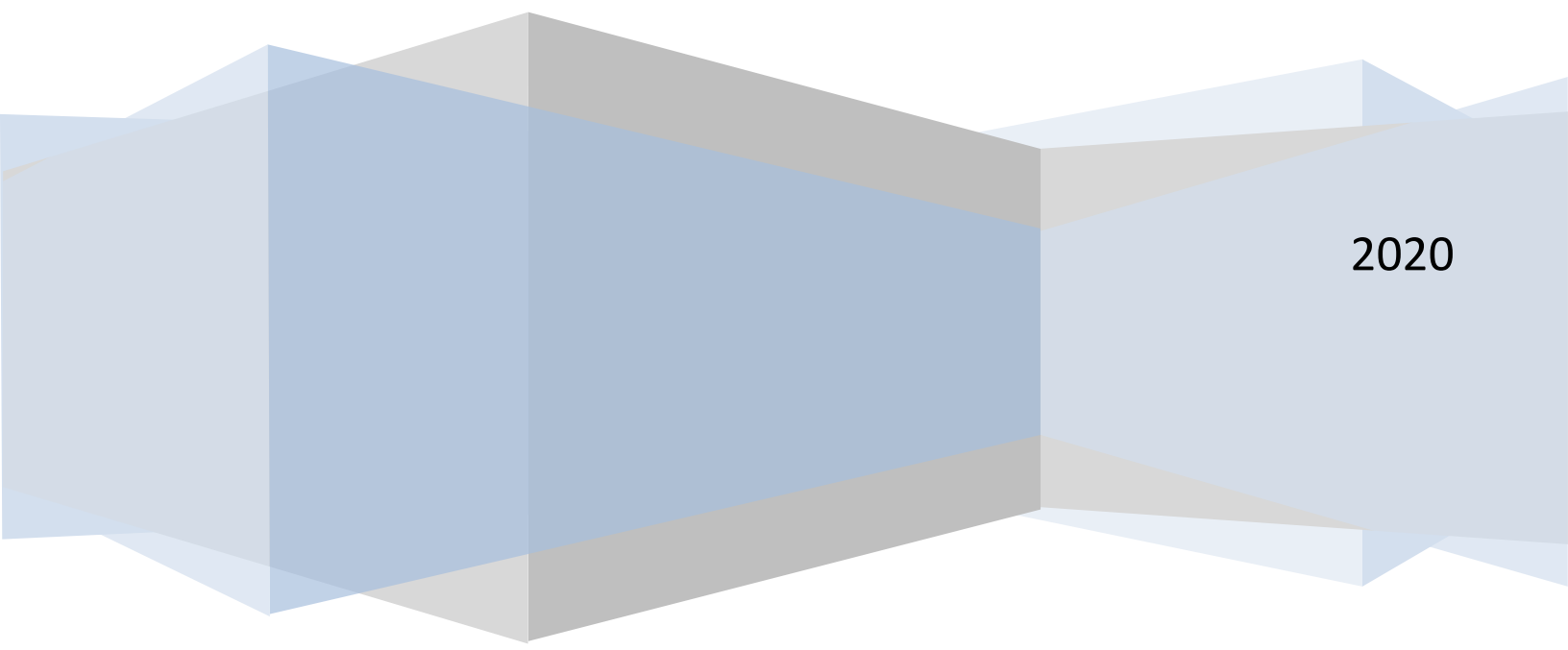


LL.B VI SEMESTER

# LAW OF HUMAN RIGHTS

ICESCR

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

## **Second Generation of Human Rights:**

The second generation of Human rights is covered by international convention on social, economic and cultural rights. ICESCR is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966 through GA. Resolution 2200A (XXI), and came in force from 3 January 1976. The sources for the creation of economic, and social rights are from Russian revaluation 1917, and the peace conference of Paris 1919. The Paris peace conference known for the further establishment of International Labour Organization which gave more importance or emphasis on the social justice by proclaiming that “peace can be established only if it is based upon social justice.

The organization says that peace can be making or established by social justice. If any nation fail to adopt all the better human conditions of labour then other nation that can take help from the Organization to improve the condition of labour of its own country. The International Labour Origination develops many international treaties or agreement for successful development of international labour standard with the effective system of supervision and investigation of the complaints.

For this development credit goes to the American president ‘Roosevelt’ because first time in the history he expressed his desire, for the foundation of any agency dealing with social and economic rights. The president Roosevelt in his message on 6th January 1941 provided four essential freedoms that is freedom for worship of god to every person in his way, freedom of expression and speech, freedom from fear and freedom form wants to which we look all these forward to found a new world.

Social, economic and cultural rights are necessary for human life. In the absence of these entire rights person become endanger to the peace and society. He contemplated that “true individual freedom cannot exist without economic security and independence” and that “people who are hungry and out of job are the stuff of which dictatorships are made.”, thus “economic truths have become accepted as self – evident.

Right to food, housing, clothing, freedom from hunger, right to social security, right to work, right to mental and physical health and right to education etc. all these rights covered under this generation of rights. All these right also included or mentioned in the international agreement on social, economic and cultural rights. Sometimes all these rights called positive rights. Social, economic and cultural rights are based on the concept of social equality. Generally these rights are called the rights of second generation

The Covenant follows the structure of the UDHR and the ICCPR, with a preamble and thirty-one articles, divided into five parts-

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

**Part 2.** (Articles 2–5) establishes the principle of "progressive realization". It also requires the rights be recognized "without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". The rights can only be limited by law, in a manner compatible with the nature of the rights, and only for the purpose of "promoting the general welfare in a democratic society".

**Part 3.** (Articles 6–15) lists the rights themselves. These include rights to

- work, under "just and favorable conditions", with the right to form and join trade unions (Articles 6, 7, and 8);
- social security, including social insurance (Article 9);
- family life, including paid parental leave and the protection of children (Article 10);
- an adequate standard of living, including adequate food, clothing and housing, and the "continuous improvement of living conditions" (Article 11);
- health, specifically "the highest attainable standard of physical and mental health" (Article 12);
- education, including free universal primary education, generally available secondary education and equally accessible higher education. This should be directed to "the full development of the human personality and the sense of its dignity", and enable all persons to participate effectively in society (Articles 13 and 14);
- participation in cultural life (Article 15).

As negative and positive rights are rights that oblige either action (positive rights) or inaction (negative rights), many of these aforementioned rights include specific actions which must be undertaken to realize them, as they are positive economic, social and cultural rights that go beyond relatively inaction-based civil and political negative rights .

**Part 4.** (Articles 16–25) governs reporting and monitoring of the Covenant and the steps taken by the parties to implement it. It also allows the monitoring body – originally the United Nations Economic and Social Council now the Committee on Economic, Social and Cultural Rights to make general recommendations to the UN General Assembly on appropriate measures to realize the rights (Article 21)

**Part 5.** (Articles 26–31) governs ratification, entry into force, and amendment of the Covenant.