

外交部《公民與政治權利國際公約》及《經濟社會文化權利國際公約》人權教育資料

條約法律司

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一、前言

聯合國《公民與政治權利國際公約》(International Covenant on Civil and Political Rights)(以下稱“《公政公約》”)及《經濟社會文化權利國際公約》(International Covenant on Economic , Social and Culture Rights)(以下稱“《經社文公約》”)(以下統稱“兩公約”)為國際上重要之人權法典，我國於98年4月總統令公布《公民與政治權利國際公約及經濟社會文化權利國際公約施行法》(以下簡稱“《兩公約施行法》”)，並自98年12月起實施。依106年1月我國兩公約第2次國家報告國際審查會議結論性意見與建議第14點與第15點，建議我國人權教育訓練之推行應重視其妥適性與有效性，並應優先關注提供相關且適合每個目標族群之人權教育訓練，於執行公務，特別在擬定、規劃、執行與評估政府之作為上，採取以人權為本之訓練課程。

為持續推動我政府機關內部人權教育，法務部依據「行政院人權保障推動小組」109年度第39及40次會議之決議，訂定110年至113年階段「兩公約教育訓練及宣導計畫」，以促進公務人員及社會大眾瞭解與運用兩公約。依據該計畫，相關部會除須以授課、工作坊及座談等彈性方式辦理訓練外，並於本(111)年6月底前須更新兩公約教育訓練教材於網頁，並以實際案例方式具體讓社會大眾了解與宣導兩公約。

為落實外交部人權教育與宣導，以利推動外交工作時能

融入人權觀念，爰擬具本人權教育資料，除作為本部同仁推動業務參考外，並公布於本部對外網站(路徑：[政府資訊公開/人權事務專區](#))，向社會大眾宣導兩公約及本部業務相關部分。

二、國際人權法發展

人權早於古希臘羅馬時期已被提起，當時僅為政治思想範疇並非法律體系保障對象，直到 300 多年前，格勞秀斯（Hugo Grotius）、霍布斯（Thomas Hobbes）和洛克（John Locke）將人權視為哲學概念，人權的價值觀才受到世人的重視。1762 年盧梭（Jean-Jacques Rousseau）在《民約論》倡導「天賦人權」，人權的口號雖響徹雲霄，但在實踐效果上，亦只是人民天生享有自由平等的呼籲階段。1776 年美國獨立宣言和 1789 年法國人權宣言之後，人權才從個別哲學家的理論用語，演變為近代國家普遍遵循的道德規範，並成為現代立憲主義的基本原則。

20 世紀是人權發展的關鍵時代，因為忽視人權導致兩次世界大戰慘絕人寰的禍害，使人類深切感受到容許人權侵害行為的存在是造成戰亂的主要原因。聯合國有鑑於此，乃於 1945 年 6 月 26 日通過《聯合國憲章》，明確宣示人權及尊嚴的價值；1946 年聯合國經濟暨社會理事會依據憲章授權，設置「人權委員會」，從事有關人權法案的草擬工作，並致力於建立以憲章為基礎的國際人權法體系。聯合國於

1948 年通過國際人權保障指標性規範《世界人權宣言》

(Universal Declaration of Human Rights)，激發全人類追求人權保障的決心，成為人權史上的重要里程碑。聯合國再於 1966 年 12 月 16 日通過兩公約，進一步尋求各國簽署或加入，俾能真正落實人權保障工作；《世界人權宣言》及兩公約，聯合國將之定義為「國際人權法典」(International Bill of Rights)，為國際人權保障體系最根本的法源，內容在闡明人類基本人權，並敦促各國積極落實，使其發展為國際間的共同約法，其目的在促使全球人民在公民、政治、經濟、社會及文化各方面的人權，皆享有相同之保障。

「國際人權法典」之後，聯合國更以此法典為基礎，先後訂立多項專門性國際人權公約，包括《消除一切形式種族歧視國際公約》(International Convention on the Elimination of All Forms of Racial Discrimination)、《消除對婦女一切形式歧視公約》(The Convention on the Elimination of all Forms of Discrimination Against Women)、《兒童權利公約》(Convention on the Rights of the Child)、《禁止酷刑公約》(Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment)、《保護所有移工及其家庭成員權利國際公約》(International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families)、《身心障礙者權利公約》(Convention on the Rights of Persons with Disabilities)、《保護所有人免遭強迫失蹤公約》

(International Convention for the Protection of All Persons from Enforced Disappearance)等，而兩公約及上述公約即合稱聯合國九大核心人權公約。

兩公約是國際上人權保障體系不可或缺之一環，目前《公政公約》已有164個以上之國家批准，經社文公約也有160個以上國家批准，就全世界總數195個國家而言，已超過80%以上，故兩公約不僅為國際條約，實質上已為國際習慣法，成為普世價值與規範。此外，國際人權保障的內容，從生命、自由與財產三大權利，擴展為包括公民的自由權、社會權、平等權及各種集體權利的龐大人權體系。

三、兩公約具有我國國內法效力

(一) 兩公約概要

《公政公約》以《聯合國憲章》及《世界人權宣言》為基礎而制定，約文共計53條，其中有關人權內容之規範在前27條，具體規定公民權利和政治權利，並保護個人享有該等權利和自由，例如平等權、集會結社自由、限制死刑、人身自由等等，這些權利的功能主要在防止侵害，限制政府不得侵犯、干預人民的權利（約文請參閱附錄(一)）。

《經社文公約》則有31條，第1條至第15條為人權內容之規定，包含民族自決權、工作權、組織與工會權、家庭權、社會安全與保險、適當生活條件及教科文發展權等等，此類權利多半屬於前瞻的積極作為義務，政府必須一步步地實現

公約中所規定的經濟、社會及文化權利（約文請參閱附錄(三)）。

二、兩公約國內法化

兩公約有我國國內法效力，是依據立法院於2009年3月31日三讀通過之《兩公約施行法》（條文請參閱附錄(五)）。我國曾於1967年簽署兩公約，其後因我失去聯合國代表權，故未完成批准程序，導致40多年來兩公約無法依據憲法第141條及大法官會議釋字第 329 號產生國內法效力。為提升我國之人權標準，促進人權發展，重新融入國際人權體系及拓展國際人權互助合作，進而提升我國國際人權地位，2008年行政院經審慎評估後，即積極推動兩公約批准案及《兩公約施行法》。2009年3月31日立法院審議後通過《兩公約施行法》，隔月並由總統公佈實施。

《兩公約施行法》第2條規定“兩公約所揭示保障人權之規定，具有國內法律之效力。”；第4條規定“各級政府機關行使其職權，應符合兩公約有關人權保障之規定，避免侵害人權，保護人民不受他人侵害，並應積極促進各項人權之實現。”準此，兩公約之人權規定具有法律之拘束力，可逕行拘束各級機關，而非參考規定。既然施行法本身就是法律，明文規定兩公約之人權規定具有國內法律之效力，又具體規定各級政府機關應符合兩公約有關人權保障規定，那兩公約所包含的人權規定，即具有直接執行的效果。

為了落實公約中人權之規定，兩公約均明文規定，各締

約國應就其實行公約之情形，提具報告書，由聯合國秘書處轉交人權事務委員會與經濟暨社會理事會審議。各國得於其報告書中，敘述其進度，以及所遭遇之困難。而聯合國相關委員會則會針對各國之人權報告書，提出審議意見。

我國雖然無法直接向聯合國提交兩公約之報告書，但履行國際人權義務之決心，與其他國家並無二致。有鑑於此，總統府人權諮詢委員會於 100 年 4 月 12 日決議，我國應依照聯合國相關準則提出兩公約國家人權之初次報告，包括《共同核心文件》、《公政公約》及《經社文公約》之條約個別文件。藉由國家人權報告之提出，凸顯我國雖被排除在聯合國人權體系之外，但政府與民間仍積極參與國際人權事務，並為促進及保障人權奮鬥不懈。同時並邀請國際人權專家擔任審查委員，提出專家結論性意見與建議，作為督促我國人權進步的重要依據。目前已經提出三次國家人權報告與專家審查會議，並持續檢討相關政府法令措施，以期能更符合國際人權標準，保障人民權利與社會福祉。

四、外交部落實兩公約

依據《兩公約施行法》第 4 條，各級政府機關行使職權，「應」符合公約有關人權保障之規定，所以外交部在行使職權時，無論是做成處分、草擬法規或是其他行政行為，均應遵守兩公約內之人權規定。外交部業務中與個人權益較為相關者，包含有關國人護照核發、性別平等、外國人簽證、外

國人來台結婚或家庭團聚、外國難民在台庇護等問題有關。以下就將就外籍配偶簽證、不遣返外籍難民至迫害國及外交人員兩性平等予以說明。

(一) 外籍配偶簽證

外國人入境一般來說並非權利，對於外籍人士拒絕核發簽證或入境，原則上屬於主權/高權行政行為，並無侵犯其權利，但是我國籍人士與外籍人士結婚後，外籍配偶申請入境簽證，不僅是單純的進入國境需求，亦牽涉我國籍人士與外籍配偶之家庭團聚，如果以程序不嚴謹或任意方式拒絕核發外籍配偶之入境簽證，恐有違反兩公約下之家庭團聚權之虞。

《公政公約》第 23 條第 1 項規定，家庭為社會之自然基本團體單位，應受社會及國家之保護；又《經社文公約》第 10 條第 1 項、第 3 項規定，公約締約國承認對作為社會的自然和基本的單元的家庭...應給以盡可能廣泛的保護和協助等等。由於兩公約並未以國籍加以區分，故不論外籍家庭或本國家庭，均應受我國法律保障。

關於外籍配偶之簽證面談，外交部訂有「外交部及駐外館處辦理外國人與我國國民結婚申請來臺面談作業要點」，第 1 條除規定要維護國境安全及防止販運人口外，亦指出要“兼顧我國國民與外籍配偶之家庭團聚及共同生活權”。另該要點就入境簽證之要件、審核之標準、隱私之尊重，均有明確之規範，例如第 13 條規定“外交部或駐外館處對經面

談後不予受理或駁回文件證明及來臺簽證之申請者，應以書面說明理由，並附記救濟程序通知當事人。”透過上述透明與嚴謹之面談程序規定，配合同仁確實依規定執行，外交部得確保外籍配偶在兩公約下合法的家庭團聚權不致遭侵害。

（二）不遣返外籍難民至迫害國

我國曾於 1975 年間接納越南、高棉及寮國等中南半島難民約 3,000 人，於 1976 年間成立仁德專案接納越南難民約 6,000 人、海漂專案接納中南半島難民約 2,000 人，實質進行難民庇護措施，並提供其保護與協助。近年來，陸續有中國籍及外籍人士在台以政治、性別認同及其他因素尋求庇護，惟我國並無難民法而難以永久安置，但考量人權保障已為國際普世價值，保護難民並給予適當協助為各國應善盡之義務，我國作為國際社會成員，自應避免將我境內之外籍難民送往有可能遭到迫害的國家。

在《公政公約》中，不遣返國際難民至可能受到迫害的國家之原則規範在第 7 條，規定“任何人不得施以酷刑，或予以殘忍、不人道或侮辱之處遇或懲罰...”而作為解釋該條文的《公政公約》一般性意見第 20 號第 9 項明確指出“...締約國不得透過引渡、驅逐或遣返手段使個人回到另一國時有可能遭受酷刑或殘忍、不人道或污辱之處遇或處罰...”2020 年 5 月我國最高行政法院當年度裁字第 786-89 號之有關滯台圖博（西藏）人嘎瑪賜萊等人案件中，即引用上述條文與意見，裁定暫停遣返至尼泊爾或印度，以免最終

被輾轉遣返回中國。

國際難民遣返或在我國內暫時安置，在我國並無難民法而可永久安置外籍難民情況下，依據該等難民之意願，外交部配合國內主政機關，協助真正的國際難民不被遣返到迫害國，確實避免彼等受到酷刑或其他不人道對待，做到《公政公約》第7條有關不遣返外籍難民至迫害國之規定。

(三) 外交人員性別平等

我國傳統性別角色觀念多認為，女性應負起家庭責任而不適合從事具風險性的外交工作，倘外派到艱苦地區，人身安全堪慮，並難以兼顧傳統家庭照護責任。1996年以前外交特考亦基於前述傳統觀念，對女性應考者做出名額限制之規定。另由於傳統性別角色觀念，女性同仁常因家庭生育規畫、家庭團聚，因而辦理留職停薪甚或離職。種種結構性因素，導致女性同仁在外交生涯之晉用、升遷及規劃，均受到較多挑戰。

《公政公約》第3條規定，“本公約締約國承允確保本公約所載一切公民及政治權利之享受，男女權利，一律平等。”又該條文之一般性意見第28號第3項指出，“第三條意味著所有人應平等和完全享有公約所承認權利的義務，要求締約國採取一切必要措施享受這些權利障礙…。締約國必須不僅採取保護措施，並應在各領域採取積極措施，平等有效地賦予婦女權利…”

1996年已正式取消外交特考女性錄取名額而無性別之

限制。此外，外交部亦採取各項積極作為，扭轉結構性落差，以落實性別平等。例如，外交部持續進行改善女性外交人員駐外安全工作條件、友善托育相關措施、建置員工協助方案及多元性別權益保障。為保障駐外同仁工作權與其家庭團聚權，對於夫妻均為外交人員者，外交部於2005年開始實施「夫妻同館」制度，部內夫妻同仁倘有意調往同一館處服務者，外交部考量語組專長、館處人力配置及業務需求等因素後，均儘可能安排於同一館處或同駐地服務。

自數據上觀察，2013年至2020年女性在外交特考錄取率皆約在50%，顯見女性已取得公平機會成為我國外交人員；在升遷方面，目前部內女性科長人數已超越男性科長(截至2020年12月31日止，女性科長占52.68%，男性科長占47.32%)，2020年女性簡任官等外交人員與2012年相比，已由57人(12.6%)提升至104人(21%)，成長幅度82.45%，顯示女性積極參與相關工作且表現優異，晉陞人數及簡任官之女性比率均逐步成長。

五、案例教育

案例一：外籍船員緊急醫療簽證（領事事務局）

阿財為印尼籍船員，在駛往菲律賓巴丹港的「順利號」貨輪上工作。某日，阿財於作業過程中不慎從機艙階梯摔落，背部受傷且無法移動，又船上無醫療用品可做緊急處置，情況十分危急。恰好該貨輪途經我國基隆外海，船長緊

急申請進港就醫。案經基隆港海巡隊協助後順利將阿財送急診，診斷結果為左側肋骨骨折及氣胸，必須進行肋骨修復手術及住院觀察。

手術後的阿財暫無大礙，但是十分擔心自己是非法在臺灣停留而頻頻要求出院及返回「順利號」。這時阿財在臺灣工作的印尼籍友人阿力恰好趕到現場，並告訴阿財已依《入出國及移民法》第 19 條取得臨時許可證，只是效期將至，現在需要備妥相關文件到外交部領事事務局申請停留簽證，但是擔心無法順利獲得簽證。在幫阿財換藥的護理師聽到二人對話，告訴他們：「依照《經社文公約》第 12 條第 2 項第 4 款規定，公約締約國應創造環境，確保人人患病時均能享受醫藥服務與醫藥護理。所以你們不用擔心，先到外交部領務局詢問相關規定」。

之後阿力備妥阿財的臨時入國許可及醫院開具之診斷證明書等相關文件，到外交部領事事務局提出申請，並跟櫃檯人員說明與醫院護理師討論有關兩公約的見解，櫃檯人員告訴阿財：「我國已將兩公約國內法化，依據《兩公約施行法》第 4 條規定，各級政府機關行使其職權，應符合兩公約有關人權保障之規定，避免侵害人權。我們會先收取你所備妥的文件，如果審核通過，五天以後可以來領件。」五天後，阿力到領務局領件，櫃檯人員跟阿力說明：「這是核發給阿財的「急難救助」事由停留簽證，如果停留期限屆滿前，仍有不可抗力事故或正當理由需再展延停留簽證效期，得備

妥相關證明文件再次來申請。」獲得人權及相關法律保障的阿財順利合法的在臺得到充分的治療與休養。

相關規定

1. 《經社文公約》第 12 條
2. 《公政公約》第 4 條

案例二：外籍配偶入臺簽證（領事事務局）

近年來，跨國結婚的國人越來越多，許多人是因為到國外留學或是在國外工作而認識其他國籍另一半，也有不少是因為透過合法婚姻仲介公司和來自東南亞國家的另一半相識結婚。張先生即是一例。張先生在一家貿易商工作，後來在派去越南分公司工作期間認識在航空公司擔任空服員的越南籍阮小姐，兩人因為阮小姐被派飛時間不定的關係總是聚少離多，但也過得甜蜜。幾年後兩人有了小寶寶，便在越南辦了結婚典禮登記結婚，張先生本想就讓太太在越南生產，讓岳家可以就近照顧太太跟孩子，但民國 110 年初武漢肺炎（COVID-19）疫情爆發打亂所有規畫，張先生的公司決定結束越南業務，立即調回所有派駐人員，張先生只好留下即將臨盆的太太，隻身回臺。

後來國際間疫情不斷延燒，越南疫情也越來越嚴重，張先生在與太太商量後決定接妻小來臺，這時才想到越南是申請來臺依親簽證需要接受面談的特定國家，但是現在國際間 COVID-19 疫情這麼嚴重，臺越兩國都訂有嚴格的邊境管制及隔離檢疫措施，張先生難以回到越南接受面談，於是決定

寫信給臺灣外交部！他認為，依照《公政公約》第 23 條第 1 項規定，家庭為社會的自然基本團體單位，應該受到社會及國家的保護，而且《經社文公約》第 10 條第 1 項、第 3 項規定，公約締約國家承認對作為社會的自然和基本的單元的家庭...應給以盡可能廣泛的保護和協助等等，由於兩公約並未以國籍區分，且我國早就在民國 98 年 4 月總統令公布《兩公約施行法》，並在 98 年 12 月起實施，所以不論外籍家庭或本國家庭，都應受到我國法律的保護！於是，他主張臺灣外交部駐越南代表處應該無須經過面談，直接給予張先生越南籍太太依親居留簽證。

外交部在收到張先生的陳情信後，立即與張先生聯繫，告訴張先生，外交部非常理解他們一家現在的處境，但因為部分特定國家人士有冒用身分、持偽變造文件申請簽證、或在臺逾期停居留、從事與簽證目的不符活動的人數比例偏高，在維護國境安全的前提下，才會制定《外交部及駐外館處辦理外國人與我國國民結婚申請來臺面談作業要點》處理特定國家人士與我國國民結婚依親簽證及文件驗證的申請案，此亦符合《公政公約》第 12 條第 3 項的規定。但外交部為協助 COVID-19 疫情期間因無法赴國外完成結婚依親面談的國人，自 109 年 9 月 23 日起實施只面談外籍配偶一方的彈性專案，在疫情專案期間張先生無須前往越南面談。而且，因為張先生曾在越南工作超過 2 年，張先生可以請太太依據前面所說的面談作業要點第 7 點第 3 項規定，提出「國

人旅居外國人之本國 2 年以上並取得合法居留權得免予面談」的佐證資料，如果經外館審核通過，則無需經過面談或彈性專案面談程序，外館將協助辦理兩人越南結婚證書驗證，之後阮小姐就可以於完成國內結婚登記後申請依親居留簽證來臺，和張先生團圓了。如此不僅按照兩國法律保障兩人權益，也可以減少國人往返越南、臺灣的時間，同時降低疫情期間國際間移動的染疫風險。

張先生在接受建議後，馬上請太太向駐越南代表處申請結婚依親面談並同時遞交免面談資料，後經駐越南代表處審核免予面談，阮小姐很快便順利取得來臺的簽證。張先生和太太非常感謝外交部專業的協助，也瞭解雖個人是權利的主體，個人的權利（家庭團聚權）需要被保障不被侵害，但不能以行使權利之名而破壞國家整體的公共利益。

相關規定

1. 《公政公約》第 12 條第 3 項、第 23 條
2. 《經社文公約》第 10 條
3. 《兩公約施行法》
4. 《外交部及駐外館處辦理外國人與我國國民結婚申請來臺面談作業要點》第 7 點

案例三：駐外館處如何保障雇員平等工作權(人事處)

甲小姐是我駐外某館處僱用的當地雇員，在同事與朋友眼中，她一直是個認真負責、熱愛工作的人。今年年初有喜，為了安胎休養並方便主管安排她請產假期間的工作，打算提

前通知主管，又考量生產後家中沒有人可以照顧剛出生的子女，也不放心交給保姆或托嬰中心照顧，希望親自照護陪伴。在和丈夫討論後，決定向駐處說明請完產假後要繼續申請育嬰留職停薪，但是甲小姐擔心請假時間比較長會被刁難，後續申請復職時也怕遭到為難，甚至影響其工作權，因而備感焦慮。

經和交好的同事傾訴，並在同事的鼓勵及陪同下向駐處負責人事業務的主管詢問。主管表示，只要是依據當地勞工法令享有的權益，包含安胎假、產假、陪產假、育嬰留職停薪、家庭照顧假等等，駐處均會給予相同保障，不用擔心應該享有的權益會受損，日後想返回職場時可以隨時提出，不用擔心會因此遭到不公平待遇或受到歧視，請甲小姐安心養胎。

為使受僱者能兼顧家庭與工作，對於受僱於駐外館處之當地雇員，除應依當地法規保障其休假、工作及其他相關權益外，當雇員有育兒或家庭照護之需求，須暫離職場時，不得有歧視待遇，亦不得以人力緊絀為由損害雇員請假權益，或以其他如工作表現不佳等事由調降雇員薪資。除了保障雇員後續工作權益不受影響外，更應積極促進職場性別平權及營造友善職場環境。

相關規定

1. 《經社文公約》第3條規定：「本公約締約國承允確保本公約所載一切經濟社會文化權利之享受，男女權利一律平

等。」

2. 《經社文公約》第 10 條第 2 項規定：「母親於分娩前後相當期間內應受特別保護。工作之母親在此期間應享受照給薪資或有適當社會保障福利之休假。」

案例四：男女平權案例－外交特考應考資格（人事處）

蘇同學是家中的獨生女，家庭簡單和樂，父母長輩開明，常鼓勵她要追尋所愛、適性發展。蘇同學在校表現良好，受到許多師長跟同學喜愛，也曾經在大二時獲得獎學金至外國當交換學生，受到我代表處的外交人員熱情地接待，而當時的美好經驗讓蘇同學萌生未來要從事外交工作的想法，也更積極地學習外語。

身為一個大學四年級的學生，蘇同學平常非常喜歡閱讀國際新聞以及蒐集各國政情的相關報導，更在課餘時間積極參與國際性活動，也安排了許多實習，希望自己能夠早點累積社會歷練，更盼望自己未來能夠成為國家棟樑，為我國的外交貢獻己力，對於能成為一位國家需要的人才有著相當大的憧憬。

即將畢業踏入社會，蘇同學趁著年假的早晨，也著手準備實現自己長久以來的夢想，翻開了參考書第一頁準備好好用功，此時... 「啊！外交部會不會有限制女性報考啊？」，想到性別可能成為了資格篩選的先決條件，蘇同學在心裡吶喊著！剎那之間對於自己的夢想職業是否已經幻滅，蘇同學的內心真的感到非常迷惘又不安...

稍微冷靜下來後，蘇同學拿起手機，上網查詢了外交部的電話後，「嘟... 嘟... 外交部您好！請問有什麼我能為您服務的嗎？」電話那頭所傳來親切的聲音讓蘇同學的焦急稍微消散了些，說明了想詢問的問題後，總機將電話轉到了人事處。

「這裡是外交部人事處，您好！」蘇同學將致電原委以及心中的疑惑告知了接聽來電的承辦人，承辦人非常耐心和善地聽完了蘇同學的問題，也希望能順利解決她的疑惑。「蘇同學，謝謝妳對外交工作的熱情與努力，我們都很佩服！依據公務人員考試法及外交特考考試規則，只要是年滿 18 歲以上、45 歲以下的中華民國國民，且具有應考資格者，便得應此考試；就像公民與政治權利公約所揭示，該公約所載一切公民及政治權利之享受，男女權利，一律平等，報考外交特考並未設性別限制。我國外交工作歡迎各類跨領域人才透過外交特考進入本部服務，我們非常歡迎您加入我們的行列喔！」

知道了性別不是報考限制後，蘇同學總算放下了心中的一顆大石頭，在感謝熱心說明的外交部承辦人後，蘇同學掛斷電話，心想：「為了未來能夠適應這充滿挑戰與成就感的工作環境，我不僅要好好準備外交特考，未來也一定要持續精進語言及專業能力，成為一名優秀的外交人員！」

依現行外交特考考試規則等相關規定，並未以「性別」作為應考資格條件，無論是男性或女性均得報考外交特考，

以確保公民在工作權及考試權之平等。

相關規定

1. 《公政公約》第 3 條(男女平權)。
2. 《經社文公約》第 3 條(男女平權)。
3. 《中華民國憲法》第 18 條(人民有應考試服公職之權)。
4. 《公務人員考試法》第 2 條 (公開競爭)、第 12 條、第 13 條、第 16 條 (考試資格)。
5. 《公務人員特種考試外交領事人員及外交行政人員考試規則》第 3 條 (考試資格)。

案例五：領事通知權(條法司)

H 先生是名現年 25 歲外國籍人士，說的一口流利的西班牙語，因喜愛中華文化而申請簽證來臺在某大學學習中文，並在台北地區租了一間小套房居住。H 先生個性熱情大方喜歡結交新朋友，熱衷足球等受歡迎的運動，時常在課餘或假日的晚間，到運動酒吧小酌觀賞各類運動賽事。某晚 H 先生邀請了班上的男同學前往他常去的運動酒吧喝酒觀賞在歐洲進行的熱門足球冠亞軍比賽轉播，開賽不久後 H 先生就與鄰桌的 W 先生就球賽輸贏的預測結果意見不同，進而發生了言語爭執。H 先生覺得自己受到了無禮的挑釁勃然大怒，在情緒失控痛毆 W 先生，甚至拿起桌上的一罐玻璃酒瓶重擊 W 先生頭部，導致 W 先生頭部嚴重撕裂傷傷血流不止，店家見事態嚴重向轄區警方報案，轄區分局隨即出動快打部隊趕至酒吧後制伏 H 先生並將傷者送醫，另以《刑法》重傷

罪之現行犯為由當場逮捕H先生，將其上銬後帶往警局製作警訊筆錄。H先生的母語是西班牙文，所學的中文也不甚流利，導致警方製作筆錄上溝通的障礙，H先生也擔心自己中文能力表達欠佳會損害自己的權益，所以要求警方通知其所屬國派駐在我國之外交官員到警局提供協助，H先生原屬國派駐在我國的外交官員隨後趕往分局瞭解案件始末。

領事工作主要在為旅外國人的權益，此反映在習慣法典化之維也納領事關係公約第5條有關領事職務之規定，惟當派遣國國民觸犯接受國相關刑事法律規範而遭受接受國逮捕、羈押、起訴及審判時，往往亟需獲得原屬國之協助及保護，此時派遣國領事獲取通知之時機甚具急迫性，否則難以依據領事關係公約第5條規範之領事職務迅速提供協助及保護，公約爰於第36條及第37條明定領事通知權之規定。維也納領事關係公約第36條第1項規定「為便於領館執行其對於派遣國國民之職務計：（一）領事官員得自由與派遣國國民通訊及會見。派遣國國民與派遣國領事官員通訊及會見應有同樣自由；（二）遇有領館轄區內有派遣國國民受逮捕或監禁或羈押候審、或受任何其他方式之拘禁之情勢，經其本人請求時，接受國主管當局應迅即通知派遣國領館。受逮捕、監禁、羈押或拘禁之人致領館之信件應由該當局迅予遞交。該當局應將本款規定之權利即告知當事人；（三）領事官員有權探訪其轄區內依判決而受監禁、羈押或拘禁之派遣國國民，與之交談或通訊，並代聘其法律代表。但如受監禁、

羈押或拘禁之國民明示反對為其採取行動時，領事官員應避免採取此種行動。」

為履行國際公約義務並使外國駐臺外交（代表）機構執行保護該國在臺國民之職務，現行實務上各檢察、調查、廉政及警政機關因辦理案件而逮捕、拘禁外籍人士時，均會告知其得請求通知其所屬國駐臺使領館或代表機構，並在其提出此項請求後適時通知該駐臺機構，以充分維護相關外國籍人士之基本人權，並促進國際關係及提升我國之國際地位。

相關規定

1. 《公政公約》第 7 條、第 10 條。
2. 《經社文公約》第 12 條。
3. 《中華民國憲法》第 23 條。
4. 《刑法》第 278 條。

案例六：移交受刑人(條法司)

M 先生是 P 國籍人士，喜歡臺灣美麗人文風景而來臺進行打工換宿，在蘭嶼民宿協助清潔等各項事務勞力換取免費食宿。因為 M 先生個性不拘小節，很快地融入臺灣生活與同事打成一片，並開始有興趣學習中文。M 先生平常下工後喜歡小酌，但酒品不好，常常酒醉後發酒瘋大吼大叫行為脫序。某天，M 先生因與同事有溝通上的誤會而發生口角，在員工宿舍飲酒後心情不佳，竟不顧同事勸導，徒步至民宿存放於倉庫的 3 塊木棧板拿到民宿前院空地草坪上，並將鋤草

機裡的柴油淋倒在木棧板上，再用打火機加以點燃，導致該木棧板引燃柴油油漬後燃燒，而有發生公共危險的情況，幸好火勢燃燒木棧板後未再延燒一旁停放的汽機車及其他物品，未釀成大禍。

案件經當地之地方檢察署以公共危險罪起訴後，因 M 先生坦承犯行且證據確定，所以當地之地方法院判決 M 先生觸犯放火燒燬他人所有物罪，處有期徒刑 3 年 8 個月。後悔不已的 M 先生入監服刑後，對監獄環境沒有太大的抱怨，但因為語言(英文、中文都不太好)無法與他人溝通、文化差異及距離遙遠等因素，導致 M 先生親友探視不易，身體健康每況愈下、情緒更是一日比一日低落，終致身心難以調適，M 先生一直表達想回 A 國服刑。臺灣主管機關知道後，考量以上情形對於獄政管理及 M 先生處遇均有不良影響，所以積極與 A 國政府洽談簽訂移交受刑人刑事司法合作協定，在簽訂生效後便著手準備將 M 先生移交 P 國事宜，最後在跨部會機關的協調下順利完成移交程序，M 先生已返抵 P 國發監執行，M 先生特別感謝臺灣與 P 國間的互助模式，其身心狀況逐漸穩定，加上有親友的陪伴，於服刑完畢已順利重返社會。

有鑒於跨境或境外犯罪案件及人數不斷增加，立法院於 102 年 1 月通過「跨國移交受刑人法」，並於同年 7 月施行。只要於外國或大陸、香港、澳門地區監獄服刑的臺灣公民，在符合法定要件的前提下，皆可申請接回臺灣繼續服刑；在

我國監獄服刑的外國人，則可申請回其母國繼續服刑。臺灣目前與德國、英國、史瓦帝尼、丹麥及瑞士等國家均有簽訂協議進行移交跨國受刑人，使受刑人能各自回到其母國執行刑罰，相關機關未來仍將積極推動國際司法合作。

相關規定

1. 《公政公約》第 7 條、第 10 條。
2. 《經社文公約》第 12 條。
3. 《中華民國憲法》第 23 條。
4. 《刑法》第 175 條。

六、結語

人權已經成為國際社會關注的重要議題，台灣的國際地位特殊，目前尚無法參與聯合國或區域性人權體系之組織或活動，然而隨著我國民主的發展，國內人權意識逐漸提升，我國政府也積極參與國際人權活動，以自願方式遵守聯合國所通過的兩公約，由立法院通過《兩公約施行法》將兩公約內容內國法化後，之後亦持續將相關人權國際公約陸續完成國內法化，使我國各部會依序依照兩公約等國際人權公約之規定保障人權，政府各部門持續規劃相關配套措施並廣續推動相關人權政策，以落實人權立國之目標，使我國之人權保障的根基亦更加穩固。

外交部將持續辦理本資料更新修訂，納入新增案例、問題討論等，以引發同仁多元思考及提升相關人權知能，在外

交或行政工作上均能納入人權之觀點，推動相關人權外交之工作。

七、參考資料來源

- (一) 監察院「國家人權委員會」網站 (<https://nhrc.cy.gov.tw/>)
- (二) 法務部「人權大步走」網站
(<https://www.humanrights.moj.gov.tw/>)
- (三) 法務部「兩公約教育訓練及宣導計畫書」(109 年 12 月)
- (四) 「公民與政治權利國際公約經濟社會文化權利國際公約一般性意見」法務部中譯本修訂 2 版(107 年 12 月)
- (五) 國家發展委員會「兩公約人權教育訓練教材」(110 年 4 月)
- (六) 人權公約施行監督聯盟網站
(<https://covenantwatch.org.tw/>)
- (七) 外交部領事事務局、人事處、條約法律司

八、附錄

- (一) 附錄一《公政公約》中文版
- (二) 附錄二《公政公約》英文版
- (三) 附錄三《經社文公約》中文版
- (四) 附錄四《經社文公約》英文版
- (五) 附錄五《兩公約施行法》

公民與政治權利國際公約

一九七六年三月二十三日生效

前 文

本公約締約國，

鑒於依據聯合國憲章揭示之原則，人類一家，對於人人天賦尊嚴及其平等而且不可割讓權利之確認，實係世界自由、正義與和平之基礎，

確認此種權利源於天賦人格尊嚴，

確認依據世界人權宣言之昭示，唯有創造環境，使人人除享有經濟社會文化權利而外，並得享受公民及政治權利，始克實現自由人類享受公民及政治自由無所恐懼不虞匱乏之理想。

鑒於聯合國憲章之規定，各國負有義務，必須促進人權及自由之普遍尊重及遵守，

明認個人對他人及對其隸屬之社會，負有義務，故職責所在，必須力求本公約所確認各種權利之促進及遵守，

爰議定條款如下：

第 壹 編

- 第 一 條 一 所有民族均享有自決權，根據此種權利，自由決定其政治地位並自由從事其經濟、社會與文化之發展。
- 二 所有民族得為本身之目的，自由處置其天然財富及資源，但不得妨害因基於互惠原則之國際經濟合作及因國際法而生之任何義務。無論在何種情形下，民族之生計，不容剝奪。
- 三 本公約締約國，包括負責管理非自治及託管領土之國家在內，均應遵照聯合國憲章規定，促進自決權之實現，並尊重此種權利。

第 貳 編

- 第 二 條 一 本公約締約國承允尊重並確保所有境內受其管轄之人，無分種族、膚色、性別、語言、宗教、政見或其他主張民族本源或社會階級、財產、出生或其他身分等等，一律享受本公約所確認之權利。
- 二 本公約締約國承允遇現行立法或其他措施尚無規定時，各依本國憲法程序，並遵照本公約規定，採取必要步驟，制定必要之立法或其他措施，以實現本公約所確認之權利。

三 本公約締約國承允：

- (一) 確保任何人所享本公約確認之權利或自由如遭受侵害，均獲有效之救濟，公務員執行職務所犯之侵權行為，亦不例外；
- (二) 確保上項救濟聲請人之救濟權利，由主管司法、行政或立法當局裁定，或由該國法律制度規定之其他主管當局裁定，並推廣司法救濟之機會；
- (三) 確保上項救濟一經核准，主管當局概予執行。

第 三 條 本公約締約國承允確保本公約所載一切公民及政治權利之享受，男女權利，一律平等。

第 四 條 一 如經當局正式宣布緊急狀態，危及國本，本公約締約國得在此種危急情勢絕對必要之限度內，採取措施，減免履行其依本公約所負之義務，但此種措施不得牴觸其依國際法所負之其他義務，亦不得引起純粹以種族、膚色、性別、語言、宗教或社會階級為根據之歧視。

二 第六條、第七條、第八條（第一項及第二項）、第十一條、第十五條、第十六條及第十八條之規定，不得依本條規定減免履行。

三 本公約締約國行使其減免履行義務之權利者，應立即將其減免履行之條款，及減免履行之理由，經由聯合國秘書長轉知本公約其他締約國。其終止減免履行之日期，亦應另行移文秘書長轉知。

第 五 條 一 本公約條文不得解釋為國家、團體或個人有權從事活動或實行行為，破壞本公約確認之任何一種權利與自由，或限制此種權利與自由逾越本公約規定之程度。

二 本公約締約國內依法律、公約、條例或習俗而承認或存在之任何基本人權，不得藉口本公約未予確認或確認之範圍較狹，而加以限制或減免義務。

第 參 編

第 六 條 一 人人皆有天賦之生存權。此種權利應受法律保障。任何人之生命不得無理剝奪。

二 凡未廢除死刑之國家，非犯情節最重大之罪，且依照犯罪時有效並與本公約規定及防止及懲治殘害人群罪公約不牴觸之法律，不得科處死刑。死刑非依管轄法院終局判決，不得執行。

- 三 生命之剝奪構成殘害人群罪時，本公約締約國公認本條不得認為授權任何締約國以任何方式減免其依防止及懲治殘害人群罪公約規定所負之任何義務。
- 四 受死刑宣告者，有請求特赦或減刑之權。一切判處死刑之案件均得邀大赦、特赦或減刑。
- 五 未滿十八歲之人犯罪，不得判處死刑；懷胎婦女被判死刑，不得執行其刑。
- 六 本公約締約國不得援引本條，而延緩或阻止死刑之廢除。

第七條 任何人不得施以酷刑，或予以殘忍、不人道或侮辱之處遇或懲罰。非經本人自願同意，尤不得對任何人作醫學或科學試驗。

- 第八條
- 一 任何人不得使充奴隸；奴隸制度及奴隸販賣，不論出於何種方式，悉應禁止。
 - 二 任何人不得使充奴工。
 - 三 (一) 任何人不得使服強迫或強制之勞役；
(二) 凡犯罪刑罰得科苦役徒刑之國家，如經管轄法院判處此刑，不得根據第三項 (一) 款規定，而不服苦役；
(三) 本項所稱“強迫或強制勞役”不包括下列各項：
(1) 經法院依法命令拘禁之人，或在此種拘禁假釋期間之人，通常必須擔任而不屬於 (二) 款範圍之工作或服役；
(2) 任何軍事性質之服役，及在承認人民可以本其信念反對服兵役之國家，依法對此種人徵服之國民服役；
(3) 遇有緊急危難或災害禍患危及社會生命安寧時徵召之服役；
(4) 為正常公民義務一部分之工作或服役。

- 第九條
- 一 人人有權享有身體自由及人身安全。任何人不得無理予以逮捕或拘禁。非依法定理由及程序，不得剝奪任何人之自由。
 - 二 執行逮捕時，應當場向被捕人宣告逮捕原因，並應隨即告知被控案由。
 - 三 因刑事罪名而被逮捕或拘禁之人，應迅即解送法官或依法執行司法權力之其他官員，並應於合理期間內審訊或釋放。候訊人通常不得加以羈押，但釋放得令具

報，於審訊時，於司法程序之任何其他階段、並於一旦執行判決時，候傳到場。

四 任何人因逮捕或拘禁而被奪自由時，有權聲請法院提審，以迅速決定其拘禁是否合法，如屬非法，應即令釋放。

五 任何人受非法逮捕或拘禁者，有權要求執行損害賠償。

第十條 一 自由被剝奪之人，應受合於人道及尊重其天賦人格尊嚴之處遇。

二 (一) 除特殊情形外，被告應與判決有罪之人分別羈押，且應另予與其未經判決有罪之身分相稱之處遇；

(二) 少年被告應與成年被告分別羈押，並應儘速即予判決。

三 監獄制度所定監犯之處遇，應以使其懺悔自新，重適社會生活為基本目的。少年犯人應與成年犯人分別拘禁，且其處遇應與其年齡及法律身分相稱。

第十一條 任何人不得僅因無力履行契約義務，即予監禁。

第十二條 一 在一國領土內合法居留之人，在該國領土內有遷徙往來之自由及擇居之自由。

二 人人應有自由離去任何國家，連其本國在內。

三 上列權利不得限制，但法律所規定、保護國家安全、公共秩序、公共衛生或風化、或他人權利與自由所必要，且與本公約所確認之其他權利不牴觸之限制，不在此限。

四 人人進入其本國之權，不得無理褫奪。

第十三條 本公約締約國境內合法居留之外國人，非經依法判定，不得驅逐出境，且除事關國家安全必須急速處分者外，應准其提出不服驅逐出境之理由，及聲請主管當局或主管當局特別指定之人員予以覆判，並為此目的委託代理人到場申訴。

第十四條 一 人人在法院或法庭之前，悉屬平等。任何人受刑事控告或因其權利義務涉訟須予判定時，應有權受獨立無私之法定管轄法庭公正公開審問。法院得因民主社會之風化、公共秩序或國家安全關係，或於保護當事人私生活有此必要時，或因情形特殊公開審判勢必影響司法而在其認為絕對必要之限度內，禁止新聞界及公

眾旁聽審判程序之全部或一部；但除保護少年有此必要，或事關婚姻爭執或子女監護問題外，刑事民事之判決應一律公開宣示。

- 二 受刑事控告之人，未經依法確定有罪以前，應假定其無罪。
- 三 審判被控刑事罪時，被告一律有權平等享受下列最低限度之保障：
 - (一) 迅即以其通曉之語言，詳細告知被控罪名及案由；
 - (二) 給予充分之時間及便利，準備答辯並與其選任之辯護人聯絡；
 - (三) 立即受審，不得無故稽延；
 - (四) 到庭受審，及親自答辯或由其選任辯護人答辯；未經選任辯護人者，應告以有此權利；法院認為審判有此必要時，應為其指定公設辯護人，如被告無資力酬償，得免付之；
 - (五) 得親自或間接詰問他造證人，並得聲請法院傳喚其證人在與他造證人同等條件下出庭作證；
 - (六) 如不通曉或不能使用法院所用之語言，應免費為備通譯協助之；
 - (七) 不得強迫被告自供或認罪。
- 四 少年之審判，應顧念被告年齡及宜使其重適社會生活，而酌定程序。
- 五 經判定犯罪者，有權聲請上級法院依法覆判其有罪判決及所科刑罰。
- 六 經終局判決判定犯罪，如後因提出新證據或因發見新證據，確實證明原判錯誤而經撤銷原判或免刑者，除經證明有關證據之未能及時披露，應由其本人全部或局部負責者外，因此判決而服刑之人應依法受損害賠償。
- 七 任何人依一國法律及刑事程序經終局判決判定有罪或無罪開釋者，不得就同一罪名再予審判或科刑。

第十五條 一 任何人之行為或不行為，於發生當時依內國法及國際法均不成罪者，不為罪。刑罰不得重於犯罪時法律所規定。犯罪後之法律規定減科刑罰者，從有利於行為人之法律。

- 二 任何人之行為或不行為，於發生當時依各國公認之一般法律原則為有罪者，其審判與刑罰不受本條規定之

影響。

第十六條 人人在任何所在有被承認為法律人格之權利。

第十七條 一 任何人之私生活、家庭、住宅或通信，不得無理或非法侵擾，其名譽及信用，亦不得非法破壞。

二 對於此種侵擾或破壞，人人有受法律保護之權利。

第十八條 一 人人有思想、信念及宗教之自由。此種權利包括保有或採奉自擇之宗教或信仰之自由，及單獨或集體、公開或私自以禮拜、戒律、躬行及講授表示其宗教或信仰之自由。

二 任何人所享保有或採奉自擇之宗教或信仰之自由，不得以脅迫侵害之。

三 人人表示其宗教或信仰之自由，非依法律，不受限制，此項限制以保障公共安全、秩序、衛生或風化或他人之基本權利自由所必要者為限。

四 本公約締約國承允尊重父母或法定監護人確保子女接受符合其本人信仰之宗教及道德教育之自由。

第十九條 一 人人有保持意見不受干預之權利。

二 人人有發表自由之權利；此種權利包括以語言、文字或出版物、藝術或自己選擇之其他方式，不分國界，尋求、接受及傳播各種消息及思想之自由。

三 本條第二項所載權利之行使，附有特別責任及義務，故得予以某種限制，但此種限制以經法律規定，且為下列各項所必要者為限：

(一) 尊重他人權利或名譽；

(二) 保障國家安全或公共秩序，或公共衛生或風化。

第二十條 一 任何鼓吹戰爭之宣傳，應以法律禁止之。

二 任何鼓吹民族、種族或宗教仇恨之主張，構成煽動歧視、敵視或強暴者，應以法律禁止之。

第二十一條 和平集會之權利，應予確認。除依法律之規定，且為民主社會維護國家安全或公共安寧、公共秩序、維持公共衛生或風化、或保障他人權利自由所必要者外，不得限制此種權利之行使。

第二十二條 一 人人有自由結社之權利，包括為保障其本身利益而組織及加入工會之權利。

二 除依法律之規定，且為民主社會維護國家安全或公共安寧、公共秩序、維持公共衛生或風化、或保障他人權利自由所必要者外，不得限制此種權利之行使。本

條並不禁止對軍警人員行使此種權利，加以合法限制。

- 三 關於結社自由及保障組織權利之國際勞工組織一九四八年公約締約國，不得根據本條採取立法措施或應用法律，妨礙該公約所規定之保證。

- 第二十三條 一 家庭為社會之自然基本團體單位，應受社會及國家之保護。
- 二 男女已達結婚年齡者，其結婚及成立家庭之權利應予確認。
- 三 婚姻非經婚嫁雙方自由完全同意，不得締結。
- 四 本公約締約國應採取適當步驟，確保夫妻在婚姻方面，在婚姻關係存續期間，以及在婚姻關係消滅時，雙方權利責任平等。婚姻關係消滅時，應訂定辦法，對子女予以必要之保護。

- 第二十四條 一 所有兒童有權享受家庭、社會及國家為其未成年身分給予之必需保護措施，不因種族、膚色、性別、語言、宗教、民族本源或社會階級、財產、或出生而受歧視。

- 二 所有兒童出生後應立予登記，並取得名字。
- 三 所有兒童有取得國籍之權。

- 第二十五條 一 凡屬公民，無分第二條所列之任何區別，不受無理限制，均應有權利及機會：
- (一) 直接或經由自由選擇之代表參與政事；
- (二) 在真正、定期之選舉中投票及被選。選舉權必須普及而平等，選舉應以無記名投票法行之，以保證選民意志之自由表現；
- (三) 以一般平等之條件，服本國公職。

- 第二十六條 人人在法律上一律平等，且應受法律平等保護，無所歧視。在此方面，法律應禁止任何歧視，並保證人人享受平等而有效之保護，以防因種族、膚色、性別、語言、宗教、政見或其他主張、民族本源或社會階級、財產、出生或其他身分而生之歧視。

- 第二十七條 凡有種族、宗教或語言少數團體之國家，屬於此類少數團體之人，與團體中其他分子共同享受其固有文化、信奉躬行其固有宗教或使用其固有語言之權利，不得剝奪之。

第 肆 編

- 第二十八條 一 茲設置人權事宜委員會（本公約下文簡稱委員會）委員十八人，執行以下規定之職務。
- 二 委員會委員應為本公約締約國國民，品格高尚且在人權問題方面聲譽素著之人士；同時並應計及宜選若干具有法律經驗之人士擔任委員。
- 三 委員會委員以個人資格當選任職。
- 第二十九條 一 委員會之委員應自具備第二十八條所規定資格並經本公約締約國為此提名之人士名單中以無記名投票選舉之。
- 二 本公約各締約國提出人選不得多於二人，所提人選應為提名國國民。
- 三 候選人選，得續予提名。
- 第三十條 一 初次選舉至遲應於本公約開始生效後六個月內舉行。
- 二 除依據第三十四條規定宣告出缺而舉行之補缺選舉外，聯合國秘書長至遲應於委員會各次選舉日期四個月前以書面邀請本公約締約國於三個月內提出委員會委員候選人。
- 三 聯合國秘書長應就所提出之候選人，按照字母次序編製名單，標明推薦其候選之締約國，至遲於每次選舉日期一個月前，送達本公約締約國。
- 四 委員會委員之選舉應由聯合國秘書長在聯合國會所召集之締約國會議舉行之，該會議以締約國之三分之二出席為法定人數，候選人獲票最多且得出席及投票締約國代表絕對過半數票者當選為委員會委員。
- 第三十一條 一 委員會不得有委員一人以上為同一國家之國民。
- 二 選舉委員會委員時應計及地域公勻分配及確能代表世界不同文化及各主要法系之原則。
- 第三十二條 一 委員會委員任期四年。續經提名者連選得連任。但第一次選出之委員中九人任期應為二年；任期二年之委員九人，應於第一次選舉完畢後，立由第三十條第四項所稱會議之主席，以抽籤方法決定之。
- 二 委員會委員任滿時之改選，應依照本公約本編以上各條舉行之。
- 第三十三條 一 委員會某一委員倘經其他委員一致認為由於暫時缺席以外之其他原因，業已停止執行職務時，委員會主席應通知聯合國秘書長，由其宣告該委員出缺。
- 二 委員會委員死亡或辭職時，委員會主席應即通知聯合

國秘書長，由其宣告該委員自死亡或辭職生效之日起出缺。

- 第三十四條 一 遇有第三十三條所稱情形宣告出缺，且須行補選之委員任期不在宣告出缺後六個月內屆滿者，聯合國秘書長應通知本公約各締約國，各締約國得於兩個月內依照第二十九條提出候選人，以備補缺。
- 二 聯合國秘書長應就所提出之候選人，按照字母次序編製名單，送達本公約締約國。補缺選舉應於編送名單後依照本公約本編有關規定舉行之。
- 三 委員會委員之當選遞補依第三十三條規定宣告之懸缺者，應任職至依該條規定出缺之委員會委員任期屆滿時為止。

第三十五條 委員會委員經聯合國大會核准，自聯合國資金項下支取報酬，其待遇及條件由大會參酌委員會所負重大責任定之。

第三十六條 聯合國秘書長應供給委員會必要之辦事人員及便利，俾得有效執行本公約所規定之職務。

- 第三十七條 一 委員會首次會議由聯合國秘書長在聯合國會所召集之。
- 二 委員會舉行首次會議後，遇委員會議事規則規定之情形召開會議。
- 三 委員會會議通常應在聯合國會所或日內瓦聯合國辦事處舉行之。

第三十八條 委員會每一委員就職時，應在委員會公開集會中鄭重宣言，必當秉公竭誠，執行職務。

- 第三十九條 一 委員會應自行選舉其職員，任期二年，連選得連任。
- 二 委員會應自行制定議事規則，其中應有下列規定：
- (一) 委員十二人構成法定人數；
- (二) 委員會之決議以出席委員過半數之同意為之。

- 第四十條 一 本公約締約國承允依照下列規定，各就其實施本公約所確認權利而採取之措施，及在享受各種權利方面所獲之進展，提具報告書：
- (一) 本公約對關係締約國生效後一年內；
- (二) 其後遇委員會提出請求時。
- 二 所有報告書應交由聯合國秘書長轉送委員會審議。如有任何因素及困難影響本公約之實施，報告書應予說明。
- 三 聯合國秘書長與委員會商洽後得將報告書中屬於關係

專門機關職權範圍之部分副本轉送各該專門機關。

四 委員會應研究本公約締約國提出之報告書。委員會應向締約國提送其報告書及其認為適當之一般評議。委員會亦得將此等評議連同其自本公約締約國收到之報告書副本轉送經濟暨社會理事會。

五 本公約締約國得就可能依據本條第四項規定提出之任何評議向委員會提出意見。

第四十一條 一 本公約締約國得依據本條規定，隨時聲明承認委員會有權接受並審議一締約國指稱另一締約國不履行本公約義務之來文。依本條規定而遞送之來文，必須為曾聲明其本身承認委員會有權之締約國所提出方得予以接受並審查。如來文關涉未作此種聲明之締約國，委員會不得接受之。依照本條規定接受之來文應照下開程序處理：

- (一) 如本公約某一締約國認為另一締約國未實施本公約條款，得書面提請該締約國注意。受請國應於收到此項來文三個月內，向遞送來文之國家書面提出解釋或任何其他聲明，以闡明此事，其中應在可能及適當範圍內，載明有關此事之本國處理辦法，及業經採取或正在決定或可資援用之救濟辦法。
- (二) 如在受請國收到第一件來文後六個月內，問題仍未獲關係締約國雙方滿意之調整，當事國任何一方均有權通知委員會及其他一方，將事件提交委員會。
- (三) 委員會對於提請處理之事件，應於查明對此事件可以運用之國內救濟辦法悉已援用無遺後，依照公認之國際法原則處理之。但如救濟辦法之實施有不合理之拖延，則不在此限。
- (四) 委員會審查本條所稱之來文時應舉行不公開會議。
- (五) 以不牴觸（三）款之規定為限，委員會應斡旋關係締約國俾以尊重本公約所確認之人權及基本自由為基礎，友善解決事件。
- (六) 委員會對於提請處理之任何事件，得請（二）款所稱之關係締約國提供任何有關情報。
- (七) （二）款所稱關係締約國有權於委員會審議此事件時出席並提出口頭及/或書面陳述。

(八) 委員會應於接獲依 (二) 款所規定通知之日起十二個月內提出報告書：

(1) 如已達成 (五) 款規定之解決辦法，委員會報告書應以扼要敘述事實及所達成之解決辦法為限。

(2) 如未達成 (五) 款規定之解決辦法，委員會報告書應以扼要敘述事實為限；關係締約國提出之書面陳述及口頭陳述紀錄應附載於報告書內。

關於每一事件，委員會應將報告書送達各關係締約國。

二 本條之規定應於本公約十締約國發表本條第一項所稱之聲明後生效。此種聲明應由締約國交存聯合國秘書長，由秘書長將聲明副本轉送其他締約國。締約國得隨時通知秘書長撤回聲明。此種撤回不得影響對業經依照本條規定遞送之來文中所提事件之審議；秘書長接得撤回通知後，除非關係締約國另作新聲明，該國再有來文時不予接受。

第四十二條 一 (一) 如依第四十一條之規定提請委員會處理之事件未能獲得關係締約國滿意之解決，委員會得經關係締約國事先同意，指派一專設和解委員會 (下文簡稱和委會)。和委會應為關係締約國斡旋，俾以尊重本公約為基礎，和睦解決問題；

(二) 和委會由關係締約國接受之委員五人組成之。如關係締約國於三個月內對和委會組成之全部或一部未能達成協議，未得協議之和委會委員應由委員會用無記名投票法以三分之二之多數自其本身委員中選出之。

二 和委會委員以個人資格任職。委員不得為關係締約國之國民，或為非本公約締約國之國民，或未依第四十一條規定發表聲明之締約國國民。

三 和委會應自行選舉主席及制定議事規則。

四 和委會會議通常應在聯合國會所或日內瓦聯合國辦事處舉行，但亦得於和委會諮商聯合國秘書長及關係締約國決定之其他方便地點舉行。

五 依第三十六條設置之秘書處應亦為依本條指派之和委會服務。

六 委員會所蒐集整理之情報，應提送和委會，和委會亦得請關係締約國提供任何其他有關情報。

七 和委會於詳盡審議案件後，無論如何應於受理該案件十二個月內，向委員會主席提出報告書，轉送關係締約國：

- (一) 和委會如未能於十二個月內完成案件之審議，其報告書應以扼要說明審議案件之情形為限；
- (二) 和委會如能達成以尊重本公約所確認之人權為基礎之和睦解決問題辦法，其報告書應以扼要說明事實及所達成之解決辦法為限；
- (三) 如未能達成(二)款規定之解決辦法，和委會報告書應載有其對於關係締約國爭執事件之一切有關事實問題之結論，以及對於事件和睦解決各種可能性之意見。此項報告書應亦載有關係締約國提出之書面陳述及所作口頭陳述之紀錄；
- (四) 和委會報告書如係依(三)款之規定提出，關係締約國應於收到報告書後三個月內通知委員會主席願否接受和委會報告書內容。

八 本條規定不影響委員會依第四十一條所負之責任。

九 關係締約國應依照聯合國秘書長所提概算，平均負擔和委會委員之一切費用。

十 聯合國秘書長有權於必要時在關係締約國依本條第九項償還用款之前，支付和委會委員之費用。

第四十三條 委員會委員，以及依第四十二條可能指派之專設和解委員會委員，應有權享受聯合國特權豁免公約內有關各款為因聯合國公務出差之專家所規定之便利、特權與豁免。

第四十四條 本公約實施條款之適用不得妨礙聯合國及各專門機關之組織約章及公約在人權方面所訂之程序，或根據此等約章及公約所訂之程序，亦不得阻止本公約各締約國依照彼此間現行之一般或特別國際協定，採用其他程序解決爭端。

第四十五條 委員會應經由經濟暨社會理事會向聯合國大會提送常年工作報告書。

第 五 編

第四十六條 本公約之解釋，不得影響聯合國憲章及各專門機關組織法內規定聯合國各機關及各專門機關分別對本公約所處理各種事項所負責任之規定。

第四十七條 本公約之解釋，不得損害所有民族充分與自由享受及利用其天然財富與資源之天賦權利。

第 陸 編

- 第四十八條 一 本公約聽由聯合國會員國或其專門機關會員國、國際法院規約當事國及經聯合國大會邀請為本公約締約國之任何其他國家簽署。
- 二 本公約須經批准。批准書應送交聯合國秘書長存放。
- 三 本公約聽由本條第一項所稱之任何國家加入。
- 四 加入應以加入書交存聯合國秘書長為之。
- 五 聯合國秘書長應將每一批准書或加入書之交存，通知已經簽署或加入本公約之所有國家。
- 第四十九條 一 本公約應自第三十五件批准書或加入書送交聯合國秘書長存放之日起三個月後發生效力。
- 二 對於在第三十五件批准書或加入書交存後批准或加入本公約之國家，本公約應自該國交存批准書或加入書之日起三個月後發生效力。
- 第五十條 本公約各項規定應一律適用於聯邦國家之全部領土，並無限制或例外。
- 第五十一條 一 本公約締約國得提議修改本公約，將修正案提交聯合國秘書長。秘書長應將提議之修正案分送本公約各締約國，並請其通知是否贊成召開締約國會議，以審議並表決所提議案。如締約國三分之一以上贊成召開會議，秘書長應以聯合國名義召集之。經出席會議並投票之締約國過半數通過之修正案，應提請聯合國大會核可。
- 二 修正案經聯合國大會核可，並經本公約締約國三分之二各依本國憲法程序接受後，即發生效力。
- 三 修正案生效後，對接受此種修正之締約國具有拘束力；其他締約國仍受本公約原訂條款及其前此所接受修正案之拘束。
- 第五十二條 除第四十八條第五項規定之通知外，聯合國秘書長應將下列事項通知同條第一項所稱之所有國家：
- （一）依第四十八條所為之簽署、批准及加入；
- （二）依第四十九條本公約發生效力之日期，及依第五十一條任何修正案發生效力之日期。
- 第五十三條 一 本公約應交存聯合國檔庫，其中、英、法、俄及西文各本同一作準。
- 二 聯合國秘書長應將本公約正式副本分送第四十八條所稱之所有國家。

為此，下列各代表秉其本國政府正式授予之權，謹簽字於自一九
六六年十二月十九日起得由各國在紐約簽署之本公約，以昭信守。

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976.

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PREAMBLE

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation,

based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and

to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3.

(a) No one shall be required to perform forced or compulsory labour;

(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(i) Any work or service, not referred to in sub-paragraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(iv) Any work or service which forms part of normal civil obligations.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2.(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.
6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.
7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.
2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

PART IV

Article 28

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as the Committee). It shall consist of eighteen members and shall carry out the functions hereinafter provided.
2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.
3. The members of the Committee shall be elected and shall serve in their personal capacity.

Article 29

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in article 28 and nominated for the purpose by the States Parties to the present Covenant.
2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.
3. A person shall be eligible for renomination.

Article 30

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.
2. At least four months before the date of each election to the Committee, other than an election to fill a vacancy declared in accordance with article 34, the Secretary-General of the United Nations shall address a written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.
3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have

nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.

4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

Article 31

1. The Committee may not include more than one national of the same State.
2. In the election of the Committee, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

Article 32

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in article 30, paragraph 4.
2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

Article 33

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant.
2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

Article 34

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.

2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.

3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

Article 35

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

Article 36

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

Article 37

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations Office at Geneva.

Article 38

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

Article 39

1. The Committee shall elect its officers for a term of two years. They may be re-elected.
2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:
 - (a) Twelve members shall constitute a quorum;
 - (b) Decisions of the Committee shall be made by a majority vote of the members present.

Article 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights:
 - (a) Within one year of the entry into force of the present Covenant for the States Parties concerned;
 - (b) Thereafter whenever the Committee so requests.
2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.
3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.
4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.

5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

Article 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter;

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged;

(d) The Committee shall hold closed meetings when examining communications under this article;

(e) Subject to the provisions of sub-paragraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant;

(f) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in sub-paragraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under sub-paragraph (b), submit a report:

(i) If a solution within the terms of sub-paragraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of sub-paragraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 42

1.

(a) If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;

(b) The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission concerning whom no agreement has been reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not Party to the present Covenant, or of a State Party which has not made a declaration under article 41.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.

5. The secretariat provided in accordance with article 36 shall also service the commissions appointed under this article.

6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information.

7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned:

(a) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter;

(b) If an amicable solution to the matter on the basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached;

(c) If a solution within the terms of sub-paragraph (b) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, and its views on the possibilities of an amicable solution of the

matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned;

(d) If the Commission's report is submitted under sub-paragraph (c), the States Parties concerned shall, within three months of the receipt of the report, notify the Chairman of the Committee whether or not they accept the contents of the report of the Commission.

8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41.

9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned, in accordance with paragraph 9 of this article.

Article 43

The members of the Committee, and of the ad hoc conciliation commissions which may be appointed under article 42, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 44

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

Article 45

The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.

PART V

Article 46

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 47

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART VI

Article 48

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 49

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.
2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall

enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 50

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 51

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 52

Irrespective of the notifications made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 48;

(b) The date of the entry into force of the present Covenant under article 49 and the date of the entry into force of any amendments under article 51.

Article 53

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.

IN FAITH WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present Covenant, opened for signature at New York, on the nineteenth day of December, one thousand nine hundred and sixty-six.

經濟社會文化權利國際公約

一九七六年一月三日生效

(附件三)

前 文

本公約締約國，

鑒於依據聯合國憲章揭示之原則，人類一家，對於人人天賦尊嚴，及其平等而且不可割讓權利之確認，實係世界自由、正義與和平之基礎，

確認此種權利源於天賦人格尊嚴，

確認依據世界人權宣言之昭示，唯有創造環境，使人人除享有公民及政治權利而外，並得享受經濟社會文化權利，始克實現自由人類享受無所恐懼不虞匱乏之理想。

鑒於聯合國憲章之規定，各國負有義務，必須促進人權及自由之普遍尊重及遵守，

明認個人對他人及對其隸屬之社會，負有義務，故職責所在，必須力求本公約所確認各種權利之促進及遵守，

爰議定條款如下：

第 壹 編

- 第一條 一 所有民族均享有自決權，根據此種權利，自由決定其政治地位及自由從事其經濟、社會與文化之發展。
- 二 所有民族得為本身之目的，自由處置其天然財富及資源，但不得妨害因基於互惠原則之國際經濟合作及因國際法而生之任何義務。無論在何種情形下，民族之生計，不容剝奪。
- 三 本公約締約國包括負責管理非自治及託管領土之國家在內，均應遵照聯合國憲章規定，促進自決權之實現並尊重此種權利。

第 貳 編

- 第二條 一 本公約締約國承允盡其資源能力所及，各自並藉國際協助與合作，特別在經濟與技術方面之協助與合作採取種種步驟，務期以所有適當方法，尤其包括通過立法措施，逐漸使本公約所確認之各種權利完全實現。
- 二 本公約締約國承允保證人行使本公約所載之各種權利，不因種族、膚色、性別、語言、宗教、政見或其他主張、民族本源或社會階級、財產、出生或其他身分等等而受歧視。

三 發展中國家在適當顧及人權及國民經濟之情形下，得決定保證非本國國民享受本公約所確認經濟權利之程度。

第三條 本公約締約國承允確保本公約所載一切經濟社會文化權利之享受，男女權利一律平等。

第四條 本公約締約國確認人民享受國家遵照本公約規定所賦予之權利時，國家對此類權利僅得加以法律明定之限制，又其所定限制以與此類權利之性質不相牴觸為準，且加以限制之唯一目的應在增進民主社會之公共福利。

第五條 一 本公約條文不得解釋為國家、團體或個人有權從事活動或實行行為，破壞本公約確認之任何權利或自由，或限制此種權利或自由逾越本公約規定之程度。
二 任何國家內依法律、公約、條例或習俗而承認或存在之任何基本人權，不得藉口本公約未予確認或確認之範圍較狹，而加以限制或減免義務。

第 參 編

第六條 一 本公約締約國確認人人有工作之權利，包括人人應有機會憑本人自由選擇或接受之工作謀生之權利，並將採取適當步驟保障之。
二 本公約締約國為求完全實現此種權利而須採取之步驟，應包括技術與職業指導及訓練方案、政策與方法，以便在保障個人基本政治與經濟自由之條件下，造成經濟、社會及文化之穩步發展以及充分之生產性就業。

第七條 本公約締約國確認人人有權享受公平與良好之工作條件，尤須確保：

(一) 所有工作者之報酬使其最低限度均能：

(1) 獲得公允之工資，工作價值相等者享受同等報酬，不得有任何區別，尤須保證婦女之工作條件不得次於男子，且應同工同酬；

(2) 維持本人及家屬符合本公約規定之合理生活水平；

(二) 安全衛生之工作環境；

(三) 人人有平等機會於所就職業升至適當之較高等級，不受年資才能以外其他考慮之限制；

(四) 休息、閒暇、工作時間之合理限制與照給薪資

之定期休假，公共假日亦須給酬。

第八條 一 本公約締約國承允確保：

- (一) 人人有權為促進及保障其經濟及社會利益而組織工會及加入其自身選擇之工會，僅受關係組織規章之限制。除依法律之規定，且為民主社會維護國家安全或公共秩序、或保障他人權利自由所必要者外，不得限制此項權利之行使；
- (二) 工會有權成立全國聯合會或同盟，後者有權組織或參加國際工會組織；
- (三) 工會有權自由行使職權，除依法律之規定，且為民主社會維護國家安全或公共秩序、或保障他人權利自由所必要者外，不得限制此種權利之行使；

(四) 罷工權利，但以其行使符合國家法律為限。

二 本條並不禁止對軍警或國家行政機關人員行使此種權利，加以合法限制。

三 關於結社自由及保障組織權利之國際勞工組織一九四八年公約締約國，不得依據本條採取立法措施或應用法律，妨礙該公約所規定之保證。

第九條 本公約締約國確認人人有權享受社會保障，包括社會保險。

第十條 本公約締約國確認：

- 一 家庭為社會之自然基本團體單位，應儘力廣予保護與協助，其成立及當其負責養護教育受扶養之兒童時，尤應予以保護與協助。婚姻必須婚嫁雙方自由同意方得締結。
- 二 母親於分娩前後相當期間內應受特別保護。工作之母親在此期間應享受照給薪資或有適當社會保障福利之休假。
- 三 所有兒童及少年應有特種措施予以保護與協助，不得因出生或其他關係而受任何歧視。兒童及青年應有保障、免受經濟及社會剝削。凡僱用兒童及少年從事對其道德或健康有害、或有生命危險、或可能妨礙正常發育之工作者均應依法懲罰。國家亦應訂定年齡限制，凡出資僱用未及齡之童工，均應禁止並應依法懲罰。

第十一條 一 本公約締約國確認人人有權享受其本人及家屬所需

之適當生活程度，包括適當之衣食住及不斷改善之生活環境。締約國將採取適當步驟確保此種權利之實現，同時確認在此方面基於自由同意之國際合作極為重要。

二 本公約締約國既確認人人有免受饑餓之基本權利，應個別及經由國際合作，採取為下列目的所需之措施，包括特定方案在內：

- (一) 充分利用技術與科學知識、傳佈營養原則之知識、及發展或改革土地制度而使天然資源獲得最有效之開發與利用，以改進糧食生產、保貯及分配之方法；
- (二) 計及糧食輸入及輸出國家雙方問題，確保世界糧食供應按照需要，公平分配。

第十二條 一 本公約締約國確認人人有權享受可能達到之最高標準之身體與精神健康。

二 本公約締約國為求充分實現此種權利所採取之步驟，應包括為達成下列目的所必要之措施：

- (一) 設法減低死產率及嬰兒死亡率，並促進兒童之健康發育；
- (二) 改良環境及工業衛生之所有方面；
- (三) 預防、療治及撲滅各種傳染病、風土病、職業病及其他疾病；
- (四) 創造環境，確保人人患病時均能享受醫藥服務與醫藥護理。

第十三條 一 本公約締約國確認人人有受教育之權。締約國公認教育應謀人格及人格尊嚴意識之充分發展，增強對人權與基本自由之尊重。締約國又公認教育應使人人均能參加自由社會積極貢獻，應促進各民族間及各種族、人種或宗教團體間之了解、容恕及友好關係，並應推進聯合國維持和平之工作。

二 本公約締約國為求充分實現此種權利起見，確認：

- (一) 初等教育應屬強迫性質，免費普及全民；
- (二) 各種中等教育，包括技術及職業中等教育在內，應以一切適當方法，特別應逐漸採行免費教育制度，廣行舉辦，庶使人人均有接受機會；
- (三) 高等教育應根據能力，以一切適當方法，特別應逐漸採行免費教育制度，使人人有平等接受機

會；

(四) 基本教育應儘量予以鼓勵或加緊辦理，以利未受初等教育或未能完成初等教育之人；

(五) 各級學校完備之制度應予積極發展，適當之獎學金制度應予設置，教育人員之物質條件亦應不斷改善。

三 本公約締約國承允尊重父母或法定監護人為子女選擇符合國家所規定或認可最低教育標準之非公立學校，及確保子女接受符合其本人信仰之宗教及道德教育之自由。

四 本條任何部分不得解釋為干涉個人或團體設立及管理教育機構之自由，但以遵守本條第一項所載原則及此等機構所施教育符合國家所定最低標準為限。

第十四條 本公約締約國倘成為締約國時尚未能在其本土或其所管轄之其他領土內推行免費強迫初等教育，承允在兩年內訂定周詳行動計劃，庶期在計劃所訂之合理年限內，逐漸實施普遍免費強迫教育之原則。

第十五條 一 本公約締約國確認人人有權：

(一) 參加文化生活；

(二) 享受科學進步及其應用之惠；

(三) 對其本人之任何科學、文學或藝術作品所獲得之精神與物質利益，享受保護之惠。

二 本公約締約國為求充分實現此種權利而採取之步驟，應包括保存、發揚及傳播科學與文化所必要之辦法。

三 本公約締約國承允尊重科學研究及創作活動所不可缺少之自由。

四 本公約締約國確認鼓勵及發展科學文化方面國際接觸與合作之利。

第 肆 編

第十六條 一 本公約締約國承允依照本公約本編規定，各就其促進遵守本公約所確認各種權利而採取之措施及所獲之進展，提具報告書。

二 (一) 所有報告書應提交聯合國秘書長，秘書長應將副本送由經濟暨社會理事會依據本公約規定審議；

(二) 如本公約締約國亦為專門機關會員國，其所遞報告書或其中任何部分涉及之事項，依據各該專門

機關之組織法係屬其責任範圍者，聯合國秘書長亦應將報告書副本或其中任何有關部份，轉送各該專門機關。

- 第十七條 一 本公約締約國應按經濟暨社會理事會於本公約生效後一年內與締約國及各有關專門機關商洽訂定之辦法，分期提出報告書。
- 二 報告書中得說明由於何種因素或困難以致影響本公約所規定各種義務履行之程度。
- 三 倘有關之情報前經本公約締約國提送聯合國或任何專門機關在案，該國得僅明確註明該項情報已見何處，不必重行提送。
- 第十八條 經濟暨社會理事會得依其根據聯合國憲章所負人權及基本自由方面之責任與各專門機關商訂辦法，由各該機關就促進遵守本公約規定屬其工作範圍者所獲之進展，向理事會具報。此項報告書並得詳載各該機關之主管機構為實施本公約規定所通過決議及建議之內容。
- 第十九條 經濟暨社會理事會得將各國依第十六條及第十七條之規定，以及各專門機關依第十八條之規定，就人權問題提出之報告書，交由人權委員會研討並提具一般建議，或斟酌情形供其參考。
- 第二十條 本公約各關係締約國及各關係專門機關得就第十九條所稱之任何一般建議、或就人權委員會任何報告書或此項報告書所述及任何文件中關於此等一般建議之引證，向經濟暨社會理事會提出評議。
- 第二十一條 經濟暨社會理事會得隨時向大會提出報告書，連同一般性質之建議，以及從本公約締約國與各專門機關收到關於促進普遍遵守本公約確認之各種權利所採措施及所獲進展之情報撮要。
- 第二十二條 經濟暨社會理事會得將本公約本編各項報告書中之任何事項，對於提供技術協助之聯合國其他機關，各該機關之輔助機關及各專門機關，可以助其各就職權範圍，決定可能促進切實逐步實施本公約之各項國際措施是否得當者，提請各該機關注意。
- 第二十三條 本公約締約國一致認為實現本公約所確認權利之國際行動，可有訂立公約、通過建議、提供技術協助及舉行與關係國政府會同辦理之區域會議及技術會議從事諮商研究等方法。

第二十四條 本公約之解釋，不得影響聯合國憲章及各專門機關組織法內規定聯合國各機關及各專門機關分別對本公約所處理各種事項所負責任之規定。

第二十五條 本公約之解釋，不得損害所有民族充分與自由享受及利用其天然財富與資源之天賦權利。

第 伍 編

第二十六條 一 本公約聽由聯合國會員國或其專門機關會員國、國際法院規約當事國及經聯合國大會邀請為本公約締約國之任何其他國家簽署。

二 本公約須經批准。批准書應送交聯合國秘書長存放。三 本公約聽由本條第一項所稱之任何國家加入。

四 加入應以加入書交存聯合國秘書長為之。

五 聯合國秘書長應將每一批准書或加入書之交存，通知已經簽署或加入本公約之所有國家。

第二十七條 一 本公約應自第三十五件批准書或加入書送交聯合國秘書長存放之日起三個月後發生效力。

二 對於在第三十五件批准書或加入書交存後批准或加入本公約之國家，本公約應自該國交存批准書或加入書之日起三個月後發生效力。

第二十八條 本公約各項規定應一律適用於聯邦國家之全部領土，並無限制或例外。

第二十九條 一 本公約締約國得提議修改本公約，將修正案提交聯合國秘書長。秘書長應將提議之修正案分送本公約各締約國，並請其通知是否贊成召開締約國會議，以審議並表決所提議案。如締約國三分之一以上贊成召開會議，秘書長應以聯合國名義召集之。經出席會議並投票之締約國過半數通過之修正案，應提請聯合國大會核可。

二 修正案經聯合國大會核可，並經本公約締約國三分之二各依本國憲法程序接受後，即發生效力。

三 修正案生效後，對接受此種修正之締約國具有拘束力；其他締約國仍受本公約原訂條款及其前此所接受修正案之拘束。

第三十條 除第二十六條第五項規定之通知外，聯合國秘書長應將下列事項通知同條第一項所稱之所有國家：

(一) 依第二十六條所為之簽署、批准及加入；

- (二) 依第二十七條本公約發生效力之日期，及依第二十九條任何修正案發生效力之日期。

第三十一條 一 本公約應交存聯合國檔庫，其中、英、法、俄及西文各本同一作準。

二 聯合國秘書長應將本公約正式副本分送第二十六條所稱之所有國家。

為此，下列各代表秉其本國政府正式授予之權，謹簽字於自一九六六年十二月十九日起得由各國在紐約簽署之本公約，以昭信守。

International Covenant on Economic, Social and Cultural Rights
Adopted and opened for signature, ratification and accession by General
Assembly
resolution 2200A (XXI) of 16 December 1966
entry into force 3 January 1976, in accordance with article 27

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Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only

in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

Article 8

1. The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

- (a) Primary education shall be compulsory and available free to all;
- (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
- (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
- (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
- (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians, to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Article 15

1. The States Parties to the present Covenant recognize the right of everyone:

(a) To take part in cultural life;

(b) To enjoy the benefits of scientific progress and its applications;

(c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

PART IV

Article 16

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

2. (a) All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant;

(b) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts thereof, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts thereof, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

Article 17

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.
2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.
3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

Article 18

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

Article 19

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

Article 20

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

Article 21

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

Article 22

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

Article 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

Article 24

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 25

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART V

Article 26

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 27

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 28

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 29

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 30

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 26;

(b) The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

Article 31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.

IN FAITH WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present Covenant, opened for signature at New York, on the nineteenth day of December, one thousand nine hundred and sixty-six.

公民與政治權利國際公約及經濟社會文化權利國際公約施行法

(民國 98 年 4 月 22 日 公布)

本法施行日期，定自中華民國九十八年十二月十日施行。

附件五

第 1 條 為實施聯合國一九六六年公民與政治權利國際公約 (International Covenant on Civil and Political Rights) 及經濟社會文化權利國際公約 (International Covenant on Economic Social and Cultural Rights) (以下合稱兩公約)，健全我國人權保障體系，特制定本法。

第 2 條 兩公約所揭示保障人權之規定，具有國內法律之效力。

第 3 條 適用兩公約規定，應參照其立法意旨及兩公約人權事務委員會之解釋。

第 4 條 各級政府機關行使其職權，應符合兩公約有關人權保障之規定，避免侵害人權，保護人民不受他人侵害，並應積極促進各項人權之實現。

第 5 條 各級政府機關應確實依現行法令規定之業務職掌，負責籌劃、推動及執行兩公約規定事項；其涉及不同機關業務職掌者，相互間應協調連繫辦理。政府應與各國政府、國際間非政府組織及人權機構共同合作，以保護及促進兩公約所保障各項人權之實現。

第 6 條 政府應依兩公約規定，建立人權報告制度。

第 7 條 各級政府機關執行兩公約保障各項人權規定所需之經費，應依財政狀況，優先編列，逐步實施。

第 8 條 各級政府機關應依兩公約規定之內容，檢討所主管之法令及行政措施，有不符兩公約規定者，應於本法施行後二年內，完成法令之制(訂)定、修正或廢止及行政措施之改進。

第 9 條 本法施行日期，由行政院定之。

