THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)

Human Rights law

Abstract

Following document provides an overview of International Covenant on Economic, Social and Cultural Rights (ICESCR) which is a subsequent document of Universal Declaration of Human Rights and primarily talks about promotion and implementation of Economic, Social and cultural rights of the people in the world. There is also a narration of its scope, background along with its key provisions.

A special focus is given on the implementation of its provisions in Pakistan and challenges which this state is facing during this process. Implementation and monitoring mechanism has also been narrated in this document to provide a comprehensive overview of relationship between ICESCR and Pakistan.

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Introduction

The ICESCR is an important global human rights agreement that was ratified by the UN General Assembly on December 16, 1966. The treaty became effective on January 3, 1976, and has been ratified by numerous countries globally. The ICESCR is a constituent of the International Bill of Human Rights, which also comprises the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The objective is to protect and promote economic, social, and cultural rights through recognition of the fundamental worth of every individual and the equal and non-transferable rights of all human beings.

The ICESCR acknowledges and safeguards various Economic, Social, and Cultural Rights (ESCRs) that are essential to the dignity and welfare of people. The mentioned rights include the entitlement to employment, satisfactory living conditions comprising food, clothes, as well as and shelter, access to education, healthcare, social welfare, cultural engagement, and the advantages of scientific advancements.

Economic, social, and cultural rights have gained worldwide recognition in recent years. Civil and political rights relate to political liberties and freedoms, whereas ESCR prioritize the social and economic essentials that allow individuals to lead a dignified life. The ICESCR recognizes the interdependence and indivisibility of rights and their vital function in ensuring the complete enjoyment of human rights. International human rights treaties, such as the Universal Declaration of Human Rights, the ICESCR, and the Convention on the Rights of the Child, have established the acknowledgement of economic, social, and cultural rights. Several nations have incorporated these rights into their respective constitutions and legislations. Although these rights are acknowledged, they are frequently not fully implemented, resulting in numerous individuals encountering substantial economic, social, and cultural challenges worldwide.

The global recognition of ESCR indicates and address issues such as poverty, inequality, discrimination, and access to essential services that are essential for the flourishing of individuals and communities. International and regional human rights mechanisms, such as the United Nations, have been instrumental in promoting and monitoring the implementation of economic, social, and cultural rights. The ICESCR provides a framework for states to create policies and programs that safeguard and achieve these rights. The provision establishes a foundation for

promoting, litigating, and enforcing human rights, thereby motivating nations to adopt measures that gradually achieve these rights to the fullest extent possible given their available resources.

The ICESCR is an important global human rights treaty that safeguards economic, social, and cultural rights. It is now understood that economic, social, and cultural rights are also important to the dignity and well-being of individuals and communities.

Background and Development of the ICESCR

The development of international human rights law can be linked to a broad spectrum of historical events and social movements. The atrocities that occurred during World War II, notably the Holocaust, instigated the global community to acknowledge the necessity of a comprehensive structure to safeguard human rights and avert such violations from happening again. The United Nations (UN) was founded in 1945, with one of its primary objectives being the advancement and safeguarding of human rights. The United Nations Charter explicitly acknowledges and upholds the inherent rights and worth of each person. The UN General Assembly adopted the Universal Declaration of Human Rights (UDHR) in 1948 as a non-binding document that outlines a comprehensive set of civil, political, economic, social, and cultural rights[1].

After the ratification of the Universal Declaration of Human Rights (UDHR), a number of legally binding agreements were formulated to provide additional clarity and formalize the norms and principles pertaining to human rights. The International Bill of Rights comprises the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The progression of international human rights law has been marked by the amplification of rights, the acknowledgement of novel classifications of rights, and the formation of systems for overseeing and ensuring adherence[2].

The International Covenant on Economic, Social and Cultural Rights (ICESCR) was ratified by the United Nations General Assembly on December 16, 1966. The outcome was a product of extensive deliberations and negotiations spanning several years among the member states. The International Covenant on Economic, Social and Cultural Rights (ICESCR), in conjunction with

[1] Brown, G. (2016). The Universal Declaration of Human Rights in the 21st century: A living document in a changing world (p. 146). Open Book Publishers.
[2] Council of Europe Portal. International Covenant on Economic, Social and Cultural Rights. Retrieved from https://www.coe.int/en/web/compass/international-covenant-on-economic-social-and-cultural-rights

the International Covenant on Civil and Political Rights (ICCPR), was designed to operationalize the rights declared in the Universal Declaration of Human Rights (UDHR) and establish a comprehensive structure for safeguarding human rights.

The ICESCR was made available for signature and ratification on March 1, 1967. The aforementioned agreement came into effect on January 3, 1976, subsequent to its ratification by the requisite number of states. As of the September 2021 knowledge cutoff, the ICESCR has been ratified by 169 countries, indicating its significant acceptance and relevance in the international community.

The ICESCR endeavors to safeguard and advance economic, social, and cultural rights. It acknowledges that these entitlements are interconnected, inseparable, and fundamental to the honor and welfare of each person. The International Covenant on Economic, Social and Cultural Rights (ICESCR) encompasses several fundamental principles and objectives, such as:

The ICESCR prohibits discrimination in the enjoyment of economic, social, and cultural rights based on various grounds, including but not limited to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.

The ICESCR acknowledges that the complete fulfillment of economic, social, and cultural rights may necessitate the gradual advancement of strategies and resources by Governments. The aforementioned provision mandates that states are required to utilize their available resources to the fullest extent possible in order to gradually attain the complete fulfillment of these rights.

The ICESCR imposes certain obligations on states to uphold the rights enshrined in the Covenant, including the obligation to respect, protect, and fulfill these rights. It is imperative for states to implement suitable legislative, administrative, and other measures to uphold these rights and guarantee their enjoyment by all individuals within their jurisdiction. The International Covenant on Economic, Social, and Cultural Rights (ICESCR) highlights the significance of international collaboration in promoting the attainment of economic, social, and cultural rights. This is particularly crucial for developing nations that may encounter limitations in resources.

The ICESCR Scope and Applicability

The ICESCR is an international treaty that carries legal obligations and provides a comprehensive framework for safeguarding and advancing economic, social, and cultural rights. The Covenant acknowledges the importance of these rights for the welfare and respect of individuals, and imposes duties on states parties to guarantee their achievement. The ICESCR provides a comprehensive framework for safeguarding and advancing economic, social, and cultural rights. The statement acknowledges the significance of these entitlements for the welfare and respect of both individuals and groups, and highlights their interconnectedness, mutual reliance, and indivisibility. The scope is not necessarily restricted to the following:

The entitlement to employment includes the liberty to procure a livelihood through voluntary labor, equitable and impartial terms of service, safeguards against joblessness, and the entitlement to establish and affiliate with labor organizations.

The basic right to **equitable and advantageous working conditions** is inclusive of impartial remuneration, secure and salubrious work environments, rational working schedules, and opportunities for repose and recreation.

The **right to social security** encompasses the entitlement to social safeguard and assistance, which includes the provision of social insurance, welfare schemes, and benefits for individuals who are incapable of engaging in work.

The fourth human right is the entitlement to a satisfactory **standard of living,** which involved the entitlement to sufficient nourishment, clothing, and shelter, in addition to access to unpolluted water, hygienic facilities, and energy. The concept of social protection includes the entitlement to receive support in the event of situations such as joblessness, physical impairment, advanced age, or other comparable circumstances.

The **entitlement to physical and mental well-being** includes the prerogative to achieve the utmost feasible level of physical and mental health, which includes the availability of medical facilities, sanitation, and disease prevention measures.

The **right to education** encompasses the privilege of receiving primary education that is both free and mandatory, in addition to the entitlement to pursue higher education and vocational training.

The **right to engage in cultural life** having the entitlement to partake in cultural activities, avail oneself of and contribute to scientific advancements, and receive the safeguarding of the rights of authors and inventors.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) has a universal applicability that extends to all individuals, irrespective of their demographic characteristics such as race, gender, age, religion, or any other status. This provision is applicable to all states that have ratified the Covenant, with the current number of ratifying states standing at 171 as of the year 2021.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) imposes a duty on the states parties to undertake measures aimed at achieving a gradual realization of the rights enshrined therein, subject to the limitation of their available resources. Consequently, it is imperative for states to enhance the realization of these entitlements gradually, with a specific emphasis on individuals who are susceptible or disadvantaged. This is applicable to those states that have ratified the Covenant and are consequently recognized as "states parties." It is imperative for states parties to uphold the legal obligation of honoring, safeguarding, and satisfying the economic, social, and cultural rights that are enshrined in the Covenant

It is mandatory for states parties to furnish periodic reports to the UN Committee on Economic, Social and Cultural Rights. The committee oversees the execution of the Covenant and offers direction and suggestions to states parties. Furthermore, it is within the purview of both individuals and collectives to lodge grievances with the Committee in the event that their entitlements under the Covenant have been transgressed by a state party that has acknowledged the Committee's jurisdiction in this respect.

Key Provisions of the ICESCR

a. Specific rights enshrined in the ICESCR, including:
    i) **Right to work and favorable conditions of work**

Human rights and social justice require the ICESCR right to labor and good working circumstances. Article 6 of the ICESCR underlines the significance of providing appropriate job

opportunities and a safe, respectful workplace for all. Work is important to social integration, self-esteem, and personal growth, according to the ICESCR. The right to work and good working conditions include[3]:

1. **Right to Work:** The ICESCR guarantees everyone the right to work freely. It suggests that people should have unfettered, non-coerced job opportunities.

2. **Equal Opportunity:** The right to work requires equal employment opportunities regardless of gender, race, ethnicity, disability, or other considerations

3**. Good Working Conditions:** The ICESCR stresses good working conditions. This is based on:

a) Safe and Healthy Working Conditions
b) Fair salaries
c) Equal Remuneration for Equal Work
d) Reasonable Working Hours

In conclusion, the ICESCR's right to work and fair working circumstances emphasizes establishing adequate job opportunities, preventing workplace discrimination and providing safe and healthy working conditions[4].

ii) Right to form and join Trade Unions

The ICESCR recognizes trade union rights. Article 8 of the ICESCR highlights the right to form and join trade unions to protect and advance labor interests. The ICESCR's trade union right is detailed here:

1. Freedom of Association: The ICESCR upholds the right to create and join trade unions. This means workers can form and join unions, negotiate with employers, and collectively bargain.

2. Collective Bargaining: Trade unions and collective bargaining go together. The ICESCR supports collective bargaining to improve working conditions.

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[3] United Nations. INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS. Retrieved from https://treaties.un.org/doc/treaties/1976/01/19760103%2009-57%20pm/ch_iv_03.pdf

[4] Equality and Human Rights Commission. International Covenant on Economic, Social and Cultural Rights (ICESCR). Retrieved from https://www.equalityhumanrights.com/en/our-human-rights-work/monitoring-and-promoting-un-treaties/international-covenant-economic-social#:~:text=ICESCR%20is%20an%20international%20human,education

3. Protection against Discrimination: Trade unions safeguard against discrimination. Race, color, sex, language, religion, political stance, national or social origin, birth, or other status should not prevent workers from joining trade unions.

4. Limitations: The ability to create and join trade unions is fundamental, although lawful restrictions apply. Any restrictions on this right should be essential, proportionate, and not undermine its essence.

5. Trade Union Activities: The ICESCR emphasizes the need to protect trade union activities and ensure that employees and trade union representatives can perform their duties without harassment.

6. Social interaction: Trade union membership promotes social interaction between workers, employers, and the government. It's essential for workplace harmony and equity.

iii) Right to Social Security

ICESCR Article 9 guarantees social security. It promotes non-discrimination, adequacy, progress, and vulnerable populations. States can promote well-being, dignity, and social inclusion through recognizing and implementing social security. ICESCR social security right include:

1. Scope of Social Security: Social security includes state-provided protection for individuals and families. It includes social insurance, social assistance, and other measures to prevent, and alleviate etc. or other situations that affect an individual's ability to earn a living.

2. Non-Discrimination and Equality: The ICESCR states that social security should not discriminate based on anything. Social security policies should offer equitable access and benefits for all without discrimination.

3. Adequacy and Coverage: Social security income and support should be enough to provide a fair quality of life for individuals and their families.

4. Progressive Realization: The ICESCR recognizes that states may need to use their resources and national conditions to fully realize the right to social security.

5. Support for Vulnerable Groups: The right to social security prioritizes protecting and supporting vulnerable groups like children, elderly people, people with disabilities, and those unable to work due to illness or other circumstances.

iv) Right to protection of family, mothers and children

The ICESCR does not have a specific article protecting family, mothers, and children, several Covenant provisions do. The ICESCR promotes family support, mother and child health, children's rights, combating discrimination, and family reunification. These rules recognize that robust, healthy families and mother and child well-being are essential to economic, social, and cultural rights.

v) Right to an adequate standard of living, including food, clothing and housing

The ICESCR protects the right to food, clothes, and shelter. ICESCR Article 11 guarantees this right. The ICESCR protects the right to food, clothing, and housing. It stresses the need for adequate food, clothing, and housing for all. To realize this right and safeguard everyone's dignity and well-being, states must advance, promote non-discrimination, and cooperate internationally.

vi) Right to the highest attainable standard of physical and mental health

The ICESCR recognizes the right to the best bodily and mental health. ICESCR Article 12 guarantees this right. The ICESCR's right to the greatest achievable quality of bodily and mental health includes comprehensive healthcare, preventive measures, fair access to healthcare services, and special attention to mother and child health and mental health. States must implement this right, provide healthcare and protect everyone's dignity.

vii) Right to education and access to cultural life

Education and cultural life are essential ICESCR rights. The Covenant recognizes these rights in various provisions, including Article 13 on education and Article 15 on cultural life. The right to education and access to cultural life under the ICESCR emphasizes quality education for all, eliminating barriers to education, fostering cultural diversity, and ensuring equal access to cultural expressions and experiences. States must progressively actualize these rights, promote non-discrimination, and cooperate internationally to secure their enjoyment.

Obligations of States Parties under the ICESCR

States must uphold the International Covenant on Economic, Social, and Cultural Rights (ICESCR) to safeguard and promote its rights. The three main obligations are respect, protection, and accomplishment. Each obligation is summarized:

1. Obligation to Respect: States must not interfere with economic, social, and cultural rights. States cannot violate or weaken ICESCR rights. They must ensure that their laws, rules, and practices do not violate fundamental rights and that they do not discriminate between individuals.

2. Obligation to Defend: States must defend economic, social, and cultural rights from third parties, including non-state actors. States must safeguard individuals and groups against private enterprises and individuals who violate these rights.

3. Obligation to Fulfill: States must actively work to achieve economic, social, and cultural rights under the obligation to fulfill, also known as the obligation to gradually actualize. This means taking meaningful actions to actualize these rights to the fullest extent of a state's resources[5].

States also have cross-cutting commitments for all economic, social, and cultural rights:

1. Non-Discrimination: States must guarantee equal economic, social, and cultural rights to all individuals and groups. Several ICESCR articles compel states to take proactive steps to address structural discrimination and promote equality.

2. International Cooperation: States should cooperate to realize economic, social, and cultural rights. This includes sharing expertise, resources, and best practices with other states, international organizations, and civil society to improve these rights worldwide.

The ICESCR recognizes that a state's resources may necessitate gradual efforts to fully realize economic, social, and cultural rights. However, states must do what they can to improve these rights and realize them. States parties must respect, safeguard, and realize economic, social, and cultural rights, combat discrimination, and promote international cooperation to improve the well-being and dignity of all people under the ICESCR.

Implementation and Monitoring Mechanisms of ICESCR

States implement the International Covenant on Economic, Social, and Cultural Rights (ICESCR) in several ways:

[5] United Nations Human Rights. International Covenant on Economic, Social and Cultural Rights. Retrieved from https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights

1. Legislation and Policies: States establish legislation and policies that comply with the ICESCR to protect and realize economic, social, and cultural rights. This comprises national laws, rules, and recommendations to promote and enforce these rights.

2. National Institutions: States may create national institutions or processes to monitor ICESCR implementation and economic, social, and cultural rights. Human rights commissions, ombudsman offices, and sector-specific authorities are examples of these entities.

3. Budget Allocation: States budget enough to support economic, social, and cultural rights. This includes funding education, healthcare, housing, social security, and other important services for everybody.

4. Capacity Building: States fund training programs for government officials, policymakers, and professionals that implement and monitor economic, social, and cultural rights. This improves their human rights knowledge, abilities, and understanding.

Reporting and review: ICESCR states must make quarterly reports to the Committee on Economic, Social, and Cultural Rights (CESCR). These reports discuss ICESCR implementation, accomplishments, difficulties, and future plans[6].

Steps in reporting:

1. Initial Report: States provide an initial report describing Covenant implementation within two years after ratifying or acceding to the ICESCR.

2. Periodic Reports: States must report to the Committee every five years on their progress in implementing economic, social, and cultural rights.

3. Committee review: The CESCR reviews state reports and gives constructive feedback and recommendations through interaction with the state party. The interaction may include state requests for information, Committee queries, and state party clarifications.

Economic, Social, and Cultural Rights Committee:

[6] Moeckli, D., Keller, H., & Heri, C. (Eds.). (2018). *The Human Rights Covenants at 50: Their Past, Present, and Future*. Oxford University Press.

Independent experts oversee ICESCR implementation on the Committee on Economic, Social, and Cultural Rights (CESCR). Main functions:

1. Reviewing State Reports: The CESCR reviews state reports and engages in constructive conversation to assess economic, social, and cultural rights implementation. The Committee advises states.

2. General Comments: The CESCR gives authoritative interpretations and suggestions on specific ICESCR provisions and topics. These comments help states parties comprehend and implement economic, social, and cultural rights.

3. Individual Complaints: If the state has adopted the Optional Protocol to the ICESCR, the CESCR can hear individual complaints on economic, social, and cultural rights breaches.

Optional Protocol to the ICESCR:

This treaty allows individuals and groups to immediately complain to the CESCR about economic, social, and cultural rights breaches. After exhausting domestic procedures, victims might file individual complaints. The Optional Protocol allows the CESCR to review specific complaints, investigate, and advise the state party[78].

Challenges and Criticisms of ICESCR Globally:

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) protects and promotes economic, social, and cultural rights, although it confronts many challenges and criticisms worldwide. Challenges and critiques fall under these categories:

1. Lack of Legal Enforceability: Compared to civil and political rights, the ICESCR lacks direct legal enforceability. The ICESCR does not have an individual complaints procedure or a binding enforcement mechanism like the ICCPR. This may hinder the Covenant's accountability and remedies.

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[7] de Albuquerque, C., Brown, R., Çalı, B., Chenwi, L., Courtis, C., Griffey, B., ... & Telson, N. (2016). The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights: A Commentary. PULP.
[8] Women, Peace Security. International Covenant on Economic, Social and Cultural Rights. Retrieved from https://blogs.lse.ac.uk/vaw/int/treaty-bodies/international-covenant-on-economic-social-and-cultural-rights/

2. Resource Constraints and Prioritization: Economic, social, and cultural rights require large financial resources and long-term planning. Many governments, especially those with low resources, struggle to provide enough resources to meet ICESCR responsibilities. Economic, social, and cultural rights may be hampered by competing agendas, fiscal limits, and economic considerations.

4. Lack of Awareness and Understanding: Many citizens, lawmakers, and duty-bearers are unaware of economic, social, and cultural rights. This can impede attempts to prioritize these rights, allocate resources, and design effective policies and initiatives to reduce socioeconomic inequities and enhance social well-being.

5. Global Economic and Political Systems: Critics say globalization, neoliberal policies, and trade agreements can damage economic, social, and cultural rights. These systems promote business over human rights, resulting in inequities, unequal economic distribution, and social protections.

6. Measuring and Monitoring Challenges: Evaluating economic, social, and cultural rights is difficult. Economic, social, and cultural rights require broader indicators and long-term assessments than civil and political rights, which are often quantifiable. This makes assessing and comparing these rights across countries difficult.

7. Cultural Relativism: Some critics believe that the ICESCR and economic, social, and cultural rights are Western-centric and may not apply to all cultures. They argue that cultural relativism should be addressed while implementing and interpreting these rights because varied cultural norms and traditions may affect rights interpretation and practice.

Significance and Impact of the ICESCR globally

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) has a global impact. Let's examine its promotion of human dignity and social fairness, its impact on domestic laws and policies, and its contribution to international human rights law. By recognizing and preserving economic, social, and cultural rights, the ICESCR promotes human dignity and social justice. Work, education, healthcare, a decent quality of living, and social security are important for a dignified existence and full participation in society. The ICESCR stresses social and economic well-being, systemic disparities, and social justice by recognizing these rights. It

emphasizes that human rights include well-being and quality of life beyond civil and political rights.

Domestic legislation and policies: The ICESCR has had a major impact on several countries' laws. Ratifying states must implement Covenant principles and provisions into domestic law. This typically leads to economic, social, and cultural rights laws, policies, and programs. Countries can pass ICESCR-compliant laws on labor rights, education, healthcare, social security, housing, and other issues. The Covenant guides national laws and policies and promotes social justice and socioeconomic equality. International human rights law development: The ICESCR has contributed significantly to international human rights law. It established economic, social, and cultural rights as equal to civil and political rights as one of the main international human rights accords. The ICESCR expanded human rights beyond civil and political realms. The Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women, which address specific economic, social, and cultural rights issues, were based on it.

The ICESCR also helped the Committee on Economic, Social, and Cultural Rights create broad remarks and interpretations. These basic comments help states, officials, and advocates understand and promote economic, social, and cultural rights. In conclusion, the ICESCR's role in promoting human dignity and social justice, influencing local legislation and policies, and developing international human rights law is worldwide. The ICESCR has advanced social progress, addressed disparities, and promoted human dignity by recognizing economic, social, and cultural rights as fundamental human rights.

15) Pakistan's Obligations under the ICESCR

Pakistan ratified the ICESCR on 17 April 2008, some of the commitments which Pakistan undertook as signatory of this document are given below,

I. Summary of Pakistan's commitments under the ICESCR

a) **Right to Work:** Pakistan will provide equal opportunities of work to each and every citizen without any discrimination. This also include fair and reasonable wages for everyone, safe working environment along with right to form trade union at their working place.

b) **Social Security:** Pakistan needs to provide every kind of possible social security to its citizens which includes healthcare and unemployment benefits.

c) **Adequate Standard of Living:** Pakistan will make sure that every citizen of the country will get a good standard food, clothing and housing. The Government will take all the steps necessary in this regard.

d) **Health:** State of Pakistan is responsible for providing basic medical facilities to its citizens by improving standard of public health facilities. All citizens are not able to afford private medical facilities therefore, it is essential to upgrade public health facilities.

e) **Fair Trial:** Pakistan will ensure necessary arrangements for fair trail of every accused tried by law.

f) **Justice:** Every citizen is entitled to get justice from the courts and state is ought to make all arrangements in this regard.

g) **Education:** Pakistan needs to ensure free and basic primary education for children of Pakistan along with making efforts for higher education for the citizens.

h) **Culture:** State of Pakistan needs to protect cultural heritage of all the communities of Pakistan along with making necessary arrangements to enable everyone for promoting their own culture on national and international level[9].

16) Role of the ICESCR in Pakistan

Pakistan has taken multiple steps to implement ICESCR in the local context of the country, some of its efforts are given below,

a) Influence on domestic legislation and policies

Pakistan has certain articles in the constitution which directly correlate with the provisions of ICESCR,

Provisions of Constitution of Pakistan correspond with ICESCR,

- Article 25 Equality of Citizens
- Article 25A Right to Education
- Article 27 Safeguard against Discrimination in Service
- Article 28 Preservation of language, script and culture
- 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[10]

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[9] Ministry of Planning Development & Special Initiatives. Pakistan's Domestic Implementation of its International Human Rights Obligations. Retrieved from https://www.pc.gov.pk/uploads/report/Domestic.pdf

[10] Ministry of Human Rights. (2022). Information and Learning Material on Core Human Rights Conventions Ratified by Pakistan. Retrieved from

Legislation, Policies and other Measures

- National Action Plan for Human Rights
- National Commission for Human Rights
- National Commission for Minorities
- National Commission on the Rights of Child
- National Commission on the Status of Women
- Employees Old Age Benefits Act 1976
- National Food Security Policy in 2018
- National Education Policy Framework 2018
- The Enforcement of Women's Property Rights Act, 2020
- Legal Aid and Justice Authority Act, 2020
- National Action Plan on Business and Human Rights 2021
- Ehsaas Programme
- Sehat Sahulat Program[11]

b) Enhancing access to education, healthcare, and social security

With all these above mentioned constitutional provisions, legislations, policies and other relevant programs Pakistan is making utmost efforts for providing reasonable educational and healthcare facilities which leads to social security. It is an important step to give constitutional and legal cover to such kind of policies to ensure their implementation in its true letter and spirit.

c) Addressing poverty, unemployment, and underemployment

Through the Ministries of Finance and Planning the Government of Pakistan has prepared a robust Interim Poverty Reduction Strategy Paper. The International Labor Organization (ILO) was invited by both of these Ministries to contribute to the preparation of the full Poverty Reduction Strategy Paper in the area of its expertise, namely work. The ILO holds the firm belief that the only sustainable route out of poverty has to be based strongly on employment and making policies to cater underemployment issues as well. Underemployment can be defined as working fewer than 35 hours a week. Underemployment does not really serve the purpose of being employed therefore, this issue needs to be addressed as well[12].

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https://mohr.gov.pk/SiteImage/Misc/files/Information%20and%20Learning%20Material%20on%20Core%20Human%20Rights%20Convention.pdf

[11] Ibid.

[12] Mahmood, M. (2006). *Poverty reduction in Pakistan: The strategic impact of macro and employment policies*. ILo.

Certain Proposed Policies to Cater Unemployment Issue

i. Public Sector:

Public sector industry needs to be made stronger in order to accommodate a larger number of population.

ii. Institutional reform:

Institutional reforms are needed to be made and implemented on priority basis to safeguard the rights of working class in Pakistan.

iii. Training:

Working class needs to be trained with latest trends and updates modules to enhance their working capacity.

iv. Use of Technology:

Use of latest technology should be introduced in the working sector to improve the efficiency of the working and enhance the trend of smart work.

v. Monitoring of Market:

Market and its trends should be monitored regularly to ensure fair practices and safeguarding the rights of working class.

17) Reservations and Limitations

Pakistan has made certain reservations on ICESCR due to its domestic legislations, policies and social norms,

Article 2(1): This article states that each state party to the Covenant undertakes to take steps, individually and through international assistance and cooperation, to progressively realize the rights recognized in the Covenant. Pakistan made a reservation stating that it would implement Article 2(1) of the Covenant in accordance with its constitution and laws.

Article 3: This article ensures equal rights for men and women to enjoy economic, social, and cultural rights. Pakistan made a reservation that it would implement Article 3 in accordance with its constitution, national laws, and its interpretation of Islamic law.

Article 8: This article recognizes the right of individuals to form and join trade unions. Pakistan made a reservation stating that it would implement Article 8 subject to the provisions of its laws, rules, and regulations.

Article 13: This article guarantees the right to education, including free and compulsory primary education. Pakistan made a reservation that it would implement Article 13 subject to its national laws and policies, including the policy of providing education in conformity with its religious, cultural, and social values[13].

18) Implementation and Monitoring Mechanisms of ICESCR in Pakistan

a) Pakistan's reporting obligations under the ICESCR

Pakistan must submit recurring reports to the Committee on Economic, Social and Cultural Rights (CESCR) in order for the committee to monitor progress and make appropriate recommendations. This is required of all signatory governments. The Committee expects regular updates from all States Parties on how the ECSR rights are being implemented at home. State reports are required at first within two years of ratification of the Covenant, and then every five years after that. In its final views, the Committee discusses its concerns and suggestions for the State party after reviewing the reports.

Role of the Committee on Economic, Social and Cultural Rights

United Nations, s Committee on Economic, Social, and Cultural Rights overlook the matter of implementation of ICESCR globally. As a signatory state of the ICESCR, Pakistan is required to submit periodic reports to the said committee to track its implementation and progress in the context of social, economic and cultural rights. Pakistan is also required to mention the measures it is taking to ensure implementation of the covenant in its true letter and spirit. The committee reviews this report when submitted by Pakistan and later on issues its observations and recommendations regarding the measures and progress in the country. These observations are taken into account by the country while legislating its domestic policies and practices.

b) National institutions and mechanisms for monitoring and implementing economic, social, and cultural rights

[13] http://www.bayefsky.com/html/pakistan_t2_ccpr.php

i. **Pakistan Crisis Resilient Social Protection (CRISP), Benazir Income Support Programme:** Expands conditional cash transfers for education to the secondary level
ii. **Punjab Human Capital Investment Project (PHCIP):** Covers health, maternal health, early childhood education, skills training and asset transfers
iii. **Khidmat Card, Brick Kiln Programme, Punjab Social Protection Authority:** Conditional cash transfers for education.
iv. **Iqra Farogh-e-Taleem, Elementary and Secondary Education Foundation (KP):** education support (voucher scheme, stipends, etc.)
v. **The Zakat, Ushr and Bait-ul-Mal schemes:** Only for the deserving poor.
vi. **Special Education Complex for Children with disabilities, Quetta**
vii. **Federal Employees' Benevolent and Group Insurance Funds (Balochistan)**[14]

19) Challenges in Implementing the ICESCR in Pakistan

Some of the challenges which Pakistan has been facing as state in implementation of ICESCR are given below,

a) Persistent challenges and areas requiring further attention

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) is a United Nations treaty that outlines the rights related to economic, social, and cultural aspects of individuals' lives. While Pakistan has ratified the ICESCR and is legally bound to implement its provisions, several challenges exist in effectively realizing these rights. Here are some key challenges faced in implementing the ICESCR in Pakistan[15]:

i. **Legal Framework and Domestic Legislation:** Although Pakistan has endorsed the ICESCR, domestic legislation still needs to be aligned with it for ensuring their enforceability. Comprehensive legislation is needed that aligns national laws under obligations stated in the ICESCR.
ii. **Limited Awareness and Understanding:** Lack of awareness and understanding of economic, social, and cultural rights among the general public, government officials, and even the judiciary hampers effective implementation. Many individuals and authorities are

[14] Gul, S. (2021). A social protection profile of Pakistan. Building an inclusive social protection system. *International Labour Organization 2021*.
[15] Hussain, A., Saeed, M. A., & Mushtaq, S. A. (2021). Application of Human Rights Laws in Pakistan: A Study with Reference to International Bill of Human Rights. *Journal of Business and Social Review in Emerging Economies*, *7*(4), 963-976.

unaware about their rights and obligations under ICESCR, which normally results in poor protection and execution of these rights.

iii. **Resource Constraints:** Budget is the backbone for implementation of any policy, law or legislation and insufficient allocation is a significant challenge in realizing economic, social, and cultural rights. Limited financial resources often deter the government's efforts to implement programs and policies expected at fulfilling these rights, such as education, healthcare, and social security.

iv. **Discrimination and Marginalization:** Discrimination based on factors such as gender, ethnicity, religion, and socio-economic status can be seen in Pakistan. Marginalized groups, including women, religious minorities, persons with disabilities, and rural populations, often face obstacles in getting and enjoying their economic, social, and cultural rights. handling these disparities is crucial for effective ICESCR implementation.

v. **Governance and Institutional Capacity:** Weak governance structures and institutional capacity is one of the challenges to implementation of the ICESCR. Insufficient coordination among different government departments, corruption, and inefficiency can obstruct the effective delivery of services and the guard of economic, social, and cultural rights.

vi. **Security and Conflict:** Pakistan faces security challenges, including militancy, insurgency, and regional conflicts, which divert attention and resources away from fulfilling economic, social, and cultural rights. The instability caused by such conflicts further exacerbates socio-economic disparities and hampers the implementation of the ICESCR.

vii. **Monitoring and Accountability:** Ensuring effective monitoring mechanisms and accountability for violations of ICESCR rights is essential. Establishing robust monitoring systems, empowering human rights institutions, and providing avenues for victims to seek redress are crucial steps toward enforcing economic, social, and cultural rights in Pakistan.

b) Efforts to address implementation gaps and improve compliance

To address the implementation gaps and challenges in fulfilling the provisions of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) in Pakistan, several efforts can be undertaken:

i. **Legislative Reforms:** Pakistan can work towards aligning its domestic legislation with the obligations outlined in the ICESCR. This involves enacting comprehensive laws that protect and promote economic, social, and cultural rights, ensuring their enforceability and compliance with international standards.

ii. **Awareness and Education:** Increasing awareness and understanding of economic, social, and cultural rights among the general public, government officials, and the judiciary is crucial. Educational campaigns, training programs, and workshops can be conducted to promote awareness of rights and responsibilities under the ICESCR.

iii. **Strengthening Institutions:** Enhancing the capacity and effectiveness of relevant government institutions responsible for implementing the ICESCR is vital. This includes empowering human rights commissions and ombudsman offices, providing them with adequate resources, and ensuring their independence to monitor and address violations of economic, social, and cultural rights.

iv. **Resource Mobilization:** Allocating sufficient financial resources to sectors that directly impact economic, social, and cultural rights is essential. This involves increasing budgetary allocations for education, healthcare, social protection, and poverty alleviation programs to bridge gaps and ensure adequate service delivery.

v. **Targeted Programs for Marginalized Groups:** Implementing targeted programs and policies aimed at addressing the specific needs and challenges faced by marginalized groups is crucial. This includes initiatives to promote gender equality, protect the rights of religious minorities, improve accessibility for persons with disabilities, and uplift rural and impoverished communities.

vi. **Strengthening Monitoring and Reporting Mechanisms:** Developing robust mechanisms for monitoring and reporting on the implementation of the ICESCR can enhance accountability. Regular assessment of progress, data collection, and reporting on the status of economic, social, and cultural rights can help identify gaps, inform policymaking, and promote transparency.

vii. **International Cooperation and Support:** Collaborating with international partners, including UN agencies, non-governmental organizations, and development partners, can provide technical expertise, resources, and best practices to strengthen the implementation of the ICESCR. Engaging in international forums and sharing

experiences with other countries can contribute to learning and adopting effective strategies[16].

20) Conclusion

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a United Nations treaty that was adopted by the General Assembly in 1966 and entered into force in 1976. It aims to protect and promote economic, social, and cultural rights as fundamental human rights. Pakistan ratified the ICESCR in 2008, thereby committing itself to fulfilling the obligations outlined in the Covenant.

As a state party to the ICESCR, Pakistan is expected to respect, protect, and fulfill the economic, social, and cultural rights of its population. These rights include, but are not limited to, the right to work, the right to just and favorable conditions of work, the right to social security, the right to an adequate standard of living (including food, clothing, and housing), the right to health, the right to education, and the right to participate in cultural life.

In Pakistan, the implementation of ICESCR rights faces various challenges and limitations, as discussed earlier. These include resource constraints, lack of awareness and implementation mechanisms, political instability, discrimination and inequality, security concerns, and cultural barriers. However, Pakistan has taken steps to promote and protect economic, social, and cultural rights. The government has implemented social welfare programs, initiated legislative reforms, and established institutions to address these issues. Efforts have been made to improve access to education, healthcare, and social protection programs, particularly for vulnerable groups. Additionally, Pakistan has enacted laws and policies to address discrimination, such as the protection of women's rights and the rights of religious minorities.

Despite these efforts, there is still work to be done to ensure the full realization of ICESCR rights in Pakistan. Ongoing efforts are needed to address the challenges and limitations, strengthen implementation mechanisms, allocate resources effectively, promote equality and non-discrimination, and create an enabling environment for the enjoyment of economic, social, and cultural rights by all individuals in Pakistan.

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