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

Joint written statement* submitted by Friends World Committee for Consultation (Quakers) and Franciscans International, non-governmental organizations in general consultative status, Amnesty International, the Association for the Prevention of Torture, Baha'i International Community, Dominicans for Justice and Peace, Human Rights Watch, the International Commission of Jurists, the International Federation of ACAT, the International Federation of Human Rights Leagues, the International Service for Human Rights and the World Organization against Torture (OMCT), non-governmental organizations 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 2006]

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

Cooperation with Special Procedures

The above-named non-governmental organizations welcome the decision of a growing number of States to issue standing invitations to the human rights mechanisms of the UN Commission on Human Rights. As of 11 October 2005, 53 States have done so – most recently, Serbia and Montenegro and Uruguay.

States that have so far issued standing invitations to the human rights mechanisms are located in all regions. They are: Argentina, Austria, Belgium, Brazil, Bulgaria, Canada, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Germany, Georgia, Greece, Guatemala, Hungary, Iceland, Ireland, Islamic Republic of Iran, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Mongolia, Netherlands, New Zealand, Norway, Paraguay, Peru, Poland, Portugal, Republic of Macedonia, Romania, San Marino, Serbia and Montenegro, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom of Great Britain and Northern Ireland and Uruguay. In this way, they have demonstrated their willingness to enhance their cooperation with these mechanisms and their commitment to the promotion and protection of human rights through the United Nations system.

We call on all States who have not yet done so to issue a standing invitation, in line with UN Commission on Human Rights Resolution 2004/76 on human rights and special procedures which recognized “that standing invitations constitute announcements by States that they will always accept requests to visit from all Special Procedures and encourage[s] States that have not yet done so to consider making such an announcement”. In particular, countries that are members of the Commission should demonstrate their commitment to the Special Procedures that they themselves are responsible for creating by issuing such invitations. It is with great regret that we note the following members of the 2006 UN Commission on Human Rights have *not* yet issued a standing invitation: Armenia, Australia, Azerbaijan, Bangladesh, Bhutan, Botswana,¹ Cameroon, China, Congo, Cuba, Dominican Republic, Egypt, Eritrea, Ethiopia, Guinea, Honduras, India, Indonesia, Japan, Kenya, Malaysia, Mauritania, Morocco, Nepal,² Nigeria, Pakistan, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Sudan, Togo, United States of America, Venezuela and Zimbabwe. We especially encourage Armenia, Congo, and Indonesia, as Bureau members of the 62nd session, to do so.

In particular, if they have not issued a standing invitation, States should do so when seeking membership of the Human Rights Council. In electing the first members of the new Human Rights Council, we encourage UN member States to take account of whether a candidate country has issued a standing invitation as one criterion by which to assess the country’s candidacy.

¹ Of particular relevance to African States are the Robben Island Guidelines (adopted in October 2002 by the African Commission on Human and Peoples’ Rights and endorsed by the African Union in July 2003) which declare that “States should co-operate with the United Nations Human Rights Treaties Bodies, with the UN Commission on Human Rights’ thematic and country specific special procedures...including the issuance of standing invitations for these and other relevant mechanisms”.

² We again urge Nepal to confirm to the Office of the UN High Commissioner for Human Rights in writing the standing invitation issued by their Foreign Minister at the UN Commission on Human Rights on 18 March 2004.

It must be recalled that standing invitations are a means to promoting and protecting human rights through more effective cooperation with the Special Procedures; they are not an end in themselves and must be accompanied by other forms of cooperation. We call on *all* States, whether or not they have issued a standing invitation, to cooperate with the Special Procedures by:

- facilitating their visits in accordance with the Terms of Reference on Fact-finding missions;
- ensuring the widest distribution of the recommendations made following a Special Procedure's country visit, the incorporation of those recommendations into national plans of action and their reflection in national protection systems where appropriate;
- providing information to the Special Procedures on how the recommendations arising from country visits have been implemented, and identifying any obstacles to implementation;
- responding fully and promptly to communications from the Special Procedures, including urgent appeals and letters of general allegation;
- reviewing and acting on recommendations concerning the protection of human rights generally elaborated by the Special Procedures;
- protecting those who provide information to or meet with the Special Procedures from reprisals, investigating and prosecuting those alleged to be responsible for any such reprisals, and reporting publicly on these developments; and
- demonstrating respect for the mechanisms and the mandate-holders, including by refraining from attacks on individual mandate-holders casting doubt on their integrity.

In this respect, we welcome the willingness to accept the visit by one or more special procedures by the following States in 2005: Afghanistan, Albania, Algeria, Belgium, Bosnia and Herzegovina, Botswana, Brazil, Burkina Faso, Burundi, Cambodia, Canada, China, Colombia, Croatia, Democratic Republic of Congo, Ecuador, France, Georgia, Greece, Guatemala, Haiti, India, Islamic Republic of Iran, Israel, Japan, Kyrgyzstan, Lebanon, Mexico, Mongolia, Mozambique, Nepal, New Zealand, Niger, Nigeria, Palestine/Occupied Territories, Russian Federation, Serbia and Montenegro, South Africa, Sri Lanka, Sudan, Tajikistan, Uganda, Ukraine and USA. We urge these States to review and act on the recommendations elaborated by the Special Procedures in their mission reports. We believe that States which are members of the Commission have a particular responsibility to strengthen human rights standards, of which co-operation with the Special Procedures, as just elaborated, is one critical element.

We welcome the recent steps taken by some of the Special Procedures and encourage others to follow their example, in particular:

- to establish mechanisms for follow-up to country missions, including through seeking information from States and non-governmental organisations on implementation of recommendations;
- to develop criteria to determine what constitutes a full and satisfactory reply from governments, and identify clearly those responses which fail to meet these criteria;
- to highlight general recommendations on the protection of human rights in their public reports and on the website in order to facilitate increased reference to and use of their recommendations; and
- to highlight in public reports the outstanding mission requests where the State has systematically failed to give a positive response.

We also welcome the decision of the twelfth Annual Meeting of the Special Procedures, in June 2005, to establish a coordination committee, whose principal role will be to contribute to the ability of the individual experts to carry out their mandates in the most effective way and to promote the standing of the special procedures system within the broader framework of the United Nations and its human rights programmes.

Finally, we urge the Commission to make better use of the analysis and recommendations of the Special Procedures in its work, which would help to depoliticize its examination of both thematic issues and country situations, and to pay particular attention to those States that fail to cooperate with or respect its mechanisms.

Background to Standing Invitations:

Since the 1980s, the UN Commission on Human Rights has established a number of human rights mechanisms, known generically as the "Special Procedures". In particular the thematic procedures consist of Special Rapporteurs, Special Representatives, Working Groups and Independent Experts who are charged with considering a specific human rights issue in relation to all countries in the world. As part of their work, the Special Procedures visit countries in order to examine at first hand the situation in relation to the issues within their mandate, and report to the Commission on these visits. In order to undertake a country visit, traditionally the individual mechanism has to be invited by the State concerned. At present, the process is almost always initiated by the Special Procedures themselves approaching the State expressing the wish to visit and asking for the necessary invitation. Some States respond promptly to such requests, some respond eventually and some fail to respond at all. This also means that resources are used in soliciting invitations rather than on the implementation of the mandates. Since all the Special Procedures are established by resolution of the UN Commission on Human Rights in which all the member States of the UN can participate and since country missions are part of their established methods of work, States should do their best to facilitate such visits.

A simple and effective way of helping to do this is for each State to issue a standing invitation to visit their country to all the Special Procedures of the Commission. This:

1. Demonstrates their commitment to co-operation with these procedures;
2. Enhances the efficiency of the process by reducing delays and decreasing the administrative burdens on all parties;
3. De-politicizes the process of country visits by shifting the focus away from the question of access, to questions of substance; and
4. Enables the procedures (individually and corporately) to plan and prioritize visits more effectively, knowing that the invitation to visit already exists and remains open.

By issuing a standing invitation, a State signals its commitment to the UN system of human rights protection of which the Special Procedures form an integral part. As the standing invitations increase in number, the Special Procedures system and the UN Commission on Human Rights as a whole are necessarily strengthened. With the Commission presently expending substantial efforts toward enhancing its effectiveness, member States could make a major contribution toward that end through issuing a standing invitation.

Practicalities

1. A State could announce its decision to extend a standing invitation to the Special Procedures at the 62nd session of the UN Commission on Human Rights, and submit it in writing to the

Office of the UN High Commissioner for Human Rights. The wording used by Norway, the first country to issue a standing invitation, was: "*Norway would also like to extend an open invitation to all Special Rapporteurs and other mechanisms under this Commission to visit us at any time*", Hilde F Johnson, Minister for International Development and Human Rights of Norway, 26 March 1999.

Alternatively

2. A State could deposit the standing invitation with the UN High Commissioner for Human Rights. A simple letter to this effect, lodged with the High Commissioner, would be sufficient. A request that the letter be circulated as a document of the UN Commission on Human Rights would ensure that the invitation was brought to the attention of other States and non-governmental organizations. The website of the Office of the UN High Commissioner for Human Rights includes a list of States which have issued standing invitations, so this information is readily available to all interested parties (<http://www.ohchr.org/english/bodies/chr/special/invitations.htm>).

3. The Special Procedure wishing to take up such an invitation would contact the government to inform them of the intention to visit and to arrange the timing and other aspects of the visit as at present.

Commentary

In practice, for those States that accept visits from Special Procedures already, there would be no substantive change. Since the Special Procedures would still be undertaking visits only at the invitation of the Governments, albeit a standing invitation, it should not in any way be objectionable to States. At the same time, as a growing number of States issue such invitations, it facilitates the work of the Special Procedures and demonstrates the good faith of States in accepting their obligation to co-operate effectively with the mechanisms which they themselves have created through the UN Commission on Human Rights.

Recommendations

The above named Non-Governmental Organizations call on:

1. All States, in particular members of the Commission, that have not yet done so to issue standing invitations for country visits to all human rights mechanisms of the UN Commission on Human Rights, in line with Commission resolution 2004/76;
2. All those States that have already extended a standing invitation to encourage all those States that have not yet done so to consider doing so;
3. The Office of the UN High Commissioner for Human Rights to draw this possibility to the attention of States; and
4. All States, whether or not they have issued a standing invitation, to cooperate fully with the Special Procedures of the UN Commission on Human Rights, *inter alia* by responding promptly and substantively to communications, by expediting access for country visits when requested, by reviewing and acting on recommendations, and reporting to the relevant Special Procedure on follow-up action taken.
5. If they have not issued a standing invitation, States should pronounce their willingness to issue one when seeking membership of the Human Rights Council. In electing the first members of the new Human Rights Council, we encourage UN member States to take account of whether a candidate country has issued a standing invitation as one criterion by which to assess the country's candidacy.
