

Human Rights Instruments

- Universal Declaration of Human Rights (UDHR)
- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- International Convention for the Elimination of All Forms of Racial Discrimination (CERD)
- Convention on the Rights of the Child (CRC)
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- Convention on the Rights of Persons with Disabilities (CRPD)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)
- International Convention for the Protection of All Persons from Enforced Disappearance (ICPED)

Treaty Bodies

- **ICCPR**: Optional Protocol 1 for complaints procedure to [Human Rights Committee](#) from individual 'author' using 'communications' procedure
 - **ICESCR**: Optional Protocol for complaints procedure
 - **CRC**: 3rd Optional Protocol for children to make complaints to [Committee on the Rights of the Child](#)
 - **CEDAW**: Optional Protocol for complaints procedure [CEDAW Committee](#)
 - **CRPD**: Optional Protocol complaints to [Committee on RPD](#)
 - **CERD**: complaints procedure [ICERD Committee](#) built into treaty
 - **CAT**: complaints procedure [Committee Against Torture](#) built into treaty
 - **CMW**: procedure not yet active
- Only for States who are parties to the relevant optional protocols

Duties:

- Monitoring – receive periodic state reports on progress on implementation (often late, self serving and superficial). See if domestic law complies with treaty, if bureaucrats know it, if people enjoy rights
- Communications – receive complaints by individuals against state parties, or could be one state against another
- Reporting – on their activities to the UNGA
- Members are elected and serve in their personal capacity, for four year terms. Should be experts with high standing, independence, impartiality, conscientiousness, experience
- Make General Comments or General Recommendations
- No independent power of investigation, no enforcement power, under-resourced to do their role

Jurisdiction, standing, admissibility

- Jurisdiction = power of a court to hear a matter. State sovereignty so need consent, jurisdiction depends on the instrument – *ratione materiae* (over that subject matter) and *ratione personae* (in relation to that defendant)
- Standing = who can bring the action – individual, group of individuals, NGO, state? Has to be victim or not?
- Admissibility = typical requirements include exhaustion of local remedies, time limit, not anonymous, not already heard elsewhere, not offensive language, not vexatious

International Covenant on Economic, Social and Cultural Rights (ICESCR)

- ICESCR 1966; entered into force 1976 same as ICCPR, including Australia
- Optional Protocol 2013 – 21 countries yes, **Australia no**.
- **Committee on Economic, Social and Cultural Rights** – created 1985, 18 independent experts, reports to **ECOSOC**, only recently complaints procedure
- See also **UNESCO** and **ILO** instruments
- Poor cousin to civil and political rights? Overlaps EG non-discrimination, family, home, health, torture. Respect and protect now, fulfil over time?
- **International Network for Economic, Social and Cultural Rights (ESCR-Net)** 270+ NGOs/CSOs from 70+ countries
- National HR Consultation Australia 2009 – main rights Australians concerned about are education, housing and health

Article 1 recognises the right of all peoples to self-determination including the right to "freely determine their political status", pursue their economic, social and cultural goals, and manage and dispose of their own resources. It recognises a negative right of a people not to be deprived of its means of subsistence (Art 1.2) and imposes an obligation on those parties still responsible for non-self governing and trust territories (colonies) to encourage and respect their self-determination (Art 1.3)

Articles 2-5

Establishes the principle of "progressive realisation" – see below. It also requires the rights be recognised "without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" (Art 2.2) The rights can only be limited by law, in a manner compatible with the nature of the rights, and only for the purpose of "promoting the general welfare in a democratic society" (**Art 4**)

Progressive realisation

It acknowledges that some of the rights (for example, the right to health) may be difficult in practice to achieve in a short period of time, and that states may be subject to resource constraints, but requires them to act as best they can within their means. It rules out deliberately regressive measures which impede that goal. The **Committee on Economic, Social and Cultural Rights** also interprets the principle as imposing minimum core obligations to provide, at the least, minimum essential levels of each of the rights. If resources are highly constrained, this should include the use of targeted programmes aimed at the vulnerable (**general comment no 3**)

Article 6-8 – right to work

(1) States Parties to recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

(2) The steps to be taken by a State Party to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Case example - *State of Maharashtra v Indian Hotel and Restaurants Association* (Supreme Court of India, 2013)

The Indian government has banned 'any type of dancing' in an 'eating house, permit room or beer bar', except three stars hotels and above. Women in Maharashtra are arguing it is discriminatory and denies them their right to carry on their profession or occupation. The State says it is justified because bar dancing corrupts morals, fuels trafficking and prostitution, and causes exploitation of women bar dancers (Note that 75,000 women are unemployed as a result, over two-thirds are the sole earner for their families, some continue to suffer, others turn to prostitution or suicide).

- **Art 7** – recognise the right of everyone to the enjoyment of “just and favourable conditions” of work.
- **Art 8** – right to form trade unions and join the trade union of their choice.

Article 9 - Right to social security and social insurance

General Comment No. 19 on the right to social security: Right for benefits: health care, sickness, old age, unemployment, employment injury, family and child support, maternity, disability, survivors and orphans. Special attention to: women, the unemployed, persons working in the informal economy, sick or injured workers, people with disabilities, older persons, children and adult dependents, domestic workers, homeworkers, minority groups, refugees, asylum-seekers, internally displaced persons, returnees, non-nationals, prisoners and detainees.

CEDAW Committee Decisions

ES and SC v Tanzania (CEDAW Ctee, 2015)

Two widows in Tanzania were denied the right of inheriting or administering the estates of their late husbands, under customary inheritance law codified into law. They and their children were evicted by the in-laws. Tanzanian High Court held laws discriminatory but did not overturn them, further appeal dismissed. **CEDAW Committee** held that inheritance laws violate CEDAW incl **Art 13** (credit) and **16** (marriage dissolution), State failure to provide an effective remedy.

MS A T v Hungary (CEDAW Committee, 2003)

Hungarian woman domestic violence, court ordered husband could return home to her and two children, CEDAW Committee held that Hungary in breach of **Art 5(a)** (responsibility to address gender prejudices) and **Art 16** (family).

Tayag Vertido v Philippines (CEDAW Committee, 2008)

The Executive Director of a Chamber of Commerce and Industry was raped by the President of the Chamber, and the action was dismissed for lack of probable cause. Appeal, 8 years of litigation, Violation of 2(c) and (f) and 5(a) in terms of legal steps, and addressing stereotypes (acquittal on the basis she should have escaped).

Committee on Rights of PWD Decisions

HM v Sweden (Committee RPD, 2011)

A Swedish woman with a disability complained about the government refusal to permit her to construct a hydrotherapy pool in her home, necessary for rehabilitation. The Committee held that it was not a disproportionate and undue burden to approve such a development and that Sweden had violated her right to health (Art 25) and independence (Art 26).



The United Nations System

UN Principal Organs

General Assembly

Security Council

Economic and Social Council

Secretariat

International Court of Justice

Trusteeship Council⁵

Programmes and Funds

- UNCTAD United Nations Conference on Trade and Development
- ITC International Trade Centre (UNCTAD/WTO)
- UNDP United Nations Development Programme
- UNCDF United Nations Capital Development Fund
- UNV United Nations Volunteers
- UNEP United Nations Environment Programme
- UNFPA United Nations Population Fund

Subsidiary Bodies

- Main and other sessional committees
- Disarmament Commission
- Human Rights Council
- International Law Commission
- Standing committees and ad hoc bodies

Subsidiary Bodies

- Counter-terrorism committees
- International Criminal Tribunal for Rwanda (ICTR)
- International Criminal Tribunal for the former Yugoslavia (ICTY)

Advisory Subsidiary Body

- UN Peacebuilding Commission

Research and Training Institutes

- UNICRI United Nations Interregional Crime and Justice Research Institute
- UNIDIR¹ United Nations Institute for Disarmament Research

Related Organizations

- CTBTO PrepCom Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization
- IAEA² International Atomic Energy Agency
- OPCW Organisation for the Prohibition of Chemical Weapons
- WTO³ World Trade Organization

UNITAR United Nations Institute for Training and Research

UNIRISD United Nations Research Institute for Social Development

UNSSC United Nations System Staff College

UNU United Nations University

Other Entities

- UNAIDS** Joint United Nations Programme on HIV/AIDS
- UNISDR** United Nations International Strategy for Disaster Reduction
- UNOPS** United Nations Office for Project Services

UN-HABITAT United Nations Human Settlements Programme

UNHCR Office of the United Nations High Commissioner for Refugees

UNICEF United Nations Children's Fund

UNODC United Nations Office on Drugs and Crime

UNRWA¹ United Nations Relief and Works Agency for Palestine Refugees in the Near East

UN-Women United Nations Entity for Gender Equality and the Empowerment of Women

WFP World Food Programme

IMF International Monetary Fund

ICAO International Civil Aviation Organization

IMO International Maritime Organization

ITU International Telecommunication Union

UPU Universal Postal Union

WMO World Meteorological Organization

WIPO World Intellectual Property Organization

IFAD International Fund for Agricultural Development

UNIDO United Nations Industrial Development Organization

UNWTO World Tourism Organization

Specialized Agencies⁴

ILO International Labour Organization

FAO Food and Agriculture Organization of the United Nations

UNESCO United Nations Educational, Scientific and Cultural Organization

WHO World Health Organization

World Bank Group

IBRD International Bank for Reconstruction and Development

IDA International Development Association

IFC International Finance Corporation

MIGA Multilateral Investment Guarantee Agency

ICSID International Centre for Settlement of Investment Disputes

Other Bodies

Committee for Development Policy

Committee of Experts on Public Administration

Committee on Non-Governmental Organizations

Permanent Forum on Indigenous Issues

United Nations Group of Experts on Geographical Names

Other sessional and standing committees and expert, ad hoc and related bodies

Regional Commissions

ECA Economic Commission for Africa

ECE Economic Commission for Europe

ECLAC Economic Commission for Latin America and the Caribbean

ESCAP Economic and Social Commission for Asia and the Pacific

ESCSA Economic and Social Commission for Western Asia

Functional Commissions

Crime Prevention and Criminal Justice

Narcotic Drugs

Population and Development

Science and Technology for Development

Social Development

Statistics

Status of Women

Sustainable Development

United Nations Forum on Forests

Departments and Offices

DM Department of Management

DPA Department of Political Affairs

DPI Department of Public Information

DPKO Department of Peacekeeping Operations

DSS Department of Safety and Security

OCHA Office for the Coordination of Humanitarian Affairs

OHCHR Office of the United Nations High Commissioner for Human Rights

OIOS Office of Internal Oversight Services

OIA Office of Legal Affairs

OSAA Office of the Special Adviser on Africa

OSRSG/CAAC Office of the Special Representative of the Secretary-General for Children and Armed Conflict

NOTES:

¹ UNRWA and UNICEF report only to the General Assembly.

² IAEA reports to the Security Council and the General Assembly.

³ WTO has no reporting obligation to the General Assembly (GA) but contributes on an ad-hoc basis to GA and ECOSOC work inter alia on finance and developmental issues.

⁴ Specialized agencies are autonomous organizations working with the UN and each other through the coordinating machinery of ECOSOC at the intergovernmental level, and through the Chief Executive Board for Coordination (CEB) or the inter-secretariat level. This section is listed in order of establishment of these organizations as specialized agencies of the United Nations.

⁵ The Trusteeship Council suspended operation on 1 November 1994 with the independence of Palau, the last remaining United Nations Trust Territory, on 1 October 1994.

This is not an official document of the United Nations, nor is it intended to be all-inclusive.