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EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS:
ADAPTATION AND STRENGTHENING OF THE UNITED
NATIONS MACHINERY FOR HUMAN RIGHTS

RATIONALIZATION OF THE WORK OF THE COMMISSION

Written statement* submitted by the International Centre for Human Rights and Democratic
Development (Rights & Democracy), 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.

[31 January 2003]

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

1. Since its creation, the promotion and protection of human rights has always stood out as one of the principal mandates of the United Nations. The importance and relevance of this core mission for the work of the United Nations was highlighted in the Secretary General's Report on strengthening the UN: "The promotion and protection of human rights is a bedrock requirement for the realization of the Charter's vision of a just and peaceful world" (A/57/387, paragraph 45).
2. Over the last few years, Rights & Democracy has contributed to the debate around enhancing the effectiveness of UN human rights mechanisms by convening a think tank discussion on "Strengthening the work of the UN on the protection and promotion of human rights: Financing the UN human rights mechanisms" in 2001 and made submissions to the 57th and 58th sessions of the UN Commission on Human Rights. In its submissions, Rights & Democracy focused its recommendations on two main areas: strengthening the effectiveness of the UN human rights system and providing greater resources to the system.

Reform of the UN Commission on Human Rights

3. The Commission on Human Rights has made an important contribution to the promotion and protection of human rights through the elaboration of international human rights treaties and the development of special procedures to examine specific country situations and thematic concerns. However, in recent years, the very body set up to police human rights violations has failed to condemn or to scrutinize countries committing gross human rights violations. The annual six-week sessions of the Commission have degenerated into an adversarial exercise in which progress in the protection and promotion of human rights appears to have become a secondary interest. The Commission is becoming a forum for defending government records, rather than examining them. Steps must be taken to prevent the current situation from recurring or degenerating.
4. Rights & Democracy believes it is time to re-think the structure and working methods of the Commission to overcome new and complex situations that make it more and more difficult for the Commission to fulfil its principal duty to promote and protect human rights. To this end, Rights & Democracy welcomed the adoption, on the last day of the 58th Commission on Human Rights, of Resolution 2002/91 aimed at enhancing "the effectiveness of the working methods of the Commission." It is essential that this new review of the work of the Commission provide the opportunity to strengthen and not to curtail the effectiveness, independence and credibility of UN human rights mechanisms.
5. The present review follows a similar review undertaken in 1998 by the Bureau of the 54th session, which produced a number of detailed and forceful observations and recommendations aimed at "enhancing the capacity of the UN to promote and protect internationally recognized human rights and contribute to the prevention of their violation" (E/CN.4/1999/104), and which recognized the need for substantive change. Many of these recommendations have yet to be implemented and should be revisited during this review. Rights & Democracy believes that any proposals to form the

working methods of the Commission should aim at enhancing the effectiveness of those methods, and not to weaken the Commission's core function of investigating and publicizing human rights violations, and to limit the participation of non-governmental organizations (NGOs) in the process.

Membership of the Commission on Human Rights

6. Rights & Democracy is concerned about the disturbing common practices of States serving on the Commission that refuse to cooperate with the Commission's monitoring mechanisms. States that sit on the Commission, and especially in its executive organ, the Bureau, must be reminded that their membership carries responsibilities and commitments towards internationally recognized human rights. The Commission's credibility and effectiveness are harmed if its own members block visits by the monitoring mechanisms.

7. Rights & Democracy believes that a minimum set of criteria should be adopted for membership in the Commission. All Commission members must show some basic commitment to human rights. Specifically, Rights & Democracy calls on all current members of the Commission and those that stand for election to the Commission to, at a minimum, take or announce their intention to take, the following steps. Adopting such criteria should be a priority for governments interested in enhancing the effectiveness of the Commission:

- Extend a standing invitation to all the Commission's special procedures and cooperate with their request to undertake in-country visits;
- Ratify the following six key human rights treaties and their optional protocols – the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, The Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination;
- Ratify the Rome Statute of the International Criminal Court;
- Cooperate fully with UN human rights mechanisms.

8. Similarly, the increasing tendency on the part of some members of the Commission to use rule 65(2) of the ECOSOC rules of procedure – a motion to take no action – also prevents the Commission from debating the subject matter of a resolution. States must be reminded of the understanding concerning consensus that was achieved at the 1999 session of the Commission that “as soon as the broadest possible agreement is reached” on a particular issue, “all participants will demonstrate a flexible and constructive approach to facilitate consensual outcome”.

Strengthening the effectiveness of the UN human rights mechanisms

9. The UN human rights treaty bodies and special procedures are at the core of the international system for the promotion and protection of human rights. These mechanisms are unique among international human rights bodies and should be

strengthened not weakened. As noted in the 1998 Review of the work of the Commission, the special procedures have been “one of the Commission’s major achievements and constitute an essential cornerstone of United Nations efforts to promote and protect internationally recognized human rights and contribute to the prevention of their violation” (E/CN.4/1999/104, Observation 5). Rights & Democracy hopes that the current review will place the special procedures at the heart of the Commission’s process. We hope that the review will also address, as a matter of priority, the recommendation, in part II, paragraph 95, of the Vienna Declaration and Programme of Action, calling for adequate means for the special procedures and for follow-up to recommendations made by the special procedures.

10. Treaty bodies and special procedures can only be as effective as the support provided by the Office of the High Commissioner for Human Rights (OHCHR) permits them to be. Limited financial and human resources continue to take a toll on the effectiveness of UN human rights mechanisms. As noted by the High Commissioner and his predecessor in the Annual Appeals for 2001, 2002 and 2003, despite the sharp increase in the number of new mandates created by the Commission and expectations placed upon the UN human rights mechanisms, their staffing and other resources have not increased. A danger lies in simply increasing the number of human rights instruments available without first securing funding and attracting political will to support them. Voluntary contributions provide temporary relief, but they are no alternative to stable support from the UN regular budget. This enables the recruitment of professionals but the OHCHR has yet to achieve even the minimum target of one full time professional staff person for each special procedure. What is required is a responsible system for setting up procedures with clear mandates, time frames and resources.

11. Time constraints for presentation and debate of reports of the special procedures is also an issue of concern for the effectiveness of UN human rights mechanisms. In order to facilitate meaningful dialogue, Rights & Democracy recommends that the Commission:

- Produce reports of the special procedures sufficiently in advance of the session;
- Create adequate space for a thorough discussion through meetings with a set agenda in which States, UN agencies and programmes, and NGO’s can discuss: (a) the observations and recommendations of each mechanism; (b) the extent to which current and past recommendations have been addressed by concerned States, and; (c) the degree of cooperation with the Commission and its mechanisms by the concerned States;
- Expand the current time allocation to a minimum of one hour per mandate;
- Request the OHCHR to produce a comprehensive and regularly updated compilation of the recommendations made by the special procedures mechanisms.

12. An effective reform of the UN human rights system also requires the cooperation and assistance of all those involved in the process. Unfortunately, many governments act as though the protection of human rights ends with the ratification of relevant treaties. Many neglect the continuing obligations that these treaties impose on them and their pledge, contained in Articles 55 and 56 of the Charter of the UN, to cooperate with the UN in promoting respect for human rights. Rights & Democracy

fully endorses the observation made by the Bureau in its report the 55th session of the Commission that “the essential foundation on which the effectiveness of the Commission and its mechanisms rests is the responsibility of all governments to cooperate fully with these mechanisms” (E/CN.4/1999/104, Observation 3).

13. Equally important is NGO participation in the Commission. Along with other members of civil society, NGOs have a vital role to play in ensuring that the UN can become a relevant instrument in a world of increasing complexity and live up to its guiding principles as stated in its founding document, the UN Charter, and the Universal Declaration of Human Rights. States must not use the current review as a tool to limit NGO access and participation to the Commission’s process.

14. We urge the Commission on Human Rights to do everything in its power to ensure that a thorough review is given to the working methods of the Commission and the UN human rights mechanisms, addressing the different areas that we have identified above.
