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Pawning the Crown Jewels: Members of the UN Human Rights Council Undermine the Special Procedures

Amnesty International condemns attempts by some states, including members of the United Nations (UN) Human Rights Council, to intimidate its independent human rights experts.

Amnesty International is appalled by efforts by some UN member states to introduce a new measure that would give the Council power to remove from office individual UN human rights experts, collectively known as the Special Procedures, after an initial three-year term.

Meeting at the 8th session of the Council in Geneva, a group of states – notably Cuba, Egypt (on behalf of the African Group), India, the Russian Federation, Singapore and Sri Lanka – have tabled a draft decision that calls for reappointment of mandate-holders who have served a first term of three years and allows for any state to object to the reappointment of any mandate-holder. Until now, it has been the custom that mandate-holders serve a maximum period of six years. This custom was carried over into the Council by virtue of its resolution 5/1, which provides the institutional foundation for the Council. Since September 2007, Special Procedure mandates and mandate-holders have been reviewed by the Council and continued on this basis. At no stage during year-long negotiations of that part of this resolution governing the Special Procedures was the idea to hold a mid-term review of mandate-holders muted. The creation of the ability for the Special Procedures parent body to terminate their tenure at mid stream would be a radical new measure and its application unprecedented.

To justify this change in the rules a few states attacked individual mandate-holders whose mandates were being reviewed by the Council last week – the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture. These states claimed that these mandate-holders had acted beyond the terms of the Council's Code of Conduct for Special Procedures. Such criticisms lack all credibility and appear to serve as a pretext to weaken the Special Procedures – whether through a badly misguided sense of principle or through deliberate aim. Those states are unwilling to follow due process that should be accorded to the mandate-holders facing such allegations of misconduct – they simply want instant dismissal.

The proposed decision has no requirement for objections to refer to any commonly accepted standards of conduct. In the crudest terms, if a state dislikes what a Special Rapporteur does or says, all it has to do is to raise an objection to the continuation of the mandate-holder's tenure. Such unfair practices do not belong in the UN's main human rights body.

Faced with a review at the end of their first term, mandate-holders will be at risk of undue political pressure by states, pressure that can only be detrimental to their capacity to carry out their functions in an independent and impartial manner while in office. It would also act as a disincentive for mandate-holders from developing and carrying out anything but short-term plans in their respective areas of work. It would seriously undermine the capacity of mandate-holders to fulfil effectively their mandates given by the Council.

The consequences of the proposed decision are far-reaching. Amnesty International urges all states to think very carefully before following a course of action which will seriously compromise the independence, integrity and stability of the Special Procedures system and call into question the credibility of the Human Rights Council.

Background

Kofi Annan described the Special Procedures as the crown jewels of the UN human rights system. Support for this assessment was very widely shared by the UN member states in interventions in the Human Rights Council and other UN fora.

Throughout the whole of the institution-building negotiations leading to the adoption of resolution 5/1, there was no discussion of re-appointment of mandate-holders after completion of an initial three-year term. Where the Council intended to create a requirement for re-appointment, it expressed that intention clearly, as it did for the members of the Advisory Committee, the Working Group on Communications and the Working Group on Situations.

In recent months a few states have sought to rewrite the rules for the appointment of Special Procedures in attempt to remove some mandate-holders, whose professionalism and outspokenness they find inconvenient.

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