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COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-seventh session
Items 1 and 2 of the provisional agenda

ORGANIZATION OF WORK

**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND
SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO
COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES:
REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN
RIGHTS RESOLUTION 8 (XXIII)**

**Written statement* submitted by United Nations Watch,
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.

[1 July 2005]

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

With the annual meeting of the U.N. Commission on Human Rights more than a month away, the traditional furor at its hypocrisies has come early. Cuba, Zimbabwe, and Saudi Arabia have been selected to the Working Group on Situations, a five-member panel that makes final decisions on which human-rights petitions receive consideration before the full 53-member commission. *The Washington Times* recently quoted a U.S. diplomat describing the appointments as "not acceptable." *The Boston Herald* fumed, "The United Nations continues to behave like a caricature, a hideous parody of all that the civilized world holds sacred." And editorial writers from England's *Sunday Telegraph*, *The Miami Herald*, and elsewhere joined the general outrage.

To be sure, watching majority control of any human-rights entity fall into the hands of Havana, Harare, and the House of Saud ought to raise eyebrows. But do we really have reason to be so exercised over these appointments to the Working Group on Situations? In a word, no.

The influence of the Working Group--created by the Commission on Human Rights in 1974 as an *ad hoc* body and made permanent in 1990--is dwarfed by the influence of other parts of the Commission. Operating within what is known as the Resolution 1503 procedure, the Working Group acts as the final gatekeeper for complaints filed against U.N. member states by individuals or NGOs, deciding which among them reveal "a consistent pattern of gross and reliably attested violations" and thereby merit a hearing before the entire commission. But the 1503 proceedings are only a small, and relatively powerless, part of what takes place under the auspices of the Human Rights Commission. Moreover, the 1503 procedures are so badly broken at the moment that the selection of Cuba, Zimbabwe, and Saudi Arabia to the Working Group--while symbolically offensive--is far from the worst thing about the process.

The 1503 proceedings, conceived in 1970, were designed to coddle defendant states. For one thing, the Commission's 1503 work is shrouded in a thick veil of confidentiality. Complaining parties are given neither the state replies nor any of the decisions rendered by the Commission throughout the various stages of the process. Over 200,000 complaints are filed each year under the 1503 procedure--yet the average number of country situations that wind up being heard annually amount to no more than three. Those states involved are invited to appear before the full Human Rights Commission, which then decides whether to keep the situation under review, appoint an expert to make inquiries, or discontinue consideration of the situation. While the names of the countries are known, the outcomes of the hearings, apart from exceptional cases later made public, are not.

What's more, the Commission offers largely toothless remedies through the 1503 process, under the pretext of opening dialogue with violator regimes. When faced with Idi Amin's widespread killings in Uganda, the Commission first dithered for four years, then sent an envoy--by which time the dictator had already been deposed. When Uruguay was accused of arbitrary arrest and torture, the Commission decided to investigate prison conditions by arranging for an envoy (Javier Perez de Cuellar, later to become U.N. Secretary General); his leaked report revealed itself to be unaggressive and apologist, its finding of "normal detention conditions" entirely at odds with the conclusions reached by the International Committee of the Red Cross and other NGOs.

Far more important than the composition of the final gatekeeper panel is who mans the first checkpoint of the 1503 procedure. Under the two-stage process, this power is wielded by--brace yourself--the Working Group on Communications. Made up of five members from the Sub-Commission on the Promotion and Protection of Human Rights--a mostly marginal body of

independent experts who tend to be neither independent nor expert--this initial screening panel was long ago discredited as overly politicized.

Professor Philip Alston of NYU, who himself holds a position as an independent human-rights expert at the United Nations, has written that during the cold war, Moscow's representative at the Working Group on Communications was permitted to handle all complaints dealing with the right to leave and return--an issue that, in the *refusenik* era, happened to be of some sensitivity for the Kremlin.

Today, the situation is just as bad. Before this year's petitions are examined by the ambassadors of Castro and company, they will already have been filtered by Halima Warzazi of Morocco, who, as chair of the Working Group on Communications, wields considerable power--she personally oversees the U.N. bureaucrats who end up performing most of the screening. (With her on the panel are representatives from France, Russia, China, and, again, Cuba.)

To get a sense of the judgment Warzazi applies in leading her panel's decisions as to which complaints live or die, consider her record: This past August, at the opening address of the Sub-Commission, Warzazi's remarks singled out two countries only. First she blasted America (for, among other things, its treatment of Al Qaeda terrorists and violating "the right to life") and then ended by asking audience members to reflect on how Israel might remind them of Nazi Germany. Warzazi mentioned no other country.

Perhaps she's just an overzealous activist for Middle East victims? If so, this concern was not apparent on September 1, 1988, when a measure was introduced at the Sub-Commission to censure Saddam for gassing the Kurds of Halabja. Warzazi jumped in and sprung a "no action" motion [see http://www.unwatch.org/pdf_files/Subcommission_01Sep1988.pdf], successfully killing the resolution. (Her move was supported, it so happens, by the same Cuban, Alfonso Martinez, who now sits with her in adjudicating human rights allegations.) Nor were humanitarian motives much in evidence in the remainder of Warzazi's lengthy statements during this past year's Sub-Commission, where she failed to utter a single word for the victims of Darfur. "*Everyone* is talking about Sudan," she explained.

The selection of Cuba, Zimbabwe, and Saudi Arabia to the Working Group on Situations isn't meaningless, of course, since it gives those countries some say over which cases get referred to the full Human Rights Commission through the 1503 process. But the power exercised by those nations will pale in comparison to the power exercised by Warzazi and the group she chairs. By any reasonable standard, *they* are the much bigger problem.

Real action on human rights does exist at the Commission, but it does not reside in the 1503 process; rather it occurs in the public naming and shaming that takes place in the open debates and voting on resolutions, which are separate from 1503 and therefore beyond the jurisdiction of the Working Group on Situations and the Working Group on Communications. Each of the 53 states at this year's Commission will be entirely free to introduce resolutions on any human-rights violation...

In last year's 24-page official summary of the Commission, it was these activities that captured the vast majority of space. The 1503 proceedings received a full two sentences.

True, selections to U.N. posts are typically exploited by repressive regimes for propaganda triumphs back home, and hence damaging. Indeed, the Cuban Foreign Ministry website, as well as AIN, the country's official news agency, have proudly trumpeted Argentina's nomination of Cuba to the Working Group and the endorsement by the entire Latin American Group (which is motivated in part by desire to prevent clashing over U.N. candidacies). Clearly, this hurts the cause of human rights.

Yet our principal focus regarding the Commission should not be on the elevation of three oppressive countries to a relatively unimportant panel but instead on proposals for reforming the group.

In many ways, the world's foremost human-rights body is at its nadir. In December it was indicted by the United Nations itself for "eroding credibility and professionalism" and for being dominated by states whose interest is "not to strengthen human rights but to protect themselves against criticism or to criticize others." Kofi Annan, responding to proposals contained in the report that included this unusually candid diagnosis, is expected in March to announce a major attempt to fix the Commission, while leading member states are expected to present their own visions for reform during the Commission's first week of ministerial speeches, also next month.

Thus far, none of the suggestions (for instance, expanding membership to all 191 U.N. members) provides a solution to the core challenge: How can the objective enforcement of human rights, an apolitical task, be pursued by a body made up entirely of governments, which are inherently political? That is the crucial question confronting the U.N. Commission on Human Rights. And it's much bigger than Cuba, Zimbabwe, and Saudi Arabia.

This Statement concerns Sub-Commission resolution 2 (XXIV) of 16 August 1971 on the Working Group on Communications, and the latter's record in protecting human rights. Enhancements to the Working Group should be adopted in the spirit of the following article by Hillel C. Neuer, Executive Director of UN Watch, published in the online edition of The New Republic, February 18, 2005.

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