



Opening statement by Ms. Navanethem Pillay United Nations High Commissioner for Human Rights at the Open-ended Working Group on an Optional Protocol to the Convention on the Rights of the Child to provide a communications procedure

6 December 2010

Distinguished delegates,
Ladies and Gentlemen,

It is my pleasure to welcome you today as you start the second session of the Working Group mandated by the Human Rights Council to elaborate an optional protocol to the Convention on the Rights of the Child. The Optional Protocol will provide a communications procedure, in compliance with Council Resolution 13/3, adopted last March.

At the outset, I would like to refer the General Assembly Resolution 64/146 on the Rights of the Child which called for child-sensitive procedures allowing children's access to effective remedies for breaches of their rights.

It is encouraging to note that much progress has been made since you met for the first time, almost one year ago, to explore the possibility of elaborating an Optional Protocol. In the course of your deliberations at that time it became clear that there was a need for an instrument providing children the same level of protection envisaged for right holders by other international core human rights treaties. Following your discussions, the Council extended the mandate of the Working Group and requested its Chairperson to prepare a proposal for a draft.

I wish to congratulate Mr. Drahoslav Štefánek for his efforts in preparing this proposal now ready for the forthcoming negotiations. The proposal that you are about to examine shows the serious and constructive manner in which you have approached your work in order to satisfy the high requirements of your mandate.

Allow me to convey OHCHR's interest and support for this Working Group. As a former judge, I know that litigation and the examination of communications from individuals at regional and international level can make a vital contribution to the understanding of the substantive content of international norms. These factors can lead to real change not only for the individuals directly concerned, but for all those protected by the rights guaranteed in the treaties. Regional and international remedies also provide strong incentives for strengthening national protection mechanisms. The future Optional Protocol could serve the same purpose, thus improving access to remedies and relief for victims.

Welcome as it is, the adoption of new instruments also represents a challenge for my Office in terms of additional tasks involved. This is valid in connection with all monitoring mechanisms, including State reporting and communications procedures. The treaty body system needs to be provided with the necessary means to meet the challenges of its growth and increasing influence. I trust that your deliberations on the Optional Protocol will also take into consideration this concern.

In support for your mandate and upon the initiative of the Chairperson of the Committee, Ms. Yanghee Lee, my Office organized last June an expert consultation where most of the relevant issues regarding the Optional Protocol, were discussed. For two days, experts on litigation on children issues shared their experience and expressed their views regarding the possible provisions of this instrument.

Assessing the merits and scope of existing communication procedures, experts were generally in favour of an Optional Protocol tailored to children's needs and to the requirements of the Convention and its two existing Optional Protocols.

They considered, *inter alia*, that the communications procedure should be transparent and that measures should be taken to ensure wide dissemination among potential users. Experts were generally in favour of including provisions allowing the Committee to examine both individual and collective communications, as well as including a provision by which no reservation to the optional protocol would be allowed. They believed that the Committee should have the competence to request interim measures in cases pending before it, and that a call should be addressed to States to take action when such requests for interim measures are formulated. Experts were also in favour of including a procedure for friendly settlement between the parties in a communication, while ensuring that such procedure would fully take into consideration the interests of the child.

I encourage you to give due consideration to the suggestions made by the experts as well as to the comments on the proposal of the Chairperson prepared by the Committee on the Rights of the Child and circulated to you in document A/HRC/WG.7/2/3. As the monitoring body of the Convention and future monitoring body of the Optional Protocol, the views of the Committee are particularly relevant at this stage. I also encourage you to pay attention to relevant regional human rights instruments, such as the African Charter on the Rights and Welfare of the Child, which contains a communications and inquiry procedure.

Distinguished Delegates,
Ladies and Gentlemen,

Drafting a new international instrument is usually a long process but the progress you have already made is very promising. I encourage you to keep in mind the need to ensure consistency and coherence with the existing body of international human rights law but also to be innovative in order to achieve the best possible level of protection for children through the most effective mechanisms.

I wish to take this opportunity to emphasize, once more, the importance of the treaty body's work which is crucial to the progressive development of human rights law. While States are the owners and creators of the system and bear the primary responsibility of ensuring respect for their treaty obligations, the treaty bodies have a central role in monitoring their implementations and provide States with the guidance of their expertise. In this regard, I feel optimistic in view of the positive responses that we are receiving to my initiatives on the treaty body strengthening process and encourage you to continue the reflection on ways and means to improve the functioning and output of treaty bodies.

I wish you a very fruitful and successful session on this important new phase in your work.

Thank you.