

Statement by Ambassador Munir Akram, Permanent, Representative of Pakistan to the United Nations at the Human Rights negotiations on the Establishment of Human Rights Council, New York - 18 October 2005

Co-Chairmen,

The scope of our discussions are determined by paras 157-160 of the 2005 Summit Outcome Document. Our leaders resolved to create a Human Rights Council – “as part of our commitment to further strengthen the UN Human Rights machinery.” The Human Rights Council is one step. We will have to consider other steps relating to the sub-commission, Special mechanisms, Office of the High Commissioner for Human Rights, and civil society participation.

2. We welcome the structured discussions you have initiated on the Human Rights Council.
3. Let me say that we agree that the Human Rights Council should be a subsidiary body of the General Assembly and based in Geneva.
4. There is no agreement that it should be a standing body. The Human Rights Council should convene when its members agree. The Human Rights Council like other UN bodies should be provided the resources to do so.

Co-Chairmen,

5. You have identified some elements relating to the mandate of the Human Rights Council. In this context it should be noted that the Summit Document outline this mandate in paras 158 and 159. We can further elaborate the Human Rights Council’s mandate within this agreed framework.
6. Paragraph 158 says, the Council “will be responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner. “In this context, the mandate and working methods of the Human Rights Council should redress the weaknesses of the CHR and preserve and promote its strengths.”
7. The CHR’s widely mentioned weaknesses are:
 - a) Politicization and selective targeting. The arbitrary naming of countries and submission of country-specific resolutions, mostly against developing countries, specially Islamic countries, is the most negative feature of the Commission’s work.

- b) Unequal focus on civil and political rights at the expense of economic and social rights. “A hungry man not a free man”. Future norm development and implementation is most required with respect to economic and social rights.
- c) Inadequate “promotion” of human rights through capacity building and technical assistance.

8. Therefore, the new Human Rights Council should adopt a promotional and cooperative approach to human rights. Its major recommendations should focus on promoting development, cooperation, capacity-building, technical assistance, wider acceptance of norms, development of new norms, especially economic and social rights.

9. The idea of a Universal Review may be one way to reduce selectivity and political targeting. However, it will depend on how such universal reviews are conducted. The review should focus on identifying trends in the field of human rights rather than be utilized as an instrument of political pressure against individual countries or groups of countries. In the context of such a review, economic and social rights should gain equal consideration and cultural diversity must be respected and action should be mainly for capacity-building and technical assistance to States in conformity with the principles of the UN Charter.

10. Pakistan does not exclude consideration of situations of serious violations of human rights. But there should be a clear reason and criteria for taking up a country situation i.e. clear evidence of “gross and systematic” violations of human rights.

11. Such gross and “consistent violations” mostly occur in situations of armed conflict – particularly where armies are in occupation of foreign lands and where the right of peoples’ to self-determination and freedom is suppressed by the use of force and repression. In such situations of armed conflict, specially of foreign occupation and suppression of self-determination, the Human Rights Council should automatically, as a first step, authorize the dispatch of a fact-finding mission to assess the human rights situation.

12. A more cautious approach is required in addressing individual country situations. This should be addressed, firstly, on a confidential basis within an expert body and only when there is credible and reliable information (not only news reports) that “gross and consistent” violations are taking place, perpetrated by or with the complicity or consent of the Government. (Interesting models of such a confidential and expert approach exist, such as ILO Committee on Freedom of Association).

13. Most country situations should be resolved through such a confidential and expert process involving dialogue and, where required, technical and financial assistance to the country concerned.

14. Only when and if it is clearly established that a country or government is not willing or able to address or redress gross and consistent violations of human rights,

should the expert body recommend that the Human Rights Council bring it to public consideration. Decisions on country-specific resolutions should be adopted by a 2/3rd majority, to prevent mischievous or partisan moves against political adversaries.

15. In the context of the “mandates” of the CHR, we have been advised to preserve its strengths. However, one man’s strengths are often another man’s weaknesses.

16. Let me, in this context, offer some comments on the “review of mandates” of the CHR, the last issue identified in your paper.

- First, the sub-commission’s role should be enhanced as an expert body, subsidiary to the Human Rights Council. It should be noted that its method of election is almost as rigorous as has been suggested by some for the new Human Rights Council. It should promote the mandate of the Human Rights Council through review and promotion of human rights standards, thematic discussions and confidential country-specific examination of complaints under the 1503 procedure.
- Second, Special Mechanisms: These “mechanisms” (special rapporteurs, committees, etc.) are too numerous, increasing from 11 in 1997 to 40 at present. Most mechanisms deal with civil and political issues. Their mandates overlap; these mandates are loosely interpreted; some rapporteurs pursue their own agendas, straying from their mandates; the quality of reports is questionable, consisting of press and NGO contributions and selective comments; their added value is minimum. They are not seriously considered in the CHR. We believe that; the number of these special mechanisms should be reduced; greater attention paid to economic and social rights; selection of special rapporteurs be done openly by the Human Rights Council from a list of candidates; a code of conduct be adopted for these reapprteurs; including standards of confidentiality, assurance against conflict of interest and minimum evidentiary standards for their reports and statements.
- Third, the participation of NGOs and civil society also needs to be streamlined. Hundreds of NGOs participate in the CHR. 60% of the CHR Conference time is devoted to their statements. There are many distinguished and outstanding NGOs. But the quality and credentials of some NGOs are questionable, specially those which are sponsored by governments or linked to them. We suggest that: only NGOs in category-I status should address the Human Rights Council; NGOs should make more joint statements; they should speak under a limited number of agenda items; financial support should be accorded to participation of NGOs from developing countries and those dealing with economic and social rights.
- Fourth, the Office of the High Commissioner for Human Rights: The composition and functioning of the Office of the High Commissioner for Human Rights need to be reviewed. The developing and Islamic countries are inadequately represented. The issue of establishing field presence in countries should be only

upon the consent of the concerned State. The financing of the Office largely determines its areas of focus. While core funding for human rights activities faces the usual budgetary constraints, voluntary funding has significantly expanded, which is largely tied to specific programmes not related to the mandates approved by the CHR or other inter-governmental bodies. This needs to be rectified by enhancing the regular budget through additional funding and gradual shifting of voluntary funding into the regular budget.

Co-Chairmen,

17. A proper legal choreography should be adopted for smooth and gradual transition from the CHR to HRC taking into consideration the remaining terms of the present members and other outstanding issues.

18. We reiterate our understanding that the objective of these consultations is to achieve a consensus on all issues relating to the HRC.