

Joint oral statement under Item 8 ó Follow-up and implementation of the Vienna Declaration  
and Programme of Action

15<sup>th</sup> session of the Human Rights Council

24 September 2010

Mr President,

I am speaking on behalf of the Cairo Institute for Human Rights Studies, Canadian HIV/AIDS Legal Network, Asian Forum for Human Rights and Development (FORUM-ASIA), Human Rights Watch and the International Service for Human Rights.

The Vienna Declaration and Programme of Action recognised the need to strengthen the UN human rights machinery. This led to the establishment of the Office of the High Commissioner for Human Rights.

We are deeply concerned that some States are attempting at this session to weaken the independent role that the High Commissioner for Human Rights has in the UN system.

The draft resolution on "Strengthening dialogue, coordination and cooperation between the Human Rights Council and the Office of the High Commissioner for Human Rights" in contrast to the innocuous and technical nature of the title, in fact represents a dangerous intrusion on the independence of the High Commissioner.

The draft resolution's substance far exceeds any authority that the Human Rights Council has under either the UN Charter or the UN General Assembly resolutions that established the Council and the Office of the High Commissioner.

It calls for the High Commissioner to "formally present" to the HRC her proposals for the Human Rights Programme of the Strategic Framework and to take into account the views of member States and relevant stakeholders in preparing that program. This proposal misunderstands the respective roles of the High Commissioner's office and the Council, giving the latter certain oversight functions which would undermine the independence of OHCHR.

The High Commissioner's office is part of the UN Secretariat and therefore operates under the administrative direction and authority of the Secretary-General. In creating the Council, the General Assembly rejected proposals for the new Council to supervise or review the plans and budget of the High Commissioner's office. It has been argued that the Council is the sectoral intergovernmental body that should review the programmes of OHCHR prior to their review by the CPC and General Assembly in accordance with Regulation 4.8. However, the Office of Legal Affairs has determined that the Council is not a sectoral body in this sense.

The High Commissioner's effectiveness in carrying out her mandate to promote and protect human rights for all requires that she be independent and politically impartial. The new relationship entailed in the draft resolution would seriously threaten that independence and impartiality. The Council is authorized to request the High Commissioner to perform specific tasks relating to the promotion and protection of human rights, as are other bodies. But the High Commissioner must also be able to act on her own initiative to remind governments of their obligations and recommend specific action by States or the UN machinery to improve human rights protection. By attempting to involve the Council in the administrative and budgetary oversight of the High Commissioner's office, the draft resolution fundamentally threatens her ability to take that initiative.

The measures proposed by the draft resolution also would interfere with established program and budget oversight mechanisms that operate in New York. That oversight is carried out by the General Assembly's Committee for Program and Coordination, Advisory Committee on Administrative and Budgetary Questions and the Third and Fifth Committees. The Human Rights Council should not be inserted into the well established procedures and practices of these bodies.

Dialogue and cooperation between the Council and the High Commissioner's office are essential. But the draft resolution goes much further and attempts to alter the basic relationship between the two by subordinating the High Commissioner to the Council. Such a change is neither within the authority of the Council nor wise.

We therefore call on all members of the Council to oppose the adoption of the draft resolution at this session.

Thank you