

COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

COUNCIL UPDATE – ITEM 5, HUMAN RIGHTS BODIES AND MECHANISM HUMAN RIGHTS COUNCIL, 10TH SESSION 17 MARCH 2009 AND 23 MARCH 2009

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Overview

On 17 March and 23 March 2009, the Human Rights Council (Council) discussed agenda Item 5 pertaining to human rights bodies and mechanism. Under this item, the Council considered reports from its various bodies, namely the Human Rights Council Advisory Committee (Advisory Committee), the Expert Mechanism on Indigenous People, the Forum on Minority Issues, and the Social Forum. Regrettably, the discussion of the reports did not take place in the presence of the representatives of these mechanisms due to a significant delay in the Council's programme. Furthermore, the Council's adoption of outcomes of the third session of the UPR could not be postponed as this part of the programme remains fixed to allow high level State delegations to participate. This resulted in a three day delay between the presentation of reports and their actual consideration. Many States and NGOs took part in the debate.

Advisory Committee

The Chair of the Advisory Committee, Mr Miguel Alfonso Martinez, presented the outcome from the Advisory Committee's first two sessions and some procedural questions related to its work.¹ In this regard, Mr Martinez highlighted five of the Committee's recommendations that require the Council's follow-up.² Mr Martinez emphasised that such recommendations were merely suggestions that could be acted upon at the discretion of the Council. On the other hand, Mr Martinez raised his concerns about some procedural obstacles faced by the Advisory Committee, in particular time constraints. He therefore requested that the Advisory Committee is allocated a two week session rather than only one week. Additionally, he also suggested that Office of the High Commissioner of Human Right (OHCHR) avoid organising other meetings during the Advisory Committee's session.

¹ The 1st session was held in August 2008 while the 2nd session was held in January 2009.

² The five recommendations are on: human rights education and training, right to food, leprosy, gender mainstreaming, and protection of civilians in armed conflict.

During the general debate, two main issues were raised. Firstly, speakers commented positively on the draft declaration on human rights education and training. They emphasised the importance of completing the formulation of a draft declaration on human right education and training.³

Secondly, focus was on the mandate of the Advisory Committee. States had different opinions on this matter. Some States supported and acknowledged the need of the Advisory Committee to be able to take initiatives within its mandate. However, others took a contrary view. Cuba advocated that the Advisory Committee should not be restricted in carrying out its work, given that it acts as the ‘think tank’ of the Council. With this understanding, the Advisory Committee could suggest new issues to be discussed by the Council. In line with this suggestion, several States also expressed their support for the current practice of the Committee.⁴ Other States preferred the Advisory Committee to strictly comply with its mandate to only act at the request of the Council.⁵ The US and New Zealand asserted that the Council does not need to adopt the draft resolutions of the Advisory Committee, as all issues must first be discussed by the Council before any resolutions can be adopted by it. Canada specifically suggested that the gender mainstreaming issue should be left pending until the next session. On the other hand, the Committee was requested to finish up the outstanding works of the Sub-Committee.⁶

Social Forum

There was no presentation on the work of the Social Forum as it was presented at the 9th session of the Council.⁷ Few States commented on the Social Forum. Most comments were complementary, subsequently supporting the continuance of the Social Forum.⁸ Many States acknowledged the negative impact of the financial crisis on poverty eradication efforts. They requested the Social Forum to continue its work on poverty eradication and to specifically address the impact of the financial crisis.⁹ Chile recommended that the Social Forum strengthen its efforts to reach out to civil society to ensure their participation in its work.

Expert Mechanism on Indigenous People

The Chairperson-Rapporteur of the Expert Mechanism on the Rights of Indigenous People (Expert Mechanism) Mr John B. Henriksen, briefly presented the first report of this new mechanism to the Council on its first session held in Geneva from 1 to 3 October 2008.¹⁰ Recalling its mandate¹¹ to provide the Council with thematic expertise on the rights of indigenous people the Chairperson announced the thematic focus of the first session.¹² In addition to these two topics, Expert Mechanism discussed the scope of its mandate, methods of work, and possible future thematic issues. As future areas of focus, the Chairperson expressed the wish to consider global and cross-cutting issues of significance for indigenous people as,¹³ and to see the Expert Mechanism become a forum for dialogue on the rights of indigenous peoples. He underlined the recommendation of the Expert Mechanism to the Council to request the General Assembly to consider extending the mandate of the fund to help indigenous people to

³ Chile, Pakistan (on behalf of the members of the Organisation of Islamic Conference), Morocco, Mexico, Switzerland, Soka Gakkai International, International Organisation for the Right to Education and Freedom of Education (OIDEL), Arab Commission for Human Rights.

⁴ Pakistan, Russian Federation, China, Nigeria, Egypt.

⁵ US, New Zealand, India, Indonesia.

⁶ Egypt, Lutheran World Federation.

⁷ See ISHR’s *Daily Update* of 17 September 2008, available at www.ishr.ch.

⁸ Czech Republic (on behalf of the European Union), Bahrain, China, Kuwait.

⁹ Czech Republic, Bahrain, Kuwait. This was also supported by the International Institute for Peace.

¹⁰ A/HRC/10/56.

¹¹ As stipulated in Council *Resolution 6/36*

¹² Namely, to assist the Preparatory Committee of the Durban Review Conference by undertaking a review and submitting recommendations as contributions to the outcome of the Durban Review Conference; and to prepare a study on lessons learned and challenges to achieve the implementation of the right of indigenous peoples to education, to be concluded by 2009.

¹³ Such as the Right to Self-Determination.

participate in the sessions of the Council and the treaty-monitoring bodies. The Expert Mechanism also put forward recommendations on the number of working days; made a contribution to the outcome of the Durban Review Conference; proposed a study on lessons learned and challenges to achieve the implementation of the right of indigenous peoples to education; and a proposal asking the Council to authorise a two-day technical workshop on the right to education. Finally, the Chairperson pointed out financial constraints as the greatest challenge for the mechanism to carry out its work.

The general debate saw very few comments but the general trend was supportive of the Expert Mechanism's work. Most States that spoke commended the Chairperson for the good work of the Experts Mechanism¹⁴ and the contribution it can make to the Durban Review Conference. They also welcomed the choice of focus topic on the right to education¹⁵ for a first study. Canada, Mexico and the Czech Republic (on behalf of the EU) suggested stronger cooperation between bodies dealing with indigenous issues, a need acknowledged by the Chairperson in his presentation.¹⁶ Mexico went further suggesting joining discussion of the two mechanisms on indigenous people and the mechanisms on minority issues during one specific session and if possible under one agenda item. Another suggestion was Canada's proposals for future studies.¹⁷

NGO interventions, such as those by France Liberté, Foundation Danielle Mitterrand and Liberation highlighted serious violations of indigenous people's rights respectively in the Amazon and in North East India. The Indian Council of South America called upon the Council to authorise the Expert Mechanism to investigate the consequences of the adoption of the last Constitution of Bolivia on indigenous rights as well as the legal status of indigenous peoples in Bolivia.

Forum on Minority Issues

The Independent Expert on minority issues, Ms. Gay McDougall, who is chairing the Forum on Minority Issues (the Forum),¹⁸ briefly presented her report on the first thematic issue chosen by the Forum: 'Minorities and the Right to Education'. She focused on explaining the reason for choosing this topic. She stated that 'ensuring equal access to education is one of the most serious challenges for minorities and States alike' though being a fundamental human right of every human being and especially minorities. She underlined that education is a gateway to the full enjoyment of a wide array of other rights and vital to sustainable poverty alleviation. The Independent Expert expressed her satisfaction with the first session of the Forum held in December 2008 which brought together about 370 individuals from all regions.¹⁹ She underlined that the Forum's recommendations are phrased in broad terms to allow their effective implementation in countries with diverse historical, cultural and religious backgrounds. She also mentioned the future thematic issues that the Forum will address.²⁰

Only few States referred to the Forum during the debate.²¹ They mostly welcomed the successful conduct of the Forum, the valuable study on education, and the recommendations issued. Recalling the great importance of education for minorities, Slovenia stated that after abolishing the Working Group on Minorities of the former Sub-Commission on the Promotion and Protection of Human Rights, there was an urgent need for the Council to

¹⁴ Indonesia, Russian Federation, China, Mexico, Australia, Hungary.

¹⁵ New Zealand, Finland, Macedonia.

¹⁶ She was pleased to announce to the Council that the EMRIP has already established good cooperation with the Special Rapporteur and the Permanent Forum.

¹⁷ It suggested the following areas: violence against indigenous women, gender analysis, indigenous children under guardianship and good governance.

¹⁸ The Council established the Forum on Minority Issues through *Resolution 6/15* to provide a platform for promoting dialogue and cooperation on issues pertaining to national or ethnic, religious and linguistic minorities as well as thematic contributions and expertise to the work of the mandate of the Independent Expert on minority issues.

¹⁹ Treaty Bodies, Human Rights Council Advisory Committee and UN agencies such as UNESCO and UNICEF, and the Special Rapporteur on the right to education.

²⁰ Minorities and political participation, minorities and media, and minorities and development processes.

²¹ Pakistan, Russian Federation, China, Slovenia, Austria, Iran, Greece, Macedonia, Hungary.

address minority issues. Hungary underlined the significance of achieving good relationships between minority and majority populations and added that minorities should be granted the right to take decisions of their own and to be involved in the political decision-making process. Slovenia stressed that equal access to education also meant having the right for minorities to be educated in their mother tongue. In this regard, the Russian Federation asked the Council to pay more attention to the right of Russian minorities living in a certain number of countries to use their own language in books and schools. Austria called upon States to implement the Forum's recommendations and hoped that other UN mechanisms such as the treaty-monitoring bodies and the special procedure follow up on them in their work. Two NGOs spoke during the debate but were ruled out of order by the President for addressing thematic issues that were not clearly linked to the work of this Council mechanisms.

Further information

For further information on the BODY, please consult the following resources:

- Web site of the International Service for Human Rights, providing up-to-date information before, during and after sessions of the Council: <http://www.ishr.ch/council>. During the session, ISHR will provide information about the Council's proceedings on a regular but not daily basis. You can subscribe to receive alerts of our publications by sending an email to information@ishr.ch.
- Web site of the Office of the High Commissioner for Human Rights (OHCHR) on the 10th session of the Human Rights Council: <http://www2.ohchr.org/english/bodies/hrcouncil/10session>. For direct access to reports considered, check <http://www2.ohchr.org/english/bodies/hrcouncil/10session/reports.htm>.
- More informal documents and draft resolutions are available on the 'OHCHR extranet' at <http://portal.ohchr.org/portal/page/portal/HRCExtranet>. Username: 'hrc extranet' Password: '1session'.

NGOs and human rights defenders seeking more specific information or individual advice on the Council session, please contact the ISHR secretariat by email or phone at +41 (0) 22 919 71 00.

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