

COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

COUNCIL ALERT HUMAN RIGHTS COUNCIL 11TH SESSION – 2 TO 18 JUNE 2009

Overview	1
Programme of work.....	2
High Commissioner dialogue.....	2
Special procedures.....	2
Discussion of country situations	3
Universal periodic review (UPR).....	4
Thematic panel discussions	4
Other initiatives	5
Further information.....	5

Overview

The Human Rights Council (the Council) will hold its 11th session from 2 to 18 June 2009 in the Palais des Nations, Geneva. It will be the last session of the 3rd cycle of the Council, and after the session the Council's membership will change.¹ On 19 June 2009, the new membership of the Council will hold an organisational meeting for the 4th year of the Council's functioning, and will elect a new President and Bureau made up of four Vice Presidents. The principle of rotation of President's among regional groups determines that the next President of the Council will be from the Western European and Others Group (WEOG).

On 15 May, the current Council President Ambassador Martin Ihoeghian Uhomobhi of Nigeria convened a brief organisational meeting to present the draft programme of work for the upcoming session. Roughly one week of the three-week session will be taken up by the adoption of reports of the UPR Working Group's 4th session, which took place in February 2009.²

Some difficult procedural questions are likely to come up during the session. These will include the issue raised by Czech Republic (on behalf of the EU) on finding a solution for dealing with overly long UPR reports, and the questions raised by Egypt (on behalf of the African Group) in connection with the authority of the President to convene specific substantive discussions within the framework of the Council.

On the thematic side, the negotiation of resolutions on freedom of expression and a new initiative by the Russian Federation on 'traditional values' and human rights are likely to lead to controversial debates.

¹ See <http://www2.ohchr.org/english/bodies/hrcouncil/membership.htm> for more information on the Council's membership.

² See www.ishr.ch/upr for more information.

As usual, country situations will again be a disputed aspect of the Council's work. The future of the mandate of the Special Rapporteur on the situation of human rights in the Sudan will have to be decided, as the mandate would otherwise lapse at the end of June 2009. The negotiations are again likely to mainly be between the African Group under the leadership of Egypt and the European Union.

Programme of work

High Commissioner dialogue

As at every session, Ms Navanethem Pillay, the High Commissioner for Human Rights, will give an update on her and her Office's work on Wednesday, 3 June 2009. During the organisational meeting, Cuba called for a renewed debate on the relationship between the High Commissioner, her Office and the Council. It argued that it was necessary to discuss this relationship again, since the High Commissioner had not implemented *Resolution 8/9*, which called on OHCHR to organise a three-day workshop to further clarify the scope of the right to peace. During previous sessions of the Council, several States had called for a formal discussion of this relationship, while others were of the opinion that the respective mandates of the High Commissioner and the Council were sufficiently clear and distinct.³

As in previous sessions, the interaction with the High Commissioner is formally limited to an 'update' on her work. Accordingly, one three-hour segment is scheduled for this discussion. However, past practice shows that the dialogues with the High Commissioner always take more time than expected. The dialogue is therefore likely to result in a backlog in the Council's programme of work early on in the session.

Special procedures

Eleven thematic special procedures mandate holders will present their reports to the Council.⁴ As usual, these '**interactive dialogues**' will be held with groups of two to three mandate holders, with one hour allocated per mandate holder. In general, ten minutes of that hour is reserved for NGO speakers. NGOs will therefore speak for 30 minutes at the end of each three-hour block of interactive dialogue. In general, the speaking time per NGO is limited to 2 minutes during interactive dialogues, reflecting the interactive nature the dialogues are intended to take. While it might be difficult to elaborate in detail on several specific issues within this short timeframe, it is usually sufficient to address some questions and recommendations to the mandate holders.

Unfortunately, it can be expected that some States will use the opportunity of these interactive dialogues to mount personal attacks on some mandate holders, and it is to be hoped that the President will ensure that the dialogues take place in a respectful manner. In the past, particularly the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr Philipp Alston, has been criticised for his outspoken manner of reporting human rights violations to the Council.

The interactive dialogues with special procedures will present an additional challenge in terms of time management. Some of the scheduled combinations of special procedures are likely to lead to significant delays in the programme of work. For instance, the first segment of Wednesday 3 June is intended to cover three thematic reports (arbitrary executions, independence of judges and lawyers, and freedom of expression) and 11 reports on country visits in three hours.

³ See ISHR's *Human Rights Monitor 2008*, at 18. Available at www.ishr.ch/hrm.

⁴ Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises, Special Rapporteur on the human rights of migrants, Special Rapporteur on the right to education, Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on the independence of judges and lawyers, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on violence against women, Special Rapporteur on the right to the highest attainable standard of health, Special Rapporteur on human rights and foreign debt, Special Rapporteur human rights and extreme poverty and the Special Rapporteur on racism.

At this session Canada will present its traditional resolution on freedom of expression, a resolution that was controversial in 2008 and led to a vote on the text for the first time.⁵ The Russian Federation will also present a new resolution that is likely to be controversial on ‘traditional values’. Other interesting initiatives include the proposed establishment of a working group to draft an optional protocol to the *Convention on the Rights of the Child* establishing a communications procedure for violations of the Convention.

Later on in the session, on 18 June 2009, the President of the Council will also **appoint five new special procedures mandate holders**.⁶ For all vacancies, the consultative group⁷ will suggest several names, from which the President, after broad consultations with States and NGOs, will select and appoint one mandate holder for each vacancy. However, the consultative group again clearly indicated its preferred candidate for each vacancy, a practice that is not within its mandate according to the institution-building text. Cuba, during the organisational meeting, also questioned the lack of geographical representation among the proposed candidates. There also continues to be serious concern about the under-representation of women.

During the organisational meeting, Amnesty International again heavily criticised the short-list presented by the consultative group to the President. Indeed, the list does not properly substantiate the choice of candidates for each mandate, as it is required by the institution-building text. Unfortunately, this is not the first time the consultative group has failed to respect the letter and spirit of *Resolution 5/1*, and it is particularly regrettable that members of the Council seem to accept this slow undermining of the guiding text for the Council’s functioning.

Discussion of country situations

In addition to the interactive dialogues with thematic mandates, the Council will also hold dialogues with two country specific mandates. The Special Rapporteur on the situation of human rights in the Sudan, Ms Sima Samar will present her report on 16 June 2009. Both Egypt (on behalf of the African Group) and the Czech Republic (on behalf of the EU) have announced that they intend to work on the renewal of the mandate of the Special Rapporteur, which had been extended until June 2009 during the 9th session in September 2008.⁸ While the Czech Republic (on behalf of the EU) has underlined the consensual nature of this resolution and has expressed its hope to cooperate again with the African Group, Egypt has so far not sent such signals.

On 17 June 2009, the Council will consider the report of the Independent Expert on the situation of human rights in Haiti.

Several discussions that can be used to address specific country situations are planned for the 11th session. Under Item 7, the Council will hold its usual general debate on the human rights situation in Palestine and other occupied Arab territories. On 5, 8 and 16 June 2009, general debates under Item 4, dealing with ‘human rights situations that require the Council’s attention’ and Item 10, dealing with technical assistance and capacity-building, are planned. In contrast to the interactive dialogues with special procedures, the speaking time for NGOs during general debates is usually set at three minutes. However, due to severe delays in the programme of work, the 10th session in March saw this time reduced to two minutes as well. It is hoped that better time management will help to avoid such a scenario.

In addition to the general debates under item 4, 7 and 10, all other items provide an opportunity to address human rights issues. For instance, under Item 3, many of the thematic special procedures will present reports of their

⁵ See for instance ISHR’s *Analytical Overview of the 7th session of the Human Rights Council*, available at www.ishr.ch/publications.

⁶ Available at <http://portal.ohchr.org/portal/page/portal/HRCExtranet/SpecialProcedures>. Username: ‘hrc extranet’ Password: ‘1session’.

⁷ According to the process for the selection of mandate holders established by Resolution 5/1, all stakeholders can submit suitable candidates to OHCHR for inclusion on the public list. From that public list, a consultative group composed of representative from each of the five regional groups of the Council, mandated to act in their personal capacity select candidates and present a short-list to the President of the Council

⁸ A/HRC/RES/9/

missions. This opportunity for States and other stakeholders in the Council has so far been somewhat under-utilised, and often the mission reports of the special procedures go largely unnoticed.⁹

Universal periodic review (UPR)

The Council will consider and adopt the report of the review of 16 States reviewed during the UPR Working Group's February 2009 session.¹⁰ This will be an opportunity for all stakeholders, including NGOs to make general comments before the adoption of reports.

One hour is set aside for the adoption of each report. Twenty minutes of that hour is reserved for the State under review to present its views on the recommendations made in the Working Group. Twenty minutes are set aside for member and observer States, and for other stakeholders respectively. In the past, the adoption of UPR reports has generated very varied levels of interest among States and other stakeholders. However, the reviews of Cuba, China and Saudi Arabia were very well attended at the Working Group stage, and it is therefore likely that the adoption of the outcome will attract a lot of interest.¹¹

The Czech Republic (on behalf of the EU) raised the issue of **overly long lists of speakers** at the stage of the UPR Working Group during the organisational meeting. For some States under review, 60 or more States wanted to take the floor. This resulted in reports longer than the limit set for translation of 9'630 words. Accordingly, the Czech Republic (on behalf of the EU) felt that this word limit makes it impossible to properly reflect all of the interventions made during the review. It encouraged the President to hold consultations on this problem. It also announced its wish to see the Council adopt a decision on this issue during the upcoming session.

Thematic panel discussions

No less than four thematic panel discussions are planned for the 11th session. On 4 June 2009, two separate panels will be held to mark the **'annual full day discussion on women's human rights'**. The panel discussions are organised under the lead of Chile, in follow-up to Council *Resolution 6/30*. The aim of the day's discussions is to focus on non-discrimination in the law as a vital element in furthering the Council's commitment to advancing women's rights and gender equality. The first part will focus on the institutional perspective on equality before the law with the participation of the Special Rapporteur on violence against women and a member of the Committee on the elimination of discrimination against women. The second part of the panel will broaden the perspective with the participation of speakers from civil society and academia.¹²

On 15 June 2009, an **'interactive panel dialogue on human rights and climate change'** will be held, focusing on developing a better understanding of the effect of climate change on the full enjoyment of human rights, especially for members of vulnerable population groups.¹³

Finally, there is an additional **'panel to be convened by the President'** on 9 June 2009 to discuss protection of civilians during armed conflict. While the previous three panels are the result of resolutions adopted by the Council, this panel discussion is organised at the initiative of President Uhomoibhi. At the time of writing, there is no additional information available on this panel discussion. During the organisational meeting, reactions to this initiative of the President were mixed.

⁹ See for instance ISHR's *Human Rights Monitor 2009*.

¹⁰ The 4th session of the UPR Working Group reviewed Cameroon, Djibouti, Mauritius, Nigeria, Senegal, Bangladesh, China, Jordan, Malaysia, Saudi Arabia, Cuba, Mexico, Canada, Germany, Russian Federation, and Azerbaijan. See www.ishr.ch/upr_monitor for further information and reports on these reviews.

¹¹ It is not yet clear when the list of speakers for NGOs for each State under review will be opened. It would be preferable if the lists were opened once for all States under review, rather than 24 hours before the adoption of each report.

¹² See the modalities available on the OHCHR extranet at <http://tr.im/mrmC>.

¹³ See the modalities available on the OHCHR extranet at <http://tr.im/mrpD>.

Some States including Egypt (on behalf of the African Group), Pakistan (on behalf of the OIC), Sri Lanka and Cuba seemed to be concerned about not setting a new precedent by giving the President of the Council a ‘blank check’ as the Ambassador of Sri Lanka put it to organise thematic discussions in the Council. Egypt argued that the Bureau of the Council, and with that the President, had a purely organisational and procedural role, and saw a ‘bad precedent’ in a substantive human rights involvement of the Bureau of the Council.

Other States were clearly supportive of the President’s initiative of convening a panel. Chile thanked the President for the excellent guidance he provides to the Council, and Mexico agreed that the President could ‘seek views’ from States on the proposed panel.

Other initiatives

On 25 May 2009, Norway, Chile, South Africa, India and the Russian Federation held their traditional ‘transparency meeting’, which was an informal meeting for delegations to share information on planned initiatives and resolutions. There are several proposals dealing with the rights of the child,¹⁴ women’s rights,¹⁵ and other thematic issues.¹⁶

Further information

For further information on the Human Rights Council, 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 11th session of the Human Rights Council: <http://www2.ohchr.org/english/bodies/hrcouncil/11session>. For direct access to reports considered, check <http://www2.ohchr.org/english/bodies/hrcouncil/11session/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.

¹⁴ Philippines and Germany: resolution on trafficking in persons, especially women and children. Consultations on this text are expected to take place late in the week before the Council starts; Brazil: resolution on guidelines on children without parental care; Slovakia, Slovenia, France, Ukraine and Uruguay: procedural resolution to set up a working group to start drafting an optional protocol to the *Convention on the rights of the child*. In this respect, a panel discussion is planned on Friday, 29 May 2009 at 13:15 in room XI of the Palais des Nations.

¹⁵ New Zealand and Colombia: resolution on maternal mortality (on the basis of a joint statement delivered during the 10th session); Canada: resolution on violence against women.

¹⁶ Canada: resolution on freedom of expression; Portugal: resolution on the right to education; France: resolution on extreme poverty; Egypt: resolution on human rights of migrants in detention centres; Chile and Germany: side event on prisoners of conscience.

COUNCIL MONITOR STAFF

Eléonore Dziurzynski, Communications Officer

Michael Ineichen, Human Rights Officer

Gareth Sweeney, Deputy Manager

Katrine Thomasen, Manager International Programme

ABOUT THE PUBLICATION

The Council Monitor forms part of the Human Rights Monitor Series produced by ISHR. It provides you with information about all the key developments at the Human Rights Council, including Daily Updates during the session of the Council, an Overview of the session, briefings and updates on the major issues of concern in the transition from the Commission on Human Rights to the Council and other key reports. It is currently an online publication that can be found at www.ishr.ch.

SUBSCRIPTION

If you wish to receive the Council Monitor Daily Updates by e-mail during the Council session, please e-mail information@ishr.ch with 'subscribe' in the subject line. Your e-mail address and personal information will not be shared or sold to any third parties. We may from time to time send you a notification about other publications in the Human Rights Monitor Series that you may be interested in downloading or subscribing to.

COPYRIGHT, DISTRIBUTION AND USE

Copyright © 2009 International Service for Human Rights. Material from this publication may be reproduced for training, teaching or other non-commercial purposes as long as ISHR is fully acknowledged. You can also distribute this publication and link to it from your website as long as ISHR is fully acknowledged as the source. No part of this publication may be reproduced for any commercial purpose without the prior express permission of the copyright holders. ISHR accepts no responsibility for any inaccuracies arising from or connected to unapproved or unofficial translations of its publications or parts thereof.

DISCLAIMER

While every effort has been made to ensure the accuracy and reliability of the information contained in this publication, ISHR does not guarantee, and accepts no legal liability whatsoever arising from any possible mistakes in the information reported on, or any use of this publication. We are however happy to correct any errors you may come across so please notify information@ishr.ch.