

# COUNCIL MONITOR

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Human Rights Monitor Series

## HUMAN RIGHTS COUNCIL, 7<sup>TH</sup> SESSION 3 TO 28 MARCH 2008 ANALYTICAL OVERVIEW

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## Introduction

The Human Rights Council (the Council) held its 7<sup>th</sup> session from 3 to 28 March 2008. It was the main session in the Council's second cycle, and with its duration of 4 weeks, it was closest in format to the 6-week sessions of the former Commission on Human Rights (the Commission).<sup>1</sup> Expectations for the 7<sup>th</sup> session were high. As with all previous sessions of the Council, it was to continue the implementation of the institution-building package adopted in June 2007. At the same time, it was also commonly felt that the time was ripe for the Council to start focusing on substantive issues, which have been neglected in its first cycle.<sup>2</sup>

The programme of work for the 7<sup>th</sup> session was, once again, very ambitious. With the exception of Item 6 on the universal periodic review (UPR), all agenda items were considered, and a general debate took place under each of them. During previous sessions, the segments of general debate proved to be a useful opportunity for members and observers, including national human rights institutions (NHRIs) and NGOs, to bring a variety of issues that were not explicitly scheduled in the programme of work to the Council's attention. Continuing the implementation of the institution-building text, the Council also carried out the review, rationalisation and improvement of 17 special procedures mandates.

Like the 4<sup>th</sup> session held in March 2007, the 7<sup>th</sup> session started with a three-day 'high-level segment' in which large number of high level diplomats and some ministers from most member States of the UN addressed the Council. The speeches made during the high-level segment are usually very general although they may set the tone for the coming year. ISHR in its *Daily Updates* has reported extensively on the high-level segment, and we will not further analyse it here.<sup>3</sup> Of particular note was the call by several women ministers on the Council to strengthen the human rights of women.<sup>4</sup> They said the Council provided a crucial framework to encourage the international community to pay systematic attention to the recommendations of the Committee on the Elimination of Discrimination against Women, to take a gender perspective into account in the UPR, and to request all special procedures and other mechanisms of the Council to systematically integrate a gender perspective in the implementation of their mandates.

This overview partly follows the Council's agenda. Where appropriate, it groups thematic areas together.

## Interaction with the High Commissioner

Before presenting her annual report, the High Commissioner for Human Rights (the High Commissioner), Ms Louise Arbour, announced that she had informed the UN Secretary-General that she would not be seeking a second term as High Commissioner when her mandate ended at the end of June 2008.

The following dialogue with the High Commissioner was expected to be one of the 'hot potatoes' of the 7<sup>th</sup> session. Prior to the session, a number of States had demanded that the President schedule time on the programme to discuss the 'institutional relationship between the Office of the High Commissioner for Human Rights (OHCHR) and the Council'.<sup>5</sup> Algeria claimed that the Council should have a more pronounced role in commenting on and contributing to the strategic direction of OHCHR through substantially influencing the elaboration of the High Commissioner's *Strategic Management Plan* (SMP).<sup>6</sup>

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<sup>1</sup> See <http://www2.ohchr.org/english/bodies/hrcouncil/7session/index.htm> for the programme of work and other documents related to the 7<sup>th</sup> session.

<sup>2</sup> For an overview of the Council's work in the 2006 and 2007 see *International Service for Human Rights, Human Rights Monitor 2006 and Human Rights Monitor 2007*, available at [www.ishr.ch](http://www.ishr.ch).

<sup>3</sup> See *Daily Updates* of 3 to 5 March 2008, available at [www.ishr.ch](http://www.ishr.ch).

<sup>4</sup> Switzerland, Nepal, Hungary.

<sup>5</sup> Egypt (on behalf of the African Group), Pakistan (on behalf of the OIC), Algeria.

<sup>6</sup> The High Commissioner had presented the SMP for the biennium 2008-2009 in mid-January to States and NGOs. The

It was therefore no surprise that most of the debate focused on this issue, even though the report and presentation by the High Commissioner to the 7<sup>th</sup> session had touched mainly on substantive points.<sup>7</sup> Many States continued to argue for a closer oversight, while others vigorously defended the High Commissioner's and the OHCHR's independence. The debate brought up complex legal issues and there were diverging views on how to interpret various resolutions and other relevant documents that govern the status of OHCHR and its relationship with the Council and other bodies. The High Commissioner gave a detailed answer to many of the questions that were put to her. In particular her explanations of the strategic framework and the *Strategic Management Plan* left no doubt that she was ready to withstand the challenge that was mounted by a number of States. A message from the Secretary-General made it clear that he supports an independent role for the High Commissioner and her Office in relation to the Council.

The High Commissioner also presented a report on the geographic composition of the staff of OHCHR. The report underlines the efforts undertaken to improve the geographic balance within OHCHR and noted significant progress. Despite this, a number of States questioned the progress made<sup>8</sup> and asked the High Commissioner to continue the recruitment of staff from underrepresented regions.<sup>9</sup> Cuba<sup>10</sup> introduced a draft resolution to address this issue, intended to 'rectify the geographical imbalance' of OHCHR staff.<sup>11</sup> The informal consultations on the draft resolution revealed widely diverging views among States on the appropriate way to improve the alleged imbalance of staffing in OHCHR. During the adoption of the resolution, Slovenia (on behalf of the EU) affirmed that the General Assembly, and not the Council, would be the appropriate body to deal with this issue. Despite this opposition, the resolution was adopted by a vote.<sup>12</sup>

A similar resolution had been passed by the Commission on Human Rights (the Commission) in 2005.<sup>13</sup> While the tone of the current resolution is somewhat less aggressive, it seems that the resolution interferes with internal management issues of OHCHR. In that sense, it continues in the spirit of previous resolutions passed by the Council which may end up limiting OHCHR's independence<sup>14</sup>

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SMP is available at <http://www.ohchr.org/Documents/Press/SMP2008-2009.pdf>.

<sup>7</sup> Including on the continued implementation of the institution-building text, in particular the efforts related to preparation for the universal periodic review (UPR). The High Commissioner also reported on the various priorities that had occupied her Office over the past year. She highlighted its technical cooperation, advisory and advocacy activities aimed at ending impunity and strengthening democratic governance. The High Commissioner also commenting on her country engagement strategy, and welcomed the renewal of agreements for the Office of the High Commissioner for Human Rights (OHCHR) offices in Nepal, Colombia, and Mexico, and the establishment of a regional office for West Africa in Senegal. The High Commissioner then spoke about her country visits to Sweden, Slovenia, Mexico, and Georgia. She highlighted the positive steps taken in the field of human rights in Australia, Nepal, Togo, and Kenya, but remained concerned by the continued acts of violence in West Darfur and Sri Lanka.

<sup>8</sup> Algeria.

<sup>9</sup> Cuba, China.

<sup>10</sup> The other sponsors of the draft resolution were Belarus\*, Bolivia, Cuba, Democratic People's Republic of Korea\*, Ecuador\*, Iran (Islamic Republic of)\*, Libyan Arab Jamahiriya, Nicaragua, Sri Lanka, Syrian Arab Republic\*, Uruguay, Zimbabwe, where those denoted with (\*) are non-members of the Council.

<sup>11</sup> See ISHR's *Daily Update* of 7, 18 and 27 March 2008, available at [www.ishr.ch](http://www.ishr.ch).

<sup>12</sup> A/HRC/RES/7/2, (34/10/3). Votes in **favour**: Angola, Azerbaijan, Bangladesh, Bolivia, Brazil, Cameroon, China, Cuba, Djibouti, Egypt, Gabon, Ghana, Guatemala, India, Indonesia, Jordan, Madagascar, Malaysia, Mali, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Peru, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Sri Lanka, Uruguay, Zambia. **Against**: Bosnia and Herzegovina, Canada, France, Germany, Italy, Netherlands, Romania, Slovenia, Ukraine, United Kingdom of Great Britain and Northern Ireland. **Abstaining**: Japan, Republic of Korea, Switzerland.

<sup>13</sup> E/CN.4/RES/2005/72.

<sup>14</sup> See for instance the resolution passed during the 6<sup>th</sup> session on racism, which renamed a unit within OHCHR. See ISHR's *Overview of the 6<sup>th</sup> session*, available at [www.ishr.ch](http://www.ishr.ch).

## Interaction with the thematic special procedures

A significant portion of the programme of work was reserved for the implementation of the institution-building text, *Resolution 5/1* of 18 June 2008.<sup>15</sup> In particular, the Council continued the ‘review, rationalisation and improvement’ of special procedures mandates it has inherited from the Commission. Three days were set aside for this process that is often referred to as ‘RRI’. Apart from the review of mandates, the Council also held substantive interactive dialogues with the following special procedures:

- Special Rapporteur on the human rights of migrants, Mr Jorge Bustamante.<sup>16</sup>
- Working Group on arbitrary detention, Ms Leila Zerrougui (Chairperson-Rapporteur).<sup>17</sup>
- Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, Mr Okechukwu Ibeanu.<sup>18</sup>
- Working Group on enforced disappearances, Mr Santiago Corcuera.<sup>19</sup>
- Working Group on the question of the use of mercenaries, Mr Jose Luis Gomez del Prado.<sup>20</sup>
- Special Rapporteur on the right to food, Mr Jean Ziegler.<sup>21</sup>
- Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mr Manfred Nowak.<sup>22</sup>
- Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Mr Miloon Kothari.<sup>23</sup>
- Independent Expert on minority issues, Ms Gay McDougall.<sup>24</sup>
- Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mr Paul Hunt.<sup>25</sup>

The Special Rapporteur on trafficking in women and children, Ms Sigma Huda, was again unable to attend the Council session and present her report. Given that she had been unable to attend sessions of the Council since 2006 and also that it appeared to be, in the words of President Costea, ‘highly unlikely’ that she would be attending future sessions, her mandate was added to the list of vacancies of special procedures to be filled in June 2008.

Most of these interactive dialogues went smoothly, with some notable exceptions. Indonesia criticised how the Special Rapporteur on torture, Mr Manfred Nowak, had carried out his mandate when visiting that

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<sup>15</sup> The institution-building process as such came to a formal conclusion during the 5<sup>th</sup> session on 18 June 2007, when the Council adopted *Resolution 5/1*, the fruit of most the work done in the first year. The ‘institution-building text’ laid down the modalities for the UPR and for the continued review of special procedures. It also established a complaint procedure and a new Human Rights Council Advisory Committee (the Advisory Committee). Finally, the Council managed to settle on its own rules of procedure, and, more importantly, on a real agenda and programme of work. The institution-building text is also referred to as ‘institution-building package’, or *Resolution 5/1*. It is available at [http://ap.ohchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_5\\_1.doc](http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_5_1.doc). On the beginning of its implementation, see for example ISHR’s report on the first part of the 6th session of the Council, available at [www.ishr.ch](http://www.ishr.ch).

<sup>16</sup> ISHR’s *Daily Updates* of 7 and 10 March 2008.

<sup>17</sup> ISHR’s *Daily Updates* of 10 March 2008.

<sup>18</sup> ISHR’s *Daily Updates* of 10 March 2008.

<sup>19</sup> ISHR’s *Daily Updates* of 10 March 2008.

<sup>20</sup> ISHR’s *Daily Updates* of 10 March 2008.

<sup>21</sup> ISHR’s *Daily Updates* of 11 and 12 March 2008.

<sup>22</sup> ISHR’s *Daily Updates* of 10 and 11 March 2008.

<sup>23</sup> ISHR’s *Daily Updates* of 12 and 13 March 2008.

<sup>24</sup> ISHR’s *Daily Updates* of 12 and 13 March 2008.

<sup>25</sup> ISHR’s *Daily Updates* of 11 and 12 March 2008.

country, and claimed that he had not studied relevant documents and failed to establish a genuine dialogue with the Government. Nigeria also disagreed with the Special Rapporteur's findings and called his report 'clearly exaggerated and misleading.' This criticism, however, did not extend to the way the mandate holder had discharged his mandate.

A joint visit to the Dominican Republic by the Special Rapporteur on contemporary forms of racism and the Independent Expert on minority issues was criticised by some States. It disagreed on the substance of the report and provided its own interpretation of the facts. The Dominican Republic and other States suggested that the two special procedures had violated the Code of Conduct for special procedures mandate holders by not respecting the time-lines with respect to receiving the Government's comments on the report. While States may disagree with the special procedures on the facts presented or on their analysis, constant attempts to link such disagreements to violations of the Code of Conduct threatens the independence and outspokenness of special procedures mandate holders.

### **Human rights indicators**

The Special Rapporteur on violence against women and the Special Representative of the Secretary-General on human rights defenders each presented reports on indicators.<sup>26</sup> Other special procedures, including the Special Rapporteur on the right to housing, have previously presented sets of indicators to assess the level of implementation of human rights.<sup>27</sup> During the discussion it became clear that the Council would not simply accept indicators suggested by its own experts. Many States were critical of the indicators developed.<sup>28</sup> Egypt, for instance, claimed the indicators suffered from a lack of clarity, and, in any case, would have to be approved by 'the relevant international bodies'. However, other States were clearly supportive of the indicators developed by the special procedures.<sup>29</sup> Venezuela supported the indicators developed by the Special Rapporteur on the right to housing as 'vital'. The opposition could be seen as a sign of the utility of indicators as tools to measure the implementation of human rights. States seemed to be particularly uncomfortable with indicators on issues that are sensitive to them.

### **Continuation of the review of mandates**

While the interactive dialogues with mandate holders were again useful for the Council to turn its attention to substantive issues, much of the focus continued to be on the review of mandates. During earlier sessions, the Council has had some difficulty in agreeing on the proper procedure for these reviews, but through a learning-by-doing approach during the 6<sup>th</sup> session (September and December 2007), the Council agreed on some modalities for the review. The main sponsor of the original resolution creating a particular mandate has the primary responsibility for the process. The State will usually introduce the mandate, and also hold consultations on a draft resolution aiming at the renewal of that mandate. The current mandate holder will have an opportunity to address the Council, commenting on what he or she thinks are the merits of the mandate. An interactive dialogue in the Council plenary concludes the formal part of the review.

However, and this was shown again during the 7<sup>th</sup> session, the main negotiations on the continuation of a mandate and its future shape took place in informal consultations, either public or private. As long as such consultations were public, there was sufficient space for NGOs to observe and try to input into the process.

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<sup>26</sup> See ISHR's *Daily Update* of 12 March 2008.

<sup>27</sup> See for instance his report presented to the Council's 5<sup>th</sup> session, A/HRC/4/18, and his follow-up report presented to the 7<sup>th</sup> session, A/HRC/7/16.

<sup>28</sup> Indicators on violence against women: Pakistan (on behalf of the OIC), Indonesia, Saudi Arabia, Palestine, Bangladesh. Indicators on compliance with the *Declaration on human rights defenders*: Egypt, Bangladesh, Pakistan (on behalf of the OIC).

<sup>29</sup> Indicators on violence against women: Russian Federation, Norway, Slovenia, Netherlands, Australia, Liechtenstein, Maldives, Switzerland, Sweden, Turkey, Republic of Korea. Indicators on the compliance with the *Declaration on human rights defenders*: Norway, Canada.

Regrettably, the negotiations on the future of many key mandates were not entirely transparent, and accordingly some unexpected and disappointing outcomes were presented during the adoption of resolutions in the final two days of the session. The following mandates were reviewed and renewed:

- Working Group on Enforced or Involuntary Disappearances, *Resolution 7/12*.
- Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, *Resolution 7/36*.
- Independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights, *Resolution 7/4*.
- Special Rapporteur on the situation of human rights defenders, *Resolution 7/8*.
- Independent Expert on human rights and international solidarity, *Resolution 7/5*.
- Working Group on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination, *Resolution 7/21*.
- Independent Expert on minority issues, *Resolution 7/6*.
- Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, *Resolution 7/34*.
- Special Rapporteur on the sale of children, child prostitution and child pornography, *Resolution 7/13*.
- Special Rapporteur on violence against women, its causes and consequences, *Resolution 7/24*.

Out of these mandates, two reviews were particularly noteworthy, namely the review of the mandates of the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on freedom of expression.

### **Human rights defenders**

The mandate of the Special Representative was created in 2000,<sup>30</sup> following the adoption of the *UN Declaration on Human Rights Defenders* (the Declaration) in 1998,<sup>31</sup> to monitor and report on the situation of defenders in all parts of the world. Norway, as the main sponsor of the mandate, convened an informal meeting prior to the session, on 27 February, and a further series of well-attended consultations on the draft resolution throughout the session. Despite considerable differences of opinion among States during the negotiations, Norway was able to steer the process to a successful outcome and the resolution was finally adopted by consensus.<sup>32</sup> The most controversial parts of the negotiations are further discussed below.

The outgoing mandate holder, Ms Hina Jilani, presented her final report containing an overview of her work.<sup>33</sup> Towards the end of the 7<sup>th</sup> session, the President of the Council appointed a new mandate holder, Ms Margaret Sekaggya from Uganda to succeed Ms Jilani.<sup>34</sup>

### **Attempts at reinterpreting the Declaration**

The mandate of the Special Representative of the Secretary-General is based on the Declaration. During the informal consultations, Egypt proposed the inclusion of a preambular paragraph reaffirming specific articles

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<sup>30</sup> Commission on Human Rights *Resolution 2000/61* (E/CN.4/RES/2000/61), 26 April 2000. See *infra* Section 3.

<sup>31</sup> *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Internationally Recognized Human Rights and Fundamental Freedoms* (commonly known as Declaration on Human Rights Defenders), General Assembly *Resolution 53/144* (A/RES/53/144), 8 March 1999.

<sup>32</sup> See *Resolution 7/8*, 27 March 2008.

<sup>33</sup> See ISHR's *Daily Update* of 12 March 2008, available at [www.ishr.ch](http://www.ishr.ch). Earlier reports delivered to the Council: 28 March 2007, 29 March 2007, 24 September 2007 (Expert Group on Darfur), 11 December 2007 (Expert Group on Darfur), 12 March 2008.

<sup>34</sup> See ISHR's *Daily Update* of 26 March 2008.

of the Declaration. It explained that this was motivated by ‘the Special Representative’s overly expansive interpretation’ of the Declaration. Other delegations argued that selective references to specific articles would tip the careful balance found in the Declaration.

Indeed, other attempts to ‘rewrite’ or at least ‘reinterpret’ the Declaration were made. Egypt in particular suggested a number of amendments seeking to ‘remedy’ the lack of clarity in the current definition of ‘human rights defender’, and a perceived abuse of the mandate by ‘self-proclaimed’ defenders.<sup>35</sup> However, when the Declaration was adopted States agreed not to adopt a definition of who is a human rights defender based on their belonging to certain groups. Rather, the definition contained in the Declaration is functional as it affirms the right of ‘everyone (...), individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels’. The proposal that the Special Rapporteur would be asked to ‘clarify the concept of human rights defenders, including the requirements to be considered as such’ was clearly an attempt at narrowing the scope of the inclusive definition of ‘human rights defenders’ contained in the Declaration. The resolution does not request the Special Rapporteur to clarify the definition. It also recalls ‘the continued validity and application of all the provisions of the above-mentioned Declaration’, and in that sense preserves the integrity of the Declaration, its broad scope and its functional definition of human rights defenders.

Some States also sought to restrict the right of NGOs to receive funding. Early on in the process of informal consultations, Egypt (on behalf of the African Group) suggested the inclusion of a paragraph calling on the mandate holder ‘to promote the independence of the agendas and activities of human rights defenders (...) including as a result of funding.’ The Declaration codifies the right to access funding for human right activities as an autonomous and self-standing right<sup>36</sup> and this provision was the object of intense negotiations during the 12 years of the drafting of the Declaration.<sup>37</sup> The attempts observed at the 7<sup>th</sup> session to restrict this right aimed in effect at rewriting the Declaration. However, the final text of the resolution does not refer to funding, thereby maintaining the balance found in the Declaration.

### ***The mandate’s support for NGOs***

Throughout the work of the Special Representative of the Secretary-General on human rights defenders, the interaction with NGOs has proven crucial in keeping the mechanism close to the reality of defenders. The support of the outgoing Special Representative, Ms Hina Jilani, for civil society organisations and their work had often exposed her to criticism, but was vital for these organisations in gaining more recognition and visibility. The review of the mandate was also used by some States to seek to restrict the free interaction of the mandate holder with civil society, and to limit the support the mandate can provide to NGOs. For instance, Egypt suggested the inclusion of a provision making reference to ECOSOC *Resolution 1996/31*, which regulates the consultative relationship of NGOs with the Council. It explained that the proposal meant to clarify that NGO participation in the UN was only governed by the abovementioned resolution, and therefore not part of the mandate of the Special Representative. This seemed to be a direct reaction to the former mandate holders’ support of some NGOs working on issues of human rights and sexual orientation and gender identity seeking consultative status with ECOSOC.

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<sup>35</sup> The opposition to accepting ‘self-proclaimed human rights defenders’ was shared by other States, including the Russian Federation, Iran, Bangladesh, South Africa, Bhutan, Algeria, China, Sri Lanka, Singapore and the Philippines.

<sup>36</sup> Article 13 of the Declaration reads as follows: ‘Everyone has the right, individually and in association with others, to solicit, receive and utilise resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.’

<sup>37</sup> For an account of the establishment and activities of the Working Group on the draft declaration, see International Service for Human Rights, *The United Nations Draft Declaration on Human Rights Defenders. Analysis and Prospects*, HR Dossier No.1, January 1998.

### ***Title of the mandate holder***

The title of the ‘Special Representative of the Secretary-General on the situation of human rights defenders’ gave rise to protracted debates towards the end of the negotiations. The institution-building text states that ‘it should be considered desirable to have a uniform nomenclature of mandate-holders, titles of mandates as well as a selection and appointment process, to make the whole system more understandable.’<sup>38</sup> During the negotiations, some States favoured the retention of the title while others favoured changing the title to Special Rapporteur. Both groups used the institution-building text as the basis for their arguments.

Those in favour of keeping the current title argued that it had been important in securing access to relevant parts of the UN system; that it was appropriate because of the cross-cutting nature of the mandate; and that it contributed immediately to the protection of human rights defenders. This had also been noted by Ms Hina Jilani. These States also argued that while the review was an opportunity to strengthen the mandate, a change in the title would be perceived as ‘downgrading’ of the mandate. On the other hand, other States argued that while the institution-building text allowed for flexibility it was desirable to ensure uniformity of all the titles of special procedures. Among this group, some seemed to be mostly concerned about the title’s implications for the appointment process. For instance, India argued that regardless of the decision of the title, the appointment procedure prescribed in the institution-building package should be followed.<sup>39</sup>

The final resolution extends ‘the special procedure on the situation of human rights defenders *as a Special Rapporteur* for a period of three years’ as opposed to a ‘Special Representative of the Secretary-General’.<sup>40</sup> This could well represent a loss in terms of the strength of the mandate. On one hand, the title making reference to the highest post in the UN has reportedly facilitated the work of the former mandate holder and provided her with better access to UN bodies and Governments. Secondly, the new selection process by the President of the Council but with the formal involvement of States seems to be more vulnerable to political maneuvers than the previous appointment process by the Secretary-General. However, when balanced against the successful review of the mandate and its overall strengthening, the change in title is an acceptable sacrifice.

### **Freedom of opinion and expression**

A second key mandate reviewed during the 7<sup>th</sup> session was that of the Special Rapporteur on freedom of expression. The annual resolution on freedom of expression of the Commission was traditionally adopted by consensus and the negotiations were led by Canada. The fact that the Council did not manage to uphold consensus on this key mandate illustrates how divided the body continues to be on this issue in particular. Perhaps the history of consensual adoption of this resolution conveyed a false sense of security to co-sponsors and other stakeholders alike. However, during the first informal consultations on the draft, it quickly became clear that important battles would be fought out over the mandate.

### ***Limitations to freedom of expression***

A large number of States expressed concern over the draft resolution,<sup>41</sup> with Pakistan (on behalf of the OIC) arguing that limitations to freedom of expression should be reflected in the resolution renewing the mandate. This debate was far from new, since similar discussions had taken place in the Council several times before.<sup>42</sup>

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<sup>38</sup> *Resolution 5/1*, paragraph 59.

<sup>39</sup> This position was shared by Egypt (on behalf of the African Group).

<sup>40</sup> *Resolution 7/8*, paragraph 2. Emphasis added.

<sup>41</sup> Bangladesh, South Africa, Russian Federation, Singapore, China, Algeria, Pakistan (on behalf of the OIC).

<sup>42</sup> For instance, during the Council’s 2<sup>nd</sup> session, this came up in the context of a joint report on incitement to racial and religious hatred and the promotion of tolerance by the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on

During interactive dialogues with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, there were repeated calls that he should also consider the ‘limits’ to freedom of expression in discharging his mandate, and in particular in relation to ethnic, racial and religious hatred.<sup>43</sup> Mr Ambeyi Ligabo, the then mandate holder, stressed that existing provisions in international law were carefully designed to avoid any misuse of the right to freedom of expression. Despite this expert view, some States continued to push for further acknowledgment of limitations to freedom of expression.

Private negotiations between Canada as the main sponsor, and Pakistan (on behalf of the OIC) were reportedly undertaken on this issue until the last minute – but to no avail. The Council’s consideration of this draft resolution<sup>44</sup> was suspenseful and much delayed. In addition to the draft resolution, several groups, headed by Egypt, had tabled an amendment to the draft.<sup>45</sup> Pakistan (on behalf of the OIC) claimed it ‘attached great importance to the right to freedom of opinion and expression’ but reminded that every right carried responsibilities. It said that the reprinting of insulting caricatures, the use of ‘coloured sheep’ in political messages, and documentaries insulting Islam constituted such abuses, and should not be accepted. Accordingly, the proposed amendment requested the Special Rapporteur to ‘report on instances in which the abuse of the right of freedom of expression constitutes an act of racial or religious discrimination’.<sup>46</sup>

According to the Council’s rules of procedure, amendments to draft resolutions are considered and voted upon prior to the decision making on the actual resolution. Most States argued against the proposed amendment, saying it would shift the focus of the mandate away from the protection of the right to freedom of expression towards the limitations to this right.<sup>47</sup> Canada said that the amendment would ‘turn the mandate on its head’ by asking the Special Rapporteur to ‘police’ freedom of expression. Slovenia (on behalf of the EU) agreed that the limitations to freedom of expression were well established in international law. Brazil, in addition, criticised that the amendment oversimplified the permissible limits to freedom of expression by only focusing on restrictions to freedom of expression based on racial or religious discrimination. Despite this opposition, the amendment was adopted with 27 votes in favour, 17 against and three abstentions.<sup>48</sup>

Almost all co-sponsors of the draft resolutions regretted the adoption of the amendment and withdrew their co-sponsorship.<sup>49</sup> Some said they would abstain on the vote on the draft resolution itself, although they supported the mandate of the Special Rapporteur in principle.<sup>50</sup>

### ***Surprise attack: the Cuban amendment***

Events took a surprising turn when Cuba announced that it would be happy to co-sponsor the draft, if it could introduce an oral amendment.<sup>51</sup> The amendment would encourage the media to report fairly and objectively.

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contemporary forms of racism, racial discrimination, xenophobia and related intolerance. See A/HRC/2/3, 20 September 2006 and ISHR’s *Daily Updates* of 21 and 22 September 2006, available at [www.ishr.ch](http://www.ishr.ch).

<sup>43</sup> See ISHR’s *Daily Updates* of 11, 12 and 27 March 2008, available at [www.ishr.ch](http://www.ishr.ch).

<sup>44</sup> A/HRC/7/L.24.

<sup>45</sup> A/HRC/7/L.39, 25 March 2008. It was submitted by Egypt (on behalf of the Group of African States), Pakistan (on behalf of the Organisation of the Islamic Conference) and Palestine (on behalf of the Group of Arab States).

<sup>46</sup> The amendment adds the following paragraph to the draft resolution: [The tasks of the Special Rapporteur will be] ‘To report on instances in which the abuse of the right of freedom of expression constitutes an act of racial or religious discrimination, taking into account articles 19 (3) and 20 of the International Covenant on Civil and Political Rights, and general comment No. 15 of the Committee on the Elimination of All Forms of Racial Discrimination, which stipulates that the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the freedom of opinion and expression’.

<sup>47</sup> Canada, Slovenia (on behalf of the EU), India, Brazil.

<sup>48</sup> Bosnia and Herzegovina, Brazil, Canada, France, Germany, Guatemala, India, Italy, Mexico, Netherlands, Peru, Romania, Slovenia, Switzerland, Ukraine, UK, Uruguay voted against. Bolivia, Japan and Republic of Korea abstained.

<sup>49</sup> India, Switzerland, Slovenia (on behalf of the EU and aligned States), Bolivia, United Kingdom (on behalf of Australia, New Zealand, US, Monaco and Andorra), Guatemala, Brazil.

<sup>50</sup> Switzerland, Slovenia (on behalf of the EU), Canada.

Canada objected with reference to Rule 120 of the Council's rules of procedure, arguing that all amendments had to be tabled 24 hours in advance.<sup>52</sup> President Costea, using the wide discretionary power conferred to him by Rule 120, accepted the Cuban amendment and invited explanations of vote before the vote on the oral amendment. The Council then immediately voted on the second, oral amendment to the draft resolution. It was also accepted with 29 votes in favour, 15 against and three abstentions.<sup>53</sup>

Faced with this obviously unexpected situation of a vote on a draft resolution that had been amended twice against the original co-sponsors' will, Slovenia (on behalf of the EU) raised a point of order, asking for a short suspension of the meeting.<sup>54</sup> Egypt, raising its own point of order, argued that Rule 128 prohibits any such suspension once voting has started.<sup>55</sup> President Costea, under clear time pressure and not disguising his own confusion in relation to the procedure to follow, agreed with this interpretation. He turned down the request for suspension, because the voting procedure had already started. However, it is unclear why Cuba was even allowed to interrupt the voting process and introduce the amendment. Accordingly, the President asked members to vote on the doubly amended draft resolution. It was adopted with 32 votes in favour and 15 abstentions.<sup>56</sup>

It is surprising and regrettable that the President did not use his discretion under the rules of procedure to prevent Cuba from 'hijacking' the resolution, making a mockery of the Council's voting procedure. Both the process of adoption and the resolution itself were a serious attack on the scope of freedom of expression as recognised in international human rights law. First, it confirmed that States with a restrictive interpretation of human rights and a 'negative reform agenda'<sup>57</sup> have often been successful in limiting special procedures mandates. By linking issues such as freedom of expression, racial and religious hatred, some groupings of States have been able to build and strengthen political alliances, and to ensure the necessary votes for their agenda. Secondly, and this trend is equally worrying, the incident showed that the same States are very well-versed in the Council's rules of procedure and able to use them to their advantage. Canada and Slovenia (on behalf of the EU) were completely taken by surprise when confronted with what can only be termed a more or less direct attack on freedom of expression mounted by Cuba.

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<sup>51</sup> The Cuban amendment added a line to preambular paragraph 10, so that it would read 'Recognizing the importance of all forms of the media, including the print media, radio, television and the Internet, in the exercise, promotion and protection of the right to freedom of opinion and expression, **and the importance for all forms of media to report and to deliver information in a fair and impartial manner**' (new text in bold). China supported the oral amendment.

<sup>52</sup> Rule 120: 'Proposals and amendments shall normally be submitted in writing to the Secretary-General, who shall circulate copies to the delegations. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the committee unless copies of it have been circulated to all delegations not later than the day preceding the meeting. The Chairman may, however, permit the discussion and consideration of amendments, or of motions as to procedure, even though such amendments and motions have not been circulated or have only been circulated the same day.'

<sup>53</sup> Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Mexico, Netherlands, Republic of Korea, Romania, Slovenia, Switzerland, Ukraine, UK, Uruguay voted against. Guatemala, Peru, and Philippines abstained.

<sup>54</sup> Rule 118 of the Council's rules of procedure (the Council applies the rules of procedure of the General Assembly) says that 'a representative may move the suspension or adjournment of a meeting. Such motions shall not be debated but shall immediately be put to a vote (...)'

<sup>55</sup> Rule 128: 'After the Chairman has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connection with the actual conduct of the voting. (...)'. Rule 128 does not clarify if the 'beginning of voting' designates the beginning of voting on individual amendments, or the entire voting process on a draft resolution and all its amendments. It is not clear if the voting had already begun at the moment when Cuba introduced its additional, substantive, amendment.

<sup>56</sup> Bosnia and Herzegovina, Canada, France, Germany, Guatemala, Italy, Japan, Netherlands, Philippines, Republic of Korea, Romania, Slovenia, Switzerland, Ukraine, and UK, abstained.

<sup>57</sup> See ISHR's reports of the institution-building working groups of the Council, for instance in *Human Rights Monitor 2006* 'A stocktaking of the Human Rights Council's institution-building process', available at [www.ishr.ch](http://www.ishr.ch).

## Country focus

The Council has various points on its agenda where situations in specific countries can be discussed. In particular, Item 4 on ‘situations that require the Council’s attention’ is used for this purpose. Item 7 on the human rights situation in Palestine and other occupied Arab territories and Item 10 on ‘technical assistance and capacity building’ are also mostly concerned with situations in particular countries. The session saw the renewal of country-specific special procedures mandate on the Democratic People’s Republic of Korea (DPRK), Myanmar and Somalia. The mandate dealing with the human rights situation in the Democratic Republic of the Congo (DRC) was discontinued.

Early in the session, the Deputy High Commissioner presented a number of country-specific reports, which were mostly received favourably by the concerned States.<sup>58</sup> During the discussion of these reports, a number of NGOs expressed particular concern about the situation in Colombia, and called on the Council to discuss the situation urgently. However, there was no significant follow-up to this request during the session.

### Situations that require the Council’s attention

#### *Democratic People’s Republic of Korea (DPRK)*

During the session, the situation in the DPRK was considered through the report of the Special Rapporteur on the DPRK and the review of this mandate.<sup>59</sup> Given its historic rejection of the mandate it came as no surprise that the DPRK responded to the Special Rapporteur’s report by calling it ‘slandorous’. Cuba supported the DPRK and argued that the situation in the DPRK should only be examined under the universal periodic review (UPR) mechanism.<sup>60</sup>

In stark contrast to these criticisms of the mandate, several States regretted the lack of cooperation by the DPRK with UN mechanisms.<sup>61</sup> Slovenia (on behalf of EU)<sup>62</sup> and Japan as two of the main co-sponsors introduced the mandate.<sup>63</sup> Slovenia underscored that the DPRK ‘should by no means be rewarded for [its] non-cooperation,’ and called upon the Council to acknowledge the gravity of the human rights situation in the DPRK and extend the Special Rapporteur’s mandate. The Special Rapporteur reiterated his oft-repeated invitation to the DPRK to respond to the mandate as a ‘window of opportunity’ to cooperate with the UN, but regretted the lack of cooperation by the Government. The DPRK, speaking as a concerned country, ‘resolutely rejected’ a continuation of the mandate, stating that country-specific mandates were against the founding ideas of the Council and its principles of ‘non-selectivity, non-politicisation and impartiality’. The DPRK stated that the naming and shaming of the former Commission still prevailed in the Council, and accused Western States of starting a ‘politically calculated preventive strike’ against the country.

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<sup>58</sup> She presented reports on Colombia, Nepal, Cyprus, Guatemala, Afghanistan, Uganda, Cambodia, Sierra Leone, DPRK.

<sup>59</sup> See ISHR’s *Daily Updates* of 13, 14 and March 2008, available at [www.ishr.ch](http://www.ishr.ch).

<sup>60</sup> One might recall that the special procedures mandate on Cuba was successfully removed with the express support of the DPRK, and it seems that Cuba was returning the favour by supporting the removal of the mandate on the DPRK.

<sup>61</sup> Slovenia (on behalf of the EU).

<sup>62</sup> The candidate countries Croatia, Turkey and the Former Yugoslavian Republic of Macedonia, the Countries of the Stabilisation and Association Process and potential candidates Bosnia and Herzegovina, Montenegro and the European Free Trade Association countries Iceland and Liechtenstein, members of the European Economic Area, as well as Armenia, Georgia, the Republic of Moldova and the Ukraine aligned themselves with this statement.

<sup>63</sup> For more details on the review of the mandate see ISHR’s *Daily Update* of 14 March 2008. Oral statements made at the Council can be accessed on the OHCHR extranet at <http://portal.ohchr.org> (fill out the form on [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm) to receive user name and password).

The debate opened the well-known divide in relation to country specific mandates. Some States strongly supported the renewal of the mandate and voiced their commitment to country-specific mandates,<sup>64</sup> whereas other States criticised the use of country-specific mandates in general, and the mandate on the DPRK in particular.<sup>65</sup> Several States argued that the UPR mechanism should be used instead of country-specific mandates for dialogue between States.<sup>66</sup> Even when taken at face value, this argument displays a skewed understanding of the basic thrust and functioning of the UPR. The new mechanisms was never intended, and is not designed to *continuously* monitor the situation in a particular country and work with Governments and civil society in a sustained way to improve the human rights situation in the long or medium term.

In relation to the mandate on the DPRK, the position of other States of the Asian region was also of interest. Japan, as one of the main sponsors, supported the mandate. China, as mentioned, and Vietnam expressed their principled opposition to country mandates. During the debate in plenary, Malaysia maintained that the Special Rapporteur should seek a constructive dialogue with the DPRK, but did not call for a termination of the mandate. It encouraged all parties to ‘engage positively and exercise impartiality’. During the interactive dialogue on the review of the mandate, no Asian State called explicitly for the termination of the mandate. But when the draft resolution renewing the mandate was put to a vote, at the request of Cuba, Indonesia, China and Malaysia voted against it.<sup>67</sup> Saudi Arabia was the only member of the Asian Group and Ghana the only member of the African Group to vote in favour of the resolution. Guatemala was the only member of the Group of Latin American and Caribbean States (GRULAC) to abstain (Cuba and Nicaragua voted against).

The resolution extends the mandate of the Special Rapporteur for one year.

### **Myanmar**

The outgoing Special Rapporteur on the situation of human rights in Myanmar, Mr Paulo Sergio Pinheiro, presented his annual report and a report on his follow-up mission to Myanmar following the special session held on 2 October 2007.<sup>68</sup> He expressed his misgivings concerning the constitutional referendum, which was to be held in May 2008.

Myanmar declared that the Special Rapporteur lacked objectivity and impartiality in presenting his report. Myanmar claimed that there were ‘no political prisoners’ in the country, and further rejected allegations of human rights abuses against returnees in the northern part of Rakhine State. States that took the floor and NGOs were unanimous in commending Mr Pinheiro for his report and regretted that the Government did not allow him a follow up visit to the visit conducted in late 2007. Many States recognised the efforts made by the Government since December 2007 to re-establish peace and democracy.<sup>69</sup> The majority of States and NGOs stated the importance of continuous dialogue and engagement with Myanmar to advance a process of national conciliation.

On 17 March 2008 the Council reviewed the mandate of the Special Rapporteur. The EU has been the traditional main sponsor of the mandate since 1992. when introducing the mandate, Slovenia (on behalf of the EU) said it had been a useful tool in addressing the human rights situation in Myanmar and regretted that the Special Rapporteur had not been able to enter the country for several years. Mr Pinheiro was last granted

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<sup>64</sup> Argentina, Canada, Republic of Korea.

<sup>65</sup> Algeria, China, Cuba, Pakistan (on behalf of OIC), Vietnam, Zimbabwe. Only Cuba, Zimbabwe and Algeria explicitly called for the termination of the mandate on the DPRK. Pakistan (on behalf of the OIC) said that the UPR would make the mandate redundant.

<sup>66</sup> Pakistan (on behalf of the OIC) and China

<sup>67</sup> The other negative votes were cast by Cuba, Egypt, Nicaragua and the Russian Federation. 18 members abstained, All voting records are available on the OHCHR extranet at <http://portal.ohchr.org>.

<sup>68</sup> For more information, see ISHR’s *Daily Update* of 13 March 2008, available at [www.ishr.ch](http://www.ishr.ch).

<sup>69</sup> China, Pakistan, India, Laos, Thailand, Russian Federation, Vietnam, Cuba, Malaysia.

access to Myanmar following the special session in October 2007.<sup>70</sup> Before that, however, he had been denied access to the country since 2003. Offering his advice on the future of the mandate, the Special Rapporteur suggested the establishment of a liaison officer within OHCHR for Myanmar, to ensure follow-up to recommendations. Myanmar, instead, requested that the Council ‘protect it’ from any illegitimate pressure from powerful States.

As it was the case for the mandate on the DPRK, the Council was divided concerning the issue of country specific mandates generally. China expressed the opinion that country mandates provoked conflict instead of helping to improve the situation; Pakistan supported this view and called for the general removal of country mandates. However, all other interventions were made in support of the continuation of the mandate

At the end of the session, two resolutions were adopted. One deals substantively with the human rights situation in Myanmar, while the other is more procedural and renews the mandate of the Special Rapporteur for a further one year.<sup>71</sup> The substantive resolution was adopted without a vote, with Myanmar claiming that the resolution ‘completely disregarded’ the political progress in Myanmar and accusing the Council of ‘dictating to the Government in matters which fall within the domestic jurisdiction.’ On the resolution renewing the mandate of the Special Rapporteur, Myanmar claimed that the continuation of country-specific mandates ran counter to the principle of universality upon which the Council was founded. Despite the general opposition to country-specific mandates expressed by many States, and in contrast to the resolution on the DPRK, no State requested a vote. The draft resolution was adopted by consensus.

### **Sudan**

During the 6<sup>th</sup> session of the Council in December 2006, the mandate of the Experts Group on Darfur was terminated. The Experts Group had been established to work with the Government of the Sudan on the implementation of previous recommendations of the international community. The Special Rapporteur on the situation of human rights in the Sudan was then tasked, in addition to her ‘normal’ duties, to continue the work of the Experts Group. Some States and NGOs had warned against overburdening the Special Rapporteur before the mandate of the Experts Group was terminated, but these warnings had been in vain.<sup>72</sup> It was against this backdrop that the Special Rapporteur presented her annual report to the Council.<sup>73</sup>

Much of the debate on the Sudan centred on Darfur. However, the Special Rapporteur in her report and oral statement also focused on the rest of the Sudan. She expressed particular concern about the culture of impunity that still prevailed in the Sudan and about the Government’s ‘excessive lethal force’ to silence protests against the regime. The Special Rapporteur urged the Government to accelerate its legislative reform, particularly regarding the National Security Act and the National Human Rights Commission Bill.

In relation to Darfur, the Special Rapporteur said that she was disturbed by the ‘critical human rights situation in the region, particularly [by] the ongoing major military offensive in West Darfur’. She further stated that the Government and the rebel groups had ‘failed in their responsibility’ to provide protection to civilians under their control.<sup>74</sup> She stressed that the Council should continue to monitor the human rights situation and review the implementation of the recommendations compiled by the Experts Group. Ms Samar concluded by underlining the importance of ‘urgent action’ to protect the population of Darfur. She stressed that there could

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<sup>70</sup> See ISHR’s report on the special session, available at [www.ishr.ch](http://www.ishr.ch).

<sup>71</sup> A/HRC/RES/32.

<sup>72</sup> See for instance ISHR’s overview of the 6<sup>th</sup> session of the Council, available on [www.ishr.ch](http://www.ishr.ch).

<sup>73</sup> A/HRC/RES/31.

<sup>74</sup> The Special Rapporteur received reports of indiscriminate killings, sexual violence, arbitrary arrest and detention, forced displacement, destruction of property, and impunity for such crimes.

be no military solution to the problem and urged the international community to work together with the Government and people of the Sudan to find a ‘political and sustainable peace’.

The Sudan disputed several findings in the report, including allegations that the authorities practiced torture and challenged the Special Rapporteur to identify specific incidents to substantiate her claim. The Sudan particularly highlighted its efforts to improve the human rights situation. In contrast, many States were concerned with the findings of the Special Rapporteur, particularly with the extent to which human rights protection is deteriorating in many parts of the Sudan. However, the usual allies of the Sudan stepped in to repeat the argument that the international community did not sufficiently honour the Government for improving the situation. Egypt (on behalf of the African Group) argued that the Special Rapporteur listed several individual events rather than giving an objective and analytical evaluation of the overall situation in the Sudan. Pakistan (on behalf of the OIC), Palestine and Algeria all expressed their appreciation of the efforts made by Sudan and noted that the democratic transition underway in the country was a positive sign.

The consensual resolution adopted by the Council clearly reveals that the Council continues to treat the Sudan with velvet gloves.<sup>75</sup> It ‘welcomes the collaboration of the Government of the Sudan with the Special Rapporteur (...) and takes note with interest of its engagement with the international community on human rights issues’. The resolution also lacks any mention of the need to combat impunity, a persisting problem that has been mentioned time and again by the Special Rapporteur and many States in relation to all parts of the Sudan. Instead of picking up the recommendation of the Special Rapporteur that the Government cooperate with the International Criminal Court (ICC), the Council ‘expresses particular concern at the fact that perpetrators of past and ongoing serious violations of human rights and international humanitarian law *in Darfur* have not yet been held accountable for their crimes and urges the Government [to] promptly [bring] to justice the perpetrators of those violations’.<sup>76</sup>

While the report of the Special Rapporteur specifically addresses all regions of the Sudan, the only strong condemnation in the resolution is focused on Darfur. Based on the attention the Special Rapporteur and the international community pay to the situation, it seems appropriate that the Council delivers a specific message in relation to Darfur. However, the resolution on the Sudan focuses almost exclusively on Darfur. Given the wider range of challenges reported by Ms Samar, it does not do justice to the overall situation.

### **General Debate**

During the general debate on Item 4, a large number of human rights situations were raised.<sup>77</sup> These included Chad, China and Tibet, Colombia, Iraq, Iran, Jammu and Kashmir, Kenya, Nepal, Pakistan, Somalia, Sri Lanka, Uganda, Western Sahara, Zimbabwe. This list of situations addressed was virtually identical to that of the 6<sup>th</sup> Session (September and December 2007).<sup>78</sup> However, the discussions of country situations that merit the Council’s attention generally do not result in any Council action. This is hardly surprising given the strong opposition to country resolutions and mandates by a majority of the Council’s members.

### **Palestine and other occupied Arab territories**

In response to recent developments that occurred in the occupied Palestinian territories (OPT) during the first days of the 7<sup>th</sup> sessions, the Council decided to consider Item 7 earlier than originally planned.<sup>79</sup> It was rumoured that there had been calls for a special session on the OPT, to be held during the 7<sup>th</sup> session. The

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<sup>75</sup> A/HRC/7/16.

<sup>76</sup> Paragraph 13 of the resolution (emphasis added).

<sup>77</sup> See ISHR’s *Daily Update* of 14 March 2008, available at [www.ishr.ch](http://www.ishr.ch).

<sup>78</sup> See ISHR’s *Overview of the 6<sup>th</sup> session of the Human Rights Council*, available at [www.ishr.ch](http://www.ishr.ch).

<sup>79</sup> Item 7 was considered on 6 March 2008, see ISHR’s *Daily Update* available at [www.ishr.ch](http://www.ishr.ch).

compromise solution was to bring forward the consideration of Item 7, thereby allowing for a more timely consideration of the issue. Exceptionally the Council adopted a resolution on the situation in Gaza before the actual decision making during the last two days of the session.<sup>80</sup>

The President of the Council reported on the efforts to implement Council *Resolutions S-1/1* and *S-3/1* emanating from the first and third special session, and on Israel's compliance with these resolutions. The High Commissioner for Human rights, Ms Louise Arbour, expressed grave concern at the magnitude of violence in Southern Israel and Gaza as many civilians continued to die in attacks, and clearly condemned the Palestinian rocket attacks as well as the disproportionate use of force by the Israeli authorities. Ms Arbour stressed the need for the international community to step up the pressure on both sides, and to uphold their obligations under international human rights and humanitarian law. She also commented on the implementation of outcomes of the first and third special session, and said Israel's unwillingness to cooperate hampered the effective implementation of the resolutions taken.

Discussing the situation in the OPT, States largely presented well-known positions. Several States and NGOs expressed grave concern about the situation in the OPT and in particular in Gaza following the recent aggravation of the humanitarian situation.<sup>81</sup> Many strongly condemned the attacks on Gaza.<sup>82</sup> Egypt (on behalf of the African Group) condemned all acts of violence and the indiscriminate bombing of villages. Palestine argued that Israel was threatening Palestine with a 'holocaust', which it claimed was part of a racist policy. In addition the League of Arab States accused Israel of committing war crimes and crimes against humanity.

Following comments on the situation as such, there were comments from States on the role of the international community, the Council and OHCHR. Many States and NGOs expressed the view that the continued human rights violations perpetrated by Israel are a result of silence of the international community,<sup>83</sup> and expressed their concern with the failure to ensure the implementation of the Council's decisions on the matter. Slovenia (on behalf of the EU) stated that it expected both Palestine and Israel to respect all human rights and recalled that both sides have responsibilities for investigating, presenting and redressing violations. Many States recalled that only through negotiations between all parties could a peaceful solution be found.<sup>84</sup>

Tunisia requested that the Council adopt by consensus the draft resolution on 'human right violations emanating from Israeli military attacks and incursions in the occupied Palestinian territory, particularly the recent ones in the occupied Gaza strip',<sup>85</sup> to deliver a clear and prompt response. Slovenia (on behalf of the EU), on the other hand, regretted that the text lacked balance and felt that only an improved text would send a clear and strong message that civilians must be protected regardless of where they live. Much of the day's time was spent on negotiations of the draft resolution. Some minor, but nonetheless significant amendments were agreed at the last minute. For instance, it seems that removing the word 'grave' to qualify the violations of international humanitarian law from the draft has convinced Switzerland to vote in favour of the draft resolution. Compared to the special session held in January 2008 on a similar aspect of the Israel-Palestine

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<sup>80</sup> A/HRC/RES/7/1.

<sup>81</sup> China, Philippines, Russian Federation, Senegal, Libya, Iran, Tunisia, Belarus, African Union, Turkey, Norway, International League for the Rights and Liberation of Peoples, Defence for Children International

<sup>82</sup> Egypt (on behalf of the African Group), Indonesia, Yemen, Morocco, Kuwait, International Commission of Jurists (ICJ), International Association of Democratic Lawyers (AIJD), Comité International pour le respect et l'application de la Charte Africaine des Droits de l'homme et des peuples (CIRAC)

<sup>83</sup> Syria (on behalf of the Arab Group), Saudi Arabia, Belarus, UAE.

<sup>84</sup> US, Morocco, Iceland, Slovenia (on behalf of the EU), India.

<sup>85</sup> HRC/7/L.1. The resolutions adopted are available at [http://www2.ohchr.org/english/bodies/hrcouncil/7session/final\\_resolutions.htm](http://www2.ohchr.org/english/bodies/hrcouncil/7session/final_resolutions.htm)

issue, this was a slight departure from the ‘usual’ voting patterns.<sup>86</sup> Switzerland explained that it voted in favour to reflect the gravity of the current situation in the Gaza strip and to value the efforts undertaken by the sponsors of the draft to accommodate its concerns.

Two other resolutions were adopted at the end of the session. The second resolution was entitled ‘the right of the Palestinian people to self-determination’ and was adopted without a vote.<sup>87</sup> The third resolution adopted deals with Israeli settlements in occupied Palestinian territory, including East Jerusalem and in the occupied Syrian Golan.<sup>88</sup> It was adopted by an overwhelming majority of 46 votes in favour and 1 against. Canada, the only State to vote against the resolution, claimed that although the settlements were ‘contrary to international law’ the resolution did not present an accurate assessment of the situation and failed to refer to Palestinian obligations.

Quite obviously, the Council is divided on many issues related to the Israel-Palestine conflict, and is likely to remain so for much time to come.

## **Technical assistance and capacity building.**

### ***Democratic Republic of the Congo***

The Council discussed the situation in the Democratic Republic of the Congo (DRC) under Item 10 (technical assistance and capacity building).<sup>89</sup> The Independent Expert, Mr Titinga Frederic Pacere, had visited the DRC twice since September 2007. He reported that although there have been notable improvements, the situation remains of major concern, with systematic violations being perpetrated by all forces involved in the conflict. The Independent Expert commended the Government for convening the ‘Goma Conference on Peace, Security and Development’ in January 2008, which sought to put an end to the conflicts in the North and South Kivu and led to the signing of an ‘Act of Commitment’ by all parties of the conflict.

The main debate centred on the issue of the mandate of the Independent Expert and its proposed renewal. The DRC as the county concerned stressed that the human rights situation was constantly improving. However, many States and NGOs<sup>90</sup> voiced their concern with the widespread violence against women and in particular sexual violence.

During the actual review of the mandate, Egypt (on behalf on the African Group) as the main sponsor introduced the mandate.<sup>91</sup> It noted that since the establishment of the mandate, progress had been made, including through political, legislative and judicial reforms. In what seemed to be a justification of its own principled position opposed to country mandates, Egypt said that renewing the mandate against the will of the DRC would be counter-productive and would not lead to improving the situation on the ground. Despite the fact that the vast majority of delegations that spoke supported the renewal of the mandate,<sup>92</sup> the missing support by the main sponsors sealed the fate of this mandate.

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<sup>86</sup> Both Ghana and Switzerland had abstained in January, but joined the positive vote for the resolution adopted during the 7<sup>th</sup> session. The only negative vote on both resolutions came from Canada.

<sup>87</sup> A/HRC/RES/7/17.

<sup>88</sup> A/HRC/RES/7/18.

<sup>89</sup> For more information, see ISHR’s *Daily Update* of 19 March 2008, available at [www.ishr.ch](http://www.ishr.ch)

<sup>90</sup> Slovenia (on behalf of the EU), Canada and Belgium, the International Commission of Jurists.

<sup>91</sup> See ISHR’s *Daily Update* of 20 March 2008, available at [www.ishr.ch](http://www.ishr.ch).

<sup>92</sup> Slovenia (on behalf on the EU), Netherlands, UK, France, Belgium, US, Norway, Switzerland, Sweden, Canada, International Federation of Human Rights Leagues (FIDH) in a joint statement with the World Organisation against torture, Human Rights Watch, Comite International pour le Respect et l’Application de la Charte Africaine de Droits de L’Homme et des Peuples (CIRAC), Amnesty International.

The resolution adopted on the DRC discontinues the mandate of the Independent Expert. It provides that a number of thematic special procedures should ‘make recommendations within their respective mandates, on how best to technically assist the DRC in addressing the situation of human rights.’<sup>93</sup> These special procedures were asked to report to the Council in March 2009.<sup>94</sup> Egypt concluded that the DRC had expressly requested the discontinuation of the mandate of the Independent Expert and that ‘in line with its position of principle concerning country mandates, the African group fully supports the decision of the Government of the DRC.’ Egypt did not explain why this position did not extend to other mandates, for instance the DPRK. Slovenia (on behalf of the EU), Canada and Switzerland joined the consensus on the resolution but were disappointed to see the mandate of the Independent Expert disappear. They felt that the Independent Expert could best assure comprehensive follow-up to past recommendations. The DRC hoped that the various special procedures could help the State in implementing its obligations, and pledged that it would remain engaged with the international human rights system through the universal periodic review mechanism, treaty body reporting and visits of special procedures.

According to several NGOs the situation in the DRC merits continued and dedicated attention by the Council,<sup>95</sup> attention of a quality that could only be provided by a specific mandate, rather than a collection of thematic special procedures.

### **Somalia**

The mandate of the Independent Expert of the Secretary-General on the situation of human rights in Somalia was introduced by Egypt (on behalf of the African Group) as the main sponsor, during the review of the mandate.<sup>96</sup> Egypt acknowledged the obstacles that faced the Independent Expert in carrying out his mandate, and expressed its hope that given the recent improvements to the security situation, the next mandate holder would be able to work ‘in the most effective possible manner’. It explained that it had decided to support the renewal of the mandate ‘given the willingness of the Somali Authorities’ and ‘in view of the exceptional circumstances and challenges’ facing the State.

The Independent Expert, Mr Ghanim Alnajjar, stressed that the mandate continues to be important until there is a stable situation in Somalia. Somalia briefed the Council on the security situation in the country and described it as ‘fragile’ despite efforts on the part of the transitional Federal Government (TFG). He regretfully acknowledged that violations of human rights and international humanitarian law have been ‘the norm’ in Somalia. Many States welcomed the progress made in Somalia since the establishment of the TFG but expressed concern about the dire situation. Slovenia (on behalf of the EU) highlighted a number of specific issues of concern, including widespread insecurity, extrajudicial killings, arbitrary arrests and detentions, torture and violations of the right to freedom of opinion and expression. Both Italy and Switzerland called for the establishment of a self-standing OHCHR office in Somalia.

The resolution on ‘assistance to Somalia in the field of human rights’ was adopted without a vote.<sup>97</sup> It renews the mandate of the Independent Expert for one year, and also requests OHCHR to strengthen its presence in Somalia. The mandate was not renewed as an Independent Expert ‘appointed by the Secretary-General’ and

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<sup>93</sup> A/HRC/RES/7/20

<sup>94</sup> The Special procedures to be used are: The Special Rapporteur on violence against women, Special representative of the Secretary-General on internally displaced persons, Special Rapporteur on the independence of judges and lawyers, Special Rapporteur on the right to health, Special Representative of the Secretary General on human rights defenders, Special Representative of the Secretary General on transnational corporations, and the Special Representative of children and armed conflict. See A/HRC/7/L.38, para 2.

<sup>95</sup> See for instance <http://www.hrw.org/en/news/2008/03/26/un-rights-council-fails-victims-congo>.

<sup>96</sup> See ISHR’s *Daily Update* of 20 March 2008, available at [www.ishr.ch](http://www.ishr.ch).

<sup>97</sup> *Resolution 7/35*.

accordingly will fall under the Council's new appointment procedure for special procedures mandate holders. At the end of the session, the President appointed Mr Shamsul Bari as the new Independent Expert.

### **Cambodia**

The Special Representative of the Secretary General on human rights in Cambodia, Mr Yash Ghai, presented his report to the Council.<sup>98</sup> The report focuses on the rule of law, the trial of Khmer Rouge officials, impunity, and cooperation between the Government and the Special Rapporteur. Mr Ghai highlighted the progress made by the Government with the participation of civil society in establishing a national human rights commission. He hoped that the institution would be in compliance with the Paris Principles.<sup>99</sup> Cambodia assured the Council that it was moving towards the establishment of democracy.

The mandate on Cambodia was to be reviewed during the 9<sup>th</sup> session of the Council in September 2008.

### **Liberia**

The Independent Expert for technical cooperation and advisory services in Liberia Ms Charlotte Abaka, presented her annual report.<sup>100</sup> She reported that since her mission in September 2008, efforts had been undertaken and the situation had slightly improved. She drew attention to the severe delay in the establishment of an independent national human rights commission in compliance with the Paris Principles, the failure to establish a law reform commission and a land reform commission. She expressed grave concern about the increase in gender-based violence. The US saw the willingness of Liberia to promote and protect human rights as an inspiration for other countries. The US also promised technical support to Liberia's legal sector and Ghana offered its assistance with regard to the law and land reform commissions.

The mandate of the Independent Expert had already been renewed for one year during the 6<sup>th</sup> session of the Council in December 2006.<sup>101</sup> Accordingly, it was to be discussed again during the 9<sup>th</sup> session in September 2008.

## Vienna Declaration and Programme of Action

Under Item 8, follow-up to and implementation of the Vienna Declaration and Programme of Action, the Council heard an update by Mr Olivier Belle, Chairperson of the Commission on the Status of Women and also held a general debate.<sup>102</sup>

The general debate exposed one of the most profound challenges the Council had faced since its inception, namely how to deal with situations of human rights violations taking place in a particular country or region. As it had been the case for the situation in Myanmar when it was discussed during the 6<sup>th</sup> session of the Council under the same agenda item, the situation in Tibet gained increasing attention in the media over the course of the 7<sup>th</sup> session.<sup>103</sup> Discussions on country situations usually take place under Item 4, 'human rights situations that require the Council's attention', but since it had already been discussed, a number of States and

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<sup>98</sup> See ISHR's *Daily Update* of 19 March 2008, available at [www.ishr.ch](http://www.ishr.ch), A/HRC/7/42.

<sup>99</sup> The 'Paris Principles' were adopted by the United Nations General Assembly as an Annex to Resolution 48/134. They define the role and functions of national human rights institutions in the promotion and protection of human rights. Available at: <http://www.un.org/Depts/dhl/res/resa48.htm>.

<sup>100</sup> See ISHR's *Daily Update* of 19 March 2008, available at [www.ishr.ch](http://www.ishr.ch).

<sup>101</sup> See ISHR's *Overview of the 6<sup>th</sup> session*, available at [www.ishr.ch](http://www.ishr.ch).

<sup>102</sup> See ISHR's *Daily Update* of 25 March 2008, available at [www.ishr.ch](http://www.ishr.ch).

<sup>103</sup> See ISHR's *Overview of the 6<sup>th</sup> session*, available at [www.ishr.ch](http://www.ishr.ch).

NGOs used the opportunity presented by Item 8 to comment on the situation in Tibet.<sup>104</sup> The rationale for raising the situation under Item 8 was the universality of human rights and the responsibility of governments to promote and protect human rights affirmed in the Vienna Declaration.

China reacted very negatively, arguing that this issue was not to be discussed under Item 8. As a result, most of the debate revolved around procedural questions regarding the scope of Item 8. Although they referred to the situation in Tibet, the statements by Slovenia (on behalf of the EU) and Switzerland were delivered without interruption. However, China raised several points of order interrupting the statements by the US and Australia, as well as those delivered by NGOs.<sup>105</sup> China asked the President to encourage the speakers to ‘focus on the topic at hand’. It said Item 8 should be reserved for ‘issues’, whereas country-specific situations should be discussed only under Item 4. China further disputed the merit of any discussion of the situation in Tibet, saying it was a purely domestic concern and not a human rights issue to be discussed in the Council.

The President described the general debate under Item 8 as a ‘very good opportunity for all of us to reread the Vienna Declaration, to see what it includes’ and assess ‘what has been going on in the world’ in terms of its implementation. In response to a point of order by Morocco,<sup>106</sup> the President clarified that ‘country-specific situations, if dealt with extensively, belong under other items’. Following a series of points of order the meeting was suspended for a short while. When it resumed, President Costea reiterated that the statements under Item 8 should be related to the implementation of the Vienna Declaration. He agreed with comments that the implementation of the provisions of the Vienna Declaration takes place ‘on the ground and not in a vacuum’. At the same time, he said that references to countries could be used as examples to illustrate the state of implementation of the Vienna Declaration, but should not be the ‘primary thrust of the statement.’

As mentioned above, Tibet was not the first situation raised under Item 8. During the 6<sup>th</sup> session, many States had spoken at length about the situation in Myanmar, without being interrupted by other States. This clearly indicates the difference in clout the two States have on the international scene.

Other issues raised in the general debate included the **universality of human rights**, the need to take into account national and regional particularities and various **historical, cultural and religious backgrounds**, and the necessity of giving equal attention to **economic, social and cultural rights** and civil and political rights. In this context, Egypt (on behalf of the African Group) expressed its support for the ongoing work on the draft **optional protocol to the ICESCR** (the optional protocol).<sup>107</sup> A number of States commented specifically on the content of the draft optional protocol. All States that commented on the details of the drafting process favoured a comprehensive approach, affirming that an ‘à la carte’ or selective approach would be contrary to the principles of interdependence, universality and indivisibility of human rights.<sup>108</sup>

Item 8 was also used to refer to the human rights of **specific groups**, including the rights of peoples under foreign occupation, the rights of women, the rights of children, the rights of lesbian, gay, bisexual, and transsexual persons, and human rights defenders.<sup>109</sup>

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<sup>104</sup> Slovenia (on behalf of the EU and on behalf of Turkey, Macedonia, Albania, Bosnia-Herzegovina, Montenegro and Ukraine), Switzerland, United States of America (US), Australia (on behalf of Australia and Canada).

<sup>105</sup> Twelve points of order were raised by China, and another eight by various States in response.

<sup>106</sup> Morocco raised a point of order to ask for clarification when the NGO Mouvement contre le Racisme et pour l’Amitié entre les Peuples raised the situation of Tibet and also referred to the Western Sahara.

<sup>107</sup> Supported by France, Italy, Mexico, Peru, Cuba, Angola, Brazil, Portugal, Belgium, Spain, Finland.

<sup>108</sup> Bangladesh, Brazil, Portugal, Chile, Belgium, Spain, Finland.

<sup>109</sup> Supported by France.

Some States and NGOs spoke about the role of **national human rights institutions** (NHRIs) in promoting and protecting human rights, recalling that ‘a notable feature [in the Vienna Declaration and Programme of Action] is the encouragement of strengthening national human rights institutions’.<sup>110</sup>

## Racism

Under Item 9, ‘racism, racial discrimination, xenophobia and related forms of intolerance: follow-up to and implementation of the Durban Declaration and Programme of Action’, the Council heard updates from the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action (the Working Group), and the Ad-Hoc Committee on the elaboration of complementary standards. It also considered reports by the Working Group on people of African descent, and a joint report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Doudou Diène, and the Independent Expert on minority issues, Ms Gay McDougall.<sup>111</sup> It was notable that some speakers used Item 9, a primarily thematic agenda item just like Item 8, to highlight specific country situations of concern to them.<sup>112</sup>

Much of the interactive dialogue with the experts, and the following general debate focused on the implementation of the *Durban Declaration and Programme of Action* (the *Durban Declaration*) and many States looked forward to the Durban Review Conference in 2009. Other issues included the topics outlined in the report of Mr Diène, such as the lack of political will to address racism,<sup>113</sup> the use of political platforms to incite racism,<sup>114</sup> the ideological legitimising of racism,<sup>115</sup> and racism against migrants.<sup>116</sup> States also spoke of the balance between freedom of expression and the freedom to practice one’s religion, the related issues of ‘defamation of religions’<sup>117</sup> and growth of Islamophobia<sup>118</sup> and the inclusion of the issue of discrimination on the grounds of caste in the report of the Special Rapporteur, which elicited strong responses from India and Nepal.<sup>119</sup>

In relation to the upcoming Durban Review Conference, some delegations expressed criticism about the lack of political will to ensure follow-up to and implementation of the *Durban Declaration and Programme of Action*.<sup>120</sup> A debate developed around whether the Review Conference should also look at contemporary forms of racism or only at the implementation of the *Durban Declaration and Programme of Action*.<sup>121</sup> The importance attached to the Durban Review Conference by some delegations was exemplified by Egypt’s claim that the relevance of the Council would be put in doubt if the Review Conference were not successful. Switzerland stated that all Durban follow-up mechanisms should be developed on the basis of consensus and that the international community should seek to speak with a single voice.<sup>122</sup>

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<sup>110</sup> Australia.

<sup>111</sup> See ISHR’s *Daily Updates* of 19 and 26 March 2008.

<sup>112</sup> For instance, Iran expressed its deep concern of the ‘cultural uprooting’ in the OPT.

<sup>113</sup> Pakistan (on behalf of the OIC), Djibouti, Republic of Korea, Egypt (on behalf of the African Group).

<sup>114</sup> Pakistan (on behalf of the OIC), Djibouti, Egypt (on behalf of the African Group), Algeria, Cameroon.

<sup>115</sup> Pakistan (on behalf of the OIC), Bangladesh.

<sup>116</sup> China, Republic of Korea, Bangladesh, Cameroon, Association of World Citizens.

<sup>117</sup> Indonesia, Republic of Korea, Egypt (on behalf of the African Group).

<sup>118</sup> China, Djibouti, Bangladesh, Algeria, Morocco.

<sup>119</sup> Also addressed by the National Human Rights Commission of India. The International Movement against All Forms of Discrimination and Racism also raised the issue of caste with reference to Japan.

<sup>120</sup> Egypt (on behalf of the African Group), Nigeria,

<sup>121</sup> The European Union was of the view that reviewing the implementation of the DDPA should be the only focus of the review conference, while Egypt (on behalf of the African Group) took the opposite stance.

<sup>122</sup> Echoed by the Consultative Council of Jewish Organisations.

Brazil underlined the need for regional conferences in preparation for the Durban review conference. It urged the OHCHR to make the necessary funds available for the holding of such conferences. Brazil also highlighted the importance of full participation of civil society in the preparations for the Review Conference.

The progress of the Ad-Hoc Committee on the elaboration of complementary international standards was also discussed under Item 9. As observed during previous sessions, there were widely diverging views on the need for new complementary standards to fight racism and racial discrimination. The study by five experts mandated by the Intergovernmental Working Group on the effective implementation of the *Durban Declaration* did not find a clear need for additional international standards.<sup>123</sup> Despite this, the Council established the Ad-Hoc Committee tasked to develop such standards. Several States supported the elaboration of complementary standards, in particular to address contemporary forms of racism.<sup>124</sup> Other delegations expressed some hesitation about the development of complementary standards.<sup>125</sup> Slovenia (on behalf of the EU)<sup>126</sup> stated that the potential of existing mechanisms should first be fully utilised before new mechanisms be considered.

### Resolutions passed

Although they were not discussed in detail under Item 8, two resolutions were introduced under this item. Pakistan (on behalf of the OIC), submitted a resolution on ‘combating defamation of religions’.<sup>127</sup> It pointed out that the draft resolution did not intend to limit or circumscribe the right to freedom of expression; it only created a legal framework for exercising this right. In an explanation of vote, Slovenia (on behalf of the EU) pointed out that the concept of defamation of religions is inconsistent with a human rights approach, and that international law protects the freedom of religion or belief, not religions or beliefs as such. It also voiced its concern that the approach taken in the draft resolution was inherently one-sided, focussing excessively on Islam.<sup>128</sup> In a similar vein, India observed that the draft resolution did not appropriately address the complex phenomenon of defamation of religions, as it approached it from a narrow perspective using the ‘narrow framework of racism’.<sup>129</sup> The resolution was adopted, with 21 votes in favour, ten against, and 14 abstentions.

The second resolution adopted under Item 9 was ‘from rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance’ on behalf of the African Group.<sup>130</sup> Egypt noted that there was insufficient political will to effectively combat racism, a shortcoming the resolution intended to address. The resolution was inspired by the recent formal apology by the Australian Government to indigenous Australians, and urges all Governments to ‘issue formal apologies to the victims of past and historic injustices’. Slovenia (on behalf of the EU) also spoke against this resolution, stressing that the *Durban Declaration* underlined that racism should be fought in all parts of the world, and it regretted that the resolution focused selectively on some parts of the *Durban Declaration*.<sup>131</sup> The resolution was adopted with a wider margin with 34 votes to none, with 13 abstentions.<sup>132</sup>

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<sup>123</sup> Report on the study by the five experts on the content and scope of substantive gaps in the existing international instruments to combat racism, racial discrimination, xenophobia and related intolerance, A/HRC/4/WG.3/6, 27 August 2007.

<sup>124</sup> Egypt (on behalf of the African Group), Russian Federation, Nigeria, Azerbaijan.

<sup>125</sup> Slovenia (on behalf of the EU), Switzerland,

<sup>126</sup> Croatia, Macedonia, Albania, Bosnia and Herzegovina, Montenegro, Serbia, Liechtenstein, Ukraine, Moldova, Armenia aligned themselves with the statement.

<sup>127</sup> A/HRC/RES/7/19..

<sup>128</sup> Echoed by India.

<sup>129</sup> India then abstained.

<sup>130</sup> A/HRC/RES/7/33.

<sup>131</sup> The Council adopted a resolution with the exact same title and similar content at its 6<sup>th</sup> session.

<sup>132</sup> Bosnia-Herzegovina, Canada, Germany, France, Italy, Republic of Korea, Romania, Slovenia, Netherlands, Switzerland, Ukraine, United Kingdom and Japan abstained.

## Other issues

Following the high-level segment during the first three days of the session, the Council held a panel debate on **human rights voluntary goals**. This process was intended to culminate in a set of goals to promote the realisation and implementation of the *Universal Declaration of Human Rights*. It was expected that the Council would adopt these goals at its 9<sup>th</sup> session in September 2008. At this preliminary stage, the selected panellists from Switzerland, Brazil (as sponsors of the resolution and convenors of the discussion), Italy, Morocco and Sri Lanka, as well as States and observers in the interactive dialogue, provided outlines for the principles to be followed in developing the goals and presented broad proposals for the goals. These included national action plans, universal ratification of core treaties, issuing standing invitations for special procedures, and establishing national human rights institutions. Certain States also emphasised the need for the goals not to replace existing international human rights standards, but to provide protection in areas that currently lack adequate protection, such as discrimination on the basis of sexual orientation.

Among the other notable developments during the 7<sup>th</sup> session was the adoption of a resolution on **climate change and human rights**. It was adopted by consensus, and requests the OHCHR to conduct an ‘analytical study on the relationship between climate change and human rights’. The Council will consider the study at its 10<sup>th</sup> session in March 2009.

## Next steps

Until June 2008, the Council will have a very busy period ahead. In early April, it will hold its first session of the UPR. This will be followed by the second UPR session in May. The elections in the General Assembly to re-elect (or renew) one-third of the Council’s members will be another important milestone. It will be interesting to see to what extent the members of the UN will take into account the actual performance of current Council members when deciding which States should sit in the organisation’s highest human rights body. In June, finally, the 8<sup>th</sup> session will complete the 2<sup>nd</sup> cycle of the Council. The end of the 2<sup>nd</sup> year of operation of the Council will also bring a change in membership, and the Council Presidency.

## ANNEX – Table on resolutions

<b>Title</b>	<b>Main Sponsor</b>	<b>Final resolution number*</b>	<b>Voting result / Remarks</b>
Item 2, Composition of the staff of the Office of the United Nations High Commissioner for Human Rights	Cuba	A/HRC/RES/7/2	Adopted (34/10/3), as orally revised
Item 3, Elimination of violence against women	Canada	A/HRC/RES/7/24	Adopted without a vote
Item 3, Enforced or Involuntary Disappearances	France	A/HRC/RES/7/12	Adopted without a vote
Item 3, Enhancement of international cooperation in the field of human rights	Cuba (on behalf of NAM) and co-sponsored by Bolivia	A/HRC/RES/7/3	Adopted without a vote
Item 3, Human rights and access to safe drinking water and sanitation	Spain	A/HRC/RES/7/22	Adopted without a vote
Item 3, Human rights and arbitrary deprivation of nationality	Russian Federation	A/HRC/RES/7/10	Adopted without a vote
Item 3, Human rights and climate change	Maldives	A/HRC/RES/7/23	Adopted without a vote
Item 3, Human rights and extreme poverty	France	A/HRC/RES/7/27	Adopted without a vote
Item 3, Human rights of persons with disabilities	Mexico	A/HRC/RES/7/9	Adopted without a vote
Item 3, International Convention for the Protection of All Persons from Enforced Disappearance	France	A/HRC/RES/7/26	Adopted without a vote
Item 3, Mandate of the independent expert on human rights and international solidarity	Cuba	A/HRC/RES/7/5	Adopted (34/13/0)
Item 3, Mandate of the independent expert on minority issues	Austria	A/HRC/RES/7/6	Adopted without a vote
Item 3, Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression	Canada	A/HRC/RES/7/36	Adopted (32/0/15), as amended
<i>Item 3, Amendment to resolution RES/7/36</i>	<i>Egypt (on behalf of the Group of African States), Pakistan (on behalf of the Organization of the Islamic Conference)</i>	<i>Incorporated into A/HRC/RES/7/36</i>	<i>Adopted (27/17/3)</i>

\* All resolutions, including drafts and the voting details, are available through OHCHR at <http://portal.ohchr.org> or at <http://ap.ohchr.org/Documents/gmainec.aspx>.

	<i>and Palestine (on behalf of the Group of Arab States)</i>		
Item 3, Mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography	Uruguay	A/HRC/RES/7/13	Adopted as orally revised without a vote
Item 3, Mandate of the working group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination	Cuba(Revision of A/HRC/7/L.7)	A/HRC/RES/7/21	Adopted (32/11/2)
Item 3, Missing persons	Azerbaijan	A/HRC/RES/7/28	Adopted without a vote
Item 3, Prevention of genocide	Armenia	A/HRC/RES/7/25	Adopted as orally revised without a vote
Item 3, Protection of human rights and fundamental freedoms while countering terrorism	Mexico	A/HRC/RES/7/7	Adopted without a vote
Item 3, Rights of the Child	Uruguay	A/HRC/RES/7/29	Adopted as orally revised without a vote
Item 3, Technical cooperation and advisory services in the DRC	Egypt (on behalf of the African Group) (revision of A/HRC/6/L.19)	A/HRC/RES/7/20	Adopted without a vote
Item 3, The right to food	Cuba (Revision of A/HRC/7/L.6)	A/HRC/RES/7/14	Adopted without a vote
Item 3, The role of good governance in the promotion and protection of human rights	Poland	A/HRC/RES/7/11	Adopted (41/0/6)
Item 4, Mandate of the Special Rapporteur on the situation of human rights in Myanmar	Slovenia	A/HRC/RES/7/32	Adopted without a vote
Item 4, Situation of human rights in Myanmar	Slovenia	A/HRC/RES/7/31	Adopted without a vote
Item 4, Situation of human rights in Sudan	Egypt (on behalf of the African Group)	A/HRC/RES/7/16	Adopted without a vote
Item 4, Situation of human rights in the Democratic People's Republic of Korea	Japan and Slovenia (on behalf of the EU)	A/HRC/RES/7/15	Adopted (22/7/18), as orally revised
Item 7, Human rights violations emanating from Israeli military attacks and incursions in the Occupied Palestinian Territory, particularly the recent ones in the occupied Gaza Strip	Pakistan (OIC) and Palestine (Arab League)	A/HRC/RES/7/1	Adopted (33/1/13), as revised
Item 7, Human Rights in the Occupied Syrian Golan	Palestine (on behalf of the Arab Group)	A/HRC/RES/7/30	Adopted (32/1/14), as orally revised
Item 7, Israeli settlements in the Occupied Palestinian	Palestine (Arab Group)	A/HRC/RES/7/18	Adopted as orally revised

Territory, including East Jerusalem, and in the occupied Syrian Golan			(46/01/0)
Item 7, The right of the Palestinian people to self-determination	Palestine (Arab Group)	A/HRC/RES/7/17	Adopted without a vote
Item 9, Combating defamation of religions	Pakistan (on behalf of the OIC)	A/HRC/RES/7/19	Adopted (21/10/14)
Item 9, From Rhetoric to Reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance	Egypt (on behalf of the African Group)	A/HRC/RES/7/33	Adopted (34/0/13), as orally revised
Item 9, Mandate of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance	Egypt (on behalf of the African Group)	A/HRC/RES/7/34	Adopted without a vote
Item 10, Assistance to Somalia in the field of human rights	Egypt (on behalf of the African Group)	A/HRC/RES/7/35	Adopted without a vote

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