

ANNEX IV

Background Brief to the UN Commission on Human Rights

What is the Commission on Human Rights?

The Commission on Human Rights (CHR) is one of the oldest (established in 1946) and most political of the UN's human rights bodies. The CHR is made up of 53 nations, each elected for a period of three years by the Economic and Social Council (1). Its primary working session occurs for 6 weeks every year in March/April, during which over 3,000 delegates from both member and observer states, as well as non-governmental organizations (NGOs), attend. Its annual meeting is one of the top events on the UN human rights calendar; most states send observer delegations even if they are not currently members of the Commission. The scope of the CHR is not tied to any one treaty. As result, CHR reports and resolutions are able to employ a wide range of standards, like the Universal Declaration of Human Rights and other General Assembly declarations such as the Declaration on the Elimination of Violence against Women, which apply to all member nations of the UN. The CHR also can refer to treaties as relevant, as well as the final agreements of World Conferences and Summits, such as the UN General Assembly Special Session on HIV/AIDS.

Over the years, the Commission has been responsible for the elaboration of the key human rights treaties. Currently, it is working on the new convention on the crime of disappearances and on an optional protocol to the International Covenant on Economic, Social and Cultural Rights.

How does the CHR function?

Official delegates to the Commission act on behalf of the governments they represent. They give speeches, debate issues and vote on resolutions- nearly ninety a session. UN member states that are not sitting as members on the Commission may make statements but are not allowed to vote. Resolutions -such as the draft resolution on sexual orientation -- are negotiated statements of interest in specific human rights issues. Resolutions usually follow a particular structure: they open with preambular paragraphs that articulate the need to pay attention to a particular human rights issue or country. This is followed by more powerful language (called operational paragraphs, which state norms and urge, or demand that governments adopt certain standards or follow certain human rights norms in their actions in their countries. CHR resolutions can create mandates-a grant of authority-for independent experts to examine specific themes in human rights; these include freedom from torture or arbitrary killings, violence against women or the right to education. They can also create mandates to examine the human rights record of specific countries. Their language can range from mild 'expressions of concern' to tougher rhetoric that 'strongly condemns' or is directive, as in 'all states shall' do a particular thing.

Some CHR resolutions establish mandates for new experts to examine specific themes in human rights (like violence against women, housing rights, freedom from torture, or to investigate the human rights situations in individual countries. Individual experts are called special rapporteurs, special representatives or independent experts, while a group of five experts (one for each regional group) is called a working group. Resolutions can also more generally call on all member nations of the UN to pay special attention to emerging or cross-cutting issues.

One trend in recent CHR debates is the move toward voting-as opposed to adopting resolutions by consensus - on controversial resolutions. In addition, many procedural gambits, like last years motion to 'take no action' on the sexual orientation resolution, are increasingly being used in

contested debates. Activists need to pay attention to the often rapid-fire shifts in the votes on contentious resolutions such as the 'sexual orientation resolution' in order to play the most effective role possible in pressuring governments to take useful positions and votes on these issues. Global politics play a huge role in the pressures on the CHR, and delegates in Geneva may have to ask for instructions from or look back to their "capitals", where their home governments are located, for directions on how to proceed. All of this creates frustrations but also opportunities for activists -in your home country, in coalitions with other groups, in Geneva and in strategic lobbying of many countries in your region and globally.

NGOs working to influence governments' positions on resolutions do not need to become technicians of the CHR, but they do need to understand the specific impact of various votes and the resulting resolutions. They should also be aware of the critical deadlines and key developments throughout the year. Our network will try to keep you abreast of the meaning of these actions.

Where does this resolution fit in the work of the CHR? In discussions about human rights and sexuality more generally?

Last year's deferred resolution on 'sexual orientation and human rights' [for more information about the resolution, see attached Campaign Dossier prepared by IGLHRC] is one of these general, more urging style resolutions. When Brazil introduced it, their idea was not to set new standards, but re-affirm that the Universal Declaration of Human Rights maintains that fundamental rights apply to all persons, without discrimination on the basis of sexual orientation. The resolution has been vigorously opposed. Yet, the introduction and debate of this resolution on sexual orientation can be seen as an important step toward raising awareness globally, shaping new international agreements and reinterpreting established ones.

This first step can have many impacts.

- Key phrases or ideas from the resolution, whether adopted or not, could be moved into other related resolutions in the future, which would strengthen the way that the issue is integrated and applied across the widest range of peoples lives --- for example, key language could be incorporated into resolutions on the elimination of violence against women, or the protection of human rights in the context of HIV/AIDS.)
- If and when the 'sexual orientation ' resolution is adopted, it would most likely represent the bare minimum of agreement. It will express concern at abuse and urge that states pay attention to the status of abuse or discrimination based on sexual orientation, but will not contain language calling for a special monitoring mechanism or of for the review and reform of laws.
- Over time, new versions of the resolution could be adopted that call for an expert to oversee the issue, with the possibility of conducting investigations into individual cases and countries, as well as gathering information from NGOs, other UN bodies and States on law reform and specific condemned practices.

The Commission has played a key role in advancing certain emerging human rights issues. However, activists should understand both its potential and its limitations. It is a place where governments negotiate as governments: compromises are made, many of which often appear to frustrate some of our long term goals. At the same time, each step toward a statement of global acceptance of the fact that rights should not be denied because of sexual orientation - and

eventually, sexuality and gender identity more broadly - helps NGOs working on the ground.

Working on this resolution in the UN is only one part of global and local strategies to push human rights forward.

UN/ Commission work can be strategically used as:

- a way to raise the issue with your government with the validity of the human rights framework to support you;
- an opportunity to bring new information on abuses against persons based on their sexual orientation to wider public visibility , through national and international level lobbying;
- an opportunity to bring greater attention to the advances that have been made by the UN on issues relating to sexuality and rights, in this case with a focus on sexual orientation, but in other cases around gender and sexuality, sexual violence, etc.;
- an opportunity to network across issue-oriented NGOs - women's rights groups, LGBT groups, anti-violence and anti-discrimination groups, traditional human rights groups, HIV/AIDS advocacy groups, etc.

Our goal here is to support this resolution while using the opportunity of its debate to move the question of human rights and sexual orientation - and human sexuality more generally-more firmly and consistently onto the international human rights agenda, and to support the work of national and local level NGOs in their advocacy on this resolution, but more generally in advocacy to prevent violations, bring the perpetrators to justice and, in the end, to create the conditions in which their rights are respected and protected.

How to influence your government's work on the CHR

The more contentious the issue, the more likely delegates to the CHR will take guidance from their capitals. This means the work to determine individual country positions on the resolution can be influenced by NGOs who do not have to go to Geneva. Indeed, the work should be done well ahead of the session! Obviously, the ability of NGOs to work in their capitals on foreign policy positions will be very specific to their political context. **NGOs should assess who can/ does/ tries to influence their government's UN positions in the general area of human rights and make contact with those groups if possible (these allies could include human rights groups, women's rights groups, lawyers groups, progressive faith-based groups, etc.).**

In general, your government's Ministry of Foreign Affairs and/or Justice Ministry will be organizing the actual delegates to the CHR and their positions on issues. Most States (bigger, richer, but even some small ones) have permanent missions in Geneva whose job it is to follow the CHR-other states send their New York UN delegates, most also send officials from their foreign ministries in the capitals.

- **Investigate and determine who is on your government's delegation to the CHR**, who has primary responsibility for establishing their position on this resolution. For example, will the lead be taken the Geneva ambassador or will it be someone sent from the capital. [Check the attached chart to determine if in 2004 your Government is a voting member or an observing member] What is the over-all time line of your government's decision-making process?
 - What NGOs if any, have or are making approaches on these topics?
 - Is there a meeting among NGOs or with government officials to which you can be invited?
 - Can you raise these issues with groups that are going to the CHR?

- **Come with background documentation on the resolution** - some governments may not know much about what happened last year. Our materials are meant to help you put this together. Learn about what your government did last year at the CHR; did they vote a certain way during the controversy? Did they vote to postpone discussion?
- **Assess which other countries your government tends to ally with on human rights issues.** Can you use networks of NGOs to help influence your government's understanding of what is in their interest?
- **Be timely:** meetings with government delegations or with other NGOs should be set up immediately, and not later than early February, 2004.
- **Use many networks to transmit and spread useful information** you gain from meeting with your government representatives, but use discretion in what and how you share. [Remember that there is opposition to the resolution, so you may want to think strategically about where and how you call attention to your work.]
- **Reserve time for a meeting with your representatives after the CHR to get a report-back.** This will help establish accountability.

This backgrounder was written by Ali M. Miller, Law and Policy Project, Columbia University, with substantial input from Suki Beavers, ACPD, Joanna Wechsler, Human Rights Watch, Susana Fried, IGLHRC and Ann Drobniak, School of Public Health, Columbia University. Comments and corrections are appreciated to am808@columbia.edu

ENDNOTES

(1) The Economic and Social Council (ECOSOC) is the body mandated by the UN General Assembly to manage the UN's work in the area of economic and social matters. Human rights falls within this category.

SOURCES

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