

# HUMAN RIGHTS COUNCIL



FRONTLINE

Hebal Abel Koley is Chairperson of the Borok People's Human Rights Organisation in Tripura, India. He and the other members of the organisation are routinely harassed and intimidated by the authorities. Their office was recently bombed. Protection of human rights defenders was one of the issues discussed by the Human Rights Council.

The Human Rights Council held its 13<sup>th</sup> session from 1 to 26 March. The main session in 2010 saw positive developments with greater State engagement in important discussions and several significant outcomes. Consensus was reached on issues that had previously divided States (torture and the Ad-Hoc Committee on Complementary Standards). Some country resolutions were adopted by greater majority (DPRK and follow-up to 'Goldstone report') and one new one was passed by consensus (Guinea). These outcomes reflect changes in State positions that have long been advocated by those seeking to strengthen the Council's work. States must build on these achievements and avoid the Council falling back into the inertia of block positions.

## INSTITUTIONAL DEVELOPMENTS

State dignitaries made comments on the upcoming review of the Council's work and functioning during the high-level segment.<sup>1</sup> Most comments during the session remained general while many agreed that the UPR could be improved. Of particular note was the United States' (US) comment that it considers the agenda item on the situation in the occupied Palestinian territories 'an aberration' indicating its desire to eliminate Item 7. However, this will have little to no chance of success in the Council.

A recurring issue was the role of the special procedures. There was a clear division of opinion on the independence and conduct of special procedures. Nigeria (on behalf of the African Group) insisted that special procedures strictly abide by the Code of Conduct, and Pakistan, on behalf of the Organisation of the Islamic Conference (OIC), criticised special procedures for 'acting above sovereign States', while South Africa proposed the creation of an 'ethics committee' to monitor implementation of the Code of Conduct. The High Commissioner for Human Rights maintained that the special procedures' Coordinating Committee could ensure its application, while France and Belgium considered that States should be held to a similar code of conduct in their cooperation with special procedures. Undoubtedly, the special procedures will be among the key issues discussed during the review.

<sup>1</sup> The next edition of the *Human Rights Monitor Quarterly* will have an article on the Council's review. Specific proposals touched on the need to base the review on a proper assessment of the Council's work; stricter criteria for membership; accessibility for victims of human rights violations and NGOs from the 'global south'; the Council's capacity to address situations of human rights violations; the role of the Presidency; the relationship of the Council with the General Assembly's Third Committee; the relationship of the Council with OHCHR; the heavy programme of work; the 'disproportionate focus on Israel; avoiding duplication between the UPR and treaty bodies; and the Code of Conduct for special procedures and its implementation. ISHR news piece <http://bit.ly/bgFOxs>.

The President of the Council appointed several new special procedures mandate holders but did not hold 'broad consultations' as required by the Council's institutional framework.<sup>2</sup>

## ANNUAL DIALOGUE WITH THE HIGH COMMISSIONER

The High Commissioner, Ms Navi Pillay, presented her annual report and the 2010-2011 *Strategic and Management Plan* (SMP) for her Office.<sup>3</sup> There was an expectation that the High Commissioner would face criticism for parts of the SMP, in particular its focus on combating impunity, and on non-discrimination including on grounds of sexual orientation.<sup>4</sup> Under these circumstances, it was notable that States were less critical of the High Commissioner than in the past. There were however polarised positions regarding the development of the SMP and the establishment of OHCHR regional offices. Nigeria (on behalf of the African Group), India, China and others considered that the High Commissioner should have consulted the Council before finalising the SMP, while Egypt (on behalf of the Non-Aligned Movement), Pakistan (on behalf of the OIC) and Nigeria (on behalf of the African Group) claimed that the strategic priorities needed to be in line with the 2010-2011 Strategic Framework of the Secretary-General. The United Kingdom (UK), Germany, the Republic of Korea and others<sup>5</sup> instead supported the High Commissioner's operational independence. Ms Pillay responded to concerns in a measured and unperturbed manner, and asserted that she reports to the General Assembly and the Secretary-General.

Algeria and Uzbekistan challenged the basis for establishing national or regional offices without the agreement of all States in the region. Algeria enquired specifically what steps the High Commissioner had taken to consult with concerned States as required by the General Assembly.<sup>6</sup>

States also expressed general support for a UPR follow-up unit in OHCHR; gave positive feedback on OHCHR's proposed role in treaty body reform, and agreed that OHCHR's budget needed to be increased to match its increasing workload. Of particular note was the strong support of a small number of States and a large coalition of NGOs for the High Commissioner's efforts to highlight discrimination on the basis of sexual orientation.<sup>7</sup>

<sup>2</sup> *Resolution 5/11*, para. 52. India, although agreeing on the candidates suggested by the President, objected to the process because the vacancies had been circulated past the set deadline.

<sup>3</sup> ISHR news piece <http://bit.ly/c5SFVVV>.

<sup>4</sup> Both the African Group (through Algeria) and the OIC (through Pakistan) submitted fairly negative comments on the SMP. The letters are available on the OHCHR extranet at <http://bit.ly/9keUK5>.

<sup>5</sup> Spain (EU), Austria, Greece, Ireland.

<sup>6</sup> General Assembly *Resolution 64/243* para. 95 'stresses any that the establishment of any future regional offices of OHCHR requires thorough consultation with all Member States concerned'.

<sup>7</sup> Norway, Chile, Spain (on behalf of the EU). This was set against the African Group's and the OIC's request that the High Commissioner remove all reference to sexual orientation as a ground of

The geographic composition of the staff of OHCHR was again discussed with Cuba, China, Azerbaijan and South Africa complaining about lack of equitable representation. However, Ms Pillay explained in detail the efforts being made and statistics presented showed significant progress. Nevertheless, Cuba presented its traditional resolution, which both France (on behalf of the EU) and the US explained that they would vote against.<sup>8</sup> Despite their opposition, the resolution was once again adopted with a comfortable majority.<sup>9</sup>

Continued attempts at influencing and controlling the High Commissioner's work are likely to be made in the General Assembly as deliberations on Programme 19, the UN's policy framework for its human rights activities, begin later this year.<sup>10</sup>

## THEMATIC AREAS OF FOCUS

At its March 2010 session, the Council held interactive dialogues with 13 special procedures and held six thematic panel discussions.<sup>11</sup>

Prior to the session, some States sought to block consideration of a joint study on 'global practices in relation to secret detention in the context of countering terrorism'<sup>12</sup> undertaken by the Special Rapporteur on the promotion of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on torture, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances.<sup>13</sup> The Council's decision to postpone the consideration of the study, which was regretted by many NGOs and States that had expressed serious concerns about these attempts, at least upheld the legitimate role of special procedures to explore any issue falling under their mandate.

discrimination from the SMP.

<sup>8</sup> Both noted that OHCHR should benefit from the best support from its staff, and that qualifications of staff are more important than geographic representation. France deplored the 'zero-growth cap' on the recruitment of staff from already overrepresented regions, a provision also found in previous resolutions.

<sup>9</sup> 31 in favour, 12 against, and three abstentions. Ghana explained that if it had been present, it would have voted in favour. In 2009, the resolution was adopted by 33 votes in favour, 12 against and two abstentions.

<sup>10</sup> For a summary of the General Assembly's most recent discussion (2008) on Programme 19 and a more detailed explanation of what Programme 19 is and how it is developed, see ISHR's New York Monitor, 63rd session, *Human Rights Council report and the Office of the High Commissioner for Human Rights* and annex on p. 17, available at <http://www.ishr.ch/new-york-monitor/general-assembly>.

<sup>11</sup> For brief summaries of key interactive dialogues see [www.ishr.ch/council](http://www.ishr.ch/council) and for a complete overview of all resolutions adopted, see ISHR's 'Chart of resolutions adopted at the 13th session' available at <http://bit.ly/cpcu0s>. For a list of special procedures reports considered, see ISHR's *Council Alert* for the 13th session. The Council held panel discussions on the economic and financial crises, the draft declaration on human rights education and training, on the rights of persons with disabilities, and two panel discussions on the rights of the child.

<sup>12</sup> A/HRC/13/42.

<sup>13</sup> See ISHR *Council Alert* for the 13th session.

### Protection of human rights defenders: attempts at reopening old debates

The Special Rapporteur on the situation of human rights defenders, Ms Margaret Sekaggya, presented her annual report focusing on security and protection of human rights defenders.<sup>14</sup> She stressed that since the adoption of the Declaration on human rights defenders more than ten years ago violations against human rights defenders have not decreased. Notably, Ms Sekaggya encouraged the Council to urge States to provide information about cases of reprisals against human rights defenders. She regretted the decrease in the response rate to communications by governments and named States that have not responded to her requests for visits.<sup>15</sup> The Special Rapporteur announced that she will focus on women human rights defenders in her next report to the Council.

The report was largely welcomed and many States were alarmed at the criminalisation of human rights defenders' work and their portrayal as 'terrorists, political opponents, and enemies of the State'.<sup>16</sup> However, some States reiterated concerns about the definition of human rights defenders claiming that defenders 'misuse their label' and seek some elevated status for themselves beyond the law.<sup>17</sup> Ms Sekaggya countered that the Declaration already provides a definition of human rights defenders.

However, this question was one of several controversial issues that some States raised during the negotiations of the draft resolution on protection of human rights defenders presented by Norway. It was the first Council resolution on human rights defenders with a specific focus. Despite Norway initiating early, transparent and extensive negotiations, the process proved very difficult and was at times at risk of collapsing as some States sought to rewrite the content of the Declaration and lower or restrict the protection extended to all those working to promote and protect human rights. Several important concessions were made by the main sponsor to reach a compromise acceptable to all States. The resolution is significant in that it urges States to promote a safe and enabling environment for human rights defenders and to acknowledge their legitimate role and important work. It also encourages States to set up a focal point for consultation with human rights defenders and develop early warning systems.

### The role of the legal profession in preventing torture

After long negotiations, the Council adopted without a vote a resolution focusing on the role of judges, prosecutors and

lawyers in the prevention of torture.<sup>18</sup> It marks a continuation of Denmark's approach of developing themed resolutions on torture geared toward practical implementation and builds upon Special Rapporteur on torture, Mr Manfred Novak's conclusion that the primary cause of torture is the malfunctioning of criminal justice systems.

The Special Rapporteur presented his final report to the Council as his term ends in November 2010. The interactive dialogue with Mr Nowak, who has been very outspoken throughout his term, proved less controversial than last year, when he was criticised for examining the death penalty as a form of cruel or inhuman punishment.<sup>19</sup>

Despite the relatively smooth interactive dialogue, the consensual adoption of the resolution was preceded by difficult negotiations.<sup>20</sup> Several States, including the Russian Federation, Pakistan, Algeria and Jordan, were critical of the focus on the 'legal profession', which they claimed did not belong in a resolution on torture. They also objected to independent judicial review of institutional safeguards against torture as being incompatible with their domestic judicial systems. The US objected to the resolution's encouragement of the provision of *habeas corpus* for detainees. The resolution was revised to accommodate these demands, in spite of Switzerland, Norway and Austria's objections that doing so weakened the text.

### Promotion and protection of human rights while countering terrorism

After similarly protracted negotiations the Council also found consensus on a resolution on the 'protection of human rights and fundamental freedoms while countering terrorism'.<sup>21</sup>

The interactive dialogue with the Special Rapporteur on the promotion and protection of human rights while countering terrorism, Mr Martin Scheinin, provoked mixed reactions. Although many States welcomed the focus of his annual report on the right to privacy in the context of countering terrorism, the delay in submitting a compilation report requested by the Council on 'good practices that ensure respect for human rights by intelligence agencies while countering terrorism' caused much dismay.<sup>22</sup> Mr Scheinin explained that he saw it as his right to decide on the focus of his reports, and that due to limited resources he had been unable to draft the compilation report as well.

The criticisms resurfaced during the negotiations of the resolution. Pakistan, India, the Russian Federation, Algeria and

<sup>14</sup> For more information on the interactive dialogue and the negotiations, see <http://bit.ly/8ZNgp5>.

<sup>15</sup> Belarus, Bhutan, Chad, China, Egypt, Equatorial Guinea, India, Kenya, Malaysia, Mozambique, Nepal, Pakistan, the Philippines, Russian Federation, Singapore, Sri Lanka, Syria, Tunisia, Turkmenistan, Uzbekistan, Venezuela, Zimbabwe.

<sup>16</sup> EU, Sweden, Switzerland, Netherlands.

<sup>17</sup> Pakistan (on behalf of the OIC), the Russian Federation, Bangladesh, China, Sri Lanka, Iran, Egypt, Morocco.

<sup>18</sup> *Resolution 13/19*, sponsored by Denmark.

<sup>19</sup> See ISHR's Human Rights Monitor 2009, available at <http://www.ishr.ch/hrm>.

<sup>20</sup> Last year's resolution on torture was adopted by vote for the first time.

<sup>21</sup> *Resolution 13/25*, sponsored by Mexico.

<sup>22</sup> In its *Resolution 10/15* the Council asked for such a compilation report to be presented at its 13th session.

others argued that the resolution should be critical of the Special Rapporteur's delay in submitting the report, and that this should be qualified as 'non-compliance with the mandate'. On the other hand, the US, Lichtenstein, Canada and Sweden (on behalf of the EU) argued that the resolution should focus on encouraging the submission of the report, rather than blaming the Special Rapporteur. The adopted text 'regrets' that the compilation report was not submitted on time but rightfully does not qualify this as 'non-compliance'. As with the joint study on secret detention States sought to construct an argument that special procedures are limited to providing expertise to the Council at its explicit request. This would undermine the system of special procedures and would clearly be inconsistent with the institution-building package.

Although it was the focus of the Special Rapporteur's annual report, the right to privacy in the context of countering terrorism was particularly controversial during the negotiations. Interestingly, it led to an unusual convergence of interests. The US and Egypt suggested simply recalling existing international obligations in this regard, whereas Norway, Lichtenstein and Pakistan (on behalf of the OIC) suggested stronger language, calling for proportionality when restricting privacy rights and judicial review of such restrictions. Coordination and cooperation between special procedures and OHCHR, and the Security Council was another controversial issue, with Norway, Switzerland and the EU encouraging mainstreaming, and China, the Russian Federation and the US objecting to the concept. Prior to the adoption of the resolution, China and Cuba noted their reservations regarding dialogue between the Council, OHCHR and the Security Council.

### Annual focus on children's rights

The Council held its annual full day meeting on the rights of the child with a focus on fighting sexual violence against children, an interactive dialogue with the a Special Representative of the Secretary-General on children in armed conflict, and adopted a thematic resolution following-up on the day of discussion, and a procedural resolution on the drafting of an optional protocol to the *Convention on the Rights of the Child* (CRC).<sup>23</sup>

The negotiation of an optional protocol will be challenging, as diverging opinions continue to exist on a number of substantive issues, including its complementarity with existing procedures and the specificity of a complaint procedure for children.

Next year's annual full day discussion will be on the promotion and protection of the human rights of street children.

<sup>23</sup> For an overview of the first session of the Working Group on the elaboration of an optional protocol to the CRC, see the chapter on Standard Setting in ISHR's *Human Rights Monitor 2009*.

### Changing dynamics on religious intolerance

The controversial initiative on 'defamation of religions' by the OIC and the continuation of the work of the Ad-hoc Committee on Complementary Standards were among the key decisions at this session.<sup>24</sup>

The resolution on 'defamation of religions', traditionally presented by Pakistan (on behalf of the OIC), has long been one of the most divisive issues in the Council,<sup>25</sup> and divisions continued as some supported the draft<sup>26</sup> and others felt the approach was misguided.<sup>27</sup> Although the resolution was still adopted it lost support this year.<sup>28</sup> Argentina, Uruguay, Mexico, Zambia and the Republic of Korea, changed their vote from abstention to against. Only Burkina Faso changed from abstention to in favour. Several States also explained their position with Senegal, which currently chairs the OIC, reaffirming its commitment to freedom of expression while combating intolerance. Japan and Brazil, although they both abstained, expressed strong concerns about the concept of 'defamation of religions'. For the first time, Argentina, Mexico and Uruguay joined Chile in voting against. The shift in positions clearly indicate that opinions on the this issue are changing and could perhaps create the necessary conditions for a more constructive approach to religious intolerance.

The Council also found consensus on a largely procedural resolution on the continued work of the 'Ad-hoc Committee on Complementary Standards' (the Ad-hoc Committee), which hopefully will form the basis for a more constructive atmosphere within the Ad-hoc Committee. However, the fact that France on behalf of the EU 'disassociated' itself from the consensus indicates that this dialogue will continue to be challenging. The next session of the Ad-hoc Committee will take place from 29 November to 10 December 2010.<sup>29</sup>

### Other significant developments

The Council also considered the report of its Advisory Committee, including the draft UN Declaration on human rights education and training. It decided to establish an open-ended intergovernmental Working Group to negotiate finalise and submit the Declaration to the Council for adoption by its 16<sup>th</sup> session.<sup>30</sup>

<sup>24</sup> ISHR news piece at <http://bit.ly/aEiG4V>.

<sup>25</sup> ISHR *Human Rights Monitor 2009*.

<sup>26</sup> Egypt, Libya.

<sup>27</sup> UK on behalf of EU, Mexico, Japan, Norway, Republic of Korea.

<sup>28</sup> This year's vote was 20 in favour, 17 against and eight abstentions, compared to last year: 23 in favour, 11 against and 13 abstentions. Cameroon, Angola and Gabon were not present when the vote was taken, and Cameroon (a member of the OIC) withdrew its co-sponsorship.

<sup>29</sup> ISHR news piece at <http://bit.ly/agYSei>.

<sup>30</sup> See the article on the Advisory Committee in this edition.

For the first time, the Council adopted a resolution on the protection of journalists in armed conflict, which will lead to a panel discussion at the next session in June.<sup>31</sup>

## COUNTRY WORK

The Council's action, and in most cases inaction, on situations of human rights violations has long been one of its most criticised shortcomings.

This session brought some positive developments in this regard, while the Council's action on other situations still fell short of expectations.

The High Commissioner again brought several country situations of concern to the Council's attention.<sup>32</sup> While a number of States shared her concerns,<sup>33</sup> the States in question generally refuted the concerns and no action was taken.<sup>34</sup> Bangladesh even proposed that OHCHR should focus on thematic priorities only to avoid allegations of selectivity.

### Democratic Republic of the Congo (DRC): cooperation on paper only

The situation in the Democratic Republic of the Congo (DRC) was again of concern to the Council as it considered the second report of seven thematic special procedures mandate holders.<sup>35</sup> They advised the Council that 'the human rights situation has not improved since [the] initial report and remains serious.' Accordingly, they recommended the re-establishment of a country mandate on the DRC. The Special Rapporteur on human rights defenders also submitted her mission report and expressed concern about the widespread stigmatisation, threats and arbitrary detention faced by defenders.<sup>36</sup>

The DRC rejected both the findings of the group of seven mandate holders and the Special Rapporteur on human rights defenders. It argued that insufficient technical assistance was a

major obstacle to improving the situation, thus abdicating its primary responsibility. Its claim that the Government was willing to engage was unconvincing under the circumstances.

The Council adopted a resolution on the 'situation of human rights in the DRC and the strengthening of technical cooperation and consultative services' by consensus. Reflecting the unwillingness of the Government to be subject to international scrutiny, the resolution does not establish a dedicated mandate on the DRC, despite strong support from the US, the EU and others. It also fails to introduce coordination mechanism as suggested by Brazil, although the US in an explanation of vote expressed its understanding that the group of special procedures would choose an informal coordinator from amongst themselves.

Interestingly, the resolution requests the Government to develop 'targets and benchmarks' for the assistance it receives to facilitate the implementation of recommendations and to report thereon. The Council also requested a further report by the seven thematic special procedures by March 2011. The current and future reports of the seven special procedures as well as the Government's progress report on the benchmarks should be taken into account when the Security Council considers the extension of the mandate of MONUC.<sup>37</sup>

### Myanmar: calls for greater cooperation

The Council's debate on the report of the Special Rapporteur on the situation of human rights in Myanmar, Mr Tomás Ojea Quintana, was reasonably constructive. Mr Quintana was quite critical of the Government of Myanmar and underlined that in the current environment elections planned for 2010 could not be credible, in particular in the absence of full political participation for all. The Special Rapporteur rejected the Government's claims that 'there are no political prisoners' and the consistent denials of discrimination against the minority Muslim population. Myanmar unsurprisingly rejected most findings, reiterating its claim that 'only people who break the law' are imprisoned.

The Council extended the mandate of the Special Rapporteur for another year.<sup>38</sup> In view of the Government's minimal cooperation with the Special Rapporteur, it was particularly important that the Council urged it 'to continue to respond favourably and on a more timely basis' to visit requests. This set a higher bar for cooperation than the standard language used in most other resolutions. The resolution also urges the implementation of the report's recommendations although not specifically the suggested establishment of a 'commission of inquiry with a specific fact-finding mandate to address the question of international crimes'. The resolution was adopted by consensus, but Japan said 'the resolution could have dem-

<sup>31</sup> Resolution 13/24.

<sup>32</sup> Including Iran, Sri Lanka, Egypt, Australia, Italy, US, and Haiti.

<sup>33</sup> Canada, US, UK, Italy.

<sup>34</sup> Egypt in relation to indiscriminate attacks on civilians on its borders, Sri Lanka in relation to the treatment of human rights defenders (alleging that many use the term to disguise political objectives), Iran in relation to post-election protests, Slovakia in relation to treatment of the Roma.

<sup>35</sup> At its 7th session, the Council requested the Special Rapporteur on violence against women, the Representative of the Secretary-General on the human rights of internally displaced persons, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the right to health, the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises and the Special Representative of the Secretary-General for children and armed conflict to submit to the 10th session a report on technical assistance to the DRC and urgent examination of the situation in the east of the country (A/HRC/10/59). The request was renewed in Resolution 10/33 when the special procedures were requested to report again to the 13th session (A/HRC/13/63).

<sup>36</sup> See <http://bit.ly/ajs3zL> for more information on the dialogue.

<sup>37</sup> See the article on the Security Council in this edition.

<sup>38</sup> Resolution 13/26.

onstrated more balance' and China and India noted their concern, with India 'disassociating' itself from the text.

### DPRK: weaker text but stronger support

The Special Rapporteur on the Democratic People's Republic of Korea (DPRK), Mr Vitit Muntarbhorn, presented his final report to the Council (his mandate will end in July 2010). The Council also considered the UPR outcome on the DPRK.

Many States expressed concerns about the situation in the country and support for renewal of the mandate of the Special Rapporteur.<sup>39</sup> Both Japan and Chile among others stressed that the UPR was not sufficient to address situations such as the DPRK. This analysis was confirmed by the DPRK's refusal to accept any of the 167 UPR recommendations raising serious questions about its cooperation with that mechanism.<sup>40</sup> Some States continued to express opposition to country specific resolutions and mandates in general. They accused the Council of targeting the DPRK for political reasons, with the Russian Federation and Pakistan (on behalf of the OIC) questioning the validity of a country mandate when the Government concerned does not cooperate.<sup>41</sup> These States urged the Council to constructively engage the DPRK, avoid confrontation, and focus on the UPR as the fairest means of promoting and protecting human rights.

The resolution on the DPRK renews the mandate of the Special Rapporteur but is regrettably weak on substance and does not pick up key recommendations from the report, including on the possibility of the International Criminal Court (ICC) addressing impunity enjoyed by 'the power base' in the DPRK.

The resolution was adopted by a slightly wider margin than in the past,<sup>42</sup> as Brazil changed its position from abstention to in favour, and Nigeria from against to abstention.<sup>43</sup> This left Egypt as the only African member to maintain a principled stance against country mandates.

### Occupied Palestinian territories: further follow-up to the Goldstone report

The Council adopted by vote five resolutions on the situation in Palestine and other occupied Arab territories, and State positions were mostly predictable.<sup>44</sup> The discussion on contin-

ued follow up to the 'Goldstone report', the report of the UN Fact-finding mission on the Gaza conflict, reflected usual divergences among States on the Israeli-Palestinian conflict.<sup>45</sup> While the High Commissioner and a number of States, including Chile and Brazil, emphasised the inadequacy of investigations to date by Israel and Palestine, as called for by the Goldstone report, others were mainly critical of Israel.

Despite concerns it would duplicate efforts underway at the General Assembly, Palestine and Pakistan (on behalf of the OIC) presented a resolution on follow-up to the 'Goldstone report', which establishes a Committee of Independent Experts to 'monitor and assess any domestic, legal or other proceedings undertaken, (...) particularly investigations of human rights violations and war crimes'. Israel called the resolution a 'sinkhole' for UN resources, and claimed it was politically motivated. Other States objected that establishing such a committee was premature<sup>46</sup> and were concerned that the fund established by the resolution would only compensate Palestinian victims.<sup>47</sup> However, the resolution was adopted by a larger majority than the Council's first follow-up decision on the Goldstone report. This indicates growing dissatisfaction with the lack of investigative efforts by both parties.<sup>48</sup>

The resolution on the Right of the Palestinian People to Self-determination, which has usually been adopted without a vote, went to a vote this year as the US called for a vote based on its principled opposition to Item 7.<sup>49</sup> The US even opposed the resolution on Israeli settlements in the occupied Palestinian territories including East Jerusalem and in the occupied Syrian Golan, in blatant contradiction of its stated opposition to Israeli settlements.<sup>50</sup>

The Council's handling of the OPT situation remains highly political. In this context, it was not surprising but still disappointing that the US failed to acknowledge the severe and ongoing human rights violations occurring in the OPT and not live up to its own commitment to act on the basis of principle.

### Other country situations

The Council considered the report of the Independent Expert on the situation of human rights in Somalia, Mr Shamsul Bari. In September 2009 the Council extended the Independent Expert for one year, and asked for a mid-term report at this

<sup>39</sup> ISHR news at <http://bit.ly/blfIXm>.

<sup>40</sup> See the article on the UPR in this edition.

<sup>41</sup> DPRK, Syria, Cuba, China, Angola, Sudan, Myanmar, Pakistan (on behalf of the OIC).

<sup>42</sup> Cuba, Egypt, China, Indonesia and the Russian Federation all explained their negative vote, outlining their 'principled' position against country mandates that do not enjoy the support of the country concerned. The resolution was adopted with a vote of 28 in favour, five against and 13 abstentions. In 2009, the resolution was adopted with 26 in favour, six against and 15 abstentions.

<sup>43</sup> Prior to the adoption, Brazil regretted the lack of cooperation by the DPRK with the UPR process and called on it to commit to implementing recommendations made by the Working Group.

<sup>44</sup> See ISHR 'Chart on resolutions adopted at the 13th session' available at

<http://bit.ly/cpcu0s>.

<sup>45</sup> ISHR news piece at <http://bit.ly/c3d1KE>.

<sup>46</sup> Mexico, Japan, the Netherlands.

<sup>47</sup> Argentina, Mexico, Uruguay, and Chile.

<sup>48</sup> The resolution at the 12th special session (HRC/RES/S-12/1) was adopted by 25 votes in favour, six against and 11 abstentions. The follow-up resolution adopted at the 13th session was adopted by 29 in favour, six against and 11 abstentions. Bosnia and Herzegovina, Slovenia, and Uruguay changed their votes from abstention to in favour.

<sup>49</sup> Resolution 13/6, adopted by 45 in favour, one against, with Cameroon being absent.

<sup>50</sup> Resolution 13/7, adopted by 46 in favour and one against (US).

session, which did not receive much attention.

The human rights situation in Guinea was reportedly discussed in the Council's confidential complaint procedure but that did not result in any formal outcome. Rather the African Group presented a draft resolution on strengthening technical cooperation service in Guinea, that also condemns the massacre and serious human rights violations committed there in September 2009. The resolution recognises the efforts of OHCHR to establish an office in the country and invites the High Commissioner to report on the work of her Office and the human rights situation in Guinea in March 2011.

The report requested from the High Commissioner on human rights violations in Honduras following the coup d'état there in June 2009 only received little attention and did not result in any follow-up.<sup>51</sup> Both the report and Colombia (on behalf of GRULAC) suggested that the upcoming UPR in December 2010 would be an opportunity for Honduras to assess progress made in the implementation of the report's recommendations.

During the general debate on Item 4, many States expressed grave concern over the human rights violations in Iran, but the Council again failed to take any action to address that situation.<sup>52</sup> Other situations of serious concern to these States included the DRC, Myanmar, Sri Lanka, and the Sudan. Other country situations highlighted included Belarus, China, Cuba, Darfur (Sudan), the Democratic Republic of the Congo, Ethiopia, Eritrea, Myanmar, Nigeria, Viet Nam, Sri Lanka, Uzbekistan and Zimbabwe.<sup>53</sup> It was the first time States expressed concern about the situation in Cuba since the mandate of the Special Representative on Cuba was discontinued in 2007. It was apparently not a result of any recent negative developments, and somehow left questions about why it was being raised now.

Cuba argued that States imposing 'modern wars of conquest' were hypocritical and resorting to 'distraction tactics' in order to hide their own human rights violations. Those tactics were used by Iran and the DPRK which called attention to the 'alarming human rights situations' in EU States, particularly with respect to minorities and immigrants, and to the attacks on civilians in Iraq and Afghanistan. ■

<sup>51</sup> Resolution 12/14.

<sup>52</sup> France, Norway, Japan, UK, Netherlands, Austria, Denmark, US, Israel, Romania, Australia, Ireland.

<sup>53</sup> Germany.