or the ICCPR.

² If otherwise not referenced the information included in this fact sheet can be found in the International Covenant on Civil and Political Rights, on the website of the Office of the United Nations High Commissioner for Human Rights (<http://www.ohchr.org>) or in the Human rights – civil and political rights: the Human Rights Committee – fact sheet no. 15 (Rev. 1) (available at www.ohchr.org/english/about/publications/docs/fs15.pdf).

³ Other articles which contain limitations are articles 17, 18, 21, 22 and 25.



must have proclaimed the existence of such a public emergency, and must inform the other States parties of the provisions from which it has derogated and the reasons for which it does so. The State party must also communicate the date on which it terminates the derogation in question. Nonetheless, for some of the articles no derogation is permissible at any time (article 4[2]).⁴

The following two sections consider those obligations in the Covenant which are directly and indirectly linked to the right to health. While reading this section, keep in mind the introduction to this folder discussing the linkages between the implementation of various human rights and the specific right to health.

Direct linkages to health

The ICCPR does not contain a specific provision safeguarding the right to health; however, several rights incorporated in the Covenant are directly or indirectly linked to a person's enjoyment of his or her right to health. Those provisions of the ICCPR which may be deemed to be directly linked to the right to health include: the right to not be subjected to torture or to cruel, inhuman or degrading treatment or punishment (article 7); the right to not be subjected without free consent to medical or scientific experimentation (article 7); and the right to not be held in slavery or servitude or to be required to perform forced or compulsory labour (article 8).⁵

⁴ Articles 6, 7, 8, 11, 15, 16 and 18; the rights and freedoms enshrined in these articles may never be derogated from.

⁵ Paragraph 3(b–c) of article 8 includes exceptions to this right such as imprisonment with hard labour which may be imposed as punishment for a crime, service of a military character or any service exacted in cases of emergency or calamity threatening the life or well-being of the community.

Indirect linkages to health

The ICCPR also enshrines rights and freedoms which are indirectly linked to the enjoyment of the right to health and include: the right to non-discrimination (articles 2 and 3); the right to life (article 6); the right to liberty and security of person (article 9); the right of liberty of movement for everyone who is lawfully within a State party's territory (article 12); the right to privacy, whereby no one shall be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence, or to unlawful attacks on their honour or reputation (article 17); the right to freedom of thought, conscience and religion (article 18); the right to freedom of expression which includes the freedom to seek, receive and impart information and ideas of all kinds (article 19); the right of peaceful assembly and the freedom of association, including forming and joining trade unions (articles 21 and 22); the right of the family, being the natural and fundamental group unit of society, to protection by society and the State (article 23[1]); the right of men and women to freely marry (article 23[2]–[3]); and the right of every child, on the basis of their status as a minor, to measures of protection on the part of their family, society and the State without discrimination on the basis of race, colour, sex, language, religion, national or social origin, property or birth (article 24).

The Human Rights Committee

The Committee in general

The Human Rights Committee is the committee, established following article 28, which monitors the implementation of civil and political rights under the ICCPR. The Committee examines States parties' reports, submitted under article 40, on the measures





they have adopted to give effect to the rights recognized in the Covenant and on the progress made in the enjoyment of these rights. States parties must also include in their reports any factors and difficulties in relation to the implementation of the ICCPR. Having examined a State party's report, the Committee issues what are known as concluding observations specifying positive and negative aspects of the State party's implementation of the ICCPR and any remedial action the Committee recommends. The observations will usually also include a limited list of issues of particular priority.⁶ The Committee, furthermore, issues general comments where a specific article or general issue in the ICCPR is analysed in an extensive manner. The aim of the general comments is to clarify the scope and meaning of the provisions of the ICCPR in order to aid States parties in their implementation of the Covenant. The ICCPR does not foresee the option for the Committee of receiving individual communications; however, at the same time as the Covenant was negotiated an optional protocol to the Covenant was also negotiated.⁷ This optional protocol, known as the First Optional Protocol to the ICCPR, specifically deals with individual communications. States parties to the First Optional Protocol recognize the competence of the Human Rights Committee to receive and consider communications by individuals. After the Committee has considered a communication

in light of all the written information received, it adopts and issues views which contain a finding of violation, non-violation or a mixture of both (if the complainant has made several allegations). The Committee may also entertain inter-state claims (article 41) whereby a State party may bring to the Committee's attention that another State party is not fulfilling its obligations under the Convention. However, this procedure has never been employed.

How can the Committee help in ensuring the right to health?

Having considered a State party's report, the Committee may, among other things, highlight in its concluding observations a State party's shortcomings in relation to implementing rights which are either directly or indirectly linked to the right to health and may indicate how the State party should go about correcting these shortcomings. As far as the general comments are concerned, the Committee has, for example in its general comment on the equality between men and women, in referring to the protection of children



⁶ The concluding observations are publicly available on the United Nations human rights treaty bodies' database of the Office of the United Nations High Commissioner for Human Rights (www.unhchr.ch/tbs/doc.nsf).

⁷ The First Optional Protocol was adopted by the United Nations General Assembly and opened for signature on 16 December 1966 and entered into force on 23 March 1976.

(article 24), underscored that the protection of children should be equally applied to boys and girls.⁸ The Committee, in the same general comment, also stated that States parties should include in their reports the measures they have taken to ensure that girls are treated equally to boys in education, in feeding and in health care. Furthermore, the Committee in the same general comment stressed that States parties should eradicate, both through legislation and any other appropriate measures, all cultural or religious practices which jeopardise the freedom and well-being of female children.⁹ Moreover, if an individual believes that one or more of his or her health-linked rights have been violated he or she may submit an individual communication to the Committee. If the Committee finds that a violation has been committed, the complainant has the right to an effective remedy as per article 2(3)(a). Thereafter, the matter is taken up by the Committee's Special Rapporteur on the Follow-up on Views in order to ensure a satisfactory solution in accordance with the Committee's views.¹⁰

Additional instruments dealing with civil and political rights and health

A second protocol to the ICCPR, known as the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty, was adopted on 15 December 1989 and entered into force on 11 July 1991. As for the right to health in particular, the Special Rapporteur

⁸ General Comment 28, Equality of rights between men and women, UN Doc. CCPR/C/21/Rev.1/Add.10, 29 March 2000, para. 28.

⁹ Ibid.

¹⁰ Rules 95(3) and 101(1) of the Rules of Procedure of the Human Rights Committee, UN Doc. CCPR/C/3/Rev.8, 22 September 2005.



of the Commission on Human Rights, now the Human Rights Council,¹¹ on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, deals exclusively with the right to health for everyone, independently of whether a State is a party to a human rights treaty incorporating the right to health or not.

Eastern Mediterranean Region ratifications

The countries of the Eastern Mediterranean Region that have ratified the ICCPR are Afghanistan, Djibouti, Egypt, Islamic Republic of Iran, Iraq, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Morocco, Somalia, Sudan, Syrian Arab Republic, Tunisia and Yemen. The total number of States parties to the ICCPR is 156 (as of May 2006).¹²

¹¹ The United Nations Commission on Human Rights has been replaced by the United Nations Human Rights Council as per United Nations General Assembly resolution A/RES/60/251 adopted on 15 March 2006. The Commission on Human Rights ceased to exist on 16 June 2006, see press release at: www.un.org/News/Press/docs/2006/ecosoc6192.doc.htm

¹² Ratifications, signatures and reservations to international human rights instruments can be found at: www.ohchr.org/english/countries/ratification/index.htm

