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HUMAN RIGHTS COUNCIL  
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**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251  
OF 15 MARCH 2006 ENTITLED "HUMAN RIGHTS COUNCIL"**

**Written statement submitted by International Educational Development, Inc.,  
a non-governmental organization on the Roster**

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

[16 June 2006]

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

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1. Following a tumultuous two year process to “reform” United Nations work in the field of human rights, on 15 March 2006, the United Nations General Assembly adopted resolution 60/251 formally establishing the United Nations Human Rights Council (the Council) as a subsidiary body of the General Assembly.

2. Most people were shocked that the United States voted no, because the United States seemed to be a strong advocate of United Nations reform. International Educational Development was not at all shocked, as the final outcome of the process -- the Council -- was a far cry from what the United States wanted from United Nations “reforms” in the area of human rights. A review of the United States plan for the Council is revealing: the United States wanted a very small body-- perhaps somewhat larger than the Security Council but not much. The United States wanted the venue to alternate between New York and Geneva. The United States wanted the Security Council permanent members to have permanent seats, with the remainder of seats based on human rights compliance (with no set out criteria) rather than by geographic distribution. Finally, the United States wanted the Council, as a subsidiary of the General Assembly, to compete with the Economic and Social Council (ECOSOC). In our view, this was to be a first step in limited review of economic, social and cultural rights at the Council, as these would be addressed by ECOSOC. This conforms with the long-standing United States hostility to economic, social and cultural rights as a whole, illustrated not only by the failure of the United States to ratify the International Covenant on Economic, Social and Cultural Rights or any other treaty relating to these rights (CEDAW, ILO Conventions) but also the regular and repeated opposition by the United States to any mandate of the Commission or Sub-Commission that relates to economic, social or cultural rights. In sum, the United States wanted a small Council, stripped of economic, social and cultural rights, based mostly in New York, and with its own permanent membership.<sup>1</sup> It does not require much reading between the lines to see that the United States wanted substantial control over the Council.

3. We are pleased that in the process of creating the new body there was agreement rather early on that the Council should be relatively large rather than small -- and indeed with forty-seven members for the Council versus fifty-three for the Commission, the Council is not much smaller. In any case, most Member States and NGOs had no real problems with the size of the old Commission or on the normal United Nations “geographic distribution” formula, also retained. There was also rather early agreement that the mandate of the Council would be essentially the same as that of the Commission in terms of both economic, social, economic, civil and political rights: preambular paragraph three of resolution 60/251 is actually worded rather strongly in this regard, as the General Assembly

“[r]eaffirm[s] . . . that all human rights are universal, interrelated, interdependent and mutually reinforcing, and that all human rights

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<sup>1</sup> Most people in Europe are not familiar with the fact that when the United States was not elected to the Commission, the United States government and media presented to the American people that Sudan received the United States seat. Of course, that is impossible as Sudan received an African bloc seat. The U S also used the election of a Libyan as Chair of the Commission as evidence of the corruption of the Commission, even though it was Africa’s turn in the rotation for Chair and the African bloc, under leadership of South Africa, chose the Libyan. Most non-governmental organizations are of the opinion that the Libyan was one of the best chairs the Commission has had.

*must* be treated in a fair and equal manner, and on the same footing and with the same emphasis.” (Emphasis added).<sup>2</sup>

4. While most were pleased that the Council would meet for a total of ten weeks rather than six weeks the Commission sat, a number of NGOs were concerned about the United States intention that the Council meet at least part of the time in New York. The main concern of many NGOs is that the United States is making it increasingly difficult to obtain visas: many NGOs felt that they would be effectively censored by visa denials. Many NGOs and Member States were also concerned that sessions in New York, rather than in Geneva where the office of the High Commissioner is located, would be disruptive and very costly. Fortunately, having the Council permanently based in Geneva won.<sup>3</sup>

5. In an attempt to prevent States with poor human rights records from being elected to the Council, resolution 60/251 provided for States to submit “voluntary pledges” for election and that all Member States of the Council would be reviewed during their term. The components of the voluntary pledges were: ratification of human rights instruments, compliance with human rights and cooperation with human rights mechanisms. All States that ran for election submitted voluntary pledges. The process, however, did not keep major human rights violators from being elected. For example, Sri Lanka, a country under review by essentially all Commission mandates, squeaked in as the last of thirteen on the Asia list. China, India, Pakistan, and Bahrain, other Asian countries widely criticized for serious human rights violations, were also elected.<sup>4</sup> While again many people were surprised that the United States did not run, we were not. The United States has not ratified some of the most important human rights treaties, it has ratified others in a “non-cooperative” way by not allowing individual complaints to treaty bodies, it is currently charged with many human rights and humanitarian law violations in the course of its presence in Iraq and Afghanistan, and it has a very poor record of cooperation with special rapporteurs, working groups and the Organization of American States Inter-American Commission on Human Rights. Further, as the election process would receive more United States media attention in the United States than human rights sessions in Geneva normally do, we suspect that the United States did not want to answer to its human rights record under public scrutiny.<sup>5</sup>

6. We still question whether this new Council will be able to do away with the ills of the Commission. First of all we wish to state that the mechanisms and procedures of the old Commission worked very well. This includes the work of the working groups, country-specific and thematic special rapporteurs, representatives of the Secretary-General, and

<sup>2</sup> Preamb. para. six further reinforces economic rights in its acknowledgment that development and human rights are also “interlinked and mutually reinforcing.”

<sup>3</sup> The placement of this in op. para. 1 provides a special emphasis. The Council has not yet decided how the ten weeks will be scheduled.

<sup>4</sup> Ghana received 183 votes, the most of any country. It is interesting that all thirteen of the African States elected each received more votes than any of the Western European and other group: Algeria, the thirteenth African State received 168 votes and Germany, the first of the 7 Western group, received 154. The Eastern European group received the lowest numbers of votes, and in the first round only three States of the six to be elected received the minimum 96. The United States’ apparent “arch enemy” Cuba received more votes than Finland or Canada.

<sup>5</sup> Some NGOs indicated that in spite of that record, it was better to have the United States on the Council to validate the importance of human rights. We disagree. Until there is a change in United States policy, the United States will remain in a somewhat hostile position to the United Nations as a whole, and its human rights work in particular, whether on or off the Council.

independent experts appointed by the Office of the High Commissioner.<sup>6</sup> While we did not always agree with the evaluation of a specific situation or case, for the most part our disagreement was limited to the “reasonable people may differ” approach rather than any sense of undue politicization or double standards on their part. This is an important point, as in our view the politicization and double-standards charges directed at the Commission, a major impetus in the reform leading to the Council, was at the hands of the Member States themselves, not either the Secretariat or mandate holders. A key player in the politicization of the Commission was none other than the United States – the State most responsible for the process of change from Commission to Council. The new Council is still a forum composed of Member States who still have their own agendas. So as far as the “politicization” and “double standards” problem so often used against the Commission, reform in this area may prove difficult. Defenders of human rights will be facing the same Member States. In this regard, the change from Commission to Council may be one in name only.

7. The perceived ills of the Commission must be fully addressed by the Council if the Council is to in fact become an improved human rights forum. As a minimum, the Council must set out clear criteria for review of all countries to avoid the “double standard” charge. In our view, an essential component of such criteria should be review of the reports of the working group, rapporteurs and other mechanisms: when a country has been criticized in a certain number of them, that country should automatically be assigned a special rapporteur or other type of individual assessment. We again point out the situation in Sri Lanka, under review by essentially all mandate-holders of the Commission, but which, for political reasons, was not under the mandate of a special rapporteur. The same is also the case with Turkey. If the Council does not take up these situations, then it will clearly fail to “reform” the UN processes.

8. Discussing both Sri Lanka and Turkey leads our organization to question the insistent litany that the armed conflicts and over-all situation in both countries one of terrorism and counter-terrorism as the governments in question and the United States try to convey. This mischaracterization of the situations leads to absurd contentions by the governments in question. We note with alarm, for example, the statement of the Turkish Prime Minister: “our security forces will use the necessary force and intervene against anybody who agrees to be a tool of terror, including children and women. I want this to be clearly understood.” This statement amounts to a license to kill – a green light for more massacres of the Kurdish civilian population. The distinguishing of terror is certainly very vague, but according to Prime Minister Erdogan, the killing of children is part of “necessary” intervention by the state. We are appalled. We view this as improper and indiscriminate use of the terms ‘terrorism’ and ‘terrorist.’ Special Rapporteur Martin Scheinin in his report “Promoting the Protection of Human Rights and Fundamental Freedoms while Counter Terrorism” concurs.<sup>7</sup> During his visit to Turkey, conducted

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<sup>6</sup> While op. para. 6 of resolution 60/251 indicates that the Council will in its first year review the “mandates, mechanisms, functions and responsibilities” of the Commission, we hope that the Council will make precipitous changes. In similar fashion, the Council assumes the same role relating to the work of the Office of the High Commissioner for Human Rights (op para. 5(g)) and provides for the participation of NGOs as at the Commission (op. para. 11). It is not so clear what will happen to the Sub-Commission as it was not mentioned in resolution 60/251. In our view it is essential that the Council maintains the Sub-Commission, but, of course, it will need to be renamed.

<sup>7</sup> For his main report, see E/CN.4/2006/98, in which he discusses his then forthcoming visit to Turkey.

between 16-23 February 2006, he underlined the vagueness of Turkey's use of the terms, and stated:

“in Turkey the term “terrorist” continues to be used to refer to a large number of individuals, their organizations and activities, even if no connection to the commission of crimes which fall under a definition of terrorism that complies with the principle of legality has been established.”

Special Rapporteur Scheinin warned that such indiscriminate use of the terms “terrorism” and “terrorist”, apart from the concerns as to the principle of legality [in light of humanitarian law norms], risks undermining the effectiveness of the struggle against terrorism. Furthermore, he noted a lack of transparency as to which organizations are classified as terrorist ones, the procedure of classification and to the consequences of such classification. The Council, if it is not to fall prey to the same evils of the Commission, will have to rigorously apply humanitarian law and clearly separate terrorism from armed conflicts, especially important regarding both Turkey and Sri Lanka.<sup>8</sup> In this light, the Sub-Commission's work in this area, with the elaboration of guidelines on terrorism and human rights that take into consideration the application of humanitarian law, should be firmly supported by the Council.

9. In similar fashion, specific criteria for cooperating with the Council will have been drawn up, and an annual country-by-country review prepared. We will be closely watching the Council to see if it will undertake meaningful initiatives to address this issue.

10. In conclusion, while in our view the end result of the process to reform was to reinvent almost the same wheel, it did provide the international community an opportunity to focus more acutely on the problems inherent when States set out to review human rights standards of themselves and other States and to investigate if it is possible within the United Nations system to have a “transparent, fair and impartial” body as boldly set out in operative paragraph 12 of resolution 60/251. We find it hopeful that this same operative paragraph pushes the Council towards results. If the Council is able to be results-oriented with limited politicization, then the “almost the same wheel” may be able to succeed. In any case, in the context of reform, the Member States at least reaffirmed the importance of the full realization and enjoyment of human rights on the security of the world and future generations. As had been the case at the Commission, the work and efforts of the NGOs will help assure that the lofty goals of the Council can be met.

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<sup>8</sup> Regarding our concerns about the geopolitical interests of the United States in Sri Lanka, please see our written statement to the 62d session of the Commission, E/CN.4/2006/NGO/207, as well as our concerns about the politicization of the child soldier issue, set out in E/CN.4/2006/NGO/209.