

**Informal consultations of the Commission on Human Rights
Palais des Nations
22 November 2005**

Joint Statement of Asian NGOs on the proposed Human Rights Council

We, the following Asian NGOs welcome the informal consultations of the Commission on Human Rights at the initiative of the President of the sixtieth session of the General Assembly and the two Co-Chairs on the establishment of a Human Rights Council and the transitional arrangements.

We, however, remain concerned about the lack of access of the Southern NGOs despite the recommendations from the High Level Panel on UN-Civil Society Organisations relationship. As most of the exercises are conducted in New York and Geneva and no prior information is provided, NGOs from the South effectively cannot participate and contribute to the process.

It is essential that the Secretariat inform the NGOs in advance to enable them to effectively contribute to the processes.

The undersigned Asian NGOs have the following recommendations on the proposed UN Human Rights Council.

Status

- a. The Human Rights Council should be a principal organ of the United Nations and be funded from the regular budget of the United Nations;
- b. The Human Rights Council should be a standing body which will continue to hold six-week annual session in addition to convening special sittings or sessions throughout the year;
- c. The existing Sub-Commission should be retained and should report directly to the proposed HRC.

Mandate and functions

The Human Rights Council must address the credibility deficit of the UN Commission on Human Rights. Asian NGOs propose the following for the mandate and functions of the CHR:

- a. The mandate of the proposed Human Rights Council must be enhanced from the current limited mandate of the Commission on Human Rights to move from supervision toward enforcement measures, by empowering it to refer cases of gross human rights violations to the General Assembly, the International Criminal

- Court, the Security Council, International Court of Justice, the proposed Peace-Building Commission and other inter-governmental bodies;
- b. The proposed Human Rights Council should expeditiously deal with the Commission on Human Rights' pending standard-setting tasks, namely the draft declaration on the Rights of Indigenous Peoples and the Optional Protocol (OP) to the International Covenant on Economic, Social and Cultural Rights (ICESCR),
 - c. The mechanism of the Special Procedures should be maintained and strengthened; and
 - d. Take decisions regarding the failure of a member State to cooperate with its United Nations bodies including the Treaty Bodies and Special Procedures.

NGOs' participation

- a. NGOs which have obtained Consultative Status or Roster Status with the ECOSOC should be able to participate in the proceedings of the Human Rights Council with the same rights even if the Human Rights Council is to be designated as a principal organ of the UN or a Subsidiary organ of the General Assembly;
- b. Should the HRC decide to adopt new rule and procedure for NGOs' participation, relevant recommendations as proposed in the Secretary-General's Panel of Eminent Persons on United Nations–Civil Society Relations, entitled "We the peoples: civil society, the United Nations and Global Governance" should be incorporated, in particular:
 - i. The recommendation of the Panel on streamlining and simplification of accreditation to make NGO access to inter-governmental deliberations easier;
 - ii. Ensure the principles of openness, transparency and accountability be put into practice to ensure effective and meaningful participation;
 - iii. Consider creation of a "complaints mechanism" with a transparent process within which representatives of NGOs such as the Conference of NGOs in Consultative relationship with the UN (CONGO) has an active presence; and
 - iv. Ensure that security considerations and space limitations are not used to deny access to legitimate civil society organizations, including those working in areas of conflict resolution, de-colonization and the right to self-determination.

Membership

- a. Members elected to the Human Rights Council should commit themselves to undertake the following measures within their tenure:
 - i. Ratifying all human rights treaties and optional protocols.
 - ii. Withdrawal of all reservations to the human rights treaties that are contrary to the object and purpose of the treaty.
 - iii. Submission of reports required under the treaty monitoring bodies within the prescribed dateline.
 - iv. Extend a standing invitation to all Special Procedures
- b. The Human Rights Council should develop a compliance mechanism to ensure that Member States fulfill their human rights obligations.

Election

- a. Members of the Human Rights Council who fail to adopt the above measures should not qualify for immediate re-election.

Duration

- a. Membership in the Human Rights Council should be limited to two terms periods with one term as an interval.

Method of Work

- a. The Human Rights Council should develop effective follow-up mechanisms for member states' cooperation with Special Procedures and Treaty Bodies where the current Commission on Human Rights has failed to bridge implementation gaps.
- b. Suitable arrangements should be made to facilitate the effective participation of southern NGOs including the utilizing of information communication technology (ICT) to overcome any geographical barrier.

Places of Sitting:

Considering the possibility of increased number of sessions for the proposed Human Rights Council, mechanisms are created to ensure full and effective participation of NGOs from the South. In this regard, the Sessions of the HRC should be held in the regions too.

Asian NGOs endorsing the statement:

- 1) Asian Centre for Human Rights (ACHR)

- 2) Asian Forum for Human Rights and Development (FORUM-ASIA) (NGO with Special Consultative Status with the ECOSOC)¹
- 3) Asian Indigenous and Tribal Peoples Network (NGO with Special Consultative Status with the ECOSOC)
- 4) MINBYUN-Lawyers for a Democratic Society (Korea)
- 5) Third World Network (TWN)

¹ On behalf of its 36 member organizations in Asia.