

OPTIONAL PROTOCOL TO THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

The Vienna Declaration and Programme of Action adopted at the Second World Conference on Human Rights, held in Vienna in 1993, recommended *inter alia* that both the Commission on the Status of Women, a body established in 1946 to monitor the situation of women and to promote women's rights, and the Committee on the Elimination of Discrimination against Women, a panel of independent experts screening the reports submitted by Member States on the measures adopted at the national level to give effects to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, examine the possibility of introducing the right of petition under the Convention, through the preparation of an optional protocol (A/CONF.157/23).

At its thirteenth session, in 1994, the Committee on the Elimination of Discrimination against Women considered this question and adopted its suggestion No. 5 on the feasibility of preparing such an optional protocol (see Report of the Committee (A/49/38)). The Committee further recommended that the Commission on the Status of Women convene a group of experts at its thirty-eighth session, in 1994, to prepare a draft optional protocol. It also suggested that the report of the group of experts should be presented first to the Committee for its comments, then to the Commission on the Status of Women for action. However, the Commission did not convene the said group of experts in 1994, but recommended to the Economic and Social Council the adoption a draft resolution in which the Council would, *inter alia*, decide that the Commission on the Status of Women should examine at its thirty-ninth session, in 1995, the feasibility of introducing the right of petition through the preparation of an optional protocol, in cooperation with the Committee on the Elimination of Discrimination against Women and taking into account the results of any governmental expert meeting on this question (draft resolution III reproduced in E/1994/27). Accordingly, on 21 July 1994, the Economic and Social Council adopted resolution 1994/7.

At its fourteenth session in 1995, the Committee on the Elimination of Discrimination against Women adopted Suggestion 7 (A/50/38), containing substantive and procedural elements that would have to be included in an optional protocol. The same year, at its thirty-ninth session, the Commission on the Status of Women considered the question of establishing a petition procedure, taking into account the elements contained in the Committee's Suggestion 7, and thus recommended to the Economic and Social Council the adoption of a draft resolution on the Convention on the Elimination of All Forms of Discrimination against Women (draft resolution III in E/1995/26). The Economic and Social Council adopted resolution 1995/29, dated 24 July 1995, in which it requested that the Secretary-General invite Governments, intergovernmental organizations and non-governmental organizations to submit their views on an optional protocol to the Convention and further decided that the Commission on the Status of Women should establish an in-session open-ended working group for a two-week period at its fortieth session with the view to elaborating a draft optional protocol.

Furthermore, the Fourth World Conference on Women held in Beijing in 1995 adopted the Beijing Declaration and Platform for Action, in which it expressed support for the process initiated by the Commission on the Status of Women to elaborate a draft optional protocol (A/CONF.177/20, para. 230).

At its fortieth session in 1996, the Commission on the Status of Women established an Open-ended Working Group on the Elaboration of a Draft Optional Protocol

to the Convention on the Elimination of All Forms of Discrimination against Women, which had before it a compilation submitted by the Secretary-General including the views of Governments and inter-governmental and non-governmental organizations on the feasibility of such an optional protocol (E/CN.6/1996/10 and Corr. 1 and Add.1 and 2). The Working Group undertook an in-depth discussion of all the elements contained in the Committee's Suggestion 7 (see Report of the Working Group (E/1996/26, Annex III)). As a result, the Commission recommended the Economic and Social Council to renew the mandate of the Working Group at the Commission's forty-first session in 1997 (draft decision I in E/1996/26) and further requested the Secretary-General to invite Governments and other actors to submit additional views on an optional protocol, as well as to provide the Working Group with a comparative summary of existing communications and inquiry procedures and practices under international human rights instruments and under the Charter of the United Nations (resolution 40/8 of 22 March 1996, in E/1996/26). Accordingly, the Economic and Social Council renewed the mandate of the Working Group to enable it to continue its work in parallel of the forty-first session of the Commission on the Status of Women in 1997 (decision 1996/240 of 22 July 1996).

In 1997, the Working Group began to consider the draft text prepared by its Chairperson (E/CN.6/1997/WG/L.1), along with the two reports prepared by the Secretary-General compiling the views submitted by States, international and non-governmental organizations (E/CN.6/1996/10 and Corr.1 and Add. 1 and 2 and E/CN.6/1997/5), as well as the comparative summary on existing communication and inquiry procedures (E/CN.6/1997/4). The Working Group completed a first reading of the draft optional protocol (see E/1997/27, Annex III) and the Commission on the Status of Women recommended the Economic and Social Council to renew the mandate of the Working Group at the following two sessions of the Commission, in 1998 and 1999 (draft decision I in E/1997/27). Further, the Commission adopted resolution 41/3 on 21 March 1997, in which it requested that the Secretary-General submit at its next session a report containing an annotated comparison of the draft optional protocol and the proposed amendments thereto with the provisions of existing international human rights instruments. The Economic and Social Council adopted decision 1997/227 on 21 July 1997, in which it renewed the mandate of the Working Group as recommended.

In March 1998, the Working Group met again in parallel to the forty-second session of the Commission on the Status of Women, but it was unable to finish its work due to the divergence of opinions on various issues, particularly with regard to the categories of persons and/or groups who should have *locus standi* in the new complaints mechanism, the appropriateness of establishing an inquiry procedure and the possibility to allow reservations to the optional protocol (E/1998/27, Annex II).

Finally, in 1999, in parallel to the forty-third session of the Commission on the Status of Women, the Working Group finalized the draft text of the optional protocol to the Convention and adopted it on 11 March 1999, along with its enabling resolution, and recommended their submission to the Commission on the Status of Women (see E/1999/27, annex II). On 12 March 1999, the Commission approved the draft resolution and revised the draft optional protocol for adoption by the General Assembly through the Economic and Social Council (E/1999/27). On 28 July 1999, the Economic and Social Council adopted resolution 1999/13, in which it recommended that the General Assembly adopt the draft optional protocol, and on 6 October 1999, the General Assembly adopted, without a vote, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, contained in its resolution 54/4. The Optional Protocol was opened for signature on 10 December 1999 and entered into force on 22 December

2000, three months after the deposit of the tenth instrument of ratification, as provided by its article 16.