

## **International Covenant on Civil and Political Rights**

**Adopted and opened for signature, ratification and accession by General Assembly  
resolution 2200A (XXI)  
of 16 December 1966**

**entry into force 23 March 1976, in accordance with Article 49**

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

### **PART I**

#### **Article 1**

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

### **PART II**

#### **Article 2**

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, 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.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

### **Article 3**

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

### **Article 4**

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. 2. No derogation from articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

### **Article 5**

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant. 2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

## **PART III**

### **Article 6**

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life. 2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to

the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

#### **Article 7**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

#### **Article 8**

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. 2. No one shall be held in servitude.

3.

(a) No one shall be required to perform forced or compulsory labour; (b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(iv) Any work or service which forms part of normal civil obligations.

#### **Article 9**

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. 2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in

custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

#### **Article 10**

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. 2.

(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication. 3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

#### **Article 11**

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation. Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. 2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.

#### **Article 13**

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

#### **Article 14**

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children. 2.

Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation. 5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

#### **Article 15**

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby. 2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

#### **Article 16**

Everyone shall have the right to recognition everywhere as a person before the law.

#### **Article 17**

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks.

**Article 18**

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. 2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

**Article 19**

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

**Article 20**

1. Any propaganda for war shall be prohibited by law.

2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

**Article 21**

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

**Article 22**

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests. 2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take

legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

### **Article 23**

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

### **Article 24**

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

### **Article 25**

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

### **Article 26**

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

## **PART IV**

### **Article 28**

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as the Committee). It shall consist of eighteen members and shall carry out the functions hereinafter provided. 2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field

of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.

3. The members of the Committee shall be elected and shall serve in their personal capacity.

#### **Article 29**

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in article 28 and nominated for the purpose by the States Parties to the present Covenant. 2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.

3. A person shall be eligible for renomination.

#### **Article 30**

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant. 2. At least four months before the date of each election to the Committee, other than an election to fill a vacancy declared in accordance with article 34, the Secretary-General of the United Nations shall address a written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.

3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.

4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

#### **Article 31**

1. The Committee may not include more than one national of the same State. 2. In the election of the Committee, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

#### **Article 32**

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in article 30, paragraph 4. 2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

#### **Article 33**

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant. 2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

#### **Article 34**

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy. 2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.

3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

### **Article 35**

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

### **Article 36**

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

### **Article 37**

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations. 2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations Office at Geneva.

### **Article 38**

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

### **Article 39**

1. The Committee shall elect its officers for a term of two years. They may be re-elected. 2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:

(a) Twelve members shall constitute a quorum;

(b) Decisions of the Committee shall be made by a majority vote of the members present.

### **Article 40**

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights: (a) Within one year of the entry into force of the present Covenant for the States Parties concerned; (b) Thereafter whenever the Committee so requests.

2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant. 3. The Secretary-General of the United Nations

may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.

4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.

5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

#### **Article 41**

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter;

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged;

(d) The Committee shall hold closed meetings when examining communications under this article;

(e) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant;

(f) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:

(i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions

made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph I of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

#### **Article 42**

1.

(a) If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;

(b) The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission concerning whom no agreement has been reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not Party to the present Covenant, or of a State Party which has not made a declaration under article 41. 3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.

5. The secretariat provided in accordance with article 36 shall also service the commissions appointed under this article.

6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information.

7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned:

(a) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter;

(b) If an amicable solution to the matter on the basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached;

(c) If a solution within the terms of subparagraph (b) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties

concerned, and its views on the possibilities of an amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned;

(d) If the Commission's report is submitted under subparagraph (c), the States Parties concerned shall, within three months of the receipt of the report, notify the Chairman of the Committee whether or not they accept the contents of the report of the Commission.

8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41. 9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned, in accordance with paragraph 9 of this article.

#### **Article 43**

The members of the Committee, and of the ad hoc conciliation commissions which may be appointed under article 42, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

#### **Article 44**

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

#### **Article 45**

The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.

### **PART V**

#### **Article 46**

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

#### **Article 47**

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

### **PART VI**

#### **Article 48**

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations

to become a Party to the present Covenant. 2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

#### **Article 49**

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession. 2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

#### **Article 50**

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

#### **Article 51**

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval. 2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes. 3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

#### **Article 52**

1. Irrespective of the notifications made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph I of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 48;

(b) The date of the entry into force of the present Covenant under article 49 and the date of the entry into force of any amendments under article 51.

#### **Article 53**

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations. 2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.

**International Covenant on Civil and Political Rights (CCPR)**  
**New York, 16 December 1966**

**Entry into force:** 23 March 1976, in accordance with article 49 , for all provisions except those of article 41; 28 March 1979 for the provisions of article 41 (Human Rights Committee), in accordance with paragraph 2 of the said article 41.

**Registration:** 23 March 1976, No. 14668.

**Status:** Signatories: 72, Parties: 164.  
United Nations, *Treaty Series* , vol. 999, p. 171 and vol. 1057, p. 407 (procès-verbal of rectification of the authentic Spanish text); depositary notification C.N.782.2001.TREATIES-6 of 5 October 2001 [Proposal of correction to the original of the Covenant (Chinese authentic text)] and C.N.8.2002.TREATIES-1 of 3 January 2002 [Rectification of the original of the Covenant (Chinese authentic text)].

**Text:**

Note: The Covenant was opened for signature at New York on 19 December 1966.



**International Covenant  
on Civil and  
Political Rights**

Distr.

GENERAL  
CCPR/C/79/Add.81  
4 August 1997

Original: ENGLISH

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***Concluding observations of the Human Rights Committee : India.  
04/08/97.***

***CCPR/C/79/Add.81. (Concluding Observations/Comments)***

Convention Abbreviation: CCPR  
HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

India

1. The Committee considered the third periodic report of India (CCPR/C/76/Add.6) at its 1603rd to 1606th meetings on 24 and 25 July 1997 and subsequently adopted, at its 1612th meeting (sixtieth session), held on 30 July 1997, the following observations.

A. Introduction

2. The Committee welcomes the third periodic report of India, although it regrets the delay in submitting it to the Committee. While noting that the report provides comprehensive information on the constitutional and legislative norms applicable in India in the field of human rights, and makes reference to the Committee's previous comments during consideration of the State party's second periodic report, as well as to a number of court decisions, the Committee regrets the lack of information therein on difficulties encountered in implementing the provisions of the Covenant in practice. The delegation acknowledged in some measure these difficulties and it provided the Committee with detailed and comprehensive written and oral information in the course of the consideration of the report. In this regard, the Committee appreciates the cooperation which India has thus extended to the Committee in the discharge of its mandate.

3. The information submitted by a wide range of non-governmental organizations also assisted the Committee in its understanding of the human rights situation in the State party.

#### B. Factors and difficulties affecting the implementation of the Covenant

4. The Committee recognizes that terrorist activities in the border states, which have caused the death and injury of thousands of innocent people, force the State party to take measures to protect its population. It stresses, however, that all measures adopted must be in conformity with the State party's obligations under the Covenant.

5. It notes, moreover, that the size of the country, its huge population, the massive poverty and the great disparities in the distribution of wealth among various social groups affect the advancement of rights. The persistence of traditional practices and customs, leading to women and girls being deprived of their rights, their human dignity and their lives, and to discrimination against members of the underprivileged classes and castes and other minorities, and ethnic, cultural and religious tensions constitute impediments to the implementation of the Covenant.

#### C. Positive aspects

6. The Committee notes with satisfaction the existence of a broad range of democratic institutions and a comprehensive constitutional and legal framework for the protection of human rights. The Committee also welcomes frequent references to provisions of international human rights instruments by the courts, in particular the Supreme Court.

7. The Committee welcomes the establishment of the National Human Rights Commission in 1993 and the respect which the Government of India accords to its recommendations. The Committee notes that the Commission has been given powers, limited though these are, under the Protection of Human Rights Act, to inquire into complaints of human rights violations, to intervene in court proceedings involving allegations of human rights violations or otherwise dealing with human rights issues, to review constitutional and legal norms and the conformity of laws with international human rights instruments, to make specific recommendations to the Parliament and other authorities and to undertake activities in the field of human rights education. It also welcomes the recent setting up of human rights commissions in six states, including Punjab and Jammu and Kashmir, and of human rights courts in several other states of the Union.

8. The Committee also welcomes the establishment of the National Commission for Scheduled Castes and Scheduled Tribes and the National Commission for Women in 1992, and the National Commission for Minorities in 1993. These commissions have initiated some improvements, in particular in the levels of education and in the representation of the various groups concerned within elected bodies and other authorities.

9. The Committee welcomes the lapse, in 1995, of the Terrorist and Disruptive Activities Act (TADA), under which members of the security and armed forces enjoyed special powers in the use of force, arrest and detention. It also welcomes the related review of cases under this Act, following which a number of cases were dropped, and the directives given by the Supreme Court to deal with questions of bail under the TADA, though a number of cases still require to be dealt with.

10. The Committee has noted that positions in elected bodies are reserved for members of scheduled castes and tribes and that a constitutional amendment has reserved one third of the seats in elected local bodies (Panchayati Raj) for women. The Committee also notes the introduction of a bill to reserve one third of the seats for women in the Federal Parliament and in state legislatures.

11. The Committee welcomes the restoration of elected legislatures and governments in all states within the Union, including Punjab and Jammu and Kashmir, as well as the holding of federal parliamentary elections in April-May 1996. In addition, the Committee welcomes the constitutional amendment giving a statutory basis to Panchayati Raj - village self-rule institutions - and the enactment of the Panchayati Raj (Extension to Scheduled Areas) Act of 24 December 1996, which are designed to increase participation in the conduct of public affairs at the community level.

12. The Committee further welcomes the declared intention of the Government to introduce legislative measures to further freedom of information.

#### D. Subjects of concern and the Committee's recommendations

13. The Committee, noting that international treaties are not self-executing in India:

recommends that steps be taken to incorporate fully the provisions of the Covenant in domestic law, so that individuals may invoke them directly before the courts. The Committee also recommends that consideration be given by the authorities to ratifying the Optional Protocol to the Covenant, enabling the Committee to receive individual communications relating to India.

14. The Committee, noting the reservations and declarations made by the Government of India to articles 1, 9, 13, 12, 19, paragraph 3, 21 and 22 of the Covenant:

invites the State party to review these reservations and declarations with a view to withdrawing them, so as to ensure progress in the implementation of the rights contained in those articles, within the context of article 40 of the Covenant.

15. The Committee notes with concern that, despite measures taken by the Government, members of scheduled castes and scheduled tribes, as well as the so-called backward classes and ethnic and national minorities continue to endure severe social discrimination and to suffer

disproportionately from many violations of their rights under the Covenant, *inter alia* inter-caste violence, bonded labour and discrimination of all kinds. It regrets that the *de facto* perpetuation of the caste system entrenches social differences and contributes to these violations. While the Committee notes the efforts made by the State party to eradicate discrimination:

it recommends that further measures be adopted, including education programmes at national and state levels, to combat all forms of discrimination against these vulnerable groups, in accordance with articles 2, paragraph 1, and 26 of the Covenant.

16. While acknowledging measures taken to outlaw child marriages (Child Marriages Restraint Act), the practice of dowry and dowry related violence (Dowry Prohibition Act and the Penal Code) and sati - self-immolation of widows - (Commission of Sati (Prevention) Act), the Committee remains gravely concerned that legislative measures are not sufficient and that measures designed to change the attitudes which allow such practices should be taken. The Committee is also concerned that giving male children preferred treatment persists, and deplors that practices such as foeticide and infanticide of females continue. The Committee further notes that rape in marriage is not an offence and that rape committed by a husband separated from his wife incurs a lesser penalty than for other rapists. The Committee therefore recommends:

that the Government take further measures to overcome these problems and to protect women from all discriminatory practices, including violence. Additional information should be provided in the State party's next periodic report on the functions, powers and activities of the National Commission for Women.

17. The Committee is concerned that women in India have not been accorded equality in the enjoyment of their rights and freedoms in accordance with articles 2, paragraph 1, 3 and 26 of the Covenant. Nor have they been freed from discrimination. Women remain underrepresented in public life and at the higher levels of the public service, and are subjected to personal laws which are based on religious norms and which do not accord equality in respect of marriage, divorce and inheritance rights. The Committee points out that the enforcement of personal laws based on religion violates the right of women to equality before the law and non-discrimination. Therefore:

it recommends that efforts be strengthened towards the enjoyment of their rights by women without discrimination and that personal laws be enacted which are fully compatible with the Covenant.

18. The Committee remains concerned at the continuing reliance on special powers under legislation such as the Armed Forces (Special Powers) Act, the Public Safety Act and the National Security Act in areas declared to be disturbed and at serious human rights violations, in particular with respect to articles 6, 7, 9 and 14 of the Covenant, committed by security and armed forces acting under these laws as well as by paramilitary and insurgent groups. The Committee, noting that the examination of the constitutionality of the Armed Forces (Special Powers) Act, long pending before the Supreme Court is due to be heard in August 1997, hopes

that its provisions will also be examined for their compatibility with the Covenant. In this respect, bearing in mind the provisions of articles 1, 19 and 25 of the Covenant:

the Committee endorses the views of the National Human Rights Commission that the problems in areas affected by terrorism and armed insurgency are essentially political in character and that the approach to resolving such problems must also, essentially, be political, and emphasizes that terrorism should be fought with means that are compatible with the Covenant.

19. The Committee regrets that some parts of India have remained subject to declaration as disturbed areas over many years - for example the Armed Forces (Special Powers) Act has been applied throughout Manipur since 1980 and in some areas of that state for much longer - and that, in these areas, the State party is in effect using emergency powers without resorting to article 4, paragraph 3, of the Covenant. Therefore:

the Committee recommends that the application of these emergency powers be closely monitored so as to ensure its strict compliance with the provisions of the Covenant.

20. The Committee expresses concern at the lack of compliance of the Penal Code with article 6, paragraphs 2 and 5, of the Covenant. Therefore:

the Committee recommends that the State party abolish by law the imposition of the death penalty on minors and limit the number of offences carrying the death penalty to the most serious crimes, with a view to its ultimate abolition.

21. The Committee notes with concern that criminal prosecutions or civil proceedings against members of the security and armed forces, acting under special powers, may not be commenced without the sanction of the central Government. This contributes to a climate of impunity and deprives people of remedies to which they may be entitled in accordance with article 2, paragraph 3, of the Covenant. Therefore:

the Committee recommends that the requirement of governmental sanction for civil proceedings be abolished and that it be left to the courts to decide whether proceedings are vexatious or abusive. It urges that judicial inquiries be mandatory in all cases of death at the hands of the security and armed forces and that the judges in such inquiries, including those under the Commission of Enquiry Act of 1952, be empowered to direct the prosecution of security and armed forces personnel.

22. The Committee regrets that the National Human Rights Commission is prevented by clause 19 of the Protection of Human Rights Act from investigating directly complaints of human rights violations against the armed forces, but must request a report from the central Government. The Committee further regrets that complaints to the Commission are subject to a one-year time limit, thus preventing the investigation of many alleged past human rights violations. Therefore:

the Committee recommends that these restrictions be removed and that the National Human Rights Commission be authorized to investigate all allegations of violations by agents of the State. It further recommends that all states within the Union be encouraged to establish human rights commissions.

23. The Committee expresses concern at allegations that police and other security forces do not always respect the rule of law and that, in particular, court orders for habeas corpus are not always complied with, particularly in disturbed areas. It also expresses concern about the incidence of custodial deaths, rape and torture, and at the failure of the Government of India to receive the United Nations Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment. Therefore:

while the Committee welcomes the requirement by the National Human Rights Commission that all such alleged incidents be reported and investigated, and that all post-mortem examinations be taped, it recommends:

- (a) The early enactment of legislation for mandatory judicial inquiry into cases of disappearance and death, ill-treatment or rape in police custody;
- (b) The adoption of special measures to prevent the occurrence of rape of women in custody;
- (c) The mandatory notification of relatives of detainees without delay;
- (d) That the right of detainees to legal advice and assistance and to have a medical examination be guaranteed;
- (e) That priority be given to providing training and education in the field of human rights to law enforcement officers, custodial officers, members of the security and armed forces, and judges and lawyers, and that the United Nations Code of Conduct for Law Enforcement Officials be taken into account in this regard.

24. The Committee regrets that the use of special powers of detention remains widespread. While noting the State party's reservation to article 9 of the Covenant, the Committee considers that this reservation does not exclude, *inter alia*, the obligation to comply with the requirement to inform promptly the person concerned of the reasons for his or her arrest. The Committee is also of the view that preventive detention is a restriction of liberty imposed as a response to the conduct of the individual concerned, that the decision as to continued detention must be considered as a determination falling within the meaning of article 14, paragraph 1, of the Covenant, and that proceedings to decide the continuation of detention must, therefore, comply with that provision. Therefore:

the Committee recommends that the requirements of article 9, paragraph 2, of the Covenant be complied with in respect of all detainees. The question of continued detention should be determined by an independent and impartial tribunal constituted and operating in accordance with article 14, paragraph 1, of the Covenant. It further recommends, at the very least, that a central register of detainees under preventive detention laws be maintained and that the State party accept the admission of the International Committee of the Red Cross to all types of detention facilities, particularly in areas of conflict.

25. The Committee notes with concern that, although the Terrorist and Disruptive Activities (Prevention) Act has lapsed, 1,600 people remain in detention under its provisions. Therefore:

the Committee recommends that measures be taken to ensure either the early trial of these people or their release. It is also concerned that there are legislative proposals to reintroduce parts of the Act and that this could lead to further violations of the Covenant.

26. The Committee expresses concern at the overcrowding and poor health conditions and sanitation in many prisons, the inequality of treatment of prisoners and the lengthy periods of pre-trial detention, all of which are incompatible with articles 9 and 10, paragraph 1, of the Covenant. Therefore:

the Committee, while welcoming the initiative to give the central Government a greater role in the administration and management of prisons, recommends that measures be taken to reduce overcrowding, to release those who cannot be given a speedy trial and to upgrade prison facilities as quickly as possible. In this respect, the Committee recommends that attention be given to the United Nations Standard Minimum Rules for the Treatment of Prisoners.

27. Concerning court procedure:

the Committee urges the institution of reforms to the procedure of the courts to ensure a speedy trial of those charged with offences, prompt hearing in civil cases and similar urgency in hearing appeals.

28. The Committee expresses its concern at reports that fines have been imposed, without a hearing, on communities in areas declared disturbed. Therefore:

the Committee recommends that the imposition of such fines be prohibited.

29. The Committee expresses concern at the extent of bonded labour, as well as the fact that the incidence of this practice reported to the Supreme Court is far higher than is mentioned in the report. The Committee also notes with concern that eradication measures which have been taken do not appear to be effective in achieving real progress in the release and rehabilitation of bonded labourers. Therefore:

the Committee recommends that a thorough study be urgently undertaken to identify the extent of bonded labour and that more effective measures be taken to eradicate this practice, in accordance with the Bonded Labour System (Abolition) Act of 1976 and article 8 of the Covenant.

30. The Committee expresses concern at reports of forcible repatriation of asylum seekers, including those from Myanmar (Chins), the Chittagong Hills and the Chachmas. Therefore:

the Committee recommends that, in the process of repatriation of asylum seekers or refugees, due attention be paid to the provisions of the Covenant and other applicable international norms.

31. The Committee deplores the high incidence of child prostitution and trafficking of women and girls into forced prostitution, and it regrets the lack of effective measures to prevent such practices and to protect and rehabilitate the victims. The Committee also regrets that women who have been forced into prostitution are criminalized by the Immoral Trafficking Prevention Act and, further, that article 20 of the Act puts the burden of proof on a woman to prove that she is not a prostitute, which is incompatible with the presumption of innocence. Therefore:

the Committee recommends that the application of this law to women in the situation described be repealed and that measures be taken to protect and rehabilitate women and children whose rights have been violated in this way.

32. The Committee further regrets the lack of national legislation to outlaw the practice of Devadasi, the regulation of which is left to the states. However, it appears that the practice continues and that not all states have effective legislation against it. The Committee emphasizes that this practice is incompatible with the Covenant. Therefore:

the Committee recommends that all necessary measures be taken urgently to eradicate the practice of Devadasi.

33. The Committee expresses its concern at the plight of street children and at the reported high level of violence against children within society. It is particularly concerned at reports of child mutilation. Therefore:

the Committee recommends that urgent measures be taken to address the problem of violence against children and that specific mechanisms be set up for the protection of children.

34. The Committee expresses concern that, despite actions taken by the State party, there has been little progress in implementing the Child Labour (Prohibition and Regulation) Act of 1986. In this respect:

the Committee recommends that urgent steps be taken to remove all children from hazardous occupations, that immediate steps be taken to implement the recommendation of the National Human Rights Commission that the constitutional requirement that it should be a fundamental right for all children under 14 to have free and compulsory education be respected, and that efforts be strengthened to eliminate child labour in both the industrial and rural sectors. The Committee also recommends that consideration be given to establishing an independent mechanism with effective national powers to monitor and enforce the implementation of laws for the eradication of child labour and bonded labour.

35. Concerning the periodic report:

the Committee draws to the attention of the Government of India the provisions of paragraph 6 (a) of the guidelines regarding the form and content of periodic reports from States parties, and requests that, accordingly, its next period report, due on 31 December 2001, should contain material which responds to all these concluding observations. The Committee further requests that these concluding observations be widely disseminated among the public at large in all parts of India.

# Human Rights Committee

## Membership

Name	Nationality	Term expires
Mr. Abdelfattah AMOR	Tunisia	31.12.2014
Mr. Lazhari BOUZID	Algeria	31.12.2012
Ms. Christine Chanet	France	31.12.2014
Mr. Mahjoub El-Haiba	Morocco	31.12.2012
Mr. Ahmad Amin FATHALLA	Egypt	31.12.2012
Mr. Cornelis FLINTERMAN	The Netherlands	31.12.2014
Mr. Yuji IWASAWA	Japan	31.12.2014
Ms. Hellen KELLER	Switzerland	31.12.2014
Mr. Rajsoomer LALLAH	Mauritius	31.12.2012
Ms. Zonke Zanele MAJODINA	South Africa	31.12.2014
Ms. Iulia Antoanella MOTOC	Romania	31.12.2014
Mr. Gerald L. NEUMAN	United States of America	31.12.2014
Mr. Michael O'FLAHERTY	Ireland	21.12.2012
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Sir Nigel RODLEY	United Kingdom	31.12.2012
Mr. Fabián Omar SALVIOLI	Argentina	31.12.2012
Mr. Krister THELIN	Sweden	31.12.2012
Ms. Margo WATERVAL	Suriname	31.12.2014