

## The International Covenant on Economic, Social and Cultural Rights

**Canada** acceded to the International Covenant on Economic, Social and Cultural Rights in May 1976. It has not signed, ratified or acceded to the Optional Protocol.

**Adoption:** The International Covenant on Economic, Social and Cultural Rights was adopted by the United Nations General Assembly on 16 December 1966 and was opened for signature on 19 December 1966. Its Optional Protocol was adopted by the General Assembly on 10 December 2008 and opened for signature on 24 September 2009.

**Entry into force:** Convention - 3 January 1976. Optional Protocol – 5 May 2013.

**Number of signatories and ratifications/accessions:** There are 163 state parties to the Covenant. Six additional states have signed but not ratified the Covenant. There are 18 state parties to the Optional Protocol. An additional 27 states have signed but not ratified the Optional Protocol.

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### Summary information

The [International Covenant on Economic, Social and Cultural Rights](#) was adopted by the United Nations General Assembly on 16 December 1966. It entered into force on 3 January 1976 following ratification/accession of the thirty-fifth state party. The Convention's monitoring body, the Committee on Economic, Social and Cultural Rights (CESCR) was established in 1985.

The Covenant contains some of the most significant international legal provisions establishing economic, social and cultural rights, including rights relating to work in just and favourable conditions, to social protection, to an adequate standard of living, to the highest attainable standards of physical and mental health, to education and to enjoyment of the benefits of cultural freedom and scientific progress.

There is one [optional protocol](#) to the Covenant, allowing the Committee to hear complaints from individuals. State parties that ratify the Optional Protocol recognize “the competence of the Committee to receive and consider communications” (including complaints) submitted by or on behalf of individuals or groups of individuals, from a

state which has ratified the protocol claiming to be victims of a violation of any of the economic, social and cultural rights set forth in the Covenant.

### History of the International Covenant on Economic, Social and Cultural Rights

According to a [World Health Organization factsheet](#), “Even before the adoption of the Universal Declaration of Human Rights (at the time a non-legally binding document) in 1948, 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 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.

According to UN ICESCR [historic archives](#), 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 recommend 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 International Covenant on Civil and Political Rights, along with an optional protocol to the latter, were adopted by the General Assembly on 16 December 1966. The International Covenant on Economic, Social and Cultural Rights was adopted with a vote of 105 to 0. It entered into force on 3 January 1976 following ratification/accession of the thirty-fifth 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 two 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

In its preamble, the [Covenant](#) recognizes that, “in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights.”

According to a [UN ICESCR factsheet](#), of all global human rights standards, the Covenant provides the most important international legal framework for protecting these basic human rights.

The [Covenant](#) aims to ensure the protection of economic, social and cultural rights including:

- the right to self-determination of all peoples including the right to determine their political status and to freely pursue their economic, social and cultural development;
- access to these rights without discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;
- the equal right of men and women to enjoy the rights set forth in the Covenant;
- the right to work and to have just and favourable conditions of work (fair wages, equal remuneration for work of equal value, safe and healthy working conditions, periodic holidays and reasonable limits on working hours);
- the right to form and join trade unions, the right of trade unions to establish national federations and the right to strike);

- the right to social security (includes social insurance);
- protection and assistance to the family particularly for its establishment and while it is responsible for the care and education of dependent children;
- special protection for mothers during a reasonable period before and after childbirth, during which they should be accorded paid leave or leave with adequate social security benefits;
- protection of children and young persons from economic and social exploitation (includes the prohibition of child labour);
- the right to an adequate standard of living (includes adequate food, clothing and housing);
- freedom from hunger by improving methods of production, conservation and distribution of food and ensuring an equitable distribution of world food supplies in relation to need;
- the right to the highest attainable standard of physical and mental health (includes the prevention, treatment and control of epidemic, endemic, occupational and other diseases and ensures access to medical services and attention in the event of sickness);
- the right to education (includes primary education that is both free and compulsory, as well as secondary and higher education that is generally available and accessible, particularly by the progressive introduction of free education);
- the right to take part in cultural life;
- the right enjoy the benefits of scientific progress and its applications; and
- the right to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he/she is the author.

### **Canada's Commitments and Responsibilities**

Canada acceded to Covenant in May 1976. There were no declarations or reservations. It has not signed, ratified or acceded to the Optional Protocol.

### **International Monitoring and Implementation**

The implementation of the Covenant is monitored by the [Committee on Economic, Social and Cultural Rights](#) (CESCR). With the Covenant, state parties did not establish a Committee to oversee and monitor the implementation of the Covenant. Instead, the Committee was established by the UN Economic and Social Council to carry out the monitoring functions.

The Committee was established in 1985 and meets on an annual basis at the United Nations in Geneva. The Committee comprises 18 members who are experts with recognized competence in the field of human rights. 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. The Committee is serviced by the United Nations Centre for Human Rights.

According to a [UN ICESCR factsheet](#), "The primary function of the Committee is to monitor the implementation of the Covenant by States parties. It strives to develop a constructive dialogue with States parties and seeks to determine through a variety of means whether or not the norms contained in the Covenant are being adequately applied in States parties and how the implementation and enforcement of the Covenant could be improved so that all people who are entitled to the rights enshrined in the Covenant can actually enjoy them in full.

Drawing on the legal and practical expertise of its members, the Committee can also assist governments in fulfilling their obligations under the Covenant by issuing specific legislative, policy and other suggestions and recommendations such that economic, social and cultural rights are more effectively secured.

States parties are required to submit periodic reports to the Committee - within two years of the entry into force of the Covenant for a particular State party, and thereafter once every five years - outlining the legislative, judicial, policy and other measures which they have taken to ensure the enjoyment of the rights contained in the Covenant. States parties are also requested to provide detailed data on the degree to which the rights are implemented and areas where particular difficulties have been faced in this respect.

The Committee examines reports transmitted by each State party and issues responses to these in the form of concluding observations where the Committee outlines its concerns and makes suggestions and recommendations. The Committee may furthermore issue general comments which are intended to assist and promote States parties' implementation of the Covenant, suggest improvements in the reporting procedures and stimulate the activities of States parties, international organizations and United Nations specialized agencies concerned with achieving progressively and effectively the full realization of the rights recognized in the Covenant.

The Committee works on the basis of many sources of information, including reports submitted by States parties and information from United Nations specialized agencies -International Labour Organisation, United Nations Educational, Scientific and Cultural Organisation, World Health Organization, Food and Agriculture Organization of the United Nations and from the Office of the United Nations High Commissioner for Refugees and the United Nations Centre for Human Settlements (Habitat) and others. It also receives information from non-governmental and community-based organizations

working in States which have ratified the Covenant, from international human rights and other non-governmental organizations, from other United Nations treaty bodies, and from generally available literature.” The Committee was the first treaty body to provide NGOs “with the opportunity to submit written statements and make oral submissions dealing with issues relating to the enjoyment or non-enjoyment of the rights contained in the Covenant in specific countries.

State parties that ratify the [Optional Protocol](#) recognize “the competence of the Committee to receive and consider communications” (including complaints) .... “submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the economic, social and cultural rights set forth in the Covenant by that State Party.”

Canada submitted its [sixth periodic report](#), for the period January 2005 to December 2009, to the Committee in October 2012.

The Committee has not responded to this report. For the previous periodic report (combined fourth and fifth), the Committee issued [concluding observations](#) in May 2006 that focused on several issues.

On the positive side, the Committee noted that Canada ranked near the top of the Human Development Index of the United Nations Development Programme and that “Canada has the capacity to achieve a high level of realization of all Covenant rights.” The Committee welcomed:

- the relatively low level of unemployment in Canada and the decrease in the proportion of persons living below the ‘Low-Income Cut-Off’;
- the reduction in disparities between Aboriginal people and the rest of the population with regard to infant mortality and secondary education;
- measures taken in the area of equal pay for equal work; and
- the extension of maternity and parental benefits from six months to one year.

The Committee identified several areas of concern, including:

- the lack of legal redress available to individuals when governments fail to implement the Covenant, the lack of effective enforcement mechanisms for these rights and the inadequate availability of civil legal aid, particularly for economic, social and cultural rights;
- “the absence of a legally enforceable right to adequate social assistance benefits for all persons in need on a non-discriminatory basis” and “the insufficiency of minimum wage and social assistance to ensure the realization of the right to an adequate standard of living for all”;
- “the significantly low proportion of unemployed workers eligible for receiving insurance benefits”;
- “the disparities that still persist between Aboriginal peoples and the rest of the Canadian population in the enjoyment of Covenant rights, as well as the discrimination still experienced by Aboriginal women in matters of matrimonial property”;

- the number of people suffering from food insecurity, including the high percentage of food bank users who are children and young people, and “that about 51 per cent of food bank users while receiving social assistance benefits in 2005, still had to resort to food banks because of the insufficient level of these benefits”; and
- Canada’s failure to “recognize the right to water as a legal entitlement, which is implicitly provided for under articles 11 and 12 of the Covenant”.

## **References**

[International Covenant on Economic, Social and Cultural Rights](#)

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

[Optional Protocol to the International Covenant on Economic, Social and Cultural Rights](#)

[WHO Factsheet on the ICESCR](#)

[United Nations Commission on Human Rights](#)

[Historic Archives - ICESCR](#)

[Committee on Economic, Social and Cultural Rights \(CESCR\)](#)

[6th report of Canada to the Committee on Economic, Social and Cultural Rights](#)

May 2006 Concluding Observations of the Committee on Economic, Social and Cultural Rights regarding Canada’s combined fourth and fifth report