

20 Critical Issues for a Successful Outcome of the Human Rights Council's Institution Building Process

On 4 June 2007, the President of the Human Rights Council will present his final text on the institution building process. It will be a first outcome of the work done by all stakeholders in the Council's first year of operation, and will serve as the basis for the final negotiations before the conclusive decision-making on 18 June 2007. At the beginning of the last phase of the institution building process, we recall 20 critical issues that need to be reflected in the final outcome. Overall, the effectiveness of the Council will depend on it establishing integrated and comprehensive mechanisms for protecting and promoting human rights. While the different parts of the institution building process must be combined into a coherent whole, the following points are critical to an effective outcome of the institution building of the Human Rights Council.

The review of special procedures

- 1 The *independence and expertise* of the special procedures must be preserved and strengthened.
- 2 The *process of selection* of mandate holders is of critical importance and must not lend itself to undermining the expertise or the independence of mandate holders or to political bargaining regarding their selection. NGOs and independent national human rights institutions must be able to nominate candidates for the special procedures.
- 3 The *transparency* of the entire selection process must be guaranteed.
- 4 The *code of conduct* regulating the work of special procedures must not negatively affect the independence of special procedures mandate holders, nor unduly limit them in effectively carrying out their mandates. The code of conduct should be a statement of ethical principles filling gaps in the existing framework guiding the work of special procedures. State cooperation with the special procedures must be an integral part of the code.
- 5 The *review of individual mandates* must aim at closing existing protection gaps, without opening new ones. Regardless of the timeframe for the review of the special procedures, steps need to be taken to ensure that the protection offered by special procedures to rights holders and victims is maintained throughout the period of renewal of mandates and selection of new mandate holders. Current mandate holders should remain in office until actually replaced.
- 6 *Country mandates* are essential tools of the Council and must be preserved. Their creation should not be treated differently from the creation of other special procedures of the Council.

Universal Periodic Review

- 7 The universal periodic review (UPR) must include *independent expert assistance* in the summary, analysis and evaluation of the information made available for the review, in the identification of key issues for the review and in the preparation of conclusions and recommendations.
- 8 The *conclusions and recommendations* adopted by the Council after the completion of the review must be a comprehensive reflection of the process and be action-oriented. Although the country under review should be able to include its response to the conclusions and recommendations, it should not be given a right to veto them.

- 9** National and international NGOs *irrespective of ECOSOC status and independent national human rights institutions* must be allowed to take part in the review process, including through submitting information to the UPR, observing the review process and participating in the discussion of the outcome of the review.

Complaint procedure

- 10** The complaint procedure must be *victim-oriented, efficient and conducted in a timely manner*. The working groups must meet at least twice a year followed by consideration in the Council to ensure a timely consideration of complaints.
- 11** It should address *consistent patterns of gross human rights violations* but also serve as a tool to prevent human rights violations by addressing *emerging patterns* of violations.
- 12** *Transparency* for the victims and complainants must be improved at all stages of the process. As a minimum, the complainant must be informed of the progress and status of the complaint when the complaint is found to be inadmissible, when it is taken up for consideration on its merits and when its consideration is concluded.

Expert Advice

- 13** The *process of selection* of members must be transparent to guarantee the selection of independent and qualified experts. NGOs and independent national human rights institutions must be able to nominate candidates for the expert advisory body.
- 14** The mandate of the expert advisory body must enable the Council to benefit fully from the advice of the experts. In particular, it is imperative that the expert advisory body retain a *right of initiative*, to ensure that expertise is offered to the Council in the most effective way.

Agenda and programme of work

- 15** The future agenda of the Council must be *flexible*. An annual programme of work should complement the overall agenda and bring predictability to the Council's work. Each session of the Council should adopt a detailed programme of work for the following session, allowing all members and observers, including NGOs and national human rights institutions to efficiently schedule their participation.
- 16** The agenda must make provision for *responding to serious human rights situations* to enable the Council to fulfil its mandate to address situations of human rights violations.
- 17** The agenda must enable the Council to address the universality, indivisibility, interrelatedness, interdependence and mutually reinforcing character of human rights by addressing *cross-cutting issues* related to more than one right or category of rights. In particular, the human rights of women and a gender perspective must be integrated into all aspects of the Council's work.

Methods of work and rules of procedure

- 18** The Council's rules of procedure must provide *adequate opportunities for all stakeholders* to participate in all aspects of the Council's work including NGOs and independent national human rights institutions.
- 19** There should be *no special or qualified majorities* for any particular categories of decisions of the Council. All decisions of the Council should be treated on the basis of equality. The work of the Council should be based on the principles of universality, objectivity and non-selectivity in the consideration of human rights issues.
- 20** The Council's methods of work must ensure *follow-up* to decisions of the Council, including the outcomes of the UPR, and the complaint procedure, as well as to the reports of the special procedures and the expert advisory body.

Amnesty International

Asia Pacific Forum on Women, Law and Development

Asian Legal Resource Centre

Association for the Prevention of Torture

Cairo Institute for Human Rights Studies

Center for Legal and Social Studies (CELS)

Conectas Direitos Humanos

CORE Centre for Organisation Research & Education

Democracy Coalition Project

Forum-Asia

Franciscans International

Global Alliance Against Traffic in Women

Human Rights Watch

International Service for Human Rights

International Federation of Human Rights Leagues