

9 March 2018

To: Member and Observer States of the Human Rights Council

Re: Draft resolution on “Promoting the International Human Rights Cause through Win-Win Cooperation” at 37th UN Human Rights Council session

The draft resolution entitled “Promoting the International Human Rights Cause through Win-Win Cooperation” lacks balance and undermines accepted international human rights law and principles. Its adoption could undermine the ability of the Council and its mechanisms to protect and promote human rights, and risks undermining the rights of victims of human rights violations.

No resolution that purports to promote human rights but ignores victims can be considered a “win” for anyone. The right of every victim to an effective remedy, regardless of the preferences of the responsible State, lies at the very heart of any meaningful understanding of human rights, as the General Assembly, the Council, as well as the Universal Declaration of Human Rights (UDHR) and human rights treaties, have repeatedly affirmed.

Cooperation between States, and between States and the Human Rights Council and its mechanisms, is an important component of the international human rights system. The version of cooperation envisioned by the draft resolution, however, finds no basis in the decades of practice of human rights at the UN or in the Institutional Building Package for the Council. “Win-win cooperation” and “a community of shared future for mankind” instead emanate specifically from the speech made by Chinese President Xi at the Palais des Nations in January 2017 and other national policy statements. Their implications have not been explained by the Chinese delegation, and reading these terms in their original context only raises greater concern about their import.

The language stating that “win-win cooperation is the only viable option” is perhaps the best example of our many concerns. Although the draft resolution does not specify in relation to what it is “the only viable option”, presumably the implication is with regard to human rights. This language of the draft resolution directly contradicts and undermines that part of the Council’s mandate, as articulated by the General Assembly in its resolution 60/251, that requires it to respond promptly and effectively to gross and systematic human rights violations.

Indeed, in all too many actual situations of gross and systematic violations faced by the Council, States responsible for human rights violations have shown no good faith to engage in any form of cooperation that could actually assist to end the violations or fulfil the rights of the victims. The draft resolution defies experience, and suggests no consequences for persistent non-cooperation.

Additionally, there is no mention in the draft concerning enforcement of States’ obligations under international human rights law by national, regional or international courts or other bodies, or

even at a more general level, the need for accountability where abuses occur. As such, only impunity stands to “win” from such an approach.

Furthermore, the concept of “win-win cooperation” in the draft resolution as currently drafted clearly focuses predominantly, if not exclusively, on cooperation between States. The draft resolution does not call for States to cooperate with the Human Rights Council and its mechanisms. Neither does it call on States to refrain from committing reprisals against individuals or groups seeking to cooperate with UN human rights mechanisms to promote and protect human rights, including civil society actors and victims of human rights violations.

Our organisations call on States to reject the proposed resolution on “Promoting the International Human Rights Cause through Win-Win Cooperation” as drafted. Indeed, the problems with the text are so fundamental and far-reaching, it is difficult to see how consensus could possibly be reached without a substantial rethinking of the approach. If the proponents of the draft resolution sincerely believe that “win-win cooperation is the only viable option”, they surely cannot, at the same time, believe that it would be consistent with the draft resolution’s own terms for its adoption to be forced through on a divided vote, and should withdraw the draft resolution from consideration at the present Council session.

Signatories:

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Asian Legal Resource Center, Hong Kong
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International Commission of Jurists, International
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International Tibet Network Secretariat, International
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