



THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CIVIL RIGHTS ENTERS INTO FORCE

This article analyses the importance and the implications of the entry into force of the first Optional Protocol to the ICESCR. It was approved on the 10th December 2008 by the General Assembly. The OP established enforcement mechanisms through inquiry and complaint procedures and it entered into force on 5 May 2013. The adoption of the OP constitutes an essential step toward the international effectiveness and respect of economic, social and cultural rights, adjusting the imbalance in its enforcement mechanisms compared to the one of the Civil and Political Rights.

Indeed, the UN human rights fundamental treaties were provided with supervision and implementation bodies that allowed individuals to denounce human rights violations, with the exception, until the OP's entry into force, of the economic, social and cultural rights. This inequality was due to the alleged difficulties concerning the justiciability of such rights, which were considered only behavioural obligations for States to be implemented progressively.

According to the author, the international strategy so far adopted, with respect to the principles of indivisibility and interdependency of human rights, and through the adoption of the OP, consists in providing the international economic, social and cultural rights system with an effective supranational enforcement process, with the scope of assuring their respect through the possibility for individuals to denounce a Member State for an alleged violation of the Covenant. It seems the old division between justiciable rights and non-judiciable rights is coming to an end, albeit only few countries have ratified the Optional Protocol to date.

(Abstract by the editorial staff)