



Special Session of the UN Human Rights Council on the Human Rights Situation in Palestine

July 2006

The new United Nations Human Rights Council (HRC) is up and working. The first regular session, which was held from 19 to 30 June, has been evaluated by the Office of the High Commissioner for Human Rights (OHCHR) as a "balance between advancing essential procedural requirements and addressing substantive human rights issues."¹ While many NGOs regretted to see relatively few work done on substantive issues, the overall mood of the inaugural session was the positive spirit of a new start for the UN human rights system. This was also mirrored by the presence of a large number of Heads of States and Ministers speaking at the High Level Segment of the first session of this new UN body. After all, as Secretary-General Kofi Annan said in his opening speech: The eyes of the world were upon them.

At the 5th and 6th of July, the HRC held its first special session. After the first regular session which was welcomed as a positive change to the former Commission on Human Rights, the convening of a special session - one of the new mechanisms of the HRC - could have been a further sign of the renewal of the United Nations Human Rights system. Unfortunately it did so only in part.

According to the General Assembly resolution establishing the HRC, a special session can be held

at the request by a Council member with the support of one third of the Council's membership.² In this case, it was Tunisia who, on behalf and with the support of the Group of Arab States, requested a meeting on the "latest escalation of the situation in the Palestinian and other occupied Arab territories."³

It is a positive aspect, that such a special session has been convened. Concerns had been voiced about the inability of a Council to address current human rights situation, if it was not a standing body but only met three times during the year. By holding a special session only five days after the regular session ended, responding to the worsening of an ongoing violation of human rights, the Council proved its ability for fast reaction. Of course it will now have to be seen, whether the Council will do so at other occurrences of human rights violations or whether the first special session was rather the political plot it was being accused of by States critical to any resolution concerning the violation of human rights by Israel.

The negative aspect of this special session and the resolution which was adopted in the process is that it showed again the split along regional blocks. **The HRC was not able to reach consensus at the first resolution it adopted at a special session.** In fact, a resolution on this topic had been adopted during the regular session, showing the very same pattern of votes.

¹ OHCHR media release: Inaugural Session of the Human Rights Council: Highlights in Brief on <http://www.ohchr.org/english/press/hrc/HRCOutcomeFINAL.pdf>. Also see previous FES Geneva Fact Sheet: "Inaugural Session of the Human Rights Council."

² A/RES/60/251, Para. 10.

³ Letter by the Permanent Representative of Tunisia, Samir AL-Oubaidi, to the Bureau of the HRC: A/HRC/S-1/1.

The Arab Group and the Organization of Islamic Countries (OIC) relied in great part on their own majority which was amended by some Latin American Countries. The Western Group on the other hand showed no willingness to move away from its traditional support for Israel, insisting that the resolution was to unbalanced, focusing only on the wrongdoings of one side. Partly this was true as the OIC represented a rather unbalanced view, but with the amendments introduced by Pakistan to the draft resolution, calling for “all concerned *parties*” to respect humanitarian law and refrain from violence, the Western States could have shown some readiness for reaching consensus as well.⁴

While voting was mostly aligned with the regional blocks, the position of Switzerland and the Latin American countries was interesting. Switzerland, being a very active HRC Member State, introduced an amendment to the draft resolution aiming at a more balanced document which would address the shortcomings of the Palestinian side as well. The Swiss proposal urged “all Palestinian armed groups to respect the rules of international humanitarian law” and “to refrain from violence against the civilian population.” Had their proposal been accepted, there would have been a chance for consensus. Yet, with the (adopted) changing of the amendments by Pakistan replacing “Palestinian” by “all concerned parties”, Switzerland decided to abstain from a vote on the tabled resolution A/HRC/S-1/L.1/Rev.1.

The Latin American Countries were split on the topic. While Mexico voted with the Western Group against the resolution, the other Latin American Members of the HRC voted in favour, explaining that the severe worsening and the urgent nature of the situation led them to this decision. While they would have preferred a balanced text as put forward by the amendments of Switzerland, human right situations, wherever they occurred, would require urgent action.⁵ Mexico, and also Japan, expressed their regret for the adopted text, announcing that they would have voted in favour of the resolution, had more efforts been made to balance it. Finland, on behalf of the European Union, expressed similar

concerns, yet did not mention the possibility of a favourable vote. The lack of flexibility on the side of the sponsors of the resolution did not allow for a substantive change. Another drawback was the lack of active participation by NGOs during the Special Session. As the debate was closed before the speakers list was exhausted, **NGOs did not get a possibility to speak**, because they are always placed at the end of the list.

Given the positions mentioned above, the adoption of the resolution, deciding to dispatch an urgent fact finding mission headed by the Special Rapporteur on the Occupied Palestinian Territories, was far from reaching consensus.

An adoption by consensus would have shown that the HRC could overcome the polarization of the late Commission. Yet, the topic of this first special session was not made to set a precedent for future consensus in dealing with pressing human rights issues. It remains an open question whether taking up this issue at this particular time was intended to show the unwillingness of Western States to move on this issue, or even a well planned choice by the Arab Group to discredit the new Council, proving that it was still caught in the same political polarization as the late Commission. Definitely there was not much willingness on either side to yield concessions to the other side. **Hopefully a balanced view as promoted by Switzerland and the Latin American countries will prevail in future considerations on human rights issues.**

It would be good for the general acceptance of the Council if the second regular session, scheduled to take place from 18 September to 6 October, will show more consensus in the answer to pressing human rights issues. Also, an agreement on the setup of the Universal Periodic Review⁶, the other big systematic change in comparison to the Commission, will send a clear signal of political goodwill and openness on all sides to advance the position of the HRC and give it the importance it needs.

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⁴ Djibouti and Gabon were absent when the resolution was put to a vote - a position that especially Djibouti, being absent during many of the votes at the regular session as well, seems to prefer.

⁵ Explanations of the vote, given before and after the vote: <http://www.unog.ch>, “News & Media”.

⁶ An intersessional open-ended intergovernmental Working Group is charged with the exercise to set up the modalities of the Universal Periodic Review. FES Geneva will provide another Fact Sheet on the outcome of this Working Group.