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COMMISSION ON HUMAN RIGHTS  
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RATIONALIZATION OF THE WORK OF THE COMMISSION

Written statement\* submitted by South Asian Human Rights Documentation Centre (SAHRDC),  
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[3 February 2003]

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\*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

### Rationalisation of the Commission on Human Rights

The mechanisms of the UN Commission on Human Rights (CHR) came under an unprecedented onslaught after the Vienna World Conference on Human Rights, thanks to the efforts of the Like Minded Group of countries (LMG). The post-Vienna situation was also characterised by the exclusion of NGOs from UN human rights processes.

During the 51<sup>st</sup> Session of the CHR, the Ambassador of Bangladesh called for a Code of Conduct for United Nations Independent Experts. At the 53<sup>rd</sup> Session, a draft resolution on the Rationalization of the Work of the Special Procedure System was circulated – without a sponsor – among a few diplomats who sought to destroy the Special Procedures of the CHR. The resolution was allegedly circulated by Pakistan which was apparently stung by a report submitted by the Special Rapporteur on Torture following his visit to Pakistan (E/CN.4/1997/7/Add.2). The draft resolution was not tabled formally.

At the 54<sup>th</sup> Session, the contents of the draft resolution on Rationalization of the Work of the Commission at the 53<sup>rd</sup> Session were adopted through a seemingly innocuous method – through a decision (1998/122) of the Commission on Human Rights on “Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights”. The resolution decided “to appoint the Bureau to undertake a review of those mechanisms with a view to making recommendations to the Commission at its fifty-fifth session.”

A loose alliance of human rights violators under the LMG umbrella – including Bhutan, China, India, Iran, Malaysia, Myanmar, Nepal, Pakistan, Sri Lanka, Vietnam, Algeria, Cuba, Egypt and Sudan – used the Review of Mechanisms process to weaken the Special Procedures. As the LMG sought to weaken the mechanisms, two working group sessions had to be organised in a calendar year to examine the report of the Bureau on the Rationalization of the Work of the Commission on Human Rights. This was unprecedented in view of the fact that budgetary implications are often cited as a major constraint in the work of the Commission.

### Sub-Commission on Promotion and Protection of Human Rights

The result of the adoption of decision 2000/109 was that while the Sub-Commission can continue to debate country situations not being dealt with by the Commission, and while it should also be allowed to discuss urgent matters involving serious violations of human rights in any country, it cannot adopt country-specific resolutions and must refrain from negotiating and adopting thematic resolutions that contain references to specific countries. It was the LMG countries led by the Asian Bloc that suggested under Recommendation 19 that “[t]he proposal to forward a compilation of debates in the Sub-Commission to the CHR should be rejected and the Sub-Commission's debate on country situations should completely be abolished”. The LMG had a new found ally in the United States after the Sub-Commission unsuccessfully sought to pass a resolution after the United States bombing of a drug manufacturing facility in Sudan in on 20 August 1998.

The Sub-Commission on the Promotion and Protection of Human Rights was devastated. The only independent and expert human rights organ in the United Nations system was virtually disarmed.

The report of the Chairperson of the Sub-Commission on Promotion and Protection of Human Rights to the 58<sup>th</sup> Session of the CHR states: “The ability to prepare draft resolutions on country situations was a very effective means of encouraging constructive dialogue and negotiation between the Sub-Commission and Governments responsible for human rights violations. That approach resulted not in a large number of adopted country-specific resolutions, but rather in a series of statements by the Chairperson accompanied by concrete commitments, voiced and put on the public record, by various Governments to improve the human rights situations within their respective nations”.

The Chairperson of the Sub-Commission further stated: “The inability to pursue country work openly and diligently has significantly hampered the Sub-Commission's capacity to promote and protect human rights around the world. One predictable consequence of the Commission's decision to discourage the Sub-Commission from adopting country resolutions has been a decline in NGO participation in the debate on item 2. Only 21 NGOs spoke in 2001 under item 2, compared with 29 in 2000 and 33 in 1999. Thus, in just two years there has been nearly a 40 per cent decrease in NGO participation under agenda item 2. NGOs are the lifeblood of the human rights movement and of the Sub-Commission's work. Such a decline can diminish the Sub-Commission's impact.”

### Special Procedures

The CHR in its resolution 2002/68 extended the mandate of the Special Rapporteur on Racism, Racial Discrimination, Xenophobia and Related Intolerance. However, it took the unusual step of appointing a new Special Rapporteur – Mr. Doudou Diène, who replaced Mr. Maurice Glèlè-Ahanhanzo - through a resolution. The normal practice involves the Chairperson of the CHR, who, in consultation with the Bureau, appointed the mandate holders of the Special Procedures. Since the 56th session, the Chairperson of the CHR appoints, in consultation with the members of extended bureau, Regional Coordinators pursuant to CHR resolution 2000/109.

If the trend continues, even the mandate holders of the Special Procedures will be subject to approval by the CHR. In order to advance human rights, mandate holders sometimes need to tell the Commission what it does not want to hear. Hence the normal practice of providing them a level of independence but restricted authority. With the new practice, the days of the independent mandate holders of Special Procedures may well be over.

### Durban Declaration and Programme of Action Implementation Process

The CHR's resolution 2002/68 on racism, racial discrimination, xenophobia and related intolerance was disappointing on a number of levels. The resolution established an intergovernmental working group, a Working Group of Experts on People of African Descent appointed by the Chairperson of the CHR and a voluntary

fund. It also recommended the appointment of five independent eminent experts by the Secretary-General to follow the implementation of the provisions of the DDPA and extended the mandate of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

The exclusion of NGOs that characterised the Durban preparatory process continues. The CHR resolution 2002/68, among others, established an intergovernmental working group for implementation of the Durban Declaration and Programme of Action. While the resolution calls upon NGOs, relevant human rights treaty bodies, special procedures and other mechanisms of the Commissions, national institutions, international, financial and development institutions, and specialised agencies, programmes and funds of the United Nations to collaborate with the Working Group of Experts on People of African Descent, the resolution excluded NGOs from participation in the intergovernmental working group. Instead, five independent eminent experts appointed by the Secretary mandated to assist the intergovernmental working group will serve as intermediaries and receive reports from NGOs, among others. NGOs can no longer directly interact with the intergovernmental working group.

In the informal open-ended meetings during the CHR prior to the presentation of the resolution, the Pakistani delegation insisted that no NGOs be allowed to participate in the intergovernmental working group or be nominated for the expert bodies.

The CHR at its 58<sup>th</sup> session passed another resolution on “Enhancing effectiveness of the Commission on Human Rights” (resolution 2002/91). The Asian group’s oral proposal on “biennialization and clustering of agenda items, reduction of the number and length of resolutions through inter-alia, biennialization of as many thematic resolutions as possible, and discontinuation of resolutions which are no longer warranted by existing circumstances, in addition to strict observance of speaking time limits” were fully reflected in the CHR resolution. The text proposed to discuss: (1) the duration of the annual session of the CHR; (2) the frequency of the consideration of agenda items and sub-items; (3) written contributions by members of the CHR, observer States and intergovernmental and NGOs; (4) the organization of work during the annual session, including management of interventions by delegations and the oral presentation of the reports submitted to the CHR.

At the 58th session, the 30 percent reduction in session time provided governments with yet another opportunity to weaken the mechanisms and exclude the NGOs. The ongoing process of “enhancing the effectiveness” of the Commission on Human Rights is clearly intended to perpetuate such exclusion.