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" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "

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ICJ Position Paper on the Review of the Human Rights Council

In anticipation of the commencement of the second session of the Open-Ended Intergovernmental Working Group on the review of the work and functioning of the Human Rights Council

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The International Commission of Jurists (ICJ) welcomes the second session of the review of the Human Rights Council (HRC), to be conducted in three parts, commencing 7 February 2011. This is a further important step towards strengthening the mechanisms of the Council as the UN's principal body charged with the promotion and protection of human rights.

Recognising that the President of the Council will today distribute a compilation of working papers by each of the five HRC review facilitators, the ICJ takes this opportunity to call on the Human Rights Council to ensure that the review achieves meaningful progress in strengthening the work and functioning of the Council. Crucial to the integrity of the HRC, the ICJ opposes any attempts to restrict the Council's mandate.

This position paper identifies key concerns of the ICJ relating to the Universal Periodic Review (UPR), Special Procedures, and the general functioning of the Council. It is based on four fundamental objectives, namely:

1. *Bringing an end to impunity.*
2. *Giving effect to the rights of victims, including through the right to remedies and reparations where human rights violations occur, and through changes of practice for the purpose of preventing future violations.*
3. *Enforcement of recommendations made by the Council's human rights mechanisms.*
4. *Safeguarding and strengthening the Special Procedures.*

The ICJ calls on the Human Rights Council to undertake the second session of the Open-Ended Intergovernmental Working Group on the review of the work and functioning of the Council in a manner that is consistent with these objectives.

Accountability

Systematic approach to dealing with all emergency and chronic situations

Of crucial importance, the ICJ calls for the development of a flexible mechanism capable of systematically dealing with all emergency and chronic situations, including:

- Increasing the Council's early-warning and preventive role;
- Making use of warnings from the Special Procedures.

Preservation of the independence of the Office of the High Commissioner for Human Rights

The ICJ notes and supports the view expressed by a number of delegations during the informal consultations leading up to the second session of the Council review, namely that the review should preserve the independence of the Office of the High Commissioner for Human Rights (OHCHR). This is crucial to the effective and transparent functioning of the Council's mechanisms.

Universal Periodic Review

Enhanced compliance with international human rights law

The ICJ calls for a strengthening of the system of follow-up to the UPR in order to ensure enhanced compliance with international human rights law, including redress of past human rights violations and the prevention of future abuses. To that end, the ICJ proposes that each State under review should be required to:

- Clearly indicate what recommendations are accepted or rejected, including reasons for any rejection of recommendations (ensuring transparency and credibility);
- Provide the UPR Working Group with a plan for implementation of the Working Group's recommendations (for effective implementation of recommendations);
- Provide a mid-term report on the status of implementation of at least the key recommendations of the Working Group (to redress past and potential violations of grave human rights concerns).

Enhanced participation by civil society

Noting that stakeholder submissions (provided approximately six months ahead of each UPR) are summarised by the OHCHR and that civil society has no opportunity to make interventions during the review process itself, the ICJ calls for procedural changes to allow civil society and experts to:

- Submit recommendations for consideration by the troika, in the same way as allowed by Council members, even if only in writing (assisting the identification of recommendations pertaining to serious human rights violations);
- Participate in the Working Group's deliberations (ensuring transparency and avoiding an unnecessarily narrow focus of discussion).

Special Procedures

The ICJ notes and supports the view expressed by a number of delegations during the informal consultations leading up to the second session of the Council review, namely that the Special Procedures should be safeguarded and strengthened (crucial to their integrity, effectiveness and transparency).

Transparent and appropriate appointment

The ICJ calls for the establishment of selection criteria and a transparent appointment process for mandate holders based on the background, skills, qualifications and experience of nominees (ensuring transparency of process and the appointment of suitably qualified mandate holders, and avoiding manipulation of the appointment process).

Improved follow-up mechanisms and resource allocation

To improve on the operation of Special Procedures, and to achieve effective outcomes from their work, the ICJ recommends:

- The establishment of mechanisms to follow-up on the implementation of recommendations by the Special Procedures (crucial to integrity and effectiveness);
- An increase in the resources allocated to the Special Procedures (often crucial to allow mandates to be discharged, including by way of adequate responses to developing human rights situations).

Standing invitations to Special Procedures

Noting the suggestion of the European Parliament, and others, that cooperation with Special Procedures should be seen as a minimum requirement for membership in the HRC, the ICJ recommends that:

- All UN members should be encouraged to extend standing invitations to Special Procedures (enabling priority concerns of the Special Procedures to be addressed, as well as achieving a geographic distribution of country missions);
- All States that have extended standing invitations to Special Procedures should take meaningful steps to facilitate the timely and effective conduct of country missions and related work (important for the reasons identified above);
- All States seeking membership of the HRC be required to extend standing invitations to Special Procedures (important for the reasons identified above and for the integrity and accountability of the HRC as the UN's principal body charged with the promotion and protection of human rights).
