

# COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

## HUMAN RIGHTS COUNCIL, 6<sup>TH</sup> SESSION DAILY UPDATE, 10 DECEMBER 2007

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### Overview

The resumed 6<sup>th</sup> session of the Human Rights Council (the Council) began with a special event organised by the High Commissioner for Human Rights (the High Commissioner) as part of celebrations for Human Rights Day and to inaugurate a year-long campaign to commemorate the 60<sup>th</sup> anniversary of the *Universal Declaration of Human Rights* (UDHR or the Declaration) in 2008.<sup>1</sup> The morning meeting heard a recorded presentation by United Nations (UN) Secretary-General Ban Ki-moon, an address by the High Commissioner, and statements by more than 20 States. The latter tended to focus on national and international efforts to realise the implementation of the UDHR, as well as varied perceptions of challenges that lay ahead for the international community.

The afternoon continued with presentations by over 30 States on the UDHR, as well as statements by Mr Miloon Kothari, Special Rapporteur on adequate housing on behalf of all special procedures of the Human Rights Council, Mr Philippe Texier, Chair of the meeting of persons chairing treaty bodies, and Ms Jennifer Lynch, Chair of the International Coordinating Committee of National Human Rights Institutions. Ms Camila Asano from Brazil and Mr Carlo Cleofe from the Philippines also spoke as representatives of civil society.

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<sup>1</sup> The *Daily Update* series will not be covering this campaign in detail. For comprehensive coverage please refer to the OHCHR website [www.ohchr.org](http://www.ohchr.org).

Following a brief introduction by the High Commissioner on the joint UN Institute for Training and Research (UNITAR) and Office of the High Commissioner for Human Rights (OHCHR) fellowship award, the President of the Council requested that the day's meeting be extended for fifteen minutes so that Mr Philippe Texier could address the Council, as Chairperson of the Committee on Economic, Social and Cultural Rights, on the question of rectification of the legal status of the Committee. It was originally intended that the rectification of the Committee and the report of the Working Group on an optional protocol to the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) be addressed in the afternoon meeting. The substantive discussion of both issues was postponed to the following morning, however, as the dialogue on the UDHR ran overtime.

On a brief side note, during the discussion on the UDHR Cuba announced its intention to sign the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* in early 2008.

## 60<sup>th</sup> anniversary celebration of the Universal Declaration of Human Rights

The entire morning meeting and most of the afternoon were devoted to an event organised by the High Commissioner to celebrate Human Rights Day. The event was intended to commemorate the 59th anniversary of the *Universal Declaration of Human Rights* and to inaugurate a year-long campaign to raise awareness about human rights in the run-up to the 60th anniversary of the UDHR in 2008. UN Secretary-General Ban Ki-moon delivered a recorded video address, which was followed by statements by High Commissioner Louise Arbour, Mr Seregi Ordzhonikidze, Director-General of the United Nations Office in Geneva (UNOG), and Mr Doru Romulus Costea, Ambassador of Romania and President of the Human Rights Council.

Secretary-General Ban Ki-moon highlighted the importance of the UDHR as a truly universal document, and recounted the 'extraordinary vision' of the original drafters in conceiving the document. However, he also stressed that governments lacked the political will to 'implement international norms they have willingly accepted'. His statement was followed by that of the High Commissioner, who also stressed that the core values of the Declaration apply to 'everyone, everywhere, always'. She too added a solemn note to the proceedings by calling upon the Council to reflect upon its 'individual and collective failures to stand up against violence, racism, xenophobia...and injustices of all sorts'.

### Statements by States

Many States followed the speeches of the High Commissioner and the Secretary-General with statements welcoming the celebrations and reflecting on the importance of the UDHR.<sup>2</sup> Several States mentioned their own roles in the drafting of the Declaration in 1948,<sup>3</sup> and drew attention to the importance of the UDHR as the foundation for international human rights. States emphasised the importance of the UDHR due to its recognition of the need for universal human rights protection, and nearly all States highlighted its increasing relevance today. The United Kingdom (the UK) identified its adoption as the point in history 'where States were no longer all powerful' but had to justify their behaviour to the rest of the world. Many statements also referenced the importance of the UDHR as the basis for legally binding international human rights treaties dealing with civil and political rights; economic, social and cultural rights; women; children; and racial discrimination. The *Declaration on the Rights of Indigenous Peoples*, the *Convention on the Rights of*

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<sup>2</sup> Full statements by States can be accessed through the OHCHR extranet. The OHCHR extranet can be accessed (fill out the form on the page to receive the user name and password) at [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm).

<sup>3</sup> Canada, India, Ecuador.

*Persons with Disabilities*, and the *International Convention for the Protection of All Persons from Enforced Disappearance* were cited as examples of new standards that had evolved from the core principles of the Declaration.<sup>4</sup> Some States also explicitly pointed out that the Declaration had evolved from being a non-legally binding, aspirational document of ‘moral principles’, to what was now considered part of customary international law.<sup>5</sup> Several States also said that while there had been many gains in the field of international human rights, the emphasis should now turn to implementation of the rights enshrined in the Declaration, and stressed that much remained to be done to realise the rights contained in the document.<sup>6</sup>

In this respect, several themes anticipating forthcoming issues and debates that lie before the Council emerged during the course of the morning. The need to strive for **equal treatment of civil and political and economic, social and cultural rights** was brought up by many States.<sup>7</sup> The right to development<sup>8</sup> and the eradication of poverty<sup>9</sup> were also highlighted as key areas that required the attention of the international community. Many States brought up the importance of economic, social and cultural rights in general, in anticipation of the afternoon’s expected discussions on the Working Group on an optional protocol to the ICESCR.<sup>10</sup> Chile chose to draw the Council’s attention to the importance of integrating a **gender perspective** in realising the goals of the UDHR, claiming that ‘if we cannot address the circumstances of half the people on the planet, then we have a problem, to say the least’.

The issue of **defamation of religion** was raised by several States.<sup>11</sup> Pakistan, on behalf of the Organization of Islamic Conference (OIC), stated that the negative stereotyping of Muslims in addition to discrimination and Islamophobia needed to be stemmed, and that defamation of religion was another issue that needed to be addressed. The Holy See indirectly addressed this issue by saying that the mid-way point between freedom of expression and freedom of religion could be reached through the concept of human dignity, the theme for the 60<sup>th</sup> anniversary celebrations of the Declaration.

The **right to self-determination** received mention in many of the statements made, particularly in the context of the Occupied Palestinian Territories (OPT).<sup>12</sup> Cuba added that the UDHR lacked sufficient consideration of **collective rights**, and took the opportunity to inform the Council of its intention to sign the ICCPR and the ICESCR in early 2008.

Ukraine was alone in claiming that the **environmental dimension** of human rights should be a core concern of the new Human Rights Council as it adapts to new demands in upholding the UDHR.

Portugal, on behalf of the European Union (EU) and others,<sup>13</sup> also drew attention to the importance of the Council, and its continued ability to create special mandates and to call for special sessions as a result of the

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<sup>4</sup> Portugal (on behalf of the members of the European Union (EU), Turkey, Croatia, the Former Yugoslav Republic of Macedonia, Albania, Bosnia and Herzegovina, Montenegro, Serbia, Iceland, Liechtenstein, Ukraine, Moldova, Armenia and Georgia), Ecuador.

<sup>5</sup> Pakistan (on behalf of the OIC), the Philippines, the Holy See.

<sup>6</sup> USA, UK, Venezuela.

<sup>7</sup> Brazil (on behalf of GRULAC), Egypt (on behalf of the African Group), Portugal (on behalf of the EU, Turkey, Croatia, the Former Yugoslav Republic of Macedonia, Albania, Bosnia and Herzegovina, Montenegro, Serbia, Iceland, Liechtenstein, Ukraine, Moldova, Armenia and Georgia), Azerbaijan, Greece, Sri Lanka, Nepal, Iran.

<sup>8</sup> Egypt (on behalf of the African Group), Algeria, Sudan.

<sup>9</sup> Egypt (on behalf of the African Group), Syrian Arab Republic, Sri Lanka.

<sup>10</sup> Portugal (on behalf of the EU, Turkey, Croatia, the Former Yugoslav Republic of Macedonia, Albania, Bosnia and Herzegovina, Montenegro, Serbia, Iceland, Liechtenstein, Ukraine, Moldova, Armenia and Georgia), Syrian Arab Republic, Morocco, Cuba (on behalf of the Non-Aligned Movement (NAM)).

<sup>11</sup> Pakistan (OIC), the Holy See, Russian Federation.

<sup>12</sup> Egypt (on behalf of the African Group), Syrian Arab Republic, Cuba (on behalf of NAM), Algeria, Sudan, Cuba.

<sup>13</sup> On behalf of the EU, Turkey, Croatia, the Former Yugoslav Republic of Macedonia, Albania, Bosnia and Herzegovina, Montenegro, Serbia, Iceland, Liechtenstein, Ukraine, Moldova, Armenia and Georgia.

efforts of the international community to promote and protect human rights. Sri Lanka pointed to its co-operation with special procedures as an example of its commitment to upholding the UDHR. The importance and high expectations for the universal periodic review (UPR) was also touched upon by many States.<sup>14</sup>

Canada stated that one area that needed the attention of the international community was that of human rights defenders, who ‘had been persecuted for their firm resolve to help their fellow men and women’, a sentiment that was supported by some other States.<sup>15</sup> Germany also raised the importance of the freedom of expression and assembly and called defenders ‘brave people who deserved our highest respect and support’. Algeria, however, qualified its support of human rights defenders by saying that they should not be ‘partisan’ and that they should be free from ‘external influence’. Ecuador spoke of the need for States, non-governmental organisations (NGOs), and national human rights institutions (NHRIs) to ‘work together’ to effectively universalise human rights.

Almost all States spent considerable time highlighting national and regional initiatives to promote human rights, and also specific activities that they were undertaking in support of the 60<sup>th</sup> anniversary campaign surrounding the Declaration.

### Presentations by other observers

Mr Miloon Kothari, Special Rapporteur on adequate housing, addressed the Council on behalf of all special procedure mandate holders, drawing attention to the need to implement the **principle of non-discrimination** in realising the goals of the UDHR. He asserted that discrimination, particularly evident in economic marginalisation, is very often the root cause of conflict and human rights violations. While he recognised that comprehensive legislative protection exists in many cases, it is often inadequate or not enforced. Mr Kothari affirmed that mandate holders are guided by impartiality, fairness, and multiculturalism, all of which are underpinned by the core values of the UDHR. In conclusion, he noted that the international community will be “judged by our actions”.

Mr Philippe Texier spoke in his capacity as Chair of the meeting of persons chairing treaty bodies. He explained that the Committee on Economic, Social and Cultural Rights was established to remedy the emphasis on civil and political rights in the original conventions that succeeded the UDHR. He explained that the Working Group to draft an optional protocol to ICESCR would further strengthen these rights. Mr Texier underscored that the treaty bodies would work on a complementary basis with the UPR mechanism to ensure that the dignity of all people is respected.

Jennifer Lynch, Chair of the International Coordination Committee of National Human Rights Institutions, voiced the urgent need to harmonise domestic instruments with international standards. She asserted that national institutions play a pivotal role in the implementation of the UDHR. In conclusion, Ms Lynch urged all States to establish a national institution with a broad, pluralistic, and independent mandate, observing that “your citizens deserve no less”.

The Council finally heard from two individuals speaking in their personal capacity as representatives of civil society. Ms Camila Asano, from Brazil, stressed the importance of giving a voice to the global south in strengthening democracy and protecting human rights. Ms Asano called upon States to strengthen democratic institutions and to ensure the freedoms of association, expression and access to information. She urged States to be aware that they are bound by international standards, stressed that civil society should scrutinise the

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<sup>14</sup> Portugal (on behalf of the EU, Turkey, Croatia, the Former Yugoslav Republic of Macedonia, Albania, Bosnia and Herzegovina, Montenegro, Serbia, Iceland, Liechtenstein, Ukraine, Moldova, Armenia and Georgia), Brazil (on behalf of GRULAC), Canada, Croatia, Turkey.

<sup>15</sup> Germany.

actions of their governments, and challenged the Council to step up its commitment to transform the principles of the UDHR into reality.

Mr Carlo Cleofe, from the Philippines, declared that the UDHR reflected the aspirations of peoples for freedom, justice, equality and peace, yet despite the clarity of the principles set forth, violations continue to exist. This is exhibited by the fact that torture is absolutely prohibited and yet it is still ‘common practice’ in every region of the world. He called on civil society to reflect on the importance of its own role, and took the opportunity to ‘commemorate those who stood up against tyranny’.

### Rectification of the legal status of the Committee on Economic, Social and Cultural Rights

At 6 p.m. the President requested that the Council move to the issue of the rectification of the legal status of the Committee on Economic, Social and Cultural Rights (the Committee), which had been scheduled to take place at the beginning of the afternoon meeting as the Committee, Mr Philippe Texier, could not be present the following day.

The President informed the plenary that Council *Resolution 4/7* of March 2007 had called upon the Council to convene a dialogue on the rectification of the legal status of the Committee, and sought input from all stakeholders.

Mr Texier proceeded to relay the views of the Committee on the matter to the Council. He began by asserting that the Committee did not see any pressing need for a change of status, as it had never suffered on account of its creation by ECOSOC under *Resolution 85/17*. In its 20 years of existence, he claimed, ECOSOC had never objected to any of its reports, and the Committee had operated independently without interference of any kind.

He noted, however, that any decision to amend the Committee’s status rested solely with States. Mr Texier presented three possible options, as drafted by the legal office of the OHCHR, as follows: to improve and rationalise the work of the Committee in complement to *Resolution 85/17*; to proceed with an amendment of the Covenant in accordance with the provisions of its Article 29; or to adopt an additional protocol through the convening of State parties, to be adopted by a majority of States. He informed the Council that this was the preferred option of the Committee, and that Articles 28-39 of the ICCPR might serve as useful directives in this regard. He conceded that any such approach would require the parallel operation of ‘two regimes’ for a period, yet any other development would also require an equivalent transitional plan. Mr Texier finally urged the Council not to merge the issue of the legal status of the Committee with the question of an optional protocol to allow the Committee to receive complaints, as these were two separate issues. He also concluded that the substance of the Covenant should not be affected by these considerations.

### Other issues

As the Council was already effectively one half-day behind in its work, the President announced that the first meeting of the following morning would begin at 9 a.m. with the presentation by the Chair of the Working Group on the drafting of an optional protocol to the ICESCR, Ms Catarina de Albuquerque, to be followed by the interactive dialogue on the report of the Working Group and the question of the legal status of the

Committee on Economic, Social and Cultural Rights. The Council would then proceed to follow up on the special sessions relating to Burma/Myanmar and the Sudan.

## Parallel events

### **Sharing of best practices in consulting civil society for the UPR<sup>16</sup>**

During the lunch break, Switzerland, Brazil, Morocco, and the Philippines jointly organised a parallel event to share best practices for consulting civil society when preparing their State reports for the UPR. Although held in parallel to an event organised by NGOs on the rule of law in Pakistan, the event was well attended by State and NGO representatives.

The Philippines and Brazil were represented in the panels by their Ambassadors to Geneva, while Switzerland and Morocco had chosen to send representatives from the ministry of Foreign Affairs and the Ministry of Justice respectively. All speakers gave an overview of the efforts they had already undertaken to consult with civil society during the preparation of their national report. All except Switzerland had already held informational meetings to inform civil society about the UPR.

- The Ambassador of Brazil highlighted that his government was using existing civil society contacts from earlier consultation processes for the UPR preparation. He said the starting point for the national reports would be materials used in preparation for reports to treaty bodies and in responses to questions of special procedures. From these, a summary would be drawn up, which could then be used in wide public consultations.
- Morocco explained that the Ministry of Justice had appointed focal points for monitoring human rights, and in particular for the UPR. The representative pointed out that the drafting of reports was not new, since States had the treaty body experience to draw from.
- The Philippines had also set up a 'technical working group', which would divide its work into different clusters. Civil society organisations would be included according to these thematic clusters. A national consultative summit will be held on the coming weekend.
- Switzerland said it would not organise large-scale meetings, but had met with civil society representatives on an informal basis. NGO representatives would be invited for a day of consultations in January to discuss the report. NGOs would be expected to submit draft proposals before that meeting, which would be discussed among NGOs during the consultations. The outcome of these discussions would then be channelled into the national report. He also pointed out that the Swiss national report will be organised around the UDHR, and NGO proposals will be expected to follow that structure as well.

A number of NGOs reacted to the presentations. Several asked how States would determine which civil society representatives they invite to the process. The Taskforce Detainees from the Philippines suggested that organisations that represent victims of extrajudicial executions should be invited. Conectas, an NGO from Brazil, said that the Government was already behind schedule in terms of consultations. They also announced that there would be an event organised in Brazil during the actual review process in Geneva. This would give local NGOs the opportunity to follow the proceeding live using the web-cast. Amnesty International suggested that States organise formal meetings with civil society after the review process, to focus on the

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<sup>16</sup> ISHR does not usually report on parallel events. This particular event is covered due to its significance with regard to the UPR, an important institutional aspect of the Council.

implementation of the outcome documents. The Swiss representative welcomed this proposal, while Morocco said it was hoping to establish a permanent mechanism to consult with civil society.

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