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Second Session of the UN Human Rights Council

High hopes were placed by all sides on the second session of the Human Rights Council (HRC). Did it live up to the expectations or just lead to disappointment? As always when hopes are high, the reality turned out to be a mix of both.

Expectations

After the first regular session provided for the opening and celebration of the newly created UN body, the first and second special sessions had already lowered some of the overly enthusiastic appraisals of the new Council. A new kind of selectivity seemed to dominate the choice of the topics, but drawing from the very positive spirit of the inaugural session, expectations for the second session, held from 18 Sept to 6 Oct, were, that a certain productive routine could be established.

This did not happen as of now. But the reason for this was partly given already by the setup of this session. The Council had before it all the reports it had inherited from the last session of the Commission on Human Rights. Two thirds of the session time were therefore consumed by catching up on those pending reports. Due to the very limited time, this session did again not allow for the setting of precedents and still has to be evaluated under the premises of the transition.

Political Mood

Similar to the two special sessions which took place between the regular sessions, diplomats only reluctantly arranged themselves with the new realities and requirements of the HRC. The power relations between the regional groups have changed compared to the Commission on Human Rights.¹ This was first conceived as a welcome

break with the deadlocked structures and political disputes of the discredited Commission. Yet, the danger emerges that the new power relations might only have brought a change in topics, not in behaviour. While the new majority of the African, Asian and "like-minded" states does not see a necessity for substantial concessions in negotiating resolutions, the Western Group seems to be slow in finding a concerted way of addressing issues that are tabled by the other side. The mere fact that it is - in general terms - possible to speak about "sides" reminds in a painful way of the old Commission and shows that the HRC is not a unified body, immune to international political disputes, like some might have hoped.

The fact that the planned omnibus resolution was not adopted, but instead 44 individual draft resolutions were tabled, shows a high level of dissent within the Council. Despite his efforts before and during the session, the HRC President, Ambassador Luis Alfonso de Alba of Mexico, could not unify the diverging positions. Due to this there are different evaluations of his presidency - while the majority of NGOs are grateful for the high level of involvement that was granted to them, some observers believe that a stronger leadership could have found an approach to unify the positions of the delegations.

Reports and Interactive Dialogue

The more than 40 Special Procedures (SP) reports were split into two parts: first thematic, then country mandates. While the interactive dialogue

¹ The number of members and the regional distribution have changed from Commission to Council. For more detail see: FES Fact Sheet

"Inaugural Session of the Human Rights Council, FES Geneva, July 2006 on www.fes-geneva.org and <http://www.ohchr.org/english/bodies/hrcouncil/membership.htm>.

(ID²) on thematic mandates was rather objective and factual, the ID on country mandates was used for strong attacks on the “arbitrary” choice of country mandates and their legitimacy in general. A number of states called for an end of the country mandates once the new Universal Periodic Review (UPR³) mechanism would be established. On the topics considered, countries from the South repeatedly asked for a stronger emphasis to be put on economic, social and cultural rights. Among the country specific reports, especially the joint enquiry by four Special Rapporteurs concerning the human rights situation in southern Lebanon and northern Israel caused a heated debate.

The progress reports of the Working Groups (WG) on UPR and SP were of great interest for the future working methods of the HRC. They informed about ongoing research on the topics but could not deliver any results, yet. The WGs had been informally established after the first session and will continue their work on 13 and 20 November.

Apart from the public sessions, the HRC also discussed the human rights situation in Iran, Kyrgyzstan and Uzbekistan under its 1503 (complaints) procedure. A complete listing and overview of the reports considered can be found on the Council’s homepage.⁴

NGO participation

According to official statistics, 154 NGOs participated at the second HRC session (exactly the same number as at the 1st session) delivering 152 oral statements.⁵ Different from the Commission, NGOs were now allowed to participate in the interactive dialogue with special procedures (ID). Yet, only the discussion on thematic, not on country mandates was open to NGO participation.

During the session NGOs (most prominently ISHR⁶) also provided updates and independent reporting of the proceedings to enable those NGOs which were unable to participate, to follow the discussions from various angles.

² The ID allows for a question and answer session between the SP mandate holder and the HRC, including Observer States and NGOs.

³ For information on possibilities for the UPR see corresponding chapter at www.ishr.ch/handbook.

⁴ <http://www.ohchr.org/english/bodies/hrcouncil/2session/index.htm>, Document HR/HRC/06/61.

⁵ Statistics and overview will soon be available at <http://www.ohchr.org/english/bodies/hrcouncil/>.

⁶ <http://ishr.ch/hrm/council/index.htm>.

Aside from participation during the sessions, NGOs organized 55 parallel events on various thematic and country specific issues – within this scope FES Geneva continued its cooperation with Professor John Ruggie (Harvard), UN Special Representative on Business and Human Rights, with a well attended lunchtime public discussion on the future of his mandate.

Decisions and Resolutions

Instead of the intended omnibus resolution, which would have referred to all the topics considered, the HRC adopted a generic text requesting the Secretary-General and the High Commissioner for Human Rights “to continue with the fulfilment of their activities” and to “update the relevant reports and studies.”⁷

While not closing but only suspending the second session, decisions on the 44 draft resolutions⁸ were deferred to the next session, and it was decided that all SP should deliver their subsequent report at the 4th session of the HRC. Disappointment on the outcome was not only voiced by the USA (who opposed the establishment of the HRC in the first place) but also by the HRC President, who, while stating that the results were not “meagre”, explained that the challenges facing the Council were even greater than the progress that had been made.

The Way Ahead

The negative aspects emphasized by some do as of now not outweigh the possibilities for positive development. The 3rd session from 27 Nov to 8 Dec 2006 will decide on all the draft resolutions and set an agenda for next year. Some of the resolutions might be dropped until then or modified to allow for consensus. The WGs on UPR and SP will continue their work and give the HRC ample opportunity to find to the productive routine it will need to face its challenges and to protect human rights worldwide.

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This Fact Sheet also draws from the report of Dr. Theodor Rathgeber, observer for the German Forum Human Rights.

⁷ Decisions, written statements and draft report on <http://www.ohchr.org/english/bodies/hrcouncil/1session/documentation.htm>.

⁸ <http://www.ohchr.org/english/bodies/hrcouncil/form.htm>.