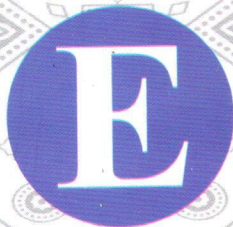
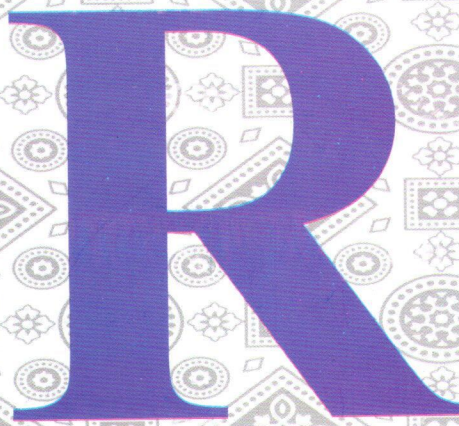
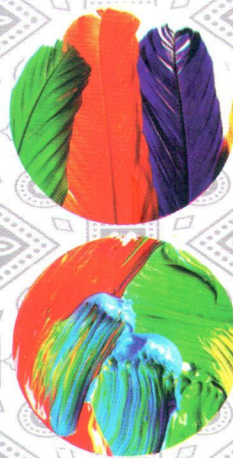




امن میرا حق



**ECONOMIC  
SOCIAL  
& CULTURAL**



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**National Organization for working Communities  
NOWCommunities**



## **International Covenant for Economic Social and Cultural Rights (ICESCR) Introduction**

Following the catastrophic tragedies and gross violations of human rights, the United Nations was created after the end of the Second World War to reaffirm faith in fundamental human rights. After the adoption of the UN Charter, some states and organizations pressed for adopting an International Bill of Rights. Although the Universal Declaration of Human Rights (UDHR) was adopted quite soon (1946), ratification of binding treaties took longer. The Western world demanded that the proposed Bill of Rights should be bifurcated into two treaties, one for civil and political rights, i.e. the International Covenant on Civil and Political Rights (ICCPR), while the other should be for economic, social and cultural rights, i.e. the International Covenant on Economic, Social and Cultural Rights (ICESCR). Both covenants came into effect in 1976, 30 years after the passage of the UDHR.

However, due to the ideological divide between the Socialist and Capitalist blocks both covenants became controversial and the ratifications were slow in the 1970's and 1980's. After the end of the Cold War, ratifications picked up the pace and most of the countries ratified them.

The implementation of ESC rights received fresh impetus in 1985 with the establishment of a new UN Committee on Economic, Social and Cultural Rights. This Committee supervises the observance of ESC rights by State parties to the ICESCR. Its task is to study States Parties' reports and report on them to the UN Economic and Social Council.

Coming to the ESC rights, they are by and large, regarded and discussed as a single category. Broadly speaking, these rights are concerned with the conditions in which people live and work, giving them a claim to an adequate standard of living and stressing better quality of life.

### **Economic Rights**

Economic rights are related to guarantees and claims to participate in the economic life of the community, in order to gain advantage from professional activities.

### **Social Rights**

Social rights are related to aspects of employment, particularly protection of workers, as well as to their living conditions (such as, food, clothing, housing and health).



## Cultural Rights

Cultural rights are more difficult to define as they include the right to a cultural identity, the right to participate in cultural activities, the freedom to undertake scientific research and creative work and the right to education. Of late, cultural rights have been attracting greater interest, particularly with reference to the right of minorities to a cultural identity. They encompass both individual and collective rights.

International human rights law is often described as imposing three levels or types of obligations: obligations to respect, protect and fulfil. This tripartite typology was introduced by Henry Shue in his book, *Basic Rights: Subsistence, Affluence and U.S. Foreign Policy*, and then developed by Asbjorn Eide, who acted as the UN's Special Reporter for Food during the early 1980's.

## Part IV and V of the ICESCR

The Part IV and the Part V of the Covenant mainly deal with the operational and implementation part of the ICESCR.

In part IV the Articles 16-25 governs reporting and monitoring of the ICESCR and also observes the measures which have been taken by the state parties for its implementation. There is also a monitoring body, previously it was called as the United Nations Economic and Social Council, nor labelled as Committee on Economic, Social and Cultural Rights. The monitoring body make general recommendations to the UN General Assembly for taking suitable steps (Article 21) for the realization of rights.

In Part V (Articles 26-31) handle concerned with ratification, entry into force and amending the Covenant.

Eide described the obligations as follows:

- \* The obligation to respect requires states to abstain from violating a right;
- \* The obligation to protect requires states to prevent third parties from violating that right; and
- \* The obligation to fulfil requires the state to take measures to ensure that the right is enjoyed by those within the state's jurisdiction.

## STATE OBLIGATIONS

After ratifying the Covenant the state parties are required to maximise and make available maximum resources for the realization of these ESC rights, including through international cooperation. On another level, the Covenant also requires the state parties to take legislative measures

for the realisation of these laws through the local legal system and also focus on the progressive realisation of these laws.

## Progressive Realisation

It has often been observed that state parties take the concept of progressive realisation as an excuse for delaying the realisation of rights. Their argument is that rights enshrined in the Covenant cannot be immediately realised as it takes time to build the necessary structure for the full realisation of all rights. While this argument is true to a certain extent it is not completely viable.

The concept of progressive realisation constitutes recognition of the fact that full realisation of all economic, social and cultural rights will generally not be able to be achieved in a short period of time. Nevertheless, the fact that realisation over time, or in other words progressively, as foreseen under the Covenant should not be misinterpreted as depriving the obligation of all meaningful content. It is, on the one hand, a necessary flexibility device, reflecting the realities of the real world and the difficulties involved for any country in ensuring full realisation of economic, social and cultural rights. On the other hand, the phrase must be read in the light of the overall objective, indeed the *raison d'être*, of the Covenant which is to establish clear obligations for States parties in respect of the full realisation of the rights in question.

## Minimum Core Obligations

The committee has outlined minimum core obligations for various rights mentioned in the ICESCR. Keeping in view the resource constraints of the State parties, it has adopted a minimum threshold approach to define the minimum content of that right.

Violations of the Covenant occur when a State fails to satisfy what the Committee on Economic, Social and Cultural Rights has referred to as a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights [...]. Thus, for example, a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, *prima facie*, violating the Covenant. Such minimum core obligations apply irrespective of the availability of resources of the country concerned or any other factors and difficulties.



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امن مبراحق

NOW  
COMMUNITIES

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# Social Rights

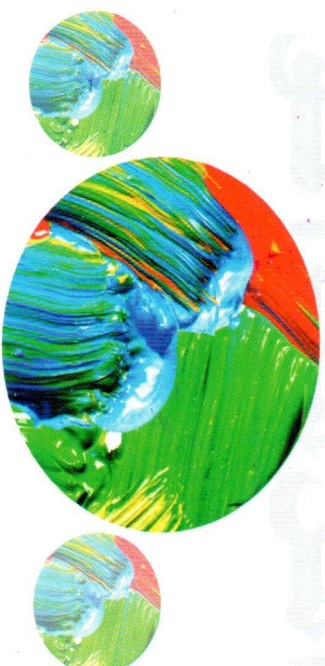
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1-D, First Floor Westland Trade Centre KUCH Block-7/8  
Near Baloch Colony Flyover, Shaheed-e-Millat Road, Karachi.  
Tel: 021-34325500 Email: [nowcommunities@gmail.com](mailto:nowcommunities@gmail.com)