



INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "

Opening Statement by the International Commission of Jurists to the Open-Ended Working Group to Consider Options for an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

Madame Chair,

The International Commission of Jurists is pleased to attend this important Working Group today to call for the drafting of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

At the end of this session of the Working Group, a report will need to be made to the 2006 Commission on Human Rights. We sincerely believe that over the course of the next two weeks, significant progress can be made in order to ensure that the Commission on Human Rights will be able to instruct future sessions of the Working Group to draft an Optional Protocol.

The International Commission of Jurists, alone, and as a member of a broad based NGO Coalition, believes that we can move forward. A functioning Optional Protocol will give us all a more thorough understanding of economic social and cultural rights. It will strengthen the recognition of these rights. It will encourage states to adopt legislative policies and other measures to comply with the Covenant's obligations. Most importantly, it will provide individuals and groups with access as a last resort to international remedies when their rights under the Covenant have been violated. It is time to proceed to drafting such an instrument. It is time to stop hesitating and to provide leadership in giving redress to many vulnerable people whose economic, social and cultural rights are not sufficiently protected.

Madame Chair, the issues we will be discussing over the course of the next two weeks are not new. Many have been clarified in years of discussion in academic circles, the Commission on Human Rights, the Sub-Commission the Committee on Economic, Social and Cultural Rights, within the inaugural session of this working group in 2004 and again last year at the second session of the Working Group. The draft Optional Protocol originally prepared by the Committee on Economic, Social and Cultural Rights was presented in 1997, now over 15 years ago. This year we hope that the Programme of Work, based as it is around the issues raised in your Analytical Paper, will provide the focus needed for us to continue our important discussions on the substantive and procedural elements of an Optional Protocol. Building on the success of last year's discussions around these issues, the Elements Paper prepared for this Working Group sets

out many useful issues to be addressed in progressing this debate to the drafting stage. In this regard, we draw the attention of delegates to a Joint NGO Submission prepared by a number of NGOs including the International Commission of Jurists and others, which sets out in detail our position on the many issues discussed in the Elements Paper. This submission outlines our positions on many aspects of an Optional Protocol, including what we believe to be the key minimum requirements for an effectively functioning mechanism.

This Working Group is also not the only opportunity for states to explore and learn about the issues they may perceive as barriers to their full participation in the drafting of an Optional Protocol. There are many opportunities during the year at national, regional and international levels to discuss conceptual and practical issues. Over the course of the last year we have been encouraged to see many states take advantage of these alternative forums, to discuss and debate issues relating to the Optional Protocol at events such as the High Level Experts Seminar on the OP-ICESCR in Nantes, France, and other events at the regional and national levels. Following on from these many other discussion forums that have been taking place, we hope that delegates can use this Working Group as the place to move forward, as a matter of priority; to recommend to the Commission that it is time draft the substantive provisions of an optional protocol. Remaining issues can be resolved in the practical work of drafting.

Let us not forget that this Optional Protocol has the potential to positively change the lives of people around the world. It could help those who do not have access to even basic levels of education; people whose rights to shelter are denied and violated through, for example, forced evictions; people whose limited access to health care places their lives in danger; people who struggle to survive without sufficient food to live on, or in areas where they have no access to clean drinking water; people who face discrimination in accessing social security.

The mandate of this working group to "considering options for an optional protocol" will finish at the end of these two weeks. In Decision 26 of April 2000 the Commission on Human Rights confirmed that standard-setting working groups such as this one must be mindful of the timeframe within which they should complete their task, and that this should not exceed 5 years. When the current mandate of the working group is completed, we will have already debated "options" for 3 years. It will be time at the end to accept the need for an instrument and immediately to move to ahead to drafting a text.

The 1993 Vienna Declaration unequivocally confirmed the universality, interdependence, and indivisibility of all human rights. The ICJ considers it is imperative that UN member states now make swift progress towards drafting an instrument that will better protect economic, social and cultural rights and improve the lives of people worldwide.

We look forward to participating in the discussions over the next two weeks.

Thank you Madame Chair.