

The International Covenant on Civil and Political Rights

Canada acceded to the International Covenant on Civil and Political Rights and its first Optional Protocol in May 1976 and to its second Optional Protocol in November 2005.

Adoption: The International Covenant on Civil and Political Rights and its first Optional Protocol were adopted by the United Nations General Assembly on 16 December 1966 and were opened for signature on 19 December 1966. Its second Optional Protocol was adopted by the General Assembly and opened for signature on 15 December 1989.

Entry into force: Convention - 23 March 1976 for all provisions except those of Article 41; 28 March 1979 for the provisions of Article 41. First Optional Protocol – 23 March 1976. Second Optional Protocol – 11 July 1991.

Number of signatories and ratifications/accessions: There are 168 state parties to the Convention. Seven additional states have signed but not ratified the Convention. There are 115 state parties to the first Optional Protocol. An additional 4 states have signed but not ratified the first Optional Protocol. 81 state parties have ratified or acceded to the second Optional Protocol. An additional 3 state parties have signed but not ratified the second Optional Protocol.

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Summary information

The [International Covenant on Civil and Political Rights](#) was adopted by the United Nations General Assembly on 16 December 1966. It entered into force on 23 March 1976 following ratification/accession of the thirty-fifth state party. The Convention's monitoring body, the Human Rights Committee (HRC) was established by the Covenant and first met in 1977.

The Covenant ensures the protection of civil and political rights. The rights enshrined include the right of peoples to self-determination, the right to life, freedom from torture and from slavery, freedom from arbitrary arrest or detention, the right to a fair trial, freedom of thought, conscience, religion, expression and association, the right to political participation and equality before the law.

There are two optional protocols to the Covenant. A State party that ratifies the [First Optional Protocol](#) recognizes the competence of the Human Rights Committee “to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the Covenant.”

State parties that ratify the [Second Optional Protocol](#) commit to the abolition of the death penalty.

History

According to a [World Health Organization factsheet](#), “even before the adoption of the Universal Declaration on Human Rights in 1948 (at the time a non-legally binding document), broad agreement existed that the rights which were to be enshrined in the Declaration were to be transformed into legally binding obligations through the negotiation of one or more treaties. In 1966, two separate treaties, covering almost entirely all the rights enshrined in the Universal Declaration of Human Rights were adopted after approximately 20 years of negotiations: one for civil and political rights, the International Covenant on Civil and Political Rights (ICCPR), and one for economic, social and cultural rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR).” Together, the Universal Declaration on Human Rights, the ICCPR and the ICESCR, are sometimes referred to as the International Bill of Human Rights.

In 1946, the [United Nations Commission on Human Rights](#) was established as a subsidiary body of the UN Economic and Social Council, “to weave the international legal fabric that protects our fundamental rights and freedoms,” in other words, to protect and promote our fundamental rights and freedoms.

The UN Commission on Human Rights was replaced by the Human Rights Council (HRC) in 2006. The HRC was established by and reports to the UN General Assembly.

At its first session in 1947, the Commission established a drafting committee that prepared two documents: “a preliminary draft of a declaration or manifesto setting forth general principles of human rights; and a draft outlining a convention on those matters which the Committee felt could be formulated as binding obligations.” Efforts were concentrated initially on the draft declaration, leading to the adoption of the Universal Declaration of Human Rights by resolution of the General Assembly on 10 December 1948. However, in the same resolution, “the General Assembly requested the Economic and Social Council to ask the Commission on Human Rights to continue to give priority in its work to the preparation of a draft covenant on human rights and draft measures on its implementation.”

After an initial draft covenant on human rights was prepared by the Commission in 1950, the General Assembly asked the Commission to include articles specifically on economic, social and cultural rights, in addition to those concerning civil and political rights. In 1951, the Commission, assisted by representatives of the International Labour Organization, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization, completed a new draft – the Draft Covenant on Human Rights. After lengthy discussions, the General Assembly requested in February 1952 that there be two separate covenants, one on economic, social and cultural rights and

the other on civil and political rights. This became necessary at the time because some states did not recognize economic social and cultural rights as human rights, while some other states did not recognize civil and political rights as human rights.

Preparation of the now two draft covenants continued until 1962, first by the Commission and then by the United Nations Third Committee (Social, Humanitarian and Cultural matters). In December 1963, "the General Assembly invited all Governments to consider the text of the articles adopted by the Third Committee." However, it was not until 1966 that the Third Committee completed the drafting of both covenants and submitted them to the General Assembly. The two covenants, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, along with an initial Optional Protocol to the latter, were [adopted by the General Assembly on 16 December 1966](#). The International Covenant on Civil and Political Rights was adopted with a vote of 106 to 0 and its first Optional Protocol was adopted with a vote of 66 to 2 with 38 abstentions.

The Covenant entered into force on 23 March 1976, for all provisions except those of Article 41, following ratification/accession of the thirty-fifth state party. Article 41 allows a State Party to declare that it recognizes the competence of the Human Rights Committee "to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations" under the Covenant. However, the article also requires that at least 10 State parties make such a declaration before the article would come into effect. Article 41 did not come into force until 28 March 1979.

The first Optional Protocol to the Covenant also entered into force on 23 March 1976 following the ratification/accession of the tenth state party. The second Optional Protocol was adopted by the General Assembly with a vote of 59 to 26 with 28 abstentions and opened for signature on 15 December 1989. It entered into force on 11 July 1991 following the ratification/accession of the tenth state party.

The three instruments, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and their optional protocols enshrine global human rights standards and have been the inspiration for more than 50 supplemental United Nations human rights conventions, declarations and bodies of international minimum rules and other universally recognized principles. These additional standards have further refined international legal norms relating to a very wide range of issues, including women's rights, protection against racial discrimination, protection of migrant workers, the rights of children, and many others.

Key Provisions of the International Covenant on Civil and Political Rights

The [Covenant](#) ensures the protection of civil and political rights. These rights include the right of peoples to self-determination. Furthermore, State parties must ensure that the rights recognized in the Covenant apply to all individuals "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."

Rights and freedoms include:

- the inherent right to life;
- freedom from torture, cruel, inhuman or degrading treatment or punishment and medical or scientific experimentation without consent;
- freedom from slavery, servitude and forced or compulsory labour;
- freedom from arbitrary arrest or detention;
- the right to freedom of movement within the State;
- persons charged with a criminal offence “shall have the right to be presumed innocent until proved guilty according to law,” to be “tried without undue delay” and “not to be compelled to testify against himself or to confess guilt”;
- freedom of thought, conscience and religion;
- freedom of expression and freedom of association including the right to form and join trade unions;
- the free and full consent of the intending spouses in marriage;
- the right to political participation including the right to vote and to be elected;
- equality of all persons before the law and equal protection of the law without discrimination; and
- persons belonging to ethnic, religious or linguistic minorities “shall not be denied the right... to enjoy their own culture, to profess and practice their own religion, or to use their own language.”

In addition, Article 20 prohibits any propaganda for war as well as “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.”

Derogations and limitations. There are some circumstances when State Parties may restrict or derogate from some of the rights and freedoms guaranteed in the Covenant. Article 4 allows State Parties in time of a public emergency which “threatens the life of the nation,” to “take such measures which derogate from their obligations under the Covenant. However, such measures may only be taken to the extent strictly required by the exigencies of the situation provided that they are not inconsistent with a State party’s other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. A State party which avails itself of the right of derogation must have proclaimed the existence of such a public emergency, and must inform the other States parties of the provisions from which it has derogated and the reasons for which it does so. The State party must also communicate the date on which it terminates the derogation in question.” It should be noted that for some of the articles no derogation is permissible at any time. Included among these non-derogable rights and freedoms are the inherent right to life, freedom from torture, freedom from slavery and servitude and freedom of thought, conscience and religion.

There are two optional protocols to the Covenant. State parties that ratify the [First Optional Protocol](#) recognize “the competence of the Committee to receive and consider communications (including complaints) from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the Covenant.”

State parties that ratify the [Second Optional Protocol](#) commit to the abolition of the death penalty. However, Article 2 of the Second Optional Protocol allows a State Party to make a reservation at the time of ratification/accession “that provides for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime.”

Canada’s Commitments and Responsibilities under the International Covenant on Civil and Political Rights

Canada acceded to the International Covenant on Civil and Political Rights and its First Optional Protocol in May 1976 and to its Second Optional Protocol in November 2005. With respect to the Covenant, in October 1979 Canada made a declaration with respect to Article 41, which recognizes the competence of the Human Rights Committee “to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant.” Canada declared “that it recognizes the competence of the Human Rights Committee referred to in article 28 of the said Covenant to receive and consider communications submitted by another State Party, provided that such State Party has, not less than twelve months prior to the submission by it of a communication relating to Canada, made a declaration under article 41 recognizing the competence of the Committee to receive and consider communications relating to itself.”

Canada made no declarations or reservations with respect to the first and second Optional Protocols.

International Monitoring and Implementation

The implementation of the Covenant and its Optional Protocols is monitored by the Human Rights Committee. The Committee was established by the Covenant and first met in 1977. It normally holds three plenary sessions for its full membership each year. Each session lasts for three weeks, with the first meeting held at the United Nations Headquarters in New York in March and the subsequent two meetings at the United Nations Office at Geneva in July and October.

The [Committee comprises](#) 18 members who must be nationals of State Parties to the Covenant and are experts with recognized competence in the field of human rights. Most Committee members, past and present, have a legal background, whether from the judicial bench, as a practitioner or in academia.

Members of the Committee are elected by the States parties and the principles of equitable geographical distribution and the representation of different social and legal systems guide the selection process. The members are independent and serve in their personal capacity, not as representatives of Governments.

There are three main types of matters considered by the Human Rights Committee: State party reports, thematic matters related to the Covenant, and individual complaints. It may also consider inter-state complaints.

State Parties are required to submit periodic reports to the Committee – within one year of the Covenant’s entry into force for the State party, and thereafter as requested by the Committee, usually every four years. The Committee then discusses the State's report and issues concluding observations and comments.

The Committee may provide its interpretation of the content of human rights provisions on thematic issues, either by issuing general comments, other individual documents or including them in HRC sessional reports.

The Committee may consider individual communications (including complaints) relating to States Parties to the first Optional Protocol to the International Covenant on Civil and Political Rights. Documents submitted to and prepared by the Committee may be kept confidential to protect the individual submitting the complaint. The consideration of the documents becomes part of the case law of the Committee. In addition, the Committee has jurisdiction to consider certain complaints made by a State party that another State party is not abiding by the obligations assumed under the Covenant.

Canada submitted its [Sixth periodic report](#), for the period January 2005 to December 2009, to the Committee in October 2013. As of March 2015, the Committee has not responded to this report.

For Canada’s previous (Fifth) periodic report, the Committee issued [Concluding Observations](#) in April 2006 that focused on several issues.

On the positive side, the Committee noted Canada’s accession to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in 2002, and its ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in 2005.

The Committee identified several areas on concern, including:

- the reported decline of Aboriginal languages in Canada;
- the wide definition of terrorism under the Anti-Terrorism Act;
- the rules and practices governing the issuance of “security certificates” under the Immigration and Refugee Protection Act, enabling the arrest, detention and expulsion of immigrants and refugees on grounds of national security;
- Canada’s policy that, in exceptional circumstances, persons can be deported to a country where they would face the risk of torture or cruel, inhuman or degrading treatment;
- that Canada may have cooperated with agencies known to resort to torture with the aim of extracting information from individuals detained in foreign countries;

- that in some provinces and territories, people with mental disabilities or illness remain in detention because of the insufficient provision of community-based supportive housing;
- that Aboriginal women are far more likely to experience a violent death than other Canadian women;
- that the Youth Criminal Justice Act enables imprisonment of persons under 18 with adults if serving an adult sentence; and
- that the police, in particular in Montreal, have resorted to large-scale arrests of demonstrators.

Complaints under the first Optional Protocol

There have been several complaints brought against Canada. The United Nations Human Rights Council maintains a [Treaty Body database](#) that includes reports and jurisprudence and is searchable by state, region, committee or document type.

References

[International Covenant on Civil and Political Rights](#)

[First Optional Protocol to the International Covenant on Civil and Political Rights](#)

[Second Optional Protocol to the International Covenant on Civil and Political Rights](#)

[WHO Factsheet on the ICCPR](#)

[United Nations Commission on Human Rights](#)

[Historic Archives – ICCPR](#)

[Fact Sheet No.16 \(Rev.1\), The Committee on Economic, Social and Cultural Rights](#)

[UN Treaty Collections – Human Rights – ICCPR](#)

[Fact Sheet No.15 \(Rev.1\), The Human Rights Committee](#)

[UN Documentation: Human Rights](#)

[Canada's Sixth Periodic Report](#)

[HRC – Concluding Observations with respect to Canada's Fifth Periodic Report](#)

[United Nations Human Rights Council Treaty Body database](#)