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**Oral statement presented by Amnesty International at  
the fourth meeting of the Open-ended Working Group  
for an Optional Protocol to the International Covenant  
on Economic, Social and Cultural Rights,  
Geneva 16-27 July 2007**

**\*\*Please check against delivery\*\***

Madame Chair, distinguished delegates, ladies and gentlemen,

Since its inception the United Nations (UN) has set a universal standard for the protection of human rights. In 1948 Member States adopted the Universal Declaration of Human Rights (UDHR), in which they pledged “to achieve ... universal respect for and observance of human rights”. Until victims of all human rights violations have access to an effective remedy, this pledge will remain incomplete. Today, nearly sixty years after the adoption of the UDHR, the Member States of the UN have begun to draft an Optional Protocol which would represent an important step towards realising the aims of the UDHR.

Amnesty International (AI) welcomes the unanimous decision taken at the first session of the Human Rights Council to elaborate an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP to the ICESCR) within two years. The organisation would like to congratulate the Chair of the Working Group on the preparation of the draft Optional Protocol which is before us today. The current draft is a strong basis to begin negotiations on a mechanism that will strengthen the legal framework for the protection of economic, social and cultural rights at the international level. The vast majority of its provisions are drawn from agreed language in existing Optional Protocols, and it incorporates lessons from the practice of UN treaty bodies in reviewing communications since the first Optional Protocol to the International Covenant on Civil and Political Rights entered into force over thirty years ago.

However, the organization is concerned that some of the options which remain to be discussed risk undermining the very object and purpose of an Optional Protocol (OP).

Together with our colleagues in the NGO Coalition for an OP to the ICESCR, Amnesty International believes that the only form of OP which will be fit for purpose will be one which extends to violations of all of the economic, social and cultural

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rights in the ICESCR. Anything less would set an unfortunate precedent and suggest that, contrary to countless prior commitments to indivisibility, the UN considers economic, social and cultural rights to be of secondary importance. This would represent an unsustainable retrogressive step in the face of growing jurisprudence from other treaty bodies, from regional and national judicial and quasi-judicial forums which has shown categorically that all economic, social and cultural rights are capable of judicial protection, and states can be held judicially accountable for all of their related human rights obligations.

Similarly, AI supports the inclusion of Article 21 of the draft Optional Protocol, which would exclude the possibility of reservations to the OP. As the Human Rights Committee has noted, reservations to an optional communications mechanism which attempt to exclude communications related to violations of binding obligations in the underlying Covenant, are contrary to the object and purpose of the OP. This fact was recognised in the Optional Protocol to the Convention on the Elimination of Discrimination against Women (OP to the CEDAW), a development which should be reflected also in the current Optional Protocol.

Madam Chair,

AI believes that the guiding principle throughout the negotiations in this Working Group should be the overriding imperative to ensure the most effective mechanism possible to remedy violations of the economic, social and cultural rights enshrined in the Covenant. States should engage in these negotiations with the responsibility of establishing an international bedrock of protection for the rights of the most marginalised.

With this in mind, neither the standing nor the admissibility criteria under the OP should be unduly cumbersome. For example, the artificial inclusion of a six month time limit for the submission of a communication under the OP would be an arbitrary restriction on the scope of the Committee to consider alleged violations. It would represent an additional barrier to communications regarding violations of economic, social and cultural rights, which is not included in any of the current UN communications' procedures.

Likewise the OP should permit the Committee to initiate an inquiry procedure in situations where it receives credible evidence of systematic human rights violations in a state party. Such a mechanism under the OP to the ICESCR would, for example, allow investigation into alleged plans to undertake mass forced evictions, and failure

to allow the entry of humanitarian assistance where the state is either unable or unwilling to provide adequate nutritious food to prevent starvation.

Building on the OP to the CEDAW, and to maximise the potential of the OP to increase respect for and protection of Covenant rights, the Committee should be given the capacity to require states' urgent consideration of interim measures to stop impending or continuing violations.

There are many other issues in relation to the Optional Protocol which states will need to resolve over the next year, and the current session offers the possibility to make significant progress towards agreeing on the various components of the OP. Last year's discussions on the elements of the OP demonstrated States' willingness to engage in constructive dialogue on the characteristics and functioning of the OP. AI calls on states to support the swift development and adoption of an effective optional protocol. It is time to address the disparity in international remedies for human rights violations and to take a strong step towards achieving universal observance of economic, social and cultural rights.

Thank you Madam Chair.