



**UN HUMAN RIGHTS COMMITTEE**  
**PARTICIPATION IN THE REPORTING**  
**PROCESS**  
**GUIDELINES FOR NON GOVERNMENTAL**  
**ORGANISATIONS (NGOs)**

## **Guidelines on the Reporting Process to the UN Human Rights Committee**

---

### Authors:

Peggy Brett and Patrick Mutzenberg

© First version 2008 Centre for Civil and Political Rights (CCPR Centre)

Version as of 1<sup>st</sup> December 2008

This is a draft version. Feedback and comments to improve the guidelines are welcome.

Do not hesitate to contact us: [info@ccprecentre.org](mailto:info@ccprecentre.org)

### Documents of reference:

- “A Guide for NGO Reporting to the Committee of the Rights of the Child (CRC)”, (2006), NGO Group for CRC - [www.childrightsnet.org](http://www.childrightsnet.org)
  - “Civil and Political Rights: The Human Rights Committee” (2005), Office of the United Nations High Commissioner for Human Rights.
  - “The Treaty Bodies – Bringing Human Rights Home”, DVD (2006), Office of the United Nations High Commissioner for Human Rights and Association for the Prevention of Torture (APT).
-

## Table of contents

<b>Part I: The International Covenant on Civil and Political Rights (ICCPR) and the Human Rights Committee (HR Committee)</b> .....	<b>5</b>
1. The ICCPR and the Optional Protocols (OP1 and OP2).....	5
2. The Human Rights Committee.....	7
A) Membership .....	7
B) Sessions.....	7
C) Functions of the Human Rights Committee.....	7
<b>Part II: The Reporting Process</b> .....	<b>9</b>
1. Pre-sessional activities: Identification of the main difficulties in the implementation of the ICCPR and drafting of the List of Issues .....	10
2. Examination of the States reports and dialogue with the States parties....	10
3. Adoption of the Concluding Observations .....	10
4. Follow-up process .....	11
5. What happens if a State party fails to submit a report to the HR Committee? .....	11
<b>Part III: Role of NGOs in the reporting process</b> .....	<b>12</b>
1. Pre-sessional activities: preparation of an NGO report .....	13
2. Lobbying during the session.....	13
A) NGO Briefings.....	13
B) Additional information provided by NGOs during the session.....	14
3. NGOs and the follow-up process.....	14
A) Raising awareness about the Concluding Observations.....	14
B) Lobbying for the implementation of the Concluding Observations.....	15
C) Reporting back to the HR Committee.....	15
<b>Part IV: Guidelines for NGO written submissions to the HR Committee</b> .....	<b>16</b>
1. General consideration .....	16
A) Why it is important to make NGO written submissions .....	16
B) When to send NGO written submissions? .....	16
C) Global reports or thematic reports? .....	17
2. Structure and content of the NGO reports .....	17
A) Structure and content of the report .....	17
B) Reference to the State report and the previous Concluding Observations .....	19
3. Practical Information .....	19
A) General information .....	19
B) When to submit NGO information? .....	20

**Part V: Overview of the substantive provisions of the ICCPR and related issues raised by the HR Committee ..... 23**

Article 1 (Right of Peoples to Self-determination).....	23
Article 2 (Non-Discrimination, Constitutional and Legal Framework within which the Covenant is Implemented and Access to Remedies).....	23
Article 3 (Equal Rights of Men and Women) .....	26
Article 4 (Derogations) .....	27
Article 5 (Savings Provision).....	28
Article 6 (Right to Life) .....	28
Article 7 (Prohibition on Torture) .....	30
Article 8 (Prohibition on Slavery) .....	31
Article 9 (Prohibition of Arbitrary Detention) .....	32
Article 10 (Conditions of Detention) .....	33
Article 11 (Imprisonment for Failure to Fulfil a Contractual Obligation) .....	34
Article 12 (Freedom of Movement) .....	34
Article 13 (Right to Remain in a State).....	35
Article 14 (Judicial Processes and Guarantees) .....	36
Article 15 (Non-retroactivity of laws).....	38
Article 16 (Recognition as a Person before the Law) .....	38
Article 17 (Right to Privacy) .....	38
Article 18 (Freedom of Thought, Conscience and Religion) .....	39
Article 19 (Freedom of Expression) .....	39
Article 20 (Propaganda for War and Incitement to Discrimination or Violence) .....	40
Article 21 (Freedom of Assembly).....	41
Article 22 (Freedom of Association) .....	41
Article 23 (Right to a Family) .....	42
Article 24 (Rights of the Child) .....	43
Article 25 (Electoral Rights).....	44
Article 26 (Equality before the Law).....	44
Article 27 (Rights of Minorities) .....	46



## **Part I: The International Covenant on Civil and Political Rights (ICCPR) and the Human Rights Committee (HR Committee)**

### **1. The ICCPR and the Optional Protocols (OP1 and OP2)**

---

The International Covenant on Civil and Political Rights (ICCPR) was adopted by the General Assembly in 1966 and entered into force in 1976, once 35 States had become party to it. By June 2007, a total 163 States were parties to the Covenant. An up to date list of the States Parties can be found on the Centre for Civil and Political Rights (CCPR Centre) website.<sup>1</sup>

The Covenant contains 53 articles and is divided into six Parts:

- **Parts I and II contain a series of provisions generally applicable to all the rights set out in the Covenant**

**Article 1**, which forms Part I, guarantees the right of self-determination. This differs from the other Covenant rights in that it is, explicitly, a right exercised by “peoples” rather than by individuals.

- **Part II comprises articles 2 to 5 and sets out the scope of the Covenant and the obligations of the State in relation to the Covenant**

**Article 2** provides that a State Party must respect and ensure the rights recognised in the Covenant to all persons within its jurisdiction and provide effective remedies to persons whose rights under the Covenant are violated. States should also ensure that rights guaranteed by the Covenant are incorporated into domestic law.

**Article 3** sets out the equal right of men and women in relation to Covenant rights.

**Article 4** allows States to derogate from some of the rights recognised in the Covenant (i.e. to limit the application of some rights) in exceptional situations (such as a state of emergency). However the measures taken must be “strictly required by the exigencies of” the relevant crisis. Articles 6 (right to life), 7 (prohibition of torture), 8 paragraphs 1 and 2 (prohibition of slavery), 11 (prohibition of imprisonment because of inability to fulfil a contractual obligation), 15 (prohibition of retroactive criminal proceedings), 16 (right to be recognised as a person before the law) and 18 (freedom of thought, conscience and religion) may not be derogated from under any circumstances.

**Article 5** is a savings provision that prohibits the use of the Covenant by the State or any group or individual to justify limiting or destroying the rights of others and provides that a State Party whose domestic law provides greater protections than those contained in the Covenant may not use the Covenant as an excuse to lower the national protection.

- **Part III contains all the substantive individual rights and fundamental freedoms guaranteed by the Covenant.**

---

<sup>1</sup> Information available on the CCPR Centre website: [www.ccpcentre.org](http://www.ccpcentre.org)

**Articles 6 to 11** may be regarded as core provisions for the protection of the life, liberty and physical security of the individual. These provisions also stipulate the narrow confines within which the death penalty may legitimately be imposed in States Parties where that penalty has not been abolished. Specific prohibitions are set out concerning torture (article 7), unauthorized medical experimentation, slavery and forced labour (article 8). The rights of persons deprived of their liberty, usually by arrest, and in detention are also covered.

**Articles 12 and 13** cover movement into, out of, and within a State, with particular rules on the expulsion of aliens.

**Articles 14 to 16** address with how a person must be treated in judicial processes. **Article 14** guarantees the right to a fair trial in both criminal and civil cases. It sets out the rights to equality before the courts and to fair adjudication of claims resolved before courts and tribunals. It also lists additional protections for the conduct of criminal trials. **Article 15** prohibits retroactive criminal punishment, while **article 16** states simply that everyone has the right to be recognized as a person before the law.

**Articles 17 to 22** set out fundamental freedoms to be enjoyed free of unjustified interference, including the right to privacy (**article 17**), freedom of thought, conscience and religion (**article 18**) and freedom of opinion and expression (**article 19**). **Article 20** prohibits advocacy for war or of national, racial or religious hatred. **Article 21** guarantees the right to peaceful assembly and **article 22** freedom of association, including in trade unions.

**Articles 23 and 24** recognize the particular role of the family unit and address issues around marriage and the rights of children.

**Article 25** outlines the right to vote and to be elected at genuine periodic elections by universal suffrage in a secret ballot as well as the rights to take part in public affairs and to have equal access to the public service.

Alongside articles 2 and 14, **article 26** sets out the rights to equality before the law and to equal protection of the law, with a wide guarantee of non-discrimination.

To conclude Part III, **article 27** guarantees persons belonging to ethnic, religious or linguistic minorities the right, in community with other members of the group, to enjoy and practise their own culture, religion or language.

- **Parts IV, V and VI deal with the establishment of the Human Rights Committee, the Committee's monitoring functions and a variety of technical matters.**

Part IV, covering **articles 28 to 45**, sets up the Committee and provides for its functions and procedures (see section on the Human Rights Committee).

Part V, in **articles 46 and 47**, includes savings provisions with respect to the United Nations Charter and, linked with article 1, to the inherent right of peoples freely to enjoy and utilize their natural wealth and resources.

Part VI includes **articles 48 to 53**, and deals with standard treaty provisions concerning mechanics for becoming a party, notification and amendments.

## **The two Optional Protocols**

There are two Optional Protocols to the ICCPR. The First Optional Protocol authorizes individuals to submit complaints ("individual communications") to the Human Rights Committee alleging violations of their rights under the ICCPR provided that they have exhausted domestic remedies. Such individual complaints are only authorised in respect of States that have ratified the First Optional Protocol. As of July 2008, there were 111 States parties to the Optional Protocol. If the Committee finds that a State party has breached its obligations under the ICCPR, it will require that the violation be remedied and ask that the State party provide it follow-up information in this regard. The Human Rights Committee's decisions and its follow-up activities are made public and included in the Committee's Annual Report to the UN General Assembly.

The Second Optional Protocol aims at the abolition of the death penalty. Under Article 1, no one within the jurisdiction of a State party to the Protocol may be executed. As of Dec. 2008 it has been ratified by 69 States parties.

---

## **2. The Human Rights Committee**

---

### **A) Membership**

The "Human Rights Committee" (HR Committee) is established under Article 28 of the ICCPR. Its functions are outlined in Part IV of the treaty. It has the role of monitoring and supervising the implementation by States Parties of their obligations under the treaty. The HR Committee is composed of 18 members, often called "*Experts*". Each member is nominated by a State Party, and is elected by secret ballot by the States Parties.

Each member serves a four year term, and may be re-elected if renominated. States Parties should ensure that there is an "equitable geographical distribution" of HR Committee members (article 31). Members "*shall be persons of high moral character and recognized competence in the field of human rights*" (article 28). A member serves in his or her personal capacity, not as a representative of his or her State.

---

### **B) Sessions**

The HR Committee meets three times a year, once at the main headquarters in New York City (usually in March) and twice at UN headquarters in Geneva (usually in July and October). Each meeting lasts for three weeks.

Each session of the Committee is usually preceded by a one-week meeting of the Committee's working group. The functions of the working group have evolved over the years and are currently devoted solely to handling, as an initial chamber, decisions on the admissibility of individual complaints under the Optional Protocol.

---

### **C) Functions of the Human Rights Committee**

The HR Committee performs its function of supervising and monitoring the implementation of the ICCPR in four ways:

- **Reporting**

See part II

- **Considering of Individual Complaints**

- **Issuing of General Comments**

Article 40 establishes the possibility of producing General Comments. By the end of 2007 the Committee had issued 32 General Comments. These clarify the scope and meaning of various articles and so, of the obligations of States Parties.

- **Considering of Inter-state Complaints**

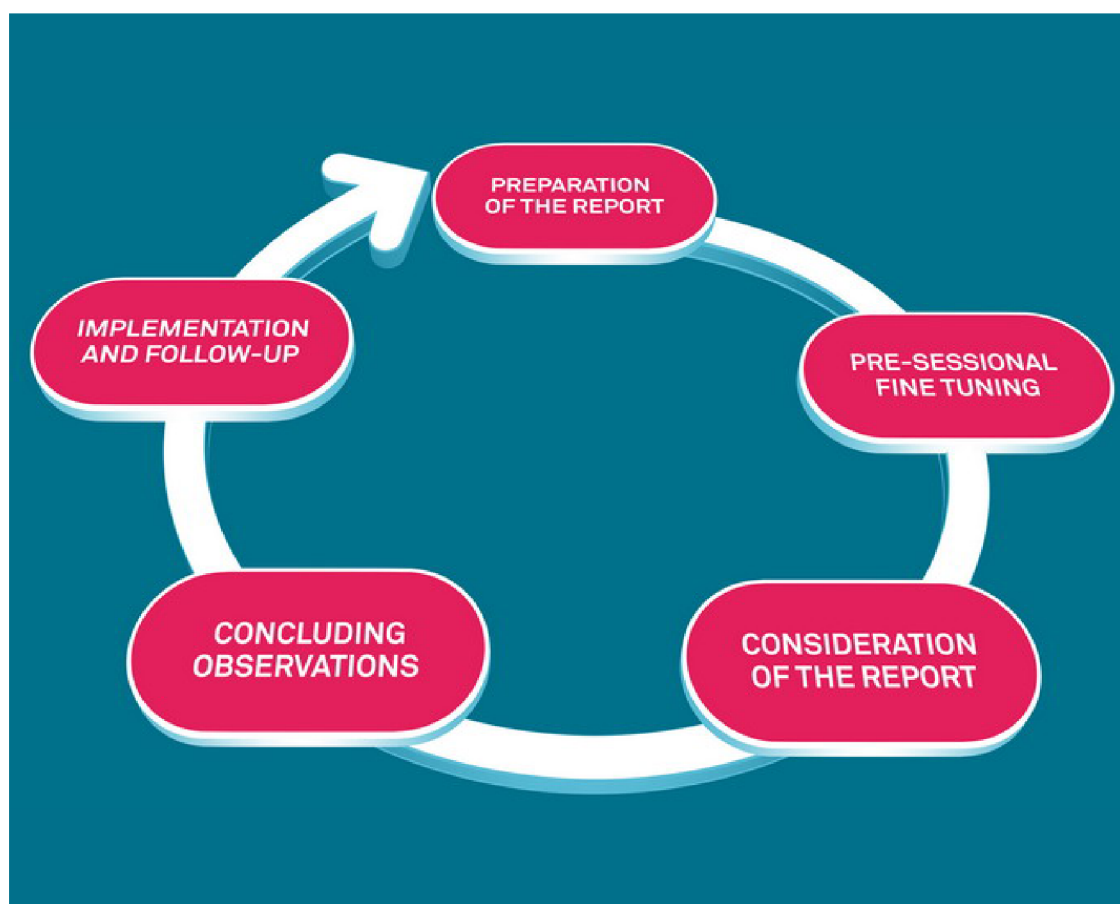
A State Party may submit a communication to the Committee alleging that another State Party is not fulfilling its obligations under the Covenant (article 41 which is applicable only for States Parties that have specifically recognized the competence of the Committee in this area and in case of reciprocity). To date, however, no inter-State complaint has been submitted to the Committee.

## Part II: The Reporting Process

A State Party to the ICCPR must submit an initial report one year after the ICCPR comes into force for that State. Thereafter, the State Party must submit periodic reports at intervals dictated by the HR Committee, every four or five years (article 40).

The State Party report should detail the measures adopted to give effect to the rights that the Covenant establishes and the progress made in the enjoyment of those rights. The Initial Report should comprehensively cover all substantive articles of the Covenant, including information on the State's constitutional and legal framework and the legal and practical measures taken to implement the Covenant. The subsequent (Periodic) reports are usually much shorter and should focus on the Committee's previous Concluding Observations and significant developments since the previous report.

Box 1: The different steps of the reporting procedure:



Source: DVD "The UN Treaty Bodies" OHCHR/APT

### **1. Pre-sessional activities: Identification of the main difficulties in the implementation of the ICCPR and drafting of the List of Issues**

---

The report is assigned to a group of between four and six Committee members known as a Country Report Task Force (CRTF). Among the CRTF, one member is the designated “country rapporteur”, whose main responsibility is to accompany a report through the Committee’s processes. The names of the experts on the CRTF and of the “country rapporteur” are confidential.

With the assistance of the Committee’s secretariat, the CRTF draws up a “List of Issues” which addresses the most crucial matters regarding the implementation of the ICCPR and requests further information from the State on these issues.

The List of Issues is sent to the State Party in advance of the session at which the report will be examined.

The State is requested to provide written answers to the List of Issues. Some do so in advance, others only at the beginning of the Committee’s public examination of the report.

Both the List of Issues and the replies provided by the State are public and accessible online.<sup>2</sup>

### **2. Examination of the States reports and dialogue with the States parties**

---

The State report is examined by the Committee in a public session in a dialogue with representatives of the State Party. During this dialogue, the HR Committee will seek clarifications and explanations from the State representatives on the contents of the report.

It usually takes one and a half days for the Committee to examine an Initial Report and two half-day meetings to review subsequent (Periodic) reports. The examination begins with an opening presentation by the State Party’s delegation, often including responses to the List of Issues.

The Committee members then put questions to the representatives, seeking to clarify or deepen their understanding of issues concerning the implementation and enjoyment of Covenant rights in the State Party. This often includes questions that have not been fully answered by the responses to the List of Issues.

### **3. Adoption of the Concluding Observations**

---

At the end of the dialogue, the President of the Committee concludes the meeting, identifying key difficulties, which will usually be included in the Concluding Observations. These are adopted by the HR Committee in closed meetings and are transmitted to the relevant State Party. Concluding Observations are made public at the end of the session and are available on the OHCHR website as well as on the CCPR Centre website.

Concluding Observations are divided into three parts: 1) Introduction, 2) Positive developments and 3) Subjects of concern and recommendations. The final paragraph gives the date by which the next report should be submitted to the Committee.

---

<sup>2</sup> Available at [www.ohchr.org](http://www.ohchr.org) and [www.cprcentre.org](http://www.cprcentre.org)

The Concluding Observations help States to better implement the ICCPR. They also identify the Committee's key areas of concern and so form a basis for future reports and discussions.

#### **4. Follow-up process**

---

In 2001, the HR Committee decided to develop a follow-up procedure related to the Concluding Observations. Since then, the Committee has usually identified a limited number of Concluding Observations of particular priority. It then asks the State Party to provide, within a year, information on the measures it has taken to address those particular issues.

In this context, a new position of Special Rapporteur on Follow-up to Concluding Observations has been created. It is the role of the Special Rapporteur to assess this follow-up information and make a recommendation to the Committee on any further steps that may be appropriate. These may include requests for additional information.

If States fail to submit the follow-up information, the Special Rapporteur sends reminders and seeks to meet with representatives in order to pursue the issue.

#### **5. What happens if a State party fails to submit a report to the HR Committee?**

---

Some States have been chronically late in submitting their reports. This has meant that the situation in them has not been examined by the Committee for many years. In 2001, the Committee decided to examine the implementation of the ICCPR in States that have failed to submit a report.

In these circumstances, the Committee adopts (confidential) Provisional Concluding Observations on the basis of information that has been submitted to it concerning the implementation of the ICCPR.

### Part III: Role of NGOs in the reporting process

The Committee has often emphasized that the drafting of State reports should be an opportunity to review the national legislation, as well as administrative rules and procedures. This process should include civil society in the early stages of drafting the report.

However, in many countries, the participation of civil society in the drafting process is a challenge, and the views of civil society may not be fully taken into account. In this context, NGOs should be prepared to participate in the reporting process on their own.

States Parties usually submit reports that contain legislative information, but often fail to describe the measures taken to fully implement the ICCPR. Moreover, such reports do not address the difficulties that States face in implementing the rights in the Covenant.

It is, therefore, important that the Committee receives independent and reliable information in addition to the State report. NGOs have a critical role to play in providing the HR Committee with such information.

NGOs have a major role to play all through the reporting process to the HR Committee. In order for them to do this, it is crucial that they get organized and be ready to participate in all the stages of this process.



Source: DVD "The UN Treaty Bodies" OHCHR/APT



## **1. Pre-sessional activities: preparation of an NGO report**

---

The Committee is always interested to receive additional information that deals with the different areas covered by the ICCPR. Especially when the State reports are short, not comprehensive or biased.

### **When to submit information?**

- **Before the drafting of the List of Issues:**

NGO reports should be submitted in the very early stages of the reporting process. More precisely, it is important that Committee has access to NGO information before the drafting of the List of Issues (usually adopted during the session before the examination of the State report).

The List of Issues is drafted by the CRTF with the support of the OHCHR's Secretariat between six and eight weeks before the session where the List of Issues is scheduled to be adopted. NGO information should be available for the CRTF before they start to draft the List of Issues.<sup>3</sup>

- **After the adoption of the List of Issues:**

Additional information may be submitted after the adoption of the List of Issues. At this point, the information sent to the Committee should ideally follow the structure of the List of Issues and provide replies to the questions raised therein. Concerns which are not addressed in the List of Issues may also be raised by NGOs.

## **2. Lobbying during the session**

---

NGOs and civil society representatives may attend as observers the Committee sessions where State Reports are under review. Attendance is not limited to NGOs with ECOSOC status, but is open to all interested people, as long as they apply to the Secretariat for accreditation.

### **A) NGO Briefings**

---

There are two possibilities for NGOs wishing to address the Committee during the session.

#### **a) Formal NGO briefings:**

NGOs and civil society representatives have the opportunity to address the Committee on issues and subjects of concern related to Countries being reviewed during the official NGO briefings. These meetings usually take place on the first day of the session (typically scheduled on Monday morning between 11 a.m. and 1 p.m.). They are chaired by the Committee's President and are closed, which means that only Committee members and the NGOs are allowed to attend and participate. The meeting is conducted in the Committee's working languages (English, French and Spanish) and all the interpretation facilities are provided.

The President invites the NGOs to deliver a brief statement and afterwards time is allocated for Committee members to ask questions and NGOs to reply. The CCPR Centre addresses the HR Committee on behalf of national NGOs if they are not in a position to take part to the NGO briefings.

---

<sup>3</sup> See the CCPR Centre's website for deadlines – [www.ccprcentre.org](http://www.ccprcentre.org)

**b) Informal lunch briefings:**

NGOs also have the possibility of organising informal meetings with the Committee. These informal meetings (also called informal lunch briefings) are usually scheduled over lunchtime and last up to 90 minutes. They are not held in the Committee room and no interpretation is provided.

Although not all Committee members attend these meetings, they are a unique opportunity for NGOs to raise their concerns and to flag the key points of the NGO reports submitted to the Committee. Lunch briefings should also allow time for Committee members to ask questions and seek clarification.

Requests to organise such meetings should be made to the Secretary of the Committee at least one month before the session. It is the responsibility of the NGOs organising the meeting to print invitations and provide sandwiches and refreshments. It is important to note that not translation is available during such meetings.

The CCPR Centre provides support to NGOs that wish to organise informal lunch briefings.

**B) Additional information provided by NGOs during the session**

---

Attendance at the session where the State report is reviewed by the Committee is very important as it allows NGOs to react to the information provided by the State representatives. If necessary NGOs should be ready to provide short written submissions to the Committee members when assertions made by State representatives seem to be irrelevant or inaccurate. Although NGOs are not allowed to take the floor in the plenary session, Committee members can be approached and lobbied at the end of the meetings or before the meeting starts the following day. NGOs should not hesitate to suggest additional questions or clarifications that the Committee could ask the State representatives.

**3. NGOs and the follow-up process**

---

The adoption of the Concluding Observations by the Committee is very often seen as the last step of the reporting process. On the contrary, NGOs should bear in mind that the most challenging part of the reporting process is related to the follow-up to the Concluding Observations, once the session is over.

There are three main areas where NGOs might be involved with regard to the follow-up to the Concluding Observations.

**A) Raising awareness about the Concluding Observations**

---

- Issuing press releases and organizing press conferences

Issuing press releases as soon as the Concluding Observations are available is the first step to ensure that the national media are aware of the recommendations of the Committee. Press releases should also integrate the findings and the concerns of the NGOs.

NGOs may also organize press conferences at the national level or take advantage of their presence at the United Nations Offices to meet press and agencies' correspondents based in New York or Geneva.

- Make the Concluding Observations available in the national languages

It is the duty of the State to translate into national languages and disseminate the Concluding Observations. However, in practice States do not take action to ensure that Concluding Observations are available to the public.

It is therefore an important task for NGOs to translate the Concluding Observations into the national languages and to ensure that they are accessible to all the national, regional and local authorities.

### **B) Lobbying for the implementation of the Concluding Observations**

---

The implementation of the Concluding Observations is the ultimate objective of the NGOs and civil society. However this is probably the most challenging aspect of the follow-up process as the result depends on the willingness of the State authorities to cooperate and be actively involved in implementation.

NGOs and civil society can nevertheless play a role in this matter, particularly in lobbying the authorities to ensure that concrete steps are taken toward the implementation of the Concluding Observations.

Round tables or special events on the implementation of the Concluding Observations could be very useful to engage the State's authorities in dialogue, especially with regard to the Parliamentarians or Human Rights bodies. The National Human Rights Institutions should also be involved in this process, as well as the UNDP or OHCHR's field offices.

### **C) Reporting back to the HR Committee**

---

NGOs have an active role to play in the follow-up procedure of the Concluding Observations established by the Committee in 2001 (see above).

The Rapporteur on follow-up is in charge of assessing the replies provided by States on the measures taken to implement the Concluding Observations selected for the follow-up procedure. To that end, he relies on the NGOs to objectively evaluate what steps have in fact been undertaken by the authorities.

NGO progress reports should therefore focus on the Concluding Observations selected for the follow-up process. They should contain comprehensive information on the actions taken by the authorities and assess their effectiveness. Absence of measures should also clearly be mentioned. NGOs may also comment on the replies provided by the State authorities.

## **Part IV: Guidelines for NGO written submissions to the HR Committee**

### **1. General consideration**

---

#### **A) Why it is important to make NGO written submissions**

---

In order to undertake an effective review of the implementation of the Covenant at the national level, the HR Committee needs additional information aside from what is available in the State report. For that reason the HR Committee seeks reliable and independent information from other stakeholders and especially from NGOs which are in a position to provide it.

NGO information is therefore an essential element in the monitoring process. The HR Committee seeks information on different provisions in the Covenant in order to effectively monitor its implementation at the national level. As mentioned, NGO written submissions are especially welcomed when the HR Committee is considering State reports that are 1) not covering all the provisions of the ICCPR, 2) superficial and lacking adequate documentation or not enough documented or 3) biased.

To ensure that the Committee's members have a full picture of the implementation of the ICCPR, the NGO information should ideally review and analyse how far the national laws, policies and other measures in the State party comply with the ICCPR. Specific attention should be focused on gaps between the national laws and their implementation at the national level.

Additionally the reporting process to the HR Committee may provide a good opportunity for NGOs to assess the Human Rights situation at the national level and monitor how the authorities actually implement the rights enshrined in the ICCPR. This process may also facilitate the dialogue with authorities and lead to further steps to implement the Covenant.

#### **B) When to send NGO written submissions**

---

- **Why it is important to send the NGO contribution before the adoption of the List of issues:**

Starting the drafting of the reports in the early stages of the reporting process is strongly recommended. NGOs may ask the Secretariat of the HR Committee or the CCPR Centre for a list of the countries that will be reviewed in the coming sessions. In order to be considered in the drafting of the List of issues reports should be sent to the Secretariat two months before the session at which the List of issues will be adopted.

As mentioned before, it is very useful to submit information before the HR Committee starts to draft the list of issues. In terms of lobbying strategy, such reports may have a great impact as subjects of concern raised at this stage may be included in the List of issues, which forms the basis of the interactive dialogue with the State.

Once the List of issues is adopted, NGOs may still send additional information to the HR Committee. This may take the form of replies to the List of issues or a short update to the report submitted for the List of issues.

If issues of concern are missing from the List of issues, NGOs should provide additional information with a view to getting them appropriately addressed during the dialogue with the State.

If NGOs have not been in a position to send reports prior to the adoption of the List of issues, they can, of course, send their contribution afterwards. NGO reports sent later may be taken into account during the interactive dialogue. This information should be submitted no later than two weeks before the start of the session where the State report will be examined.

### **C) Global reports or thematic reports**

---

Global reports are comprehensive reports covering all the provisions of the ICCPR. They are the most appreciated by the HR Committee. Such global reports are usually structured “article by article” or by “clusters” of articles dealing with related issues. This structure allows the experts to quickly find the relevant information and to compare the NGO information with the State report. There is no limitation on the length of the report, although an average of 30 – 50 pages is advised.

It is however common for NGOs, particularly specialized NGOs, to prefer to submit thematic reports on the topic they work on and related to particular provisions of the ICCPR.

#### **• What to do if NGOs do not have the capacity to provide a report to the HR Committee**

Writing an NGO report is time consuming and expensive, especially when the objective is to provide a complete picture of the implementation of the ICCPR at the national level. NGOs may not have the capacity to do this.

NGOs may compile recent documents already available. These compilations should however only contain information falling in the scope of the provisions of ICCPR, and be duly updated.

#### **• NGOs working as a coalition:**

NGOs are encouraged to work in coalition to draft their reports. Such reports are usually taken very seriously by the HR Committee as they represent the views of several stakeholders from civil society. Moreover it is more difficult for State delegations to contest them.

In addition, working in a coalition allows NGOs to coordinate their work and so avoid duplication. NGOs can also share the workload (research and drafting) as well as the related costs. In the end, coalitions of NGOs are usually in a better position to produce global reports covering all the provisions of the ICCPR.

## **2. Structure and content of the NGO reports**

---

### **A) Structure and content of the report**

---

NGO reports usually include three main parts:

- **Introduction:**

The introduction should include a presentation of the NGO (including the contact details) submitting the alternative report, as well as the methodology of work. The introduction may also include information about the **general context**, such as historical context, specific situations (e.g. armed conflict or socio-economic context).

- **Substantive part:**

The substantive part should provide an overview of the legal framework and specific information as well as a critical analysis of the implementation of the provisions in the ICCPR.

For each provision of the ICCPR, the report should analyse the relevant legislation and assess how this complies with the Covenant.

The information provided in the report should be directly linked to an analysis of the implementation of the Convention, with clear indications of which articles are being breached, in what way, and the consequences that this implies. It may be useful to refer to already established interpretations of what constitutes a breach of the Covenant. To that end, the HR Committee has adopted 33 **General Comments**<sup>4</sup> which set out its interpretation of various provisions of the Covenant.

NGO written submissions should be objective and it is therefore advisable to acknowledge any progress, such as the positive measures taken by the State to implement the Covenant.

NGO reports will be highly valued if they indicate concrete cases that could help to measure the current situation in practice. It is important to illustrate **the NGOs findings with case law that show concretely how the authorities fail to implement the ICCPR**. Case law should be updated with the latest judicial process and other relevant information such as dates and sources. NGOs should be sure that the credibility of the information cannot be called into question.

- **Conclusions and recommendations**

NGO reports should also include a conclusion and a set of recommendations. Recommendations should be concrete, realistic and action oriented. It may also be relevant to prioritise those concerns and recommendations, suggesting concrete measures that should be taken as well as time frames for their implementation.

Recommendations could also be made with regard to the role of the NGO in the implementation of the ICCPR and their involvement in the implementation of the Concluding Observations.

It can also be very useful to include at the beginning of the report an **executive summary** (2 or 3 pages), highlighting the main issues raised in the report, including the most relevant NGO conclusions and recommendations.

---

<sup>4</sup> The General comments are available on the OHCHR website:  
[www2.ohchr.org/english/bodies/hrc/comments.htm](http://www2.ohchr.org/english/bodies/hrc/comments.htm)

As mentioned earlier, the substantive part of global reports should follow the same structure as the Covenant, which means “article by article” or organised by “clusters”. It might be appropriate to organise thematic reports in a different way, however clear reference to the relevant articles of the ICCPR should be made.

## **B) Reference to the State report and the previous Concluding Observations**

---

- **The State reports that will be examined by the HR Committee at the relevant session:**

The Government has a duty to make their reports widely available to civil society and NGOs are entitled to ask for a copy of such a document. If NGOs have difficulties obtaining a copy of the State report, it can be found on the OHCHR’s or CCPR Centre’s websites.<sup>5</sup>

References to the State report are very important, particularly if the State report merely consists of a description of the legislation in place to protect human rights, or if the NGOs consider that it lacks information or provides biased information. Direct references to the State report should include the paragraph number in the State report, allowing the Committee to quickly and easily identify the specific points which the NGOs are commenting on.

- **The previous Concluding Observations:**

The Concluding Observations adopted by the HR Committee after the examination of the previous State report should also be taken into account by NGOs when they start to draft their reports. It is extremely important to assess if any progress has been made by the authorities with regard to the previous Concluding Observations. When NGOs consider that no improvement has been made with regard to the recommendations of the HR Committee, it should be clearly stated. Particular attention should be devoted to the Concluding Observations related to the follow-up procedure (see the section on follow-up).

It may also be very useful to consult the summary records of the discussions that had taken place during the consideration of the previous report by the Committee as well as the written replies or comments (if any) provided by the State in response to the previous recommendations of the Committee. Both are available on the OHCHR web site as well as on the CCPR Centre’s website.<sup>6</sup>

If NGOs begin to draft their reports after the **List of issues** has been adopted, references to the questions included in that list should be integrated in to the NGO report. Replies to the questions raised in the List of issues will be very useful to the HR Committee to conduct the dialogue with the State’s representatives and will allow the Experts to raise additional questions on the selected issues.

## **3. Practical Information**

---

### **A) General information**

---

#### **a) Confidentiality of the NGO information submitted**

---

<sup>5</sup> State Reports can be found online: <http://www2.ohchr.org/english/bodies/hrc/sessions.htm>

<sup>6</sup> Available on the CCPR Centre website: [www.ccprcentre.org](http://www.ccprcentre.org)

In principle, NGO information submitted to the HR Committee is made public and posted on the OHCHR website. This means that the reports are also available to the States parties. This should be kept in mind especially for NGOs coming from countries where civil society cannot work freely and is harassed by the authorities.

Under exceptional circumstances, the information sent by NGOs may be kept confidential and not posted on the OHCHR's website. However if the State party learns that such information has been submitted to the HR Committee and requests a copy, the Secretariat is not in a position to refuse.

#### **b) Translation of the NGO information into the HR Committee's working languages**

NGO information sent to the HR Committee is transmitted as such to the Experts. No editing work or translations into other UN working languages are done by the UN Secretariat. If possible it is therefore best to submit NGO information in the three UN working languages (English, French and Spanish). Alternatively, NGOs can submit their information in one of the UN working languages and prepare executive summaries in the other two languages.

### **B) When to submit NGO information?**

---

- **NGO information for the List of Issues**

NGO information for the List of issues should be available before the HR Committee and the OHCHR's staff starts the drafting process. Concretely, NGO information should be submitted at least two months before the session where the List of issues will be adopted (see the schedule below).

- **NGO information for the examination of the State report (dialogue)**

NGO information sent for the examination of the State report (dialogue between the State representatives and the HR Committee) should be available at least two weeks before the beginning of the session where the State review is scheduled.

- **Schedules for standard reporting process**

These timelines apply to standard reporting process. Exceptions are frequent (e.g. the examination of the State report does not always take place immediately after the adoption of the list of issues and may be postponed for one or two sessions).



**State report scheduled for the March session:**

When	May - July	August - September	October Session	November – February	March Session
Who	NGO	HR Committee / OHCHR	HR Committee	NGO	HR Committee / OHCHR
What	Drafting process for information to be submitted to the List of issues	Drafting process of the List of issues	Adoption of the List of issues	Drafting of the information for the examination of the State report	Examination of the State report
Deadlines	31 <sup>st</sup> July			At least 2 weeks before the session	

**State report scheduled for the July session:**

When	October - December	January - February	March Session	April – June	July Session
Who	NGO	HR Committee / OHCHR	HR Committee	NGO	HR Committee / OHCHR
What	Drafting process for information to be submitted to the List of issues	Drafting process of the List of issues	Adoption of the List of issues	Drafting of the information for the examination of the State report	Examination of the State report
Deadlines	31 <sup>st</sup> December			At least 2 weeks before the session	

**State report scheduled for the October session:**

When	February – April	May – June	July Session	August - September	October Session
Who	NGO	HR Committee / OHCHR	HR Committee	NGO	HR Committee / OHCHR
What	Drafting process for information to be submitted to the List of Issues	Drafting process of the List of issues	Adoption of the List of issues	Drafting of the information for the examination of the State report	Examination of the State report
Deadlines	30 <sup>th</sup> April			At least 2 weeks before the session	

- **Where to send NGO information?**

NGOs have to send their documents electronically to the Secretariat of the HR Committee as well as providing 25 hard copies that will be distributed to the Experts. If needed, the CCPR Centre will provide support to the NGOs in the transmission of the documents to the Secretariat.

NGO information should be sent to by post to:

Nathalie Prouvez  
Secretary of the Human Rights Committee  
Human Rights Treaties Branch  
Office of the High Commissioner for Human Rights  
UNOG-OHCHR,  
CH-1211 Geneva 10,  
Switzerland

An electronic copy should be sent to:

Nathalie Prouvez  
Secretary of the Human Rights Committee  
email: [nprouvez@ohchr.org](mailto:nprouvez@ohchr.org)

## **Part V: Overview of the substantive provisions of the ICCPR and related issues raised by the HR Committee**

This part presents the different provisions set out in the ICCPR and the related General Comments. Additionally, under each provision, the main issues and questions raised by the HR Committee in the framework of the reporting process are also indicated. The aim of this part is to give an overview of the different aspects of each ICCPR provision, and the way they are addressed by the HR Committee. Information about each of these issues is therefore welcome in the NGO reports, although not all aspects may be relevant in every State.

### **Article 1 (Right of Peoples to Self-determination)**

---

*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.*

This article is rarely addressed by the HR Committee and only in the context of specific situations. When the issues concern indigenous peoples it is also sometimes linked to article 27 (the rights of minorities).

Issues addressed under in this article include:

- Legislation (including draft legislation) on the right of non-self-governing territories to succeed
- Organisation of referenda on self-governance or secession in non-self-governing territories
- Representation of indigenous peoples in government (article 27)
- The State's relationship and agreements with indigenous peoples (article 27)
- Self-governance agreements with indigenous peoples
- Indigenous land rights, and consultation with indigenous peoples on the use of tribal land (article 27)

**General Comment 12** explains in greater detail what they consider the State's obligations, including reporting obligations, under article 1 to be.

### **Article 2 (Non-Discrimination, Constitutional and Legal Framework within which the Covenant is Implemented and Access to Remedies)**

---

*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 2 paragraph 1 is clearly linked with articles 3 (equal rights of men and women) and 26 (equality before the law) and these three articles are often mentioned together when dealing with discrimination. The three articles differ slightly in their scope and implications: article 3 is limited to discrimination on grounds of gender; article 2 only covers the rights guaranteed in the Covenant, but requires positive measures to guarantee these rights as well as respect for them without discrimination; and article 26 requires an protection against any discrimination (not limited to the rights in the Covenant), but does not include the positive aspects of the other two articles. **General Comment 18** lays out the connections and differences between these and the other provisions dealing with non-discrimination as well as providing the HR Committee's working definition of discrimination. These articles are linked with a wide range of other articles depending on the rights affected by discrimination.

Counter-terrorism legislation is mentioned under article 2 paragraph 2 as well as under numerous other provisions, reflecting the complexity of the issues and wide reaching scope of some counter-terrorism laws.

Article 2 paragraph 3 is closely linked with article 14 (judicial guarantees) as the guarantees and procedures provided for in that article are a necessary part of providing effective remedies.

Issues addressed under in this article include:

2.1 (non-discrimination):

- Implementation of the Covenant throughout the State (including overseas territories)
- Implementation in areas under the State's jurisdiction when troops or law enforcement personnel are deployed abroad
- Legislation prohibiting discrimination
  - Practical implementation of non-discrimination legislation
  - Training of police and law enforcement personnel and judges
- Legislation allowing discrimination or exceptions to non-discrimination provisions
- Equality between members of the National Church and other religions (article 18)
- Equal pay for equal work
- Representation and participation of minorities in public affairs (articles 25 and 27)
- Specific groups mentioned in the context of discrimination include:

- women (article 3)
- homosexuals
- trans-gender (including the right to have the new gender recognised)
- ethnic or national minorities, including particularly the Roma (article 27)
- illegal migrants and undocumented immigrants
- refugees and asylum seekers
- non-citizens/nationals
- indigenous peoples (article 27)
- persons with disabilities
- children born out of wedlock

2.2 (constitutional and legal framework within which the Covenant is implemented):

- Reservations and Interpretive Declarations. The HR Committee routinely asks States Parties to review and consider withdrawing any reservations or interpretive declarations
- The incorporation of the Covenant into domestic legislation
- The status of the Covenant in domestic legislation (its precedence over domestic legislation, including the Constitution)
- Case law on the invocation and use of the Covenant in domestic courts, including customary courts
- Existing or potential restrictions of the rights guaranteed in the Covenant due to a state of emergency or to “public welfare” (article 4)
- Compatibility of counter-terrorism legislation with the Covenant (articles 4, 9, 10, and 14)
- Compatibility of customary law with the Covenant
- Measures to ensure that new legislation is compatible with the Covenant and to revise non-compatible legislation
- The establishment and/or mandate of an independent National Human Rights Institution in accordance with the Paris Principles
- Dissemination and training on the Covenant
- Implementation of previous Concluding Observations

2.3 (Access to Effective Remedies)

- Ratification of the First Optional Protocol to the Covenant
- Follow-up to the HR Committee's views on Communications
- Ability of the National Human Rights Institution to investigate individual human rights violations
- independence of the judiciary (article 14)
- Measures to ensure access to judicial processes for all (articles 14 and 27)
- Measures to enforce judgements (article 14)
- Procedures and cost of judicial remedies (article 14)
- Suspension of sentence for those condemned to death while appeals, including appeals to intergovernmental mechanisms, are heard (articles 6 and 14)
- Domestic mechanisms and/or cooperation with regional and/or international mechanisms for trying war crimes
- Investigations and prosecutions of those responsible and compensation for victims of human rights violations during disturbed periods (armed conflict/coup d'état/military dictatorships/etc.)
- Impunity or amnesty laws covering human rights violations

- Accountability of the armed forces and law enforcement personnel within the State and if deployed abroad

**General Comment 31** (on the legal obligation imposed on States) elaborates the Committee's understanding of the obligations of the States in implementing the Covenant.

**General Comment 18** (on non-discrimination) emphasises the positive aspects of the non-discrimination provisions, stating that "the principle of equality sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination" and that the "enjoyment of rights and freedoms on an equal footing, however, does not mean identical treatment in every instance".

### **Article 3 (Equal Rights of Men and Women)**

---

*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 3 is routinely linked with articles 2 (non-discrimination) and 26 (equality before the law), and these three articles are often mentioned together when dealing with discrimination. The three articles differ slightly in their scope and implications: article 3 is limited to discrimination on grounds of gender; article 2 only covers the rights guaranteed in the Covenant, but requires positive measures to guarantee these rights as well as respect for them without discrimination; and article 26 requires an protection against any discrimination (not limited to the rights in the Covenant), but does not include the positive aspects of the other two articles. **General Comment 18** lays out the connections and differences between these and the other provisions dealing with non-discrimination as well as providing the HR Committee's working definition of discrimination.

This article is often associated with articles 23 (right to a family) and 24 (rights of the child) in so far as it deals with issues around marriage and family life. It is commonly linked with article 7 (prohibition on torture) when dealing with domestic violence and with article 8 (prohibition on slavery) when dealing with trafficking.

Issues addressed under in this article include:

- Discrimination between men and women in legislation
- Status of women under customary or tribal law
- Steps to eliminate stereotypes which discriminate against women
- Equal pay for equal work
- Discrimination in minimum age for marriage and the marriage arrangements (article 23)
- Unequal rights and privileges within marriage (article 23)
- Equality in divorce/separation arrangements, including on custody of children (article 23)
- Transmission of nationality to children (articles 16 and 24)
- School attendance by girls (article 24)
- Female Genital Mutilation (article 7)
- Proportion of women in positions of responsibility in all levels of government and in private companies (article 25)
  - Measures to address the under-representation of women in these positions
- Legislation on sexual harassment
- Legislation on rape (article 7)
  - Definition of rape, including spousal rape
- Domestic violence (article 7)
  - Statistics on cases, penalties and compensation

- Encouragement for women to report
- Training for law enforcement officers not to dismiss it as a private matter
- Protection and assistance for victims of gender based violence
- Measures to enhance access to justice
- Trafficking (article 8)

The relationship between article 3 and articles 2 and 26 is discussed in **General Comment 18** on non-discrimination as well as more general considerations on the definition of discrimination and the State's obligation to take affirmative action where this is necessary for the principle of equality. **General Comment 28** deals specifically with article 3 (replacing General Comment 4).

This also stresses the obligation to take “positive measures in all areas so as to achieve the effective and equal empowerment of women” and the need to consider traditional, historical, religious and cultural attitudes which may jeopardise the equality of the sexes. This General Comment goes on to discuss in detail some factors which may affect the enjoyment of the rights guaranteed in the Covenant by women.

#### **Article 4 (Derogations)**

---

*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 1 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 4 is discussed alone or in connection with article 2 (constitutional and legal framework for the implementation of the Covenant) in the context of domestic legislation to guarantee non-derogable rights even in a state of emergency. When addressing States in which a state of emergency has been (or may have been) declared the HR Committee asks more specific questions about the protection of rights and links these questions to the relevant articles. This is one of the many articles where counter-terrorism legislation is mentioned.

Issues addressed under in this article include:

- Constitutional or other legal measures to limit potential derogations to those permissible under article 4
- Impact of counter-terrorism legislation on the rights guaranteed under the Covenant, including the definition of terrorism and terrorist acts
- Necessary conditions and the process for declaring a state of emergency
- Limits and controls on the powers of the head of state in an emergency
- Occasions on which an emergency has been declared



When a state of emergency has been declared the HR Committee may ask about:

- The scope of any derogations
- Safeguards to protect the rights guaranteed under the Covenant
- Cases where non-derogable (or non-derogated) rights had been violated and the investigation into these violations and punishment of the perpetrators.
- Measures to protect specific rights

**General Comment 29** (replacing General Comment 5) elaborates the HR Committee's understanding of the conditions in which a state of emergency may be declared and stresses that any derogations and the measures taken following the derogations have to be justified as strictly required by the exigencies of the situation and only to the extent necessary. It also highlights the restrictions permitted by certain articles of the Covenant which make it possible to limit these rights when necessary without derogating from them.

This General Comment lists the provisions which the HR Committee considers effectively non-derogable due to the requirements of the non-derogable provisions or to their status as norms of international law. These include: non-discrimination (re-enforced by article 4 paragraph 1), that all persons deprived of their liberty shall be treated with humanity and respect for the inherent dignity of the human person (article 10), prohibitions on the taking of hostages, abduction or unacknowledged detention (article 9), protection of the rights of minorities (article 27), deportation or forcible transfer of population (article 12), propaganda for war or advocatation of national, racial or religious hatred (article 20), access to judicial or other remedies (article 2, paragraph 3), procedural and judicial guarantees (articles 14 and 15).

### **Article 5 (Savings Provision)**

---

*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.*

The HR Committee has not recently asked States about this article in the List of Issues. It is however touched upon in **General Comment 29**. Paragraph 3 deals with article 5, paragraph 1 and paragraph 9 with article 5, paragraph 2, explaining the impact of this article on derogations from the Covenant under article 4 and the State's continuing obligations during a state of emergency.

### **Article 6 (Right to Life)**

---

*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 judgment 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.*

This article is frequently linked with articles 7 (prohibition on torture) and 9 (prohibition on arbitrary detention), since these abuses often occur together. Articles 9 and 10 are connected to this provision because the safeguards they provide are necessary for the effective implementation of extrajudicial executions. Article 14 (judicial guarantees) is mentioned in the context of the use of the death penalty. Article 26 (equality before the law) is mentioned when certain groups are more vulnerable to extrajudicial execution or are over-represented in the death sentences.

Issues addressed under in this article include:

- Extrajudicial executions
  - Investigations and their outcomes , including into deaths during past disturbances
  - Compensation for the families of victims
  - Particular vulnerability of street children
  - Practical measures to prevent extrajudicial executions
- Disappearances
  - Investigations and compensation
- Deaths in police custody (article 10)
  - Investigations into all deaths in custody (including suicides)
  - Outcome of investigations
- Excessive use of force by law enforcement personnel or armed forces
- Policing of blood feuds and vendetta violence
- Deportations or returns to countries where the returnee may face the death penalty
- Living conditions of vulnerable groups, including refugees, minorities and internally displaced persons
- Death Penalty (article 14)
  - Ratification of the Second Optional Protocol to the Covenant
  - Statistics on the number of death sentences (including those issued *in absentia*) disaggregated by age, gender, ethnicity and crime, the number carried out, the method of execution, number of sentences commuted or suspended and the number of convicts awaiting execution
  - Legislation on commuting death penalties
  - Crimes for which death can be the sentence
  - Possibility of imposing the death penalty for crimes committed under eighteen (article 24)
  - Authority of customary courts to impose the death penalty
- Abortions

- Exceptions to a prohibition for abortions for medical reasons or when the pregnancy results from rape
- The impact of a complete prohibition on the maternal mortality rate
- Availability of contraceptives and sex education combat abortion and infectious disease

**General Comment 6** stresses that the right to life should not be interpreted too narrowly. It asserts the State's "supreme duty to prevent wars, acts of genocide and other acts of mass violence causing arbitrary loss of life" (re-iterated in General Comment 14 which discusses article 6 in the context of nuclear weapons) connecting this with article 20.

It also emphasises the necessity of taking positive measures (for instance to reduce infant mortality and eliminate epidemics). This general comment also mentions the need to take specific and effective measures to prevent disappearances (since these are often associated with arbitrary deprivation of life). It highlights the extension of the prohibition on arbitrary deprivation of life to the State's security forces and the safeguards that this necessitates.

### **Article 7 (Prohibition on Torture)**

---

*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.*

This article is closely linked with articles 6 (right to life) and 9 (prohibition on arbitrary detention), since these abuses often occur together. Articles 9 and 10 are connected to this provision because the safeguards they provide are necessary for the effective implementation of a prohibition on torture. Articles 2 (non-discrimination) and 26 (equality before the law) are mentioned when there is an element of discrimination or targeting of one group.

Issues addressed under in this article include:

- Legislation specifically prohibiting torture
- Availability of rehabilitation and compensation for victims
- Prohibition on the use of statements obtained through torture or ill-treatment in judicial processes (articles 10 and 14)
- Torture or ill-treatment of detainees (article 10)
  - Statistics on the number of incidents, disaggregated by age, gender, and ethnic origin of the victims and resulting prosecutions and punishment of perpetrators
  - Independent investigations into all allegations of torture and ill-treatment of detainees
  - Problems which discourage victims from reporting torture and ill-treatment and measures to address these problems and encourage reporting
  - Use of solitary confinement for extended periods
  - Interrogations procedures including the permissible duration
  - Indefinite detention
- Guarantees against deportation to a country where the deportee may be exposed to violations of article 7, including by non-state actors
  - Reliance on diplomatic assurances when returning suspected terrorists to states where torture is alleged to occur
- Controls on excessive use of force by law enforcement personnel and armed forces
- Domestic violence (article 3)
  - Legislation

- Training so that it is not dismissed as a purely private matter
- Measures to encourage reporting of violence
- Measures to protect and assist victims of gender based violence
- Corporal punishment
- Female Genital Mutilation
- Coercive sterilisation
- Ill-treatment of elderly people in some long term care homes
- Non-therapeutic experimentation on mentally ill persons or persons with impaired decision making capacity, including minors
- Exceptions to the requirement of informed prior consent for the use of experimental drugs

### **Article 8 (Prohibition on Slavery)**

*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.*

This article is associated with article 24 (rights of the child) when dealing with child labour and with article 3 (equal rights of men and women) when dealing with trafficking. Other articles are mentioned more rarely.

Issues addressed under in this article include:

- Legislation prohibiting slavery or forced labour
- Trafficking (article 3)
  - Legislation
  - Prosecutions and penalties and compensation for victims
  - Criminalisation of victims
  - Identification of victims
  - Protection and assistance, including rehabilitation for victims
  - Targeting of those using the services of trafficked persons as well as the traffickers
  - Involvement of authorities in trafficking
- Sexual exploitation and abuse of children (article 24)

- Labour performed by detainees (article 10)
  - Types of labour permitted and conditions of work
  - Hiring out of prisoners to private enterprises for labour. Measures to ensure this work is voluntary and that prisoners receive compensation
- Working conditions of domestic labourers
- Child labour
  - Minimum age for employment
  - Measures to prevent the recruitment of children into the armed forces
  - Demobilisation of children recruited by warring parties
- Measures to end the abduction of women and children
  - Return and reintegration of abducted children (article 24)
- Measures to ensure women engaged in prostitution are not subjected to contemporary forms of slavery including debt bondage

### **Article 9 (Prohibition of Arbitrary Detention)**

*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.*

This article is commonly linked with articles 10 (conditions of detention), 6 (right to life) and 7 (prohibition on torture) since arbitrary detention is often associated with incommunicado or secret detention and facilitates the perpetration of the abuses mentioned in those articles. It is also linked with article 14 (judicial guarantees) as those guarantees are necessary for the effective implementation of the remedies mentioned here. It may also be linked to articles 12 (freedom of movement), 13 (expulsion of aliens) and 26 (equality before the law) when issues around the detention of foreigners, particularly asylum seekers and refugees are discussed.

Issues addressed under in this article include:

- Legal prohibition on arbitrary detention and safeguards (including for detention by security forces)
- Guarantees for suspects under counter-terrorism legislation
- Access to judicial review of the lawfulness of detention for all
- Case law on granting compensation for unlawful detention
- Independent investigation of detention centres and complaints

- Informing detainees of their rights
- Access to a lawyer
- Access to doctors and family
- Incommunicado detention
- Disappearances
- National register of persons detained, including details of where they are held, accessible to relatives and lawyers
- Secret places of detention or detention centres not under the jurisdiction on civil prosecution services
- Pre-trial detention
  - Limits on the duration of pre-trial detention and procedures for extending the period
  - Transfer of suspects from one police station to another to extend the period before they must be brought before a judge
  - Alternatives to pre-trial detention/police custody
- Limits on the duration of detention without charges, including under counter-terrorism legislation
- Possibility of continued detention after a sentence has been served
- Detention of asylum seekers and irregular migrants
  - Prompt informing of reasons for detention
  - Prompt informing of rights
  - Access to legal aid

#### **Article 10 (Conditions of Detention)**

---

*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.*

This article is frequently grouped with articles 6 (right to life), 7 (prohibition on torture) and/or 9 (arbitrary detention) as the safeguards of article 10 are an important element in preventing those abuses. It is also linked with article 14 (judicial guarantees) as an impartial judiciary and judicial oversight are necessary to guarantee all these rights.

Issues addressed under in this article include:

- Living conditions in detention, including pre-trial detention
  - Overcrowding
  - Disease
  - Inadequate or obsolete structures
  - Insanitary conditions
  - Malnutrition
  - Violence by prisoners

- Detention conditions and guarantees for terrorist suspects
- Living conditions in immigration detention and for those awaiting deportation (article 9)
- Separation of accused persons from convicted persons
- Status of detainees awaiting the decision of an appeal
- Separation of juveniles from adult detainees, conditions in juvenile detention centres (article 24)
  - Education and rehabilitation facilities for juveniles
- Separation of detained asylum seekers from others
- Torture and ill-treatment of detainees (article 7)
  - Prohibition
  - Prohibition on the use of statements obtained by torture in judicial proceedings
  - Limits on admissible complaints on ill-treatment and evidence needed to prove torture
  - Corporal punishment
  - Criteria for imposing punishments or restraints on prisoners
- Use of solitary confinement, particularly for extended periods
- Independent inspections of detention centres and complaints mechanisms
- Independent investigation of all deaths in custody (article 6)
- Awareness of the complaints mechanism among detainees
- NGO access to detention centres
- Length of pre-trial detention (article 9)
- Centralised register of all detainees and their place of detention
- Contact with families
- Access to medical assistance
- Access to legal assistance
- Duration of interrogations and audio-visual recording of interrogations
- Alternatives to detention
- Training of guards on human rights obligations
- Protection of patients from abuse in residential health institutions, particularly those dealing with mental health
- Treatment of elderly in long term care homes

---

### **Article 11 (Imprisonment for Failure to Fulfil a Contractual Obligation)**

---

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

This article is rarely addressed and usually focuses on specific laws where this is a problem.

Issues addressed under in this article include:

- Legislation prohibiting imprisonment for inability to fulfil a contractual obligation
- Arbitrary arrests for failure to fulfil a contractual obligation (article 9)
- Imprisonment for debt
- Number of detainees covered by this provision (article 10)

---

### **Article 12 (Freedom of Movement)**

---

*1. Everyone lawfully within the territory of a State shall, within that territory, has 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.*

This article is quite often associated with article 13 (right to remain in a territory), as both provisions are most often mentioned in relation to the rights of immigrants and asylum seekers who are often detained and deported. Articles 2 (non-discrimination) and 26 (equality before the law) are frequently mentioned as restrictions on movement are often applied to specific groups and so may be discriminatory.

Issues addressed under in this article include:

- Possibility and criteria for imposing restrictions on the right to leave the country
- Requirement of exit visas
- Requirement of local registration for access to rights
- Internally Displaced Persons (IDPs)
  - Efforts to create conditions for the voluntary, safe and dignified return of IDPs
  - Integration of IDPs
  - Humanitarian access to displaced persons
  - Protection and assistance for those returning and to ensure sustainability of returns
  - Equal return of minorities (articles 2, 26 and 27)
  - Guarantees of security and freedom of movement for displaced
  - Access to personal documents enabling them to seek employment
  - Access to education and health or social services
  - Discrimination against displaced minorities
- Forced displacement
- Restrictions on where refugees can stay and travel
- Integration of refugees

### **Article 13 (Right to Remain in a State)**

---

*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.*

This article is most commonly associated with article 12 (freedom of movement), as both provisions are most often mentioned in relation to the rights of immigrants and asylum seekers who are often detained and deported. Articles 2 (non-discrimination) and 26 (equality before the law) are also mentioned when deportations have a discriminatory aspect. It is also connected with article 14 (judicial guarantees) as the safeguards of that article are necessary for the effective review of cases under this article.

Issues addressed under in this article include:

- Criteria under which a person may be deported
- Possible separation of families because of the deportation of non-national parents when a child has nationality (articles 23 and 24)
- Asylum and refugee applicants:

- Access to effective and independent review of rejection of applications and deportation orders
- Suspension of deportation orders during an appeal
- Information on rights and the possibilities for appealing a decision
- Access to legal assistance
- Mass exportations
- Conditions of those awaiting deportation or decision on asylum applications (article 10)
- Discrimination in asylum proceedings
- Guarantees against deportation to countries where rights guaranteed by the government, particularly articles 6 and 7, may be breached

### **Article 14 (Judicial Processes and Guarantees)**

*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.*

This article is often linked with articles 9 (prohibition on arbitrary detention) and 10 (conditions of detention) as the judicial guarantees of this article are necessary for and closely associated with the guarantees and oversight in those provisions. It is associated with article 7 (prohibition on torture) particularly when the use of evidence or confessions obtained through torture or ill-treatment is discussed.

Issues addressed under in this article include:

- Independence and impartiality of the judiciary
  - regulations governing the tenure, appointment, dismissal and disciplining of members of the judiciary
- Transparency and accountability of public institutions including the judiciary
- Prosecutions and convictions of judicial officials for corruption
- Processing time of cases
- Basing of convictions on confessions
- Lack of court translators and interpreters
- Guarantees of the 'equality of arms' of defence and prosecution in court, including access to relevant documentation and examination of witnesses
- Openness of court proceedings to the public, including local and international human rights monitors
- Enforcement of judicial decisions
- Trials in absentia (including informing suspect and the right to a re-trial)
- Combined trials
- Juvenile justice (article 24)
- Non-jury trials and special courts, including military courts
- Jurisdiction of customary courts
  - right to legal assistance in customary courts
  - right to have a cases transferred to standard court
- Prompt informing of their rights to detainees
- Awareness of the right to appeal and the mechanisms for doing so
- Legal guarantees of the presumption of innocence
- Length of detention without charge
- Guarantees of access to legal assistance and the implementation of this in practice
  - Discrimination in provision of legal aid
  - Legal assistance for non-citizens, including asylum seekers and immigrants
  - Length of detention without access to a lawyer
  - Restrictions on consultations with a lawyer
- Presence of a lawyer and audio-visual recording of interrogations
- Accessibility of justice system to all, including minorities
- Effect of counter-terrorism legislation and guarantees of terrorist suspects

### **Article 15 (Non-retroactivity of laws)**

---

*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.*

The HR Committee rarely asks about this article except in the context of specific laws which appear to be retroactive.

### **Article 16 (Recognition as a Person before the Law)**

---

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

This article is rarely addressed, but is sometimes connected with articles 24 (rights of the child) and 27 (rights of minorities) as birth registration and access to identity documents are sometimes mentioned under those articles and are necessary for the practical implementation of this article.

Issues addressed under in this article include:

- Birth registration (article 24)
- Inclusion of indigenous in the civil registry (articles 24 and 27)
- Access to personal identity documents, especially for Roma (articles 2 and 26)

### **Article 17 (Right to Privacy)**

---

*1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, 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.*

This article is commonly linked with articles 18 (freedom of thought, conscience and religion), 19 (freedom of expression) and 21 (freedom of assembly), because the safeguards this article provides are necessary for the free exercise of those rights in practice.

Issues addressed under in this article include:

- Legislation on monitoring communications and the permitted duration of such measures
- Illegal monitoring of communications, shadowing and surveillance
- Remedies for misuse and abuse of monitoring of communications
- Judicial control and independent overview of monitoring communications
- Counter-terrorism powers affecting this article
- Possibility of searching without a warrant

- Right not to have data collected
- DNA testing to control and restrict family reunification (article 23)
- Consideration of the right to privacy and family life when the criminal conviction of an alien is accompanied by an expulsion order

### **Article 18 (Freedom of Thought, Conscience and Religion)**

---

*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.*

This article is frequently associated with articles 17 (right to privacy) and 19 (freedom of expression) because those provisions are related to the ability to manifest one's religion or belief. It is linked with articles 2 (non-discrimination), 20 (incitement to discrimination or violence) and 26 (equality before the law) as these provide guarantees against discrimination or attacks on the grounds of religion.

Issues addressed under in this article include:

- Registration of religions (including any restrictions on the groups that can register)
- Status of religious groups
- Consequences of non-recognition of religions or places of worship
- Guarantees of the right to change religion
  - Restrictions or criminalising of conversions
- Measures discriminating against some religions or religious manifestations
- Religious ministers authorised to perform civil wedding ceremonies
- Requirement that judges make a declaration with religious references
- Promotion of religious tolerance
- Measures to combat of acts of religious intolerance
- Protection of places of worship
- Discrimination against children not attending religious classes
- Subsidising of a state religion
- Conscientious objection to military service
  - Imprisonment for failure to discharge compulsory military service (article 9)
  - Availability of a non-punitive alternative service
  - Taxation of conscientious objectors
  - Preferential treatment of specific religion

### **Article 19 (Freedom of Expression)**

---

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.*

This article is often associated with article 18 (freedom of thought conscience and religion) as it is linked to the expression or manifestation of those beliefs. It is also frequently linked with articles 21 (freedom of assembly) and 22 (freedom of association) as these too reflect the manifestation of beliefs and opinions and the guarantees of this article are necessary for the full exercise to those rights.

Issues addressed under in this article include:

- Implementation of legislation on freedom of expression
- Guarantees of freedom of expression, including judicial mechanisms
  - incidents of threats and attacks on journalists
  - Censorship of journalists, including self-censorship
  - Blocking of information critical to the government
- Restrictions on freedom of expression
  - Restrictions because of the fear of terrorism
  - Definitions of crimes such as incitement to terrorism and case law for these offences
  - The application (and consistency of application) of laws on incitement to racial hatred (article 20)
- Legislation on libel and defamation, including exceptions for public figures
- Existence of non-state controlled media
- Equal access to the media for opposition officials and those critical of the government
- Measures to protect places of worship belonging to minorities and to provide safe access to those places (articles 18 and 20)
- Arrest or harassment of demonstrators (articles 21 and 22)

## **Article 20 (Propaganda for War and Incitement to Discrimination or Violence)**

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.*

This article is associated with article 19 (freedom of expression) as it contains some of the limitations that may be imposed on an individual's freedom of expression. It is also sometimes linked with articles 2 (non-discrimination) and 26 (equality before the law) in so far as it deals with discrimination. It may also be linked with article 18 (freedom of thought, conscience and religion) in so far as it deals with attacks on religious grounds.

Issues addressed under in this article include:

- Legislation criminalising incitement to national, racial or religious hatred
- Racist motivation as an aggravating factor in offences
- Leniency of sentences for hate crimes and low number of prosecutions
- Combating hate speech in the media
- Measures to counter the spread of racism and xenophobia via the internet and in sports.
- Responses to religious or racially motivated attacks on places of worship (article 18)
- Protection of places of worship belonging to minorities and safe access to these (articles 18 and 19)

### **Article 21 (Freedom of Assembly)**

---

*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.*

This article is commonly linked with article 19 (freedom of expression) as this right may be seen as a manifestation of freedom of expression and with article 22 (freedom of association) as the right to assembly is necessary for the effective exercise of the right to association, particularly where this concerns trade unions and the right to strike.

Issues addressed under in this article include:

- Restrictions on the freedom to assembly
  - Criteria for declaring a meeting illegal or a threat to public security
- Measures to guarantee the right to assembly to all those in the territory or jurisdiction of the State (including migrant workers)
- Conditions for the authorisation of a public assembly
  - Remedies if authorisation is refused
  - Statistics on the number of refusals and reasons for the refusal
- Prevention of the use of excessive force by law enforcement personnel when dispersing assemblies
- Statistics on penalties and arrests for holding unauthorised meetings

### **Article 22 (Freedom of Association)**

---

*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.*

This article is often associated with articles 19 (freedom of expression) and 21 (freedom of assembly) as those rights are necessary if the right to form and join associations is to have its full force.

Issues addressed under in this article include:

- Legislation on freedom of association
  - Impact of counter-terrorism legislation on the freedom of association
- Requirements or restrictions on the recognition of associations, including political parties
  - Refusal to register certain types of organisations, such as human rights associations or political parties (article 25)
  - Appeal on refusals to register an organisation
  - Penalties imposed on members of prohibited organisations
  - Statistics on applications, refusals and reasons for the refusal of applications
- Trade Unions
  - Legislative guarantees of the right to strike
  - Attacks and threats to members of trade unions
  - Restrictions on forming and joining trade unions for certain categories of workers
  - Percentage of the workforce belonging to a trade union
  - Institutional frameworks for recognising unions and collective bargaining
- Exclusion of human rights organisations from discussions and decisions on welfare and human rights policy
- Measures to ensure the right to association to all those within the State
  - Restrictions on immigrant workers, undocumented workers or other groups
- Financial or other controls on NGOs

### **Article 23 (Right to a Family)**

---

*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.*

This article is often linked with article 24 (rights of the child) as family life inevitably has an impact on the child. It is also linked with article 3 (equal rights of men and women) particularly paragraphs 3 and 4 as these reiterate the equality of spouses in a marriage.

Issues addressed under in this article include:

- Legislation discriminating between spouses
  - Right to choose the place of residence
  - Guardianship of the woman by the husband
  - Equal right of parents to claim child benefits
- Transmission of nationality to children
- Minimum age for marriage, including differences for men and women, or for foreigners
- Forced marriages



- Polygamy
- Religious ministers authorised to perform civil weddings, and religious ceremonies recognised as weddings (article 18)
- Restrictions on family reunification, including for families of immigrants
- Domestic violence (linked with articles 3 and 7)
- Status and activities of courts specialising in family law

### **Article 24 (Rights of the Child)**

---

*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.*

This article is associated at times with a wide range of articles, but most commonly with articles 2 (non-discrimination), 3 (equal rights of men and women) and 26 (equality before the law) as this article reiterates the principle of non-discrimination. It is also often associated with article 23 (right to a family) as the rights of the child are intimately associated with family life.

Issues addressed under in this article include:

- Child Labour
  - Military recruitment
- Violence and abuse
  - Sexual abuse and exploitation
  - Rehabilitation facilities for abused children
  - Corporal punishment
- Minimum age for sexual consent and child marriages
- Acquisition of nationality
  - Transmission from parents
  - Birth registration for all (article 16)
  - Measures to prevent statelessness
- Discrimination against children born out of wedlock
- Measures to ensure compliance with child support decisions and to protect children when support is not provided
- Children of minorities
  - Opportunities to receive education in of their language and about their culture
  - Roma in schools intended for children with mental disabilities
- Extrajudicial executions of street children (article 6)
- Treatment and return of unaccompanied minors entering the State
- Children in immigration detention (articles 9 and 13)
- Provisions for school attendance for refugee children or those awaiting refugee status
- Juvenile Justice System (article 14)
  - Length of pre-trial detention (articles 9 and 10)
  - Legal aid
  - Age of criminal responsibility
  - Separation from adults in detention
  - Investigations into ill-treatment and deaths in detention (articles 6, 7, and 10)
  - Disciplinary measures in detention (articles 7 and 10)

- Life sentences without the possibility of parole
- Trafficking (article 8)
- Provision of child benefits to low income families
- Infant mortality rate
- Gender based inequalities in the education system
- Street children
- Measures to prevent the removal of children to third jurisdictions by parents or guardians in order to be subjected to practices otherwise contrary to their rights under the Covenant
- Return and reintegration of abducted children (article 8)

---

### **Article 25 (Electoral Rights)**

---

*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.*

This article is frequently linked with articles 2 (non-discrimination), 3 (equal rights of men and women), 26 (equality before the law) and 27 (rights of minorities) since the majority of the issues raised concern inequalities in the exercise of the rights mentioned in this article.

Issues addressed under in this article include:

- Participation of women in public life (article 3)
- Representation of minorities in public life (article 27)
- Representation of persons with disabilities in public life
- Right of convicted persons to vote and be elected
- Measures to ensure free and fair elections
  - Control of funding (public or private) for political parties
  - Equal access to the media (article 19)
  - Independent investigations into irregularities in elections
  - Violence against members of political parties
  - Registration of political parties/prohibition of certain parties (article 22)
- Use of minority languages in government and administration (article 27)
- Need for fluency in the majority language to access or be employed in public services (article 27)
- Acquisition of right to vote by foreigners
- Special voting arrangements for hospitalized, homebound or imprisoned citizens or citizens temporarily living abroad

---

### **Article 26 (Equality before the Law)**

---

*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.*

This article is linked with a wide range of other articles, but most commonly with articles 2 (non-discrimination) and 3 (equal rights of men and women) and these three articles are often mentioned together when dealing with discrimination. The three articles differ slightly in their scope and implications: article 3 is limited to discrimination on grounds of gender; article 2 only covers the rights guaranteed in the Covenant, but requires positive measures to guarantee these rights as well as respect for them without discrimination; and article 26 requires an protection against any discrimination (not limited to the rights in the Covenant), but does not include the positive aspects of the other two articles. **General Comment 18** lays out the connections and differences between these and the other provisions dealing with non-discrimination as well as providing the HR Committee's working definition of discrimination.

It is linked with a wide range of other articles reflecting the different areas in which discrimination is faced.

Issues addressed under in this article include:

- Legislation on discrimination
- Legislation allowing discrimination or exceptions to the prohibition on discrimination
- Effective implementation of non-discrimination legislation and measures to combat discriminatory attitudes
- Discriminatory attitudes and stereotypes
- Discrimination, including against women, under customary law
- Traditional, historical, cultural and religious practices prevent the implementation of the Covenant
- Effective remedies for discrimination
- Specific groups mentioned as suffering discrimination:
  - Women (article 3)
  - Homosexuals
  - Persons with disabilities
  - Minorities (article 27)
  - Indigenous peoples (article 27)
  - Foreigners, immigrants and non citizens (article 13)
  - Citizens of foreign origin
  - Those living in the street, particularly street children (article 24)
  - Children born out of wedlock (article 24)
  - Refugees and asylum seekers (articles 12 and 13)
  - Internally displaced persons (article 12)
  - Persons from minority religions (article 18)
- A wide range of specific rights and areas in which discrimination may occur are mentioned, including:
  - Representation in government (article 25)
  - Employment, including equal pay for equal work
  - Access to justice (article 14)
  - Education, including attendance, achievement and relevance of the syllabus (articles 3, 24 and 27)
  - Acquiring and transmitting nationality (articles 16 and 24)
  - Standard of living, including access to housing
  - Immigration laws and naturalisation (article 13)
  - Ability to acquire personal identification necessary for the exercise of rights (article 16)
  - Access to services

- Equality in contracting, during and at separation of marriages
- Requirement of fluency in the majority or official language to access services and be elected (articles 25 and 27)
- Punitive nature of alternatives to military service (article 18)
- Discriminatory behaviour by law enforcement personnel, including violence, ill-treatment or extrajudicial executions targeting certain groups (articles 6, 7 and 10)
- Sexual harassment
- Domestic violence (articles 3, 6, 7)

### **Article 27 (Rights of Minorities)**

---

*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.*

Article 27 may be linked with a wide range of articles, but most commonly with articles 2 (non-discrimination) and 26 (equality before the law) as minorities often face discrimination and 25 (electoral rights) for the issues around representation and access to services.

Issues addressed under in this article include:

- General statistical information on the population, showing the existence of minorities
- Provisions ensuring the rights of minorities
- Minority languages (article 25)
  - Translation of official documents
  - Use in local administration
  - The necessity of fluency in the majority language for election to office
  - Availability of teaching (including textbooks) in minority languages (article 24)
  - Teaching of minority languages as a second language
- Inclusion of minority cultures and history in the education syllabus (article 24)
- Representation of minorities in governing and administrative bodies (article 25)
- Land rights of indigenous peoples, including compensation for displacement (article 1)
- Acquisition of nationality for all those born on its territory (articles 16 and 24)
- Discrimination, including by law enforcement personnel and in employment