



This Project is Funded by
The European Union

**Government of Pakistan
Ministry of Human Rights**

**PAKISTAN'S INTERNATIONAL
HUMAN RIGHTS REPORTING OBLIGATIONS**

TRAINING PACKAGE

MODULE

1

**Introduction to Pakistan's International
Human Rights Commitments**

Table of Contents

| | |
|---|----|
| LIST OF ACRONYMS | 3 |
| 1 INTRODUCTION TO THE MODULE | 3 |
| 2 INTRODUCTION TO THE UN HUMAN RIGHTS SYSTEM | 5 |
| 2.1 What are human rights? | 5 |
| 2.2 The Origin of the International Human Rights System..... | 6 |
| 2.3 Relationship between Human Rights & Development..... | 7 |
| 3 INTRODUCTION TO INTERNATIONAL HUMAN RIGHTS TREATIES..... | 8 |
| 3.1 What are International Human Rights Treaties?..... | 8 |
| 3.2 What are Additional Protocols to International Human Rights Treaties? | 10 |
| 3.3 Reading the Treaties as a whole | 11 |
| 4 HOW DOES A STATE BECOME PARTY TO HUMAN RIGHTS TREATIES? | 12 |
| 4.1 Signature | 13 |
| 4.2 Ratification | 13 |
| 4.3 Accession..... | 13 |
| 4.4 Reservations & Declarations | 13 |
| 4.5 Pakistan’s status on International Human Rights Treaties and their Optional Protocols | 15 |
| 4.6 Pakistan’s Reservations to Human Rights Treaties..... | 16 |
| 5 INTRODUCTION TO SEVEN CORE TREATIES..... | 19 |
| 5.1 The International Convention on the Elimination of All Forms of Racial Discrimination (CERD)..... | 19 |
| 5.1.1 Overview..... | 20 |
| 5.1.2 Constitutional Provisions and ICERD | 21 |
| 5.2 International Covenant on Civil and Political Rights (ICCPR) | 22 |
| 5.2.1 Overview..... | 22 |
| 5.2.2 Constitutional Provisions and the ICCPR..... | 24 |
| 5.2.3 Reflection of rights protected under ICCPR within Pakistani law | 25 |
| 5.3 Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) | 27 |
| 5.3.1 Overview..... | 27 |
| 5.3.2 Constitutional Provisions and CEDAW | 29 |
| 5.3.3 Reflection of rights protected under CEDAW within Pakistani law..... | 30 |
| 5.4 The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT) | 31 |
| 5.4.1 Overview..... | 31 |
| 5.4.2 Constitutional Provisions and CAT | 33 |
| 5.4.3 Reflection of rights protected under CAT within Pakistani law | 33 |
| 5.5 The Convention on The Rights of The Child (CRC) | 35 |
| 5.5.1 Overview..... | 35 |
| 5.5.2 Constitutional Provisions and CRC | 38 |
| 5.5.3 Reflection of rights protected under CRC within Pakistani law | 38 |
| 5.6 The International Covenant on Economic, Social and Cultural Rights (ICESCR) | 40 |
| 5.6.1 Overview..... | 40 |
| 5.6.2 Constitutional Provisions and the ICESCR | 42 |
| 5.6.3 Reflection of rights protected under ICESCR within Pakistani Law | 43 |

| | | |
|-------|--|----|
| 5.7 | The Convention on the Rights of Persons with Disabilities (CRPD) | 45 |
| 5.7.1 | Overview..... | 45 |
| 5.7.2 | Reflection of rights protected under CRPD in Pakistani law..... | 48 |
| 6 | SUSTAINABLE DEVELOPMENT GOALS (SDGs) AND HUMAN RIGHTS | 49 |

LIST OF ACRONYMS

| | |
|-----------|--|
| GA | General Assembly |
| UNHRC | United Nations Human Rights Council |
| UN OHCHR | Office of the United Nations High Commissioner for Human Rights |
| UN | United Nations |
| UDHR | Universal Declaration of Human Rights |
| ICERD | International Convention on the Elimination of All Forms of Racial Discrimination |
| ICCPR | International Covenant on Civil and Political Rights |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CAT | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| CRC | Convention on the Rights of the Child |
| ICMW | International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| CRPD | Convention on the Rights of Persons with Disabilities |
| ICERD | International Convention for the Protection of All Persons from Enforced Disappearance |
| ICCPR-OP1 | Optional Protocol to the International Covenant on Civil and Political Rights |
| ICCPR-OP2 | Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty |
| OP-CEDAW | Optional Protocol to the Convention on the Elimination of Discrimination against Women |
| OP-CRC-AC | Optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict |
| OP-CRC-SC | Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography |
| OP-CAT | Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| OP-CRPD | Optional Protocol to the Convention on the Rights of Persons with Disabilities |
| OP-ICESCR | Optional Protocol to the Covenant on Economic, Social and Cultural Rights |
| OP-CRC-IC | Optional Protocol to the Convention on the Rights of the Child on a communications procedure |

1 INTRODUCTION TO THE MODULE

About:

This Training Module provides sequentially presented instructional units designed to support participants' absorption of substantive and procedural information on the International Human Rights Human Rights System and Pakistan's obligations under various human rights treaties that it is a signatory to. The module provides information, concepts and reference to the Pakistani context that enables target trainees and instructors to

emerge from the training with not just information but a keen appreciation for its application within both Pakistan and the international human rights system.

Scope and usage:

The training module has been designed to facilitate participant-trainees during training workshops conducted by the EU-funded Promotion of Human Rights in Pakistan Program (Huqooq-e-Pakistan). A digital copy of the training module will also be provided to the training participants. The training module covers each topic area extensively, enabling participant-trainees to go beyond the training sessions, and educate themselves about the topic areas extensively. Each section of the training module is followed by a small exercise so that learners can test their own knowledge retention. The modules have been specifically tailored with respect to the Pakistani context. Extensive referencing and pointers for additional reading ensure that the training modules can serve as definitive reference materials on the topic areas that they cover.

Beneficiaries:

The primary beneficiaries of the training modules are the participant trainees of the H-e-P Training & Capacity Development Program, which include officials from the Federal Ministry of Human Rights, Provincial Human Rights Departments and Treaty Implementation Cells.

These modules can also be used by National Human Rights Institutions (NHRIs), Civil Society Organisations (CSOs), UN Agencies, donor-funded technical assistance initiatives and educational institutions in Pakistan to deliver trainings on the subject-area as and when required. Any individual, whether or not s(he) has a role to play in the reporting process, can benefit from these training modules as they are standalone documents which are designed to be self-explanatory for individual learning.

2 INTRODUCTION TO THE UN HUMAN RIGHTS SYSTEM

2.1 What are human rights?

Human rights are the rights which are inherent to the human being. The concept of human rights acknowledges that every single human being is entitled to enjoy his or her human rights without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Human Rights are...

... *founded on respect for the **dignity** and worth of each person.*

... ***universal**, meaning that they are applied equally and without discrimination to all people.*

... ***inalienable**, in that no one can have his or her human rights taken away other than in specific situations.*

... ***indivisible, interrelated, and interdependent**, because it is insufficient to respect some human rights and not others. In practice, the violation of one right will often affect the respect of several other rights.*

Human rights are legally guaranteed by human rights law, protecting individuals and groups against actions which interfere with fundamental freedoms and human dignity. They are expressed in treaties, customary international law, bodies of principles and other sources of law. Human rights law places an obligation on States to act in a particular way and prohibits States from engaging in specified activities. However, the law does not establish human rights. Human rights are inherent entitlements which come to every person as a consequence of being human. Treaties and other sources of law generally serve to formally protect the rights of individuals and groups against actions or abandonment of actions by Governments which interfere with the enjoyment of their human rights.¹

Under Pakistani law, the National Commission for Human Rights Act 2012 defines human rights as “...*the rights relating to life, liberty and dignity of the individual guaranteed and included in the international instruments including political and women rights*”².

¹ Human Rights: A Basic Handbook for UN Staff

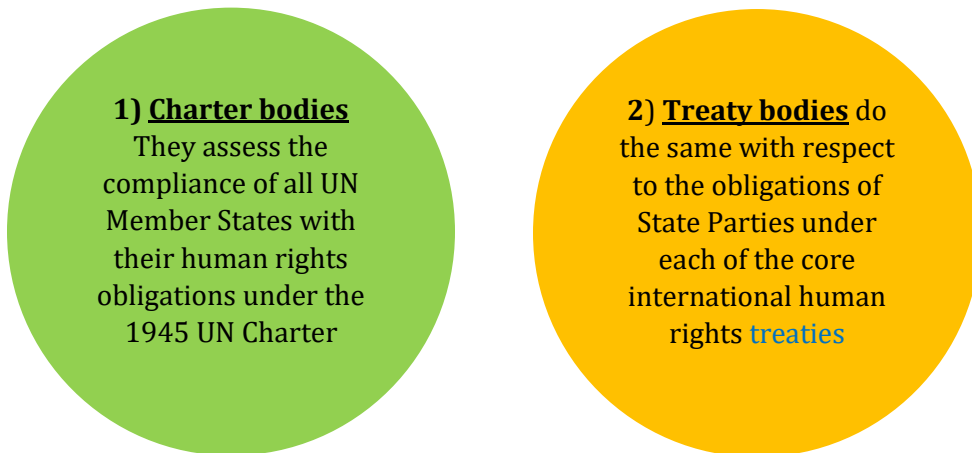
² National Commission for Human Rights Act 2012 and can be accessed on https://nchr.gov.pk/wp-content/uploads/2018/06/en1_NCHR-ACT-2012.pdf

2.2 The Origin of the International Human Rights System

The international system for the protection of human rights, also known as the ‘Universal Human Rights System’, traces its origins to adoption of the Universal Declaration of Human Rights by the United Nations General Assembly in 1948.

During the decades following the adoption of the Universal Declaration of Human Rights, a number of human rights treaties have been drafted and adopted under the auspices of the United Nations. These human rights treaties (*which are discussed in detail in Section 3*) form the backbone of the international human rights system. The UN has designated nine of these treaties as core international human rights instruments, but there are additional treaties and soft law instruments in place to safeguard human rights. The underlying rationale for these instruments is that international law has a legitimate role to play in protecting human rights.³

By ratifying these instruments, State Parties assume obligations under international law to respect the rights guaranteed therein and to hold themselves accountable for failing to do so. To facilitate accountability, the UN has established a variety of mechanisms for monitoring the compliance of State Parties with their human rights obligations. These mechanisms fall into the following 2 categories:



| Charter Bodies | Treaty Bodies |
|--|--|
| Mechanisms derived from the UN Charter e.g. Human Rights Council and Special Procedures. | Established by a human rights treaty such as CEDAW, ICCPR etc. |
| Competence according to resolution creating the mechanism. | Competence for rights covered specifically by the treaty. |

³ Part II. International Human Rights System.

| | |
|--|---|
| Includes a wider audience (all UN member states) | Applicable to states which are parties to the respective treaty |
|--|---|

The international system for the protection of human rights remains a work in progress. The UN's charter bodies and treaty bodies have raised awareness and helped to foster a culture of greater respect for human rights by conducting on-site visits and investigations, engaging in dialog with national governments and civil society organizations, issuing periodic monitoring reports, and evaluating individual complaints.⁴

2.3 Relationship between Human Rights & Development

In 1986, UN Member States adopted the ‘Declaration on the Right to Development.’ Under the Declaration everyone is ‘entitled to participate in, contribute to, and enjoy economic, social, cultural and political development through which all human rights and fundamental freedoms can be fully realised.’ The Declaration also confirms that ‘States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development.’

Sustainable Development Goals: In September 2015, members of the UN Declaration on the Right to Development gathered at the UN Sustainable Development Summit in New York to adopt the 2030 Agenda. The new Agenda covers a broad set of 17 Sustainable Development Goals (SDGs) and 167 targets and will serve as the overall framework to guide global and national development action till 2030. There are strong connections between human rights and the objectives of global development actors. Without the support of the international human rights system, and without the strengthened enjoyment of human rights on the ground, it will not be possible to fulfil the promise of the SDGs to ‘leave no one behind.’ Many of the goals and targets correspond to essential dimensions of states’ human rights commitments, as outlined in international human rights treaties.⁵

The SDGs already mirror much of the human rights framework. Each sustainable development goal, whether aimed at eradicating hunger, preventing disease, providing clean water or climate action, or focused on securing peace or decent work – all are simultaneously a claim about human rights.

Development is not just about changing the material conditions that prevent a person from reaching these goals. It is also about empowering people with voice and agency to be active participants in

⁴ Human Rights Law Research Guide

⁵ The Sustainable Development Goals Report 2019 - United Nations

designing their own solutions and shaping development policy. It is about transforming laws, policy, practice, social norms and power relations such that everyone can flourish in equal dignity and freedom.

This is recognized in the 2030 Agenda commitment to create “a world of universal respect for equality and non-discrimination”, by ensuring “targets are met for all nationals and peoples and for all segments of society” and that the “SDGs realize human rights for all”. At its heart, the Agenda 2030 promise of ‘leaving no one behind’ is a reaffirmation that human rights and sustainable development are mutually reinforcing.⁶

3 INTRODUCTION TO INTERNATIONAL HUMAN RIGHTS TREATIES

3.1 What are International Human Rights Treaties?

International human rights law lays down obligations for States. They are enshrined in international human rights treaties binding only on those States which consent to be bound by them (State parties). The United Nations Human Rights Treaty System comprises of nine treaties, usually referred to as the “core international human rights treaties,” which together form the cornerstone of all efforts to promote and protect human rights at national and international levels, as follows ⁷:

| |
|---|
| <p>Two Covenants, namely the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), cover the broad range of civil, cultural, economic, political and social rights. Together with the UDHR the Covenants form the “International Bill of Rights.”</p> |
| <p>Three Treaties address specific phenomena, namely the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).</p> |
| <p>Four Treaties address the human rights of specific groups, namely the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), the International Convention on the Protection of the Rights of All Migrant Workers and Member of Their Families (ICMW), and the Convention on the Rights of</p> |

⁶ United National Human Rights Office of the High Commissioner: Empowerment, Inclusion, Equality: Accelerating Sustainable Development with Human Rights

⁷ For a brief description of the content of each treaty please refer to OHCHR, The United Nations Human Rights System, Fact Sheet No. 30/Rev. 1, available at: <https://goo.gl/yOOaLV>

Persons with Disabilities (CRPD).⁸

Difference between Treaty, Convention & Covenant: Legally, there is no difference between a treaty, a convention or a covenant. All are international legal instruments which, in international law, legally bind those States that choose to accept the obligations contained in them by becoming a party in accordance with the final clauses of these instruments.⁹

Table 1 provides an overview of the core international human rights treaties.

Table 1: Core International Human Rights Treaties

| Name of Additional Protocols | Abbrev. | Date of Adoption | Subject Area |
|---|---------|------------------|--|
| International Convention on the Elimination of All Forms of Racial Discrimination | ICERD | 21 Dec 1965 | The Convention commits its members to the elimination of racial discrimination and the promotion of understanding among all races. |
| International Covenant on Civil and Political Rights | ICCPR | 16 Dec 1966 | The United Nations International Covenant of Civil and Political Rights (ICCPR) attempts to ensure the protection of civil and political rights. |
| Convention on the Elimination of All Forms of Discrimination against Women | CEDAW | 18 Dec 1979 | CEDAW requires countries to eliminate discrimination against women in the public as well as the private sphere, including in the family, and recognises that traditional gender roles and stereotypes must be eliminated in order to end all forms of discrimination against women and girls |
| Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment | CAT | 10 Dec 1984 | The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (UNCAT)) is an international human rights treaty that aims to prevent torture and other acts of cruel, inhuman, or degrading treatment or punishment around the world. |
| Convention on the Rights of the Child | CRC | 20 Nov 1989 | The Convention on the Rights of the Child (CRC) provides a comprehensive guarantee of the sets out the civil, political, economic, social, health and cultural rights of children under 18 years of age. |
| International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families | ICMW | 18 Dec 1990 | The CMW monitors the implementation of the provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families by its State Parties. |

⁹ United Nations Office of the High Commissioner: Human Rights Treaty Bodies – Glossary of technical terms related to the treaty bodies

| | | | |
|--|--------|-------------|--|
| International Covenant on Economic, Social and Cultural Rights | ICESCR | 16 Dec 1996 | The International Covenant on Economic, Social and Cultural Rights covers human rights in the economic, social and cultural spheres. |
| Convention on the Rights of Persons with Disabilities | CRPD | 13 Dec 2006 | The Convention on the Rights of Persons with Disabilities (CRPD) ensures that persons with disabilities enjoy all human rights and participate in public, economic and social life |
| International Convention for the Protection of All Persons from Enforced Disappearance | ICPPED | 20 Dec 2006 | The International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) intends to prevent forced disappearance defined in international law, crimes against humanity. |

3.2 What are Additional Protocols to International Human Rights Treaties?

Some of the treaties are supplemented by optional protocols dealing with specific concerns whereas the Optional Protocol to the Convention against Torture establishes a committee of experts. Optional Protocols complement and add to existing treaties. A protocol may be on any topic relevant to the original treaty and is used either to further address something in the original treaty, address a new or emerging concern, or add a procedure for the operation and enforcement of the treaty. They are ‘optional’ because the obligations may be more demanding than those in the original convention, so States must independently choose whether or not to be bound by them. Optional Protocols are treaties in their own right, and are open to signature, ratification or accession.¹⁰ Table 2 provides an overview of optional protocol to the core International Human Rights Treaties.¹¹

Table 2: Additional Protocols to the Core International Human Rights Treaties

| Name of Additional Protocols | Abbrev. | Date of Adoption | Subject Area |
|--|-----------|------------------|---|
| Optional Protocol to the International Covenant on Civil and Political Rights | ICCPR-OP1 | 16 Dec 1966 | The First Optional Protocol to the International Covenant on Civil and Political Rights is an international treaty establishing an individual complaint mechanism for the International Covenant on Civil and Political Rights (ICCPR) |
| Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty | ICCPR-OP2 | 15 Dec 1989 | The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Protocol) is the only international treaty of worldwide scope to prohibit executions and to provide for total abolition of the death penalty. |

¹⁰ Commitment To International Human Rights Treaties: The Role Of Enforcement Mechanisms

¹¹ Core International Human Rights Instruments | UNFPA

| | | | |
|--|-----------|-------------|--|
| Optional Protocol to the Convention on the Elimination of Discrimination against Women | OP-CEDAW | 10 Dec 1999 | The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (OP-CEDAW) is an international treaty which establishes complaint and inquiry mechanisms for the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). |
| Optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict | OP-CRC-AC | 25 May 2000 | The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict aims to protect children from recruitment and use in hostilities. |
| Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography | OP-CRC-SC | 25 May 2000 | The Optional Protocol on the sale of children, child prostitution and child pornography supplements the Convention on the rights of the Child by providing States with detailed requirements to end the sexual exploitation and abuse of children. |
| Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment | OP-CAT | 18 Dec 2002 | (OPCAT) is an international agreement aimed at preventing torture and cruel, inhuman or degrading treatment or punishment. |
| Optional Protocol to the Convention on the Rights of Persons with Disabilities | OP-CRPD | 12 Dec 2006 | The Optional Protocol is an additional agreement to the United Nations Convention on the Rights of Persons with Disabilities. It establishes an individual complaints mechanism for disabled people who allege that their rights under the Convention. |
| Optional Protocol to the Covenant on Economic, Social and Cultural Rights | OP-ICESCR | 10 Dec 2008 | The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR) is an international treaty that allows victims of violation of economic, social and cultural rights, to present complaints at the international level. ... The OP-ICESCR is also a powerful tool for advocacy. |
| Optional Protocol to the Convention on the Rights of the Child on a communications procedure | OP-CRC-IC | 14 Apr 2014 | The Optional Protocol on a Communications Procedure (OPCP) recognises that children have the right to appeal to an international mechanism specific to them, when national mechanisms fail to address violations effectively. |

3.3 Reading the Treaties as a whole

To understand fully a States' obligations under these treaties, it is necessary to read together all the human rights treaties to which a State has become a party. Even though the treaties are separate and free-standing, they complement each other with several principles binding them together. Each lays down basic principles such as non-discrimination and equality, effective protection against violations, special protection for the particularly vulnerable, and an understanding of being an active and informed participant in the public life of the State where

he or she is located and in decisions affecting him or her, rather than a passive object of the authorities' decisions.¹² All treaties based on these common principles are interdependent, interrelated and mutually reinforcing, so no right can be fully enjoyed in isolation. Moreover, when evaluating a State's obligation/responsibility for protecting human rights, other national, international or regional human rights obligations should also be considered.

4 HOW DOES A STATE BECOME PARTY TO HUMAN RIGHTS TREATIES?

Since the adoption of the UDHR in 1948, all UN Member States have ratified at least two core international human rights treaties, and 80% have ratified four or more. Some of the treaties have been supplemented by Optional Protocols, which address specific human rights issues or establish new procedures, except for the Optional Protocol to the Convention against Torture establishing a committee of experts.

The international human rights treaties are complemented by other human rights instruments such as declarations, guidelines and principles adopted at international level which contribute to the understanding, implementation and development of human rights.

The conventional wisdom in international law is that a state can accept and integrate international law into the domestic system in one of two ways. In a monist legal system, international law is considered joined with and part of the internal legal order of a state. Therefore, once an international convention/treaty is signed, no enabling legislation has to be passed for it to come into effect. In a dualist legal system, on the other hand, international law stands apart from national law, and to have any effect on rights and obligations at the national level, international law must be domesticated through legislative process.

Dualist states, like Pakistan, can become parties to treaties, including human rights treaties, through signature and ratification (a two-step process) or accession (a one-step process). Both ratification and accession should be followed by the depositing of an instrument of ratification or accession with the Secretary General of the United Nations (the depository) in accordance with the final clauses of the respective treaty.



By becoming parties to human rights treaties, States assume obligations and duties under international law which entail the threefold responsibility to respect, protect and fulfil the human rights enshrined in those treaties. The obligation to respect means that State parties must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires State parties to protect individuals and groups against human rights abuses. The obligation to fulfil means that State parties must take positive action to facilitate the enjoyment of human rights. Concerning the right to life, for example, the obligation to respect requires that State security

¹² Treaty Handbook- United Nations Publication

forces never summarily execute individuals; the obligation to protect obliges a State to investigate any killing and to prosecute perpetrators; and the obligation to fulfil necessitates taking measures to prevent maternal mortality.

4.1 Signature

Signature is a legal act expressing a will to become a State party to the treaty. In the case of a dualist state, a human rights treaty is always subject to ratification and has to be deposited with the Secretary- General. The signatory State is not yet a State party and is therefore not bound by the treaty. The only legal obligation of the signatory State is to refrain, in good faith, from acts that would defeat the object or purpose of the treaty. The act of signature qualifies the signatory State to continue with the ratification. However, signature does not create an obligation to ratify the treaty.

4.2 Ratification

Ratification is a legal act expressing the States' will to be bound by the treaty. Ratification at international level should be distinguished from domestic ratification which is the domestic process for approving a treaty. Domestic ratification gives a signatory State time to seek the required approval for the treaty in accordance with its constitutional procedures, and to enact the necessary legislation to give the treaty effect at national level. Ratification at international level is affected by the deposit of an instrument of ratification with the Secretary-General of the United Nations.

4.3 Accession

Accession" is the act whereby a state accepts the offer or the opportunity to become a party to a treaty already negotiated and signed by other states. It has the same legal effect as ratification. Accession usually occurs after the treaty has entered into force. The Secretary-General of the United Nations, in his function as depositary, has also accepted accessions to some conventions before their entry into force. The conditions under which accession may occur and the procedure involved depend on the provisions of the treaty. A treaty might provide for the accession of all other states or for a limited and defined number of states. In the absence of such a provision, accession can only occur where the negotiating states were agreed or subsequently agree on it in the case of the state in question.

4.4 Reservations & Declarations

Sometimes States enter one or more reservations to human rights treaties. A reservation is a unilateral statement made by a State – however phrased or named – by which it purports to exclude or modify the legal effect of a treaty provision in its application to that State. A reservation may be entered when signing, ratifying, accepting, approving or acceding to a treaty by the Head of State or Government or Ministry of Foreign Affairs (or a person acting in that capacity or having delegated authority for that purpose from one of the authorities mentioned above). Reservations made on simple signature (i.e., signature subject to ratification) are declaratory in nature and must be confirmed on ratification. The reservation is permitted only if

- 1) it is not explicitly prohibited by the treaty;
- 2) it is explicitly authorised by the treaty itself (specified reservation); or

3) the reservation is compatible with the object and purpose of the treaty.

Reservations that do not fall within these categories are considered invalid, devoid of any legal effect, and thus null and void. Other State parties or signatories to the treaty may lodge objections to a State party's reservation. Reservations may be withdrawn completely or partially by the State Party at any time.

The mandate of the Treaty Bodies includes the authority to assess the compatibility of reservations with the object and purpose of the treaty they monitor. As the International Law Commission concluded in its Guide to Practice on Reservations on Treaties, Treaty Bodies are competent to assess the permissibility of a reservation when the issue comes before them in the exercise of their functions. Treaty Bodies do not have the power to overturn a reservation, but they request, more or less systematically within the review of State Party reports, that State Parties withdraw their impermissible reservations.

The following table shows the date on which each human rights treaty came into force along with the total number of countries that have signed and ratified the treaties as of 2020.

Table 3: Status of signing and ratification of international human rights treaties

| Treaty | Abbreviation | Date of Entry into Force | Signatory Countries | Countries that have ratified |
|---|--------------|--------------------------|---------------------|------------------------------|
| International Convention on the Elimination of All Forms of Racial Discrimination | ICERD | 12 Mar 1969 | 88 | 182 |
| International Covenant on Civil and Political Rights | ICCPR | 23 Mar 1976 | 74 | 173 |
| International Covenant on Economic, Social and Cultural Rights | ICESCR | 03 Jan1976 | 71 | 170 |
| Convention on the Elimination of All Forms of Discrimination against Women | CEDAW | 03 Sep 1981 | 99 | 189 |
| Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment | CAT | 26 Jun 1987 | 83 | 169 |
| Convention on the Rights of the Child | CRC | 02 Sep 1990 | 140 | 196 |
| International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families | ICMW | 01 Jul 2003 | 39 | 55 |
| International Convention for the Protection of All Persons from Enforced Disappearance | CPED | 23 Dec 2010 | 98 | 62 |

| | | | | |
|--|-------------|--------------|-----|-----|
| Convention on the Rights of Persons with Disabilities | CRPD | 03 May 2008 | 163 | 181 |
| Optional Protocol to the Covenant on Economic, Social and Cultural Rights | ICESCR - OP | 05 May 2013 | 45 | 24 |
| Optional Protocol to the International Covenant on Civil and Political Rights | ICCPR-OP1 | 23 Mar 1976 | 35 | 116 |
| Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty | ICCPR-OP2 | 11 July 1991 | 39 | 88 |
| Optional Protocol to the Convention on the Elimination of Discrimination against Women | OP-CEDAW | 22 Dec 2000 | 80 | 144 |
| Optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict | OP-CRC-AC | 12 Feb 2002 | 130 | 170 |
| Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography | OP-CRC-SC | 18 Jan2002 | 121 | 176 |
| Optional Protocol to the Convention on the Rights of the Child on a communications procedure | OP-CRC-IC | 14 Apr 2014 | 52 | 46 |
| Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment | OP-CAT | 22 Jun 2006 | 76 | 90 |
| Optional Protocol to the Convention on the Rights of Persons with Disabilities | OP-CRPD | 3 May 2008 | 94 | 96 |

4.5 Pakistan's status on International Human Rights Treaties and their Optional Protocols

Out of the nine treaties and nine additional protocols, Pakistan has signed and ratified seven core treaties and two additional protocols (See Table 4). The Government of Pakistan has expressed its will to adhere to the provisions contained within these seven treaties and has pledged to continue engaging with the international community in order to improve the protection and promotion of human rights at home, within the region and around the world.

Table 4: Core International Human Rights Treaties & Option Protocols that Pakistan is signatory to

| Core Rights Treaties | | Abbreviation | Signature Date | Year Ratified |
|--|--|---------------------|-----------------------|----------------------|
| 1 | Convention on the Elimination of All Forms of Discrimination against Women | CEDAW | 12 Mar 1996 | 12 Mar 1996 |
| 2 | Convention on the Rights of the Child | CRC | 20 Sep 1990 | 12 Nov 1990 |
| 3 | International Convention on the Elimination of All Forms of Racial Discrimination | ICERD | 19 Sep 1966 | 19 Sep 1966 |
| 4 | International Covenant on Economic, Social and Cultural Rights | ICESCR | 03 Nov 2004 | 17 Apr 2008 |
| 5 | International Covenant on Civil and Political Rights | ICCPR | 17 Apr 2008 | 23 Jun 2010 |
| 6 | Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment | CAT | 17 Apr 2008 | 23 Jun 2010 |
| 7 | Convention on the Rights of Persons with Disabilities | CRPD | 25 Sep 2008 | 05 Jul 2011 |
| Optional Protocols to Human Rights Treaties | | | | |
| 1 | Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict | CRC-OP-AC | 26 Sep 2001 | 17 Nov 2016 |
| 2 | Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution & child pornography | CRC-OP-SC | 26 Sep 2001 | 05 Jul 2011 |

4.6 Pakistan's Reservations to Human Rights Treaties

Reservation on a treaty clause means that the State will not abide by any part of the treaty once the State has ratified the treaty. The case of human rights treaties, nonetheless, is a sensitive one because they uphold the basic rights such as the freedom of speech, religion, practice, expression, and most importantly, life and freedom from torture and inhumane treatment. Hence, when the State proffers to go against any of these, the grounds for such a reservation must be sound and convincing. Table 4 below shows the Pakistan's reservation on the respective treaties.

Table 5: Pakistan's Reservations to Core Human Rights Treaties

| Convention | Reservation(s) | Declaration(s) |
|-------------------|--|--|
| CEDAW | "The Government of Pakistan declares that it does not consider itself bound by paragraph 1 of article 29 of the Convention." | "The accession by (the) Government of the Islamic Republic of Pakistan to the (said Convention) is subject to the provisions of the Constitution of the Islamic Republic of Pakistan." |

| | | |
|------------------|--|--|
| ICCPR* | <p>Articles 3,6,7,18,19: "Islamic Republic of Pakistan declares that the provisions of Articles 3, 6, 7, 18 and 19 shall be so applied to the extent that they are not repugnant to the Provisions of the Constitution of Pakistan and the Sharia laws."</p> <p>Article 25: "Islamic Republic of Pakistan declares that the provisions of Article 25 shall be so applied to the extent that they are not repugnant to the Provisions of the Constitution of Pakistan."</p> <p>Additional reservations were registered in relation to Articles 12 (liberty of movement) and 13 (expulsion of aliens). Moreover, the Government noted "that it does not recognise the competence of the Committee provided for in Article 40 of the Covenant."</p> <p><i>*In 2011, in light of the EU GSP Scheme, Reservations to Article 6,7, 12, 13,18 and 19 were withdrawn The reservation on Article 3 was narrowed down to Personal Law and Law of Evidence and on Article 25 to the election of a Muslim as president.</i></p> | |
| CAT ⁺ | <p>Article 8: "The Government of the Islamic Republic of Pakistan declares the pursuant to Article 8, paragraph 2, of the Convention, it does not take this Convention as the legal basis for cooperation on extradition with other State Parties." Article 28: "In accordance with Article 28, Paragraph 1, of the Convention, the Government of the Islamic Republic of Pakistan hereby declares that it does not recognise the competence of the Committee provided for in Article 20." Article 30: "The Government of the Islamic Republic of Pakistan does not consider itself bound by Article 30, Paragraph 1 of the Convention."</p> <p>Additional Reservations: Article 3,4,6,12,13 & 16.</p> <p><i>* Reservations on Articles 3, 4, 6, 12, 13 and 16 of the UN Convention against Torture were withdrawn in 2011 in light of the EUGSP Scheme.</i></p> | |
| ICESCR | <p>"Pakistan with a view to achieving progressively the full realization of the rights recognised in the present Covenant shall use all appropriate means to the maximum of its available resources"</p> | |

TEST YOUR KNOWLEDGE

1. How many core human rights treaties are there?

- a) Six
- b) Nine
- c) Ten
- d) Fourteen

2. How many core treaties Pakistan is party to?

- a) Five
- b) Nine
- c) Seven
- d) Two

3. Which of the following Human Rights Treaties are supplemented by one or more Optional Protocols?

- a) The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the Convention against Torture (CAT); and the Covenant on Civil and Political Rights (ICCPR).
- b) The Covenant on Economic Social and Cultural Rights (ICESCR); the Convention on the Rights of the Child (CRC); and the Convention on the Rights of Persons with Disabilities (CRPD).
- c) The Convention for the Protection of All Persons from Enforced Disappearance (ICCPED); the Convention on the Protection of the Rights of All Migrant Workers and Their Families (CMW); and the Convention on the Elimination of all Forms of Racial Discrimination (CERD)
- d) A and B

4. How treaties are to be interpreted?

- a) Treaties are to be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.
- b) Treaties are to be interpreted only in accordance with the ordinary meaning of their terms.
- c) Treaties are to be interpreted in accordance with the intention of the parties, as evidenced in the preparatory works of the treaty.
- d) Treaties are to be interpreted only in light of its object and purpose.

5. When a reservation is considered as invalid under the law of treaties?

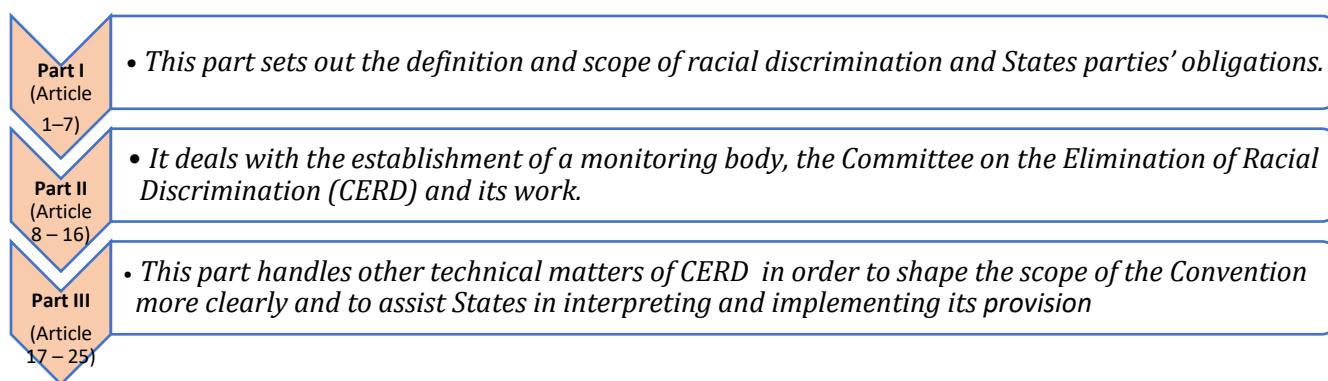
- a) A reservation is invalid when the majority of the State Parties objects to it.
- b) A reservation is invalid only when an international tribunal says so.
- c) A reservation is invalid only when is incompatible with a peremptory norm of international law (jus cogens).
- d) A reservation is invalid when it is incompatible with the object and purpose of the treaty.

5 INTRODUCTION TO SEVEN CORE TREATIES

5.1 *The International Convention on the Elimination of All Forms of Racial Discrimination (CERD)*

5.1.1 Overview

The International Convention on the Elimination of All Forms of Racial Discrimination (CERD) obliges State Parties to pursue by all appropriate means a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, refrain from all acts and practices of racial discrimination and prohibit and prosecute such acts. The definition of ICERD sets out five grounds of discrimination; this includes race, colour, descent, and national or ethnic origin. The Convention defines racial discrimination and lists civil, political, economic, social and cultural human rights whose enjoyment must be guaranteed to everyone without distinction as to race. It also contains the basic right to effective judicial complaint procedures (legal remedies) in the case of all acts of racial discrimination. The Convention consists of a preamble and 25 articles divided into three parts. The following illustration explains the structure of the treaty.



Keeping in spirit with the convention, the Constitution of Pakistan guarantees fundamental rights to its citizens, provided irrespective of their race, religion, caste, sex, residence or place of birth. The Convention also requires accurate statistics of the marginalised communities.

Table 6: Summary of ICERD Provisions

| Article | Rights Guaranteed |
|---------|-------------------|
|---------|-------------------|

| | |
|----------------|--|
| Article 1 | Definition of racial discrimination |
| Article 2 | State Party obligations (legislation and otherwise) |
| Article 3 | States Parties to condemn racial segregation and apartheid |
| Article 4 | States Parties to condemn and penalise dissemination of racial propaganda (also, incitement to hatred and violence) |
| Article 5 | Equality and non-discrimination |
| Article 6 | Effective protection and remedies |
| Article 7 | Immediate and effective measures to combat racial prejudice (particularly in education) |
| Articles 8-16 | Establishment of Committee on the Elimination of Racial Discrimination, mechanism for implementation of ICERD, submission of initial and periodic reports. |
| Articles 17-25 | Provisions on specific operation of the ICERD (ratification, accession, denunciation, inter-state disputes and languages in which the Convention is authentic) |

5.1.2 Constitutional Provisions and ICERD

With regard to the ICERD, there are several Federal and Provincial institutions that play an important role in protection against racial discrimination guaranteed under the Convention. In this regard, a discussion on the roles played by the following in compliance reporting is pertinent: National Commission of Human Rights (NCHR), National Commission on the Status of Women (NCSW), National Commission for Minorities, and the National Commission on the Rights of the Child (NCRC).

Table 7 table outlines the constitutional protections afforded to ICERD-guaranteed rights.

| Table 7: Provisions of the Constitution of Pakistan that are relevant to ICERD |
|---|
| Article 20: Freedom to profess religion and to manage religious institutions. |
| Article 21: Safeguard against taxation for purposes of any religion. |
| Article 22: Safeguards as to educational institutions in respect of religion, etc. |
| Article 19: Freedom of speech and expression. |
| Article 17: Freedom of association. |
| Article 27: Safeguard against discrimination in service. |

Article 25: Equality of citizens.

Article 25A: Right to Education

Article 26: Non-discrimination in respect to access to public places

Article 28: Preservation of language, script and culture Subject to Article 251.

Article 14: Inviolability of dignity of man

Article 9: Security of person

ICERD CASE STUDY

Narnia is a UN Member State that has signed and ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). 95% of Narnia's population belongs to the Arcadian ethnic group whereas the remaining population belongs to the Rohan ethnic group. Aslan is a citizen of the state of Narnia and a member of its Rohan ethnic minority. He comes to you claiming that he was subject to online threats of violence based on his ethnicity. When he contacted the local police station which is headed by an Arcadian police officer, they refused to take these threats seriously. He has raised the following questions for you:

- Which articles of the ICERD have been violated in Aslan's case?
1. Had Aslan been a citizen of Pakistan and this incident had occurred in Pakistan, which articles of the Constitution of Pakistan would have been violated?

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

5.2.1 [Overview](#)

The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty that commits its parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial. There are two Optional Protocols to the Covenant. However, Pakistan has not signed or ratified any of the optional protocols. The First Optional Protocol establishes an individual complaints mechanism, allowing individuals to complain to the Human Rights Committee about violations of the Covenant. This has led to the creation of a complex jurisprudence on the interpretation and implementation of the Covenant.

The Second Optional Protocol abolishes the death penalty; however, countries were permitted to make a reservation allowing for use of death penalty for the most serious crimes of a military nature, committed during wartime. ICCPR is structured with a preamble and fifty-three articles, divided into six parts. Following illustration explains the structure of the treaty.

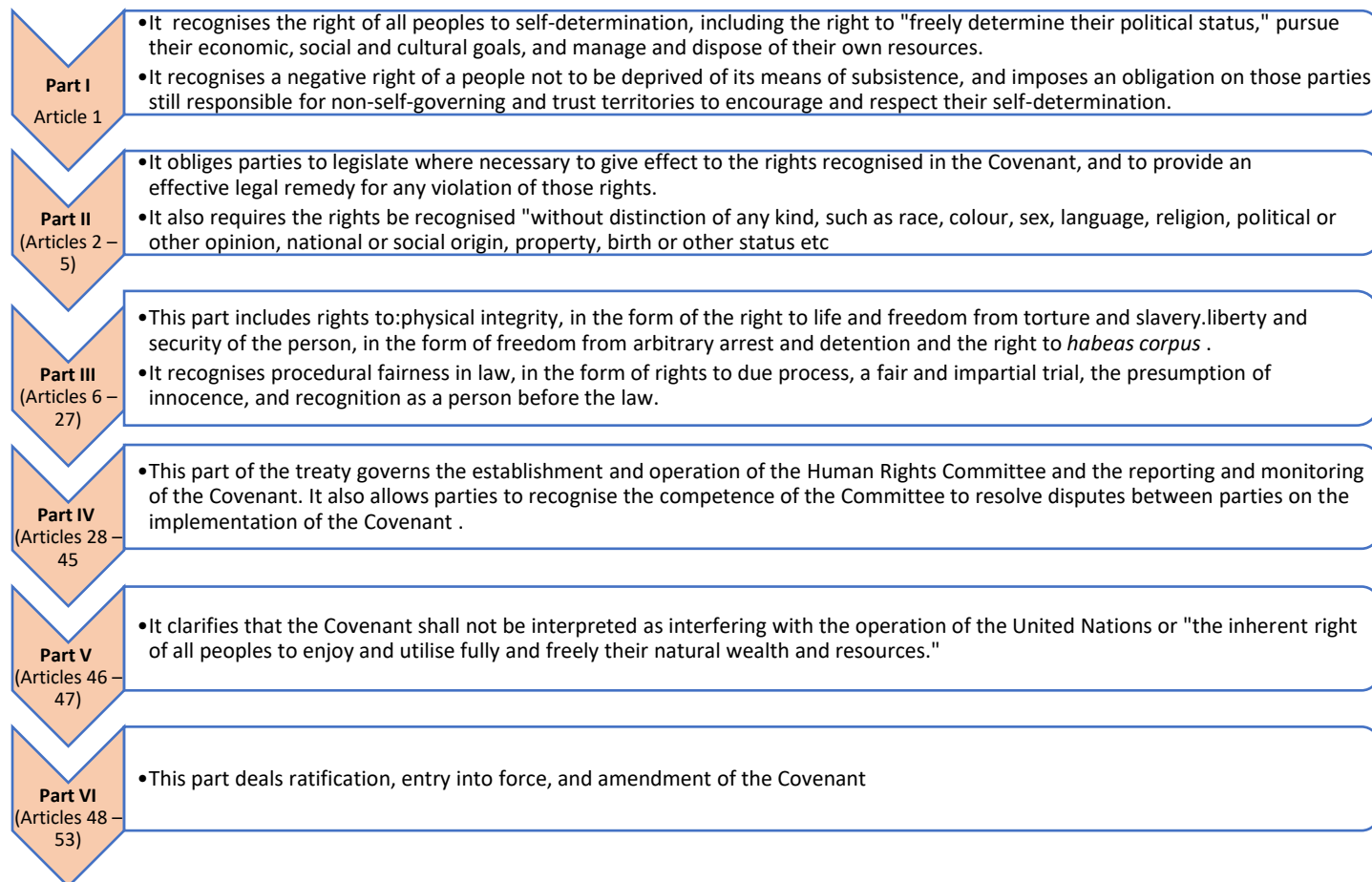


Table 8: Summary of ICCPR Provisions

| Articles | Rights Guaranteed |
|------------|--|
| Article 1 | Self-determination |
| Article 2 | State Party obligations |
| Article 3 | Equal right of men and women to enjoyment of civil and political rights |
| Article 4 | Public emergency provisions |
| Article 5 | Restriction and derogation provisions |
| Article 6 | Right to life |
| Article 7 | Prohibition against torture, cruel, inhuman or degrading treatment or punishment |
| Article 8 | Prohibition against slavery, servitude and forced or compulsory labour |
| Article 9 | Right to liberty and security |
| Article 10 | Treatment of persons deprived of their liberty |

| | |
|----------------|---|
| Article 11 | Prohibition against imprisonment for failure to fulfil contractual obligation |
| Article 12 | Right to liberty of movement |
| Article 13 | Provision on lawful aliens |
| Article 14 | Due process and fair trial guarantees |
| Article 15 | Prohibition against retrospective liability and punishment |
| Article 16 | Right to recognition before the law |
| Article 17 | Protection against arbitrary or unlawful interferences with privacy, family, home or correspondence |
| Article 18 | Right to freedom of thought, conscience and religion |
| Article 19 | Right to freedom of expression |
| Article 20 | Prohibition of propaganda for war and incitement |
| Article 21 | Right of peaceful assembly |
| Article 22 | Right to freedom of association |
| Article 23 | Protections afforded to family (marriage and responsibilities) |
| Article 24 | Protections afforded to children (registration, nationality) |
| Article 25 | Right to take part in public affairs, vote and have access to public service |
| Article 26 | Non-discrimination guarantee |
| Article 27 | Protection of ethnic, religious and linguistic minorities |
| Article 28 | Provision on the establishment of the Human Rights Committee |
| Articles 29-30 | Elections to the Human Rights Committee |
| Articles 31-39 | Provisions on the composition, functions and re-election with regard to the Human Rights Committee |
| Articles 40-47 | Submission of State Party reports, inter-state complaints procedure, recourse for settling disputes, submission of annual reports by the Human Rights Committee |
| Articles 48-53 | Provisions on ratification, entry into force, extension of Covenant to all units of a Federation, amendments and languages in which the Convention's texts are authentic. |

5.2.2 [Constitutional Provisions and the ICCPR](#)

The following table outlines the protections afforded to ICCPR-guaranteed rights within the Constitution of Pakistan.¹³

| Table 9: Provisions of the Constitution of Pakistan that are relevant to ICCPR | |
|--|--|
| Article 25: | Equality of citizens |
| Article 8: | Laws inconsistent with or in derogation of fundamental rights to be void |
| Article 9: | Security of person |
| Article 14: | Inviolability of dignity of man, etc. |
| Article 11: | Slavery, forced labour, etc. prohibited |
| Article 9: | Security of person |
| Article 10: | Safeguards as to arrest and detention |

¹³ RSIL, Pakistan's International Human Rights Obligations: Training Module for Capacity Building (2019)

Article 15: Freedom of movement etc.
Article 10A: Right to fair trial
Article 12: Protection against retrospective punishment
Article 14: Inviolability of dignity of man etc.
Article 20: Freedom to profess religion and to manage religious institutions
Article 22: Safeguards as to educational institutions in respect of religion, etc.
Article 13: Protection against double punishment and self incrimination
Article 19: Freedom of speech etc.
Article 19A: Right to information
Article 16: Freedom of assembly
Article 17: Freedom of association
Article 35: Protection of family etc.
Article 35: Protection of family, etc.
Article 26: Non-discrimination in respect of access to public places
Article 27: Safeguard against discrimination in service
Article 25: Equality of citizens

5.2.3 Reflection of rights protected under ICCPR within Pakistani law

Table 10 provides an overview of the legislative instruments that have been adopted in Pakistan in order to safeguard and mainstream the rights enshrined in the ICCPR.

Table 10: Domestic Legislative Instruments that safeguard the rights enshrined in ICCPR

| |
|---|
| Code of Criminal Procedure 1898 |
| Qanun-e-Shahadat Order 1984 |
| The Elections Act 2017 |
| The Women in Distress and Detention Fund (Amendment) Act, 2018 (Act No. XIX of 2018) |
| The Transgender Persons (Protection and Rights) Act, 2018 (Act No. XIII to XVIII of 2018) |
| The Prevention of Trafficking in Persons Act, 2018 (Act No. XXXIV of 2018) |
| The Juvenile Justice System Act, 2018 (Act No. XXII of 2018) |
| The Juvenile Justice System Act, 2018 (Act No. XXII of 2018) |
| National Commission on the Status of Women Act 2012 |
| Domestic Violence (Prevention and Protection) Act 2012 |
| Investigation for Fair Trial Act 2013 |

National Commission on Human Rights Act 2012
Action in Aid of Civil Power Regulations 2011
Protection against Harassment of Women at the Workplace Act 2010
Protection of Women (Criminal Laws) (Amendment) Act 2006
Political Parties Order 2002
Political Parties Rules 2002
Election Commission Order 2002
Juvenile Justice System Ordinance 2000
Bonded Labour System (Abolition) Act 1992
Pakistan Prison Rules 1978
Probation of Offenders Ordinance 1960
Probation of Offenders Rules 1961



TEST YOUR KNOWLEDGE

1. The right to freedom of assembly and association is

- a) *An absolute right*
- b) *A limited right*
- c) *A qualified right*
- d) *A social right*

2. Article 11 of the ICCPR deals with?

- a) *Assembly and Association*
- b) *Freedom of Expression*
- c) *Right to Vote*
- d) *Right to life*

3. Freedom of association guarantee

- a) *The rights of persons to come together and form an association which includes spending time in others' company*
- b) *All professional associations fall under article 11(1)*
- c) *The rights of persons to come together and form an association. It also includes the right not to be part of an association and not to be penalised for not joining.*
- d) *The rights of persons to come together and form an association. It does not include the right not to be part of an association*

4. Which one of the following is not included in the protection of trade unions under article 11(1)?

- a. *The absolute right to strike*

- b. *The right to form a trade union and join a trade union of one's choice*
- c. *The right not to join a trade union*
- d. *The freedom to choose its own members*

5. Article 3 of the ICCPR provides the equal Rights of Men and Women, Which Article of Pakistani constitution guarantees equality of citizens?

- a. *Article 30*
- b. *Article 199*
- c. *Article 25*
- d. *Article 18*

Answer Key: 1(c),2(a), 3(c),4(a),5(c)

5.3 Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

5.3.1 Overview

CEDAW requires countries to eliminate discrimination against women in the public as well as the private sphere, including in the family, and recognises that traditional gender roles and stereotypes must be eliminated in order to end all forms of discrimination against women and girls. CEDAW seeks to achieve 'substantive equality' or 'equality of results,' which stresses that there should be equal access, equal opportunities, and equal results for women and girls. It entails that countries are obligated to take all necessary actions that may be required to make sure women and girls actually experience equality in their lives. The Convention is structured in six parts with 30 articles total. Following illustration explains the structure of the treaty.¹⁴

¹⁴ <https://www.un.org/womenwatch/daw/cedaw/>



The overarching purpose of the CEDAW is the eradication of any such concurrent traditional practices or laws in a State that discriminate against women based on their sex, and to provide them a manifesto of equal opportunities and rights through domestic enforcement of their inherent rights.

Table 11: Summary of CEDAW Provisions

| Article | Rights Guaranteed |
|-----------|---|
| Article 1 | Definition of discrimination |
| Article 2 | Policy measures (duty of States Parties to eliminate discriminatory laws, policies and practices in the national legal framework) |
| Article 3 | Guarantee of basic human rights and fundamental freedoms |
| Article 4 | Special measures (temporary special measures to enhance equality of women) |
| Article 5 | Sex role stereotyping and prejudice (modification or elimination of practices based on assumptions of the inferiority of women) |
| Article 6 | Prostitution and trafficking |
| Article 7 | Political and public life |

| | |
|----------------|---|
| Article 8 | Representation |
| Article 9 | Nationality |
| Article 10 | Education |
| Article 11 | Employment |
| Article 12 | Health |
| Article 13 | Economic and social benefits |
| Article 14 | Rural women |
| Article 15 | Equality of men and women before the law |
| Article 16 | Marriage and family life |
| Article 17 | Provision on the Committee on the Elimination of Discrimination against Women |
| Article 18 | National reports |
| Article 19 | Rules of procedure |
| Article 20 | Committee meetings |
| Article 21 | Committee reports |
| Article 22 | Role of specialised agencies |
| Article 23 | Effect on other treaties |
| Article 24 | Commitment of States Parties |
| Articles 25-30 | Administration of the Convention |

5.3.2 Constitutional Provisions and CEDAW

The Constitution of Pakistan safeguards equality of all citizens in Article 25 and provides protection against discrimination through non-discrimination guarantees contained in Articles 26 and 27. These provisions, along with others relevant to the rights enlisted within the CEDAW, are reproduced below table 12.¹⁵

Table 12: Provisions of the Constitutions of Pakistan that are relevant to CEDAW

| Article | Right Guaranteed |
|-------------|---|
| Article 25 | Equality of citizens. |
| Article 25A | Right to Education |
| Article 26 | Non-discrimination in respect of access to public places. |
| Article 27 | Safeguard against discrimination in services. |
| Article 32 | Promotion of Local Government Institutions |
| Article 34 | Full participation of women in national life: |

¹⁵ The Constitution of Pakistan

| | |
|------------|---|
| Article 35 | Protection of family, etc.: |
| Article 37 | Promotion of social justice and eradication of social evils |

It is pertinent to note that criminal, civil and family laws in Pakistan safeguard the rights enlisted within the CEDAW more so than the Constitution as the latter, merely providing a principle, does not delve into the details of the protection.

5.3.3 Reflection of rights protected under CEDAW within Pakistani law

Table 13 provides an overview of the legislative instruments that have been adopted in Pakistan in order to safeguard and mainstream the rights enshrined in the ICCPR.

| Table 13: Domestic Legislative Instruments that safeguard the rights enshrined in CEDAW |
|--|
| The Women in Distress and Detention Fund (Amendment) Act, 2018 (Act No. XIX of 2018) |
| Criminal Law (Amendment) (Offences in the name or pretext of Honour) Act, 2016 |
| Prevention of Electronic Crimes Act, 2016 |
| Criminal Law (Amendment) (Offense of Rape) Act 2016 |
| Punjab Protection of Women Against Violence Bill 2015 |
| Punjab Commission on the Status of Women Act 2014 |
| Sindh Domestic Violence (Prevention and Protection) Act 2013 |
| Reproductive Healthcare and Rights Act 2013 |
| National Commission on the Status of Women Act 2012 |
| Women in Distress and Detention Fund (Amendment) Act 2011 |
| Criminal Law (Second Amendment) Act 2011 |
| Criminal Law (Third Amendment) Act 2011 (on prevention of anti-women practices) |
| Acid Control and Acid Crime Prevention Act 2010 |
| Criminal Law (Amendment) Act 2010 (on sexual harassment) |
| Punjab Protection against Harassment of Women at the Workplace Act 2010 |
| The Domestic Violence Prevention and Protection Act 2009 |
| The Criminal Law Amendment Act 2009 |
| North-West Frontier Province Establishment of a Commission on the Status of Women Act 2009 |
| The Protection of Women (Criminal Laws) (Amendments) Act 2006 |
| The Criminal Law (Amendment) Act 2004 (on 'honour' crimes) |
| Family Courts Act 1964 |
| The Muslim Family Laws Ordinance 1961 |
| The West Pakistan Maternity Benefit Ordinance 1958 |
| The West Pakistan Maternity Benefit Rules 1961 |
| Mines Maternity Benefit Act 1941 |
| The Child Marriage Restraint Act 1929 |
| Civil Servants Rules |
| Balochistan Domestic Violence (Prevention and Protection) Act 2014 |

| |
|---|
| Punjab Fair Representation of Women Act 2014 |
| Balochistan Protection and Promotion of Breast-feeding and Child Nutrition Act 2014 |
| Criminal Law (Amendment) (Offense of Rape) Act 2016 |
| Criminal Law (Amendment) (Offences in the name or pretext of Honour) Act, 2016 |
| Prevention of Electronic Crimes Act, 2016 |
| Hindu Marriage Act, 2017 |
| The Elections Act 2017 |



TEST YOUR KNOWLEDGE ABOUT CEDAW

TRUE OR FALSE?

1. CEDAW provides for the equal responsibility of men and women in family life.
2. It requires State Parties to take measures to eliminate the exploitation of prostitution and trafficking in women
3. It requires the State to take measures to ensure women do not face discrimination in certain areas of private life.
4. Pakistani constitution does not ensure full participation of women in all spheres of national life.
5. CEDAW does not call for the introduction of temporary special measures to redress inequalities between men and women
6. Includes women's rights in such fields as: political participation, access to opportunities in public life, standards on nationality, equal access to education, training, health, and employment.
7. CEDAW does not pay attention to rural women and their involvement in the development process.

Answer Key:

1: (T); 2: (T); 3 (T); 4 (F); 5 (F), 6 (T); 7(F)

5.4 The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT)

5.4.1 Overview

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (UNCAT) is an international human rights treaty that aims to prevent torture and other acts of cruel, inhuman, or degrading treatment or

punishment around the world. The Convention requires States to take effective measures to prevent torture in any territory under their jurisdiction and forbids States to transport people to any country where there is reason to believe they will be tortured. Pakistan signed the treaty on 17 April 2008 and ratified it on 3 June 2010.¹⁶

For the purpose of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him, or a third person, information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in, or incidental to, lawful sanctions.¹⁷ The Convention is divided into three parts: following illustration explains the structure of the treaty.

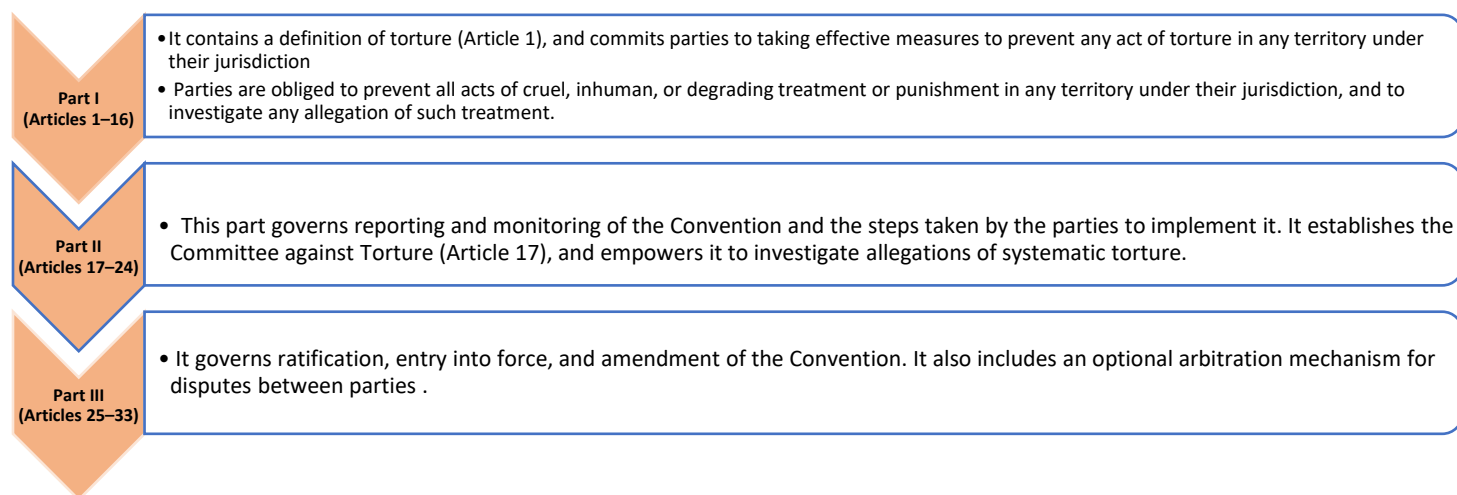


Table 14: Summary of CAT Provisions

| | |
|------------------|---|
| Article 1 | Definition of torture |
| Article 2 | State Party obligations (effective legislative, administrative, judicial or other measures) |
| Article 3 | Obligation of non-refoulement |
| Article 4 | Criminalization of all acts of torture |
| Article 5 | Establishing jurisdiction over torture-related offences |
| Article 6 | Taking custody and making preliminary inquiry into facts |
| Article 7 | Submission of case of torture for prosecution |
| Article 8 | Extradition |

¹⁶ Convention against Torture - OHCHR

¹⁷ Ronli Sifris : Reproductive Freedom, Torture, and International Human Rights: Challenging the Masculinization of Torture (Routledge Press)

| | |
|-----------------------|--|
| Article 9 | Supply of evidence and mutual judicial assistance |
| Article 10 | Training of law enforcement personnel, civil or military, medical personnel, public officials and other persons involved in custody, interrogation or treatment of anyone subjected to any form of arrest, detention or imprisonment |
| Article 11 | Obligation of State Party to systematically review interrogation rules, instructions, methods and practices |
| Article 12 | Prompt and impartial investigation in cases where there is reasonable ground to believe that an act of torture has been committed |
| Article 13 | Right to complain and have case heard promptly and impartially examined (protection of complainants and witnesses) |
| Article 14 | Right to obtain redress and receive adequate compensation |
| Article 15 | Evidence gathered through torture to be inadmissible |
| Article 16 | Acts of cruel, inhuman or degrading treatment or punishment by public officials to be prevented |
| Articles 17-24 | Provisions on the Committee against Torture, election to the Committee, States Parties reports, cooperation between States Parties and the Committee, inter-state complaints procedure, individual communications procedure, ad hoc conciliation commissions, annual reports of the Committee. |
| Articles 25-33 | Provisions on ratification and accession, amendments, inter-state disputes, denunciation and languages in which the text of the Convention is authentic. |

5.4.2 Constitutional Provisions and CAT

The following table outlines the protections afforded to CAT-guaranteed rights within the Constitution of Pakistan.

| Table 15: Provisions of the Constitutions of Pakistan that are relevant to CAT | |
|--|---|
| Article 4: | The right of individuals to be dealt with in accordance with the law. |
| Article 9: | Security of Person. |
| Article 10: | Safeguards as to arrest and detention |
| Article 10A: | Right to a fair trial. |
| Article 14: | Inviolability of the dignity of man. The dignity of man and, subject to law, the privacy of home, shall be inviolable |
| Article 199: | Jurisdiction of the High Court (Habeas Corpus) |

5.4.3 Reflection of rights protected under CAT within Pakistani law

Table 16 provides an overview of the legislative instruments that have been adopted in Pakistan in order to safeguard and mainstream the rights enshrined in CAT.

Table 16: Domestic Legislative Instruments that safeguard the rights enshrined in CAT

- **Criminal Procedure Code, 1898**
 - Section 491: Power to issue directions of the nature of habeas corpus
 - Section 202(1): Postponement of issue of process
 - Section 103: Search to be made in the presence of a witness.

- **Qanoon-e-Shahadat Order, 1984**
 - Article 38: Confession before a police officer shall not be admissible (No confession made to a police officer shall be proved as against a person accused of any offence)
 - Article 39: A confession by the accused while in the custody of the police is not to be proved against him. Subject to article 40, no confession made by any person.

- **Police Order 2002:**
 - Article 35: “Responsibility on complaints of neglect and excess by police”.
 - Article 156(d): “Punishment for vexatious entry, search, arrest, seizure of property, torture, etc.
See High Court Rules and Orders: Vol III, Chap 11-B, para 12: Rights of Accused to access to counsel and friends

- **The Prisons Act 1894**
- **Prison Rules 1978**
- **Punjab Employees Efficiency, Discipline and Accountability Act 2006**
- **Abolition of the Punishment of Whipping Act 1996**
- **Police Order 2002:**
 - Article 35
 - Article 114(1)(c)
 - Article 114(2)
 - Article 156(d)¹⁸



CASE STUDY

Mr. Rehan is stopped and searched on arrival from the US at Lahore Airport by security personnel. On opening his suitcase, police discover the following objects: water gun, strange-smelling white baby powder and eight cartons of cigarettes. Mr. Rehan explains to the police personnel that the toy gun is a gift for his

¹⁸ RSIL, Pakistan’s International Human Rights Obligations: Training Module for Capacity Building (2019)

16-year old nephew, the powder is medication for which he cannot produce a prescription and the cartons of cigarettes are not for sale but for personal consumption.

After detaining him for over an hour, police personnel decide to strip search Mr. Rehan. On discovering the various tattoos on his body, some in Arabic and others in Hebrew, police become suspicious of Mr. Rehan and decide to question him again. While questioning him, police threaten Mr. Rehan with torture and violence.

After holding him in detention for over two hours, police discover that Mr. Rehan's name is on a no-fly list. To try and extract a confession from Mr. Rehan, security personnel remove him from the airport and take him to a nearby police station where he is not allowed to make any phone calls and immediately placed in a dark cubicle. During the two hours that Mr. Rehan is kept in the cubicle, police constantly drastically increase and decrease the temperature. This too, however, results in no confession.

After contacting the US police, it is discovered that Mr. Rehan had been convicted in absentia in the US for plotting to carry out a terrorist bombing. After the involvement of intelligence agencies on both sides, Pakistan decides to return Mr. Rehan to the US. Mr. Rehan is finally allowed to call a lawyer. His lawyer argues that Mr. Rehan was convicted in absentia due to a confession obtained by torture and therefore, returning him to US would be a violation of Pakistan's commitments under the CAT.

Identify the relevant CAT-guaranteed rights that have been violated in this situation.

Key: The following provisions of the CAT should be discussed:

- *Article 1 (definition of torture – Mr. Rehan situation clearly falls within the definition).*
- *Article 2(2) (torture is prohibited even in exceptional situations).*
- *Article 3 (obligation not to return a person 'where there are substantial grounds for believing that he would be in danger of being subjected to torture').*
- *Article 4 (States Parties to ensure that all acts of torture are offences under its criminal law).*
- *Article 6 (obligation of States to make inquiry into the facts).*
- *Article 7 (submission of case to domestic prosecution rather than extradition).*
- *Article 11 (systematic review of arrangements for custody, etc.).*
- *Article 12 (prompt and impartial investigation).*
- *Article 13 (right to complain; case to be promptly and impartially examined).*
- *Article 14 (redress for victims; enforceable right to fair and adequate compensation; full rehabilitation; dependents entitled to compensation).*
- *Article 15 (statements made as a result of torture cannot be invoked as evidence in any proceedings).*
- *Article 16 (prevention of cruel, inhuman or degrading treatment or punishment that does not amount to torture).*

5.5 The Convention on The Rights of The Child (CRC)

5.5.1 Overview

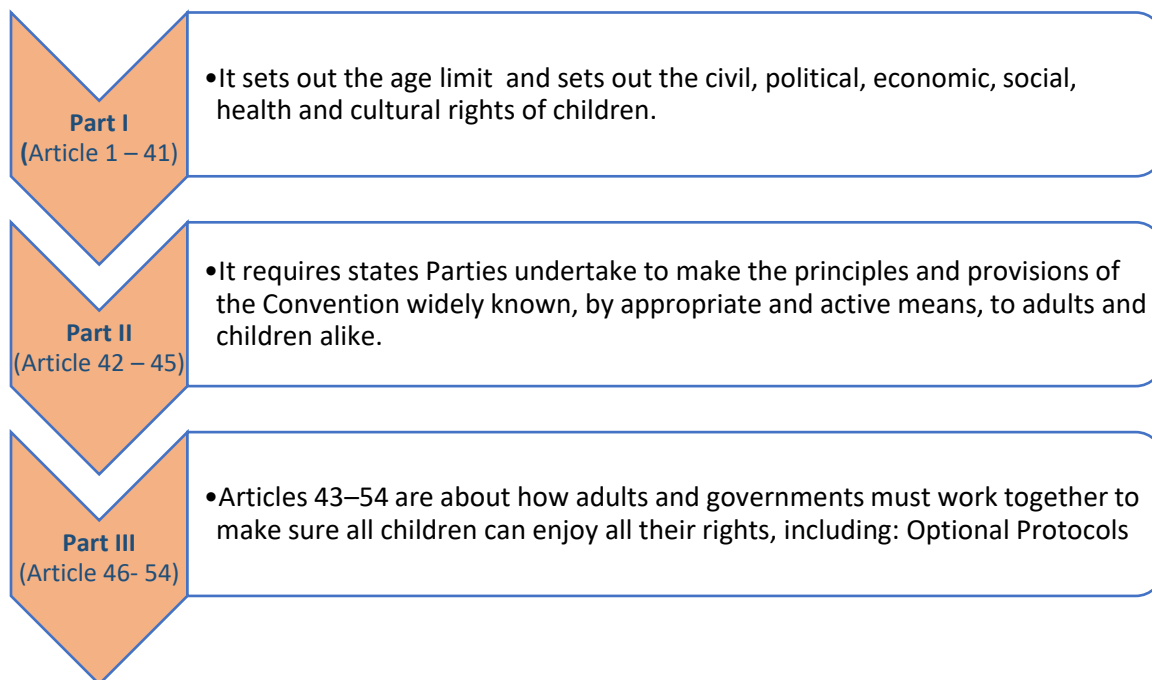
The Convention on the Rights of the Child (CRC) sets out the civil, political, economic, social, health and cultural

rights of children under 18 years of age. The rights enshrined in the Convention are intended to enable children to develop their personality and abilities to their fullest potential and take into account their need for protection.

The Convention guarantees a child's right to...

- be heard and to participate.
- protection of his or her welfare.
- an identity.
- life, survival and development.
- protection from abuse and exploitation.
- and includes a ban on any form of discrimination.

The Convention was adopted by the UN General Assembly on 20 November 1989. Two optional protocols were adopted on 25 May 2000. The First Optional Protocol restricts the involvement of children in military conflicts, and the Second Optional Protocol prohibits the sale of children, child prostitution and child pornography. Both protocols have been ratified by more than 170 states. The Convention consists of a preamble and 54 articles divided into three parts. Following illustration explains the structure of the treaty:



There are three agreements, called Optional Protocols, that strengthen the Convention and add further unique rights for children. They are optional because governments that ratify the Convention can decide whether or not to sign up to these Optional Protocols. They are the Optional Protocol on the sale of children, child prostitution and child pornography, the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on a complaints mechanism for children (called Communications Procedure). Pakistan is party to the first two protocols.

Table 17: Summary of CRC Provisions

| | |
|------------|--|
| Article 1 | Definition of the child |
| Article 2 | Non-discrimination |
| Article 3 | Best interests of the child (the best interests of the child must be the primary consideration while taking decisions that affect the child) |
| Article 4 | Protection of rights (through all available measures) |
| Article 5 | Parental guidance |
| Article 6 | Survival and development |
| Article 7 | Registration, name, nationality and care |
| Article 8 | Preservation of identity |
| Article 9 | Separation from parents |
| Article 10 | Family reunification |
| Article 11 | Kidnapping |
| Article 12 | Respect for the views of the child |
| Article 13 | Freedom of expression |
| Article 14 | Freedom of thought, conscience and religion |
| Article 15 | Freedom of association |
| Article 16 | Right to privacy |
| Article 17 | Access to information, mass media |
| Article 18 | Parental responsibilities, state assistance |
| Article 19 | Protection from all forms of violence |
| Article 20 | Children deprived of family environment |
| Article 21 | Adoption |
| Article 22 | Refugee children |
| Article 23 | Children with disabilities |
| Article 24 | Health and health services |
| Article 25 | Review of treatment in care |
| Article 26 | Social security |
| Article 27 | Adequate standard of living |
| Article 28 | Right to education |
| Article 29 | Goals of education |
| Article 30 | Children of minorities/indigenous groups |
| Article 31 | Leisure, play and culture |
| Article 32 | Child labour |
| Article 33 | Drug abuse |
| Article 34 | Sexual exploitation |

| | |
|----------------|---|
| Article 35 | Abduction, sale and trafficking |
| Article 36 | Other forms of exploitation |
| Article 37 | Detention and punishment |
| Article 38 | War and armed conflicts |
| Article 39 | Rehabilitation of child victims |
| Article 40 | Juvenile justice |
| Article 41 | Respect for superior national standards |
| Article 42 | Knowledge of rights |
| Articles 43-54 | Implementation measures |

5.5.2 [Constitutional Provisions and CRC](#)

The Constitution of Pakistan broadly safeguards some of the rights enshrined in CRC under the following provisions:

- Article 25-A: *Right to Education*
- Article 35: *Protection of family etc.*

5.5.3 [Reflection of rights protected under CRC within Pakistani law](#)

In order to provide a comprehensive overview of the domestic status of rights guaranteed in the CRC, participants should be briefly introduced to some of the following legislative instruments, provided below in Table 19, which provide similar protections as afforded under the CRC.

| Table 18: Domestic Legislative Instruments that safeguard the rights enshrined in CRC |
|--|
| The Zainab Alert, Response and Recovery Act, 2019 |
| Punjab Domestic Workers Act 2019 |
| The National Commission on the Child Rights Act 2017, Criminal Law (Amendment Bill) 2015 (providing for protection of children) |
| The Sindh Child Protection Authority Act 2011 |
| The Child Protection and Welfare Act (CPWA) 2010 |
| The Protection of Children Act 2006 |
| The Punjab Destitute and Neglected Children Act 2004 |
| Protection of Breastfeeding and Child Nutrition Ordinance 2002 |
| Federally Administered Areas Compulsory Primary Education Ordinance 2000 |
| Juvenile Justice System Ordinance 2000 |
| NWFP Compulsory Primary Education Act 1996 |
| Punjab Primary Compulsory Education Act 1994 |
| The Employment of Children Rules 1995 |

| |
|---|
| Bonded Labour System (Abolition) Act 1992 |
| Employment of Children Act 1991 (as amended in 2011) |
| Punjab Youthful Offenders Ordinance 1983 (as amended in 2001) |
| Sindh Children Act 1955 |
| Children (Pledging of Labour) Act 1933 |
| Child Marriage Restraint Act 1929 |
| Child Marriage Restraint Act 1929 |
| Birth, Marriage and Death Registration Act 1886 |
| Guardians and Wards Act 1890 |



TEST YOUR KNOWLEDGE ON CRC

1. What does the UNCRC stand for?

- a) United Nations Convention on the Rights of Children
- b) United Nations Congress on the Rights of the Child
- c) United Nations Convention on the Rights of the Child
- d) United Nations Convention on the Rights of all Children

2. What age range does the UNCRC cover?

- a) 0-16
- b) 3-25
- c) 0-18
- d) 3-18

3. Which of these is not a right under the UNCRC?

- a) A right to be safe
- b) A right to have your say and be listened to
- c) A right to food and water
- d) A right to join the army even if you are under 15

4. Which is the only nation not to have signed up to the UNCRC?

- a) Somalia
- b) Eritrea
- c) USA
- d) France

5. How many articles are in the UNCRC?

- a) 54
- b) 44
- c) 42
- d) 34

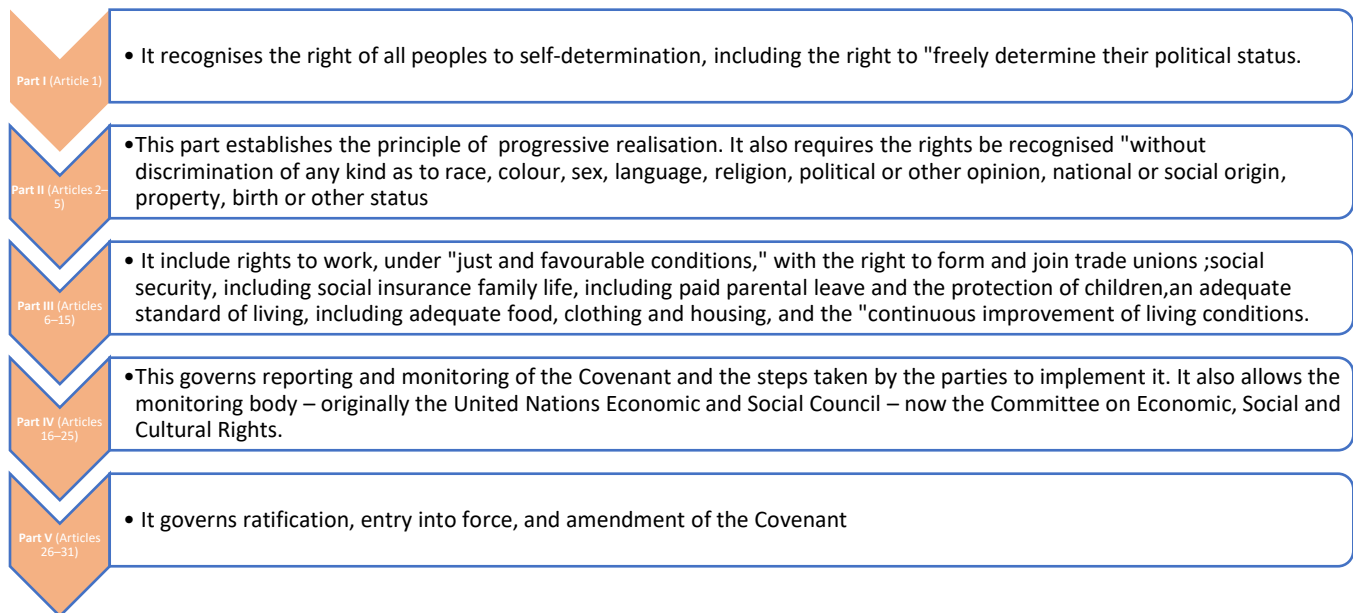
Key: (c), (c), (d), (c), (a).

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

5.6.1 Overview

The International Covenant on Economic, Social and Cultural Rights covers human rights in the economic, social and cultural spheres. The International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees economic, social and cultural human rights. Together with the International Covenant on Civil and Political Rights (ICCPR), it enacts in a binding framework the rights set forth in the Universal Declaration of Human Rights in 1948. The ICESCR includes inter alia the following human rights:

- **Economic:** Right to work, just and favourable conditions, right to strike, protection of property.
- **Social:** Right to social security, right of families, mothers (before and after childbirth) and children to special protection and assistance, right to an adequate standard of living, right to health.
- **Cultural:** Right to education and right to take part in cultural life. The ICESCR obliges State Parties to undertake steps using the maximum of their available resources and by all appropriate means to realise economic, social and cultural human rights (principle of progressive realisation). The Covenant follows the structure of the UDHR and the ICCPR, with a preamble and thirty-one articles, divided into five parts. Following illustration explains the structure of the treaty.¹⁹



¹⁹ ESCR Resource Pack - Section 5: Background Information on the ICESCR

Table 19: Summary of ICESCR Provisions

| | |
|-----------------------|--|
| Article 1 | Self-determination |
| Article 2 | State Party obligations (to take steps, in accordance with the maximum of available resources, to progressively realise the rights in the Treaty. guarantee of the rights enlisted without any sort of discrimination) |
| Article 3 | Equal right of men and women to enjoyment of social, economic and cultural Rights |
| Article 4 | Limitation provision (limitations only permissible where they are compatible with the nature of the right and solely for the purpose of promoting public good in a democratic society) |
| Article 5 | Restriction and derogation provisions (no one is permitted to destroy any of the rights enlisted therein) |
| Article 6 | Right to work |
| Article 7 | Right to enjoyment of just and favourable conditions of work |
| Article 8 | Right to form and join trade unions |
| Article 9 | Right to social security |
| Article 10 | Protection and assistance to be accorded to the family (special protection and assistance for mothers and children) |
| Article 11 | Right to adequate standard of living (food, clothing, housing and continuous improvement of living conditions) |
| Article 12 | Right to enjoy highest attainable standard of physical and mental health |
| Article 13 | Right to education |
| Article 14 | Compulsory and free primary education |
| Article 15 | Right to take part in cultural life, enjoy benefits of scientific progress and artistic production |
| Articles 16-17 | State Party reports |
| Articles 18-19 | Arrangements and reports by the Economic and Social Council |
| Article 20 | State Party comments to general recommendations or otherwise |
| Article 21 | Submission of reports to the General Assembly the Economic and Social Council |
| Articles 22-25 | Provisions on technical assistance and holding of regional and technical Meetings |

| | |
|-----------------------|--|
| Articles 26-31 | Provisions on ratification, instruments of accession, application of Convention to all units of a Federation, amendments and languages in which texts of the Convention are authentic. ²⁰ |
|-----------------------|--|

| Table 20: Provisions of the Constitutions of Pakistan that are relevant to CAT | |
|---|--|
| Article 25: Equality of citizens | |
| Article 27: Safeguard against discrimination in services. | |
| Article 25: Equality of citizens | |
| Article 38: Promotion of social and economic well-being of the people. | |
| Article 35: Protection of family, etc. | |
| Article 37: Promotion of social justice and eradication of social evils. | |
| Article 38: Promotion of social and economic well-being of the people. | |
| Article 37: Promotion of social justice and eradication of social evils. | |
| Article 25A: Right to education. | |
| Article 37: Promotion of social justice and eradication of social evils. | |
| Article 28: Preservation of language, script and culture. Subject to Article 251 | |

5.6.2 Constitutional Provisions and the ICESCR

The following table outlines the protections afforded to ICESCR-guaranteed rights within the Constitution of Pakistan.

²⁰ International Covenant on Economic, Social and Cultural Rights

5.6.3 Reflection of rights protected under ICESCR within Pakistani Law

In order to provide a comprehensive overview of the domestic status of rights guaranteed in the ICESCR, participants should be briefly introduced to some of the following legislative instruments, provided below in Table 21, which provide similar protections as afforded under the ICESCR.

Table 21: Domestic Legislative Instruments that safeguard the rights enshrined in CRC

Islamabad Mandatory Vaccination and Protection of Health Workers Bill 2015

Sindh Injured Persons (Medical Aid) Act 2014

Sindh Healthcare Commission Act 2014

Sindh Epidemic Diseases Act 2014

Sindh Eye Surgery (Restriction) Act 2014

Sindh Right of Children to Free and Compulsory Education Act 2013

Reproductive Healthcare and Rights Act 2013

Balochistan Compulsory Education Act 2014

Right to Free and Compulsory Education Act 2012

Punjab Healthcare Commission Act 2010

Sacked Employees (Re-instatement) Act 2010

Social Security Bill 2010

Punjab Employees Efficiency, Discipline and Accountability Act 2006

NWFP Compulsory Primary Education Act 1996

Punjab Compulsory Primary Education Act 1994



TEST YOUR KNOWLEDGE - CASE STUDY

Ms. Sana and Mr. Usama work in a renowned law firm in Karachi, "Pearsons Hardman", with identical contracts of employment. Although Ms. Sana and Mr. Usama have been working at Pearsons Hardman for the same duration, the firm decides to promote Mr. Usama owing to "the large number of male clientele that maintains a comfortable working relationship with Mr. Usama." The promotion entitles Mr. Usama to a pay rise even though the workload remains shared between himself and Ms. Sana.

Mr. Usama is put in charge of two major projects the firm has just secured, for which he requires Ms. Sana to prepare extensive reports. Once the reports have been prepared and submitted, Ms. Sana discovers that her name was entirely omitted from the files, having been replaced with Mr. Usama's. On registering her complaint with the Pearsons Hardman's HR Department, Ms. Sana hopes the error will be rectified. Instead, three days later, Ms. Sana is requested to resign due to her "inability to work, in a team, with others." Identify the ICESCR rights invoked in this situation.

Key: The following key provisions of the ICESCR relevant to this situation must be discussed:

- *Article 2*
- *Article 3*
- *Article 6*
- *Article 7*
- *Article 15*

5.7 The Convention on the Rights of Persons with Disabilities (CRPD)

5.7.1 Overview

The Convention on the Rights of Persons with Disabilities (CRPD) ensures that persons with disabilities enjoy all human rights and participate in public, economic and social life. It does not contain any special rights but defines universal human rights from the perspective of persons with disabilities. The aim is to promote equal opportunities for persons with disabilities and to prevent discrimination against them in society. Parties to the Convention are required to promote, protect, and ensure the full enjoyment of human rights by people with disabilities and ensure that they enjoy full equality under the law.²¹ The Convention guarantees persons with disabilities inter alia the right to:



²¹ International Disability Alliance (IDA)

State Parties are obliged to create 'focal points' that supervise the implementation of their commitments under the Convention. They must also develop a national programme to implement and promote the Convention.²²

The Convention follows the civil law tradition, with a preamble, in which the principle that "*all human rights are universal, indivisible, interdependent and interrelated*," of the Vienna Declaration and Programme of Action is cited, followed by fifty articles. Unlike many UN covenants, the purpose of the CRPD is to protect, promote and ensure the full and equal enjoyment of all human rights and freedoms by all persons with disabilities. The Convention includes, in persons with disabilities, those with long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may obstruct their full and effective participation and engagement in society on an equal basis with others. Moreover, the Convention makes specific references to women with disabilities and children with disabilities. Following illustration explains the structure of the treaty.²³

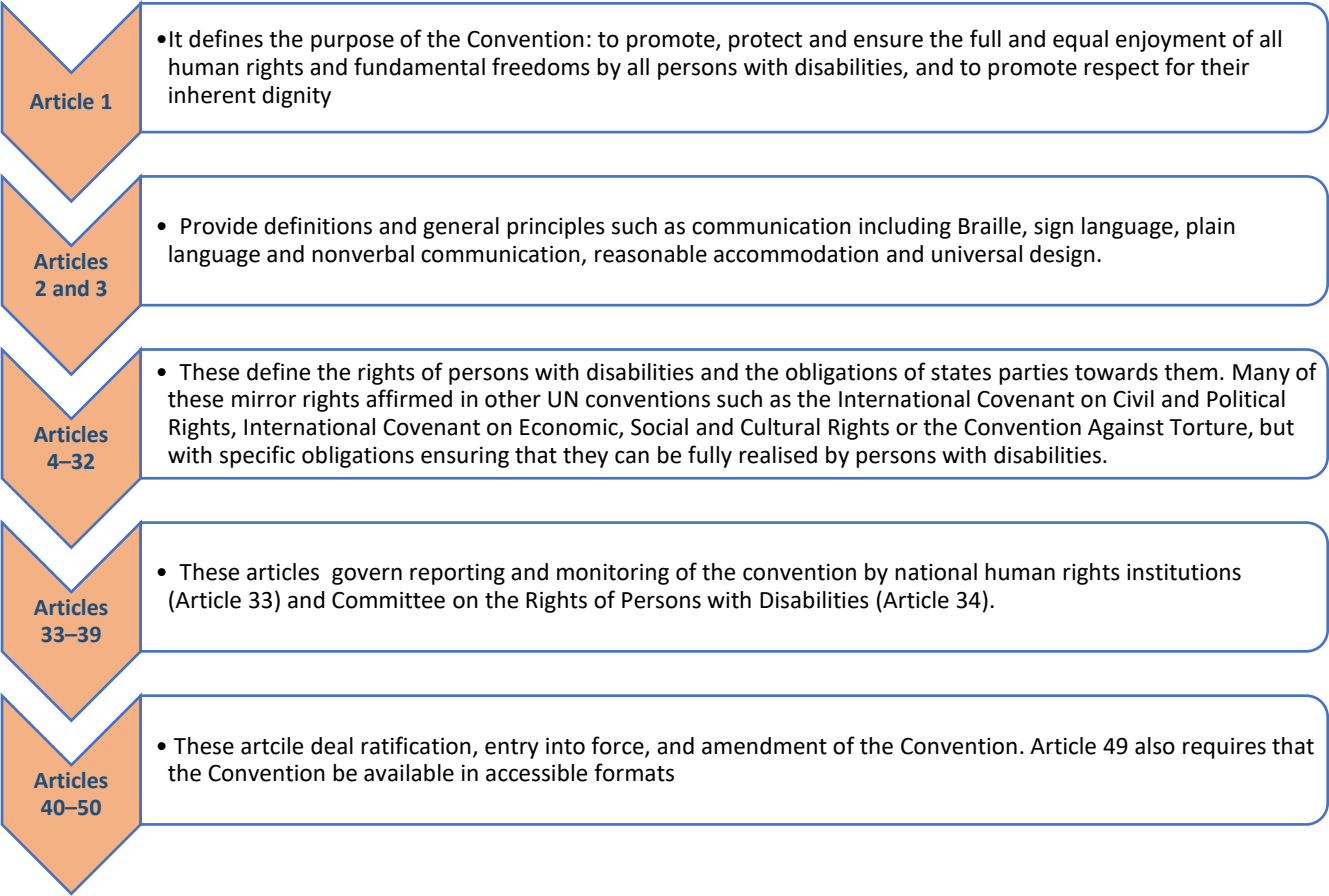


Table 22: Summary of CRPD Provisions

| | |
|------------------|--|
| Article 1 | Purpose of Convention (promoting, protecting and ensuring enjoyment of all rights and freedoms by persons with disabilities) |
|------------------|--|

²² The Convention on the Rights of Persons with Disabilities

²³ DEVCO, Training on the Inclusion of Persons with Disabilities in EU Development Cooperation

| | |
|-----------------------|---|
| Article 2 | Definitions of key terms (including communication, language, discrimination on the basis of disability, reasonable accommodation and universal design) |
| Article 3 | General principles (respect for dignity, non-discrimination, participation and inclusion, respect for difference, equality of opportunity, accessibility, equality between men and women, respect for children) |
| Article 4 | General obligations (to take all measures to promote full realization of all human rights and fundamental freedoms for persons with disabilities) |
| Article 5 | Equality and non-discrimination |
| Article 6 | Women with disabilities |
| Article 7 | Children with disabilities |
| Article 8 | Awareness-raising |
| Article 9 | Accessibility |
| Article 10 | Right to life |
| Article 11 | Situations of risk and humanitarian emergencies |
| Article 12 | Equal recognition before the law |
| Article 13 | Access to justice |
| Article 14 | Liberty and security of person |
| Article 15 | Freedom from torture or cruel, inhuman or degrading treatment or Punishment |
| Article 16 | Freedom from exploitation, violence and abuse |
| Article 17 | Protecting the integrity of the person |
| Article 18 | Liberty of movement and nationality |
| Article 19 | Living independently and being included in the community |
| Article 20 | Personal mobility |
| Article 21 | Freedom of expression and opinion, and access to information |
| Article 22 | Respect for privacy |
| Article 23 | Respect for home and the family |
| Article 24 | Education |
| Article 25 | Health |
| Article 26 | Habitation and rehabilitation |
| Article 27 | Work and employment |
| Article 28 | Adequate standard of living and social protection |
| Article 29 | Participation in political and public life |
| Article 30 | Participation in cultural life, recreation, leisure and sport |
| Article 31 | Statistics and data collection |
| Articles 32-50 | These provisions explain the responsibility of States Parties with regard to reports and how to effectively implement and monitor the Convention. |

5.7.2 Reflection of rights protected under CRPD in Pakistani law

In order to provide a comprehensive overview of the domestic status of rights guaranteed in the CRPD, participants should be briefly introduced to some of the following legislative instruments, provided below in Table 23, which provide similar protections as afforded under the CRPD.

| Table 23: Domestic legislative instruments that safeguard the rights enshrined within CRPD |
|---|
| Punjab Disabled Persons (Employment and Rehabilitation) (Amendment) Act 2015 |
| Disabled Persons Employment and Rehabilitation (Amendment) Act 2012 |
| Mental Health Ordinance 2001 |
| Special Citizens (Right to Concessions in Movement) Act 2009 |
| Special Citizens Act 2008 |
| Disabled Persons (Employment and Rehabilitation) Ordinance 1981 |



TEST YOUR KNOWLEDGE

TRUE OR FALSE?

1. Purpose of Convention is to promote, protect and ensure enjoyment of all rights and freedoms by persons with disabilities.
- 2) General principles such as respect for dignity, non-discrimination, participation and inclusion, respect for difference, equality of opportunity, accessibility do not apply on the articles under this convention.
- 3) The Convention guarantees persons with disabilities inter alia the right to participate in public and cultural life.
- 4) Pakistan ratified CRPD in 2011.

Key: T, F, T, T

6 SUSTAINABLE DEVELOPMENT GOALS (SDGs) AND HUMAN RIGHTS

The Sustainable Development Goals (SDGs), also known as the Global Goals, were adopted by all United Nations Member States in 2015 as a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity by 2030. The 17 SDGs are integrated—that is, they recognise that action in one area will affect outcomes in others, and that development must balance social, economic, and environmental sustainability.

Through the pledge to Leave No One Behind, countries have committed to fast-track progress for those furthest behind first. That is why the SDGs are designed to bring the world to several life-changing ‘zeros,’ including zero poverty, hunger, AIDS and discrimination against women and girls. Everyone is needed to reach these ambitious targets. The creativity, knowhow, technology and financial resources from all of society is necessary to achieve the SDGs in every context.

Human rights lie at the core of the 2030 Agenda. The Agenda envisages a world of universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination; of respect for race, sex, ethnicity and cultural diversity; and of equal opportunity permitting the full realisation of human potential and contributing to shared prosperity; a just, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met. Without the support of the international human rights system, and without the strengthened enjoyment of human rights on the ground, it will not be possible to fulfil the promise of the SDGs to ‘Leave No One Behind.’

Many of the goals and targets correspond to essential dimensions of States’ human rights commitments, as outlined in international human rights treaties, such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC), as well as other international and regional instruments and documents relating to human rights.²⁴

The following table outlines the SDGs along with the human rights related to them²⁵.

²⁴ From Millennium Development Goals to Sustainable Development Goals | Jeffrey D Sachs.

²⁵ UN | Sustainable Development Goals

Table 24: SDGs and their linkage to human rights

| SDGs | Related Human Rights |
|---|--|
| End poverty in all its forms everywhere | Right to an adequate standard of living [UDHR art. 25; ICESCR art. 11; CRC art. 27] Right to social security [UDHR art. 22; ICESCR art. 9; CRPD art. 28; CRC art. 26] Equal rights of women in economic life [CEDAW arts. 11, 13, 14(2)(g), 15(2), 16(1)] |
| End hunger, achieve food security and improved nutrition, and promote sustainable agriculture | Right to adequate food [UDHR art. 25; ICESCR art. 11; CRC art. 24(2)(c)] International cooperation, including ensuring equitable distribution of world food supplies [UDHR art. 28; ICESCR arts. 2(1), 11(2)] |
| Ensure healthy lives and promote well – being for all at all ages | Right to life [UDHR art. 3; ICCPR art. 6], particularly of women [CEDAW art.12] and children [CRC art. 6] Right to health [UDHR art. 25; ICESCR art. 12], particularly of women [CEDAW art. 12]; and children [CRC art.24] Special protection for mothers and children [ICESCR art.10] Right to enjoy the benefits of scientific progress and its application [UDHR art. 27; ICESCR art. 15(1)(b)] International cooperation [UDHR art. 28, DRtD arts. 3-4], particularly in relation to the right to health and children’s rights [ICESCR art. 2(1); CRC art. 4] |
| Ensure inclusive and equitable quality education and promote life-long learning opportunities for all | Right to education [UDHR art. 26; ICESCR art. 13], particularly in relation to children [CRC arts. 28, 29]; persons with disabilities [CRC art. 23(3), CRPD art. 24]; and indigenous peoples [UNDRIP art. 14] Equal rights of women and girls in the field of education [CEDAW art. 10] Right to work, including technical and vocational training [ICESCR art. 6] international cooperation [UDHR art. 28; DRtD arts. 3-4], particularly in relation to children [CRC arts. 23(4),28(3)], persons with disabilities [CRPD art. 32], and indigenous peoples [UNDRIP art.39] |
| Achieve gender equality and empower all women and girls | Elimination of all forms of discrimination against women [CEDAW arts. 1-5] and girls [CRC art. 2], particularly in legislation, political and public life (art. 7), economic and social life (arts. 11, 13), and family relations (art.16)] Right to decide the number and spacing of children [CEDAW arts. 12, 16(1)(e); CRC art. 24(2)(f)] Special protection for mothers and children [ICESCR art. 10] Elimination of violence against women and girls [CEDAW arts. 1- 6; DEVAW arts. 1-4; CRC arts. 24(3), 35] Right to just and favourable conditions of work [ICESCR art. 7; CEDAW art. 11] |
| Ensure availability and sustainable | Right to safe drinking water and sanitation [ICESCR art. 11] Right to health [UDHR art. 25; ICESCR art. 12] Equal access to water and sanitation for rural women [CEDAW art. 14(2)(h)] |

| | |
|--|---|
| management of water and sanitation for all | |
| Ensure access to affordable, reliable, sustainable and modern energy for all | Right to an adequate standard of living [UDHR art. 25; ICESCR art. 11] Right to enjoy the benefits of scientific progress and its application [UDHR art. 27; ICESCR art. 15(1)(b)] |
| Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all | Right to work and to just and favourable conditions of work [UDHR art. 23; ICESCR arts. 6, 7, 10; CRPD art. 27; ILO Core Labour Conventions and ILO Declaration on Fundamental Principles and Rights at Work] Prohibition of slavery, forced labour, and trafficking of persons [UDHR art. 4; ICCPR art. 8; CEDAW art. 6; CRC arts. 34-36] Equal rights of women in relation to employment [CEDAW art. 11; ILO Conventions No. 100 and No. 111] Prohibition of child labour [CRC art. 32; ILO Convention No. 182] Equal labour rights of migrant workers [CMW art. 25] |
| Build resilient infrastructure, promote inclusive and sustainable industrialisation and foster innovation. | Right to enjoy the benefits of scientific progress and its application [UDHR art. 27; ICESCR art. 15(1)(b)] Right to access to information [UDHR art. 19; ICCPR art. 19(2)] Right to adequate housing, including land and resources [UDHR art. 25; ICESCR art. 11] Equal rights of women to financial credit and rural infrastructure [CEDAW art. 13(b), art. 14(2)] |
| Reduce inequality within and among countries | Right to equality and non-discrimination [UDHR art. 2; ICESCR art. 2(2); ICCPR arts. 2(1), 26; CERD art. 2(2); CEDAW art. 2; CRC art. 2; CRPD art. 5; CMW art. 7; DRtD art. 8(1)] Right to participate in public affairs [UDHR art. 21; ICCPR art. 25; CEDAW art. 7; ICERD art. 5; CRPD art. 29; DRtD art. 8(2)] Right to social security [UDHR art. 22; ICESCR arts. 9-10; CRPD art. 28] Promotion of conditions for international migration [CMW art. 64] Right of migrants to transfer their earnings and savings [CMW art. 47(1)] |
| Make cities and human settlements inclusive, safe, resilient and sustainable | Right to adequate housing, including land and resources [UDHR art. 25; ICESCR art. 11] Right to participate in cultural life [UDHR art. 25; ICESCR art. 15; ICERD arts. 5, 7; CRPD art. 30; CRC art. 31] Accessibility of transportation, facilities and services particularly of persons with disabilities [CRPD art. 9(1)], children [CRC art. 23], and rural women [CEDAW art. 14(2)] Protection from natural disasters [CRPD art. 11] |
| Ensure sustainable consumption and production patterns | Right to health including the right to safe, clean, healthy and sustainable environment [UDHR art. 25(1); ICESCR art. 12] Right to adequate food and the right to safe drinking water [UDHR art. 25(1); ICESCR art. 11] Right of all peoples to freely dispose of their natural resources [ICCPR, ICESCR art. 1(2)] |



TEST YOUR KNOWLEDGE

TRUE OR FALSE?

- 1 One of the SDGs is to achieve gender equality and empower all women and girls.
- 2 The Sustainable Development Goals (SDGs), also known as the Global Goals.
- 3 In 2015 SDGs were adopted by all EU Member States.
- 4 Many of the goals and targets are outlined in core Human Rights Treaties.
- 5 Right to enjoy the benefits of scientific progress and its application is not SDGs.

KEY: T, T, F, T, F.