

# COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

## HUMAN RIGHTS COUNCIL, 6<sup>TH</sup> SESSION DAILY UPDATE, 13 SEPTEMBER 2007

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### Overview

The Human Rights Council (the Council) today resumed its formal session, after having held informal consultations on several aspects of the institution-building for the preceding three days.<sup>1</sup> The President announced that the High Commissioner on Human Rights (the High Commissioner) would address the Council in the afternoon, to be followed by a general debate.

During the morning session the Council considered the reports of and held interactive dialogues with the Special Rapporteur on freedom of religion, Ms Asma Jahangir and of the Independent Expert on human rights and international solidarity, Mr Rudi Muhammed Rizki.

### Organisational matters

As customary, President Costea provided the Council with an update on the programme of work, which he has repeatedly called a 'living document' over the past few days. Regarding his invitation to all delegations to register their wish to speak on issues not listed in the programme of work, he said that he and the Secretariat had tried to provide space for a general debate on each agenda item. He indicated that the general debate on each agenda item would take place immediately after the interactive dialogues on the respective items, time permitting, and encouraged delegations to register for the speakers list.

<sup>1</sup> See ISHR *Daily Updates* of 10 to 12 September 2007, available at <http://www.ishr.ch/hrm/council>.

President Costea also provided more details on how to structure the discussions of the Council on integrating a gender perspective in its work, scheduled to take place on 20 September from 3.30 to 6 p.m.<sup>2</sup> The event will take the form of a panel consisting of three or four panellists who will make presentations, followed by an interactive dialogue with members and observers of the Council. Her Excellency Ms Maria Nzomo, the Permanent Representative of Kenya will moderate the panel.

Regarding the timing of the first meeting of the Working Group of the universal periodic review (UPR), the President said that he was continuing to hold consultations directed towards resolving the issue as soon as possible.<sup>3</sup> He said he would finalise the calendar of work for the Council's second year as soon as these consultations were finalised. The summary of the Bureau meeting contains details on these consultations, and is available on the OHCHR extranet.<sup>4</sup>

Cuba, speaking on behalf of the Non-Aligned Movement (NAM), took the opportunity to make general comments on the sixth session of the Council and the year to come.<sup>5</sup> It said that the members of NAM considered the completion of the institution-building process a priority for the Council, including the review, rationalisation and improvement of mandates. In this context, Cuba said that any technical and objective requirements for the selection of special procedures mandate holders could not be seen as mandatory, but must leave enough room for member States to submit their candidates.<sup>6</sup> Concerning the President's comments on the calendar of work, Cuba repeated previously heard calls to hold the first session of the UPR Working Group after the main session of the Council in March 2008.

## Special Rapporteur on freedom of religion or belief

Ms Asma Jahangir, the Special Rapporteur on freedom of religion or belief, presented her thematic report. She was mandated by Council *Resolution 4/10* to report on issues of intolerance and discrimination based on religion or belief.<sup>7</sup> Ms Jahangir began by stating that she had focussed on the substantive questions involved in her work rather than on an overview of her activities, and that this format would be followed in her report to be presented to the Third Committee of the General Assembly (GA) next month.

Ms Jahangir highlighted a number of issues already mentioned in her report.<sup>8</sup> She went on to state that there were two primary areas of concern for her mandate that deserved equal attention. First, that the freedom to pursue one's own religion or belief must be protected and respected and second that the rights of individuals need to be protected from being violated on the premise of religion or belief. She emphasised that both victims and perpetrators of religious intolerance belonged to all religions and beliefs. However, religious minorities continued to be prosecuted at the national and international levels.

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<sup>2</sup> He said that the details were also discussed at a bureau meeting on 12 September. Bulleted summaries are available on the OHCHR extranet, which can be accessed at [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm) (fill out the form on the page to receive the user name and password).

<sup>3</sup> The first meeting of the Working Group of the UPR is scheduled to take place in February, but several States have indicated that they wish to meet only after the March session of the Council.

<sup>4</sup> See fn. 2.

<sup>5</sup> Oral Statements made at the Council are generally available on the OHCHR extranet, see fn. 2.

<sup>6</sup> For a summary of the informal consultations on the technical and objective requirement for mandate holders of the special procedures see ISHR *Daily Update*, 11 September 2007, available at <http://www.ishr.ch/hrm/council>.

<sup>7</sup> A/HRC/6/5, 20 July 2007. The report is available at <http://www.ohchr.org/english/bodies/hrcouncil/6session/reports.htm>. ISHR has produced unofficial summaries of these reports (*Reports in Short*) that are available at [http://www.ishr.ch/hrm/council/reports\\_in\\_short/](http://www.ishr.ch/hrm/council/reports_in_short/).

<sup>8</sup> A written version of her oral statement is available on the OHCHR extranet. See fn. 2.

While noting the challenge that the protection of the freedom of religion and belief posed for States, Ms Jahangir suggested that wise and balanced decision-making, non-discriminatory legislation, an independent and non-arbitrary judiciary, as well as adequate protection and effective remedies for victims, were all some key ways in which States could promote freedom of religion. She highlighted that protection needed to be complemented by the pro-active efforts of States to prevent acts of discrimination and violence. She emphasised that in addition to reviewing policy and legislation pertaining to freedom of religion and belief, States need to be cautious not to ‘over-regulate’ this freedom through excessive, and ultimately counter-productive legislation. Ms Jahangir continued by highlighting the role of education as a preventive measure. She mentioned that in conjunction with a regional organisation, guiding principles on teaching about religion in public schools were currently being developed.

She also highlighted the persistence of discriminatory stereotypes of religion, which she had addressed in a joint report with Mr Doudou Diène, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance last September.<sup>9</sup> Ms Jahangir recalled that one of their key recommendations had been to encourage the Council to consider adopting complementary standards on the inter-relation between freedom of expression, freedom of religion, and non-discrimination. Additionally, she mentioned that the Chairperson of the Human Rights Committee expressed the interest of the Committee in drafting a general comment on Article 20 of the *International Covenant on Civil and political Rights* (ICCPR).<sup>10</sup> Finally, she mentioned the importance of inter- and intra-religious dialogue that would include all groups such as women, youth, believers and non-believers, and that regional or international cultural exchanges should be encouraged in order to promote tolerance.

### Interactive dialogue

Her presentation was followed by an interactive dialogue with members and observers of the Council, and NGOs. In response to her report and presentation at the Council in the afternoon, several States expressed their appreciation of her ‘well-balanced’<sup>11</sup>, ‘systematised and scrupulous’<sup>12</sup> and ‘objective’<sup>13</sup> report, while virtually all States who took the floor warmly welcomed her report. Of particular note was that several States explicitly expressed their support for her mandate<sup>14</sup> and the extension of her mandate, given its upcoming assessment on Friday afternoon (under the review of mandates). Portugal, on behalf of the European Union (EU), emphasised the importance of her mandate as a human rights mechanism, and stressed that the EU had always supported her mandate. Azerbaijan also stressed the significance of her. China expressed its appreciation and support for the continuation of her work on promoting dialogues between civilisations and religions. In addition to the support of Albania and Norway, Ms Jahangir’s mandate received strong support from New Zealand, who stated that she had made a ‘compelling case’ for the extension of her mandate.

Most speakers focussed their other comments on a few key issues that had been brought up in Ms Jahangir’s presentation, namely:

- The relationship between the law and the freedom of religion
- The intersection of the right to freedom of religion and belief with the freedom of expression, and defamation of religion
- Inter-faith and intra-religious dialogue
- The link between religion and terrorism
- The prevention of religious discrimination through education
- Other issues

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<sup>9</sup> A/HRC/2/3, 20 September 2006. The report is available at [www.ohchr.org/english/bodies/chr/sessions/62/listdocs.htm](http://www.ohchr.org/english/bodies/chr/sessions/62/listdocs.htm).

<sup>10</sup> Article 20(2) of the ICCPR States that: “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law”.

<sup>11</sup> Australia, Russian Federation and Armenia.

<sup>12</sup> Armenia.

<sup>13</sup> Russian Federation.

<sup>14</sup> Portugal (on behalf of the European Union (EU)), Norway, Azerbaijan, Albania, and New Zealand.

Regarding **legislative measures**, a point that was raised both in Ms Jahangir's report as well as her statement, Portugal (on behalf of the EU) asked what measures should be promoted by States in order to ensure that all persons including vulnerable groups were protected under the law. Belgium asked if she could provide specific examples of legislation 'over-regulating' the freedom of religion. In her reply at the end of the interactive dialogue, Ms Jahangir pointed that education was a better preventative measure than mere legislation. Canada requested Ms Jahangir to mention what measures could be taken to ensure effective remedy when a person's religious rights were violated. Egypt disputed Ms Jahangir's contention that missionary activities should not be criminalised, as it thought that such activities could inflame religious passions and disrupt public order. Ms Jahangir replied that she was aware of the challenges in this context. Indonesia remarked that the process of ensuring the constitutionality of all legislation, as suggested by Ms Jahangir, should be considered an ongoing process and States should be given time to meet this expectation. A few States brought up the point of how the permissible limitations on the human rights obligations of States could be interpreted in the context of the freedom of religion.<sup>15</sup> The Russian Federation (Russia) mentioned that States should be able to determine whether a limitation was permissible themselves. In her reply in the interactive dialogue, Ms Jahangir also highlighted that the restrictive use of legislation, such as rigid registration laws, could limit the freedom of religion and the freedom of association.

The **relationship between freedom of religion or belief and freedom of expression** was a recurrent point raised during the dialogue. Norway stated that the freedom of expression constituted a 'pillar of democracy', and affirmed the inter-dependence of this right with that of freedom of religion and assembly. Egypt, supported by Pakistan (on behalf of the OIC), highlighted that freedom of expression if unchecked, could hurt religious feelings and respect for a religion, as in the case of the cartoons depicting the Prophet Mohammed.<sup>16</sup> Armenia welcomed the link between freedom of expression and religion,<sup>17</sup> while Indonesia asked Ms Jahangir to shed some light on how the defamation of religion impacted on the link between the two freedoms. In this respect, Jordan asked whether in her opinion, the defamation of religious symbols and religious feelings was an act of freedom of expression, and to elaborate the foundations of her response. Ms Jahangir later replied that balancing freedom of religion and freedom of expression was not a matter of her personal opinion but of what was laid down in international law, and that human rights law must be used irrespective of the sensitive nature of any issue. Several other speakers touched on the related topic of **defamation of religion and religious symbols**.<sup>18</sup>

The majority of States<sup>19</sup> affirmed the importance of **inter-faith and intra-religious dialogue**. The Philippines asked Ms Jahangir to comment on the possibility of creating an initiative on inter-faith dialogue within the Council.<sup>20</sup> Several States mentioned their own efforts in encouraging such dialogue.<sup>21</sup> Egypt urged that inter-faith dialogue involve civil society participation from the grass-roots level. Belgium raised the question of how States could facilitate and encourage contact between believers and non-believers of various religions. In her replies, Ms Jahangir affirmed the importance of integrating a human rights framework into inter-faith relations.

A few speakers commented on the view of the Special Rapporteur advocating the de-linking of **religious identity from terrorism**.<sup>22</sup> Russia supported this point, stating that terrorist groups exploited the feelings of believers and subscribed to a distorted view of religion.

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<sup>15</sup> Egypt and Russia.

<sup>16</sup> The Cartoons were also mentioned by Azerbaijan and Bangladesh.

<sup>17</sup> Supported by Italy and Norway.

<sup>18</sup> Indonesia, Jordan, Malaysia and the Internationalist and Humanist Ethical Union.

<sup>19</sup> Australia, Azerbaijan, Bangladesh, Indonesia, Italy, Norway, Philippines, Republic of Korea, Thailand and New Zealand.

<sup>20</sup> Supported by Italy, who mentioned the convening of a roundtable high-level dialogue on this issue within the Council in 2008

<sup>21</sup> Australia, Republic of Korea.

<sup>22</sup> Armenia, Russian Federation and Association of World Education (joint statement).

Many States chose to respond to the special rapporteur's suggestion of using **education** as a means to prevent religious intolerance, and affirmed its value in encouraging inter-faith dialogue.<sup>23</sup> Spain asked if the rapporteur could provide examples of innovative practices in promoting religious tolerance through education.

Several other issues were raised by States during the interactive dialogue. Portugal (on behalf of the EU) asked about what could be done to protect persons who had cooperated with her mandate from repercussions. Ms Jahangir replied that the issue of persons facing reprisals for cooperating with United Nations mechanisms could be taken up with governments under the new UPR mechanism. Canada asked what obstacles the Special Rapporteur had faced in the course of her work. Russia acknowledged the responsibility of the State in preventing violations of the freedom of religion, but asked what was to be done in the case of violations by non-State actors who had de facto control over a particular territory. Armenia welcomed the observations of the Special Rapporteur on the protection of religious sites and places of worship, which was echoed by several other States.<sup>24</sup> The Netherlands asked for examples of legislation on religious conversion that could serve as a model for other countries.

Speakers from non-governmental organisations (NGOs) covered a range of topics. The Baha'i International Community spoke about the persecution of their believers in Iran and Egypt. Pax Romana in association with a number of other NGOs<sup>25</sup> asked the Special Rapporteur how to secure accountability for Sri Lankan civilians affected by violence. The International Service for Human Rights (ISHR) in a joint statement<sup>26</sup> raised points about how the mandate could address the freedom of religion or belief more consistently across all beliefs. There was some confusion regarding a joint statement by the Society for Threatened Peoples who was speaking on behalf of several other NGOs.<sup>27</sup> The speaker was interrupted by point of order by China who mistook one of the organisations on whose behalf the representative was speaking (called Liberation International) to be 'Liberal International', whose consultative status was recently suspended for one year by the Economic and Social Council (ECOSOC). The issue was quickly resolved by the Secretariat, and the NGO delegate was allowed to finish his statement on the religious persecution of Tibetan Buddhists by the Government of China.

## Independent Expert on human rights and international solidarity

Mr Rudi Muhammad Rizki, the Independent Expert on human rights and international solidarity, presented his report,<sup>28</sup> focussing on three areas of concern: international cooperation; global responses to natural disasters, diseases, and agricultural pests; and third generation rights.<sup>29</sup> He emphasised that equalising globalisation would have a positive effect on international solidarity, referring to *GA Resolution 55/2* and its message that the central challenge for globalisation would be making it a positive force for all people. He reiterated the idea that respecting the right to development would have positive repercussions for the economic growth of developing countries, stating that international cooperation could help these countries establish necessary infrastructure and other needed mechanisms. In this vein, he repeated that there should be

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<sup>23</sup> Brazil, Egypt, Indonesia, Malaysia, Norway, Pakistan, Philippines, Spain and Thailand.

<sup>24</sup> Azerbaijan and Bangladesh.

<sup>25</sup> Asian Forum for Human Rights and Development, International Movement Against All Forms of Discrimination and Racism (IMADR) and Asian Legal Resource Centre.

<sup>26</sup> The statement was made on behalf of ISHR, the Friends World Committee for Consultation (Quakers) and Amnesty International.

<sup>27</sup> France-Libertés Fondation Danielle Mitterrand, Liberation International, Interfaith International, International Educational Development, International Movement Against All Forms of Discrimination and Racism.

<sup>28</sup> A/HRC/4/8, 7 February 2007. Available at <http://ohchr.org/english/bodies/hrcouncil/6session/reports.htm>.

<sup>29</sup> For a concise summary of the details within these three subjects, see the ISHR *Report in Short* on the Independent Expert's report at [http://ishr.ch/hrm/council/reports\\_in\\_short](http://ishr.ch/hrm/council/reports_in_short).

more support to developing countries in attaining the Millennium Development Goals (MDGs). He suggested one way to do this would be through research on how to reach the eighth MDG.<sup>30</sup>

### Interactive Dialogue

All delegations that intervened supported Mr Rizki's views or added elements they found particularly important. Several delegations highlighted their own best practices towards achieving international solidarity, often with a focus on funding development projects or working towards the MDGs. Most delegations highlighted the particular importance of international solidarity in the context of globalisation.

- Pakistan, on behalf of the Organisation of the Islamic Conference (OIC), and Bangladesh supported Mr Rizki's formulation of international solidarity as an 'obligation' of all States. They urged other States to contribute to level the playing field in trade and finance, which would create an enabling environment for comprehensive development in poorer countries.
- Republic of Korea added that States should acquire a shared sense of ownership regarding development.
- Thailand highlighted the importance of global health security as a vital component of international solidarity and development. The Association of World Citizens added that those afflicted by rare diseases should benefit from international solidarity
- Bangladesh said that transfer of technology towards developing countries was an important step towards international solidarity.
- Brazil pointed out that global phenomena including threats to human rights could only be met by international solidarity.
- Cuba expressed support of Mr Rizki's definition of international solidarity,<sup>31</sup> as it underscored the principles of social justice and commitment to other countries.
- Venezuela highlighted the negative impact of globalisation, originating in the world trading system.
- Egypt supported Mr Rizki's view that national cooperation was a prerequisite to achieving international cooperation, and added that States could not continuously emphasise the responsibility to protect while ignoring the equally important 'responsibility to assist'.
- The Spanish Association for the Defense and Promotion of Human Rights supported Mr Rizki's idea that the right to peace should be described as the right to solidarity.

Other countries asked questions of the Independent Expert:

- China asked for Mr Rizki's comments on what might be done towards the realisation of the MDGs, noting that their implementation was very unsatisfying.
- Indonesia wondered whether the concrete examples put forth in his report<sup>32</sup> were sufficient to work towards a broad and sustained effort in helping equalise the benefits of globalisation.
- Ethiopia enquired whether the Special Rapporteur saw a need for joint studies by several special procedures into the link between MDGs and human rights, or if he would favour a mandate on human rights and MDGs.
- Egypt asked for Mr Rizki's comments on what could be done to reach the MDGs on schedule.
- Tunisia asked whether Mr Rizki would acknowledge the emergence of a 'right to solidarity'.

In his response to the comments and questions raised during the interactive dialogue, Mr Rizki said he would continue to focus on the three areas of international cooperation, global responses to disasters and agricultural

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<sup>30</sup> Millennium Development Goal no. 8 is to "develop a global partnership for development", which includes more detailed Statements of how this would be possible. See <http://www.un.org/millenniumgoals/#>.

<sup>31</sup> He defined International Solidarity as 'the union of interests or purpose among the countries of the world and social cohesion between them, based upon the dependence of States and other international actors on each other, in order to preserve the order and very survival of international society, to achieve collective goals, which require international cooperation and joint action'.

<sup>32</sup> These can be found on page 7, paragraph 22, and included endorsing regional initiatives, granting free access to the markets of developed countries for goods produced in poor countries, providing more generous development assistance, and making development assistance more predictable.

challenges and third generation rights. He repeated that it was possible to expand on any of these areas, but that he needed the full cooperation of States and the support of the Office of the High Commissioner for Human Rights (OHCHR).

## Update report by the High Commissioner

### **Address by the High Commissioner**

The first order of business for the afternoon session was the statement by Ms Louise Arbour, the High Commissioner for Human Rights to the Council. Ms Arbour chose the occasion to speak on the developments of the institution-building process, on developments that have taken place since the previous session of the Council, and on the status of present and new regional and national offices of OHCHR around the world.

Beginning with the technical modalities of institution-building, the High Commissioner particularly urged the Council to ensure that the universal periodic review mechanism (UPR) can begin at the earliest opportunity as the ‘credibility of the United Nations human rights system hinges upon satisfactory implementation of the review’. She also appreciated the broad approach to the sources of information for the UPR, including that to be submitted by NGOs, as ‘crucial to building the basis for a comprehensive and meaningful review’. Ms Arbour also expressed her support for the Council’s recognition of the importance of the system of special procedures, and her hope that it would seize the opportunity over the next year to close protection gaps in the system.

Concerning recent developments, Ms Arbour first congratulated the preparatory committee for the Durban Review Conference on its recent session before turning her attention to her visit to Indonesia in July 2007.<sup>33</sup> This included a first-hand view of developments of Aceh, discussions with President Yudhoyono and his senior colleagues on both domestic and global issues, and discussions with ASEAN member States on the adoption of human rights elements in the new ASEAN charter and the establishment of an ASEAN human rights mechanism. The High Commissioner also recently addressed the Non-Aligned Movement (NAM) ministerial meeting on Human Rights and Cultural Diversity in Iran, and met with senior representatives of local women's right defenders. She raised particular concerns regarding the application of the death penalty to juveniles, and the need to protect the right to peaceful public expression. Finally, following her visit to the Great Lakes region in Africa, Ms Arbour remained concerned with the lack of progress in the Democratic Republic of the Congo (DRC), where ‘interference by military and political authorities in the administration of justice is prevalent, particularly in high-profile cases’ and no-one has been brought to justice in the first half of 2007.

The High Commissioner then turned to the work of regional and national offices of OHCHR, and OHCHR human rights advisors to UN country teams. She claimed that there was considerable progress with the offices in Colombia, Bolivia, Panama City, Togo, Dakar and Kyrgyzstan, as well as the deployment of advisors to Indonesia, Kyrgyzstan, the Maldives, Ecuador, Guyana, Georgia, Somalia and Rwanda. She noted, however, that there were some difficulties in Egypt (who informed the High Commissioner in July that “it would not be in a position to host the OHCHR Regional Office for Northern Africa”) and the ‘continued delay with the planned deployment of a Senior Human Rights Adviser to Zimbabwe’. Ms Arbour concluded that she looked forward to her forthcoming country visits to Sri Lanka and Afghanistan, as well as the very recently agreed visit to Brazil in December 2007, and that she would be ready to accommodate the possibility of discussing her office’s relationship with the Council, as requested by certain States.

### **General debate**

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<sup>33</sup> The High Commissioner opened the 14th annual workshop of the Asia Pacific Framework on Regional Cooperation for the Promotion and Protection of Human Rights in July.

Several States thanked the High Commissioner and her Office for the support provided to the Council during its institution-building period. Many said that they were grateful for this support and China characterised the work done as “of high quality”. The debate following the High Commissioner’s presentation mainly focused on the issues addressed in the update report.

### ***The universal periodic review (UPR) mechanism***

Many States chose to respond to the observation of the High Commissioner that the credibility of the Council rested on the UPR’s effectiveness as a new mechanism for improving human rights situations on the ground, and her urging of the Council that it must be initiated at the earliest opportunity. This generated respectful variances of opinion, from many in the Group of Latin American Countries (GRULAC) directly supporting her sentiment, to others who argued in favour of a postponement until April 2008.

- India and Indonesia looked forward to a process of co-operation and dialogue between States. The Republic of Korea stressed that a co-operative attitude by States toward the process itself and the outcome would be vital. Sweden saw this as an opportunity ‘not to cover deficiencies’, but to find common ground in how to address them.
- Pakistan (on behalf of the OIC) was the first to propose that the UPR should begin in April 2008, after the March session of the Council, to provide adequate time, to allow in particular developing countries to adequately prepare.<sup>34</sup>
- Mexico, on the other hand, identified the UPR as the major achievement of the Council in the universal treatment of human rights, and underscored the ‘intense support’ of the High Commissioner for the UPR leading to the adoption of *Resolution 5/1* in June 2007. The earliest possible functioning of the process was therefore a vital element in upholding the common achievement.<sup>35</sup>
- While supporting immediate initiation of the UPR, Peru expressed its appreciation to the High Commissioner for OHCHR’s declared willingness to provide technical assistance to developing countries in their preparation for the review.
- Chile supported the High Commissioner’s view that space for the input of NGOs and civil society at the national level was essential to building the basis of a meaningful review. China proposed that the guidelines presented by the Facilitator of the UPR<sup>36</sup> also apply to the submission of information by ‘other stakeholders’, and that OHCHR should play a ‘balanced and constructive role’ in summarising such material. Egypt, on behalf of the African Group, also expressed its interest in assessing how OHCHR will determine ‘credible and reliable information’ in this regard.
- Australia asserted that in order for the UPR to be credible it needed to produce ‘credible recommendations’. Ecuador stated that outcome should comprise a ‘true review of the situation’ and not ‘just a report’. The Republic of Korea placed particular emphasis on the ability of the Council to address non-cooperative States as an element that will test the true credibility of the Council.
- Russia linked the question of the transparency and accountability of OHCHR’s functions, particularly in relation to administrative and program matters, to the increase of staff required for the UPR, and expected that the appointment process would uphold the principle of equitable geographic distribution. Pakistan (on behalf of the OIC) went further in stating that it would like to look at the modalities for the recruitment of the staff.
- Jordan cautioned that the credibility of the Council rested not only on the UPR, but also on its ability to ensure that its recommendations are respected and implemented by all, and it was therefore critical that former politicisation and selectivity do not ‘creep back in’.

### ***Special procedures***

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<sup>34</sup> Supported by Indonesia, India, Nigeria, Bangladesh and Philippines.

<sup>35</sup> Other general support for the High Commissioner’s position came from Chile, Nicaragua, Ecuador and Peru.

<sup>36</sup> For a summary of the UPR guidelines on the submission of information, see ISHR’s *Daily Update* of 11 September 2007 at <http://www.ishr.ch/hrm/council/dailyupdates>.

Several States echoed the comments by the High Commissioner that the review of the special procedures was an opportunity to identify and close protection gaps in the system.<sup>37</sup> However, some States underlined that the main objective of the review should be to rationalise the special procedures.<sup>38</sup>

- Peru said that the review of special procedures presented an opportunity to identify weaknesses and to strengthen protection systems<sup>39</sup> while it should also avoid overlaps. India agreed with the need to address both duplication and gaps within the system as this had not been adequately done during the first year of the Council.<sup>40</sup> The Netherlands said that the review must aim at improving and strengthening the system. Nicaragua took a broader, and somewhat vaguer, approach in saying that the Council should address all issues requiring its attention in conducting the review.
- The Netherlands pressed that the continuation of existing special procedures mandates was crucial, and emphasised the importance of maintaining country mandates. Sweden also underlined the importance of the special procedures system and said it strongly supported both country specific and thematic mandates.
- Several States made reference to the technical and objective requirements for mandate holders that had been discussed during informal consultations on Tuesday 11 September.<sup>41</sup> Indonesia said that the requirements of experience and impartiality are of primary importance. It also stressed that no artificial barrier should be introduced that could restrict any eligible candidates from developing countries on the ground of insufficient knowledge or qualifications.
- Egypt (on behalf of the African Group) stressed the importance of implementing the *Code of Conduct for Special Procedures Mandate-Holders of the Human Rights Council* (the Code of Conduct) that was adopted with the institution-building package.<sup>42</sup> Pakistan (on behalf of the OIC) also said that it was important that the Code of Conduct be faithfully adhered to by the mandate holders. Bangladesh thought that the Code of Conduct was a useful tool to ensure that mandate holders meet the expectations of States. Brazil also believed that the Code of Conduct had added value to the special procedures and had contributed to narrowing differences between regional groups.
- Some States also commented on the High Commissioner's call for countries to extend standing invitations to the special procedures. The Netherlands echoed this call while Chile said that standing invitations are not an end in themselves as they do not guarantee that country visits by special procedures would in fact take place. It underlined that if a State had extended a standing invitation, visits by the special procedures should take place.

### ***Country offices, country visits and the High Commissioner's country engagement strategy***

The majority of States commented on the activities undertaken by OHCHR in implementation of the High Commissioner's country engagement strategy.<sup>43</sup> Many countries focused their comments on the particular activities of the High Commissioner in their region.

- Several States endorsed the activities of the High Commissioner.<sup>44</sup> The Russian Federation expressed satisfaction with the increasing number of human rights advisors and country and regional offices and said that it believed that this would strengthen the capacity to protect and promote human rights.<sup>45</sup> It said that in this context there is a need for close cooperation with the government, national human rights

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<sup>37</sup> Brazil and Sweden.

<sup>38</sup> Egypt (on behalf of the African Group) and Pakistan (on behalf of OIC).

<sup>39</sup> Supported by Switzerland.

<sup>40</sup> Supported by Bangladesh.

<sup>41</sup> For a summary of the discussion on the requirements, please consult the Daily Update of 11 September 2007.

<sup>42</sup> The text of the Code of Conduct is contained in *Resolution 5/2*.

<sup>43</sup> For more information, please see the High Commissioner's Strategic Management Plan 2006-2007, available at <http://www.ohchr.org/english/about/docs/strategic.pdf>

<sup>44</sup> Russian Federation, Portugal (on behalf of the EU), Australia, Netherlands, South Africa.

<sup>45</sup> Nicaragua also supported the establishment of OHCHR offices and the placement of human rights advisors.

institutions and civil society. Portugal (on behalf of the EU) said it strongly supports the country engagement strategy and the work done to monitor human rights situations and provide technical assistance to States. Australia praised the focus on capacity building and training as fundamental to real progress in the promotion and protection of human rights. The Netherlands and South Africa encouraged the High to continue to support countries in promoting and protecting human rights. Sweden encouraged OHCHR to continue to establish regional and country offices and said that it expects governments to cooperate in the establishment of such offices.

- Some other States expressed concern about the fact that country presences were mainly established in developing countries and encouraged OHCHR to take a more balanced approach and also examine the human rights situation in “the North” as human rights mainstreaming was also needed there.<sup>46</sup>
- Regarding the establishment of regional offices, Egypt (on behalf of the African Group) claimed that it was unaware of any difficulties in relation to establishing an office for Northern Africa in Egypt. It explained that the principle of equitable geographical distribution of UN regional offices meant that other countries in the region should be given the opportunity to host the office, as Egypt was already host to a number of other UN regional offices. On a more general note, Egypt underlined that consultations with countries in a region on the relevance of an OHCHR regional office should take place before an office were set up. Pakistan (on behalf of OIC) went further and said that not only should OHCHR seek the consent of the country in which an office would be established, it should also consult the countries of the region regarding the mandate of the office.
- Pakistan (on behalf of OIC) suggested that OHCHR should consult comprehensively with States to ensure that no complications arise subsequently in relation to the establishment of an office. Pakistan (on behalf of the OIC) emphasised that both the establishment of regional offices and the deployment of human rights advisors require prior consent of country.
- Mexico stated that the opening of OHCHR offices and the appointment of human rights advisors provided an opportunity for cooperation and dialogue between OHCHR and countries around the world and the Philippines believed that coordination and consultations between OHCHR and the concerned government should be enhanced.
- Some States expressed concern about the human rights situation in other countries. Egypt (on behalf of the African Group) expressed its solidarity with the DRC regarding the lack of progress in fighting impunity. It requested that OHCHR ensures that its presence in that country is focused on providing help and meeting its needs for technical assistance. In this context Egypt noted that neither the special procedures mandate on the DRC nor the mandate holder have been of use to country and that the mandate holder had not made himself available to the Council. Portugal (on behalf of the EU) expressed concern at the continued impunity in the country but also commended its cooperation with some of the thematic special procedures, including the Independent Expert on the Independence of Judges and Lawyers. It also said that while some positive developments had taken place in Burundi, the country continued to face serious human rights challenges and there was a need to strengthen national capacities and continue work on issues of transitional justice. Portugal and Canada were also concerned about the situation in Zimbabwe where intimidation and violence continued. They and encouraged OHCHR to follow the situation closely. Furthermore, the human rights situations in Burma and Iran continued to alarm Portugal.<sup>47</sup>
- Several States commented on the upcoming visit of the High Commissioner to Sri Lanka. Many welcomed the planned visit.<sup>48</sup> Several States saw the invitation from the government of Sri Lanka as a positive gesture and a sign of good will and openness.<sup>49</sup> Bangladesh suggested that it would also provide an opportunity to assess the situation on the ground and to remove misgivings, if any. Portugal (on behalf of the EU) hoped that the visit could pave the way for the establishment of a field presence in the country. Sri Lanka asserted that the planned visit was only one example of the positive engagement of the

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<sup>46</sup> China and Cuba.

<sup>47</sup> Canada was also concerned about the situation in Iran.

<sup>48</sup> Portugal (on behalf of EU), Indonesia, Canada and Australia.

<sup>49</sup> Indonesia, India, Bangladesh and South Africa.

Government with the international system<sup>50</sup> and a result of a policy of openness and constructive engagement at a difficult time. The delegate warned against anything that could derail this constructive engagement, such as ill-timed and lopsided criticism that could “spoil the atmosphere”. He also warned against “dogmatism and sloganism”, as for example the repeated incantation for a field presence in Sri Lanka. While the government was open to “reasonable persuasion” it was not open to pressure.

- Several Latin American States praised the work of the High Commissioner in that region<sup>51</sup> and some encouraged her to strengthen her presence<sup>52</sup> and continue to support the region.<sup>53</sup> Furthermore, Australia welcomed the engagement of OHCHR in the Asia Pacific region and appreciated the establishment of offices and deployment of human rights advisors there.
- Some States also commented on their own collaboration with OHCHR. The Russian Federation welcomed the signing of a comprehensive programme of cooperation between itself and OHCHR. Brazil said it looked forward to the High Commissioner’s visit and to deepening the interaction with OHCHR. Chile hoped that a regional office would soon replace the existing office in that country. Bolivia was awaiting the opening of an office and placed hope in the office to help overcome violations of the past and assist in the implementation of human rights instruments.

### ***Relationship between OHCHR and the Council***

A number of delegations followed up on previous requests to discuss the relationship between the Council and the OHCHR.

- Several delegations welcomed the High Commissioner’s stated willingness to engage in the discussion and said that they looked forward to it.<sup>54</sup> Jordan invited the President to initiate consultations in preparation for a discussion.
- Egypt stated that a discussion of the relationship between the Council and OHCHR was a prerequisite for the success of both of them. It emphasised that the aim of such a discussion should be to ensure that the practices of OHCHR are in line with established UN rules and guidelines. The Russian Federation went further and said that there was a need to improve the work of OHCHR and to strengthen transparency and accountability, including in relation to programme and financial issues. Pakistan (on behalf of the OIC) echoed these comments by calling for institutional checks and balances. It argued that a greater role for the Council in the management of OHCHR would make the human rights machinery function more effectively. China also said that OHCHR should report to the Council on its expenditures and provide regular updates on its work.
- Pakistan expressed regret at the uncertainty before the High Commissioner’s statement about whether an interactive dialogue would take place after the presentation and said that greater certainty would provide the basis for a better relationship between the Council and OHCHR.
- Mexico believed that dialogue between the Council and OHCHR and the General Assembly was essential, especially on issues related to the implementation of the institution-building package. This dialogue should respect the competencies of each body.
- Bangladesh suggested that General Assembly *Resolution 48/141* establishing the OHCHR and *Resolution 60/251* should guide the discussion on the relationship between these two bodies.

### ***Durban preparatory conference***

Several States expressed satisfaction that the High Commissioner had been appointed as the Secretary General of the Durban Review Conference and said that her commitment and support to the process would be

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<sup>50</sup> In this connection, the delegate informed that two special procedures mandate holders are scheduled to visit the country in the coming months.

<sup>51</sup> Peru, Chile, Mexico and Brazil.

<sup>52</sup> Peru.

<sup>53</sup> Mexico.

<sup>54</sup> Nigeria and South Africa.

very important.<sup>55</sup> A number of States encouraged the High Commissioner to ensure that all necessary secretariat and financial support be provided to the preparatory process.<sup>56</sup> In particular, they requested that the support be provided for the preparations at regional and national levels, including the holding of regional meetings with the participation of NGOs.<sup>57</sup>

### ***Other issues***

- Pakistan (on behalf of the OIC) and South Africa gave strong support to the recent establishment of a gender unit within OHCHR to mainstream the issue in the work of both OHCHR and the Council.
- China was also concerned about the inadequate geographical representation of the staff of OHCHR. It urged OHCHR to be an example for multiculturalism and encouraged it to find a durable mechanism to strengthen representation from Asia and Africa among the staff.
- Pakistan (on behalf of the OIC) requested a briefing on the role of the unit on legal advocacy and advice within OHCHR.

### **Next steps**

At the end of the afternoon session, the President announced that the general debate would continue tomorrow at 10 am. He was pleased that the High Commissioner would be able to return to the Council session in the morning for the remaining debate. He indicated that the continuation of the debate would mean that necessary changes to the programme of work would have to be made. Since the Special Rapporteur on racism and the Special Rapporteur on freedom of religion or belief would only be available on Friday 14 September, the President would attempt to arrange the timetable to allow the two mandate holders to speak as foreseen in the programme of work. Finally, he requested the four States that had demanded to exercise a right of reply after the interactive dialogues during the morning session to do so after the conclusion of the general debate the next day.

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<sup>55</sup> Chile, Indonesia, South Africa and Nigeria.

<sup>56</sup> Egypt (on behalf of the African Group), Nigeria and the Russian Federation.

<sup>57</sup> Nigeria and the Russian Federation.

## **COUNCIL MONITOR STAFF**

**Kaavya Asoka**, Fellow  
**Eléonore Dziurzynski**, Communications Officer  
**Michael Ineichen**, Human Rights Officer  
**Benjamin Lee**, Human Rights Officer  
**Gareth Sweeney**, Deputy Manager  
**Katrine Thomasen**, Manager

## **Contributors**

**Ridwan Al-Jassar**, Intern  
**Christopher Brown**, Intern  
**Shushan Khachyan**, Intern  
**Tina Kristensen**, Intern  
**Alison Leon**, Intern  
**Yuri Saito**, Intern  
**Johanna Somerville**, Intern

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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/hrm/council](http://www.ishr.ch/hrm/council)

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