

# COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

## DAILY UPDATE HUMAN RIGHTS COUNCIL, 9<sup>TH</sup> SESSION 17 SEPTEMBER 2008

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### Overview

The morning meeting of the Council began with the conclusion of NGO statements under Item 4. A large number of country situations were raised including the Sudan, Zimbabwe, Georgia, India, Tibet, Sri Lanka, Somalia, Iraq, Morocco, Republic of Korea, and Iran. NGO statements on the Sudan were notable for the high number of supposed national Sudanese NGOs claiming that the situation of human rights in the Sudan was misrepresented by the Special Rapporteur, Dr Sima Samar, and that her mandate should be discontinued.

NGO interventions were followed by a very long list of States who wished to exercise their rights of reply under Item 4, including Georgia and the Russian Federation of the situation in South Ossetia, the Sudan in response to conclusions by the UN Special Rapporteur following her recent visit, Burma, Ethiopia in response to allegations of misconduct by its peacekeepers in Somalia, India in relation to Kashmir, and China in relation to Tibet. Zimbabwe's right of reply to France, which called into question the latter's role in the 1994 Rwandan genocide, resulted in a rebuke by the President that States not resort to 'tempered words...that inflame passions'. Nonetheless, Iran, the Democratic Peoples Republic of Korea (DPRK) and Uzbekistan proceeded to do exactly that.

In the afternoon, the Chairpersons of two newly established subsidiary bodies of the Council, the Human Rights Council Advisory Committee (the Advisory Committee) and the Social Forum, delivered oral statements on their inaugural sessions. States expressed their interest in the work of these new bodies and

commented on procedural matters surrounding their operation as well as on substantive issues addressed so far. Some speakers also commented on other mechanisms of the Council.

Open-ended informal consultations on the follow-up to the world food crisis and on human rights voluntary goals were also held in parallel to the plenary of the Council.

## Conclusion of general debate on Item 4

### NGO statements

Four NGO's reported on the human rights situation in **Zimbabwe**, with the International Commission of Jurists in particular pointing to the Council's lack of response as a critical indication of its lack of capacity to deal with serious human rights situations. NGOs reported numerous accounts of human rights violations by the ruling party militias towards opposition supporters.<sup>1</sup> The ICJ stated that the presidential elections in Zimbabwe were 'a perversion of democracy' and cited cases of deaths, torture and unlawful detainment. According to Amnesty International, acts of violence took place with the direct consent and support of the Government. Amnesty International and the World Organisation against Torture (OMCT) appealed to the Council and the international community to act without delay against these violations. The OMCT requested that relevant UN Special Rapporteurs be invited to carry out missions in the country.

Several NGOs commented on the present situation in **Georgia**.<sup>2</sup> Human Rights Watch held both parties to the conflict accountable and alleged that Russia was not ensuring adequate protection of civilians, while Amnesty International was concerned of strong indications that indiscriminate attacks took place. The ICJ and HRW called for a fact finding mission to be sent to the region. Human Rights Watch called upon the Council to hold a special session on the situation in Georgia.

The Cairo Institute for Human Rights Studies and Nord-Sud XXI stated that the situation of human rights in the **Sudan** remained serious and in certain areas had worsened, as presented in the report of the Special Rapporteur on the Sudan. Nord-Sud XXI insisted that the Human Rights Council maintain the mandate of the Special Rapporteur. There was, however, a coordinated message among many supposed national Sudanese NGOs present against the extension of the mandate<sup>3</sup> and many personally attacked the Special Rapporteur.

Franciscans International and the World Lutheran Federation addressed the issue of attempted forced conversions of Christians to Hinduism in the state of Orissa in **India**, and the lack of protection afforded by the authorities despite foreseeable communal violence in the state. Franciscans International supported the call of the Indian National Human Rights Commission for an impartial investigation and, while welcoming the condemnation of such practices by the central Government of India, it hoped that the Council would encourage the Government to uphold the primacy of freedom of religion and ensure that justice is done.

The Society for Threatened Peoples<sup>4</sup> drew attention in a joint statement to the deportation of **Tibetans** without registration certificates by the Government of **Nepal**. It also addressed the killings, torture and detainment without fair hearings of Tibetans following the Tibetan uprising in March 2008 and spoke of **China's** lack of political will to acknowledge the existence of the human rights problem in the region. It urged the Council to encourage China to receive the High Commissioner for Human Rights and relevant special procedures to visit Tibet and China. The International Commission of Jurists (ICJ) also addressed the

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<sup>1</sup>Amnesty International, World Organisation Against Torture (OMCT), Human Rights Watch, International Commission of Jurists

<sup>2</sup>Human Rights Watch, the ICJ and Amnesty International.

<sup>3</sup>African American Society for Humanitarian Aid and Development, Society Studies Centre, Al-Zubair Charity Organisation, Hawa Organisation for Women, Sudanese Women General Union

<sup>4</sup>Joint statement on behalf of the Asian Forum for Human Rights and Development, the Asian Indigenous and Tribal Peoples Network, the Mouvement contre le Racisme et pour l'amitié entre les Peuples,

“violent crackdown” of peaceful protests of March. The ICJ urged China to inform the Council of their investigations concerning the crackdown. China later exercised a right of reply claiming that the Society for Threatened Peoples was politically motivated and that China would continue to oppose secessionist attempts.

The Arab Lawyers Union accused the Council of inaction in relation to **Iraq**, where it claimed that all human rights were being violated every day. The International Organisation for the Elimination of All Forms of Racial Discrimination appealed to the ‘common decency’ of all member States to protect the children of Iraq, and called upon the Council to hold a special session on Iraq to reinstate the mandate of a Special Rapporteur on Iraq, a proposal also supported by Human Rights Watch.

The Bahai International Community drew specific attention to the ongoing persecution of Bahai’s in **Iran** by listing atrocities committed and stating that the authorities invent conspiracies to justify this persecution. La Fédération Internationale des Droits de l’Homme (FIDH) focused on the application of the death penalty following ‘blatantly unfair trials’ in the country.

FIDH also called for a special session of the Council on **Somalia** to establish a commission of inquiry comprised of UN special procedures.

Both Forum Asia and Lawyers for a Democratic Society focused on the recent crackdown in the **Republic of Korea** of peaceful protests, where 2500 persons were severely injured, according to Forum Asia, at the hands of ‘outrageous treatment’ by police under national security laws. Lawyers for a Democratic Society called for a visit by various special procedures of the Council, including the Special Rapporteur on freedom of expression.

### **Rights of reply**

A very high number of States took the floor to exercise rights of reply under Item 4, including counter replies in the case of Georgia and the Russian Federation, India and Pakistan, Ethiopia and the Netherlands, Morocco and Algeria, and Japan and the Peoples Democratic Republic of Korea (DPRK), and Zimbabwe and France. The undiplomatic reply of Zimbabwe to France and the United Kingdom (UK) resulted in comments from the President that he did not understand what was meant by ‘kangaroo courts’ in the UK and which ‘racist groups’ Zimbabwe was referring to. He requested that the UK not respond to such inflammatory remarks.

**Georgia** and the **Russian Federation** used rights of reply each to counter each other on the present humanitarian situation in South Ossetia. Georgia argued in favour of an impartial investigation into humanitarian law violations. It was aware that a High Level Mission had been deployed, consisting of members of OCHA and UNHCR, among others, and looked forward to hearing its preliminary assessment of the situation.

**Sri Lanka** suggested that the funding of particular NGOs (Amnesty International excluded), particularly those prone to more ‘hysterical statements’ about Sri Lanka, should be registered in order to reveal their political motivation. Myanmar appealed to the EU not to mislead others of the situation in the country, as it claimed that it continued to constructively engage with the UN. **Uzbekistan** urged that the **Netherlands** should focus its attention on issues that concern the Council, and not unfounded allegations concerning human rights in Uzbekistan. **Zimbabwe** claimed that the EU did not care about human rights in the country, and that France was being used as a mouthpiece by ‘the UK Labour regime’. Allegations concerning the role of France in the 1994 Rwandan genocide by Zimbabwe and by **Iran**, provoked **France** to respond that it had held a full national commission of inquiry, and that its findings were in the public domain. It ‘seriously regretted being accused of a role it did not play’ by Zimbabwe.

## Human rights bodies and mechanisms (Item 5)

The Chairpersons of the Advisory Committee and the Social Forum, delivered oral statements on the inaugural sessions of these bodies.<sup>5</sup> States expressed their interest in the work of these new bodies and were largely satisfied with their first meeting. States and NGOs commented on the substantive issues addressed so far. Some also profited from this opportunity to comment on other mechanisms of the Council.

### Advisory Committee<sup>6</sup>

Mr Miguel Alfonso Martínez, the Chairperson of the Advisory Committee, reported on the ‘substantial progress’ made and ‘excellent results’ achieved during the 1<sup>st</sup> session of this new expert mechanism. In direct reference to the repeated debates on the scope and mandate of the Advisory Committee, Mr Martínez assured that it has acted ‘with full respect’ of Council *Resolution 5/1*. He also affirmed that the members of the Advisory Committee are fully aware of the need to mark a break with its predecessor, the Sub-Commission on the Promotion and Protection of Human Rights (the Sub-Commission). At the same time, the Advisory Committee has maintained the collegial approach that characterised the work of the Sub-Commission. Finally, Mr Martínez drew the Council’s attention to the recommendations made to it by the Advisory Committee, and urged it approve these as soon as possible.<sup>7</sup>

States hailed the inaugural session of the Advisory Committee as a step towards completing the Council’s institution-building process. While generally welcoming the work done by the expert body so far, many States took this opportunity to remind the Advisory Committee of the requirement that it work in conformity with General Assembly *Resolution 60/251* and Council *Resolution 5/1*.<sup>8</sup> In this regard, France, on behalf of the European Union (EU), emphasised that all actions of the Advisory Committee must be ‘channelled through the Council’. India underlined that the Council should clearly define the tasks that it gives to the Advisory Committee and reminded the Advisory Committee that it must not adopt resolutions or decisions. India lamented that, in spite of this ‘clear directive from the Council’, the Advisory Committee ‘by and large followed the same measures as the Sub-Commission’ and insisted that this ‘needs to be rectified’.

Speakers also commented on the substantive issues dealt with by the Advisory Committee. States and NGOs welcomed the Advisory Committee’s treatment of, among others, the right to food,<sup>9</sup> human rights education and training,<sup>10</sup> and studies pending from the Sub-Commission.<sup>11</sup> Switzerland called on all States to respond to requests that will be made to them by the Advisory Committee as part of their work on human rights education and training. NGOs<sup>12</sup> welcomed the initiative shown by the Advisory Committee in addressing the right to self-determination, while States were noticeably silent on this issue. NGOs also encouraged the

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<sup>5</sup> The Advisory Committee met from 4 to 15 August 2008, and the Social Forum met from 1 to 3 September 2008.

<sup>6</sup> A/HRC/AC/2008/1/L.11, ‘Report of the 1<sup>st</sup> session of the Human Rights Council Advisory Committee, available at [www2.ohchr.org/english/bodies/hrcouncil/advisorycommittee.htm](http://www2.ohchr.org/english/bodies/hrcouncil/advisorycommittee.htm). See also ISHR’s ‘Analytical overview of the 1<sup>st</sup> session of the Advisory Committee’, available at [www.ishr.ch/index.php?option=com\\_docman&task=doc\\_download&gid=7&Itemid](http://www.ishr.ch/index.php?option=com_docman&task=doc_download&gid=7&Itemid).

<sup>7</sup> Included in A/HRC/AC/2008/1/L.11.

<sup>8</sup> France (on behalf of the EU), Pakistan, on behalf of the Organisation of the Islamic Conference (OIC), India, Switzerland, Russian Federation, Nigeria, Morocco.

<sup>9</sup> Pakistan (on behalf of the OIC), Egypt, on behalf of the African Group, Brazil, Cuba, Republic of Korea, Chile, Angola. Brazil supported the recommendation that ‘the Human Rights Council and the Secretary-General make available their good offices so as to extend the right to non-refoulement to hunger refugees’ (*Recommendation 1/6*). Chile supported the proposal for a study on the rights of peasants (*Recommendation 1/8*).

<sup>10</sup> Pakistan (on behalf of the OIC), Egypt (on behalf of the African Group), Switzerland (on behalf of Croatia, Italy, Morocco), Cuba, Morocco, International Organization for the Right to Education and Freedom of Education (joint statement).

<sup>11</sup> Pakistan (on behalf of the OIC), Cuba, Republic of Korea, Russian Federation, Nigeria, Angola, International Movement Against All Forms of Discrimination and Racism (IMADR). Indonesia endorsed the Advisory Committee’s proposal that these studies be followed-up, but insisted that the Council should first re-examine them.

<sup>12</sup> Indian Council of South America (joint statement), International Educational Development.

Council to task the Advisory Committee to work on linguistic rights.<sup>13</sup> It remains to be seen whether a trend will develop, whereby States and NGOs will use this agenda item to raise general issues of concern.

### **Social Forum**

Ambassador Mousa Burayzat, the Chairperson of the Social Forum, introduced the Social Forum as a medium for dialogue between governments, inter-governmental organisations, and civil society for the promotion and enjoyment of human rights for all. Ambassador Burayzat underlined the close link between poverty and human rights, and emphasised that States need a ‘human-rights-informed strategy’ for economic growth. In achieving this, close consultation between States and civil society in developed and developing countries is essential. Ambassador Burayzat encouraged all actors to actively participate in the Social Forum.

States praised the Social Forum as a unique space to discuss the ‘thorny’<sup>14</sup> issues related to globalisation.<sup>15</sup> Pakistan (on behalf of the OIC) articulated the usefulness of the Social Forum as a venue for human rights machinery ‘to focus on the root causes of poverty’. Cuba concurred, but remarked that three days, the time allocated to meetings of the Social Forum, are too short given the large range of issues it addresses. Cuba proposed the establishment of a fund to facilitate the participation of NGOs from poorer countries and ensure representation of rural areas. The Russian Federation wished to see tangible results, and Bangladesh asserted the need for theoretical discourse to be implemented into actionable strategies. Indonesia commented on the importance of increasing awareness on problems related to poverty, as well as the need for technical and capacity-building support in this respect. Bangladesh agreed with Ambassador Burayzat’s appraisal of the programme for the inaugural meeting, commenting that the same structure can be used in future sessions of the Social Forum.

### **Other bodies and mechanisms**

France (on behalf of the EU) spoke of the system of special procedures as ‘indispensable’ and urged all countries to extend standing invitations and to respond favourably to requests for visits.<sup>16</sup> It also reminded States of the need to ensure that the criteria of expertise and experience are applied and gender and geographical balance are respected when selecting mandate holders.

France (on behalf of the EU) also remarked that the reformed complaints procedures ‘should now allow for a better response to victims of gross human rights violations’. It reiterated that States have an obligation to cooperate with this mechanism.

The NGO ‘European Union of Public Relations’ encouraged the newly established Forum on Minority Issues to organise regional workshops and to publish a study on best practices. It also encouraged the Forum to develop models and action plans that are applicable to different situations, for instance on policing in multi-ethnic societies.

### **Universal periodic review (Item 6)**

Towards the end of the afternoon, the Council began its general debate on the universal periodic review (UPR) mechanism. The President was careful to stress the importance of applying the same modalities to the first countries examined as to the last ones. He urged States not to insist on adapting the rules, but rather to focus on the application of Council *Resolution 5/1*.

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<sup>13</sup> European Bureau for Lesser Used Languages, International Pen.

<sup>14</sup> Nigeria.

<sup>15</sup> Bangladesh, Brazil, Chile, China, Cuba, Indonesia, Japan, Nigeria, Pakistan, Russian Federation.

<sup>16</sup> Echoed by Lithuania.

France (on behalf of the EU and others)<sup>17</sup> expressed its optimism about the process so far, in particular with regard to the contribution of national human rights institutions (NHRIs) and civil society, and the generally positive reception by States of the recommendations made to it. While appreciating the value added by the new mechanism, it emphasised that the UPR is not a substitute to special procedures or treaty bodies.

Egypt (on behalf of the African Group) and Pakistan (on behalf of the OIC) rigidly maintained that agenda Item 6 should not be used to review the UPR mechanism, as it is clearly stipulated in Council *Resolution 5/1* that such an exercise will take place five years after the establishment of the Human Rights Council. Pakistan (on behalf of the OIC) similarly referred to the institution-building text to insist that ‘no efforts should be made to create new layers of review or follow-up’.

France (on behalf of the EU) welcomed the ‘proper share’ of time that is allocated to NGOs in the plenary discussions relating to the UPR, as well as the fact that their views are reflected in the report. Egypt (on behalf of the African Group) stressed the importance of setting specific page limits on documentation, as well as the need to deal with statements or parts of statements ruled as out of order ‘according to the rules of procedure of the Council’.

## Informal consultations

### **Follow-up to the world food crisis**

Cuba convened another round of discussions on the draft resolution on the follow-up to the 7<sup>th</sup> special session of the Council on the impact of the world food crisis on the right to food. Most of proposed text was considered satisfactory by the States present.

The Netherlands expressed its concern about the emphasis placed on investment in agriculture, preferring to refer also to promoting investment in agriculture. It argued that this would lessen the pressure on developed countries to invest a certain amount in agriculture every year. Agreement was reached on this insertion.

The most contentious paragraphs were those calling upon States to increase agricultural assistance and humanitarian assistance. A group of States<sup>18</sup> expressed their wish to remove these paragraphs entirely and replace them with relevant paragraphs from the original resolution passed at the special session on the right to food in May 2008.<sup>19</sup> These paragraphs call on States to increase agricultural development assistance and enhance food production in developing countries. Algeria (on behalf of the African group) requested that these paragraphs be included to expand upon the previous resolution in order to increase its value. Cuba called for agreement on these paragraphs before the deadline for submission of draft resolutions (18 September 2008, noon).

Cuba raised the issue of the reports submitted by the Special Rapporteur on the right to food. It suggested that given the heavy workload of the Special Rapporteur, the two reports due in 2009<sup>20</sup> should be divided, with one to be submitted in 2009 and the other in 2010.

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<sup>17</sup> Turkey, Croatia, Former Yugoslav Republic of Macedonia, Albania, Bosnia-Herzegovina, Montenegro, Serbia, Iceland, Ukraine, Republic of Moldova, Armenia, Georgia.

<sup>18</sup> Germany, Norway, Switzerland, Canada, Mexico.

<sup>19</sup> A/HRC/S-7/1.

<sup>20</sup> The annual report and the report on the follow-up to the special session.

## **Human rights voluntary goals**

Brazil introduced a new draft on human rights voluntary goals. The majority of the draft resolution was met with consensus among the States present. However, there were a few minor points of contention, some of which were resolved during the session; others were left open for further consultations. The most significant re-wording was on the goal to increase cooperation with ‘mandate holders and special procedures, treaty bodies and all mechanisms of the United Nations human rights system’. China expressed its concern with this wording, and New Zealand suggested a re-formulation of this paragraph to read, ‘increased cooperation with all mechanisms of the UN human rights system, including mandate holders, special procedures and treaty bodies’.

China and Cuba urged Brazil to delete specific references to the UPR. This was left open and will be discussed further. Italy (on behalf of the EU), Canada, the USA expressed their reservations on the reference to ‘innovative financing mechanisms’. They suggested deleting this paragraph, whereas Brazil suggested a re-wording. Discussions will continue 18 September 2008.

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