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Amnesty International's Views on the Proposals for Reform of the UN's human rights machinery

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Amnesty International welcomes the UN Secretary-General's report "In larger freedom: towards development, security and human rights for all"¹ wherein he has drawn upon "A more secure world: Our shared responsibility"² and upon "Investing in Development"³ to identify human rights as one of three pillars of the United Nations, which are covered by his proposals for the UN summit of world leaders in September 2005.⁴

In particular, Amnesty International welcomes the Secretary-General's bold initiative to strengthen the UN's human rights machinery by proposing a body that would give human rights a more authoritative position in accordance with the importance of human rights in the UN Charter. The Commission on Human Rights, the UN's main human rights body, has become increasingly paralyzed in effectively addressing human rights violations around the world. The proposal to establish a human rights council with enhanced authority that is in session and can meet throughout the year holds great promise for the improvement of the capacity of the United Nations to promote and protect human rights.

In anticipation of the informal discussion of the human rights section of the Secretary-General's report at the 61st session of the Commission on Human Rights, Amnesty International draws attention to principles and other considerations that should be addressed in that discussion. Generally, the discussion of the mandate and working methods of a human rights council must be based on an analysis of the problems faced by the Commission on Human Rights that should be corrected, a recognition of the strengths of the Commission that should be preserved and reinforced, and an identification of the gaps in the existing UN human rights machinery to be filled by the new body.

Amnesty International urges governments and other participants in the human rights reform discussion to address the following matters:

Above all, the reform must address the legitimacy deficit of the Commission. Power politics and double standards have prevented the Commission on Human Rights from addressing, and often even discussing, the widespread or serious human rights violations in many countries. A human rights body must be conceived to address all human rights in all countries at all times. A human rights council must have a position in the United Nations that corresponds with the primacy which the UN Charter accords to encouraging respect for human rights as a purpose of the United Nations.

The rules for council sittings should allow the routine review and discussion of the human rights

situations in all countries and offer the possibility of dealing promptly with human rights crisis situations when they arise. The existing rules for special sessions are excessively rigid and make it difficult to consider even the most acute human rights crises in a timely manner. A council should be in session throughout the year in order to allow shorter but more frequent sittings.

A council should offer member and observer governments and NGOs a better opportunity to engage substantively in its deliberations. Few, if any, governments or NGOs can follow the discussion of the over 100 resolutions and decisions currently considered during the six-week session of the Commission. Attention should be paid to enabling the least developed countries to participate more fully in the human rights body's activities.

A council must be able to condemn human rights violations where the seriousness of the situation warrants.

A council must be conceived to monitor and evaluate the implementation by governments of its decisions and recommendations.

A council must have at its disposal methods of assisting Member States to ensure respect for human rights, in accordance with international standards, through capacity-building measures to uphold human rights and the rule of law. Its working methods should allow for a variety of approaches to addressing human rights violations and the implementation of human rights standards and commitments that is broader than the stark and artificial distinction between agenda items 9 and 19 offered by the Commission agenda.

Measures must be developed to depoliticize the examination of thematic and, in particular, country situations by a human rights council. At present, analysis and policy response to the analysis are combined, because the Commission examines country situations largely on the basis of draft resolutions. These two processes could be distinguished. More objective and transparent methods should be considered for the analysis and discussion of the human rights situation in individual countries. The political decisions of a council should have a firm grounding in objective and transparent analysis of the relevant human rights situations.

A council must make better use of human rights information and analysis available in the UN system. This would involve drawing more effectively on the reports and recommendations of the Special Procedures, the UN human rights treaty bodies, and the Office of the High Commissioner of Human Rights. Effective means should be explored to supplement this information and analysis where it is lacking or incomplete. Consideration also needs to be given to how available information and analysis can most effectively be brought before a human rights council. For instance, the proposal in the High-level Panel's report for an annual report on the situation of human rights worldwide merits careful consideration.

A human rights council must preserve the system of Special Procedures established by the Commission on Human Rights. Means should be explored to strengthen and support the work of the Special Procedures, including by measures to encourage states to respond fully and promptly to their communications, to consider and implement their recommendations, and to improve dialogue such as through extending a standing invitations and facilitating without delay any visits requested.

If the Commission on Human Rights were to be replaced by a human rights council, the UN must maintain NGOs' consultative status, currently based in Article 71 of the Charter, as well as the best practices and customary activities of NGOs that are a vital part of the dynamic work of the Commission. A Council should continue to have regular meetings that offer national NGOs and national human rights institutions the opportunity to contribute to the body's deliberations. If a human rights council has limited membership, the council's election rules and working methods should encourage the nomination and election of governments with a demonstrated commitment to the promotion and protection of human rights. Amnesty International does not consider that imposing specific criteria for membership is an effective approach. The organization firmly believes, however, that membership of the UN's chief human rights body attracts distinct responsibility of each member to strengthen domestic and global human rights performance and standards. Members and aspiring members could be asked to make annual pledges to that effect. The reform process should examine the nature of membership of a

council as one element of a package of broad and comprehensive reforms aimed at strengthening the current UN human rights mechanisms; membership should not be examined in isolation.

Members of a human rights council should be elected in contested elections that ensure that commitment to the promotion and protection of human rights is the principal criterion for membership. A council's working methods should discourage membership sought with the objectives of avoiding criticism or merely criticising others for political ends. A council's working methods should discourage bloc solidarity and political factionalism, which have hampered effective promotion and protection of human rights in the Commission on Human Rights.

A human rights council will need to have sufficient dedicated financial and personnel resources to enable the body to function effectively. A council's resource needs must be considered separately from the requirements of the High Commissioner for Human Rights and her Office for additional resources. The financial requirements for a human rights council and for the High Commissioner for Human Rights and her Office are complementary, but distinct.

The relationship of a human rights council to other UN bodies concerned with human rights should be considered. For instance, discussion of the mandate and working methods of a human rights council offers an opportunity to enhance the mainstreaming of women's human rights.

The Commission's flexibility in its working methods for standard-setting should be preserved in a human rights council.

Amnesty International welcomes the opportunity to contribute to the discussion of reform of the UN's principal human rights body. The organisation considers that it is incumbent on all governments and organisations that have been critical of the Commission on Human Rights to contribute positively to the discussion of the proposal for a human rights council. While Amnesty International supports the Secretary-General's urging of UN member states to reach early agreement in principle to establish a human rights council, the organization also urges member states to ensure that any council that they establish contributes effectively to the promotion and protection of all human rights in all countries at all times.

¹ A/59/2005 of 21 March 2005.

² *A more secure world: Our shared responsibility, Report of the High-level Panel on Threats, Challenges and Change.*

³ *Investing in Development: A Practical Plan to Achieve the Millennium Development Goals.*

⁴ The other pillars are development and security.