

Justice NOW! Ratify to Protect all Human Rights

CAMPAIGN FOR THE RATIFICATION AND IMPLEMENTATION
OF THE OPTIONAL PROTOCOL TO THE INTERNATIONAL
COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS



Declaration of Jurists and other human rights experts on the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

We, the undersigned, call on States to become party to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The Optional Protocol will allow groups and individuals alleging violations of their economic, social and cultural rights and who have exhausted any effective remedies in their own countries, or where such remedies are unavailable, to have their cases heard by the United Nations Committee on Economic, Social and Cultural Rights.

We consider that the operation of the Optional Protocol, after it enters into force upon the 10th State ratification, will constitute a critical step towards the achievement of greater social justice and universal human rights protection. Today, this objective should be at the core of States' priorities and policies at national and international levels.

During the first two years after the opening for signature and ratification or accession of the Optional Protocol on 24 September 2009, thirty-nine States signed and five States ratified the Optional Protocol. These first ratifications show that States from various regions of the world, with different legal systems, are committed to affording the same level of legal protection to economic, social and cultural rights as to other human rights. We also warmly welcome these and other steps taken by a number of other States around the world to proceed with the necessary national processes in order ultimately to become party to the Optional Protocol.

One hundred and sixty States have committed themselves to guaranteeing the rights under the ICESCR in good faith and to the maximum of their available resources, taking the necessary measures to realize those rights. We strongly reaffirm that the right to an effective remedy under human rights law and of the rule of law in a democratic society requires that all victims of violations must have access to legal remedies. The full realization of economic, social and cultural rights requires political will to ensure the conformity of domestic law and practices with international human rights law and standards.

To ensure access to justice for all people, we urge all States to become party to the Optional Protocol as expeditiously as possible. We also call on States when becoming party to the Protocol to ensure the greatest protection possible by accepting the inquiry and inter-state procedures under the Optional Protocol. Finally, we urge those States that are not yet party to the Covenant on Economic, Social and Cultural Rights to ratify or accede to that instrument along with the Optional Protocol.

By becoming party to the Optional Protocol, States would help send a signal globally that access to justice is essential for economic, social and cultural rights. They would make tangible the commitment by 170 States at the Vienna World Conference on Human Rights that “All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis.”

We reaffirm the justiciability of economic, social and cultural rights and recall the wealth of adjudicatory experiences pertaining to these human rights in various regions and legal systems over the world.

As legal academics, legal practitioners, human rights lawyers and UN experts, we emphasize that access to international justice for economic, social and cultural rights has been long overdue. Forty-five years after the adoption of the ICESCR, States must take the opportunity to close the unjustifiable gap in human rights protection and bring into force the Optional Protocol.

Signatures

- 1. Martin Scheinin (Professor of Public International Law, European University Institute, Former member of the UN Human Rights Committee, Finland)*
- 2. Duncan Wilson (Scottish Human Rights Commission, UK)*
- 3. Philippe Texier (Member of the UN Committee on Economic, Social and Cultural Rights, Former Judge of the French Cour de Cassation, France)*
- 4. Cees Flintermann (Member of the Human Rights Committee, The Netherlands)*
- 5. Magdalena Sepulveda (Special Rapporteur on extreme poverty and human rights, Chile)*
- 6. Virginia Dandan (Independent Expert on human rights and international solidarity, The Philippines)*
- 7. Catarina de Albuquerque (Special Rapporteur on the human right to safe drinking water and sanitation, Portugal)*
- 8. Oliver de Schutter (UN Rapporteur on the Right to Food, Belgium)*
- 9. Ariel Dulitzky (University of Texas and Member of the UN Working Group on Enforced and Involuntary Disappearances, USA)*
- 10. Anand Grover (UN Rapporteur on the Right to Health, India)*
- 11. Rodolfo Arango (Associate Judge of the Constitutional Court of Colombia and Associate Professor of Philosophy at the Universidad de los Andes, Bogotá, Colombia)*
- 12. Flavia Piovesan (Phd, Professor of Law at Catholic University of SP, member of the OAS Working Group related to San Salvador Protocol and former member of*

- the UN High Level Task Force on the implementation of the right to development, Brazil)*
13. *Jeremy Sarkin (Professor of Law, South Africa)*
 14. *Geoff Budlender SC (Advocate, Cape Town, South Africa)*
 15. *Sandra Liebenberg (Professor of Law and H.F.Oppenheimer Chair in Human Rights Law, Department of Public Law, Faculty of Law, University of Stellenbosch, South Africa)*
 16. *Benyam Dawit Mezmur (PhD; Vice-Chair (2nd) of the African Committee of Experts on the Rights and Welfare of the Child, Ethiopia)*
 17. *Christof Heyns (Co-director: Institute for International and Comparative Law in Africa)*
 18. *Victor Abramovich (Professor, University of Buenos Aires and National University of Lanús, Argentina)*
 19. *Farida Shaheed (Independent Expert in the Field of Cultural Rights, Pakistan)*
 20. *Honorable Sanji Mmasenono Monageng (Judge, International Criminal Court The Hague, The Netherlands)*
 21. *Daniel Marchand (Professor Emeritus, Chair of Labour Law and Social Protection, Conservatoire National des Arts et Métiers, Paris, France)*
 22. *Jose Zalaquett (Professor of Law at the Law School of the University of Chile, Former President of the Inter-American Commission on Human Rights, Chile)*
 23. *Jenny E. Goldschmidt (Director Netherlands Institute of Human Rights (SIM), Professor in Human Right Law, The Netherlands)*
 24. *Theo van Boven (Professor Emeritus of International Law, Maastricht University, The Netherlands)*
 25. *Kofi Kumado (Professor of Law, Faculty of Law, University of Ghana- Legon, Ghana)*
 26. *Belisario dos Santos (Former Sao Paulo's Secretary of State of Justice and Defense of Citizenship, Former President of the Latin American Lawyers Association for the Defense of Human Rights, Brazil)*
 27. *Roberto Garreton (Member of the UN Working Group on Arbitrary Detention, Former Special Rapporteur of the Commission on Human rights in the UN on human rights in DRC, Former Representative of the High Commissioner for Human Rights UN for Latin America and the Caribbean, Chile)*
 28. *Honourable Azhar Cachalia (Judge, Supreme Court of Appeal, South Africa)*
 29. *Honourable Elizabeth Evatt, AC (Former Chief Judge of the Family Court of Australia, Former member of the UN Human Rights Committee, Former member of the Committee on the Elimination of the Discrimination against Women, Australia)*
 30. *Raquel Rolnik (UN Special Repporteur on Adequate Housing, Brazil)*
 31. *Emna Aouij (member of the Working Group on the issue of discrimination against women in law and in practice, Tunisia)*
 32. *Albie Sachs (South Africa)*

