

30 March 2004

**ORAL INTERVENTION SUBMITTED BY THE INTERNATIONAL
COMMISSION OF JURISTS PERTAINING TO THE MANDATE OF THE
COMMISSION ON HUMAN RIGHTS, INTER-SESSIONAL WORKING
GROUP ESTABLISHED TO CONSIDER OPTIONS REGARDING THE
ELABORATION OF AN OPTIONAL PROTOCOL TO THE *INTERNATIONAL
COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS***

Edwin Berry

Mr. Chairperson,

The International Commission of Jurists welcomes efforts of the Commission on Human Rights inter-sessional working group of February/March 2004 towards the realization of economic, social and cultural rights through its discussions of an Optional Protocol to the *International Covenant on Economic, Social and Cultural Rights*.

Guided by principles enshrined in the *United Nations Universal Declaration of Human Rights*, it is clear that State party adherence to the *Covenant* is of considerable importance in protecting and promoting economic, social and cultural rights. It is recognised that, through *Covenant* ratification, States parties bear responsibility to ensure that economic, social and cultural rights are both protected and promoted. The ensuing need to complement the realisation of these rights, through the provision of a comprehensive international remedial mechanism to address *ICESCR* rights violations, is thus of paramount importance.

Highlighting the benefits of an Optional Protocol to the *ICESCR*, the International Commission of Jurists, alone and as a member of a broad based NGO Coalition dedicated to the drafting of an Optional Protocol, is of the belief that this proposed instrument will permit a more thorough understanding and precise definition of economic social and cultural rights, strengthen the recognition of these rights, encourage States to adopt legislative policies and other measures to comply with *ICESCR* obligations and, most importantly, provide individuals and groups with access to international remedies where their *Covenant* rights have been violated..

Given that options regarding the elaboration of an Optional Protocol to the *ICESCR* received a thorough analysis from a wide variety of sources during the open-ended working group, the Commission on Human Rights should mandate this body to examine substantive issues related to the drafting of an Optional Protocol text. As witnessed during the working group session, support among governments and civil society for the adoption of an Optional Protocol to the *ICESCR* has strengthened.

In considering the form of a continued mandate of the *ICESCR/Optional Protocol* working group, the Commission on Human Rights is implored to bear in mind its decision of 26 April 2000, (E/CN.4/2000/112), which endorsed that, and I quote,

(working group) (m)andates should always offer a clear prospect of an increased level of human rights protection and promotion, (and that), (i)n creating any standard-setting working group, the Commission should consider a specific time-frame within which the group would be called upon to complete its task. ... (i)n most instances, the established time-frame should not in principle exceed five years.

Under this guidance, the Commission on Human Rights should adopt a pragmatic yet determined approach towards mandate of the working group dedicated to the further protection and promotion of economic, social and cultural rights.

This statement is supported is supported by Amnesty International and Franciscans International, however, due to quota restrictions on NGO statements, these organisations were unable to formally join in this oral intervention.

Thank you, Mr. Chairperson