

REFORM OF THE UN COMMISSION ON HUMAN RIGHTS

STUDY COMMISSIONED BY
THE SWISS MINISTRY OF FOREIGN AFFAIRS
(POLITICAL DIVISION IV)

by

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Bern/Geneva 30 August 2003

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I. INTRODUCTION

1. The Context

The UN Commission on Human Rights (hereinafter: CHR or Commission) is the world's main political body where decisions about new standards, the creation of new special procedures for the monitoring of certain human rights guarantees and the advancement of human rights in specific countries are taken by its 53 member States that represent the international community. While the CHR still plays a critical role in the area of human rights, there is a growing feeling among many governments, non-governmental organisations (NGOs) and experts that reforms are needed in order to improve its work. Concerns raised relate to issues such as a lack of efficiency and impact of the CHR's work, the role of NGOs, the composition of this body or the agenda of the yearly sessions.

These concerns have triggered, in recent years, several attempts to reform the CHR. In 2000, an inter-sessional open-ended working group on enhancing the effectiveness of the mechanisms of the Commission submitted its report to the Commission¹. In Resolution 2002/91, the Commission decided to initiate "a thorough review of the issue of the enhancement of the effectiveness of the working methods of the Commission." Based on this resolution, the Expanded Bureau of the Commission presented a list of recommendations to this year's Commission, as authorised by CHR decision 2002/115². With decision 2003/116 of 25 April 2003, the Bureau of the Commission was authorised once again to prepare, after consultation with the regional groups, proposals to be recommended to the Expanded Bureau of the 60th session in order to improve further the organisation of work of the Commission.

2. The Terms of Reference

It is in the context of these ongoing discussions that the Swiss Federal Department of Foreign Affairs (Political Division IV) asked us to conduct a study and prepare proposals addressing the following questions:

"1. Composition of the Commission:

- Should the Commission be expanded/ reduced? If so, how and according to what criteria?
- Membership according to particular criteria? If so, which ones? On what should the new criteria be based and where?
- Alternatives (voie médiane), to raise the credibility of the members?

2. Organisation of the Commission and the ability of the Commission to function properly

- *Agenda:* Does the existing agenda still correspond with current needs? If not what form should a new agenda take?

¹ E/CN.4/2000/112.

² E/CN.4/2003/118.

- *New forums:* In 2003, the high level segment and the interactive dialogue were introduced. Can these new forums be improved? And are new different forums necessary?

3. NGOs

What role should NGOs play in the future? Can this role be improved?

4. Resolutions

- *Efficiency question:* Every year the texts get longer, and there are increasingly disputes about form rather than substance. How and according to what criteria could resolutions be shortened?
- *Thematic Resolutions:* Should they be discussed only every two or three years? What should their relation to the mandates of Special Rapporteurs be?
- *Country resolutions:* Politicisation and bloc-building in the context of point 9 of the agenda has increased. Are there other, new ways to address serious violations of human rights in specific countries?
- *Dialogue forums:* Should dialogue forums be introduced between the regional groups and/or blocs (OSI or LMG) in order to discuss country resolutions in advance?
- *Implementation:* How can the resolutions of the UN Commission on Human Rights be better implemented? What is the role of Special Rapporteurs in this regard?

5. Procedures

With the proposed reforms, procedural rules will have to be amended. Can you make some concrete proposals in this regard?

6. Human and financial resources

More than 3,000 persons registered for the 59th UN Commission on Human Rights. The Commission absorbs enormous financial and human resources, at least a part of which could put to better use. Could you give your thoughts on this matter?

3. The Methodology

In order to prepare this study, the Swiss Federal Department of Foreign Affairs provided us with a series of reports from several Swiss Embassies all over the world on the perspective of their respective host country's governments regarding the present situation of the Commission. We studied all relevant documents of the Commission published in recent years on the issue of reforms. Finally, we conducted a series of informal meetings with the Office of the High Commissioner for Human Rights, present or past co-ordinators of all regional groups, and several non-governmental organisations. Views gathered in the course of these meetings are reflected in this report but not attributed to specific sources.

The focus of this study is on answering the questions submitted to us in a way that is pragmatic and suggests a step by step approach rather than a grand design for a to-

tally remodelled Commission. While some States might be willing to go for major reforms, there is no uniformity of approaches and it is clear that no consensus on far-reaching structural reforms can be achieved in the present political circumstances, in particular because such decisions would require unanimity³.

This study has certain *limitations*: The short time available for its preparation did not allow for an in-depth analysis of the work and the workings of the CHR as well as of the legal dimensions of certain reform proposals although such an analysis would have been a necessary prerequisite for developing really innovative reform proposals.

The main limitation of the study probably rests in the approach taken by the terms of reference. The questions submitted to us seem to suggest that what is perceived by many as a deep political crisis of the Commission could be overcome by incremental reforms regarding procedures and working methods. This in turn implies that dysfunctional working methods are the cause of the problem. Discussions led during the preparation of this study as well as our own observations and analysis indicate a reverse causality: It might well be that the present tensions between different countries and regions are causing the present dysfunctions of the Commission. This would mean that reforms even if fully implemented would solve problems only partially, at best.

4. Some Remarks on the Tasks and the Functions of the Commission

The guiding principle for the reform of the Commission should be to enable it to better fulfil its tasks and main functions. Such a functional approach to reform is, however, marred by the difficulties arising from the fact that States, today, disagree to a large extent as to which tasks priority should be given. While some States see the Commission as the main instrument to react to human rights violations in specific countries, other States are worried about the perceived selectivity of “finger-pointing” exercises and would prefer if the Commission would focus on promoting human rights in a general manner. While hardly any State openly calls for the abolition of any of the present tasks of the Commission, many would like to shift the focus of its present activities away from certain issues and put more emphasis on other issues. Hardly any consensus, however, has been reached on what these priority issues should be. This lack of consensus about the primary functions of the Commission underlies many of the battles on technical aspects of the reform and makes it difficult to agree on even small steps towards real reforms.

In this context, it is useful to recall the original mandate of the Commission as adopted by ECOSOC in 1946. It consisted of the following elements: “(a) formulation of an international bill of rights; (b) formulation of recommendations for an international declaration or convention on such matters as civil liberties, status of women,

³ See E/CN.4/2003/118, paras. 1 – 3.

freedom of information; (c) protection of minorities; (d) prevention of discrimination on grounds of race, sex, language, or religion; and (e) any other matter concerning human rights not covered by items (a) (b) (c) and (d)."⁴ While the Commission during its first twenty years of existence focused on its standard setting role, its activities expanded subsequently to cover (although to a different degree) all aspects of the original mandate. In particular, responding to serious human rights violations evolved as one of the main tasks once ECOSOC resolutions 1235 (XLII) and 1503 (XLVIII) were adopted.

Today, the main functions of the Commission⁵ are the following:

- *Standard-setting*, i.e. the preparation of texts for new conventions or declarations on specific human rights guarantees or procedures for the implementation of human rights. This function has become less important than it was during the years when the two UN Covenants and many of the important human rights conventions were drafted. However, as is evidenced, *inter alia*, by the recent adoption of the Optional Protocol to the Convention against Torture or the current preparation of a convention against forced disappearances, it continues to be a relevant part of the Commission's activities.
- *Responding to violations*: Despite its original mandate to deal with "any matter concerning human rights ...," the Commission was initially reluctant to deal with allegations of human rights violations in a specific country. Its attitude changed when ECOSOC adopted resolution 1235 (XLII) in 1967 authorising the Commission "to examine information relevant to gross violations of human rights" in a public procedure. ECOSOC further adopted resolution 1503 (XLVIII) in 1970⁶ on the confidential discussion of situations appearing to reveal "a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms." Since the adoption of these resolutions, the Commission has been dealing with a large variety of violations of human rights in many countries. In this regard, the Commission has developed different techniques. Within the framework of special procedures based on resolution 1235 (XLII), the Commission distinguishes between a "country-oriented" and a "thematic" approach. While the first approach addresses violations in a specific country on the basis of information provided by a country rapporteur, thematic procedures deal with violations of specific human rights guarantees wherever they occur. In recent years, the number of country specific mandates (presently 10)⁷ has diminished while the number of thematic mandates (presently 23) is still growing.

⁴ Mandate of the Human Rights Commission adopted by ECOSOC in June 1947 as summarized by Philip Alston, *The Commission of Human Rights*, in: Philip Alston, *The United Nations and Human Rights – A Critical Appraisal*, Oxford 1992 pp. 127.

⁵ For a detailed description see *id.*

⁶ The 1503-procedure was slightly modified in 2000 by ECOSOC Resolution 2000/3.

⁷ Some of these mandates were established under item 19 of the agenda on advisory services and technical assistance.

- *Promotion of human rights:* In order to promote human rights in particular countries, the Commission is providing advisory services and technical cooperation in the field of human rights. Moreover, calling for the ratification of human rights treaties and activities aimed at the protection of human rights defenders promote human rights in important ways. Other promotional activities include studies and seminars.
- *Clarifying conceptual issues:* Through studies, working groups, special thematic procedures and standard setting activities, the Commission contributes to the clarification of important conceptual issues underpinning human rights. On-going work on the right of development, the rights of indigenous peoples or the relationship between human rights and poverty are examples.
- *Providing a forum allowing to address publicly all contemporary issues related to human rights:* The activities of the Commission often do not lead to the desired results and their impact is sometimes limited. Even if one takes these limitations into account, the Commission provides a unique forum for addressing publicly all contemporary issues related to human rights on a universal level. This is especially true because the work of the Commission is not limited to governments but also provides NGOs and independent experts with possibilities to raise issues or comment on them. In this regard, the Commission is unique as it allows victims and those working at the grass-roots level to voice their grievances and to bring them to the attention of the international community.

It is not possible to describe and analyse here the achievements of the Commission in recent years. We feel, however, that despite the present difficulties, the overall record of the Commission is still positive. During the last decade, the Commission, *inter alia*, has been able to put the earlier totally neglected issue of the protection needs of internally displaced persons on the international and in many countries also on the domestic agenda, to highlight the protection of human rights defenders, to bring the burning issue of violence against women into the human rights mainstream or to advance the prevention against torture by elaborating an optional protocol to the Convention against Torture. Despite all difficulties encountered, it has also made important contributions on issues such as the human rights protection of indigenous peoples, the right to development, or the promotion of economic, social and cultural rights.

II. ISSUES AND PROPOSALS

1. Composition of the Commission

1.1 Size

The Commission originally had 18 members. Membership was gradually expanded to 21 in 1962, 32 in 1967, 43 in 1980 and the present 53 members in 1992⁸. Today, its composition represents the five regional groups⁹. The limited number of members who have joined the UN since the end of 1992 (12)¹⁰ would not really justify a further expansion. Such expansion would probably not have any measurable impact on the performance of the Commission.

To considerably *reduce the size of the Commission* could be justified by the hope that a smaller body would be able to work more efficiently. We doubt, however, that this would be the case. As long as tensions between different States and groups of States regarding human rights issues remain as acute as today, a smaller body would face the same difficulties in reaching consensus as the actual Commission. The main argument against a reduction, however, is the need to have a membership that is representative of the international community. Since the end of the cold war the degree of pluralism of opinions among the members of the UN has grown to an extent that would make it very difficult to have all main groups properly represented in a smaller Commission. In addition, the competition for membership would become even more fierce and political than today. The main victims of such development would probably be the smaller States or those who are not part of a strong regional alliance.

One idea that has come up in recent debates is to enlarge membership to all (presently 191) members of the United Nations, i.e. to *make it universal*. This solution would have the advantage that "membership criteria" (discussed below) would no longer be an issue and that each State would have the same chance to contribute to the work of the Commission. While meriting some proper discussion, a universal membership in the Commission raises more questions than solutions to the problems at hand. As such, a universal membership will not sufficiently address the much complained of "politicisation" of the Commission and will probably make it more difficult to manage because of even more competing groups and alliances. Concerns about the duplication of the work between the Commission and the Third Committee of the General Assembly are likewise valid. It would also be questionable, if decisions of a universal body could be rejected or modified by a 54-member ECOSOC, a body whose existence and membership is determined by the UN Charter¹¹. As an alternative, the Commission could be made directly answerable to the General Assembly, but this would require a modification of the Charter as the Human Rights Commission

⁸ Alston, *op.cit.*, p. 194.

⁹ Asia and Pacific States: 12; Africa: 15; Latin American and Caribbean: 11; WEOG: 10; and Central and Eastern Europe: 5.

¹⁰ The UN had 179 members in 1992.

¹¹ The UN Charter, Chapter X, article 61 (1).

is defined by Article 68 of the Charter as one of the functional commissions of ECOSOC.

In conclusion, we **recommend** not to alter the size of the Commission but to keep the membership of 53 States.

To keep the present composition of the Commission would not exclude the desirability of discussing, with a long-term perspective, *possible visions* of a much stronger and efficient Human Rights Commission. Such visions whose realization would involve a major revision of the UN Charter could include the idea of creating a Human Rights Council as new *main* UN Body with universal membership and the possibility of taking binding decisions regarding the promotion and implementation of human rights (e.g. by a qualified majority)¹². Justification for such a radical reform could be found in the fact that with the General Assembly, the Security Council and the ECOSOC a specific organ has been created for all other main purposes of the UN listed in Article 1 of the Charter, while the goal of “promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion” as embodied in paragraph 3 of this provision, has been relegated (at least in practice) to a subsidiary body of ECOSOC only¹³. The creation a Human Rights Council would give institutional recognition to the paramount importance of the human rights goal of Article 1(3) Charter in the present world. Of course, an examination of the implications of such a reform as well as its more technical aspects would need a careful assessment that lies outside the purview of this study.

1.2 Membership in the Commission

Elaborating standards reinforcing the protection of human rights, responding to serious violations, promoting human rights and contribution to the clarification of their conceptual underpinnings are all tasks that cannot be performed by States that lack credibility in human rights matters. It cannot be denied that on several occasions, States became members of the Commission not in order to contribute to the goal of promoting and strengthening human rights as embodied in Article 1(3) UN Charter, but rather with a view to protect themselves against criticism regarding serious human rights violations by their own authorities. For this reason, several States and many NGOs feel a need for introducing criteria that States would have to fulfil in order to become members of the commission. Other States consider that the imposition of formal criteria and assessments of the human rights situations in countries that run for election would not be compatible with the fundamental principle of the sovereign equality of States. Some NGOs think that formal criteria, while important benchmarks in the human rights performance of States and could be credible indicators, do not,

¹² This would mean that the General Assembly would no longer directly deal with human rights.

¹³ Article 62(2) Charter entrusts ECOSOC with making “recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all”, but, in practice this has remain a largely formal task of ECOSOC.

however, take into account an actual assessment of the realities of human rights situations of the countries concerned.

While it is often said that criteria are necessarily subjective and political, it would, in our opinion, be possible to define objective standards for eligibility:

- Positively formulated criteria could include issuance of standing invitations to and co-operation with the Commission's special procedures, ratification of (almost) all the major UN human rights instruments, acceptance of individual communication procedures under these instruments, and a positive reporting record to the treaty-bodies. Other possible criteria are: setting up a national human rights institution that abides by the Paris Principles; being a donor to UN voluntary funds (regardless of amount).
- Negatively formulated criteria could include: being the object of a country resolution under point 9 of the Agenda, being on the list of States whose human rights situation is considered under the 1503-procedure, or having refused, for a specific period of time, to co-operate with the Commission's special procedures.

While it is true that the credibility and thus the long-term impact of the Commission depends, to a large extent, on the credibility of its members, there are several arguments speaking against the introduction of specific criteria that determine eligibility:

- The principle of sovereign equality of States embodied in Article 2(1) UN Charter limits the possibilities of excluding, a priori and formally, certain member States of the UN from running for a seat in the Commission. The principle of sovereign equality certainly allows to exclude from commissions and other bodies States that are unable to fulfil the tasks required from them (functional approach); however, to make membership formally dependent on the performance in the area dealt with by the organ concerned would be highly problematic. For example, it would hardly be permissible to restrict membership in bodies concerned with disarmament to countries that have already disarmed.
- The positive criteria mentioned above are probably setting the benchmark too high: Numerous past members of the Commission including such that have very constructively contributed to the work of the Commission, would not meet these criteria, especially if it taken cumulatively. To single out one or a few criteria would either be political¹⁴ or, depending on the criteria, not effective¹⁵. The Commission would probably be more productive if membership was limited to States with an above the average commitment for human rights, but its credibility and impact would clearly suffer if it were perceived as an exclusive club of "idealists" trying to lecture all other States about their duties. The only chance for a sustainable impact of the human rights idea is a solid consensus

¹⁴ Ratification of all or almost all the major UN human rights treaties, acceptance of individual complaints procedures or standing invitations, e.g. would automatically exclude countries like the US or India from membership.

¹⁵ The criteria of being a donor to UN voluntary funds regardless of amount can be fulfilled by every State.

among a dear majority of States. Such consensus cannot be reached if States with governments having certain doubts and reservations regarding human rights cannot participate in the necessary discussions. Exclusion of important parts of the international community from elaborating new standards and from addressing violations would most probably provoke negative reactions that would seriously affect the impact of the Commission.

- The negative criteria mentioned above would have the advantage of excluding States that cannot credibly carry out their tasks as members because they are directly and negatively affected by the Commission's decisions and, understandably, focus their energy on defending their own interests. They would probably have a less limiting effect than the positive criteria mentioned above. Despite these advantages, negative criteria are problematic, too: First, they do not correspond with established diplomatic traditions that prefer positive approaches over negative ones. Second, they would create difficulties if a country, after being elected to the Commission, were included in the list of 1503-countries or would become the object of a country specific mandate. Third, they would strongly contribute to a further politicisation of the 1235- and 1503-procedure: Apart from very clear cases, considerations of (potential) future membership in the Commission would necessarily inform the decision as to whether or not to submit a particular country to such a procedure.

For these reasons, we do **not recommend** to introduce explicit criteria limiting eligibility for membership in the Commission.

However, this does not mean that one should not strive to improve the composition of the Commission. This can be achieved by informally using soft criteria. At a general level, there should be an understanding that all candidates standing or proposed for CHR membership should strive to commit to human rights principles and cooperation with international human rights mechanisms. Instead of a list of formal criteria, this understanding could take the form of "commitments" that candidates would announce before the election and express publicly once elected. An essential aspect of such commitments would be the willingness of the country concerned to be subjected to international scrutiny under the agenda items on country situations. Other commitments could include ratification of certain human rights treaties, accepting the competence of treaty bodies to consider individual communications, special contributions to voluntary funds, or the implementation of major steps to improve the protection of human rights at the domestic level. States should also commit themselves to enable the Commission to work properly and efficiently. Thus, in a mid-term perspective, such "commitments" could be formalised by instituting "formal declarations" by members starting their respective terms of three years. Meanwhile, States interested in pushing this idea could start to make such declarations on their own, in the absence of any formal agreement, in order to set an example that might encourage other States to follow this practice.

It would be important to reach an informal understanding about the role and moral responsibility of the regional groups in this regard. They should encourage their can-

didates to make such commitments and should follow a credible and transparent "peer review" mechanism to assess the credibility of their candidates.

The "soft" approach to criteria proposed here would enable the States to retain their prerogative as sovereign States while allowing both the international community and the general public to have a more balanced assessment concerning the credibility of the members of the Commission.

In conclusion, we **recommend** a policy of encouraging States to make specific commitments in the area of human rights when being elected to the Commission and, at a later stage, to formalize such declarations.

1.3 Membership in the Bureau

Unless the present regional rotation scheme for the Bureau positions is annulled, the selection of members of the Bureau remains in the hands of the regional groups. This has the advantage of securing a regionally balanced membership of the Bureau. Nevertheless, some States and NGOs have raised concerns regarding the national origins of chairpersons and the composition of the Bureau.

In this regard, it is important to note that the members of the Bureau serve in their individual capacities and are therefore expected not to represent the interests of their own States in the management of the Commission. "Eligibility" of individual candidates should therefore not only be based on the regional group to which they belong, but most importantly on their proven track record of professional work, as well as their management skills and impartiality.

We **recommend** that the chairperson and bureau members (with the exception of the regional co-ordinators) make, when they take up their office, a solemn declaration that they serve in their individual capacity and are impartial. Such a solemn declaration could be derived from those currently required of members of treaty bodies, with an emphasis on the implementation of their responsibilities in good faith and of the Universal Declaration of Human Rights. Such a declaration could have at least a positive psychological impact.

2. Organisation of the Commission and its Ability to Function Properly

2.1 New forums

In 2003, the High Level Segment and the Interactive Dialogue were introduced. States and NGOs have very favourably reacted to these innovations and consider them to be very useful.

2.1.1 High Level Segment

The High Level Segment (HLS) has enabled the Commission to provide a more dignified forum for the State dignitaries, who consequently set the tone for the CHR discussions. The holding of the HLS prevents the continuous disruption of the regular business of the Commission and thus fosters time efficiency. Lastly, it engenders a more focused attention on the policy speeches. However, with the reduction of extra meetings allowed for the Commission, a growing number of dignitaries and the fact that the negotiations and informal consultations on the resolutions cannot not begin immediately during the first week, there is a certain danger, that at least 3 days are "lost" to regular CHR business.

In this regard, we **recommend**:

- The delivery of speeches by the dignitaries during the days specifically allocated for the HLS should be strictly enforced. Dignitaries who cannot participate in the high level segment should speak from the floor.
- Instead of being scheduled in the beginning of the CHR session, the HLS could be scheduled for the first 3 days of the second week of the Commission. This would enable the Commission to immediately start its regular work at the opening of the session. At the same time, it would still allow the dignitaries have a more dignified forum within which to provide policy statements early enough in the Commission (particularly before Item 9 begins) in order to set the tone for the rest of the more substantive topics of the Commission's work. Scheduling the HLS at the beginning of the second week would provide a good "break" while enabling the delegations to fully conduct their informal consultations.

2.1.2 Inter-active Dialogue

The Inter-active Dialogue (IAD) goes back to a 1998 recommendation to institutionalize "a more focused and systematic dialogue" with the special procedures.¹⁶ Its institution in the 59th session has been appreciated as having provided a more focused and intelligent forum to discuss the work of the special procedures, particularly as they concern country situations. The IADs should be retained. However, there was insufficient time in 2003 and the schedules were not provided sufficiently in advance to enable delegations to adequately prepare. Improvements should be focused on these aspects.

We **recommend** that

- the scheduling of the IADs should be sufficiently announced before hand, preferably at least one week in advance. The Bureau should authorise its pub-

¹⁶. See the UNCHR report E/1999/104, recommendations 7 and 9 on special procedure mandates, the Chairperson's statement of 29 April 1999, reiterated in the report of the 2000 WG on enhancing the effectiveness of the mechanisms of the CHR.

licity on the OHCHR website as well as from the Secretary's desk as oral announcements;

- the IADs should also be given more time allocation to the extent possible;
- guidelines on the efficient conduct of the IADs could be developed. These guidelines could include a recommended format that would include discussions on the follow-up of current and past recommendations and the consideration of situations involving failure or denial of co-operation by Governments;¹⁷
- in order to further fine-tune the conduct of the IAD, a deadline could be set by which time questions from delegations and other observers could be received by the Secretariat and handed over to the Special Rapporteur concerned. This would enable the Special Rapporteur to be more prepared to respond to the questions and avoid a proliferation of questions asked individually during the limited time available. However, spontaneous questions from the floor should still be allowed in order to have a real dialogue;
- all mandate holders should be required to deliver, as part of their reporting obligations, their reports within the context of the inter-active dialogue;
- governments and observers, such as national human rights institutions, UN specialised agencies and NGOs in consultative status, could be given the opportunity to participate in the IADs within the limited time available.

2.1.3 Other Types of Forum?

a) Under the current agenda, the participation of **National Human Rights Institutions** (NHRIs) as observers to the Commission falls under Agenda item 18 on "Effective functioning of mechanisms." Established as "quasi-governmental" bodies, these national institutions are expected to conform to the "Paris Principles"¹⁸ which provide for certain criteria such as independence and impartiality. Because of their growing role in human rights protection and promotion within their countries and their increasing participation in the Commission in terms of numbers, the role of national institutions in the Commission has elicited calls for a more structured role in their participation in the debates.¹⁹ The cuts in the speaking time of national institutions in 2002 session further drew attention to this issue.

Not only due to the late stage of the interventions of NHRIs but also because of the emphasis of their interventions on just describing their activities, this item has a very limited impact. This is a missed chance as national institutions play an increasingly important role in the effective implementation of human rights at the domestic level and their potential to function as an important link between the international and na-

¹⁷ Ibid.

¹⁸ UN General Assembly resolution 48/134 entitled "Principles relating to the status of national institutions."

¹⁹ CHR E/CN.4/2003/118 paragraph 4.1 (f).

tional levels of human rights implementation should be made fruitful for the work of the Commission.

On this basis, we **propose** the following:

- The presence of NHRIs in Geneva is facilitated by the holding of their annual meeting at the same time as the Commission. Given this situation, national institutions as a whole could be given a specific *forum* within the Commission. This could, e.g., take the form of a more limited type of inter-active dialogue with a more limited time for presentations. Based on "guidelines", they would be encouraged to present, during this forum, the conclusions of their annual meeting regarding their own situations and also regarding important issues dealt with by the Commission (to be determined by the NHRIs' annual meeting)²⁰. This would have the positive effect of more deeply exposing NHRIs to relevant developments at the international level, thus encouraging them to more conscientiously bridging the gap between universal and domestic approaches to human rights issues.
- An alternative to the above would be to further encourage the regional co-ordination of the NHRIs, a process that is taking speed in most of the regions although they do not necessarily follow the UN regional groupings. The Commission could incorporate into the High Level Segment the representatives of these NHRI regional groups who would then present a "state of the region" with regard to human rights policies, protection and promotion in the concerned countries.
- Still another alternative would be to allow each NHRI to make *one* intervention regarding any agenda item of the Commission.
- We **consider**, however, that all of the above proposals would make it more important to define which NHRIs can participate. In our view, participation of national institutions in the Commission's debates should be based on their compliance with the Paris Principles. The International Co-ordinating Committee of National Institutions (ICCNI) composed of representatives of national institutions, and which has an independent "Credentials Committee", could provide a peer-mechanism that would accredit or, at least, recommend national institutions for participation in the Commission.

b) We do **not recommend** the introduction of **dialogue forums between the regional groups** in order to discuss country resolutions in advance. While regional groups provide an excellent opportunity for states from the same region to discuss issues internally and co-ordinate activities to the extent possible, there is a danger in reinforcing the role of regional groups by instituting formal dialogue forums. Most regional groups are not coherent at the internal level and their members should not be forced to follow the "official" line of their group. What is necessary in order to overcome conflicts between groups and blocks is better use of methods of classical multi-

²⁰ E.g. the national institutions' experiences and expectations regarding thematic mandates or standard-setting efforts.

lateral diplomacy to prepare the grounds for country resolutions in advance. In particular, States and groups of States proposing country resolutions should be more transparent in the preparation of such resolutions. In particular, it cannot be expected that criticised States will react constructively if confronted with such resolutions unexpectedly during the session.

2.2 Time Management

One of the most often encountered difficulties in the conduct of the Commission sessions is time management. The Commission has a huge annual agenda that has to be taken up within a period of six weeks while the use of additional meetings with full servicing is limited.²¹ In the 58th session (2002), the UN headquarters suddenly imposed during the second week a rule prohibiting evening sessions. The severe lack of meeting time continued during the 59th session (2003), despite the authorisation to hold a few additional meetings in the middle of the day. For the 60th session of the Commission (2004), only a limited number of additional meetings have been authorised.²²

The situation during the last two sessions resulted into a revision of the previously agreed upon timetables, particularly through the clustering of agenda items. A drastic reduction across the board of speaking time, including those for special rapporteurs and national institutions, was prescribed in order to allow the Commission to finish its business.

Statistics²³ covering the 57th (2001) and the 58th sessions (2002) show that despite the serious decrease of meeting time,²⁴ the significant increase in the time used for interventions were interventions from Commission members,²⁵ on organisational matters (chairperson and secretariat),²⁶ joint statements by government delegations,²⁷ statements from dignitaries,²⁸ and lastly, NGOs.²⁹ The UN States Members represented by observers,³⁰ mandate holders of special procedures³¹ and national human rights institutions³² had their speaking times greatly reduced in the 58th session.

²¹ This includes documentation, translation and summary records.

²² Based on CHR Decision 2003/114, the ECOSOC in its 2003 session authorised the holding of eight additional meetings for the 60th session of the Commission.

²³ Comparative tables on various statistics relating to these session can be found in the UN CHR Report E/CN.4/2003/12.

²⁴ Ibid. Time used for delivery of interventions during plenary was - 57th session: 151h 13min; 58th session: 83 h 58 min. The decrease is due to the abolition of the additional meetings.

²⁵ Ibid. 57th session: 37h30 (294 interventions); 58th session: 48h 14 min (930 interventions), or an increase of over ten hours (or more than 600 interventions).

²⁶ Ibid. 57th session: 18h 38 min; 58th session: 27h 10 min, or an increase of over 9 hours.

²⁷ Ibid. 57th session: 5h16min (141 interventions); 58th session: 9h 36 min (36 interventions), or an increase of 4 hours (or 105 statements).

²⁸ Ibid. 57th session: 15h 52minutes; 2002: 19h 26minutes, or an increase of over 3 hours.

²⁹ Ibid. 57th session: 21h 48 min; 58th session: 23 h 02 min, or an increase of over one hour.

³⁰ Ibid. 57th session: 20 h 41 min; 58th session: 10 h 51 min, or a decrease of ten hours.

³¹ Ibid. 57th session: 10h 21 min; 58th session: 5 h 41 min, or a decrease of almost 5 hours.

³² Ibid. 57th session: 3 h 00 min; 58th session: 56 min, or a decrease of two hours.

In the 59th session, however, some good practices on time management were consolidated. These included the delivery of rights of reply at the end of each meeting, the cutting of speaking times across the board, and the institution of the High Level Segment and the Inter-Active Dialogues. Joint statements for both governmental delegations and NGOs were further encouraged. Nevertheless, the rush to finish the session towards the end resulted in a clustering of items that discouraged joint statements.

In the interests of efficiency, more procedural reform on time management will have to be implemented. Indeed, many views on time management have been put forward. Some of these, particularly those proposed by the Expanded Bureau of the 58th session to the Expanded Bureau of the 59th session,³³ have already been endorsed by the Commission. These proposals have the objective of encouraging both members and observers to make efficient use of the limited time of six weeks provided in the session without, however, losing sight of the implementation of the purposes of the Commission.

We recommend:

- The time available during the plenary meetings should be used as efficiently as possible. A total of 13 hours each (at least *two* days of meeting time!) were not used in the last two sessions mainly due to late starting.³⁴
- In the discussions of agenda items, improved compliance with the agreed timetable should be the rule and recourse to the holding of additional meetings should be kept to a minimum. The deadlines for the submission of the draft resolutions and closing of speakers' lists, clearly announced sufficiently in advance, should likewise be strictly enforced. This would encourage an efficient scheduling of the formal plenary meetings and the informal discussions, as well as facilitate the work of smaller delegations.
- The limitations of the lengths of speaking times should be imposed on *all* types of interventions. This should include the introduction of resolutions and the explanations of votes before or after the vote. All limitations to the lengths of speaking times should be strictly imposed and any further restrictions should be done across the board. This disciplined approach would encourage statements to go direct to the substantive points and to be delivered over the session in a more strategic manner.
- The same argument could be made for the imposition of limits to the *number* of interventions, including rights of replies, explanations of votes, etc. Limitations to the number of interventions should be strictly followed from the beginning of the session. Moreover, limits to the number of interventions should be seriously considered with regard to both the Commission members and ob-

³³ Commission on Human Rights decision 2003/101 endorsed CHR decision 2002/115 and resolution 2002/91 (E/CN.4/2003/118 and Corr. 1). See par. 4.1 on "Organization of the work during the annual session" of E/CN.4/2003/118.

³⁴ Ibid.

servers (excluding the presentations during the high-level segment and the interventions during the inter-active dialogues). In addition, joint statements, whenever possible, should be resorted to.

- The practice of having the rights of replies delivered at the end of each meeting has proved to provide an appropriate "window" for statements in reaction could be consolidated after all the presentations have already been previously made. This could be further improved by moving all rights of replies *to the end of the respective agenda item* itself as well as of the High Level Segment.
- If discussions in the Commission proceed concerning the calculation of time allotment to oral interventions based on the number of speakers within a set limited period of time, a minimum amount of time for the intervention, i.e. 3 or 4 minutes, should nevertheless be maintained. Indeed, statements of less than 3 or 4 minutes do not make sense. To keep the minimum time of interventions at a realistic level has the further advantage of encouraging joint statements.

3. NGOs

NGOs are generally regarded as integral to the functioning of the Commission on Human Rights. Their participation in the Commission and its bodies is based on their accreditation with the United Nations, specifically called "consultative arrangements." With the UN Charter³⁵ as the basis, the ECOSOC in its resolution 1996/31 has devised such arrangements on the consultative relationship between the UN and NGOs³⁶, which rules apply to all its functional commissions, including the Commission on Human Rights, as well as to international conferences convened by the UN. A standing Committee on NGOs³⁷ of the ECOSOC is mandated to deal with NGO matters related mainly to consideration of applications and NGO reports as well as the implementation of the ECOSOC resolution 1996/31 and the monitoring of consultative relationship.³⁸

Consultative arrangements with NGOs have a two-fold purpose within the context of the furtherance of the objectives of the UN Charter:³⁹

- to enable the Council or one of its bodies "to secure expert information or advice from organisations having special competence in the subjects for which consultative arrangements are made", and

³⁵ UN Charter Article 71 entrusts ECOSOC with the task of making "suitable arrangements for consultation with nongovernmental organizations which are concerned with matters within its competence".

³⁶ ECOSOC Resolution 1996/31 on "Consultative relationship between the United and non-governmental organisations"

³⁷ ECOSOC Rules and Procedures, Rule 80 establishes a standing committee of the ECOSOC with membership consisting of 19 countries from the five regional groups.

³⁸ ECOSOC resolution 1996/31, Part IX.

³⁹ Ibid, paragraph 20.

- "to enable international, regional, sub-regional and national organisations that represent important elements of public opinion to express their views".

Moreover, NGOs working in the field of human rights are asked "to pursue the goals of promotion and protection of human rights in accordance with the spirit of the Charter of the United Nations, the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action."⁴⁰

The Commission on Human Rights is well attended by NGOs who participate as observers.⁴¹ NGO participation in the formal meetings of the Commission on Human Rights principally takes the form of submitting written statements⁴² and delivering oral interventions,⁴³ the basic rules for which are provided by ECOSOC resolution 1996/31.⁴⁴ It is the general view that in order to enhance the role of NGOs, strict compliance of NGOs with and enforcement by the Commission and the ECOSOC of the current applicable rules on NGO accreditation and participation should be expected.

It is important to see that the relevance of NGO contributions is not limited to the written and oral interventions in the plenary meetings. At least as important (and appreciated by many governments) is the interaction of many NGOs with governmental delegations on issues related to the agenda items, either in meetings outside of the plenary or in informal consultations.

With the limited participation that NGOs have in the Commission, NGOs are generally seen as bringing expertise and the voice of civil society as well as that of the victims into the formal deliberations of the Commission. This is in line with the principles embodied in ECOSOC resolution 1996/31. Some governments, however, stress that NGOs should strive to be more disciplined with accrediting their representatives, to be more balanced in their statements and to avoid repetitive statements delivered over the session. Others deplore the fact that the number of independent NGOs from the South is still too limited. There are also concerns regarding the overall speaking time allocated to NGOs and, in some cases, their conduct during the session. The few cases of "misconduct" (which the ECOSOC is dealing with) are fortunately not representative of the general NGO participation in the Commission. For the NGOs themselves, the growing presence of so-called "GONGOs" (governmental-organised NGOs) that have been granted consultative status and are not considered independent and impartial is likewise a problem.

Current statistics show that the number of NGO delegations participating in the Commission in 2001 and 2002 remain stable and that there has been no significant

⁴⁰ Ibid, paragraph 25.

⁴¹ UN CHR Report on "Statistics relating to the 58th session of the Commission on Human Rights" (E/CN.4/2003/12) shows that 250 NGOs attended in 2001, 247 in 2002.

⁴² Ibid. NGO documents distributed for the 57th session: 192; 58th session: 205.

⁴³ Ibid. NGO statements delivered during the 57th session: 548; 58th session: 373.

⁴⁴ ECOSOC resolution 1996/31, paragraph 33 to 39.

increase in the speaking time used by them during the plenary meetings.⁴⁵ NGOs should continue to deliver oral statements in the plenary meetings with the rule, imposed in 2001 that each NGO is entitled to only six statements per session, remaining in force.⁴⁶ Moreover, NGO joint statements should be encouraged as ever before.⁴⁷ It must be noted, however, that the clustering of agenda items as practised in the last two sessions of the CHR has actually discouraged the delivery of joint statements.

We recommend:

- The measure that – with, of course, the exception of joint statements - one person should not deliver oral interventions on behalf of more than one NGO should be strictly enforced. This would actually enhance the credibility of the substance of the oral statements delivered during the plenary meetings.
- In their participation in the Commission, NGOs should abide by, and the ECOSOC should strictly enforce, the principles and rules governing the NGO consultative arrangements with the ECOSOC. Moreover, based on the fact that NGOs in general and special consultative status and NGOs in roster are given the same privileges in the Commission, due regard should be given to consistency in the application of reporting requirements to the ECOSOC's NGO Committee.⁴⁸
- NGOs should be further encouraged to enter, to the extent possible, into self-regulation, in order to minimise problems concerning the problematic conduct of a few NGOs and the non-independence and partiality of so-called GONGOs.
- Ways should be found to bring a larger number of independent NGOs from the South to the Commission.
- Lastly, the enhanced support for the NGOs through the appointment of NGO liaison officers during the Commission is to be commended. Further secretariat support should be provided for training efforts, particularly for national NGOs coming to the Commission, on how best to utilise the Commission, while better co-ordination for the parallel meetings is encouraged.

4. Resolutions

4.1 The Problem

The more than one hundred resolutions and decisions that the Commission on Human Rights generates annually are regarded as the final product of each session. A number of these resolutions and decisions proceed to the ECOSOC, some of which

⁴⁵ See previous figures cited on NGO participation in the Commission, as per E/CN.4/2003/12.

⁴⁶ E/CN.4/2002/16, paragraph 8, reiterating E/CN.4/2001/CRP.1.

⁴⁷ See E/CN.4/2002/16.

⁴⁸ ECOSOC resolution 1996/31 par. 61(c) provides for the reporting requirements of NGOs in the different categories.

are subsequently taken up in the Third Committee of the General Assembly and finally in the General Assembly.

Spanning from organisational matters to substantive issues spread over the 20 agenda items of the Commission, these resolutions are as diverse as the topics and the supporters. Motivations for the introduction of, support for, as well as opposition to, resolutions vary according to the governmental delegations and have to be assessed within the context of the CHR as an inherently political body. Each State, by necessity, will base its decisions on its own foreign and internal policies and take into account possible reactions of its domestic political parties, media or NGOs. Other motivations are based on strategy. While participation in the Commission's activities should be based on a dedication to protect and promote human rights, it is not possible to exclude entirely political and strategic motives informing the behaviour of governments present.

Currently, the underlying motivations of the different actors participating in the Commission are severely questioned by many stakeholders. This has led to a breakdown of trust and confidence, usually identified along regional or block lines. For example, the atmosphere in the last few sessions has been variously described by terms such as "highly political", "poisoned", "degrading", to cite a few. These perceptions have led different analysts and observers to comment that the Commission has become "a forum for accused and accusers", "a body of impunity for violators of human rights", "a market for political bargaining", etc. Some have forwarded analyses along "North-South" divides.

Views have been expressed that, as a consequence, discussions in the plenary sessions are confrontational and sometimes acrimonious, particularly during the voting on the resolutions where substantive as well as procedural interventions are debated upon. In the 58th session (2002), for example, three no action motions were introduced (including on thematic issues), as compared to only one in the 57th.⁴⁹

At this point, it may be interesting to note that as far as it concerns the number of resolutions that have successfully passed in the last three sessions, there has been no significant change. The same is true for the number of resolutions that were not adopted by consensus: Thirty-two resolutions were voted upon respectively out of 82 in the 57th and 92 in the 58th session,⁵⁰ while 30 resolutions out of 86 were submitted to a vote during the 59th session.⁵¹

Voting is increasingly, although not solely, the result of inter-regional or inter-group "disputes," thus making consensus more difficult to achieve. One dire consequence of this voting along group and block lines is that resolutions from the Commission are being called to a vote in the ECOSOC.

⁴⁹ E/CN.4/2003/12, "Statistics relating to the 58th session of the Commission on Human Rights."

⁵⁰ Ibid.

⁵¹ OHCHR website, as of 25 April 2003.

What is needed today is a more a constructive approach regarding both the content of resolutions and the process of deliberation leading to their adoption. This is particularly true for, but not limited to, the country-related resolutions. States, whether as individual States or as blocs, as well as other observers, including NGOs, should always seriously reflect on how their own motivations and strategies contribute to concretely promoting and protecting human rights.

Of course, these are issues that cannot be solved with procedural reforms. Pragmatic reforms, however, despite being limited in their impact on the overall political atmosphere in the Commission, can help to create a better spirit in the Commission. Our discussion focuses on such pragmatic reforms addressing questions on efficiency, the biennialisation or triennialisation of the thematic resolutions and the process of the consideration of country resolutions.

4.2 Enhancing Efficiency

The issue surrounding *the length and format of the resolutions* has been raised in various discussions. Many texts are very long and just repeat what has already been adopted in former years. Disputes over drafting are increasingly over form rather than the substance. Proposals have therefore been forwarded to streamline the length and format of the resolutions.⁵²

On this matter, however, different views exist. While advocacy for streamlined resolutions may be positive, in certain cases this may not be favourable. Some are of the view that where human rights standards are not yet universally accepted, it is important to repeat affirmations. Others explain that it is more difficult to negotiate shorter draft texts, rather than longer drafts, because the latter contains more "bargaining chips" for "horse-trading," or simply that it takes less effort to just add on issues of various interests. Another view expressed emphasised that it is important to retain existing language given the current atmosphere because negotiations on the drafts are more and more a matter of "damage control" rather than developmental.

The situation remains that it is harder to plod through the resolutions of the Commission because of the sheer number and the density of the texts. Smaller delegations are particularly affected. This situation cannot but degrade the efficiency of the Commission, not only in terms of time management, human resources and the substance of the discussions, but also in terms of implementation by the UN system and by the States themselves. Longer texts do not necessarily mean more in terms of better protection and promotion of human rights. In fact, it may even mean less or no impact at all as outside the relative small circle of "insiders" of the Commission and the concerned UN bodies above it, only very few persons and organisations actually look at the resolutions themselves.

We **recommend** the following:

⁵² E/CN.4/2003/118 paragraph 4.1 (h).

- In general, all delegations should be encouraged to *streamline* the resolutions. This would necessitate deleting superfluous provisions and avoiding overlapping of substantive issues.
- Incorporation of the substance of previous resolutions by using the mechanism of "recalling" the number of the previous ones should be encouraged in particular where there is a clear consensus⁵³ on the content of previous resolutions, or where there is no need to reiterate international standards that are not universally accepted yet. This would not only shorten resolutions but more importantly avoid unnecessary re-negotiation of aspects of previous resolutions and facilitate negotiations on fresh or new issues.
- The Commission could set a voluntary page limit between, e.g., 3 to 6 pages and encourage the main sponsors of the text to abide by this limitation.
- Sponsors and co-sponsors should also be asked to announce resolutions that could be streamlined. This would not only further encourage delegations concerned but will also recognise the few delegations that have started to do so.

Concerns regarding the process of *preparing and deliberating* resolutions, especially during the phase of negotiations outside the formal debates of the Commission, are increasing. Elements of transparency and increased co-ordination have already been recognised by the Commission as essential to its smooth functioning.⁵⁴ The disciplined approach referred to by the Working Group on the reform of the mechanisms⁵⁵ is necessary for such efficiency. Furthermore, the implementation of these recommendations on transparency, co-ordination and discipline would help engender a constructive, rather than a confrontational, atmosphere in the deliberations. This track would, for example, help avoid the spread of rumours and the casting assumptions on motivations before and at the beginning of the Commission. Instead, such transparency, co-ordination and discipline would facilitate a more substantive discussion on the proposed resolutions among the delegations, including the concerned countries if applicable.

We recommend:

- Delegations should strive to inform about and co-ordinate their proposals in advance of the beginning of the session. The Bureau may set a date before the first day of the Commission, by which date all delegations should indicate their intention to initiate new resolutions or renew previous ones. This list of the titles of draft resolutions, the agenda item concerned and their main sponsors should be officially circulated before or, at the latest, on the first day of

⁵³ In the absence of such consensus there is a danger that in a vote, reference to a whole resolution that has been previously adopted is deleted although only one or a few points of that previous resolution are now in dispute.

⁵⁴ These are contained in E/CN.4/2003/118, par. 4.1 (l) a to f; see also the report of the Working Group on reform of the mechanisms E/CN.4/2000/112, paragraphs 65 to 67 on "consultations on resolutions".

⁵⁵ E/CN.4/2003/112 par. 65: "a disciplined approach is required if each text is to receive the attention it deserves in terms of preparations and follow-up."

the Commission. This list, posted on the OHCHR website and on the announcement board inside the Commission, should be continuously updated with regard to the status of the consideration by the delegations.

- Aside from a better atmosphere for dialogue and increased efficiency, the institution of such a mechanism would be beneficial to many of the stakeholders in the Commission. First, it would enable the Bureau to be roughly informed of the work beforehand under each agenda item and thus be in a better position to undertake a better allocation of time, particularly for the deliberations on voting. Second, the advanced information would encourage individual delegations to set their own priorities and to be better prepared beforehand on the substantive questions. Thirdly, it would facilitate co-ordination as well as encourage co-sponsorship cross-regionally. Fourthly, the secretariat would be able to allocate personnel in a more informed manner. Lastly, the early indication of the pending draft resolutions would help revitalise and focus the plenary statements on the issues surrounding the drafts. This would contribute to connecting the statements during the formal meetings to the negotiations in the informals, thus increasing transparency.
- In order to allow delegations to make informed choices on their participation, all informal consultations on the resolutions held during the session of the CHR should be posted and announced reasonably well in advance. These announcements should clearly indicate whether they are for the co-sponsors, for other delegations or are "open-ended" allowing other observers to attend.
- Improvements could also be made on the aspect of tabling resolutions. In order to minimise the number of resolutions that do not receive much support, a minimum number of co-sponsors among the members of the Commission could be required as an indication of support necessary to have a meaningful discussion.

4.3 Thematic Resolutions

Thematic resolutions cover a wide range of topics practically found under all agenda items (i.e. agenda items 5 to 7; 8 to 18; 21). The thematic resolutions address a spectrum of civil and political rights as well as economic, social and cultural rights.⁵⁶ Because of the number of thematic resolutions,⁵⁷ it has been suggested that thematic resolutions could be biennialised or triennialised.⁵⁸ One consequence could be that corresponding reports and documents by the Secretary-General and the OHCHR would be prepared on a 2 or 3 year basis.⁵⁹

⁵⁶ Views still exist that there is an imbalance in the Commission's consideration of civil and political rights as compared to economic, social and cultural rights. Moreover, more resolutions on economic, social and cultural rights are being voted upon in both the Commission and in the ECOSOC.

⁵⁷ For example, the GRULAC submission contained in E/CN.4/2003/11 cited that thematic resolutions accounted for two-thirds of the total resolutions and decisions of the Commission in its 58th session.

⁵⁸ See E/CN.4/2003/118 on recommendations of the Bureau of the 58th session. Paragraph 3.1.2 (b) provides: "It is recommended that the Commission should encourage the voluntary biennial or triennial presentation of a significant number of thematic resolutions."

⁵⁹ Ibid.

Of these thematic resolutions, there are presently over 20 thematic resolutions that provide for special public procedures⁶⁰ mandated to monitor a selected array of civil and political as well as economic, social and cultural rights. Since these procedures are mandated to monitor the implementation of the respective rights in any country in the world, they are considered crucial to the over-all functioning of the Commission's work on the protection⁶¹ and promotion⁶² of human rights. Thematic procedures are mandated to work throughout the year, and a number of these procedures report to the General Assembly. During the recent 59th session of the Commission, seven of the thematic mandates were renewed for another three years.⁶³

Other thematic resolutions concern standard-setting exercises⁶⁴ that are mandated to elaborate standards on human rights. Some of these exercises involve the setting up of inter-sessional working groups.⁶⁵ Indeed, this work has always been one of the core functions of the Commission on Human Rights.

Other thematic resolutions, on the other hand, provide for the consideration of various issues related to human rights⁶⁶ or call for increased protection.⁶⁷ Their specific implementation may vary from condemning specific acts or supporting the promotion of some rights, endorsing studies or the holding of seminars for the further development of the issues or merely the collection of views from States and other observers to proceed with the discussion.

The bi- or triennialisation of thematic resolutions should be undertaken for the purposes of increasing the efficiency of the Commission and facilitating its functioning and may well help to decrease the number of resolutions that may be considered every year. However, given the variety of the substance of thematic mandates and the diverse mechanisms for implementation, a simple and blanket solution of bi- or

⁶⁰ The network of special public procedures encompasses the special rapporteurs, special representatives, independent experts and working groups. These procedures are renewed every three years. Mandate holders of these special procedures can function on the term of three years which can be renewed only once.

⁶¹ Most thematic mandates can, for example, issue urgent appeals on alleged violations of human rights. They can also accept invitations from States for them to visit to those countries, an undertaking that leads to an analytical report on the status of the rights in those countries and recommendations.

⁶² Thematic mandates are also encouraged to explore the rights, in terms of the development of its content and analysis of their implementation or barriers to implementation.

⁶³ These are the mandates on human rights defenders (2003/64); arbitrary detention (2003/31), independence of judges and lawyers (2003/43); violence against women (2003/45); right to adequate housing (2003/27); right to food (2003/25) and structural adjustment policies and foreign debt (2003/21).

⁶⁴ For example, the resolution on the right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms (2003/34) and on the question of an optional protocol to the economic rights covenant (2003/18).

⁶⁵ For example, the resolution providing for a working group on the draft convention on the issue of disappearances (2003/38).

⁶⁶ For example, the resolution on human rights and counter-terrorism (2003/68).

⁶⁷ For example, the resolution on human rights and unilateral coercive measures (2003/17) and on the death penalty (2003/67).

triennialisation of the presentation of thematic resolutions is uncalled for and should therefore be avoided. Particularly, one must take care not to affect the efficacy of the functioning of thematic procedures with regard to their protection mandate and their dialogue with States, specially those that co-operate with them particularly through visits. There is also a danger that the "vacuum" created may actually encourage delegations to initiate new resolutions increasing their overall number even more.

Within this context, the following **recommendations** on the issue of bi- and triennialisation may be feasible:

- To start the practice, delegations should be encouraged to biennialise or triennialise those resolutions that do not involve any special procedures or any standard-setting mechanisms that are required to report or meet annually.
- Further discussion concerning the possible *biennialisation* of thematic resolutions that provide for special procedures should be encouraged but with a view of not impairing their protection and dialogue capacities. Moreover, the ways and means to biennialise these resolutions should not disrupt the capability of the special procedures to engage in the promotion of human rights and to develop their themes.
- On this basis, thematic resolutions with special procedures that are biennialised should still provide for an annual report to the Commission and to the Third Committee where applicable. This should be undertaken through documentation and the presentation of a short *intermediary* report, to be discussed during the inter-active dialogues, on their year's work on urgent appeals and on the results of their visits to countries. They should then be encouraged to present a fuller report, especially on the themes they are looking at, during the years that the resolution is presented. This would necessitate biennialised special procedures to have four-year terms instead of three, subject to the usual limited 2-term tenure for the mandate holders. At the end of their tenure, mandate holders should also be encouraged to present a stock-taking final report on the development of their mandate in both their protection and promotion functions.
- A similar, though not identical, approach may be taken with regard to standard-setting exercises, particularly where the elaboration of norms has been entrusted to annual inter-sessional working groups. The ability of the standard-setting working groups to elaborate in a consistent manner the draft norms within their consideration should not be vitiated.⁶⁸ Today, standard-setting exercises in the Commission are required to finalise their work within five years, or otherwise take stock at the end of five years. An option, therefore, could be to biennialise resolutions on standard-setting with the caveat that they continue to meet annually although they would report back to the Commission every two years, i.e. during the time of the presentation of the resolution. This

⁶⁸ Standard-setting working groups usually meet annually between one to two weeks between sessions. The results of these annual sessions are the subject of consideration at the Commission and are the basis for its renewal.

would necessitate revising the current time limitation to six years instead of five.

- An alternative, of course, would be to merely renew the mandates of special procedures in one omnibus decision, using the original resolutions as a basis for their renewal, and without impairing their ability to report annually and function as before. New mandates or changes to mandates would, of course, require separate resolutions.

4.4 Country Resolutions

The current agenda of the Commission contains various agenda items that take up country situations. These are: item 3 which includes the report of the Office of the High Commissioner for Human Rights on Colombia; items 5 and 8 on situations engaging the right of peoples to self-determination and on the occupied Arab territories, respectively; item 9 on country situations; and item 19 on advisory services and technical co-operation. The consideration of the 1503 procedure is part of Item 9 and undertaken as a confidential procedure to which only the Commission members and the concerned countries have access. The consideration of country situations in the Commission results either in the presentation of draft resolutions or draft chairperson's statements. Chairperson's statements usually result from ongoing discussions with the concerned country and are the result of consensus.

The resolutions on country situations enable the Commission and the observers to focus discussions either on the pattern of violations, the state of the concerned country's institutions with regard to the protection and promotion of human rights, and the necessity for reform. Most, and not all, of the resolutions on country situations provide for a mechanism, either as a country rapporteur or an independent expert. These country procedures are mandated to closely monitor the situation of the concerned country, conduct a visit if invited by the government and enter into a dialogue with its authorities. The authorities of the country concerned are encouraged to extend co-operation with the country rapporteur or expert. The government is also encouraged to embark on reform based on the issues raised in the resolution or statement.

Initiatives proposing (and support or non-support for) country-related resolutions or Chairperson's statements may be based not only on an assessment of the country's human rights situation but also on foreign policy considerations and domestic constituency purposes of particular countries, including economic interests. In this regard, not only the regional groups but also political groupings⁶⁹ play an important role. A particular problem in this regard is the perceived blatant application of "double-standards" in the choice of countries subject to the consideration of the Commission under Item 9. The imbalance in the consideration of countries from the "north" compared to those from the "south," with country resolutions mainly initiated by the

⁶⁹ The European Union, the Organisation of Islamic Conference, the "Like-Minded Group", the "JUS-CANZ", etc.

"north," persistently feeds into the "north-south" divided. According to some interlocutors, Item 9 has become a forum for "political blackmail" or "finger-pointing" based on country relations rather than on human rights considerations.

The protection mandate of the Commission is, as already mentioned, one of its core functions. Many are of the opinion that the current consideration of country situations, particularly under Item 9, is essential for the protection mandate of the Commission and its credibility. Many others, however, maintain that the problem of politicisation has its roots in the present use of Item 9 as an opportunity for the elaboration of political and economic interests. A number have expressed either advocacy for or dismay at the use of Item 9 for "name and shame" campaigns. Those who have expressed opposition or unease with country resolutions under Item 9 stated that the resolutions actually discourage reform and merely place the country concerned on the "defensive".

Country resolutions under Item 19, on the other hand, are considered as bearing a "more constructive" approach, despite having country rapporteurs or independent experts, particularly because of the provision of technical co-operation. A number of countries, including those in favour of retaining the current approach under Item 9, advocate more use of Item 19 in order to concretely encourage countries to undertake reforms on their human rights situation.

A dominant view expressed is to "rate" the consideration of country situations according to the gravity and extent of its human rights violations, and the willingness of the countries concerned to extend co-operation with the mechanisms of the UN. Thus, the confidential 1503 procedure is reserved for countries that experience alleged grave and quite systematic patterns of violations. Item 9 is for the public consideration of states committing violations that merit special focus and discussion in the Commission. Item 19 is intended for countries that have reached a certain level of capability of reform for which the international community is willing to extend technical co-operation. What is lacking, is a special agenda item for countries that may be called upon to reform without the condemnation that is currently attached to some resolutions under Item 9. However, there is no reason why this should not be done under item 9.

Regarding country resolutions, we **recommend** the following:

- An important issue is the question as to how countries are identified for discussion under Item 9 so that accusations of using "double standards" are avoided. Any fair and transparent consideration of country situations under Item 9 as well as the provision of technical co-operation under Item 19 should be based on objective information. A considerable degree of such information is provided for by the monitoring activities of not only country but also thematic rapporteurs even though they cannot cover all countries to the same extent:
- In order to make more clear and transparent what the situations in the different countries are, the Office of the High Commissioner for Human Rights should

prepare a country-by-country compilation containing summary information and the text of country-specific recommendations of the thematic and country rapporteurs. Thus, the secretariat's present compilation of the executive summaries of the special procedures should be further improved by the production of a textual compilation, rather than a compilation of references. The concluding observations of treaty bodies regarding State reports could be included, too. Such a compilation would help the Commission to obtain a more international comparative perspective on the state of human rights based on the work of its thematic procedures and to make informed decisions.

- An essential part of the above compilation are lists of the requests for country visits that the special procedures have made and the countries that have issued Standing Invitations, as well as indications on the status of negotiations or arrangements on requested or pending visits. These lists would be valuable in assessing the factors on the necessity of a resolution on a particular country and allow to “design” the kind of response to the human rights situation in a particular country in the light of the degree or absence of the willingness of the country concerned to co-operate with the international community.
- States proposing country resolutions should do this by systematically referring, to the extent possible, to information contained in the compilation, and explaining, on the basis thereof, why a particular country should be selected for special consideration under item 9.
- Currently, discussions of initiatives on country issues are often negatively affected by the lack of a process or system that encourages or provides for transparency and cross-regional co-ordination. It is highly desirable that the main sponsors of a country initiative inform the country concerned beforehand and initiate a process of dialogue with states from all regional groups. The *principles of transparency and negotiations across regional lines* are essential for the introduction and consideration of country resolutions if their goal is to have a real discussion on the need for genuine reform in countries with serious human rights violations. It can be expected that at least in some cases, authorities in countries concerned (and the groups they belong to) would not have to resort to “knee-jerk” reactions that result in mounting defences rather than engaging in dialogue. This may be facilitated if the process of proposing and negotiating country resolutions were more transparent, open and inclusive⁷⁰.

4.5 Implementation of Resolutions

During each of its sessions, the CHR adopts more than 100 resolutions. While many of these resolutions trigger new activities in terms of studies or reports to be submitted to the next session, it is less clear what the overall impact of the Commission for the protection of human rights is. Some feel that the enormous financial and human

⁷⁰ See also above, sub-chapter 4.1.

resources absorbed by the Commission cannot be justified without enhancing the actual implementation of its decisions and recommendations.

Some of the resolutions already provide for mechanisms that allow or encourage implementation or follow-up. The majority of these mechanisms take the form of reports of the special procedures to the Commission and to the Third Committee of the General Assembly; compilation of views of governments, agencies and NGOs; various reports by the Secretary-General; setting up of working groups particularly on standard-setting exercises; and organisation of seminars usually by the OHCHR. Nevertheless, improvements are possible which would increase the usefulness of these resolutions in the CHR discussions as well as in the actual promotion of human rights.

In order to improve the implementation of both country-related and thematic resolutions we **recommend** the Commission to create a *follow-up mechanism* with the following elements:

- The Commission should either appoint a *Rapporteur on follow-up* (or designate the High Commissioner for Human Rights) with the task of producing a yearly report that would describe, analyse and assess the overall progress made (or lack thereof) in the implementation of resolutions of the Commission. "Follow-up" should cover all activities of the Commission and could be added as a new agenda item.
- This follow-up report would be based on the following elements:
 - As mentioned above, the secretariat's present compilation of the executive summaries of the special procedures should be further improved by the production of a textual compilation as well as lists of countries that special procedures have requested for visits and their status. The same holds for an annual compilation of the conclusions and recommendations of the special procedures,⁷¹ which should be produced early enough to enable further discussion.
 - In their annual reports to the Commission, both country and thematic rapporteurs should be encouraged to highlight a selection of pertinent recommendations that are susceptible to implementation, and to inform the Commission, in their next report about the degree of progress achieved. The discussion of the reports of the country rapporteur and, where applicable, the thematic procedures, should focus principally on the extent to which these recommendations are being implemented and would be the basis of the continuing inter-action between the mandate holder and the authorities of the country concerned. This emphasis on implementation of the recommendations would thus be the basis for an assessment on im-

⁷¹ CHR Resolution 2002/84 Paragraph 11 provides: "Requests the Secretary-General: (g) To issue annually, and sufficiently early, in close collaboration with the thematic special rapporteurs and representatives, experts and working groups, their conclusions and recommendations, so as to enable further discussion of their implementation at subsequent sessions of the Commission;". See also E/CN.4/1999/104, para 49 recommendation 10 (a).

pact of the resolutions of the Commission. As part of their leave-taking at the end of tenure, special rapporteurs should devote their last report to a stock-taking of the developments within their mandates and recommendations. All of this would also facilitate the co-operation of the special rapporteurs with other bodies of the UN, including the Security Council⁷² and the General Assembly, as well as the UN human rights treaty-bodies and the OHCHR field presences. In turn, it would reinforce the involvement of the international community in building national capacities for protection and promotion of human rights in those countries concerned.

- Each resolution should strive, to the extent possible, to include a follow-up mechanism, the resulting work of which should be taken up in the subsequent discussions on, and highlighted in, the next version of the resolution.

4.6 Agenda

Particular issues regarding the agenda of the Commission have already been discussed earlier in this part of the study, especially those concerning the national institutions, the resolutions and the follow-up mechanism. What remains to be discussed is the issue of revising the over-all structure of the Commission's agenda and the process attached to it.

The current agenda has been in place since the 55th session of the CHR (1999), when it was adopted after the CHR process on the review of mechanisms held from 1998 to 1999. Assessment of the experience of the present agenda may appear to be due,⁷³ as underscored by the imposition of new time constraints, resulting in the clustering of items,⁷⁴ and by new developments in the consideration of human rights concerns.⁷⁵ Moreover, since 1995, one new agenda item has been added for consideration by the 59th session of the CHR, again in response to developments.⁷⁶

Thus, discussions about the reform of the agenda should be encouraged on the basis of the experiences made in recent years. However, concrete proposals for a specific review of the agenda, which could eventually be put forward under Agenda Item

⁷² Under the Arias formula, the Commission's rapporteur on Burundi gave a briefing before the Security Council.

⁷³ In E/CN.4/2002/112, the CHR working group on enhancing the effectiveness of the mechanisms of the Commission considered that a review of this experience would be timely "at the latest after the 57th session". However, in E/CN.4/2003/118, the Bureau of the 58th session, referring to the proposed biennialisation of items, expressed that "The current agenda... was only recently restructured; accordingly, the obvious consensus would be to keep it as it is. Nevertheless, this issue should remain under the Commission's consideration."

⁷⁴ Views have been advanced that the clustering of agenda items is in fact a de facto revision of the agenda.

⁷⁵ For example, the establishment of the Permanent Forum on Indigenous Issues by ECOSOC resolution 2000/22.

⁷⁶ Agenda Item 21 on "Comprehensive implementation and follow-up to the Durban Declaration and Programme of Action" was added as a new agenda item based on CHR resolution 2002/68 and endorsed by the ECOSOC in 2002/270. During the Commission, it was decided to consider this item under Item 6.

20 on "Rationalisation of the work of the Commission," should only be undertaken after more experience has been gained with the recent limitations of the number of meetings.

In any event, the review of the Commission's agenda might eventually be triggered by the current efforts to enhance the effectiveness of the working methods of the Commission. In this case, any review should follow the pattern set by the 1998-1999 review of mechanisms that launched a broad process of consultations with delegations, agencies and NGOs, and which was followed by the setting up of an open-ended Working Group. In other words, discussions should not be confined to the Expanded Bureau and to the regional groups.

Taking into account the high degree of political complexity of a re-opening of the discussion on the agenda we refrain from proposing a new structure. However, we would like to stress that such a discussion should only be started if there is a consensus on the need:

- to retain the current functions of the Commission regarding the protection and promotion of human rights;
- to properly balance the different approaches used in the agenda regarding country situations;
- to properly balance the consideration of civil and political rights on the one hand, and economic, social and cultural rights on the other;
- to focus on the human rights aspects of the consideration of the situation of specific groups;
- to avoid the over-lapping of issues under the different agenda items.

5. Procedural Aspects of the Reform

What process should be followed when deciding about proposals like those made in this report? The procedural rules that will be affected by such reforms will differ according to the nature of the proposals. They hardly affect the Rules of Procedure of the Functional Commissions of the Economic and Social Council⁷⁷ but mainly require changes of established practices.

On the revision of *agenda*: Normally, the Commission's agenda for its next session is drawn up by the Secretary-General⁷⁸ on the basis of the provisional agenda considered by the Commission in the previous session.⁷⁹ It is considered established practice that any revision of the current agenda has to be based on acceptance of the Commission members by consensus. The most recent experience in this regard is the last re-structuring of the agenda in 1998. This followed a procedure of a series of consultations by the Chairperson of the 58th session, who then proposed a restruc-

⁷⁷ These are found in Council resolution 289 (X) of 6 March 1950, as amended.

⁷⁸ *Ibid*, rule 5.

⁷⁹ ECOSOC Resolution 1894 (LVII), 1974.

tured agenda to the Commission. The Commission adopted the agenda currently in force through a resolution approved by consensus.⁸⁰ Additions to the agenda items follow the same procedure as a Commission resolution.⁸¹ Behind this procedure, however, lies the creation of consensus from among the stakeholders in the system.

Following the substantive discussions on agenda issues earlier in this study, it is further proposed that if a process for the review of the agenda takes place, this will have to be an inclusive process that will take into account the views of the relevant stakeholders in the system. These should include member States, Observer States and NGOs. In the interest of transparency and the encouragement of cross-regional positions, discussions in the Bureau and the Expanded Bureau on this particular issue have to be documented and published. Final consensus on the matter has to emerge from the Commission, and voting on a revised agenda should be ruled out.

On the *working methods*: Despite the very recent and comprehensive reform that the Commission had undergone and adopted in 1999, this current discussion on the reform of the Commission has been triggered by the Commission's resolution on the topic, adopted in 2002 by a vote.⁸² This resolution is complemented by the Commission's resolution authorising the Expanded Bureau of the 58th session to make recommendations to the Expanded Bureau's 59th session. The process so far has taken on steam with the report of the Bureau of the 58th session⁸³ and endorsed by the 59th session of the Commission.⁸⁴ This endorsement is crucial because the report of the 58th Bureau set the limits of the reform of the working methods to that previous process of reform of the mechanisms undertaken in 1998-2000 and specified that "any decision on working methods should be adopted by consensus."⁸⁵

Given this situation, it is **recommended** that the continuation of this process should be based on the development of consensus from all regional groups before any decision or resolution could be finalised by the Commission.

In the implementation of a transparent and open process, consultations should be undertaken with the relevant stakeholders, including NGOs. It is therefore recommended that the Expanded Bureau should be proactive in facilitating this process. However, the mandate of the bureau where it concerns initiating reforms should be based on a consensus agreement.

⁸⁰ E/CN.4/1998/84 entitled "Restructuring of the agenda of the Commission on Human Rights".

⁸¹ Agenda Item 21 on "Comprehensive implementation and follow-up to the Durban Declaration and Programme of Action" was included based on CHR resolution 2002/68 and endorsed by the ECOSOC in 2002/270. During the Commission, it was decided to consider this item under Item 6.

⁸² CHR resolution 2002/91 provides a "non-exhaustive" list of issues to be considered under Item 20 of the Commission. It was adopted 36-0-17.

⁸³ E/CN.4/2003/118 and Corr. 1.

⁸⁴ CHR decision 2003/101.

⁸⁵ E/CN.4/2003/118 paragraphs 1 to 3.

III. CONCLUSIONS

This study on the reform of the UN Commission on Human Rights focused on answering the questions submitted to us in a way that is pragmatic and suggests a step by step approach rather than a grand design for a totally remodelled Commission. The *main proposals* made are:

- to elect States to the Commission that are willing to make a concrete commitment to human rights when taking up membership;
- to base country resolutions on more transparent procedures and on objective information on the situation concerned as provided, *inter alia*, by the Commission's special procedures, and on the degree of (un-)willingness of the country concerned to co-operate with the special procedures and other international mechanisms; and
- to institute a follow-up mechanism allowing to assess the overall impact of the Commission and progress made on an annual basis.

The answers to the questions submitted to us can be shortly summarized as follows:

1. *Composition of the Commission:*

- Should the Commission be expanded/ reduced? If so, how and according to what criteria?

Answer: The present number of 53 members should be kept.

- Membership according to particular criteria? If so, which ones? On what should the new criteria be based and where?

Answer: It is hardly possible to find objective criteria that keep access to the membership open enough to allow for a representative composition of the Commission. Formal criteria should not be introduced.

- Alternatives (voie médiane), to raise the credibility of the members?

Answer: Candidates for membership should be encouraged to make publicly specific commitments in the area of human rights when being elected to the Commission and, at a later stage, to formalize such declarations. Members of the Bureau should make, when they take up their office, a solemn declaration that they serve in their individual capacity and are impartial.

2. *Organisation of the Commission and the ability of the Commission to function properly*

- *Agenda:* Does the existing agenda still correspond with current needs? If not what form should a new agenda take?

Answer: The agenda would need certain improvements but a reopening of the discussion about this issue would be very difficult. The present agenda, as such, is not a major cause of the current problems and would not be an obstacle for improving the present situation.

- *New forums:* In 2003, the high level segment and the interactive dialogue were introduced. Can these new forums be improved? And are new different forums necessary?

Answer: The High Level Segment and the Interactive Dialogues should be kept. A new forum allowing for a dialogue with National Human Rights Institutions should be considered.

3. NGOs

What role should NGOs play in the future? Can this role be improved?

Answer: The present role of NGOs should be kept.

4. Resolutions

- *Efficiency question:* Every year the texts get longer, and there are increasingly disputes about form rather than substance. How and according to what criteria could resolutions be shortened?

Answer: Delegations should be encouraged to streamline the resolutions. Incorporation of the substance of previous resolutions by using the mechanism of "recalling" the number of the previous ones should be encouraged, in particular where there is a clear consensus on the content of previous resolutions or where there is no need to reiterate international standards that are not universally accepted yet. The Commission could set a voluntary page limit between 3 to 6 pages and encourage the main sponsors of the text to abide by this limitation.

- *Thematic Resolutions:* Should they be discussed only every two or three years? What should their relation to the mandates of Special Rapporteurs be?

Answer: Biennialisation or triennialisation of thematic resolutions should be encouraged. Where these resolutions provide for special procedures, biennialisation should be considered but with a view to not impairing their protection and dialogue capacities. The ways and means to biennialise these resolutions should not disrupt the capability of the special procedures to engage in the promotion of human rights and to develop their themes.

- *Country resolutions:* Politicisation and bloc-building in the context of point 9 of the agenda has increased. Are there other, new ways to address serious violations of human rights in specific countries?

Answer: Any fair and transparent consideration of country situations under Item 9 as well as the provision of technical co-operation under Item 19 should be based on objective information. In order to make more clear and transparent what the situation in the different countries is, the Office of the High Commissioner for Human Rights should prepare a country-by-country compilation containing summary information and the text of country-specific recommendations of the thematic and country rapporteurs as well as information about the degree (or absence) of willingness of the country concerned to cooperate with the special procedures and other relevant international mechanisms.. States proposing country resolutions should systematically refer, to the extent possible, to information contained in the compilation, and explain, on the basis thereof, why a particular country should be selected for special consideration under item 9. The main sponsors of a country initiative should inform the country concerned beforehand and initiate a process of dialogue with states from all regional

groups. The principles of transparency and negotiations across regional lines are essential.

- *Dialogue forums:* Should dialogue forums be introduced between the regional groups and/or blocs (OSI or LMG) in order to discuss country resolutions in advance?

Answer: Such dialogue forums should not be instituted as they would reinforce the trend of creating blocks. What is needed, are more transparent forms of preparing and deliberating country resolutions as proposed above.

- *Implementation:* How can the resolutions of the UN Commission on Human Rights be better implemented? What is the role of Special Rapporteurs in this regard?

Answer: The Commission should either appoint a Rapporteur on follow-up (or designate the High Commissioner for Human Rights) with the task of producing a yearly report that would describe, analyse and assess the overall progress made (or lack thereof) in the implementation of resolutions of the Commission. "Follow-up" should cover all activities of the Commission and could be added as a new agenda item. This report would be based on the following elements: (1) the secretariat's present compilation of the executive summaries of the special procedures should be further improved by the production of a textual compilation as well as lists of countries that special procedures have requested for visits and their status. The same holds for an annual compilation of the conclusions and recommendations of the special procedures, which should be produced early enough to enable further discussion (2) In their annual reports to the Commission, both country and thematic rapporteurs should be encouraged to highlight a selection of pertinent recommendations that are susceptible to implementation, and to inform the Commission, in the next report about the degree of progress achieved. The discussion of the reports of the country rapporteur should focus principally on the extent to which these recommendations are being implemented and would be the basis of the continuing inter-action between the mandate holder and the authorities of the country concerned. This emphasis on implementation of the recommendations would thus be the basis for an assessment on impact of the resolutions of the Commission.

5. Procedures

With the proposed reforms, procedural rules will have to be amended. Can you make some concrete proposals in this regard?

Answer: Implementation of the proposals made here could be done on the basis of decisions taken by the Commission and do not require changes of legal texts. Unanimity should be the rule.

6. Human and financial resources

More than 3,000 persons registered for the 59th UN Commission on Human Rights. The Commission absorbs enormous financial and human resources, at least a part of which could put to better use. Could you give your thoughts on this matter?

Answer: The Commission still plays an important role in the areas of standard setting, promotion of human rights in general and clarification of conceptual is-

sues. It provides as a kind of an annual human rights world conference a unique forum for addressing publicly all contemporary issues related to human rights on a universal level. This is especially true because the work of the Commission is not limited to governments but also provides NGOs and independent experts with possibilities to raise issues or comment on them. In this regard, the Commission is unique as it allows victims and those working at the grass-roots level to voice their grievances and to bring them to the attention of the international community. If its capacities to follow up on its decisions can be improved, the investments are justified.