

Invitation to the symposium organised by the CETIM

International cooperation, development, development aid...

What are we really talking about?

UniMail, Geneva, December 7-9, 2007

The debate about the effectiveness of international cooperation comes up regularly but it is usually poorly presented and oversimplified, posing questions such as these. Are the rich in the North giving too little or too much? Are the funds 'generously' distributed to the poorer South well managed? And so on. A further problem resides in the widely held belief that international cooperation is the same as "development aid", or put differently, as financial transfers from the North to the South... Is the meaning of the term "international cooperation" distorted? Are there no other stimulating and valuable aspects to consider?

Building on 30 years of exchange, dialogue and research on these themes, CETIM aims, at this symposium, to encourage reflection on international cooperation and further investigation of its economic, social and cultural aspects. The symposium also aims to engage NGOs and international solidarity activists in fostering as wide a vision as possible of their actions, integrating demands for structural reforms of the "world system", in order to make development aid truly effective, and to ensure that the terms "cooperation" and "solidarity" acquire their full meaning.

The key issues that the symposium will address are as follows:

- What do we mean when we say that international cooperation is not just development aid?
- On the basis of practical experience and analyses of certain associations and NGOs, what exactly is meant by international cooperation?
- What sort of analyses and concrete experience could restore the genuine meaning of "cooperation"?
- What conceivable synergies exist between the campaign strategies of different NGOs and international cooperation?

The CETIM warmly invites you to participate in this symposium, and to reflect upon and debate these questions.

If you have any questions about this programme or have any ideas you would like to contribute, or simply subscribe to this symposium (thank you for indicating which work-shops you are most interested in), please contact the CETIM either by phone: +41 (0) 22 731 5962; by fax: +41 (0)22 731 9152, by email: cetim@bluewin.ch, or by post at: 6 rue J.C Amat, 1202 Geneva, Switzerland.

There will be an entry charge of about 30 CHF (20 Euros), half-price for students, retirees and unemployed.

Provisional Programme (subject to modification):

FRIDAY, December 7, 2007

8-9 PM - Opening night - Homage to Thomas Sankara
Hommage to Thomas Sankara, followed by presentation of the symposium's objectives. Guests: Jean Ziegler, Samir Amin, Blandine Sankara and Florian Rochat (CETIM) - Entry free.

SATURDAY, December 8, 2007

9:30 - 1 PM General Opening Conference

1st Part: Presentation of the Declaration on the Right to Development (DRD).

Speakers: Gustave Massiah (CRID) and Florian Rochat (CETIM).

2nd Part: General discussion of the meaning of the word "development" and the evolution of international cooperation, in relation to the content and philosophy of the DRD.

Guests: Jean-Marie Harribey (ATTAC France) on the meaning of international cooperation within the framework of neo-liberal globalisation and its implications, Catherine Schumperli (IUED, Geneva) on the evolution of Swiss cooperation and Dembé Moussa Dembé (Forum for African Alternatives, Senegal) speaking critically from a Southern point of view on the role and actions of NGOs in international cooperation.

3 - 4:30 PM - Workshops offered

Workshop #1: In what way is the concept of food sovereignty an illustration of international cooperation?

Workshop #2 Debt cancellation as an indispensable tool of effective international cooperation. This implies national audits of Third World debt to reinforce North/South solidarity.

Workshop #3: How to involve young people in international cooperation: some examples of NGO action.

4:45 - 6:30 PM - Conference

ALBA and the Bank of the South: new perspectives for international cooperation?

Guests : Rémy Herrera and Eric Toussaint.

8:30 PM - Cultural events at the 'Maison des Associations' to be defined.

SUNDAY December 9, 2007

9:30 - 11 PM - Workshops offered

Workshop #4: Does intellectual property hinder international cooperation? What kind of knowledge transmission? The case of medicines and international cooperation in the area of health: the Cuban experience of exchange of medical professionals.

Workshop #5: The right to sustainable development? The right of future generations: the role of these in international cooperation? Ecology.

Workshop #6: Global public goods as a choice for society? From aid to people's rights.

Workshop #7: Taxation: how can we fight high bidding in the North and increased tax evasion?

11:30 - 1 PM Launch of the appeal

Work session on the appeal and proposals for amendment.

September 2007

Bulletin n° 29

www.cetim.ch
cetim@bluewin.ch
CCP: 12-19850-1
CCP: (Euro) 91-13687-6,
PofichBe, Postfinance, Berne

6, rue Amat,
1202 Geneva/Switzerland
Tél.: +41(0)22 731 59 63
Fax: +41(0)22 731 91 52

Europe - Third World Centre
Centre Europe - Tiers Monde
Centro Europa - Tercer Mundo



CETIM

EDITORIAL

Following a long period of negotiation, the Human Rights Council (HRC) last June adopted an eagerly awaited document establishing the core of its operating procedures.

Though the document is incomplete, we have been able to present a brief analysis in this bulletin, showing how the great hopes which some had placed in the creation of this new body were thwarted, and how the promises made by the initiators were never kept.

True enough, the risks of failure - that the basic working mechanisms of the HRC would not be adopted - were huge. The fear that such a failure would thereafter contaminate the entire UN apparatus was real. However, the resulting compromise is worrying in terms of the future of this body.

Effectively, the right to self-determination no longer appears on the HRC's agenda, and the right to development is drowned in a paragraph supposedly dealing with more than 40 mandates. Experts and NGOs have been left with very little room for manoeuvre not to mention the total control of the new Advisory Committee, which has replaced the Sub-Commission on the Promotion and Protection of Human Rights.

The reform undertaken over two years ago, characterized by an arm wrestling between the West and Southern countries, has ended up reinforcing the control by states of the main UN body on human rights that the HRC was supposed to be.

However, neither party emerges fully victorious from this struggle, as compromises were made on both sides, but always to the detriment of Human Rights. Southern countries now enjoy a comfortable majority at the HRC (even if they do not form a homogeneous group), which will eventually grant them an important role within this body.

While the weakening and/or the control over human rights mechanisms is "convenient" for most states, for different reasons of course, this situation is intolerable for the vast majority of the world's citizens, whose most basic and elementary rights are infringed every day.

History reminds us that there is always a discrepancy between theory and practice. One can only hope that human rights activists, experts, NGOs and social movements will be able to carve out enough space in this struggle so that the promotion of human rights can continue.

The HRC: how can it contribute to human rights?

On June 19th 2007, after a year of uncertainty, tension and intense negotiations, the Human Rights Council (HRC) finally approved by vote (46 in favour, 1 against, Canada) an important document called "institution-building" laying the foundations for its mechanisms.

As this document results from a consensus, there are gaps. But before proceeding to the analysis of its contents, it is important to understand that from the beginning there was the danger of an institutional crisis affecting the entire UN operations on human rights had this process not come off.

It should be stressed that important "details" still need to be resolved so that the Human Rights Council can function normally. Thus a good part of its second year of existence will be spent finalizing these details.

Also, as the HRC is a subsidiary organ of the General Assembly, this document will still have to be approved by it.

Moving on to the contents of this document, it includes several chapters: *Agenda, Methods of Work and Rules of Procedure, Special procedures and Code of Conduct, Advisory Committee, Universal Periodic Review.*

In this brief article, we shall try to analyse the most important aspects of these chapters.

Agenda of the HRC

This point was the object of bitter confrontation between Member States of the Commission. The compromise, which was vague on several points, will certainly need to be adjusted in the future.

Composed of three parts (principles, agenda and framework for the programme of work), the agenda itself is divided into ten points². We have three major comments:

- Point 3 deals with civil and political rights as well as economic, social and cultural rights. However the right to development is lost. One wonders how the HRC will be able to deal with more than 40 current mandates in one single point!

- One can also see that the right to self-determination, a pillar of international law concerning human rights³ is absent from this agenda, unless one considers the mentioning of the Palestinian people's right to self-determination (point 7) and an odd reference in point 3 referring to "Rights of peoples, and specific-groups and individuals".

- It is also worth underlining the fact that point 4 of the Agenda - which allows the HRC to examine the situation of human rights anywhere in the world - risks creating the same tensions that prevailed in

the former Commission, while it is obvious that the HRC cannot transform itself into a court or another virtual judiciary organ.

Program of work and rules of procedure

The HRC adopted a framework for its program of work and rules of procedure. The later states among other things that the headquarters of the HRC will be in Geneva; that it will hold ten weeks (minimum) of annual sessions, including the principal one (article 2); the annual cycle of sessions will begin on June 19th (article 2); the participation of NGOs is to be governed according to the modalities of the 1996/31 resolution of the ECOSOC (article 7) and the practices established by the former Commission; an annual report will be presented to the General Assembly (article 15).

It should also be noted that the program of work establishes that, in order to file a resolution concerning a particular country, one must have the support of a minimum of 15 member States of the HRC (§ 117d).

Special procedures and code of conduct

The length of the thematic mandates is limited to three years and those by country are limited to one year (§ 60). The HRC seeks the following qualities for the mandate-holders (Special Rapporteurs and Independent Experts): competence, experience, independence, impartiality, personal integrity and objectivity (§ 39). These mandate-holders can exercise their mandate for a maximum period of six years (§ 45) and cannot accumulate mandates.

If NGOs are allowed to propose candidates and these candidates will be allowed to propose themselves (§ 42), nevertheless the selection procedure has become extremely rigorous: 1) The Office of the High Commissioner must establish a public list (§ 43) a consultative group (composed of five people chosen according to a fair geographic distribution amongst the member states of the HRC and the latter) will examine the list in question (§ 47) and will make its recommendations to the President of the HRC (§ 52): The Council's President "will present to the member

E-BULLETIN

Would you, in the future, like to receive our information bulletin by e-mail rather than on paper? If so, simply get in touch with us at the following address, with "bulletin" in the subject line of your message: cetim@bluewin.ch.



Most recent CETIM publication

La santé pour tous!

Se réappropriier Alma Ata

This book was produced in collaboration with members of the People's Health Movement (PHM) international network. Health is today sacrificed on the altar of North/South relations and 25 years of neoliberalism have been disastrous in this respect. The goal of health for all, proclaimed at the Conference of Alma Ata in 1978, implies the mobilisation of health professionals, but also social movements, around the determining political and economic factors of health, factors that are often neglected but which are as essential as access to health care.

The book presents different examples and proposes key points for the elaboration of alternative policies and propositions for numerous struggles which could at last assure health for all.

Price: CHF 15.- / 10 €
Editions CETIM - ISBN: 2-88053-052-0, can be ordered from CETIM.

starvation. There can be no "free trade" between rich and poor countries, between the powerful and the powerless, the two, by definition, being inherently unequal, with unequal means and capacities. By cancelling the WTO agricultural talks, a humanitarian catastrophe will be avoided, to wit the exodus of rural populations on a huge scale (with some billion peasants deprived of all means of subsistence), and the concomitant increase of the world's hungry.

The seventh measure is cancellation of the foreign debt of the countries of the South, by encouraging, inter alia, audits of the debt. This is a major matter, for the debt is strangling the economies of these countries, forcing them to allocate almost all their resources to its service. Need one recall that numerous independent studies demonstrate that the debt has already been paid back, many times over, and that its continued existence is a political choice? In point of fact, it is a political lever used to enslave the peoples of the South.

As an eighth measure, there is the legal framework required for the transnational corporations, both at the national level and at the international level, in order to prevent these corporations from impeding the right to development and from violating human rights.

For more information, see our brochure on "The Right to Development" available free either from our web site or in hard copy from our office.

¹Denmark, Finland, Germany, Island, Israel, Japan, Sweden and the United Kingdom.

²Arrangement created in 1989 representing a consensus between the US Congress, the IMF, the World Bank and other lobbies on neoliberal reforms to apply to countries in economic difficulty.

³See various declarations by CETIM, presented to UN human rights bodies, and available on its website: www.cetim.ch and the recent publication: *Let's launch an enquiry into the debt! A manual on how to organize audits on third world debts.* Co-edited by CETIM, CADTM, Geneva, October 2006.

BIRTH OF CETIM MED !

To our readers from France : join the CETIM Med which has just been set up.

As a sister organization, it has the same objectives as CETIM and will organize various activities (conferences and debates) in the South of France. For further information contact: CETIM Méditerranée, 47 Avenue Monplaisir, 06100 Nice, France.

Email : cetim_med@yahoo.fr / Tél. : 04 93 84 01 47

JOIN THE CETIM!

- Individual member:** 50 CHF/ 30€ or US\$ (North) and 10€ or US\$ (South).
Membership dues for retirees, students, apprentices and the unemployed are one half of the above stated amounts.
- Supporting member:** CHF 100 / 60€ or US\$ and more.
- Collective member:** CHF 200 / 120€ or US\$.
- Supporting collective member:** CHF 500 / 300€ or US\$ and more.
- "Moral support" member:** CHF 15 / 10€ or US\$.

DUES ARE PAID FOR THE CALENDAR YEAR AND ENTITLE THE MEMBER TO:

- For every new member there is the gift of a book of Publicetim collection. (with the exception of "moral support" members)
- receive free the CETIM's newsletter.
- a 20% discount on the books and publications ordered from the Centre. (except for the category " moral support" member)

Family name..... Name.....
Street.....
Postal code, town.....
Country.....
Email.....
Date..... Signature.....

first to be examined (§ 9). It has been agreed to set up a voluntary fund of contributions in order to allow the countries from the South, particularly those least developed, to participate in the UPR (§18).

Although the adoption of “general directives” for national reports has been left for the 6th session and although the modalities of participation have not yet been clarified, it has been agreed that the examination will be based on a report presented by the State in question who is “encouraged to hold consultation on a large scale at a national level with all the involved parties” in order to draw up the report (max. 20 pages), a report compiled by the High Commissioner for Human Rights based on information provided by UN organisms (max. 10 pages) and a document (max. 10 pages) containing “other credible and trustworthy information coming from other interested involved parties”, document also compiled by the High Commissioner (§ 15). If the NGO’s are also included in this last point, there is a danger that the Economic and Social Council’s 1996/31 resolution, that governs the NGO’s participation and that was also approved by the CHR itself last June 19th, will not be respected. Indeed it is not certain that all the information communicated by the NGOs will be published and brought to the attention of the work group mandated by the UPR. In this case, one wonders who will judge the value of the information provided and what will be the objective criterion for making these judgements?

It has also been provided that content of the final document coming from the UPR to be adopted by the CHR will fit into the following framework: a) Make an objective and transparent evaluation of the human rights situation of the country examined, including new positive aspects as well as difficulties encountered within the country; b) Cite better practices; c) Highlight the re-enforcing of cooperation for the promotion and the protection of human rights; d) Offer technical assistance and means to reinforce the capacities, in consultation with the concerned country and with the latter’s approval; e) Record the commitments and the voluntary assurances made by the examined country (§ 27).

It has also been provided that the examined country be associated in the drawing up of the final document (§ 28), that the recommendations apply not only to the State in question but equally to “other interested involved parties” (§ 33) and that the CHR will deal with, if necessary, “cases of persistent non-cooperation”.

Although it is too early to form a definite opinion about this mechanism -that is not even operational yet- the fixed modalities would seem to confirm the preoccupations set forth in our previous bulletins (particularly N° 26)

¹ See document UN Symbol A/HRC/5/21.

² It concerns the following points: 1) Organizational and procedural matters; 2) Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General; 3) Promotion and Protection of all human rights, civil, political, economic, social and cultural rights, including the right to development; 4) Human rights situations that require the Council’s attention; 5) Human rights bodies and mechanisms; 6) Universal Periodic Review; 7) Human rights situation in Palestine and other occupied Arab territories; 8) Follow-up and implementation of the Vienna Declaration and Programme of Action; 9) Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action; 10) Technical assistance and capacity-building.

³ In fact the first article that is common to the two international Covenants concerning human rights and the article 1.2 of the United Nations Charter (article 1.2) are devoted to this right, without forgetting the 1514 resolution of the 1960 General Assembly which is authoritative on the question and the 60/251 resolution of this instance which instituted precisely the HRC.

⁴ The former procedure was put in place following the 1503 Resolution (XLVIII) by the Economic and Social Council on May 27th 1970.



Copyright Zapiro in *Sunday Times* (Johannesburg)

For genuine implementation of the right to development

It has been almost fifteen years since the fight against poverty was put on the international political agenda. During the last UN summit in September 2005, the Millennium Development Goals (MDGs) were solemnly upheld. One of the eight objectives to achieve is the reduction of extreme poverty by half by 2015. However, 2007 assessments look grim. Far from decreasing, poverty and inequalities are increasing in the North and South, and half of the world population is currently living below the poverty line. Even UN General Secretary Ban Ki-Moon conceded that none of the goals would be met in 2015...



The MDG results, however unsatisfactory, are not surprising. The ideological framework which underlies them prevents states, especially those situated in the South, to fully endorse appropriate political measures aimed at fighting poverty.

The widening of inequalities and the increase of poverty necessitates more than ever the implementation of the Declaration on the Right to Development. Adopted by the U.N. General Assembly in 1986, this declaration constitutes an international instrument of primary importance, for it asserts the right to development as a human right in all its dimensions and unequivocally clarifies the principles that should regulate international relations, all in a spirit of equality and mutual respect tending toward its full realization. It emphasizes collective rights, the right of peoples to choose their own development model, and insists on international cooperation among countries. In this regard, it constitutes, overall and along with the corpus of human rights instruments, a further instrument for peoples in the struggle against neo-liberalism.

There is thus nothing surprising in its being viciously attacked. Some countries in the North have tried to undermine it totally; others have tried to water it down or pervert its intent. It is diametrically opposed to current dominant policies, in particular those championed by the IMF, the World Bank, the WTO, the G-8 or NATO, which aim to remove any hopes of the people of the Third World for autonomous policies and a development model centred on their own needs.

What principles are put forward by the Declaration on the Right to Development?

The Declaration on the Right to Development was adopted on 4 December 1986 by a vote of 146 in favor, eight abstentions and one against—the United States¹.

This declaration appears as a sort of final offspring among the efforts undertaken by the non-aligned movement of the 1960s and 1970s, when it still had the power and conviction to pursue cogent militancy in favor of a new international economic world order that was more just and more equitable.

At the 1993 World Conference on Human Rights in Vienna, it was acclaimed by consensus.

The first article of the Declaration gives the most thorough and succinct definition of development ever elaborated by the United Nations system and deserves particular attention: “The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural

and political development, in which all human rights and fundamental freedoms can be fully realized. The human right to development also implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.”

In the preamble, the concept “development” is described as “a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals”.

Article 8 gives the constituent elements of this right, to wit the right to food, the right to health, to education, to adequate housing, to employment etc. Also included are the right to participation by the people, the right to an equitable distribution of income and the right to the elimination of all social injustices through economic and social reforms.

Those implicated in implementation

States are the main actors responsible for the implementation of the right to development as defined by the Declaration on the Right to Development. This is justifiable not only by their being subjects of international law, but also by their representing their people and having the means and the legitimacy to enact laws and to take other measures to attain this goal. Moreover, the Declaration deliberately gives them “the primary responsibility for the creation of national and international conditions favorable to the realization of the right to development”.

Parallel to this, it makes human beings and people not only subjects of this right, but its central agents, and it emphasizes their participation.

The Declaration accords great importance to the “duty” of states “to co-operate with each other in ensuring development and eliminating obstacles to development”, while creating “national and international conditions favorable to the realization of the right to development”.

Obstacles to the right to development

The “Washington Consensus”² constitutes one of the main obstacles to the realization of the right to development. In fact, a dispassionate assessment of the current situation substantiates that the crisis of neo-liberalism –with its concomitant spectacular development of financial speculation, turbulence and endemic instability– is the result of conscious policies imposed unilaterally with a fundamentalist fervour and with the sole purpose of serving the interests of finance capital and transnational corporations.

In this regard, the following points –far from exhaustive– that constitute the major obstacles to the realization of the right to development can be mentioned: the non-respect of the right to self-determination; armed conflicts (both domestic and international) and armaments; foreign debt and structural adjustment programs imposed by the international financial institution; unequal trade terms; economic policies favouring the power of transnational corporations in all areas; unequal distribution of wealth; capital flight and tax evasion; privatization of the world's natural resources and wanton waste; human rights violations in general and violations of economic, social and cultural rights in particular; lack of international cooperation; lack of participation by people at all levels; corruption; brain drain...

What perspectives for the right to development?

Since the adoption of the Declaration of the Right to Development in 1986, the UN Commission on Human Rights (CHR) has investigated the means to successfully implement it both nationally and internationally. Three Working Groups were successively created within the CHR to enforce this right to development.

However, these three successive working groups have not been able to produce any significant progress in the implementation of the right to development. Worse, there is a regression in many Western countries which go so far as to question the consensus of Vienna, though, with the exception of the United States, they do not say so officially.

Countries are pursuing a dialogue of the deaf. How else can we explain the position of Western countries which, systematically, refuse to take measures at the international level (one of the essential provisions of the Declaration on the Right to Development) and keep invoking the “responsibilities” of the countries of the South? How, also, to explain their willingness to integrate human rights –selectively– into the development projects, to impose conditions on their cooperation (without committing themselves to anything in return) and their being “unaware” at the same time that the Declaration on the Right to Development includes all human rights (civil and political as well as economic, social and cultural) and that it is a right in and of itself comprising all the others, as the overwhelming majority of the members of the international community has insisted? How to explain their insistence on systematically referring development questions to the World Bank, to the OECD or to a discussion of the opening up of the markets of the countries of the South?

In such circumstances, things look grim for the right to development as long as one continues to

believe that the West is the center of the world and that salvation must come from that quarter. All peoples must be able to find or invent their own path to development, in all its aspects.

Moreover, those who think that the right to development concerns only the countries of the South are very much mistaken and are apparently willing to ignore the huge problems confronting the countries of the North such as the undermining of social cohesion, the increase in unemployment, racism, insecurity (in all senses of the term, including the precariousness of living in poverty), the cultivation of conflicts by demagoguery etc.

As the right to development is a concern of all and, first and foremost, of states collectively, it is up to governments to take the necessary measures for its realization and create an adequate follow-up mechanism for the implementation of this right.

How to make sure the Declaration is applied?

Among these measures, the democratization of the World Bank, the IMF and the WTO are essential, unless they are to be replaced outright by more adequate institutions. Although they are public, they cater to private interests, violating principles of democracy and good governance that they require poor countries to observe.

The second measure that must be taken is to break with the “Washington Consensus”, which purveys the fiction according to which economic growth equals prosperity and respect for human rights. One must face the facts: it is indisputably proven that this growth benefits, most of the time, only private interests, a minuscule minority in the world, and that it is a source of serious human rights violations.

The third measure is to make international cooperation effective. This means emphasizing the public interest and preserving public services. Such cooperation goes well beyond the “ideal” public aid to development (the famous 0.7% of GDP) –far from being ever attained. It implies cooperation in pursuit of all development goals that all countries set for themselves to satisfy the basic need of their populations.

The fourth measure consists of general and total disarmament in order to allocate for development the colossal resources now absorbed by this destructive and deadly sector.

The fifth measure requires stopping capital flight and tax evasion.

The sixth measure is the cancelling of the WTO negotiations on agriculture, for, beyond the choice of production and development in agriculture, putting rich countries in competition with small peasant farmers amounts to sentencing the small farmers to



GET YOUR FRIENDS TO JOIN CETIM!

Advisory Committee

Replacing the former Sub-Commission for the Promotion and Protection of Human Rights (SCHR), the new Advisory Committee will be composed of 18 independent experts elected by the HRC. These experts will have a three-year mandate that can be renewed only once. They will meet two weeks a year and are encouraged “to communicate in between sessions individually or by team” (§ 81). These experts are also forbidden to accumulate mandates (§ 69).

Placed under strict control of the Council, the Advisory Committee “will have as duties to provide the services of experts to the Council, according to the terms defined by the latter, (...) these services will be provided only upon the Council's request, (...)” (§ 75).

This Committee is strictly forbidden to set up subsidiary organs (§ 81). Thus with the disappearance of the old SCHR, the work groups of the sessions of the latter, such as those on transnational societies or the one on the administration of justice will be shelved. As for the four work groups between sessions of the old SCHR (indigenous peoples, minorities, slavery and the Social Forum), their future will be decided at the 6th session of the CHR.

With a reduced composition (18 instead of the old SCHR's 26) the Advisory Committee will have less representativeness a reduced capacity for work and more important, it will be muzzled because it will not be able to take any initiatives, nor adopt any resolutions.

It should be noted that the CHR still must establish the “objective criterion for the presentation of candidates” (§ 67) for the Advisory Committee during the 6th session.

The mechanism of Universal Periodic Review (UPR)

The mechanism of Universal Periodic Review (UPR) is the new mechanism by which the Council on Human Rights hopes to evaluate all the United Nation member states on their human rights performance. The modalities of the mechanism adopted by the CHR make provisions for examining 48 countries per year by the CHR. This will be done first by a working group holding 3 sessions, each taking two weeks, and then by a plenary session during the ordinary sessions (§ 14 and 18). The member states of the CHR with mandates of one or two years will be the

States and to the observers a list of candidates” to be examined by the HRC (§ 52).

It must be emphasized that it is in this framework that the HRC will have to approve the “technical and objective requirements for eligible candidates” during its 6th session (§ 41) which is being held at this moment.

The HRC also plans for “the examination, the rationalization and improvement” of all the ongoing mandates from its 6th session forward.

Concerning the Code of Conduct for the mandate-holders adopted by the HRC, it aims to define “the norms of ethical conduct and professional behaviour”. If such a code could prove to be useful in order to guide the mandate-holders, to provide a framework for their relations with all the participants and to re-enforce mutual confidence between the States and the mandate-holders as well providing legitimacy for the latter, it should not be used to muzzle the mandate holders or to restrict their room for manoeuvre. It must be noted that the Code of Conduct risks to create problems practically during the mandate holder's fieldwork (see article 4.3 and 11.f) or during the publication of mission reports (see article 8.d, 11.f and 13.c) However it is true that in the past some mandate holders were not objective in the fulfilling of their task.

Complaints procedure

The new Complaints Procedure for human rights violations maintains the essentials of the former procedure called 1503⁴. However there is a provision calling for the council to examine complaints brought to its attention “as frequently as needed, but at least once a year” (§ 103). This would mean that if the complaints were able to pass through the triple filtering of the secretariat and the two Working groups, the Council would examine throughout the entire year, whereas the former Commission on Human Rights was only in session once a year.

In addition, the document adopted by the HRC allows for an eventuality that the procedure might not be as confidential as in the past: “The reports of the Working groups on Situations referred to the HRC shall be examined in a confidential manner, unless the Council decides otherwise.” (§ 104)

It must be noted that the HRC has to elect the members of the two Working groups provided for by this procedure during its coming sessions. The first Working group is made up of five independent experts who will be designated by the Advisory Committee (see below) and the second Working group is made up of five representatives of the Council's Member states. In each case the designation must conform to a fair geographical distribution.