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ORGANIZATION OF THE WORK OF THE SESSION

**Written statement* submitted by Amnesty International,
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[27 March 2006]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The Commission on Human Rights ends on a disappointing note

Members of the Commission on Human Rights (the Commission) and observer governments have allowed its last session to become a hollow formality rather than a celebration of the Commission's 60 years of accomplishment. Despite recent criticism, the Commission and its participants -- Member States, observer States, specialized agencies, national human rights institutions, non-governmental organisations (NGOs), Special Procedures and rights-holders throughout the world -- deserved better.

The Commission has many valuable accomplishments to its credit that merit recalling. They must be preserved, and strengthened, in the Human Rights Council. Other aspects of the Commission's work, in particular its inconsistent work on individual country situations must serve as a hard-earned lesson for the new Council.

Since its establishment, the Commission has provided a unique international forum for human rights discourse. The annual sessions have been an opportunity for governments to announce positive human rights initiatives, and have recently attracted thousands of participants, including senior government representatives, victims and human rights defenders, national human rights institutions, UN agencies and NGOs. This international forum for dialogue and discussion must be preserved, possibly in the main session of the Human Rights Council.

The elaboration of treaties and other standards has been a constant task and a major accomplishment of the Commission. Over the last 60 years, the Commission has built a solid legal and normative framework for international human rights protection. One of the main challenges facing the new Council is to develop mechanisms to oversee the implementation of human rights standards and to assist member states in this essential task.

The Commission has been the moral voice, albeit an uneven one, of the United Nations on human rights, which through its reports and resolutions has expressed both concern and intent of the international community on country as well as thematic issues. International scrutiny in the Commission has on many occasions contributed to improving the human rights situation in states. The experiences with apartheid in South Africa and military dictatorships in Latin America are testimony to this. However, as we have also seen, the Commission's members have often lacked political will to take effective action, or any action at all, on evidence put before it of gross and systematic human rights violations.

Another major legacy of the Commission is its system of "Special Procedures". They constitute a critical element in the implementation of international human rights standards, by providing an objective and independent assessment of respect for human rights in countries and territories and making recommendations for strengthening human rights protection at the national and international levels. The Special Procedures have responded rapidly to allegations of violations against individuals and groups in many parts of the world and have also performed an important early warning function, often identifying human rights problems before these escalated into full-fledged human rights crises. The system of Special Procedures must be enhanced in the Human Rights Council,

and their expertise and that of the other UN human rights expert bodies must become a central element in the work of the Council.

The Commission's agenda covers the full spectrum of civil, cultural, economic, political and social rights, including the right to development. Recently, the Commission has started to move beyond artificial distinctions between categories of rights and has given more balanced attention to economic, social and cultural rights through the creation of Special Procedures on some of these rights and through the creation of a Working Group to elaborate an optional protocol for communications under the International Covenant on Economic, Social and Cultural Rights. While fully taking account of the particular demands of individual rights, the Council must act on the basis of the universality and indivisibility of all human rights.

Over the years the agenda of the Commission has proliferated and become too crowded. Discussion on individual topics has often been fragmented. It is essential that the Council develop an agenda based on an overall framework for its work that will allow for more rigorous debate and effective action.

The unique contribution provided by NGOs and civil society organizations to the work of the Commission has been recognized on many occasions in the past. Each year hundreds of NGOs have travelled to Geneva to bring situations and themes throughout the world to the attention of the Commission. They have spoken out on behalf of victims of human rights violations, and have compelled governments to address situations that would otherwise have gone unattended. Their essential contribution was recently acknowledged both in the report of the Secretary-General's Panel on UN-Civil Society Relations, and in his own report, *In larger freedom*. Amnesty International believes that NGO participation should be able to contribute effectively to all aspects of the Council's work, including to its new procedures, such as the universal periodic review.

Much has been said recently, and over the years, about the shortcomings of the Commission. It is, however, essential that every effort be made to ensure that the Council avoids the mistakes of the Commission. Over the lifetime of the Commission, power politics and double standards have, separately or together, prevented the Commission from addressing, or even discussing, widespread or serious human rights violations in many countries. The Council must promote and encourage respect for all human rights and fundamental freedoms in *all* countries regardless of political considerations. The provision for universal periodic review holds promise, but that promise must be realized. Moreover, the universal periodic review cannot be a panacea, and the Council must continue to address particular situations outside of this review when their severity or urgency warrant. The procedural tactics, such as "no action" motions and "adjournment of debate", used by some governments to stifle action on specific country situations must have no place in the Human Rights Council.

Amnesty International regrets that the last session of the Commission on Human Rights has been a lost opportunity. The Commission began life with the drafting and adoption of the Universal Declaration of Human Rights, and it would have been entirely appropriate to conclude its work with the adoption of two new standards: the draft International Convention for the Protection of all Persons from Enforced Disappearances and the draft Declaration on the Rights of Indigenous Peoples, both of which were ready

for consideration and adoption by the Commission and onward transmittal to ECOSOC and the General Assembly.

It took governments three weeks of intense discussion and negotiation to arrive at this meagre result. The preparation of the last session of the Commission in the regional groups without open cross-regional discussion has lent itself to the preparations being held hostage to the lowest common denominator, in an exaggerated attempt to avoid controversy and find consensus. This does not bode well for the Human Rights Council, unless lessons are learned and attitudes change.

Of course, the attention of governments and NGOs must now be on the future – the Human Rights Council. The governments that have showed so little readiness to work in a spirit of openness to give the Commission a dignified conclusion must find ways of avoiding the paralysis that has characterized preparation for this last session as they prepare for the first meeting of the Human Rights Council. If they do not, it will be they, not the Council, who are discredited in their efforts to promote and protect human rights. It is not by avoiding controversy and working to the lowest common denominator, first within each regional group and then among the regional groups, that governments will build a strong and effective Human Rights Council.

When the Human Rights Council meets, it must be ready to begin discussion on the substance of the promotion and protection of human rights. Governments must prepare for a substantive first session of the Council in which the draft International Convention for the Protection of all Persons from Enforced Disappearances and the draft Declaration on the Rights of Indigenous Peoples are forwarded to the General Assembly for adoption. They must prepare for substantive discussion of and action on the reports of the Special Procedures, the Working Groups, the High Commissioner for Human Rights and the Secretary-General.

The adoption by the General Assembly of the Resolution establishing the Human Rights Council was a truly historic decision. The immediate challenge is now to elect a membership of the Council genuinely committed to the promotion and protection of human rights. Much will depend on the vision, leadership and sheer political will of the first members of the Council – in order to fully live up to its potential it must be afforded working methods, mechanisms and procedures that allow it to become a human rights body capable of promoting and protecting human rights, in an effective and balanced manner, in all countries of the world. The rights holders now and in the future deserve no less.

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