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First Session

19-30 June 2006

Compilation of statements by Amnesty International

(including joint statements)



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The following statements were delivered during the first main session of the Human Rights Council that took place from 19 to 30 June 2006.

Inauguration of the UN Human Rights Council

Public statement on the inauguration of the UN Human Rights Council: “UN Human Rights Council: The promise of a new beginning” of 19 June 2006

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UN Human Rights Council: The promise of a new beginning

Amnesty International (AI) welcomes the inauguration of the new Human Rights Council (the Council). The Council has great potential to be stronger and more effective than the former UN Commission on Human Rights (the Commission). Council members, observer governments and other participants in the Council must act now to realize that potential.

This first session of the Council will be crucial in setting the tone for the future. Governments must demonstrate not only by their words but by their actions that they are prepared to make the Council a stronger and more effective body for the promotion and protection of human rights than was the Commission. As a political body made up of governments, the Council will rely heavily on its members creating an institution that will encourage them to put respect for human rights before political self-interest. They must demonstrate that they can rise above the base politics that did so much damage to the credibility of the Commission. They must begin in earnest at this session to put in place procedures and working methods that will enable the Council to fulfil the aim of ensuring effective enjoyment by all of all human rights.

While the Council should give itself the time necessary to complete its unfinished institution-building and avoid hasty decisions that could reproduce the shortcomings of the Commission, it must also demonstrate a commitment to the protection of human rights here and now. At a minimum, that commitment should be demonstrated by ensuring that all Special Procedures are preserved and empowered to act until the deadline set for completion of their review in June 2007. The draft International Convention for the Protection of All Persons from Enforced Disappearance and the draft Declaration on the Rights of Indigenous Peoples should be approved and recommended to the General Assembly for adoption in 2006. The mandate of the Open-ended Working Group to consider options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights should be extended and modified to enable the Working Group to get on with drafting the Optional Protocol.

The Council has a clear mandate to promote and protect human rights, including addressing gross and systematic violations, contributing to the prevention of human rights violations, and responding promptly to human rights emergencies. Moreover, it is clear that this mandate applies to all situations in all countries. Although AI has not called on the Council to address country situations at its first session, the organization expects the Council to complete the Commission's unfinished business under the 1503 Procedure at its next session in September 2006.

One of the new tools for the Council is a Universal Periodic Review mechanism. All member states of the UN must undergo this review of the extent to which they fulfil their human rights obligations. The Council must proceed with vigour and courage to establish the modalities for the universal periodic review that will ensure that it will not be possible to turn a blind eye to human rights situations because they happen in powerful countries or in countries with powerful friends. Members of the Council must give themselves no excuse to fail to address situations of grave violations of human rights like Darfur or Guantanamo Bay and the related web of secret detention centres or chronic situations like the denial of land rights and the pervasive violence against women that is endemic in so many countries throughout the world.

Important as it is, the new universal periodic review mechanism cannot and should not be the sole means for the Council to address human rights problems. It will be crucial to the success of the Council that it develops a range of responses to address the many different human rights situations across the world. No one approach will suit all situations. If the Council is to have a real impact on the ground it must adapt its response to the specific situation and draw on options ranging from advice and assistance to public condemnation.

The General Assembly has also instructed the Council to promote effective coordination and mainstreaming of human rights in the UN system. This is an important responsibility that the Council must take seriously. The Council must ensure that in meeting its own responsibility to prevent human rights violations and respond promptly to human rights emergencies, it plays a catalytic role by engaging other parts of the UN system, including the Security Council. It also has an important role to play in the UN's efforts to give effect to the "responsibility to protect", which was acknowledged in the World Summit Outcome Document of 2005.

The Council will meet regularly throughout the year in at least three sessions, and it can be convened in special session with the support of just one-third of its membership. This will allow the Council to respond more quickly to human rights emergencies and to follow more closely those issues with which it is already seized. There will be no excuse for situations slipping out of sight or out of mind. As a body meeting regularly throughout the year, the Council will also have much more flexibility in addressing these situations. AI expects the Council to use that flexibility creatively and forcefully.

The ability of the Council to implement its decisions will be key to its success. The Council must focus on action, not rhetoric. The measure of its success will be the improvements that it makes in the lives of people, not the number of resolutions that it adopts.

The General Assembly, in establishing the Council, placed great emphasis on the importance of constructive international dialogue and cooperation in its work. AI agrees that the Council must place an emphasis on assisting countries who are willing to be assisted in implementing their human rights obligations. But, if countries refuse to cooperate with the Council, it must be able to resort to other means to impress on countries that respect for human rights is an international obligation. Members who serve on the Council must be committed to respect for human rights, and they must demonstrate that commitment, including through full cooperation with the Council and its mechanisms.

Among the strengths of the Commission that the Council has inherited are the Special Procedures and the practices and arrangements for the participation of NGOs and national human rights institutions. These strengths must be built upon. In the review of the Special Procedures that the Council is mandated to complete by June 2007, it should place emphasis on strengthening the system of Special Procedures, including by integrating their information and analysis more fully into the deliberations and decision-making of the Council and by encouraging greater cooperation of governments with the Special Procedures. The Council must respect the letter and the spirit of General Assembly resolution 60/251, where it decides that the participation of NGOs in the Council shall be based on the arrangements and practices observed by the Commission. From this base, the Council should pursue deeper cooperation with non-governmental organisations.

AI calls on the Council to establish at this first session open, transparent and predictable procedures to establish the modalities for the universal periodic review mechanism and to carry out the review of the Special Procedures and other mandates and mechanisms inherited from the Commission. These procedures should combine the flexibility and responsiveness of informal consultations with the formality and transparency of open-ended working groups. They must allow for the meaningful participation of NGOs and other stakeholders.

AI believes that the Council on Human Rights can be a stronger and more effective body than the Commission on Human Rights in the promotion and protection of human rights. AI will be vigilant to ensure that this promise is not squandered.

Background

The resolution establishing the Human Rights Council was adopted by the UN General Assembly on 15 March (resolution A/RES/60/251). The creation of the Council was a clear recognition by the governments at the General Assembly that efforts to protect human rights must be vested in a high-level UN body.

Prior to that, the 2005 UN World Summit that took place in September 2005 had decided that the Commission on Human Rights should be replaced by a new Human Rights Council because the Commission had suffered a "credibility deficit" due to a perceived (and real) lack of objectivity in its work on particular country situations.

Elections of the 47 members of the Council took place on 9 May in the General Assembly. 63 candidates stood for election, with all regional groups apart from the African Group putting forward more candidates than seats available -- thereby breaking with the Commission's bad habit of "clean slates". To gain a seat, candidate states had to achieve an absolute majority of the GA vote, i.e. at least 96 votes, which raised the stakes compared to the election of members of the Commission -- who needed only a majority of votes in ECOSOC (27 votes). All candidate countries presented voluntary pledges with commitments to promote and protect human rights at the national and international levels. The pledges were posted on the UN website, which created a degree of transparency surrounding the elections that has not been seen in the UN before.

AI provided human rights profiles of all 63 candidates on a dedicated page on the Amnesty website -- these provided a brief overview of the AI's concerns on each country and of the country's record of ratification of key human rights instruments and their cooperation with the UN human rights mechanisms. In the period leading up to the first session of the Human Rights Council, 19-30 June 2006, AI has written to all 47 members of the Council reminding them of the key commitments they made in their election pledges and urging them to implement these as soon as possible.

11th meeting: Exchange of views with the Chairperson of the Coordination Committee of Special Procedures, the Vice-Chairperson of the Coordination

Joint oral statement by Amnesty International, Human Rights Watch, the International Federation for Human Rights (FIDH) and the International Service for Human Rights on the review of the Special Procedures - 23 June 2006

Delivered by *Patrizia Scannella*

Mr. President,

I speak on behalf of Amnesty International, Human Rights Watch, the International Federation for Human Rights (FIDH) and the International Service for Human Rights.

Our organisations urge States to ensure that the review of the Special Procedures focuses on strengthening the system of Special Procedures. This means full integration of their information and analysis into the Council's deliberations and decision-making, including in the Universal Periodic Review, and demanding cooperation of governments with the Special Procedures. The Council should draw on the expertise and knowledge of the Special Procedures in the review of the Special Procedures and in the Council's institution-building activities.

In setting up the review, the Council must also bear in mind that the Special Procedures were created to provide independent, objective, expert advice. Any failure to preserve the independence, objectivity or expertise of the Special Procedures would call into question both the review and the Council.

The establishment of the Council provides a new channel through which the ratification and implementation of the international human rights treaties can be promoted. The Council must draw on treaty bodies' information in the performance of its tasks, as the treaty bodies are the expert bodies charged with considering states' implementation of their obligations under the international human rights treaties. This will be particularly important for the proposed universal periodic review. The review should take account of analysis of the priority concerns in a reviewed state as distilled from the findings and recommendations of the treaty bodies. It should consider the state's record of ratification and compliance with reporting obligations. Together this would encourage increased adherence to the international human rights treaties.

We hope that the Council find ways to draw on the knowledge and expertise of the treaty bodies in the development of the modalities for the Universal Periodic Review.

Thank you Mr. President.

Item 4- Implementation of General Assembly resolution 60/251 of 15 March 2006 entitled "Human Rights Council" (cont'd) – Consideration of the report of the open-ended Working Group established with a view to considering options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights

Joint oral statement delivered by AI, COHRE, FI, FIAN; FIDH, ICJ, IWRAW Asia Pacific, on behalf of the international NGO Coalition for an OP-ICESCR

The NGO Coalition for an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights appeals for a drafting mandate to be granted to the Open-Ended Working Group to consider options regarding the elaboration of an Optional Protocol to the International Covenant on economic, Social and Cultural Rights.

Individually and on behalf of the international NGO Coalition in which all submitting organisations are members, Amnesty International, the Centre on Housing Rights and Evictions (COHRE), Franciscans International (FI), the Foodfirst Information and

Action Network (FIAN), the Fédération internationale des ligues des droits de l'Homme (FIDH), the International Commission of Jurists and the International Women's Rights Action Watch Asia-Pacific (IWRAW Asia-Pacific) welcome the significant progresses made in the discussions on an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

The NGO Coalition warmly welcomes the support expressed by the UN Secretary General, Kofi Annan, in his address to the Human Rights Council on the first day of the first session. In particular, we would like to highlight his encouragement of states to agree to an Optional Protocol establishing avenues for lodging complaints under the ICESCR.

The NGO Coalition actively participated in the last session of the Open Ended Working Group (OEWG) in February 2006, where increase momentum in favour of the adoption of an effective instrument for a better protection of economic, social and cultural rights (ESC rights) was evident. On this occasion, a great majority of states highlighted the need to develop and adopt a comprehensive complaint mechanism that includes all rights and all levels of States' obligations, taking account of provisions and arrangements under similar international procedural instruments related to other human rights treaties.

Accordingly, a large majority of states as well as the NGO Coalition expressed themselves in favour of a renewal of the mandate of the OEWG as well as its transformation to allow the OEWG to proceed to agreeing on the text of a draft optional protocol. In this regard, the NGO Coalition is of the view that the OEWG mandate should be for at least two years.

The NGO Coalition supports the proposal made by numerous delegations during the OEWG session in February 2006 according to which the Chair of the OEWG, Mrs Catarina de Albuquerque, should prepare and present a draft Optional Protocol to the next session of the Working Group. This draft should reflect the discussions and achievements of the three first years of the OEWG and should serve as a basis for the drafting negotiations.

In this context, the first session of the Human Rights Council should approve an expanded mandate for the OEWG in order to ensure sufficient time to allow the Chair of the OEWG to conduct consultations on the text of the draft. Finally, the NGO Coalition would like to reiterate its commitment to active and constructive participation in the process.

Item 4 – Implementation of General Assembly resolution 60/251 of 15 March 2006 entitled “Human Rights Council” (cont'd) – Consideration of the report of the open-ended intersessional Working Group on a draft United Nations declaration on the rights of indigenous peoples (cont'd)

Oral statement on the draft United Nations Declaration on the rights of indigenous peoples - 27 June 2006

Delivered by Peter Splinter

I am Peter Splinter of Amnesty International and am making this statement on behalf of 35 Human Rights NGOs, which complete list is attached to our written submission.

As non-governmental organisations working in the field of human rights, we have seen time and again that the promise of universal respect for and protection of human rights remains unfulfilled for the world's Indigenous peoples. We witness in every region of the world, Indigenous peoples suffering gross violations of their fundamental human rights as the consequences of systemic discrimination, historic injustices and ongoing marginalization.

Mr. President, as the General Assembly resolution highlights, the Council is responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind, in a fair and equal manner. It is therefore most fitting that this historic first session of the Council has the opportunity to propose to the General Assembly for adoption one of the most urgently needed and long overdue standards for the recognition and protection of human rights, the draft United Nations Declaration on the Rights of Indigenous Peoples.

We join Indigenous representatives in the conviction that the United Nations Declaration on the Rights of Indigenous Peoples is ready for adoption at this session. The proposed text that emerged from the 11th session of the U.N. Working Group on the draft Declaration (E/CN.4/2006/79) is the culmination of lengthy and exhaustive deliberations among states and Indigenous peoples. Given the broad support for the Working Group proposal among states, as well as Indigenous peoples, there is no justification for any further delay.

For these reasons, we fully support the resolution submitted by the Government of Peru and the co-sponsors, calling for the adoption of the draft United Nations Declaration on the Rights of Indigenous Peoples.

We are calling on states not to pursue short term political interests by posing options which would undermine the confidence of Indigenous peoples, and the agreement reached with them, in the course of the more than two decades worth of the negotiations on the draft Declaration. We urge the members of the Council to seize this historic opportunity to ensure, that at long last, the Declaration is put forward for adoption by the General Assembly this year.

By adopting the Declaration, the United Nations will strengthen the whole universal human rights system by setting crucial standards for the survival, dignity and well-being for the world's Indigenous peoples.

Thank you, Mr President.

Item 4 – Implementation of General Assembly resolution 60/251 of 15 March 2006 entitled “Human Rights Council (cont'd) – Review of mandates and mechanisms

Oral statement on the system of Special Procedures - 28 June 2006

Delivered by *Peter Splinter*

Mr. President:

Resolution A/RES/60/251 requires the Council to review the Special Procedures over the course of the next year. According to Operative Paragraph 6, the central objective of that review is improvement and rationalization, “in order to maintain a system of special procedures”. The Council must keep this objective clearly in sight. A system is more than an accretion of individual procedures; it is a unified whole acting coherently, harmoniously and effectively. As a stronger, more comprehensive and coherent system, the special procedures will be better able to assist the Council in fulfilling its responsibility to promote universal respect for the protection of all human rights for all.

Mr. President:

If the Council keeps sight of the objective of maintaining a system of special procedures, it will have valuable guidance both for how the review process is carried out and for the eventual results. The review must be more than a piecemeal consideration of individual mandates. The Council should determine first what it expects of its system of special procedures. Only then will it be possible to assess the place of existing mandates in that system.

The Council must be attentive to identifying rights, themes and violations that are not covered by existing mandates, so that gaps can be filled. [Amnesty International would suggest, for instance, that there is crying need for the system of special procedures to include a procedure that addresses the rights of persons in prison. *Not read.*]

Yet, Mr. President, maintaining a system of special procedures is about more than eliminating overlaps and filling gaps. It is also about enhancing the Special Procedures as an institution. The review should lead to improvements in the following areas.

- The Council must ensure the regular availability to it of Special Procedures’ information and analysis, which the Council must use in both its regular work and in the universal periodic review;
- The Council must develop measures for its consistent follow-up to recommendations and requests made by Special Procedures. Failure to ensure that consideration and effect is given to the recommendations of the Special Procedures will undermine the system and diminish what the Special Procedures offer the Council;
- The review must improve cooperation between governments and the special procedures. This includes both access to countries and territories and

responsiveness to the observations and recommendations of the Council's special procedures;

- The Council must enhance the Special Procedures' capacity to address and respond to existing and emerging of situations of serious human rights violations;
- The review should result in a rigorous identification and selection process for mandate-holders that ensures they meet the highest standards of expertise, independence and objectivity; and
- The review must contribute to the strengthening the professional support and increasing the resources necessary to ensure that the special procedures can operate effectively.

Mr. President, improvement and rationalization of the Special Procedures cannot be treated as a mere accounting exercise. We must aspire to a review that gives the Council a stronger and more effective system of Special Procedures in the interest of better protection of rights-holders, including victims of human rights violations.

Thank you Mr. President.

The full text of each oral statement in this compilation is posted on the extranet page of the UN Human Rights Council¹.

¹ <http://www2.ohchr.org/english/bodies/hrcouncil/>