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# **Amnesty International**

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## **UN Human Rights Council**

**Fifth regular session**

**11-18 June 2007**

**First organisational meeting**

**19-22 June 2007**

## **Compilation of statements by Amnesty International**

**(including joint statements)**

**11- 22 June 2007  
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## Table of contents

[Public Statement: UN Human Rights Council: Time to wrap up the institution-building.....3](#)

[Questions for the Special Rapporteur on the independence of judges and lawyers and for the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.....8](#)

[Questions for the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living.....9](#)

[Questions to the Independent Expert for Somalia.....10](#)

[Human rights situation in the Occupied Palestinian Territory and Darfur.....12](#)

[Conclusion of the institution building of the Human Rights Council .....13](#)

[Public Statement: Conclusion of the United Nations Human Rights Council's institution building: Has the spirit of General Assembly resolution 60/251 been honoured? .....15](#)

# **UN Human Rights Council**

## **Fifth regular session (11-18 June 2007)**

### **First organisational meeting (19-22 June 2007)**

**Compilation of statements by Amnesty International  
(including joint statements)**

The following statements were delivered during the fifth regular session and the first organisational session of the Human Rights Council which took place from 11 to 22 June 2007. The full text of the statements is posted on the extranet page of the UN Human Rights Council.<sup>1</sup>

#### **Public Statement: UN Human Rights Council: Time to wrap up the institution-building**

**Released on Friday, 8 June 2007**

When the Human Rights Council meets in its fifth session from 11 to 18 June 2007, it is expected to complete a year-long effort of institution-building. The Council's decision will be made on the basis of a draft proposal compiled by the President of the Council drawing on the negotiations that have taken place over the past year. Amnesty International recognizes the considerable accomplishments reflected in the President's 4 June 2007 text (the President's text), but believes that governments must do more to realize the hopes and aspirations that accompanied its creation.

Amnesty International takes this opportunity to offer a number of broad comments on the President's text and to express its expectations for the final outcome of the preceding year of consultations.

#### **The Universal Periodic Review mechanism**

The Universal Periodic Review (UPR) is the principal innovation of the Human Rights Council, and will be one of the main tools for the Council to fulfil its mandate to promote and protect all human rights in all countries. Although the basic modalities of the UPR set out in the President's text offer a sound basis for the UPR, the reviewed state has been given undue influence over the review process. Unless this is tempered in the final outcome, it will inevitably be abused by some states to the prejudice of equal

<sup>1</sup> <http://portal.ohchr.org/>

treatment and universality. Similarly, the preparation for the interactive dialogue should be made more rigorous to ensure the focus required for outcomes that will actually lead to improvements in the fulfilment of reviewed states' human rights obligations and commitments. Improvements should be made by the end of the Council's fifth session on 18 June:

The UPR needs independent expert assistance in the summary, analysis and evaluation of the information available for the review, in the identification of key issues to be addressed in the review, and in the preparation of its conclusions and recommendations. Involvement of independent experts would also help ensure objectivity, consistency and focus in the review process and reduce the risk of politically motivated and selective use of information.

The conclusions and recommendations to be adopted by the Council after the completion of each country review should be a comprehensive reflection of the process. They must identify measures aimed at improving the fulfilment by the reviewed state of its human rights obligations and commitments. Although the country under review should be able to offer its views on the conclusions and recommendations, it should not be able to determine their substance or form. The Council must ensure that it will be able to monitor the implementation of the conclusions and recommendations to ensure effective follow up to the outcome of the review.

There should be a greater role for national and international non-governmental organizations and independent national human rights institutions in the review process. They must be able to submit information to the UPR, to follow the review process and to contribute to the discussion of the outcome of the review.

### **The Special Procedures**

Described by former Secretary-General Kofi Annan as the "crown jewels of the system", the Special Procedures are among the most innovative, flexible and responsive tools created by the UN to promote and protect human rights. They are at the core of the UN's human rights machinery. Recently, nearly 14,000 individuals from 147 countries called for a strong system of independent Special Procedures in a global petition organized by Amnesty International and 16 other regional and international NGOs.

The ability of the UN -- and in particular the Council -- to protect human rights demands that the independent human rights experts who make up the Special Procedures be able to monitor effectively and respond rapidly to allegations of violations occurring anywhere in the world. The President's text should go further in ensuring that the independence and expertise of the Special Procedures will

be maintained and enhanced. Crucial issues such as the future of the Special Procedures with country-specific mandates and the process for reaching consensus on a code of conduct guiding the mutual relationship between the Special Procedures and states are not addressed in the text.

Amnesty International offers the following observations and key recommendations:

The proposed "Consultative Group" that will be tasked with identifying candidates for possible mandate holders must operate transparently and bring knowledge and expertise about the Special Procedures system to the selection of highly qualified candidates.

The process of selection must be transparent and not lend itself to undermining the expertise or independence of the mandate holders. The President's text should be further strengthened by requiring mandate vacancies to be widely publicized in order to attract a broader pool of candidates. States should also be encouraged to conduct an open process at the national level to identify highly qualified candidates.

The proposed code of conduct must not restrict the independence of mandate holders, and state cooperation with the Special Procedures must be an integral part of the code. Any code of conduct for the Special Procedures adopted by the Council must enhance their ability to promote and protect human rights effectively, and must be consistent with the Special Procedures' manual of operations.

It is unfortunate that the Council was unable to complete its task of reviewing mandates in order to maintain a system of Special Procedures. Provision must be made for measures to identify and close protection gaps with the aim of establishing a more coherent, coordinated and comprehensive system of Special Procedures. As part of the review envisaged in the President's text, it is essential to ensure continued protection, including through renewal of mandates and extension of the terms of mandate holders.

Current country mandates should be assessed on the basis of clear criteria. In order to minimize politicization and double standards, the Council must retain the possibility of creating country mandates in specific circumstances. All such mandates should be created for a minimum period of three years.

### **The agenda and program and methods of work of the Council**

The agenda of the Council must be sufficiently flexible to allow it to address human rights situations, including human rights emergencies, in an effective and timely manner. It must also be predictable to enable effective participation by states and all other

relevant stakeholders, including non-governmental organizations and independent national human rights institutions. Amnesty International makes the following recommendations:

The agenda and program and methods of work should ensure that civil, cultural, economic, political and social rights will be considered in accordance with the principles of indivisibility, interrelation, and interdependence of human rights. Opportunities for artificial and politicised distinctions between civil and political rights on the one hand and economic, social and cultural rights on the other must be minimized.

States have already agreed to ensure that a gender perspective is fully integrated in the UPR, and they must also ensure that a gender perspective will be effectively integrated of into all the work of the Council.

The Council's agenda and program of work must ensure that human rights violations suffered mainly by women are addressed effectively.

The Council must be able to address situations of human rights violations in its regular work.

The Council must consider situations of human rights violations in an impartial and non-selective manner. Specific situations, including the situation of human rights in the Occupied Palestinian Territories and other occupied Arab territories, should be addressed consistently with the principles of impartiality, objectivity and non-selectivity.

The Council must ensure that it has the necessary flexibility to promote universal respect for the protection of all human rights and fundamental freedoms for all, for example by including an item on its agenda on "other issues".

The Council must ensure effective follow up to the decisions, resolutions and other outcomes of the Council, including by monitoring their full and prompt implementation.

### **The complaints procedure**

The proposed complaint procedure appears to be very similar to the "1503 Procedure" which in recent years has demonstrated its ineffectiveness in dealing with situations of manifest gross human rights violations. It is unfortunate that the Council appears likely to miss the opportunity to develop a more effective communications mechanism to identify, prevent and address situations of gross violations. Amnesty International takes this opportunity to make the following observations and recommendations:

The mechanism must be victim-oriented, efficient, transparent for victims and complainants at all stages, and must meet at least twice a year.

It should address consistent patterns of gross human rights violations and serve as a prevention tool by addressing emerging patterns of violations.

The admissibility criteria should be less restrictive and thereby avoid introducing uncertainty into the procedure.

Provision should be made to enable the Working Groups to seek additional information from the author of the communication or the complainant. They should be informed not only of the outcome of consideration, but also of its progress.

The composition of the Working Groups on Communications and the Working Group on Situations must reflect not only the geographical representation among geographic regions, but also within those regions. Measures should be introduced to ensure that over time membership of the Working Group on Communications reflects the full range of nationalities represented in the Council's Advisory Committee and the membership of the Working Group on Situations reflects the full membership of the Council itself.

### **The Advisory Committee**

The Council has come up short in its efforts to build on the achievements of the former Sub-Commission on the Promotion and Protection of Human Rights and to redress its shortcomings. Amnesty International makes the following recommendations:

The process of selection of candidates for election to the Council's Advisory Committee must be more transparent to guarantee election of independent and qualified experts. The nomination procedure in the President's text should be enhanced by requiring states to consult their national human rights institutions and civil society organizations about possible candidates and inform the Council on the measures that they have taken to that effect.

The mandate of the Advisory Committee must enable the Council to benefit fully from the Committee's expertise by making provision for a right of initiative by the Committee.

In conclusion, Amnesty International believes that although the President's text suggests that governments have not squandered the promise of the new Council, they have not realized its full potential. Amnesty International calls on governments to use the occasion of the fifth session of the Council to bring the outcome of the first year closer to their common objective of preserving and building on the achievements of the former Commission on Human Rights and redressing its shortcomings.

### **Background**

General Assembly Resolution 60/251 establishing the Human Rights Council was intended to herald a new beginning for the promotion and protection of human rights in the United Nations. The Council was to preserve and build on the achievements of its predecessor, the Commission on Human Rights, and to redress its shortcomings. For example, the process of election of Council members was aimed at ensuring genuine elections members committed to upholding the highest standards in the promotion and protection of human rights.

The resolution stipulated that the Council would assume the mandates and mechanisms of the Commission and that that it would complete a review of these within one year of holding its first session. The resolution also decided that the Council was to develop the modalities of a new Universal Periodic Review mechanism in order to better equip the Council to address all human rights in all countries situations in an objective and non-selective manner. At its first session of the Council in June 2006, the Council established two inter-sessional Working Groups to undertake complete tasks within the one year allocated by Resolution 60/251. The fifth session takes place at the end of the first year of the Council and will consider the outcome of these efforts and reach decisions on the institutions of the Council.

The following statements were delivered during the fifth regular session of the Human Rights Council that took place from 11 to 18 June 2007. The full text is posted on the extranet page of the UN Human Rights Council<sup>2</sup>.

**Questions for the Special Rapporteur on the independence of judges and lawyers and for the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.**

**2<sup>nd</sup> Plenary Meeting: Interactive dialogue**

**Delivered by *Shireen Mukadam* on Monday, 11 June 2007**

Thank you, President.

My questions are for the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on all forms of racism.

Mr. Despouy,

Your report raises several critical issues. Amnesty International would like to focus on two.

<sup>2</sup> <http://portal.ohchr.org/>

In connection with the fight against terrorism, which has - as you note - increasingly been presented as a justification for declaring a state of emergency, you emphasize that "[S]ome states have even gone as far as to create parallel systems for the administration of justice which completely ignore universally applicable standards and avoid the application of international human rights law and international humanitarian law by describing the accused as 'terrorists', 'subversives' or 'enemy combatants'." How should the Human Rights Council respond to such developments and resulting human rights violations?

In your report you recommend that the Council increase its efforts to support the work carried out by various actors involved in the administration of justice and to regularly assess the scale and gravity of problems affecting the judiciary and its independence with a view to formulating specific recommendations for states to implement. What do you think the Council should do to increase its efforts in this regard? What specific measures should the Council adopt to ensure that persistent shortcomings at the national level are adequately addressed?

Mr. Diene,

In your report to the Human Rights Council, you conclude that a rejection of diversity and multiculturalism, through policies of assimilation in immigration policies, results in xenophobia and racism. What steps do you recommend states should take to counteract this negative trend?

## **Questions for the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living<sup>3</sup>**

**Tuesday, 12 June 2007**

Thank you, Mr. President.

I have questions related to four issues raised in the reports of the Special Rapporteur on the right to adequate housing.

Mr. Kothari,

Your global study on women and adequate housing is an important contribution to increasing awareness of the obstacles to the effective realization of housing rights for women and to finding solutions for how these challenges might be overcome. The former Commission on Human Rights specifically mandated you to undertake this study, which resulted in the integration of a gender

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<sup>3</sup> This statement was not delivered to the Council due to time constraints

perspective into all monitoring and reporting dimensions of your mandate. Has this initiative stimulated a continued interest in your mandate on the part of those advocating for women's right to adequate housing? Would this model of "gender mainstreaming" be one that you would advocate for other special procedure mandates?

Your report also talks of the need for housing rights indicators to monitor achievement of Millennium Development Goal 7. What role could the Human Rights Council play in ensuring that human rights are respected, protected and fulfilled in all efforts to achieve the MDGs?

Amnesty International welcomes your report on the right to adequate housing in Australia. Considering that the Australian Government has a large budget surplus and can use constitutional powers (external affairs powers) to develop and run national housing policy, in your view, what is the key challenge facing the Government in realizing a comprehensive and coordinated national housing strategy? Your report states that domestic violence is allegedly a major cause of homelessness. What specific recommendations can you offer to the government to address this problem? What steps will you take to encourage the government to follow up on your recommendations?

Your report identifies the human right to land as essential to the realization of the right to adequate housing, and recommends that the Human Rights Council consider devoting attention to the question of the human right to land as an existing normative "gap". How do you think this gap can be best addressed by the Human Rights Council?

Thank you.

## **Questions to the Independent Expert for Somalia**

**5<sup>th</sup> plenary meeting – Interactive dialogue with Mr. Ghanim Alnajjar, Independent expert appointed by the Secretary-General on the situation of human rights in Somalia**

**Delivered by *Martin Hill* on Tuesday, 12 June 2007**

Serious violations of human rights and international humanitarian law continue to take place in Somalia amid insecurity and sporadic violence. In this context it is imperative to maintain an international human rights focus on Somalia. Reconstruction efforts to remedy the breakdown of the state in 1991 have only just begun.

Amnesty International reiterates its call, made elsewhere, for a strong human rights component, including protection of civilians, to be included in the mandate of the African Union mission in Somalia (AMISOM) and any follow-on United Nations operation. We also reiterate our call for all parties to the present conflict to abide by the applicable norms of human rights and international humanitarian law.

In the process of peace-building, the National Reconciliation Congress, currently being prepared, should give urgent attention to protecting the rights to life, personal security, and freedom of expression and association.

Amnesty International now presents five specific recommendations for the better protection of basic human rights in Somalia:

1. The mandate of the UN Independent Expert for Somalia should be extended;
2. Amnesty International requests the Office of the United Nations High Commissioner for Human Rights to expand its field mission to Somalia, currently based in Nairobi, so as to provide technical assistance and advice on human rights to the Transitional Federal Institutions and international agencies, and to support Somali human rights defenders;
3. The Transitional Federal Institutions should develop a strategy and action plan to ensure respect for human rights, including protection of vulnerable groups such as women, children, the discriminated minorities and internally displaced persons. The international community should assist them in doing this;
4. The Transitional Federal Institutions should guarantee international humanitarian agencies safe and unrestricted access to assist some 800,000 internally displaced persons;
5. Effective mechanisms should be developed for independent and impartial investigation of past war crimes and crimes against humanity, and serious violations of international humanitarian and human rights law (especially during fighting in Mogadishu in recent months). We believe that the United Nations could contribute to such processes, when security permits.

Amnesty International asks the Council to support these recommendations.

Amnesty International asks the Independent Expert to take these recommendations into consideration.

Thank you Mr. Alnajjar.

Thank you Mr. President.

## **Human rights situation in the Occupied Palestinian Territory and Darfur**

**6<sup>th</sup> Plenary Meeting – Follow-up to decisions and resolutions adopted by the Human Rights Council (Resolution 4/2 Human rights situation in the Occupied Palestinian Territory: Follow-up to Human Rights Council resolutions S 1/1 and S3/1)**

**Delivered by *Marianne Lilliebjerg* on Wednesday, 13 June 2007**

Amnesty International wishes to address follow-up to the Council's decisions on the Occupied Palestinian Territories, Darfour and the right to truth.

In its first year, the Council met repeatedly in special session – each time to consider the deterioration in an already very serious human rights situation. The Council agreed measures, but little has changed to alleviate the massive suffering of the people living in the Occupied Palestinian Territories and in Darfour.

### **Occupied Palestinian Territories**

In Israel and the Occupied Palestinian Territories the human rights situation continues to worsen. In the Gaza Strip, in the past month, approximately 100 Palestinians have been killed and 300 injured in clashes between armed groups and security forces loyal to the Fatah party and the Hamas party. Approximately 60 Palestinians have been killed and 200 injured by Israeli forces, most of them in air strikes.

The victims of both inter-factional Palestinian confrontations and Israeli attacks include a large number of unarmed civilians, including many children. The renewed firing of home-made “qassam” rockets by Palestinian armed groups from the Gaza Strip killed two Israeli civilians and injured several others in the Israeli town of Sderot.

For Palestinians in Gaza escaping the violence is nearly impossible. Israel's blockade on Gaza's only border crossing has left 1.5 million Palestinians effectively cut off from the rest of the world. Economic sanctions have caused extreme poverty and despair.

Amnesty International urges the Council to pursue its follow up, while ensuring that it addresses all abuses by Israelis and Palestinians.

### **Darfur**

In Darfour, massive forced displacements and other human rights violations continue to fuel the humanitarian crisis. The Sudanese government still openly supports Janjawid militias, who together

with Sudanese forces are responsible for grave human rights violations in Darfour. Armed opposition groups are also responsible for serious human rights abuses. In March, 40,000 civilians were newly displaced as a result of violence and banditry. In May, 2,650 new refugees from South Darfour arrived in the Central African Republic.

The Sudanese government is reported to have consented again to the long overdue deployment of the United Nations-African Union force. The UN, AU and Sudan must urgently work out the practicalities and timetable for its deployment.

Amnesty International supports the recommendation by the group of experts that the Council remains seized of the human rights situation in Darfour and continue to review the implementation of all the UN recommendations.

Finally, Amnesty International welcomes the report by the Office of the High Commissioner on the right to truth as a useful contribution to improving the international community's ability to deal with serious human rights violations. Truth must be told about human rights violations, justice done and reparation provided to all the victims. Amnesty International supports the recommendations of further studies to better define the right to truth.

## **Conclusion of the institution building of the Human Rights Council**

### **Statements on the adoption of the Institution-building text**

**Joint statement by: Amnesty International, Asian Legal Resource Centre, Cairo Institute for Human Rights, Canadian HIV/AIDS Legal network, Conectas Direitos Humanos, East and Horn of Africa Human Rights Defenders Network, Forum Asia, Friends World Committee for Consultation (Quakers), Human Rights Council of Australia, Human Rights Watch and International Service for Human Rights**

**Delivered by *Christopher Sidoti* on Wednesday, 20 June 2007**

This statement is made on behalf of:

Amnesty International, Asian Legal Resource Centre, Cairo Institute for Human Rights Studies, Canadian HIV/AIDS Legal Network, Conectas Direitos Humanos, East and Horn of Africa Human Rights Defenders Network, Forum-Asia, Friends World Committee for Consultation (Quakers), Human Rights Council of

Australia, Human Rights Watch and International Service for Human Rights.

The adoption of on the President's text is an important achievement. We thank Ambassador de Alba and congratulate him on his untiring efforts over the last year to bring the Council to this point. Without him the Council could not be where it is today. We also pay tribute to the Facilitators and many others whose common effort has enabled the Council to reach this milestone.

Recognising this however should not disguise the fact that what has been achieved as important as it is the minimum necessary for the Human Rights Council to have a credible basis to become an effective mechanism for the promotion and protection of human rights. This Council will eventually be judged by its contribution to human rights promotion and protection, not by what has been achieved on paper at this time.

In welcoming the consensus on the President's text we wish to share our understanding of a number of key elements within it.

We are pleased that NGO participation is provided in many parts of the President's Text. Of course these provisions must be interpreted and applied in conformity with the letter and the spirit of operative paragraph 11 of GA Resolution 60/251 to ensure the most effective contribution of NGOs to the work of the Council.

We look forward to participation in the Universal Periodic Review. In the absence of provision for independent experts to assist the UPR, we encourage States to appoint independent experts as their representatives to the Working Group.

The Text provides that, in relation to the selection of mandate holders for special procedures, the Council will determine "[t]echnical and objective requirements" for eligible candidates (page 10 paragraph 3) and that the Consultative Group will determine "the necessary expertise, experience, skills and other relevant requirements" for each mandate (page 11 paragraph 9). We look forward to seeing both sets of requirements posted on the OHCHR website and circulated widely. Only those that meet all the eligibility requirements both general and specific should be included on the list of recommendations to the President of the Council.

The Text refers twice (page 11 paragraph 2 and page 15 paragraph 4) to the "principle of non-accumulation of human rights functions". We understand human rights functions to mean "United Nations human rights functions".

We understand the ineligibility of "[i]ndividuals holding decision-making positions in government" for the special procedures and the Advisory Committee to cover all those in the executive and legislative branches of government.

The provision for the renewal of mandates and appointment of new mandate holders must be implemented so that the mandates remain operational throughout the process.

We consider that agenda item 8, "Follow up and implementation of the Vienna Declaration and Programme of Action" enables discussion of major institutional issues, including the report of the Annual Meeting of the Special Procedures and discussion of the promotion of national human rights institutions.

We consider that the text of the Code of Conduct must be interpreted in the context of the preambular and operative paragraphs of the resolution by which the Code was adopted. The Code, when published, should include the resolution in full.

We consider the Code of Conduct to be part of the President's package to be adopted by the Council without vote. This is a single completed work that can only be further developed by consensus.

The President's Text adopted today now has to be implemented. We will not be able to assess fully the Council's foundations until the remaining work agreed in it that is in relation to the modalities for the UPR and the renewal and review of mandates has been completed and the Council begins its substantive work. The challenge to make the Human Rights Council effective is even greater than the challenge involved in reaching agreement on this package. Although we celebrate this achievement the challenge of making the Human Rights Council work for those who experience human rights violations or at risk begins today and will continue. We non-governmental organisations from North and South will continue to engage actively and participate as effectively as possible in the Council's development.

## **Public Statement: Conclusion of the United Nations Human Rights Council's institution building: Has the spirit of General Assembly resolution 60/251 been honoured?**

**Released on 20 June 2007**

The President's Text on Institution Building<sup>4</sup> (President's Text), adopted by consensus by the Human Rights Council on 18 June 2007, and provides the necessary base for the Council to begin its full range of activity aimed at addressing human rights in all countries. Council members and observers must now begin the hard work that remains ahead to ensure that the Council actually realizes its full potential to be an effective United Nations human rights body.

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<sup>4</sup> Dated 18 June 2007

When General Assembly resolution 60/251 establishing the Council was adopted on 15 March 2006, the mood was buoyant in the belief that the international community was united in replacing the former Commission of Human Rights with a better and more effective human rights body fit for the challenges of the 21<sup>st</sup> century. During its first year, the Council devoted great amounts of time and energy to developing the modalities for the Universal Periodic Review, the improvement and review of the system of Special Procedures, the establishment of the experts Advisory Committee, the reform of the “1503” Complaint Procedure, the definition of an agenda and framework for an annual program of work, the consolidation of the rules of procedures and the development of new working methods. Amnesty International regrets that the legacy of politicization and distrust inherited from the Commissioner on Human Rights has severely hampered efforts to realize the full potential that resolution 60/251 offered for a better UN human rights body. Nonetheless it is testimony to the universally recognized importance of human rights that consensus was achieved and a sound basis established for the Council’s future work.

Amnesty International acknowledges the tireless effort and outstanding accomplishment of outgoing Council President, Ambassador Luis Alfonso de Alba, his team, the Facilitators and the many others who assisted the Council in achieving the hard-won consensus on the package.

Amnesty International takes this opportunity to take stock of what has been achieved, and of the compromises made between vision and pragmatism, and between conflicting priorities.

### **The Universal Periodic Review mechanism**

The most important purpose of the Universal Periodic Review (UPR) is to enhance the implementation of states’ human rights obligations and commitments. The President's Text provides the essential elements for this new mechanism; however, Amnesty International considers that it needs to be further strengthened through the development of good practices for the review and its follow up.

Amnesty International welcomes the integration of a gender perspective as a principle of the UPR and the assured participation, although limited, of NGOs and other relevant stakeholders. Amnesty International looks forward to its full participation in the UPR.

The President’s Text establishes a four-year periodicity for the first cycle of the review. Amnesty International recalls that members of the Council must be reviewed during their term of membership, which is three years, and would have preferred a periodicity of

three years consistent with the requirement of equality of treatment of all states.

The review is to be facilitated by three rapporteurs selected from among the members of the Council. Amnesty International regrets that there is express role for independent experts to advise the Council. States may, however, appoint independent experts as their representatives in the Working Group and Amnesty International encourages them to do so.

It is essential that the review be focused on the key human rights concerns, based on an objective assessment of the situation of human rights in the country under review. Amnesty International encourages the rapporteurs to use their authority to focus and facilitate the interactive dialogue, including by consulting widely in identifying issues for the review.

The Council will adopt a report of the outcome of each review reflecting the review process and including recommendations and conclusions arising from the review, as well as any additional comments by the state under review. Amnesty International considers that the ultimate effectiveness of the UPR will lie in its ability to focus on the key human rights issues in the country under review and the quality and timeliness of its recommendations. Follow-up should address all recommendations in the UPR outcome, while taking appropriate account of the views and concerns of reviewed country.

While the UPR holds the promise to be the most important innovation of the Council and a mainstay of its work, the Council must never lose sight of its mandate to address situations of violations of human rights. In addition to working through the UPR, the Council must maintain and develop its ability to respond to grave human rights situations, including human rights emergencies, in an effective and time manner.

### **Special Procedures**

Amnesty International had expected that the review of Special Procedures would result in a more coherent and coordinated system of Special Procedures able to support the Council in fulfilling its mandate. Regrettably negotiations focused only on a few issues.

### ***Appointment***

The procedure for appointing mandate holders for the Special Procedures offers increased transparency, the need for which was identified as one of the few areas of agreement during the consultations. The President Text sets up a Consultative Group, consisting of five individuals selected by the regional groups and acting in their personal capacity, to review candidates for Special Procedure mandates and to make recommendations for such appointment by the President of the Council and final approval by

the Council. Amnesty International looks to the regional groups to appoint to the Consultative Group persons with recognized human rights expertise as well as knowledge of the system of Special Procedures.

The President's Text calls for nominees for appointment as Special Procedures to be eligible as mandate-holders to meet two sets of requirements. Nominees must have demonstrated expertise, relevant experience, independence, impartiality, personal integrity and objectivity. These will be reflected in two sets of requirements: the Council must approve technical and objective requirements for eventual mandate-holders at its sixth session in September 2007, and the Consultative Group must determine the necessary expertise, experience, skills and other relevant requirements for each mandate to be filled. The publication of these two sets of requirements together with the provision that the Consultative Group's recommendations to the President are to be made public and substantiated will ensure an improved selection process and better scrutiny of appointments made. A further positive development is that the views of *all* stakeholders, including the mandate-holders, will be taken into account by the Consultative Group. Amnesty International welcomes the explicit exclusion from appointment of individuals holding decision-making positions in government and considers that this extends to persons occupying positions in both legislative and executive branches of government.

### ***Review of Mandates***

The President's Text proposes a framework for reviewing the Special Procedure mandates, which includes the identification of any gaps. Such a requirement provides an essential element that ensures the Council will be able to develop and maintain a comprehensive system of Special Procedures that meets its needs fully. Amnesty International welcomes the Council's retention of the ability to establish country-specific mandates, in line with General Assembly resolution 60/251 that requires the Council to "maintain a system of Special Procedures", i.e. of both thematic and country mandates.

### ***Code of Conduct***

Amnesty International considers the Code of Conduct, as adopted, a poor compromise containing hastily drafted and imprecise provisions that could negatively affect the effectiveness of the Special Procedures, depending on how they are interpreted. While recognizing the very substantial effort that many delegations, from Africa and elsewhere, invested in the preparation of the Code, the organization regrets that the Code was prepared without the openness and transparency that characterized other aspects of the review of the Special Procedures. Amnesty International welcomes the inclusion of an operative provision in the resolution adopting the Code that urges states to cooperate with the Special

Procedures. The organization regrets the failure to seize the other opportunities that the Code presented to strengthen the system of Special Procedures. Some states focused on regulating the working methods of these independent experts, rather than on strengthening the system as a whole. Now that work on the Code has been completed in all aspects, it is imperative that mandate-holders be allowed to finalize their Manual of operations without any governmental interference.

### **Human Rights Council Advisory Committee**

It is key to the effectiveness of the Advisory Committee that its members are independent and qualified experts. Amnesty International welcomes the requirement for consultation with national human rights institutions and civil society organizations in the selection of candidates for the Advisory Committee. The organization urges all states proposing candidates to put in place a process at the national level which ensures a broad and transparent consultation. The technical and objective requirements for the submission of candidates that the Council is to establish at its sixth session must be public and widely circulated.

Amnesty International also welcomes the explicit exclusion from appointment of individuals holding decision-making positions in government and considers that this extends to persons occupying positions in both legislative and executive branches of government.

Amnesty International recommends that the Council give careful attention to proposals made by the Advisory Committee for further investigation.

### **Complaint Procedure**

The complaint procedure outlined in the President's paper appears to be very similar to the former "1503 procedure". Amnesty International hopes that the new process will be more effective in identifying, preventing and addressing situations of manifest gross human rights violations. For example, in examining communications, the Working Group on Communications should be able to seek additional information from the complainant. Members of the Council must endeavour to make the new procedure as transparent as possible at all stages for victims and complainants.

### **Agenda and Program of Work**

Amnesty International welcomes the agenda and program of work outlined in the President's paper as providing a good base from which to make the Council's work sufficiently predictable to enable effective participation by states and relevant stakeholders and sufficiently flexible to allow the Council to address human rights situations in an effective and timely manner.

Amnesty International welcomes the inclusion of a dedicated item on “human rights situations that require the Council’s attention”. The organization regrets that, contrary to the agreed principles for the agenda of universality and non-selectiveness, the situation in Palestine and other occupied Arab territories has been singled out when other grave situations are not mentioned. Council members and observers must ensure that the Council addresses all human rights violations by any government or authority in Palestine and other occupied Arab territories.

Amnesty International welcomes the recognition in the framework of the program of work of the interrelation of human rights and human rights thematic issues. The Council must ensure that effect is given to this element of the framework by measures to identify, explore and develop the interdependence and interrelatedness of civil, cultural, economic, political and social rights, as well as the right to development.

Amnesty International also welcomes the inclusion of a gender perspective in the principles governing the agenda and the framework for the program of work. The organization urges members and observers to ensure that a gender perspective is integrated into all aspects of the Council’s work through an effective planning and evaluation process.

Finally, Amnesty International hopes that through the development of sound practice in the Council, effective implementation and follow-up of Council resolution, decisions, and other outcomes will become an integral part of the Council’s agenda and methods of work.

### **Rules of Procedure and Methods of Work**

Amnesty International welcomes the recognition that the Rules of Procedure and the Methods of Work of the Council give to the important contribution that civil society, including NGOs and independent national human rights institutions, make to the work of the Council. The organization encourages governments to continue to improve the opportunities for civil society to make the most effective contribution possible. In this regard, Amnesty International pays tribute to Ambassador De Alba’s important contribution to maintaining a space for civil society throughout the institution-building process.

### **Conclusion**

Amnesty International deeply regrets that states were not more visionary in building the new Council. After a year of negotiations, Amnesty International wanted and expected a better outcome. States failed to rise above the politicization and distrust that troubled the Commission on Human Rights and this severely hampered the negotiations. Nevertheless, the President’s Text provides the basis for the Council to begin its work. States and

other stakeholders must now move forward with renewed commitment to ensure that the Council's full potential is realized and that it is strong and effective in the promotion and protection of human rights.