

COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

HUMAN RIGHTS COUNCIL WORKING GROUP ON AGENDA, PROGRAMME OF WORK, WORKING METHODS AND RULES OF PROCEDURE HIGHLIGHTS MONDAY 23 APRIL 2007

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The Working Group on organisational matters has come to its end after four days of meetings during the current three weeks of the working groups. The last meetings were held today and the facilitators of the two streams will report to the President of the Human Rights Council on Friday, with the other facilitators. The end was quite dismal. The stream on agenda and programme of work continued deeply divided and few issues were resolved. After progressing relatively well for most of its meetings, the stream on working methods and rules of procedure encountered a last minute initiative by China that resulted in its final 30 minutes descending into further division amid thinly disguised threats. The President will receive reports from his facilitators that will be difficult to deal with in the remaining eight weeks of the Council's institution building first year.

Agenda and programme of work

The Working Group's stream on agenda and programme of work is facilitated by Ambassador Carlos Martinez Alvarado of Guatemala. Its fourth morning of discussions was little different from the other three and consensus continued to elude the Facilitator. In an endeavour to focus discussions more profitably, he produced a list of questions on the draft agenda and appealed to States to address their comments to that. Some did so directly but for the most part States continued to repeat their previous positions on the key issues in dispute.

And States were divided along the same lines with States unable to take the floor on Friday making their statements and then other States reiterating their views. There were 25 presentations by States and three by non-government organisations.

Following Friday's discussion there was significant debate on whether the agenda should include items on cross cutting human rights issues and human rights situation: Liechtenstein, Mexico, Chile, Austria, Portugal,

Norway, Germany for the European Union, Switzerland, Guatemala, the United States and the Canadian HIV/AIDS Legal network said yes and Pakistan for the Organization of the Islamic Conference, Saudi Arabia, Iran, the Philippines, Algeria for the African Group, China, Cuba, Russia, India, Morocco, South Africa and Ecuador said no.

There was also discussion again, though from fewer States, on whether the agenda should include an item for “other issues”: Austria, Norway, the Republic of Korea, Germany for the European Union and Switzerland said yes and Saudi Arabia, Iran and China said no.

Whether the agenda should include a specific item on Palestine and other territories occupied by Israel was also raised but again by fewer States.

A number of other issues received considerable attention in response to the Facilitator’s list of questions. Several States challenged the proposed agenda item on national human rights institutions, on the basis that they were not mechanisms of the Council: Pakistan for the Organization of the Islamic Conference, Iran and Russia. Several called for a regular discussion of the financial and administrative aspects of the work of the High Commissioner for Human Rights: Iran, the Philippines, China, Russia, South Africa and Ecuador. Some States and non-government organisations urged that the agenda include items on women’s rights and on the integration of gender perspectives generally in human rights work: Mexico, Chile, Action Canada for Population and Development, Alliance Internationale des Femmes and the Canadian HIV/AIDS Legal Network.

The inclusion on the agenda of a report from the Coordination Committee of the Special Procedures was unacceptable to some States. They questioned the legal status of the Coordination Committee on the basis that it had been established by the Special Procedures themselves, not the Council. Pakistan for the Organization of the Islamic Conference referred to the Coordination Committee as “the politburo of the Special Procedures”. Iran said that the Coordination Committee could damage the independence of the Special Procedures.

The Facilitator’s proposed programme of work from last week received some attention. States without exception spoke in favour of three ordinary sessions of the Council each year of close to equal length and evenly spaced through the year. States also generally supported an organisational session of the Council early in each Council year. There was division, however, on how work should be allocated across those three sessions. Some States favoured economic, social and cultural rights being discussed at one session, civil and political rights at another and the rights of peoples and of specific groups at the third. Others argued for the need to have all categories of rights discussed at all ordinary sessions, even if different topics would be dealt with at each.

The frustration in the session was evident in comments made by the Facilitator and some delegates. The Facilitator regularly pleaded for new ideas to break the deadlocks. He said that he could not impose anything on anyone. Cuba complained that the discussion had been repetitive, “a dialogue of the deaf”. The Facilitator replied that States were “playing games and so let’s keep playing”. They did.

Methods of work and rules of procedure

The second stream in this Working Group, on working methods and rules of procedure, was facilitated by Ambassador Enrique Manalo of the Philippines and had been one of the processes of the Working Groups that had achieved the greatest degree of consensus. The afternoon meeting considered the Facilitator’s latest

revision of the Rules of Procedure.¹ There was broad agreement on most issues, with few or no comments on many draft paragraphs.

A number of technical issues were discussed early in the afternoon:

- when the Council's year should begin and when new elected States should assume membership
- whether the Council's annual agenda needed to be adopted or merely considered
- whether the position of rapporteur of the Council's bureau should be subject to geographical rotation.

The first divisions arose when the issue of the venue of Council meetings was raised again. As on 16 April when this was first discussed, many States, especially francophone States, argued strongly for meetings to be held only in Geneva, at least during the Council's first four years: Switzerland, the Organisation Internationale pour la Francophonie, Liechtenstein, Belgium, Chile and Germany for the European Union. Others saw merit in the Council have the prerogative to decide to meet elsewhere: India, Russia, Ethiopia, South Africa, Bangladesh and Argentina. South Africa said that meeting outside Geneva might address the problem of the Council being "so aloof, so detached from those who are suffering deprivation and poverty".

There was further discussion on the proposed rule on participation of and consultation with observers of the Council. Since the last meeting on the draft rules of procedure, this paragraph had been amended to begin with the first two lines of Operative Paragraph 11 of General Assembly resolution 60/251 that had established the Council. Those additional words refer to the Council applying the rules of procedure of committees of the General Assembly until the Assembly or it decided otherwise. The International Service for Human Rights said that these words dealt with a completely different issue from the participation of observers, the focus of the remaining part of Operative Paragraph 11. Placing these words under the heading "Participation of and Consultation with Observers of the Council" narrowed their application and distorted the meaning of the General Assembly resolution. Many States agreed with this interpretation: Switzerland, India, Germany for the European Union, Liechtenstein and Mexico.

There was also significant discussion on whether this proposed rule should refer to the resolution of the Commission on Human Rights that extended the participation of national human rights institutions in the Commission.² Reference to the resolution had been proposed by Australia at the previous meeting. Its inclusion was supported by Australia, India, Germany for the European Union and Liechtenstein. It was opposed by Algeria for the African Group, Iran, South Africa, Pakistan, Cuba and Bangladesh. Mexico supported reference to the resolution in the section of the non-paper dealing with methods of work of the Council.

At 5:30, a half hour before the discussion was to end, China proposed a new initiative to require that resolutions relating to a specific country must be co-sponsored by a third of the members of the Council and supported by a special majority of two-thirds of the members of the Council present and voting. This had been proposed and rejected during the negotiation of General Assembly resolution 60/251. It had not been presented during any of the discussions on previous non-papers on the rules of procedure. The initiative divided the meeting immediately. China's proposal was supported by Algeria for the African Group, Iran, South Africa, Bangladesh, Russia and Cuba and it was opposed by Germany for the European Union, Liechtenstein, Mexico, Japan, Belgium, Canada, Portugal, Australia, Argentina, Chile and Switzerland. Brazil said that it welcomed and was open to discussion on the issue. India said that the Council had power to consider such a rule. South Africa said that under the General Assembly's rules a simple majority of the Council could decide to set a special majority of two-thirds for any category of decision and that the Council should vote on the issue. Debate on this initiative consumed all the remaining time of the meeting.

¹ See Document A/HRC/4/122/Rev.3.

² Commission on Human Rights Resolution 2205/74 of 20 April 2005.

The Working Group on agenda, programme of work, working methods and rules of procedure has now completed its meetings. The two facilitators will present their reports to the President of the Council at a meeting on Friday 27 April. Neither will be able to report on the achievement of the tasks assigned to the Working Group.

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