

SOS POLITICAL & PUBLIC ADMINISTRATION
M. A PUBLIC ADMINISTRATION SEM
CONSTITUTIONAL SYSTEM IN INDIA(204)

UNIT-V

TOPIC NAME-THE INTERNATIONAL COVENANT ON CIVIL & POLITICAL RIGHTS

INTRODUCTION-

The International Covenant on Civil and Political Rights (ICCPR) is one of three documents that make up the International Bill of Rights, together with the Universal Declaration on Human Rights and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The ICCPR is a key international human rights treaty, providing a range of protections for civil and political rights. The ICCPR, together with the Universal Declaration of Human Rights and the International Covenant on Economic Social and Cultural Rights, are considered the International Bill of Human Rights. The ICCPR obligates countries that have ratified the treaty to protect and preserve basic human rights, such as: the right to life and human dignity; equality before the law; freedom of speech, assembly, and association; religious freedom and privacy; freedom from torture, ill-treatment, and arbitrary detention; gender equality; the right to a fair trial; right family life and family unity; and minority rights. The Covenant compels governments to take administrative, judicial, and legislative measures in order to protect the rights enshrined in the treaty and to provide an effective remedy. The Covenant was adopted by the U.N. General Assembly in 1966 and came into force in 1976. As of December 2018, 172 countries have ratified the Covenant.

CIVIL & POLITICAL RIGHTS

Human rights are commonly divided into 'civil and political rights' and 'economic, social and cultural rights'. Civil and political rights protect individuals' freedom from interference by the State and make sure that everyone can take part in civil society. They include freedom of speech, freedom of assembly and the right not to be tortured.

Economic, social and cultural rights protect the basic necessities for life which includes the rights to food and water, to have a roof over your head, and to adequate healthcare. In this post, we're looking at civil and political rights under the ICCPR.

BACKGROUND:

The United Nations International Covenant of Civil and Political Rights (ICCPR) attempts to ensure the protection of civil and political rights. It was adopted by the United Nations' General Assembly on December 19, 1966, and it came into force on March 23, 1976. The International Covenant on Economic Social and Cultural Rights, the Universal Declaration of Human Rights, and the ICCPR and its two Optional Protocols, are collectively known as the International Bill of Rights.

PURPOSE:

The ICCPR recognizes the inherent dignity of each individual and undertakes to promote conditions within states to allow the enjoyment of civil and political rights. Countries that have ratified the Covenant are obligated "to protect and preserve basic human rights... [and] "compel[ed] to take administrative, judicial, and legislative measures in order to protect the rights enshrined in the treaty and to provide an effective remedy." There are currently 74 signatories and 168 parties to the ICCPR.

Does the ICCPR apply only to the federal government and its officials-

No. The ICCPR applies to all government entities and agents, including all state and local governments in the United States. The ICCPR thus applies to government actions in all states and counties, and also applies to private contractors who carry out government functions. When the U.S. Senate ratified the ICCPR, it included an Understanding that recognized our federal system of government, and specifically stated that the treaty "shall be implemented by the Federal Government to the extent that it exercises legislative and judicial jurisdiction over

the matters covered" by the treaty, "and otherwise by the state and local governments" with support from the federal government for the fulfillment of the Covenant.

What does the ICCPR do

States party to the ICCPR recognise that 'the inherent dignity and... the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.'

The ICCPR defines basic rights, such as the right to life (Article 6), freedom from torture and cruel, inhuman or degrading treatment (Article 7), freedom from slavery (Article 8), the right to liberty (Article 10) and the right to respect for privacy and family (Article 17).

What do States party to the ICCPR actually promise to do? States' obligations are divided into three – states agree:

- to *respect* human rights – that is, not to violate the rights in the ICCPR;
- to *protect* the enjoyment of rights – against violations by third parties, such as other individuals or corporations; and
- to *fulfil* individuals' rights – to take steps to create an environment in which rights can be fully achieved.

The ICCPR was adopted by the United Nations General Assembly in 1966. Now, there are 169 state parties.

CONTENT:

The unifying themes and values of the ICCPR are found in Articles 2 and 3 and are based on the notion of non-discrimination. Article 2 ensures that rights recognized in the ICCPR will be respected and be available to everyone within the territory of those states who have ratified the Covenant (State Party). Article 3 ensures the equal right of both men and women to the enjoyment of all civil and political rights set out in the ICCPR.

The rights protected under the ICCPR include:

Article 6 – Right to life. Article 7 – Freedom from torture. Article 8 – Right to not be enslaved. Article 9 – Right to liberty and security of the person. Article 10 – Rights of detainees. Article 11 – Right to not be imprisoned merely on the ground of inability to fulfil a contractual obligation. Article 12 – Freedom of movement and choice of residence for lawful residents. Article 13 – Rights of aliens. Article 14 – Equality before the courts and tribunals. Right to a fair trial. Article 15 – No one can be guilty of an act of a criminal offence which did not constitute a criminal offence. Article 16 – Right to recognition as a

person before the law. Article 17 – Freedom from arbitrary or unlawful interference. Article 18 – Right to freedom of thought, conscience and religion. Article 19 – Right to hold opinions without interference. Article 20 – Propaganda for war shall be prohibited by law. Article 21 – Right of peaceful assembly. Article 22 – Right to freedom of association with others. Article 23 – Right to marry. Article 24 – Children’s rights Article 25 – Right to political participation. Article 26 – Equality before the law. Article 27 – Minority protection.

Human Rights Committee-

The Human Rights Committee was established to monitor the implementation of the ICCPR. It is composed of 18 independent experts with recognized competence in the field of human rights. Committee members are elected for a term of four years and must be from countries that have ratified the Covenant. As of January 2019, members of the Committee come from: Albania, Canada, Chile, Egypt, France, Germany, Greece, Guyana, Israel, Japan, Latvia, Mauritania, Paraguay, Portugal, Slovenia, South Africa, Tunisia, and Uganda.

function of the Human Rights Committee

The Human Rights Committee meets three times a year for sessions lasting three weeks at the United Nations Office in Geneva, Switzerland. Countries that have ratified the ICCPR are obliged to report to the Committee every four years. Three to five countries are invited to present their reports at each session which is open to the public and is usually live streamed. The Committee examines the report and addresses its concerns and recommendations to the country in the form of "concluding observations." The Committee also publishes general comments which are its interpretation of the content of the treaty’s human rights provisions.

How can I join organizing efforts around the ICCPR-

The US Human Rights Network ICCPR Task Force is coordinating civil society responses and advocacy prior to and during the U.S. appearance before the Human Rights Committee. NGOs will have a unique opportunity to contribute to this effort by documenting and providing information about civil and political rights violations in their states and communities, organizing local events, publishing

role of non-governmental organizations (NGOs) like human rights and civil liberties groups in the treaty compliance process-

NGOs are encouraged to participate whenever the Committee considers a nation's compliance with the treaty. Many groups submit information in the form of "shadow reports" and provide Committee members with a list of suggested questions and areas of concern regarding the country report. The Committee relies in part on factual information and analysis provided by NGOs to counter information submitted by the government. As the Committee's concluding observations are not legally binding and have no enforcement mechanism, NGOs play a key role in highlighting these recommendations and ensuring their implementation

materials that raise public awareness about the importance of this key human rights treaty, and using the treaty's framework – and the more general human rights framework – to enhance overall efforts to protect human rights and civil liberties on the national, state and local levels. Join the ICCPR listserv for updates and information on how to get involved with these efforts.

LIMITATIONS:

Article 4 of ICCPR allows for certain circumstances for States Parties to derogate from their responsibilities under the Covenant, such as during times of public emergencies. However, State Parties may not derogate from Articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18.

OPTIONAL PROTOCOLS:

There are two optional protocols to the ICCPR which gives additional human rights protections.

First Optional Protocol:

This protocol allows victims claiming to be victims of human rights violations to be heard. The Human Rights Committee (Committee), which is established by the Covenant, has the jurisdiction to receive, consider and hear communications from victims. The first Optional Protocol came into force with the Covenant. There are currently 35 signatories and 115 parties to this protocol. **Second Optional Protocol:**

This protocol aims to abolish the death penalty. It was entered into force on July 11, 1991 and it currently has 37 signatories and 81 parties.

ENFORCEMENT

Article 2(2) of ICCPR provides that State Parties are to take the “necessary steps.... to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.” Countries that have ratified the ICCPR must take steps in their own jurisdictions to recognize the acceptance of this international covenant because, in “international law, a signature does not usually bind a State. The treaty is usually subject to a future ratification, acceptance, approval or accession.” In Canada, the accession process involves a series of reviews and consultation by the federal government and followed by a tabling of the treaty in Parliament.

In addition to State Parties’ formally adopting and recognizing the ICCPR in their jurisdiction, Article 28 of ICCPR provides for a Human Rights Committee (Committee) to be established for monitoring the State Parties’ implementation of the Covenant. State Parties are required to submit reports to the Committee for review, on measures used to adopt and give effect to the rights enshrined in the ICCPR.

As mentioned above, the First Optional Protocol allows victims of human rights violation to be heard by the Committee. However the ICCPR also provides in Article 41 that a State Party who claims another State Party is not fulfilling its obligations to implement ICCPR,

may make written submissions to the Committee for consideration. Also, non-governmental organizations (NGOs) may also participate in ensuring that values under the ICCPR are protected by submitting 'shadow reports' and highlight areas for consideration by the Committee.

