

**Indonesia's position on
the Open-ended Intersessional Consultations in accordance with Council's
Decisions 2006/104
on
Universal Periodic Review**

Geneva, 21 July 2006

General Overview

- Indonesia welcomes and supports the establishment of an intersessional open-ended intergovernmental working group on Universal Periodic Review. The working group will meet on an inter-sessional basis as a forum to develop the UPR modalities and mechanism through a transparent, inclusive, well scheduled and consensual process.
- Indonesia supports the Universal Periodic Review (UPR) since it is regarded as a tool for assessing the fulfilment by each State of its human rights obligations and commitments. Such a review would be useful in addressing problems of politicization and selectivity in dealing with human rights issues. The universality of approach in placing each country under scrutiny should encourage and ensure a more equitable process and greater transparency with regard to human rights promotion effort as mandated by the Charter and the *erga omnes* principle, while at the same time, also providing accurate information on the situation of all human rights in each country.
- The UPR should also serve as a tool for identifying obstacles and challenges of countries in protecting certain human rights and fundamental freedoms. It should be conducted in a constructive manner on the basis of the report that aims at strengthening the State's capacity to comply with its human rights obligations. It should also promote the application of coherent policies in the implementation of human rights mandates by Member States and relevant human rights bodies.
- Nonetheless, this mechanism should complement without duplicating the work of the treaty bodies and thus, should not focus on specific human rights and fundamental freedoms, but rather, adopt a general approach to the Member State's obligations in the field of human rights and give consideration to the capacity building needs of the State concerned.

Participation

- While the working group is tasked to create an open and transparent negotiations on the modalities of the UPR, it is important to emphasize that in carrying out its work, the working group should also benefit from a wide and inclusive participation from member and non-member States, from civil society, and from human rights mechanisms, including relevant international organisations.

Time-frame

- In accordance with paragraph 6 of the Council's Decision 2006/104, the working group will regularly report to the Council starting in September 2006 on the progress made on the development of modalities and completed within the time frame as stipulated by paragraph 5 (e) and 9 of the GA resolution 60/251.
- Given the importance of the future role of this new mechanism, we strongly believe that the quality of the modalities to be developed should have priority and that no artificial deadline other than the one stipulated by the relevant GA resolution should be introduced. It is important to establish a credible mechanism, for the long-term rather than sacrificing the substance for the sake of speed.

Review Format

- To ensure the effectiveness of the UPR, Indonesia is of the view that the review format of the UPR should be in an interactive dialogue in the Plenary of the Council and in a constructive manner in order to have a useful role in identifying the obstacles or challenges encountered by countries, while also allowing for the possibility to capitalize on their strengths and opportunities.

Report

- In accordance with paragraph 5 (e) of the GA resolution 60/251 the UPR will be undertaken based on objective and reliable information, of the fulfilment by each state of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States.
- Indonesia is of the opinion that the civil society should be involved in providing information to the Council regarding a particular country under review. In this vein, only local NGOs should be called upon to provide information when the country is under UPR since they have more in depth and clear perspective on the real situation in that particular country.

Outcome

- Rather than leading to the adoption of measures of a punitive nature to address any shortcomings or obstacles, this mechanism should aim to produce an outcome geared to enhancing countries' national capacity to fulfil their human rights obligations.

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Decisions 2006/103**

on Review Mandates

Geneva, 21 July 2006

General overview

- Operative paragraph six of the UN GA Resolution 60/251 stipulates that the Council shall assume, review and when necessary improve and rationalize all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights in order to maintain a system of special procedures, expert advice and complaints procedures.
- Indonesia welcomes and supports the establishment of an intersessional open-ended intergovernmental working group on review, improve and rationalize all mandates, mechanisms, functions and responsibilities in order to maintain a system of special procedures, expert advice and complaints procedure.
- The review should aim to develop a comprehensive, coherent and improved system of special procedures, expert advice and complaints procedure

Special Procedure

- Since special mechanisms play a crucial role in the promotion and protection of human rights, Indonesia is of the view that the assumption, review and rationalization of these mechanisms can be done, *inter alia*, ensuring transparency in the process of their selection as well as the independence and impartiality of mandate holders.
- The system of special procedures is widely recognised as one of the strong points of the Commission on Human Rights which deserves to be retained in the Human Rights Council. However, there is a widely held view that the system of special procedures needs to be rationalized with a view to enhancing its relevance to the needs and requirements of Member States, as well as its effectiveness.
- Indonesia observed some shortcomings of the system of the special procedures that need to be overcome, and these include frequent overlapping of the mandates of one special procedure with those of another, the lack of a standard reporting procedure; the absence of a code of conduct, especially in dealing with politically sensitive issues; the lack of a reasonable balance of mandates between civil and political rights on one hand and economic, social and cultural rights, including the right to development, on the other.
- In view of these deficiencies, Indonesia proposes the following steps:
 - Improve the selection and appointment of mandate holders;

- Develop a code of conduct, standards and guidelines of reporting;
 - Link the system of special procedures with an experts' body to be established by the Council, in order to create a synergy and to ensure that Member States benefit from the collective thinking of the experts' body on issues dealt with through special procedures that are more comprehensive and coherent.
- Indonesia also proposes that the composition of the mandate holders should represent geographical distribution and the various value systems, legal tradition, cultures and religions.
 - Special procedures for setting standards of human rights can also be established by the Council, after consultation with the different treaty bodies.

Expert Advice

- With regard to expert advice, Indonesia offers the following views:
 - An experts' body similar to the Sub-commission on the Promotion and Protection of Human Rights needs to be established under the Council to provide research work and studies on emerging issues. The experts' body can also identify capacity gaps among the existing human rights instruments, clarify new concepts and initiate work on new norms and standards.
 - A new experts' body should be built on the strength of the Sub-commission while rectifying its shortcomings.
 - It should serve as a solid, independent, representative and efficient think tank.

Complaint Procedure

- The Working Group should develop modalities to address human rights violations with a new approach based on the relevant principles contained in GA resolution 60/251.
- Among the principles that should be applied in this review are the following:
 - Universality, objectivity and non-selectivity in the consideration of human rights issues, and the elimination of double standards and politicization (PP 9).
 - The promotion and protection of human rights based on the principles of cooperation and genuine dialogue aimed at strengthening the capacity of Member States to comply with their human rights obligations (PP 10).
- The 1503 procedures offers a good basis for a new modality for addressing human rights violations in a less politicized, more constructive manner, and is equipped with a mechanism for the follow-up discussions of recommendations

and their implementation.

- The positive features of the 1503 procedures are that it integrates a set of criteria for the admissibility of cases; it offers staged considerations of a country situation in confidentiality; and allows for follow-up discussions. However, these procedures were created by an ECOSOC resolution and will therefore not be applicable to the Council, as it is a subsidiary body of the General Assembly and not under the ECOSOC.
- New elements should be introduced to overcome the shortcomings of the procedures. Through these procedures, the Council should consider and adopt country specific resolutions in public meetings only in the face of persistent human rights violations by uncooperative governments after having gone through stages of confidential consultations and deliberations.

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