

# Open Letter to Member States of the Human Rights Council

11 June, 2009

Excellencies,

We are civil society organizations from throughout the world that have contributed to the Human Rights Council and its work since its establishment. We have observed with increasing concern developments in the Council, including at the current 11<sup>th</sup> Session, that are undermining the work of the Council's Special Procedures. This session has seen extraordinary personal attacks by some States on the integrity of mandate holders and specific threats to their independence.

The attacks at this session of the Council have focused in particular on the current Special Rapporteurs on freedom of expression and on extrajudicial, summary or arbitrary executions. These particular Rapporteurs were subjected to threats of disciplinary action because they offered their expert analysis and recommendations on important human rights issues that they brought to the attention of this Council in the proper exercise of their mandates.

Many States engaged in this conduct. Some States have been more direct than others in their threats to remove mandate holders from their functions if they fail to conform to those States' particular interpretation of the experts' mandates. There has been what appears to be a coordinated effort to intimidate Special Procedures, individually and collectively.

We view these attacks and threats as fundamentally an attack on and threat to the Council itself and they are severely eroding the Council's legitimacy and credibility.

We understand that any State that is criticised by a mandate holder will feel the need to respond. We accept its entitlement to endeavour to rebut criticism, to correct any errors and misunderstandings, and to argue its case. It is normal that a State will also offer its interpretation of a Special Procedure mandate. It should do so, however, respectfully and with appropriate measure, just as the mandate holder is required by the Special Procedures Code of Conduct to act with respect and appropriate measure.

Contrary to this approach, however, there is an escalating tendency among too many States to utilize the Special Procedures Code of Conduct as the basis for political attacks on the independence of individual Special Procedures and the entire Special Procedures system. Too often any difference of views about a situation, a mandate or a recommended course of action is turned into an issue of the Code of Conduct. This is a highly selective interpretation of the Code of Conduct, ignoring its fundamental requirement that States refrain from undermining the independence of the Special Procedures mandate holders.

The misuse of the Code of Conduct was anticipated when it was being debated by the Council in its first year. Many States and NGOs argued at the time that the Code needed to be complemented by a Code of Conduct for States. Experience since then has established that need beyond doubt. States should be required, in the words of General Assembly resolution 60/251, 'to cooperate fully' with the Council's Special Procedures. To bring a proper balance back to the Council's relations with its Special Procedures, the Council must urgently commit to, develop and adopt a Code of Conduct for States to guide them in their cooperation with the Special Procedures.

We therefore appeal, in the strongest terms, to member and observer States to act more responsibly and respectfully in their relations with Special Procedures and refrain from all attempts, by word or action, to interfere with the independence of mandate holders or to otherwise undermine their work.

We further call on all States to act in good faith to ensure that the long term integrity and credibility of the Human Rights Council itself are not sacrificed to political expedience.

Yours sincerely,

Action Canada for Population and Development (ACPD)  
Al-Haq  
Amnesty International  
Arab Sisters Human Rights Forum  
Arabic Network for Human Rights Information (ANHRI)  
ARC International  
ARTICLE 19  
Asian Forum for Human Rights and Development (FORUM-ASIA)  
Asian Legal Resource Centre  
Association pour la Défense des Droits et Libertés (ADDL)  
Association of World Citizens  
Association for World Education  
Baha'i International Community  
Bahrain Centre for Human Rights  
Cairo Institute for Human Rights Studies (CIHRS)  
Canadian HIV/AIDS Legal Network  
Centre for Economic and Social Rights (CESR)  
Conectas  
CREA (Creating Resources for Empowerment in Action)  
Damascus Center for Human Rights (DCHR)  
Democracy Coalition Project (DCP)  
East and Horn of Africa Human Rights Defenders Network (EHAHRDN)  
Egyptian Association for Community Participation Enhancement (ECAPE)  
Egyptian Initiative for Personal Rights (EIPR)  
Egyptian Organization for Human Rights (EOHR)  
Fédération internationale des droits de l'homme (FIDH)  
The Federation for Women and Family Planning  
Human Rights Council of Australia  
Human Rights First Society-Saudi Arabia  
Human Rights Watch (HRW)  
International Commission of Jurists (ICJ)  
International Service for Human Rights (ISHR)  
International Women's Rights Action Watch Asia Pacific (IWRAP Asia Pacific)  
New Woman Research Foundation (NWRC)  
Palestinian Human Rights Organization in Lebanon (PHRO)

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