

COUNCIL MONITOR

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HUMAN RIGHTS COUNCIL, 2ND SESSION PRELIMINARY OVERVIEW

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General Comments

The 2nd session of the Human Rights Council (the Council) was scheduled to take place over a period of three weeks from 18 September to 6 October 2006.¹ However in a surprising and unprecedented move the session was not closed when the 29th meeting was concluded on the afternoon of Friday 6 October, but rather simply adjourned. During the final days it proved impossible to resolve negotiations on how the Council would deal with the various proposed resolutions that had been submitted throughout the course of the

¹ See www.ohchr.org/english/bodies/hrcouncil/2session/.

session.² At this stage this overview can be little more than a preliminary assessment of the three week meeting as the 2nd session has not yet been finalised and the full outcomes of the session remain unknown. The 2nd session will recommence on 27 November 2006 when it will conclude its work.

Background

This 2nd session of the Council must be situated in the context of the Council's programme of work for its first year of operation. During its first year the Council has much to achieve, and each session has been structured to address particular aspects of the priority tasks that need to be addressed in order to establish the proper functioning of this new body. The key task of this 2nd session of the Council was to review the reports of the special procedures mandate holders that had been submitted to the 62nd Commission on Human Rights (the Commission).³ These reports were not considered at the last Commission session, but rather transferred to the new Council for review. The second task of the 2nd session of the Council was to review the reports, studies and other documents prepared by the Secretariat, the High Commissioner, the Office of the High Commissioner for Human Rights (OHCHR) and the Secretary-General on the request of the Commission. Other key substantive tasks that the 2nd session was to undertake included reviewing the reports of the Sub-Commission and the 1503 procedure. As part of its functions in reviewing the progress made towards implementing its mandate to become fully operational, the 2nd session also considered the progress reports of the intersessional meetings on the new Universal Periodic Review (UPR) mechanism and the review of mandates and mechanisms. Future sessions of the Council will address some of these points in more detail, for example the 3rd session in late November/early December will focus primarily on the progress of these intersessional meetings. Decisions on the UPR and the review of mandates, as well as the Council's methods of work and agenda are scheduled to be made in the 4th session in March/April 2007.

The key substantive work of the 2nd session was devoted to an update from the High Commissioner on her work, and consideration of any other issues related to the promotion and protection of human rights, including any initiatives or resolutions to be proposed by delegations. As this was the first session of the Council to consider substantive issues, it was unclear what outcome was expected on these issues. This led to confusion throughout the session, which will be discussed in more detail later in this overview.

Presentation of Reports by Special Procedures, the High Commissioner for Human Rights and others

During the 2nd session the main agenda item was consideration of the pending reports of the special procedures that had been submitted to the previous session of the Commission but not yet considered.⁴ The High Commissioner for Human Rights, Ms Louise Arbour, also presented an update to her report along with a number of other reports, studies and other documents requested by the Commission on Human Rights prepared by her Office, the Secretariat, and the Secretary-General.⁵

² A total of 46 draft proposals were submitted. These documents are available on the Office of the High Commissioner for Human Rights (OHCHR) extranet (fill out the form on the page to receive the user name and password) at www.ohchr.org/english/bodies/hrcouncil/form.htm. A list of these documents can also be found in the ISHR *Council Monitor Daily Update* for 3 October 2006, available at http://www.ishr.ch/hrm/council/updates/3_October_2006.pdf.

³ In accordance with *Council Decision 1/102*.

⁴ As only the reports that had been submitted to the 62nd session of the Commission were to be considered, only brief oral updates to these reports were permitted and no new reports were presented.

⁵ A full list of the reports, studies and other documents prepared by the High Commissioner, the Office of the High Commissioner for Human Rights, the Secretariat, and the Secretary-General is available at http://www.ohchr.org/english/bodies/hrcouncil/2session/docs/Annex_1_to_the_timetable.doc.

Many of the meetings were devoted to consideration of the reports of the special procedures and all the presentations were followed by an interactive dialogue with participation from States and NGOs. A distinction was made in the structure of the presentations and debates between the thematic and country rapporteurs. The thematic rapporteurs presented their reports in groups (usually of three in each three hour meeting), followed by a combined interactive dialogue with all the mandate holders who had presented during that meeting, where concerned States⁶ were first given the opportunity to speak, followed by other States, and then NGOs, before finally the rapporteurs were given a chance to respond. The presentations by thematic mandate holders were grouped together (as much as possible) during the first half of the session, and presentations from country-specific mandate holders occurred later. The country-specific mandate holders were usually scheduled to present individually during the course of an hour in which the interactive dialogue was held with the relevant special rapporteur directly after the presentation. However NGO interaction with the mandate holder was limited to a short period (approximately ten minutes) at the very end of each morning and afternoon session.⁷

Presentation of Reports

The thematic mandate holders who presented reports to the Council and participated in the interactive dialogues with States and NGOs were:⁸

- Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance;
- Chairperson of the Working Group of Experts on People of African Descent;
- Special Rapporteur on the human rights of migrants;
- Working Group on enforced disappearances;
- Independent Expert on minority issues;
- Special Rapporteur on indigenous persons;
- Special Rapporteur on extrajudicial, summary or arbitrary executions;
- Special Representative on internally displaced persons;
- Special Rapporteur on violence against women, its causes and consequences;
- Special Rapporteur on trafficking in persons, especially women and children;
- Special Rapporteur on torture and cruel, inhuman or degrading treatment and punishment;
- Working Group on Arbitrary Detention;
- Special Rapporteur on the independence of judges and lawyers;
- Special Rapporteur on freedom of religion or belief;
- Special Rapporteur on the right to freedom of opinion and expression;
- Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;
- Special Rapporteur on the right to food;
- Special Representative of the Secretary-General on the situation of human rights defenders;
- Special Rapporteur on the sale of children, child prostitution and child pornography;
- Independent Expert on the effects of economic reform policies and foreign debt on the full enjoyment of human rights;
- Working Group on Mercenaries;
- Special Rapporteur on the right to adequate housing;
- Special Rapporteur on the right to education;

⁶ ‘concerned States’ are those that were the subject of specific reports, i.e. those countries where a special rapporteur had been on mission and had submitted a separate report to the Council.

⁷ i.e. after the rapporteurs had already given their response to the interactive dialogue with States.

⁸ Reports presented to the Council, as well as copies of oral statements, can be found on the OHCHR extranet (fill out the form on the page to receive the user name and password) at www.ohchr.org/english/bodies/hrcouncil/form.htm.

- Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises;
- Special Rapporteur on the promotion and protection of human rights while countering terrorism;
- Independent Expert on the question of human rights and extreme poverty;
- Acting Special Representative of the Secretary-General for Children and Armed Conflict;
- Special Rapporteur on International Solidarity.

In addition the following topical reports/documents were presented and discussed in an interactive dialogue:

- Joint Report on the situation of detainees at Guantánamo Bay;
- Joint Report on the incitement to racial and religious hatred and the promotion of tolerance;
- Report of the High Commissioner for Human Rights on incitement to racial and religious hatred and the promotion of tolerance;
- Report of the Special Rapporteur on the situation of human rights in Palestinian Territories Occupied since 1967;
- Letter from the members of the Commission of Inquiry on Lebanon addressed to the President of the Human Rights Council.

The country-specific mandate holders who presented reports to the Council and participated in the interactive dialogues with States and NGOs were:

- Special Rapporteur on the situation of human rights in Somalia;
- Personal Representative of the High Commissioner for Human Rights on the situation of human rights in Cuba;
- Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967;
- Special Representative of the Secretary-General for human rights in Cambodia;
- Independent Expert on the situation of human rights in Haiti;
- Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea;
- Independent Expert on the situation of human rights in Burundi;
- Independent Expert on the situation of human rights in the Democratic Republic of the Congo;
- Special Rapporteur on the situation of human rights in Myanmar;
- Special Rapporteur on the situation of human rights in the Sudan;
- Special Rapporteur on the situation of human rights in Belarus;
- Independent Expert on technical cooperation and advisory services in Liberia.

For descriptions of the presentations and dialogue on each of these reports, please see the *Council Monitor Daily Updates*.⁹ The following mandate holders had submitted reports but were unable to be present at the Council: the Special Rapporteur on Toxic Wastes (Mr Ibeanu); and the Independent Expert on the situation of human rights in the Democratic Republic of the Congo (DRC), Mr Titinga Frédéric Pacéré. As the substance of the reports and presentations of each mandate holder are addressed in detail in ISHR's *Council Monitor Daily Updates*, this overview will comment only on some of the procedural issues and general issues of concern.

It is clear from this list that a very large amount of substantive material was presented to and discussed by the Council. Unlike what had previously been the case during the Commission on Human Rights, the fact that only limited informal consultations and negotiations were taking place in parallel to these presentations¹⁰ meant that many delegates were present in the room throughout the duration of the presentations and dialogue. This contributed to the sense that the Council was paying significant attention to the many substantive issues raised in the reports of the mandate holders. However, the variety and depth of the issues raised in these reports and the subsequent interactive dialogues posed a challenge for the Council in terms of

⁹ Available at <http://www.ishr.ch/hrm/council/updates/dailyupdates.htm>.

¹⁰ Especially as the presentation of reports of the mandate holders was conducted mostly in the first half of the session.

how it would respond. This question is one that the Council grappled with throughout the session and has not yet been resolved. Some delegations tabled draft resolutions or proposals for addressing issues raised by individual mandate holders, while others insisted that to do this would jeopardise the continuing process of review of the mandates of all special procedures.¹¹

Interactive Dialogues

The structure of these presentations and subsequent interactive dialogues was notable for several reasons. The format of grouping the special rapporteurs together allowed States to devote their time to the special procedure most relevant to them. However there was limited time at the end of the session for the special rapporteurs to respond to questions and comments from delegates. Grouping together the thematic mandate holders and requiring that they each present one immediately after the other, and then conducting the interactive dialogue between States, NGOs and the mandate holders *en masse*, sometimes meant that more attention was paid to some mandates than to others.¹² While in general the amount of time dedicated to considering the reports and interacting with mandate holders was more than had been the case during the former Commission on Human Rights, it was easy for the more controversial or topical mandates to overshadow others when placed side by side for consideration in the same three-hour meeting. Unfortunately the time management of each session resulted in the mandate holders being left extremely limited time at the end of each session to respond to the vast array of questions and comments raised during the interactive dialogue.

The content of these dialogues was significant as for the first time NGOs were offered the opportunity to participate. In the dialogues with the thematic mandate holders it was clear that this involvement by NGOs was welcomed, and some States commented positively about this. For the dialogue with country-specific mandate holders, limiting NGO participation to the very small number of NGOs that had managed to register early on the speakers list, and delaying NGO statements until the very end of each meeting sidelined the importance of NGO contributions and meant that the rapporteurs were unable to react to the NGO submissions; NGO statements were thus not a true part of the *interactive* dialogue when it came to country-specific mandate holders and this was a lost opportunity for NGO contribution to this valuable aspect of the Council's work.

The dialogue on the report of the Secretary-General and the High Commissioner for Human Rights was useful and a wide cross-section of the Council's membership and observers participated in this discussion. The topics considered by the High Commissioner in her presentation and the subsequent interactive dialogue included OHCHR-related issues, thematic reports and issues, and country-specific situations, and included discussions regarding the OHCHR's presence in Afghanistan, Cambodia, Colombia, Guatemala, the Occupied Palestinian Territories and Uganda.

¹¹ At its first session the Council adopted *Decision 2006/104* which mandated the establishment of an inter-sessional open-ended Working Group to "formulate concrete recommendations on the issue of reviewing and, where necessary, improving and rationalizing all mandates, mechanisms, functions and responsibilities in order to maintain a system of special procedures, expert advice and a complaint procedure": Para. 1. Human Rights Council *Decision 2006/104*. For further information and a discussion of the key issues see M. Abraham, *A New Chapter for Human Rights*, (ISHR and FES, Geneva 2006), available at www.ishr.ch/handbook, pp. 33-50. In the lead-up to the establishment of this Working Group on the review of mandates and mechanisms, the Council held informal consultations to exchange information and solicit proposals to identify the principles and modalities of the review, and to enable structured negotiations to begin within the Working Group. Informal Consultations were held on 21 July, 7 September and 15 September 2006. For ISHR's report on these consultations, visit www.ishr.ch. During the second Council session a draft time-table for the Working Group on the implementation of operative paragraph 6 of General Assembly *Resolution 60/251* was distributed, which provided that the Working Group would meet from 16 to 20 October 2006 and at certain times from 13 to 17 November. These dates were later amended and the Working Group will now meet from 13 to 24 November (in conjunction with the Working Group on the Universal Periodic Review).

¹² The order/grouping of reports was decided by the Secretariat in a non-selective manner, sometimes dependant upon the availability of the mandate holder.

Overall while the quality of the debate and discussion following the presentations by mandate holders was greatly enhanced, the substantive outcome remains problematic. Despite mandate holders and the High Commissioner raising issues of immediate concern for the Council, no direct action was taken (although there is still the possibility that the resumed session will address some of these concerns). For example, a number of calls were made for the establishment of an independent international monitoring mechanism for Sri Lanka,¹³ as well as repeated calls for the Council to take action on the situation in Darfur.¹⁴ Further, a significant focus of the 2nd session was the topic of incitement to racial and religious hatred and the promotion of tolerance, with some delegations requesting concrete action by the Council in the form of a rejection of the amalgamation of Islam with violence and terrorism and other measures to combat Islamophobia.¹⁵

Attacks on individual mandate holders and country-specific mandates in general

Criticism about 'exceeding mandates'

Some of the most disturbing aspects of the 2nd session of the Council were the repeated attacks against special rapporteurs. This trend began on the second day of the session when Mr Philip Alston, the Special Rapporteur on extrajudicial, summary or arbitrary executions, presented his report and spoke about his mission to Nigeria. The Nigerian delegation criticised Mr Alston for exceeding his mandate by addressing the issue of the continued imposition of the death penalty on lesbians, gays, bisexuals or transgender people (LGBT people), and used the opportunity to comment that death by stoning could be considered “appropriate and fair” in the circumstances. Only a couple of delegations expressed concern at this attack,¹⁶ deploring the general silence of Council members either in defending Mr Alston and his work or in condemning the practice of imposing the death penalty on LGBT people.

Another attack on special procedures came when the delegation of the USA criticised the five special procedures who had authored the Joint Report on the situation of detainees at Guantánamo Bay,¹⁷ accusing them of adopting a non-cooperative approach.

By far the most serious attack was directed towards the Special Representative of the Secretary-General on the situation of human rights defenders, Ms Hina Jilani.¹⁸ Algeria, on behalf of the African group, along with a number of other States,¹⁹ strongly criticised the Special Representative for having sent a communication to ECOSOC members regarding the refusal to grant consultative status to four NGOs working on human rights for LGBT persons. They complained about the substance and procedure of the communication, and accused the Special Representative of going beyond her mandate. They used this incident to call for the adoption of a

¹³ In particular by Mr Phillip Alston, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. See further the ISHR *Council Monitor Daily Update* for 19 September 2006, available at http://www.ishr.ch/hrm/council/updates/19_September_06.pdf. The call for an independent international monitoring mechanism was also made by the High Commissioner for Human Rights, and supported by States such as Australia, Canada and Finland (on behalf of the European Union).

¹⁴ Requests to take action on Darfur were made by the High Commissioner for Human Rights, the Special Rapporteur on the human rights situation in the Sudan (Ms Sima Samar), and numerous State delegations, as well as NGOs such as Amnesty International and Human Rights Watch, that requested the Council to take action in acknowledging the serious violations of human rights and international humanitarian law.

¹⁵ Pakistan, on behalf of the Organisation of Islamic Conference (OIC).

¹⁶ Argentina and Norway. The NGOs Human Rights Watch and Canadian HIV/AIDS Legal Network also expressed their support for Mr Alston's work on this issue.

¹⁷ The five mandate holders who contributed to the Joint Report were the Chairperson-Rapporteur of the Working Group on arbitrary detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on torture and cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on freedom of religion or belief, and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

¹⁸ See further the ISHR *Council Monitor Daily Update* for 22 September 2006, available at http://www.ishr.ch/hrm/council/updates/22_September_06.pdf.

¹⁹ Ghana, Tanzania and China.

code of conduct for special procedures to avoid such “erratic action”. It was disappointing that the only comments from the African Group on the work of this very necessary Special Representative were on a communication that fell outside the reporting period under discussion, was not a part of her report, and which she had already withdrawn. In the circumstances, the attack could only be considered gratuitous. It was significant too that, like the attack on the Special Rapporteur on extrajudicial, summary or arbitrary executions, the issue was the human rights of LGBT persons.

Criticism of country-specific mandate holders

Attacks were also directed at individual country-specific mandate holders, usually followed by denunciations of the country-specific mandates in general. Ms Christine Chanet, the Personal Representative of the High Commissioner for Human Rights on the situation of human rights in Cuba, explained the need for a new framework to address the situation in that country given the continued refusal of the Cuban authorities to accept her mandate. Cuba responded by stating that Ms Chanet should resign, claiming that her time as Representative had “not been one of the most honourable jobs” and that “no one would remember her mandate”. China, the Democratic People's Republic of Korea (DPRK), Zimbabwe and Algeria supported Cuba in its refusal to recognise Ms Chanet’s mandate. The Russian Federation called for the termination of such mandates because in their view they are “counter-productive” and “give rise to confrontation between States”. Zimbabwe also called for an end to all country-specific mandates, claiming that no such mandates or resolutions should be the order of the day in the Council. The attacks against Ms Chanet (particularly by Cuba) led to the President demanding that all States refrain from personalisation in Council dialogue.

Following this, the DPRK “categorically and absolutely” rejected the report of the Special Rapporteur on the situation of human rights in the DPRK, criticising perceived double standards directed against developing countries. China supported this, maintaining that a country-specific approach should not be used in the Council.²⁰ In supporting Myanmar’s rejection of the mandate of Mr Paulo Sérgio Pinheiro, the Special Rapporteur on the situation of human rights in Myanmar, India reiterated its opposition to country-specific mandates, stating that they were counter-productive and usually had negative outcomes. Belarus also rejected the mandate of the Special Rapporteur on the human rights situation in Belarus, Mr Adrian Severin, accusing him of using his mandate as a form of propaganda. A number of States joined Belarus in requesting his mandate be ended, and that country-specific mandates in general be abolished.²¹

Criticism of the Joint Report on Lebanon and Israel

One of the most contentious reports was the Joint Report on the result of the missions to Lebanon and Israel by four special procedures mandate holders.²² The Joint Report, as presented by Mr Alston, concluded that serious violations of human rights and humanitarian law had been committed both by Israel and by Hezbollah during the recent conflict. The report was criticised strongly and was described as politicised and lacking objectivity and impartiality. Nearly all States participating in the debate rejected the findings and recommendations set out in the Joint Report, stating that the report was not objective and that it attempted to rationalise Israeli actions.²³ Many States criticised the mandate holders for being biased and displaying double standards. Perhaps the most notable aspect of the dialogue on this report was the lack of clear support for the rapporteurs by any States. While the European Union (EU) spoke in general support of the report, very little was done to defend the intense criticism directed at the mandate holders themselves. In general, it could

²⁰ This view was supported by Cuba, Zimbabwe and Indonesia.

²¹ Malaysia, Tunisia, India, Indonesia, Bangladesh, Sudan, Syria, Pakistan (on behalf of the OIC), Yemen, the Russian Federation, DPRK.

²² The joint report was prepared by Mr Philip Alston, Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr Paul Hunt, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mr Walter Kälin, Representative of the Secretary-General on the human rights of internally displaced persons, and Mr Miloon Kothari, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living. Mr Jean Ziegler, Special Rapporteur on the right to food, also presented a report on his mission to Lebanon.

²³ Pakistan, on behalf of the Organization of Islamic Conference, Bahrain, on behalf of the Arab Group, Egypt, Iran, Saudi Arabia, Malaysia, Syria, Morocco, Kuwait, Indonesia, Algeria, Azerbaijan, Libya, Palestine, Tunisia, Sudan and the Russian Federation.

be said that the EU and other regional groups are making little efforts to occupy ‘space’ at the Council and the majority of statements and views expressed emanate from hostile regional groups, while others remain silent on issues which could benefit from their intervention.

General attitude towards country-specific mandates

Despite the onslaught against particular mandate holders, a number of States emphasised the importance of the special procedures during the general debate²⁴ and expressed regret regarding the lack of cooperation with the special procedures on the part of some States.²⁵ The Russian Federation and Algeria (on behalf of the African Group) stressed the key role that the special procedures played in the protection and promotion of human rights worldwide, while at the same time they called for the adoption of a code of conduct to govern the modalities of their work. Many delegations reiterated the point that the work of the special procedures will be reviewed during the intersessional working group and thus nothing should be done to prejudice the outcome of this during the Council session.

As many States did not accept the recommendations or comments made in many of the reports of the special procedures mandate holders, the negotiations around the outcome text were difficult. Some States were insistent that references to the presentation of these reports be ‘neutral’ as it was not possible to ‘welcome’ all of the reports. There were even concerns over whether ‘noting’ the reports would be interpreted as adopting them, a point that was clarified in an explanation of vote by Pakistan (on behalf of the OIC) after the adoption of *Decision 2/102*. In *Decision 2/102* the Council noted “all the reports and studies presented at its 2nd session and the substantive interactive dialogue with mandate holders as well as with the High Commissioner for Human Rights”.

Discussions regarding the country-specific mandates took place in the context of discussing the report on the informal intersessional consultations on the review of mandates and mechanisms, in particular the review of special procedures.²⁶ During those discussions a number of States criticised the country-specific mandates for being the reason for the politicisation of the former Commission on Human Rights, and asked for their discontinuation.²⁷ Others expressed a desire to see the end of country-specific mandates except mandates focusing on foreign occupation, such as in Palestine.²⁸

Report of the Sub-Commission on the Promotion and Protection of Human Rights

The Sub-Commission on the Promotion and Protection of Human Rights (the Sub-Commission) presented its report to the Council and its views on the future of the Council’s expert body.²⁹ The Sub-Commission’s *Decision 2006/112: Implementation by the Sub-Commission of Human Rights Council Decision 102*³⁰ outlines the vision of the Sub-Commission on its future, expressing its view that the Council needs a standing, collegial, independent, expert body of general competence in the field of human rights. The Sub-Commission suggested that the name of this future body could be the Human Rights Consultative Committee (HRCC) and

²⁴ The Islamic Republic of Iran (Iran), Singapore, New Zealand, Sweden.

²⁵ Uruguay.

²⁶ See further the ISHR *Council Monitor Daily Update* for 3 October 2006, available at http://www.ishr.ch/hrm/council/updates/3_October_2006.pdf.

²⁷ The Russian Federation, Cuba, Tunisia, Iran and China.

²⁸ Tunisia, Iran, Saudi Arabia (on the behalf of the Asian Group) and China (on behalf of the Like Minded Group).

²⁹ The work of the Sub-Commission at its 58th session included a number of resolutions, all adopted by consensus, notably two resolutions including draft guiding principles, one on extreme poverty and the other on small arms and light weapons.

³⁰ The Report of the 58th Session of the Sub-Commission is available at http://www.ohchr.org/english/bodies/hrcouncil/2session/docs/A_HRC_2_2.doc.

that this expert body should contain 26 to 28 members of varying backgrounds who would be elected with the view to maintaining the principle of regional representation. Its functions should include research, the promotion and progressive development of human rights (through thematic studies and standard-setting), coordination within the UN human rights system, promoting coherence, and identification of challenges and gaps. The functions of the HRCC may also encompass participation in the 1503 procedure and the Universal Periodic Review. The vast majority of delegations expressed their support for the continuation of a form of advisory body to the Council. In addition to this, several delegations expressed their appreciation for the work and contribution the Sub-Commission provided in the past in the protection and promotion of human rights in addition to its standardisation and standard-setting role.³¹ States also expressed their concern that experts' terms or time in office be limited,³² and called for an equal geographical representation of experts.³³ In relation to the other work of the Sub-Commission, some States expressed support for a number of the Sub-Commission's decisions including the draft guiding principles on small arms and light weapons³⁴ and those on extreme poverty.³⁵ States expressed their view that the Council should take appropriate action to implement some of these decisions.³⁶ A number of States explained that some of the proposals, such as the creation of new mandates,³⁷ should be left pending until the future new body has commenced its work, or at minimum reviewed in more detail at a later date.³⁸

In its Decision 2/102 entitled *Reports and studies of mechanisms and mandates*³⁹ the Council decided to transmit the views of the Sub-Commission on the future system of expert advice to the Working Group established pursuant to Council's *Decision 1/104*. It also decided to take note of the draft decisions transmitted by the Sub-Commission "pertaining to previously authorized activities, with a view to allowing their continuation in accordance with Council's *Decision 1/102*".⁴⁰ No decision was taken on the recommendations of the Sub-Commission regarding future work and possible new mandates. The issue of the future expert body for the Council will be discussed in more detail at the intersessional Working Group on the review of mandates, which will begin on 13 November 2006.

1503 procedure

During the 2nd session three States were examined under the confidential petitions procedure (1503 procedure):⁴¹ the Islamic Republic of Iran, Kyrgyzstan, and Uzbekistan. Through the adoption of *Decision*

³¹ Mexico, Zambia, Argentina, the Russian Federation, Brazil, Japan, Nigeria, Bangladesh, Algeria (on behalf of the African Group) and China.

³² Japan and Algeria.

³³ China and Pakistan (on behalf of the OIC).

³⁴ Mexico, Argentina, Nigeria, Peru and Bangladesh.

³⁵ Peru.

³⁶ Mexico suggested that the Council take action on draft decision four of the 57th session of the Sub-Commission, and draft decisions three, four, five, and nine of the 58th session.

³⁷ Finland (on behalf of the EU), Canada and Argentina.

³⁸ Mexico, Argentina.

³⁹ *Decision 2/102* of 6 October 2006 is available at www.ohchr.org/english/bodies/hrcouncil/docs/2session/res2-102.pdf.

⁴⁰ The Council's *Decision 1/102* renewed the mandate of the Sub-Commission for one year to continue its work. See further <http://daccessdds.un.org/doc/UNDOC/LTD/G06/129/35/PDF/G0612935.pdf?OpenElement>.

⁴¹ The main complaint procedure of the Commission on Human Rights (the Commission) was the 1503 procedure, which was named after the resolution by which it was created: Economic and Social Council (ECOSOC) *Resolution 1503 (XLVIII)* of 27 May 1970. Under the 1503 procedure, the Commission (and now the Council) could receive communications (complaints) from victims or others acting on behalf of the victims regarding situations which "reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms" in any country in the world. The Council has continued to use the 1503 procedure for its first year, while discussions are held during the intersessional working groups on the format of a new complaints procedure.

2/101 *Situation of human rights in Kyrgyzstan*,⁴² the Council decided to remove Kyrgyzstan from the procedure. *Decision 2/101* is the first example of the Council's action on a country-specific situation. Kyrgyzstan was originally placed under the 1503 procedure due to concerns about the use of excessive force against demonstrators and the stifling of political opposition through the arbitrary arrest and detention of protestors. The Council examined information "alleging the use of excessive force, including the use of live ammunition by the police leading to deaths, as well as the harassment of human rights defenders and opposition politicians, in particular attacks on demonstrators on 4 September 2002 in Jalal-Abad and arrests of members of the Kyrgyz Commission for Human Rights".⁴³ It determined that these allegations were a "cause for serious concern to the extent that they may reveal the existence of gross violations of human rights".⁴⁴ However, noting that the situation has changed and that the Government of Kyrgyzstan has committed to taking positive steps to investigate, the Council merely encouraged the Government to continue these efforts before removing the matter from its agenda.

Progress on the establishment of the Council

Another area of significant discussion during the 2nd session of the Council was the progress on the 'operationalisation' of the Council and the progress of intersessional informal consultations (which will meet in November for the first time as Working Groups) on the UPR⁴⁵ and the review of mandates, mechanisms, functions and responsibilities.⁴⁶ A full description of the discussions on these reports is available in the ISHR *Council Monitor Daily Updates* for 2 October and 3 October 2006.⁴⁷ Some of the statements made during the session foreshadow a bleak outlook for the future of much of the current system. It will be important that NGOs and others in favour of protecting the UN human rights system and the role it plays in protecting and promoting human rights through its many mechanisms participate actively in the intersessional working groups. Regional group positions, for example on the special procedures and the UPR, show that many States will build on their reluctance to support strong review procedures to weaken the existing protections.

The Council decided, in *Decision 2/102* entitled *Reports and studies of mechanisms and mandates*,⁴⁸ to note "the updates provided on the progress of the informal consultations of Working Groups on the Universal Periodic Review established by its decision 1/103 and on implementation of paragraph 6 of General Assembly resolution 60/251 established by its decision 1/104".

Issues that will be discussed at the intersessional working groups include: the review of the special procedures and the potential rejection of country mandates; whether or not a complaint mechanism should remain a part of the Council's functions (i.e. the continuation of the 1503 procedure); whether an expert body like the

⁴² *Decision 2/102* of 6 October 2006 is available at www.ohchr.org/english/bodies/hrcouncil/docs/2session/res2-102.pdf.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Universal Periodic Review (UPR) is a new mechanism that has been established under General Assembly *Resolution 60/251*, which created the Human Rights Council (the Council). The Resolution provides in para 5(e) that the Council shall "undertake a universal periodic review, based on objective and reliable information, of the fulfilment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States; the review shall be a cooperative mechanism, based on an interactive dialogue, with the full involvement of the country concerned and with consideration given to its capacity-building needs; such a mechanism shall complement and not duplicate the work of treaty bodies". The Resolution does not set out the details of how the process will be carried but instead asks the Council to "develop the modalities and necessary time allocation for the universal periodic review mechanism within one year after the holding of its first session". For further information and a discussion of the key issues see M. Abraham, *A New Chapter for Human Rights*, (ISHR and FES, Geneva 2006), available at www.ishr.ch/handbook, pp. 72 to 86.

⁴⁶ See footnote 11 above.

⁴⁷ Available at http://www.ishr.ch/hrm/council/updates/2_October_2006.pdf and http://www.ishr.ch/hrm/council/updates/3_October_2006.pdf.

⁴⁸ *Decision 2/102* of 6 October 2006 is available at www.ohchr.org/english/bodies/hrcouncil/docs/2session/res2-102.pdf.

former Sub-Commission should be maintained; and whether the UPR will be a mechanism that is strong enough to effectively review the human rights situations in all States. It appears that many States are not talking of extensive reforms to the current system, despite original hopes that this could be an interesting opportunity to enact such changes. Other States are talking of restricting the scope of the current system and its mechanisms. The extensive use of regional group statements rather than expressions of individual State positions has significantly influenced the nature of the debate on these issues. Each of these issues will be further discussed and elaborated on during the intersessional working groups and after their conclusion we will have some further indications regarding the progress made.

NGO and NHRI Participation

One of the most significant aspects of the 2nd session of the Council from the perspective of NGOs was the ability of NGOs and National Human Rights Institutions (NHRIs) to participate in the interactive dialogue with the special procedures mandate holders. While this was a new and progressive development in the practice of the Council, it was not without its controversial aspects. During the interactive dialogue with thematic mandate holders, NGOs were entitled to participate after observer States and deliver statements for a maximum of two minutes (the same time period as observer States).⁴⁹ However, during the interactive dialogue with the country-specific mandate holders, NGOs were given the floor only at the very end of each session, i.e. after the mandate holder had already responded. This limited the usefulness of their participation. During other meetings, such as when the Council was engaged in general debate following the presentation of the High Commissioner's reports, NGOs were instructed to refrain from making detailed statements on the human rights situations in particular countries.

Unfortunately some NGOs seemed confused as to when was the appropriate time to speak about country situations that were not covered by the reports under consideration at this session of the Council. During the session in which the High Commissioner presented her reports, as well as the later session on "other issues", numerous States interrupted NGO statements to raise points of order and accuse NGOs of abusing the privilege of making statements to the Council.⁵⁰ While the High Commissioner's reports and statement addressed some country situations, there were a number of NGOs that attempted to make statements during the general discussion that followed the presentation of her reports on issues that fell outside this scope. This led to States raising objections through points of order about the participation of NGOs and their ability to speak on country situations in general.⁵¹ Other States chose to address the issues raised by NGOs in their rights of reply, rather than by making points of order. Some explained that they did this to respect the NGOs' right of freedom of expression, commenting on the value of NGO participation.⁵² The President and the Vice-President (who chaired parts of this session) were both forced on numerous occasions to interrupt NGO speakers and request that they focus on issues relevant to the agenda for the day, on more than one occasion stopping the speaker from completing the statement. After some confusing directions by the Vice-President (the Ambassador of Jordan), the President clarified that NGOs were entitled to make statements and comments on the content of the reports presented during the day's session but requested that NGOs respect this and remain focused on the relevant issues. The entire debate appeared to highlight the confusion regarding NGO participation both on the part of NGOs and the States and led to a request that the Bureau of the Council meet to discuss the scope of NGO participation.⁵³

⁴⁹ Although two minutes was sufficient for many NGOs to make useful and substantive statements, some were not familiar with how to make best use of such a limited time period to raise their concerns.

⁵⁰ Cuba and Algeria.

⁵¹ Algeria.

⁵² Czech Republic.

⁵³ Czech Republic.

In relation to NGO participation generally, many NGO representatives were concerned about the limited time available for their active participation in the plenary discussions and the difficulty in securing an opportunity to speak. In managing NGO input into future Council sessions coordination among NGOs will be critical, as only limited numbers are entitled to speak and it will be important to coordinate the speaking possibilities to ensure adequate opportunities for representation of different perspectives. For example, as the list of speakers for each session was developed during 2nd session, this provided NGOs with the possibilities of finding out which other NGOs were interested in a particular theme and coordinating with them about the inclusion of particular issues of joint interest in their statements. This contributed to better coordination among NGOs. Likewise, there were sometimes occasions when there were no NGOs willing or able to speak on issues of particular importance, or no NGOs ready to raise issues that were not, but should be, on the Council's agenda. NGOs should thus also keep in mind how to address the full range of issues that they are concerned about, and the most appropriate ways for doing this under the new Council format.

NGOs continued to hold parallel events during the lunch period and at other times,⁵⁴ although the limitation on room spaces affected this greatly. Some NGOs were forced to cancel or shorten events due to these space limitations. There were 55 parallel events organised during the 2nd session. The OHCHR NGO Liaison Coordination Office continued to provide great assistance to NGOs. According to their statistics a total of 154 NGOs participated in the 2nd session, represented by 703 delegates.⁵⁵ The NGO Liaison Coordination Office has calculated that NGOs delivered a total of 152 oral statements (of which 52 were joint statements) and spoke for approximately 8.5% of the session's total speaking time.

'Other issues' agenda item

Towards the very end of the 2nd session, the President opened the floor to delegates wishing to speak about matters not covered by other issues on the agenda. No members or observer States wished to speak, perhaps because there was general confusion over what issues should be raised in this 'other issues' agenda item, and because of the parallel negotiations taking place on the draft outcome texts. So a number of NGOs were given the floor to bring 'other issues' to the Council's attention. States and NGOs should ensure more use is made of this part of the agenda to bring to the Council's attention issues of concern not already being dealt with. During the NGO statements some raised proposals for country situations that the Council should consider – this is an important function for this part of the Council's agenda. It was disappointing that at this session there was a lack of imagination regarding how to make the best use of the opportunity provided by the 'other issues' agenda item.

Transparency

An important point to note regarding the practical aspects of the Council's operation was the enhanced transparency heralded by the use of a webcast during this 2nd session.⁵⁶ The UN Conference Services' provision of a full webcast service means that it is no longer as necessary to be in the room or even in Geneva to follow the Council. This means that NGOs that previously did not attend to participate (for example by giving statements or lobbying) but just to monitor, have the option of using this service instead. It also means that the Council's work can be seen by anyone, anywhere, through the Internet. This will increase the level of

⁵⁴ See *Bulletin of Informal Events* for each day, available at www.ohchr.org/english/bodies/hrcouncil/2session/bim.htm.

⁵⁵ Statistics here are sourced from the OHCHR NGO Liaison Office's *Overview for NGOs of the 2nd session of the Human Rights Council*, distributed by email on 20 October 2006. For further information, contact Dina Sabry Fivaz at DFivaz@ohchr.org.

⁵⁶ The webcast is available at www.un.org/webcast/unhrc/.

scrutiny given to the positions that States hold and the way in which they are expressed, as well as the overall manner and methods of work of the Council. All future sessions of the Council will be webcast.

Further, particular note must be made of the OHCHR's extranet, which has progressed significantly to be a very valuable resource, containing almost every document of use to those wishing to participate in or monitor the activities of the Council.⁵⁷ The OHCHR is to be congratulated on the way in which the provision of timely and useful documents and other information on its extranet has offered further opportunities for enhanced participation.

Outcomes and follow up

The President's initial proposal for the outcome of the 2nd session, as presented to delegates by the Mexican delegation in an informal consultation towards the beginning of the session, was that the Council would adopt, by consensus if possible, one text that would cover the outcomes of the substantive dialogue with the special procedures and any other issues needing to be addressed in the 2nd session. It was explained that the intention was that this 'omnibus' text would be concise and action-oriented and would deal with the necessary procedural and substantive matters. There was a mixture of confusion and disagreement over this proposal, in particular regarding how substantive issues of interest to various delegations would be dealt with in an 'omnibus' text which was to be adopted by consensus. This led to some States proposing separate texts of their own (i.e. Cuba, Canada, Brazil), which were introduced as a mix of draft resolutions, decisions, President's statements or other formats, as potential outcome documents for this session of the Council. Some of these draft outcome texts focused on procedural issues, others on substantive topics. Some related to the reports and recommendations of the special procedures mandate holders and other topics addressed in the programme of work for the Council's 3rd session. Other States refrained from submitting texts, preferring instead to go along with the President's proposal to include their issues of interest in one generic outcome text. Once the deadline for submission of texts had passed, it became clear that some States were adamant that the issues they raised should be dealt with in separate texts, whereas others were frustrated that they had refrained on the basis of participating in an omnibus text, and thus the issues of particular importance to them would not be addressed in the same detailed way. There were also concerns with how specific texts addressing special procedures may jeopardise or prejudice the work of the intersessional working group mandated with the task of reviewing these mandates. These differences of opinion and approach, and the continued attempts by the President to combine all issues of interest into a generic text, led to difficult negotiations that were unable to be resolved before the end of the three-week period that had been allocated for the 2nd session. Finally a generic text which dealt in a very general manner with the reports that had been presented to the 2nd session of the Council was adopted on the last afternoon. Consideration of the 44 other proposed outcome texts was postponed until the resumed 2nd session in November.

In the final meeting, a number of States expressed frustration at the lack of ability to conclude the session with clear outcomes on substantive matters. As mentioned previously, country-specific issues such as Sri Lanka, Sudan (especially Darfur) and other areas were of particular concern to many delegates, and it was regrettable that no concrete action has yet resulted from discussions about these concerns. Likewise, the failure to agree on what to do about thematic topics discussed, such as incitement to racial and religious hatred and the promotion of tolerance, and the various recommendations of the special procedures, was disappointing. Peru, in the final meeting, spoke of the need to ensure the Council lives up to its mandate of protecting victims, a sentiment which was echoed by other delegations. This is a key priority – addressing human rights situations of grave concern in order to protect victims is one of the fundamental roles the Council must play.

⁵⁷ The webcast is available at www.un.org/webcast/unhrc/.

Decisions of the 2nd session

Three decisions were finally adopted by consensus on 6 October 2006: *Decision 2/101 Situation of human rights in Kyrgyzstan*⁵⁸ (described above); *Decision 2/102* entitled *Reports and studies of mechanisms and mandates*⁵⁹; and *Decision 2/103 Draft framework for a programme of work of the Human Rights Council for the first year*⁶⁰.

The decision on reports and studies of mechanisms and mandates “notes all of the reports and studies presented at its 2nd session and the substantive interactive dialogue with mandate holders” and the High Commissioner for Human Rights. It further “requests the Secretary-General and the High Commissioner to continue with the fulfilment of their activities, in accordance with all previous decisions adopted by the Commission on Human Rights and to update the relevant reports and studies”. In relation to the Sub-Commission, the Council decided to transmit its views on a future system of expert advice to the intersessional Working Group established pursuant to the Council’s *Decision 2006/104*. It also decided to “take note of the draft decisions transmitted by the Sub-Commission pertaining to previously authorized activities, with a view to allowing their continuation in accordance with Council’s *Decision 2006/102*”. Finally, the decision “notes the updates provided on the progress of the informal consultations of Working Groups on the Universal Periodic Review established by its decision 1/103 and on implementation of paragraph 6 of General Assembly resolution 60/251 established by its decision 1/104”. This decision confirms that all reports from all mandate holders will be considered at the Fourth Council Session in March 2007.

*Decision 2/103 Draft framework for a programme of work of the Human Rights Council for the first year*⁶¹ inserted into the programme of work⁶² a new segment entitled “Follow up to decisions of the Human Rights Council”.⁶³

Draft outcome documents still pending

After lengthy and ultimately unsuccessful negotiations, the President was forced to put to the Council a proposal, which was adopted by consensus, for the deferral of all draft texts that had previously been submitted. The reasons given for the inability to reach agreement on how to deal with the proposals was the large number of draft documents submitted and the insufficiency of time available to give due consideration to each in a balanced manner.

Consideration of these draft resolutions, decisions and other proposals was delayed until the recommencement of the 2nd session on 27 November 2006. It was mentioned during the final meeting of the 2nd session in October that it was expected the 2nd session would be finalised relatively quickly and that the 3rd session of the Council would be opened by Wednesday 29 November 2006. In the intervening period delegations may have the opportunity to liaise about the progress of these draft outcome documents during both the General Assembly in New York and the intersessional working groups that will be held in the two weeks immediately prior to the recommencement of the 2nd session.

The 3rd session of the Council was scheduled to be held for two weeks starting 27 November and sitting until 8 December 2006. It is now planned to commence immediately after the conclusion of the 2nd session. This unique situation leaves a situation where the temperature at the Council is rising. The next session of the

⁵⁸ *Decision 2/101* of 6 October 2006 is available at www.ohchr.org/english/bodies/hrcouncil/docs/2session/res2-101.pdf.

⁵⁹ *Decision 2/102* of 6 October 2006 is available at www.ohchr.org/english/bodies/hrcouncil/docs/2session/res2-102.pdf.

⁶⁰ *Decision 2/103* of 6 October 2006 is available at www.ohchr.org/english/bodies/hrcouncil/docs/2session/res2-103.pdf.

⁶¹ *Decision 2/103* of 6 October 2006 is available at www.ohchr.org/english/bodies/hrcouncil/docs/2session/res2-103.pdf.

⁶² The Programme of Work is contained in Council *Decision 1/105* of 30 June 2006.

⁶³ This decision was made due to concerns regarding the lack of follow up and implementation of previous decisions, for example, the lack of implementation of the Council’s decision on Lebanon, a result of the Second Special Session. See further the ISHR *Council Monitor Daily Update* for 29 September 2006, available at http://www.ishr.ch/hrm/council/updates/29_September_06.pdf.

Council will begin in the shadow of the 2nd session, commencing immediately after the conclusion of the 2nd session, and thus will be affected by how amicably that session can be resolved. If the last couple of days of the 2nd session are marked by the same chaos and confusion as the first three weeks it will set the tone for a difficult 3rd session. It is thus imperative that delegations make efforts to resolve the outstanding decisions required on how to end the 2nd session satisfactorily, before it recommences on 27 November.

Conclusions

The 2nd session struggled to achieve anything in the way of substantive outcomes but, as it is not over yet, there still remains some potential. The session confirmed that the Council is different and in some ways more promising than the former Commission on Human Rights, yet in other respects it appeared to operate on the basis of business as usual. The handling of the substantive agenda items for the 2nd session (namely the reports of the special procedures) showed real possibility for focusing attention on the work of these important mechanisms. Yet the attacks on special rapporteurs and the attempts to undermine their methods of work and criticise the substance of their reports were at times worse than ever. While the atmosphere retained much of the spirit of renewed hope that had characterised the First Session, some of the familiar patterns of provocation and confrontation were directed at the special procedures and non-governmental organisations (NGOs). It appeared that, amid the confusion and lack of clarity about the rules of procedure and the desired outcomes for the session, States were slowly becoming more aware of how the shifting balance of power between the regional groups will change the nature of negotiations and discussions in the new Council.⁶⁴

The Council is still in its early stages of development and thus there was an air of uncertainty regarding aspects of the procedure for this session, including the agenda, rules for procedure, and even how the session was to be conducted. In particular many States had clearly not properly considered what would or should be the outcome of a three-week session such as this. The President of the Council, Ambassador Luis Alfonso de Alba, Mexico's Permanent Representative to International Organisations in Geneva, ably chaired the session. However, his proposal to have an omnibus outcome document that could compile in one decision all of the substantive issues the Council wished to deal was scuttled by a lack of political will from member States.⁶⁵

One aspect of the Council's work that was highlighted as an area of continuing controversy was the way in which the Council deals with country-specific situations. There was no specific time in the agenda dedicated to the human rights situations in particular countries, except when the country-specific rapporteurs (or other special procedures) presented their reports, and yet this appeared to be the most controversial issue.⁶⁶ Other reports also dealt with specific country situations, including the reports of the High Commissioner for Human Rights and some thematic mandate holders. During the interactive dialogues on these reports, and during both the general discussion time and the agenda item labelled 'other issues', controversies arose regarding NGO statements on country situations, with NGOs instructed to refrain from making detailed statements on the human rights situations in particular countries.⁶⁷ A clear distinction was also drawn between the modalities of the interactive dialogue for thematic issues and those for the geographical mandate holders.⁶⁸

⁶⁴ Under the old Commission on Human Rights the 53 member States were comprised of representatives from the following regional groups: 15 States from the African Group; 11 States from the Group of Latin American and Caribbean States; 12 States from the Asian Group; 10 States from the Western Europe and Other States Group; and 5 States from the Eastern European Group. Under the new Human Rights Council the 47 member States are spread geographically on the following basis: 13 States from the African Group; 8 States from the Group of Latin American and Caribbean States; 13 States from the Asian Group; 7 States from the Western Europe and Other States Group; 6 States from the Eastern European Group.

⁶⁵ See further below.

⁶⁶ Five of the twelve country-specific mandate holders noted the continual lack of cooperation for their mandates on the part of the country concerned, i.e. the mandates of the rapporteurs responsible for monitoring the following human rights situations continue to be rejected by the relevant States: Belarus, Myanmar, Cuba, Democratic People's Republic of Korea (DPRK) and the Occupied Palestinian Territories (by Israel).

⁶⁷ See further below.

⁶⁸ See further below.

On more practical aspects, the existing commitments of UN conference services in Geneva meant that the 2nd session of the Council had to be held in Room XVIII where there was significantly less seating available than in the usual Room XVII (especially for NGOs). There were also limited rooms available for parallel events, which led to the cancellation or shortening of many proposed lunchtime meetings, especially those organised by NGOs.

Like any new body, the Council will take time to develop its working methods and settle into a familiar routine. Some of the innovative features of this session, such as the substantive interactive dialogue with the special procedures and the inclusion of NGOs within this process, were very positive and should be retained. Some aspects however will need to be improved. For example, members will need to enhance the clarity and transparency regarding the desired outcome for each Council session and improve their commitment to properly addressing the substantive human rights concerns that are raised through the presentation of the reports of the special procedures and during the interactive dialogues with mandate holders. The Council is still very much a work in progress. It has the potential to head in the right direction as a body that can address substantive human rights issues of concern in all parts of the world. It is now up to the member States to demonstrate the political will to guide it there and the Bureau to fulfil the commitment to lead this process in a practical manner.

Next steps

The Council is a body in its early infancy. It has a long way to go before becoming totally operational. It has many decisions to make in its coming sessions. It is understandable that at this very early stage many aspects of its work are still developing and confusion reigns regarding how it can work to achieve its full potential. The inability of this 2nd session to conclude, having made decisions that impact upon areas of real human rights concern, does not bode well. Hopefully it is merely an anomaly attributable to the fact that this was the first session of the Council where real substantive human rights issues were addressed without clear ideas about what was expected in terms of outcome. With the commitment and focus of all Council members priority must be given to determining the most appropriate outcomes for future Council sessions and the methods through which they will be achieved. The opportunities that the new Council provides in meeting on a more regular basis (as compared to the former Commission) should be grasped by its members – issues of human rights concern often cannot wait to be addressed on an annual basis, and now the forum exists for addressing these issues more regularly. This then should be an important priority for any Council – to take concrete action on issues that it can influence positively. Council members will need to consider whether it is necessary for each session to conclude with substantive outcomes on the variety of issues before it, yet it will be imperative that the Council does not shy away from addressing matters of pressing concern.

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