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### HUMAN RIGHTS COUNCIL

Sixth session

#### SUMMARY RECORD OF THE 26th MEETING

Held at the Palais des Nations, Geneva,  
on Tuesday, 11 December 2007, at 9 a.m.

President: Mr. COSTEA (Romania)

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The meeting was called to order at 9.25 a.m.

PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT (agenda item 3) (continued) (A/HRC/6/8, 20 and 21; A/HRC/NGO/48, 50-55 and 59-65)

1. The PRESIDENT invited the Council to resume consideration of reports submitted under agenda item 3 (A/HRC/6/8, 20 and 21). The Committee on Economic, Social and Cultural Rights would be informed of any comments made on the report on the rectification of its legal status (A/HRC/6/20), which had been presented at the previous meeting.
2. Ms. ALBUQUERQUE (Chairperson-Rapporteur of the Open-ended Working Group on an optional protocol to the International Covenant on Economic, Social and Cultural Rights), introducing the report of the Working Group on its fourth session (A/HRC/6/8), said that, as requested in Human Rights Council resolution 1/3, she had prepared a first draft optional protocol, which had included provisions corresponding to the various main approaches outlined in her analytical paper, to be used as a basis for negotiations. On completion, she had hosted a meeting of independent experts from different areas of expertise and different geographical regions in Lisbon in September 2006 to discuss the document.
3. She had also participated in relevant regional events, including a meeting of delegations from the Group of Latin American and Caribbean States hosted by the Government of Mexico and a meeting of European Union member States hosted by the Government of Finland, where the possible content of an optional protocol had been discussed. Such inter-sessional forums were crucial to progress and she therefore welcomed the initiative by the Government of Egypt to convene an African meeting in Cairo in January 2008.
4. At the level of the United Nations, she had met with the Committee on Economic, Social and Cultural Rights in May 2007, and with delegations from all regional groups and non-governmental organizations (NGOs) in June 2007 to hear their preliminary views on the draft optional protocol. In September 2007, she had addressed a conference on access to international justice organized by the Council of Europe, and in the framework of the Portuguese Presidency of the European Union she had participated in the 9th NGO Forum on Human Rights in Lisbon in early December 2007. The Working Group had held its fourth session in July 2007.
5. In her opening address, the United Nations High Commissioner for Human Rights had stressed that the sixtieth anniversary of the Universal Declaration of Human Rights was an opportunity to reaffirm the equal status of all human rights through the adoption of an optional protocol to the Covenant.
6. The challenge for the Working Group had been to prepare a draft optional protocol that reflected the different aspirations and needs of delegations, while taking account of individual concerns raised. At its fourth session, the Working Group had finished its first reading of the text and had held in-depth discussions on the criteria to be used by the Committee in examining communications, the scope of the optional protocol, international assistance and cooperation and the proposal for the establishment of a fund.

7. In order to facilitate future discussions within the Working Group, she had prepared a revised draft optional protocol that reflected the proposals put forward thus far. The draft contained an explanatory memorandum concerning the way in which she had sought to incorporate the proposals. While an optional protocol was not the only tool available to implement the rights enunciated in the Covenant, it might serve to promote the vision of the Universal Declaration of Human Rights and help make economic, social and cultural rights an integral part of every person's life.

8. Ms. TAVARES (Observer for Portugal), speaking on behalf of the European Union; the candidate countries Croatia, the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; and, in addition, Armenia, Georgia, Moldova, Norway and Ukraine, reiterated the European Union's firm commitment to the principles of universality, indivisibility, interdependence and interrelatedness of all human rights as proclaimed, inter alia, in the Vienna Declaration and Programme of Action adopted at the 1993 World Conference on Human Rights.

9. While it had no objections to the purpose of Human Rights Council resolution 4/7 concerning the rectification of the legal status of the Committee on Economic, Social and Cultural Rights, the European Union was still considering the merits of changing the basis on which the Committee had been established. The European Union was aware that the difference in the manner in which the Committee had been established might create the impression that its status was inferior to that of other treaty bodies. It would be highly desirable for Committee members to be elected by States parties only, as was the case for all other treaty bodies.

10. Any work in that area must be carried out in consultation with the Committee on Economic, Social and Cultural Rights and take account of its views. The Committee itself had noted that, although the rectification of its status was desirable to place it on a par with all other treaty monitoring bodies, its current status as a body of independent experts, subsidiary to the United Nations Economic and Social Council (ECOSOC), had not thus far hindered its performance. It had always functioned similarly to other treaty bodies and its legal authority to perform the duties assigned to it had not been disputed.

11. Any changes to the Committee's legal status must have operational benefits, especially when it came to monitoring the implementation of the Covenant. The European Union would not support any changes that undermined the work already carried out by the Committee or led to a two-track situation where some States parties were monitored under the existing system and others under the new system. Any legal or practical implications of the proposed changes must be borne in mind. The rectification of the Committee's status was the responsibility of States parties and must be consistent with the procedure established under article 29 of the Covenant.

12. Mr. GAMALELDIN (Egypt), speaking on behalf of the Group of African States, said that an optional protocol to the Covenant would no doubt contribute to strengthening the protection of the rights contained therein and reinforce the principles of equality, interdependence and interrelatedness of all human rights.

13. The Group of African States had noted that the draft optional protocol provided a considerable degree of flexibility in terms of its scope of application, namely the rights and

obligations that fell within the competence of the new complaints mechanism. Such an approach must not undermine the effectiveness of the protocol in enhancing the implementation of all the rights set forth in the Covenant. Also, the parameters and methodology for the examination of communications under the proposed protocol should be consistent with the Covenant and the nature of States' obligations thereunder.

14. International cooperation and assistance must be given full effect and the proposed assistance fund should be in line with the provisions of article 2, paragraph 1, of the Covenant. The optional protocol should further help achieve complementarity with the work of pertinent United Nations and regional mechanisms. It should not, however, set unjustified precedents for the work of United Nations human rights mechanisms or address issues extraneous to its subject matter.

15. The Group of African States supported the holding of shorter, more focused sessions of the Working Group. The African regional consultation on the draft optional protocol, scheduled to be held in January 2008 in Cairo, would provide an opportunity to further define the Group's common position.

16. Mr. REYES RODRÍGUEZ (Cuba) said that Cuba had consistently supported the adoption of an optional protocol to the International Covenant on Economic, Social and Cultural Rights that would place the rights enunciated in that instrument on a par with civil and political rights. Cuba therefore welcomed the preparation of a first draft optional protocol. However, the scope of international cooperation as reflected in the present draft was inadequate, as it concerned primarily its role in support of the implementation of the right to lodge individual complaints. The adoption of an optional protocol should be used as an opportunity to confirm both the commitments undertaken by developed States to provide international assistance and cooperation for the attainment of the Millennium Development Goals and the rights enshrined in the Covenant as legally binding obligations.

17. His delegation fully supported the initiative to rectify the legal status of the Committee on Economic, Social and Cultural Rights. Giving that Committee the same status as the Human Rights Committee, in terms of its visibility and the binding nature of its conclusions and recommendations, was of paramount importance. However, changes to its status must not work to the detriment of the Committee's equitable geographic composition, which made it unique among human rights treaty bodies. His delegation would do its utmost to ensure that that feature was preserved. During the transition period, the Committee could continue operating under the current system, with the new optional protocol and attendant changes in the Committee's status being incorporated progressively.

18. Ms. MTSHALI (South Africa) said that the practical achievement of the standards and rights enshrined in the Universal Declaration of Human Rights remained elusive.

19. For the Non-Aligned Movement, the right to development was central to the United Nations human rights system. It therefore endorsed the Declaration on the Right to Development, adopted by the United Nations General Assembly in 1986, and the formal recognition by the World Conference on Human Rights in Vienna of the universality, indivisibility, interrelatedness and interdependence of all human rights.

20. The legal status of the Committee on Economic, Social and Cultural Rights needed to be revisited with a view to placing it on a par with other treaty bodies. Such a step was particularly important in the light of efforts to develop an optional protocol to the Covenant. All options in that regard should be explored and her delegation would convene open-ended informal consultations on the matter later in the week. In that context, her delegation would propose the appointment of two experts thoroughly conversant with the work of both the Committee on Economic, Social and Cultural Rights and the Human Rights Committee, to identify possible courses of action.

21. Her delegation had noted with disappointment that the presentation by the Chairperson of the Committee on Economic, Social and Cultural Rights at the Council's previous meeting had departed from the views expressed by the Committee, as reflected in the annex to document A/HRC/6/20 dated 3 October 2007. The Chairperson's presentation to the Council had included the legal opinion of the Office of Legal Affairs contained in document A/HRC/6/21 dated 7 November 2007, which had not yet been considered by the Committee. Her delegation was therefore concerned that the Chairperson of the Committee might have overstepped his mandate. She appealed to the Council to ensure in the future that the chairpersons of treaty bodies and intergovernmental working groups presented the views of the bodies they represented, not their personal views.

22. Ms. SEMENIUTA (Ukraine) said that the draft optional protocol provided a solid basis for the deliberations of the Working Group on an optional protocol to the International Covenant on Economic, Social and Cultural Rights. It had helped identify cross-cutting issues and ways to address them. An optional protocol, by enhancing the level of protection of economic, social and cultural rights, would serve to ensure that individuals could be heard and gain access to remedies in case of violations of those rights. Her delegation strongly supported the work of the Working Group.

23. Mr. VIEIRA KOMNISKI (Brazil) commended the professionalism and constructive spirit that had informed the work of the Open-ended Working Group on an optional protocol to the International Covenant on Economic, Social and Cultural Rights. The optional protocol should encompass all the rights contained in the Covenant. Allowing signatory States to decide which of those rights could be the subject of individual communications within their own countries would be a backward step, even though it would attract wider accession to the optional protocol.

24. Latin America and other parts of the world had entered on an era of progress in economic, social and cultural rights. In Brazil, for example, the campaign against poverty and hunger was in full swing. The false dichotomy between economic, social and cultural rights, on the one hand, and civil and political rights, on the other, was outdated. The two sets of rights were complementary. It was therefore essential to complete work on the optional protocol.

25. Ms. KOHLI (Switzerland) said that her delegation doubted whether it was necessary or useful to change the legal status of the Committee on Economic, Social and Cultural Rights. Economic and Social Council resolution 1985/17 gave the Committee a solid legal foundation, which had enabled it to work well for over two decades. Moreover, in view of State practice with regard to the submission of reports, it could not be said that the Committee's current status had damaged its authority or that its legitimacy had been called into question.

26. The moment chosen to raise the issue was, moreover, inappropriate, inasmuch as it coincided with consideration of the powers to be entrusted to a monitoring body for the proposed optional protocol, and of the question whether it was appropriate for the Committee itself to exercise those powers. In the circumstances, any rectification of the Committee's legal status might constitute a threat to the substance of the Covenant.

27. Mr. VELLANO (Italy) said that his delegation was convinced of the value of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. However, it favoured a comprehensive rather than an "à la carte" approach, which would create a hierarchy in the field of human rights and could undermine the purpose of the optional protocol. Furthermore, although it should be permissible to make reservations to the optional protocol, as to all international human rights instruments, they should not be used to limit the scope of the optional protocol itself, in accordance with article 19 of the Vienna Convention on the Law of Treaties. Given the special nature of economic, social and cultural rights, provision should be made for a comprehensive range of not only legal but administrative and other remedies to guarantee the full realization of such rights.

28. He reiterated his delegation's doubts concerning the inquiry procedure envisaged in the draft optional protocol, which would enable the Committee to react immediately to grave or systematic violations of rights set forth in the Covenant. Such a procedure would not answer the main purpose of the optional protocol, which was to protect victims. Moreover, the proposal to set up such a procedure did not seem to be in line with ongoing attempts to rationalize the existing United Nations human rights mechanisms.

29. Ms. VIKTOROVA (Russian Federation), after commending the work of the Open-ended Working Group, said that it was time for States to embark on finalization of an optional protocol, as it had at last been recognized that social, economic and cultural rights should be placed on an equal footing with civil and political rights. It was particularly important that the optional protocol should contain a provision allowing States parties to decide for themselves under which articles of the Covenant they considered the Committee on Economic, Social and Cultural Rights to be competent to consider individual communications. She recalled that her delegation had proposed, at the fourth session of the Working Group, that there should be a basic package of rights that should be subject to compulsory monitoring after a State had acceded to the optional protocol, which might be extended if the State itself so wished.

30. Her delegation favoured rectification of the Committee's legal status to place it on a par with the other treaty monitoring bodies. Such a move would underline the principles of universality, indivisibility, interdependence and interrelatedness of all human rights. Any rectification should, however, take account of the provisions of the Covenant under which economic, social and cultural rights were to be realized in accordance with the level of a given country's social and economic development and the extent of its integration in the world economy.

31. Economic and Social Council resolution 1985/17 establishing the Committee had provided for the principle of equitable geographical distribution. Her delegation considered it important to retain that provision, regardless of any other features of the Committee's new status. As for the means by which the rectification should take place, her delegation was in favour of an amendment under article 29 of the Covenant or the adoption of an additional protocol. In view of

the importance of the widest possible jurisdiction for the Committee, the entry into force of any amendment or of an additional protocol should be made subject to approval by a two thirds majority of States parties.

32. Mr. LEE Suk-tae (Republic of Korea) said that his delegation had actively participated in the meetings of the Open-ended Working Group, which had made an important contribution to promoting greater recognition of the significance of economic, social and cultural rights. As the full realization of such rights was inextricably bound up with the degree of a nation's political, economic, social and cultural development, it was important to preserve governments' independence in seeking to allocate limited domestic resources as efficiently as possible.

33. With regard to the proposed rectification of the legal status of the Committee on Economic, Social and Cultural Rights, it was his delegation's view that further consideration should be given to the matter only if the Committee's current legal status had demonstrably had a negative impact on its work. It was not clear that any real benefit would accrue from a change of status. In that connection, he commended the paper by the Office of Legal Affairs entitled "Legal Options for Placing the Committee on Economic, Social and Cultural Rights on a Par with other Treaty Monitoring Bodies".

34. Ms. JANJUA (Pakistan) said that, following discussions within the Open-ended Working Group, which had clarified a number of issues, her delegation was confident that consensus could be reached on remaining areas of disagreement.

35. All human rights must be treated in a fair and equal manner. Further deliberations were required concerning not only the scope of the optional protocol but also provisions relating to such matters as collective communications, admissibility criteria, inter-State communications, inquiry procedures, and international assistance and cooperation, which should be in conformity with article 2, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights. Careful consideration should also be given to the possibility of permitting reservations to be made to the optional protocol.

36. Her delegation supported the initiative to rectify the legal status of the Committee on Economic, Social and Cultural Rights, in order to place it on a par with other treaty monitoring bodies. Such rectification should, however, result from discussions between the States parties; it should not be linked with any wider examination of the treaty monitoring system.

37. Mr. MARDALIYEV (Azerbaijan) said that his delegation had been encouraged by the active involvement of delegations at the last session of the Working Group, and was committed to contributing further to its work. Azerbaijan was also prepared to engage constructively in deliberations on the rectification of the legal status of the Committee on Economic, Social and Cultural Rights.

38. Mr. MAHAWAR (India) said that the procedure for rectifying the legal status of the Committee on Economic, Social and Cultural Rights would be a cumbersome one. The Committee itself had recognized that its legal status had not affected its work, and the Council should therefore focus on the fundamental issues arising out of the process of developing an optional protocol to the International Covenant on Economic, Social and Cultural Rights.

39. Mr. RAHMAN (Bangladesh) said that the issue of an optional protocol to the International Covenant on Economic, Social and Cultural Rights would need further consideration before the Council could reach a decision.

40. His delegation supported the initiative to rectify the legal status of the Committee on Economic, Social and Cultural Rights, which should be on a par with the other treaty monitoring bodies, especially the Human Rights Committee. Moreover, with the creation of the Council, the Committee's status had become unclear, since it depended on a resolution by the Economic and Social Council. Changing the Committee's legal status would involve the difficult task of amending the Covenant. During the transition period required for States parties to approve any such amendment, it would be necessary to ensure that the continuity of the Committee's work was not unduly affected.

41. His delegation was not averse to the adoption of an additional protocol to grant the Committee equal status with the other treaty monitoring bodies.

42. Ms. OLIVERA WEST (Mexico) said that her delegation was in favour of an optional protocol to the International Covenant on Economic, Social and Cultural Rights, which would give the Covenant greater breadth and increase its authority with regard to the implementation of economic, social and cultural rights. It was to be hoped that the work on the optional protocol would shortly be completed.

43. The rectification of the status of the Committee on Economic, Social and Cultural Rights was important in the context of the universality, indivisibility, interdependence and interrelatedness of all human rights. The best way forward was to convene a conference of States parties in order to amend the Covenant in accordance with the provisions of article 29. The wording of such an amendment should be similar to that contained in other human rights treaties. The process of amending the Covenant should not, however, interfere with current standard-setting activities in relation to economic, social and cultural rights.

44. Mr. SHALABY (Egypt) said that the initiative to rectify the legal status of the Committee on Economic, Social and Cultural Rights had great political significance, particularly at a time when negotiations on an optional protocol to the International Covenant on Economic, Social and Cultural Rights were nearing completion. He welcomed the report by the Chairperson of the Committee, but wondered why the report by the Office of the United Nations High Commissioner for Human Rights on the same topic (A/HRC/6/21), which contained contributions from Governments and a paper by the Office of Legal Affairs entitled "Legal Options for Placing the Committee on Economic, Social and Cultural Rights on a Par with other Treaty Monitoring Bodies", had not been presented or discussed. His delegation would have raised a number of concerns regarding the latter. While his delegation was in favour of rectifying the Committee's status, that process was separate from the reform of the treaty monitoring bodies. The two should not be confused. Some speakers had said that rectification would be cumbersome and costly; but, if the political will existed, the Council should proceed. That was the Council's role: to determine the political will and to set out a road map. Its role stopped there; any further measures should be adopted by a conference of States parties convened to amend the Covenant in accordance with article 29. His delegation recognized that there was a



danger of parallel regimes, but that was less problematic than the adoption of an additional protocol purely to establish the Committee's legal status or the adoption of what the Office of Legal Affairs had referred to as a "simplified procedure".

45. Mr. ROSALES (Observer for Argentina) said that, in the context of the elaboration of an optional protocol, Argentina would continue to support negotiations leading to the adoption of a solid instrument that would enhance protection of economic, social and cultural rights and their progressive realization in accordance with article 2 of the Covenant.

46. Ms. PHUMAS (Observer for Thailand) said that an optional protocol to the Covenant should balance consideration of the communications received by the Committee with the efforts made by the State party in question to protect economic, social and cultural rights. Such efforts, the difficulties encountered and the resources used by the State party, should be taken into account by the Committee in assessing communications.

47. Rectification of the Committee's legal status could be carried out as part of the proposed reform of treaty bodies. It should not hinder the work on an optional protocol to the Covenant.

48. Mr. DE VYLDER (Observer for Belgium) asked the Chairperson-Rapporteur of the Working Group what role she envisaged civil society playing in the submission of complaints. Would civil society be explicitly permitted to represent victims who were otherwise unable to bring a complaint?

49. The criterion of "reasonableness" could be applied in considering the circumstances surrounding a complaint but should not entail any alteration in the interpretation of the Covenant as such. He wondered how it might be possible to apply the criterion of reasonableness while keeping the substance of the Covenant intact.

50. It was up to the States parties to the Covenant to rectify the Committee's legal status by an amendment to the Covenant. Any risk of a reduction in protection during the transition period must be avoided.

51. Mr. BESSEDIK (Observer for Algeria) said that a review of the legal status of the Committee on Economic, Social and Cultural Rights had become necessary as a result of the establishment of the Human Rights Council and the launch of a process to elaborate an optional protocol to the International Covenant on Economic, Social and Cultural Rights. Whatever the outcome, however, it should not alter the substance of the Covenant. He noted that the views expressed by the Chairperson of the Committee at the previous meeting did not appear to reflect the spirit of the letter of 18 May 2007 addressed by the Chairperson, on behalf of the members of the Committee, to the President of the Human Rights Council, which was reproduced in the annex to document A/HRC/6/20.

52. Mr. BITETTO GAVILANES (Observer for the Bolivarian Republic of Venezuela) said that economic, social and cultural rights were progressively realizable human rights, not mere aspirations. The elaboration of an optional protocol would mark the end of a period of decades in which economic, social and cultural rights had been perceived as second-class rights. Such a protocol should be broad in scope and should preclude the adoption of an "à la carte" approach, which would only be a pretext for perpetuating the primacy of certain rights over others.

53. Ms. ESCOBAR (Observer for Spain) said that an optional protocol to the Covenant would be a procedural instrument and would not impose additional substantive obligations on States parties.

54. Mr. CHIHUAILAF (Observer for Chile) said that Chile wished to assure the Chairperson-Rapporteur of the Working Group of its continuing support.

55. Mr. KADIRI (Observer for Morocco) said that provisions concerning international cooperation and assistance should be incorporated into the draft optional protocol. Morocco supported the establishment of a fund to assist States parties in implementing the protocol.

56. The scope of the protocol should be such as to permit the accession of as many Member States of the United Nations as possible. Similarly, the approach adopted should permit a degree of flexibility, without impairing the effectiveness of the protocol, whose chief objective was the full realization of the rights enshrined in the Covenant. The option of a “limited” approach, as provided for in paragraph 3 (b) of document A/HRC/6/WG.4/2, would appear to be the most suitable in that regard.

57. Ms. OLNEY (International Labour Office) recalled that, under an agreement reached in 1950 between the International Labour Organization (ILO) and the United Nations, the ILO had been entrusted with the function of dealing with complaints regarding trade union rights on behalf of the United Nations system.

58. She noted that a collective complaints procedure in respect of article 8 of the Covenant would offer an additional mechanism within the United Nations system for dealing with collective complaints from workers’ and employers’ organizations. The ILO believed that, were the Council to pursue that option, consultations would be required between the United Nations and the International Labour Organization with a view to safeguarding the 1950 agreement.

59. Ms. ROSE (International Coordination Committee), speaking on behalf of the German Institute for Human Rights, the National Consultative Commission of France, the Danish Institute for Human Rights and the Advisory Council on Human Rights of Morocco, said that there were many convincing reasons why an “à la carte” approach should not be adopted in regard to the communications procedure under the proposed optional protocol. One aspect that had been neglected in discussions thus far, however, was the question of non-discrimination. Excluding certain rights from the communications procedure could create situations in which certain social groups would not be able to address an alleged violation in some fundamental area of their lives while other groups would. Those countries that favoured an “à la carte” approach had not provided any justification for choices that might lead to de facto discrimination among social groups.

60. Mr. LITTMAN (World Union for Progressive Judaism) said that the reasons given for non-compliance with the principles of the universality, indivisibility and primacy of human rights were often based on cultural relativism, with religious overtones.

61. The CHAIRPERSON ruled the speaker out of order for failing to address the subject matter of the agenda item under discussion.

62. Mr. ÖZDEN (Centre Europe - Tiers Monde), speaking also on behalf of the Ligue internationale pour les droits et la libération des peuples, the Women's International League for Peace and Freedom, and the Mouvement contre le racisme et pour l'amitié entre les peuples, expressed support for the adoption of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. It was important to ensure that individuals and/or groups could submit communications to the Committee on Economic, Social and Cultural Rights on all articles of the Covenant and all rights recognized therein. As all human rights were universal, indivisible and interdependent, it was unacceptable to exclude some rights, such as the right of self-determination which enabled peoples to "freely dispose of their natural wealth and resources" (article 1 of the Covenant), while promoting others.

63. He expressed support for the creation of a solidarity fund provided that it was financed by regular contributions that were compulsory rather than voluntary. The fund could be used to compensate victims for violations of economic, social and cultural rights where States failed to live up to their obligations, and also to finance specific projects such as the construction of housing or water points.

64. He deplored the position adopted by some States on article 8 of the draft optional protocol regarding the Committee's assessment of the reasonableness of the steps taken by a State party to comply with its obligations under the Covenant. The Committee's role was not to determine whether a measure was reasonable or unreasonable but rather to decide whether the measures taken by a State were consistent with the aims of the Covenant.

65. Mr. CAHN (Centre on Housing Rights and Evictions), speaking also on behalf of the NGO Coalition for an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Food First International Action Network and Amnesty International, said that the proposed optional protocol should build on experience gained in implementing comparable mechanisms associated with other human rights treaties. Above all, its scope should be comprehensive, covering all alleged violations of States parties' obligations under the Covenant. The Committee on Economic, Social and Cultural Rights should also have the authority to impose interim measures and to conduct inquiries.

66. The swift adoption of an effective optional protocol by the end of the fifth session of the Working Group would be a fitting way to mark the sixtieth anniversary of the Universal Declaration of Human Rights and to demonstrate States' commitment to the interdependence and indivisibility of human rights.

67. Ms. HEYER (Colombian Commission of Jurists) said that an optional protocol would serve as a vital tool for people who were denied the opportunity to live in dignity, such as the world's 13 million victims of enforced displacement, some 3 million of whom were Colombians. In her report on the situation of human rights in Colombia (A/HRC/4/48), the United Nations High Commissioner for Human Rights had described inequity as one of the main problems facing the country in terms of economic, social and cultural rights. The problem of inequity was most severe among displaced persons. Although the Colombian State had expressed support for the draft optional protocol, it had argued against fundamental provisions such as the Committee's competence to undertake inquiries and the right of NGOs to submit communications.

68. She urged the Colombian State and the international community to support an instrument that provided for both a communications and an inquiry procedure; that covered all rights recognized in the Covenant and all State obligations pertaining to the effectiveness of economic, social and cultural rights; that included the right of NGOs to submit communications; and that prohibited reservations.

69. Mr. MACHON (International Commission of Jurists) said that the draft optional protocol was well grounded in existing human rights protection standards and offered a solid basis for negotiations. He welcomed the position adopted by the majority of States, which reflected a clear preference for an optional protocol that would provide comprehensive protection for all substantive Covenant rights and provide victims of violations with a complaints mechanism and guarantees similar to those offered to victims of violations of civil and political rights.

70. Any departure from the basic principle of ensuring comprehensive protection for all rights and enforcement of all obligations enshrined in the Covenant would weaken the protection of economic, social and cultural rights, thereby undermining the notions of interdependence and indivisibility of all human rights. Reservations to the optional protocol that were incompatible with its object and purpose should be expressly prohibited. The optional protocol should match the highest standards of protection afforded in recently adopted human rights instruments such as the Convention on the Rights of Persons with Disabilities and its Optional Protocol. Improvements could be achieved with respect to locus standi for collective complaints, amicus curiae initiatives in support of victims, precautionary or preventive measures, and a procedure for follow-up to views adopted by the Committee.

71. Ms. FIGARI LAYUS (Asamblea Permanente por los Derechos Humanos) urged the Working Group to adopt an optional protocol to the International Covenant on Economic, Social and Cultural Rights that reflected the indivisibility and interdependence of all human rights and guaranteed the justiciability of economic, social and cultural rights. It was essential to provide for an individual complaints mechanism and to refer to both positive and negative State obligations under the Covenant.

72. States parties were required to take steps to reduce poverty and the unequal distribution of wealth. While the poverty index in Argentina had declined during the previous five years, many households were still suffering economic distress, a situation that could be effectively addressed through medium- and long-term economic and social reform in line with Argentina's obligations under the Covenant. An optional protocol could be used to monitor compliance with States' obligations, to develop national jurisprudence and to create an international avenue of redress for violations of economic, social and cultural rights.

73. It would be wrong to permit reservations to the new instrument, since it would be optional and would relate only to rights already recognized in the Covenant.

74. Mr. PARY (Indian Movement "Tupaj Amaru") said that the purpose of economic and social rights was to meet people's basic need for food, clothing and shelter, without which they were unable to enjoy civil and political rights. It was therefore essential to ensure the swift adoption of the draft optional protocol to the International Covenant on Economic, Social and

Cultural Rights. It was evident, however, from the behaviour of some States attending the meetings of the Working Group that they were seeking to undermine the project. Moreover, the report before the Council failed to reflect the proposals that his organization had made.

75. He urged States to adopt an appropriate mechanism for receiving complaints from individuals and groups, such as indigenous peoples, who lived in extreme poverty, thereby promoting the fair and equitable distribution of wealth.

76. States should respect the principle of the universality and indivisibility of human rights. They should refrain from giving priority to civil and political rights over economic, social and cultural rights and from adopting, as noted by the representative of the Bolivarian Republic of Venezuela, an “à la carte” approach to the rights covered by the draft optional protocol.

77. Mr. ALARCON (Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos) said that indigenous peoples eagerly awaited the adoption of a communications mechanism that would enable them to submit complaints of violations of their economic, social and cultural rights, including the right to self-development, to the Committee on Economic, Social and Cultural Rights. It was time for the Committee to take up that challenge, especially since the General Assembly had just adopted the United Nations Declaration on the Rights of Indigenous Peoples, which had already acquired legal status in some countries such as Bolivia and was in the process of acquiring such status in Peru.

78. Ms. ALBUQUERQUE (Chairperson-Rapporteur of the Open-ended Working Group on an optional protocol to the International Covenant on Economic, Social and Cultural Rights), responding to the discussion, said that she intended to hold informal consultations in January 2008 on a revised draft of the optional protocol and on the draft programme of work of the Working Group.

79. With regard to the role of civil society, representatives of individuals and of groups of individuals were accorded the right to submit communications under draft article 2 of the optional protocol. Victims were already permitted to designate representatives under existing communications mechanisms, and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women allowed persons to act on behalf of victims without obtaining their consent in cases where such a procedure could be justified. Similar wording had been proposed by some delegations at the last session of the Working Group and had been included in the revised draft of the optional protocol.

80. According to the Committee on Economic, Social and Cultural Rights, there was no need to refer to “reasonableness” in the text of the optional protocol, since the Committee already applied that criterion when reviewing State party reports. However, both the draft and the revised draft contained references to reasonableness and it was an issue that clearly called for further discussion at the next session of the Working Group.

The meeting rose at 11.45 a.m.