19 May 2007

Dear Member States and Observers of the Human Rights Council,

As Palestinian NGOs based in the Occupied Palestinian Territory (OPT), Al-Haq, Badil Resource Center for Palestinian Residency and Refugee Rights, Defence for Children International – Palestine Section, Al-Mezan Center for Human Rights and the Palestinian Centre for Human Rights regularly employ the Special Procedures of the Human Rights Council (the Council) in our human rights work, and we have been attentively following the progress of the Working Group on the Review of Special Procedures. It is with satisfaction that we have witnessed continued support for the cause of the Palestinian people and for the maintenance of the country-specific mandate on the situation of human rights in the Palestinian territories occupied since 1967. Nevertheless, we remain concerned at calls for the elimination of all other country-specific mandates.

It is essential that the work of the Council remain victim oriented. All country-specific mandates were created as the result of serious violations of human rights in territories under the effective control of UN Member States. These mandates allow for the continuous, objective and comprehensive monitoring of the human rights situation in such countries by independent experts mandated by the Council. Trends of violations and imminent human rights crises can be readily addressed by the mandate holder, who can take the initiative to raise issues of concern in his/her reports to the Council. In addition, mandate holders have the opportunity to follow-up on their observations and recommendations through dialogue with State representatives and civil society. Thematic mandates, each focused on a distinct right or issue, cannot be expected to adequately address widespread and systematic human rights violations in a specific country. Treaty bodies are equally inadequate in this regard, as none have universal ratification and few States have accepted individual bodies' competence to review individual complaints.

The country-specific mandate on the OPT has provided the Palestinian people with a unique means to alert the international community of the violations that are committed in the West Bank, including East Jerusalem, and the Gaza Strip. Successive mandate holders have been able to maintain a continuous monitoring of the situation through regular country visits. Their reports have highlighted the numerous human rights violations committed by the Occupying Power and have motivated most of the delegations attending this Council to seek a cessation of these violations and an end to the plight of the Palestinian people. Numerous resolutions have been passed, highlighting the ongoing nature of the occupation and calling for measures to be adopted to resolve the situation. Despite the inability of the Council to actively enforce such resolutions, they are nonetheless important in identifying the main issues of concern and also serve to reinforce efforts to resolve the conflict based on respect for human rights.

We are concerned that proposed alternatives to the system of country-specific mandates would prove to be inadequate with regard to the tasks of drawing sufficient attention to, and bringing about effective action on, widespread human rights violations. The Universal Periodic Review (UPR), the complaints procedure and special sessions have all been mentioned as

alternatives to the current system of country-specific mandates. However, it is clear that the UPR cannot replace the on-the-ground monitoring presence that country-specific mandates provide. Furthermore, it is not clear from which sources information will be obtained for the examination of country situations. Proposals for a single State report, as is currently the case with the treaty bodies, would be insufficient if not substantiated with input from NGOs and other third parties. We firmly believe that country-specific mandates will serve a vital role in complementing and strengthening the UPR by providing relevant information from countries where serious violations of human rights are committed. Finally, under the UPR, States will only be examined every five to six years. This is not sufficient to address the immediacy of situations of gross and systematic violations of human rights.

Similarly, the sustained pressure required to bring such a situation of human rights violations to an end cannot be resolved through either the complaints mechanism or special sessions. The confidential nature of the complaints mechanism does not allow for NGOs to provide continuous and updated information regarding ongoing violations. As for special sessions of the Council, the first and third addressed extremely urgent and distressing developments in the OPT involving widespread violations of the right to life. They are ill suited for addressing ongoing concerns relating to a wider range of human rights, namely economic, social and cultural or civil and political rights.

With a view to resolving the aforementioned issues, we welcome proposals for clear criteria for establishing country-specific mandates. Such criteria would help diffuse political debate in the review of mandates. However, the formulation of these criteria should not be used as an opportunity for countries to avoid scrutiny of their own promotion and protection of human rights. Proposals such as having the consent of the country concerned, or being co-sponsored by one third of the members of the Council and being adopted by a two-thirds majority, are unacceptable and would undermine the capacity of the Council to effectively and impartially deal with country-specific situations. No State should be immune from criticism. Member States of the Council bear a duty towards the victims of human rights violations. This includes an obligation to cooperate with the mandates of Special Procedures.

In light of these concerns, and the duty owed to the victims of human rights violations, we respectfully request Member States of the Human Rights Council to:

- Conclude their dialogue on the review of Special Procedures with the rights of victims of violations as their primary concern; and

- Preserve the system of country-specific mandates, including the mandate on the situation of human rights in the Palestinian territories occupied since 1967, which must remain in force until the end of the occupation.

Sincere Regards,
Al-Haq
Badil Resource Center for Palestinian Residency and Refugee Rights
Defence for Children International – Palestine Section
Al-Mezan Center for Human Rights
Palestinian Centre for Human Rights

cc: Louise Arbour, United Nations High Commissioner for Human Rights