The International Covenant on Economic, Social, and Cultural Rights

A Perspective on its Development

MATTHEW C. R. CRAVEN

CLARENDON PRESS · OXFORD
1995

e l and

original
as which
to the
uch the
is wide
al

P

Contents

Table of Cases	X
Table of Agreements	vii
Introduction	I
1. Economic, Social, and Cultural Rights and their Codification	6
I. Introduction	6
II. Economic, Social, and Cultural Rights	7
III. The International Covenant on Economic, Social,	
and Cultural Rights	16
A. The Drafting of the Covenant	16
B. The Covenant and its Significance as a Human	
Rights Guarantee	22
2. The System of Supervision	30
I. Introduction	30
II. Background to the Committee's Establishment	35
A. The Drafting of the Implementation System	35
	39
III. The Committee on Economic, Social, and Cultural	
	42
	42
	49
	51
	56
	57
	66
G. The Role of Other Bodies in the Committee's Work	96
	98
	90
1 v. Colletusion	02
3. State Obligations	06
	06

Contents

II. The Nature of the Obligations	106	
A. Obligations of Conduct and Result	107	
B. Obligations to Respect, Protect, and Fulfil	109	
III. 'Undertakes to Take Steps'	114	
IV. 'By all Appropriate Means'	115	
A. Textual Requirements	116	
B. Committee Requirements	117	
V. 'Including Particularly the Adoption of Legislative		
Measures'	125	
VI. 'Full Realization'	128	
VII. 'Progressive Achievement'	129	
VIII. 'Rights Recognized'	134	
IX. 'To The Maximum of its Available Resources'	136	
X. 'Individually and through International Assistance		
and Co-operation, especially Economic and		
Technical'	144	
XI. Conclusion	150	
4. Non-Discrimination and Equality	153	
I. Introduction		
	153	
II. The Concepts of Non-Discrimination and Equality III. Equality in the Covenant	154	
A. The Text of the Covenant	157	
B. The Approach of the Covenant	157	
B. The Approach of the Committee IV. Article 2(2): Non-Discrimination	159	
A. Differential Treatment	161	
B. Purpose of Effect	164	
C. Grounds upon which Dr	165	
C. Grounds upon which Discrimination is Prohibited		
	167	
D. The Scope of the Non-Discrimination Provision V. State Obligations	177	
A. Immediate or Program	181	
A. Immediate or Progressive Implementation? B. The Type of Action Required	181	
C. Affirmative and Protective Action D. Private Discrimination	182	
D. Private Discrimination	184	
VI. Conclusion	190	
	192	
5. The Right to Work		
I. Introduction	194	
II. The travaux préparatoires	194	
ravaux preparatoires	104	

III

IV.

I. II.

III.

IV.

I. II.

7. The Rig

194

6. Just an

	Contents	12
06	A. A Guarantee of the Right to Work	195
07	B. The Opportunity to Gain his Living	196
09	C. Free Choice in Employment	197
14	D. Full Employment	199
15	III. The Approach of the Committee	203
16	A. A Guarantee of the Right to Work	203
17	B. Elements of the Right to Work	204
	IV. Conclusion	223
25		
28		
129	6. Just and Favourable Conditions of Work	226
134		220
136	I. Introduction	226
	II. The travaux préparatoires	227
	A. Article 7: State Obligations	227
144	B. Article 7(a): Minimum Remuneration	228
150	C. Article 7(a)(i): Fair Wages and Equal	
	Remuneration	229
	D. Article 7(a)(ii): A Decent Living	230
153	E. Article 7(b): Safe and Healthy Working	
153	Conditions E. Astisla 7(2): Found Opposituation for Property	230
154	F. Article 7(c): Equal Opportunity for Promotion	231
157	G. Article 7(d): Rest, Leisure, and Reasonable	
157	Limitation of Working Hours III. The Approach of the Committee	231
159	A. Article 7(a): Minimum Remuneration	232
161	B. Equality in Conditions of Employment	232
164	C. Safe and Healthy Working Conditions	240
165	D. Equal Opportunity for Promotion	240 243
	E. Rest and Leisure	243
167	IV. Conclusion	246
177		-40
181		
181	The second secon	
182	7. The Right to Form and Join Trade Unions	248
184	I. Introduction	248
190	II. The travaux préparatoires	249
192	A. Article 8(1): The Obligation to Ensure	251
	B. Article 8(1)(a): The Right to Form and Join	
	Trade Unions	251
194	C. Article 8(1)(b): The Right to Federate	255
104	D. Article 8(1)(c): The Right of Trade Unions to	
194	Function Freely	256

Contents

E. Article 8(1)(d): The Right to Strike	257	
F. Article 8(2): Members of the Armed Forces	-31	
Police, and the Administration of the State	259	
G. Article 8(3): The ILO Convention of 1048	260	
III. The Approach of the Committee	260	
A. Article 8: The Obligation to Ensure	261	
B. Article 8(1)(a): The Right to Form and Join the	201	AC
Trade Union of his Choice	262	AJCL
C. Article 8(1)(b): The Right to Federate	272	AJIL
D. Article 8(1)(c): The Right of Trade Unions to	2/2	Am. Uni. L
r diction Freely	272	Alli. Ulli. L
E. Article 8(1)(d): The Right to Strike	273	Pull Crack
IV. Conclusion	277	Bull. Czech. Bull. HR
	284	
& The Diebass		BYIL
8. The Right to an Adequate Standard of Living	287	C-1 W . W
I. Introduction	20/	Cal. West IL
II. The travaux préparatoires	287	Can. HRY
A. Introduction	288	Can. YIL
B. Article II(I)	288	CAT
C. Article 11(2)	289	CEDAW
III. The Approach of the Committee	297	0777
A. An Adequate Standard of Living	301	CERD
B. The Right to Adequate Food	301	
C. The Right to Housing	306	CESCR
D. The Right to Clash:	329	
IV. Conclusion	349	CLJ
	349	CMLR
A.C		Col. HRLR
9. Conclusions		Columb. J Tr
	352	Conv. EDAV
A "		
Appendices		Cornell ILJ
I. The International Covenant on Economic, Social, and Cultural Rights		DREComHR
and Cultural Rights		
II. General Comments of the C	359	
Social, and Cultural Rights		ECHR
III. List of States Parties as at 30 June 1994	368	
as at 30 June 1994	383	ECOSOC
Ribl:		EHRR
Bibliography		ESC
Index	384	ESCOR
	407	Eur. Ct. HR
		. Cu III