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Overview	1
Adoption of the Optional Protocol to ICESCR.....	2
Adoption of a declaration on the 60 th anniversary of the UDHR	3
Award of UN Human Rights Prize.....	3
Adoption of over 50 human rights resolutions.....	3
Resolutions adopted by a vote	4
Extrajudicial, summary or arbitrary executions.....	6
Situation of human rights in Iran.....	6
Adoption of resolutions with budget implications.....	7
Statements on sexual orientation and gender identity	8
Annex.....	9
Award of the UN Human Rights Prize 2008	9

Overview

This year's session of the General Assembly (GA) coincided with the celebration of the 60th anniversary of the *Universal Declaration of Human Rights* (UDHR), and a number of significant initiatives were undertaken to mark the occasion. These included the adoption of the Optional Protocol to the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), the adoption of a declaration on the UDHR, and a number of statements on sexual orientation and gender identity. Although some of these initiatives reaffirmed the unifying power of the UDHR, they also exposed the fragile nature of international consensus on human rights issues.

Nonetheless, the General Assembly adopted over 50 resolutions on human rights matters, mostly by consensus. There were only two new initiatives: Cuba's resolution to develop a quota system to achieve equal geographic representation on the UN treaty bodies, and Morocco's resolution to draw attention to the work of Ombudsmen.¹ The General Assembly also approved several resolutions with significant budget implications,

¹ Cuba's resolution (A/C.3/63/L.45) was adopted by a vote. Morocco's resolution (A/C.3/63/L.20) was adopted by consensus. All resolutions and voting sheets from the Third Committee are available at <http://www.un.org/ga/third/63/documentation.shtml>

including two that are designed to enable particular treaty bodies to clear their backlog of reports.² As in previous years, the following resolutions proved the most contentious and in addition to a vote, they were subject to lengthy and at times heated debate: extrajudicial executions, moratorium on the death penalty, follow-up to the Durban Declaration and Program of Action (DDPA), and the human rights situation in Iran. This year also saw new patterns in voting emerge on key resolutions, including the Human Rights Council (the Council) report, the right to development and follow up to the DDPA.

ISHR will publish more detailed reports on the work of the Third Committee of the General Assembly in its *New York Monitor* series, which will be available on line in the New Year at no cost.³ If you would like to receive these reports, please send an email information@ishr.ch with 'New York Monitor' in the subject line.

Adoption of the Optional Protocol to ICESCR

The General Assembly plenary⁴ began its work on human rights issues earlier than usual this year with the adoption by consensus of the Optional Protocol to ICESCR on 10 December 2008,⁵ International Human Rights Day. Portugal, the main sponsor of the resolution, and others worked hard to ensure that its adoption would also serve as a concrete means of celebrating the adoption of the UDHR, sixty years earlier. By the establishment of an individual complaints mechanism under the ICESCR, States sought to give practical effect to the vision of the universality of human rights embodied in the UDHR.

Given the very busy programme of work for the General Assembly on International Human Rights Day, it was agreed in advance that all explanations of position on the Protocol would be deferred until the General Assembly considered other reports of the Third Committee.⁶ This meant that the General Assembly's adoption of the Protocol by consensus occurred in a matter of seconds and was something of an anti-climax for many who had been engaged in the negotiation process over the years. There was brief applause in the General Assembly following the adoption of the Protocol, and both the UN High Commissioner for Human Rights⁷ and 36 of the special procedures of the Council subsequently issued welcoming statements.⁸ All agreed that the Protocol closed an historic gap in the field of human rights. However it is important to note that several States remained sceptical of the ability of the Protocol to improve people's enjoyment of their economic, social and cultural rights.⁹ Nonetheless, these 'sceptics' chose not to block consensus and thereby enabled the adoption of the Protocol on this significant day in the UN calendar.

Looking forward, it is envisaged that a signing ceremony for the Protocol will be held in Geneva, possibly during the high level segment of the 10th session of the Council in March 2009. The Protocol will enter into

² The Committee on the Elimination of Racial Discrimination will meet for an additional week during each of its three annual sessions from August 2009 until 2011 (A/C.3/63/L.53/Rev.1); and the Committee on the Rights of the Child will meet in parallel chambers between October 2009 and January 2011 (A/C.3/63/L.46/Rev.1). Both Committees requested these additional meetings.

³ The themes expected to be covered in these reports include: women and children's rights; civil and political rights; economic, social and cultural rights; the Human Rights Council and the High Commissioner; human rights defenders; country situations; racism; non-State actors.

⁴ The General Assembly plenary normally takes up the reports and recommendations of its subsidiary expert body on human rights issues, the Third Committee, around the third week of December.

⁵ General Assembly *Resolution 63/117* available at <http://www.un.org/Depts/dhl/resguide/r63.shtml>

⁶ Explanations of vote were made on 18 December 2008. Those States that made statements reiterated their positions as expressed in the Third Committee on 18 November 2008. Most of the States who spoke were the so-called 'sceptics' of the Protocol (Canada, UK, USA, Sweden, Turkey, Norway, Denmark). Some (Australia, Argentina) outlined their interpretation of key provisions of the Protocol, and others (Finland, Slovenia, Austria and Algeria) welcomed its adoption.

⁷ Statement by the High Commissioner is available at <http://www.ohchr.org/EN/NewsEvents/Pages/Media.aspx>

⁸ The joint statement by the special procedures dated 10 December 2008 is available at <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/C5486C42747EC60BC125751B005B08B3?opendocument>

⁹ US, UK, Denmark, Norway, Canada, Sweden, Liechtenstein, Poland.

force once it has been ratified by ten States, after which time the Committee on Economic, Social and Cultural Rights will be able to begin receiving communications and initiate its inquiry procedure.

Adoption of a declaration on the 60th anniversary of the UDHR

To commemorate the 60th anniversary of the UDHR, the President of the General Assembly, Mr Miguel D'Escoto Brockmann of Nicaragua, appointed five facilitators to hold consultations on a draft text.¹⁰ The text was designed to be a 'concise statement of what unites the UN Member States over the significance of the UDHR.'¹¹ It also sought to avoid the usual style of UN resolutions, in favour of language that the average person could understand.

The informal negotiations to finalise the text were well attended by States. One point of contention, particularly for the US, was an initial reference to the need to 'continue to strengthen the human rights pillar of the United Nations of which the Human Rights Council and the treaty bodies are an essential part.' After some discussion and a decision not to include a list of the UN's key human rights mechanisms and bodies, the facilitators agreed to modify the text to 'continue to strengthen the human rights pillar of the UN, as we undertook with the creation of the Human Rights Council.' Considerable debate also focused on an initial reference to '[n]o place and country can claim to have fully realised all human rights at all times for all.' This prompted calls from Syria, Palestine and others to replace 'place' with 'territory', which was ultimately accepted.

The Declaration adopted by the General Assembly on 10 December 2008 identified the UDHR as 'a common standard of achievement for all people and all nations' that 'remains a relevant ethical compass ... in addressing the challenges we face today'. States committed themselves to 'internationally agreed development goals'; to do more 'to prevent, stop and redress all human rights violations'; and to 'give everybody a chance to learn about and better understand' their human rights. It also included an oblique reference to human rights defenders, lauding 'the courage and commitment of all women and men around the world who have devoted their lives to promoting and protecting human rights'.

Award of UN Human Rights Prize

Presented every five years by the President of the General Assembly and the High Commissioner for Human Rights, the UN Prize in the Field of Human Rights this prize is for individuals and organisations in recognition of their outstanding contribution to the promotion and protection of human rights and fundamental freedoms.

This year the prize was awarded to: Ms Louise Arbour (Canada), Mr Ramsey Clark (US), Dr Carolyn Gomes (Jamaica), Human Rights Watch (international NGO), Dr Denis Mukwege (Democratic Republic of Congo). Special posthumous awards were also made to: Ms Benazir Bhutto (Pakistan) and Sister Dorothy Stang (Brazil). Refer to the annex to this report for further details.

Adoption of over 50 human rights resolutions

On 18 December 2008, the General Assembly considered the reports of its subsidiary expert body on human rights issues, the Third Committee. The General Assembly endorsed all of the 50 odd resolutions and decisions that the Third Committee had recommended for adoption, with the exception of five resolutions

¹⁰ Representatives of Algeria, Argentina, Azerbaijan, Indonesia and Germany were appointed as the five facilitators.

¹¹ Correspondence from the President of the General Assembly to all Missions, dated 3 December 2008. Not available electronically.

which were delayed as a result of their budget implications. The majority of human rights resolutions were adopted swiftly by consensus.¹²

Although many of these resolutions were duplicative of those of previous years, or in some cases, detracted from substantive debate on current human rights challenges, a number of resolutions adopted by consensus touched on new and important issues. These included topics such as counter-terrorism and the protection of human rights; torture; violence against women; intolerance and discrimination based on religion or belief; the human rights situation in Myanmar and the Democratic People's Republic of Korea; the right to food; the elimination of racism; the use of mercenaries.

Resolutions adopted by a vote

As many had expected, resolutions on the following topics exposed divisions amongst the Member States and recorded votes were requested. All were adopted, and those that were particularly controversial in the General Assembly plenary are italicised and elaborated below.

- Report of the Human Rights Council (A/C.3/63/L.57*) - (121 in favour:7 against¹³:58 abstentions)
- Programme 19 (A/C.3/63/L.79) - (175:3¹⁴:2¹⁵)
- Inadmissibility of practices that contribute to racism (A/C.3/63/L.49) – (129:2¹⁶:54)
- Use of mercenaries (A/C.3/63/L.50/Rev.1) – (125:52:5)
- Right of the Palestinian people to self-determination (A/C.3/63/L.52*) - (173:5:7)
- Equitable geographic distribution in the membership of treaty bodies¹⁷ (A/C.3/63/L.45) – (128:55:2)
- Moratorium on the death penalty (A/C.3/63/L.19/Rev.1) – (106:46:34)
- Defamation of religions (A/C.3/63/L.22/Rev.1) – (86:53:42)
- Globalisation (A/C.3/63/L.28) – (129:54:4¹⁸)
- Right to development (A/C.3/63/L.30/Rev.1) – (182:4¹⁹:2²⁰)
- Human rights and unilateral coercive measures (A/C.3/63/L.31) – (132:54:0)
- *Extrajudicial, summary and arbitrary executions (A/C.3/63/L.35/Rev.1) – (127:0:58)*
- Right to food (A/C.3/63/L.42/Rev.1) – (184:1²¹:0)
- Right to freedom of travel and importance of family reunion (A/C.3/63/L.43) – (121:4:60)
- A democratic and equitable international order (A/C.3/63/L.44) – (124:55:7)
- Situation of human rights in Democratic People's Republic of Korea (A/C.3/63/L. 26) – (94:22:63)
- *Situation of human rights in Iran (A/C.3/63/L.40) – (69:54:57).*

It is significant that voting in the Third Committee and the General Assembly on a number of resolutions differed substantially from previous years. For example, the annual report of the Council and Programme 19 (the Strategic Framework for the Office of the High Commissioner for Human Rights [OHCHR] for 2010-2011) were both adopted by a vote. Although the Council's report was also subject to a vote last year

¹² For more information about all resolutions adopted and records of each vote in the General Assembly plenary, refer to <http://www.un.org/ga/63/resolutions.shtml>

¹³ Australia, Canada, US, Israel, Palau, Micronesia, Marshall Islands.

¹⁴ US, Israel, Marshall Islands.

¹⁵ Australia, Canada.

¹⁶ US, Marshall Islands.

¹⁷ This new initiative by Cuba 'encourages' States Parties to human rights instruments to 'consider and adopt concrete actions' including 'the possible establishment of a quota by region for the election of the membership of each treaty body'. The High Commissioner for Human Rights is requested to 'submit concrete recommendations' to achieve equitable geographic representation at the next session of the General Assembly, based on recommendations from the Chairpersons of the treaty bodies.

¹⁸ Brazil, Chile, Singapore, Timor-Leste.

¹⁹ US, Marshall Islands, Palau, Ukraine.

²⁰ Canada, Israel.

²¹ US.

(167:7:2), the vote this year was markedly different, as the EU and other States abstained (121:7:58 - see below). In the case of Programme 19, it was the first time this document was subject to a vote since the creation of the Council in 2006.

In the case of the Council's report, the vote was called by Israel. Both Israel and the US objected to the Council's 'obsession' with Israel, and its failure to take up serious human rights violations in other parts of the world. As one of the main sponsor's of the resolution, Cuba's oral amendment to the text to only 'acknowledge' the Council's recommendations, rather than 'endorse' them, meant that the Third Committee was not able to allocate financial resources to fund the implementation of the Council's recommendations. This amendment to the text, coupled with procedural and other objections, contributed to the decision of the EU, as well as some Western and Latin American States to abstain from the vote.²² Although this outcome will not impact on the future of the Optional Protocol to ICESCR (which was adopted via a separate resolution), it raises questions about whether and how the Council will implement the two other recommendations that required General Assembly endorsement.²³

In the case of Programme 19, Israel was unable to accept the text of the Strategic Framework due to a reference to follow-up action by OHCHR on the Durban Declaration and Program of Action (DDPA). The US also objected to this reference and after unsuccessfully proposing an oral amendment in the Third Committee to remove any mention of 'Durban', both Israel and the US voted against the resolution. Citing similar reasons, Australia and Canada abstained from the vote, however all four States explained that their vote in no way diminished their strong support for OHCHR. The only difference in the vote on this resolution in the General Assembly was the decision of the Marshall Islands to vote with Israel and the US against the resolution.

In other examples of new voting patterns, the EU, for the first time, joined the majority of States to vote in favour of the resolution on the right to development. Citing improvements in the text and more constructive informal negotiations, the EU was able to change its position from abstention to support. Other Western and some Asian States that had previously abstained also voted in favour of the resolution.²⁴

Finally, the vote on the resolution designed to follow up on the DDPA²⁵ was also different this year, reflecting the growing divisions between the global north and south on the Durban Review Conference, scheduled for April 2009. Last year, the vote in the General Assembly was 105:46:6, as the EU had decided to vote against the text which it found both confrontational and controversial. However this year, the text proposed by the G77 and China was more geared to a consensus outcome, and this, coupled with the increasingly divisive politics surrounding the Durban Review Conference, meant that the EU's vote was split. Rather than voting 'no', most EU members abstained and the resolution was adopted with 109 in favour, 13 against²⁶, and 35 abstentions. This outcome does not auger well for the Council's efforts to prepare for the

²² Amongst the reasons that France (on behalf of the EU) and New Zealand (on behalf of Liechtenstein, Norway and Switzerland) provided for their decision to abstain were: the lack of clarity about which recommendations of the Council the resolution was intended to take action on; and the fact action had already been taken on the recommendation to adopt the Optional Protocol to ICESCR. Both France and New Zealand expressed strong support for the Council. Argentina, Costa Rica and Brazil also abstained.

²³ The Council's report to the General Assembly contained three resolutions that required the General Assembly to take action. *Recommendation 8/2* called for the adoption of the Optional Protocol to ICESCR, and this recommendation was adopted separately in Portugal's resolution (General Assembly *Resolution 63/117*). The other two recommendations were contentious: *Recommendation 9/18* related to follow up on the Council's mission to Beit Hanoun in the Occupied Palestinian Territory, which some States were thought to object to on political grounds; and *Decision 9/103* proposed the creation of an Office of the President of the Council, which some States were thought to object to on financial grounds, given the significant budget expenditure that would be required. The Council's report also contained many other recommendations, which did not require any action by the General Assembly.

²⁴ Australia, New Zealand, Norway, Switzerland, Japan, Republic of Korea.

²⁵ A/C.3/63/L.51/Rev.1.

²⁶ Among the EU States to vote against the resolution were: Czech Republic, Denmark, Poland, Romania, UK.

Review Conference or the High Commissioner for Human Rights' efforts to ensure the broadest possible participation of States therein.

Extrajudicial, summary or arbitrary executions

This had been one of the more controversial resolutions in the Third Committee, where it was adopted 121:0:57. This controversy carried over to the General Assembly when Uganda (on behalf of the OIC) sought to reintroduce amendments it had unsuccessfully proposed in the Third Committee. Its first proposal was to insert a reference to 'peoples under foreign occupation' in operative paragraph 6; a proposal that members of the OIC sought to insert in other resolutions with mixed results.²⁷ In the same paragraph, Uganda also proposed to replace the words 'including sexual orientation' with the word 'whatsoever'. This would have meant that the current list of vulnerable groups would conclude with a generic reference to 'all killings committed for any discriminatory reason whatsoever' – and the reference to 'all killings committed for any discriminatory reason, including sexual orientation' (accepted every year since 2000) would be deleted. This was significant as this resolution remains the only UN resolution to include a specific reference to sexual orientation.

Sweden, as the main sponsor of the resolution, strongly objected to these proposals, particularly because they had been defeated in the Third Committee. It pointed out that the resolution already contained a reference to 'foreign occupation' and defended the inclusion of sexual orientation, arguing that killings based on sexual orientation remain "an extensive problem." Both proposals were voted on separately and defeated: (71:75:23) and (60:78:28). The resolution as a whole was then voted on and adopted (127:0:58).

Situation of human rights in Iran

Many States and human rights defenders were concerned about the passage of this resolution in both the Third Committee and the General Assembly this year. In the last two years in the Third Committee, Iran's proposal of a no-action motion had been defeated by a margin of only one or two votes.²⁸ This year, Iran made a concerted effort to lobby support for the success of a no-action motion and the defeat of the resolution as a whole, just as the US and some NGOs made a concerted effort for the opposite outcome. However, the fact that seven members of the Organisation of Islamic Conference (OIC) did not participate in the vote on the no-action motion in the Third Committee meant that it was defeated by a more comfortable margin this year (71:81:28).²⁹ This boded well for the passage of the resolution as a whole in the Third Committee, which ultimately was similar to last year's vote.³⁰

As soon as the General Assembly began consideration of the resolution, Iran, as expected, called for a no-action motion. It argued that country resolutions were 'unjustified and unwarranted', given the universal periodic review (UPR) process in the Council. It described the Council as the most competent, specialised body within the UN system to deal with country situations, adding that its emphasis on dialogue and co-operation would achieve better human rights outcomes than the confrontational and selective approach inherent in General Assembly resolutions. Iran therefore argued its call for a no-action motion should not be perceived as an effort to shut down debate in the General Assembly. Venezuela and Pakistan made statements in support of Iran's proposal.

²⁷ In the resolution entitled 'Realising the MDGs for persons with disabilities ...' (A/C.3/63/L.3/Rev.1), Uganda (on behalf of the OIC) successfully introduced an oral amendment to add a new preambular paragraph that referred to 'during armed conflicts and foreign occupation'. See paragraph 10 of A/63/424 for the full amendment.

²⁸ In 2006, the vote on the no-action motion was 75:77:24, and in 2007 it was 78:79:24.

²⁹ Bahrain, Gabon, Djibouti, Libya, Maldives, Morocco, Yemen.

³⁰ In 2007, the Third Committee vote was 72:50:55 and in 2008 it was 70:51:60.

Canada (as the main sponsor of the resolution) and Australia (on behalf of other States)³¹ opposed the no-action motion on both procedural and substantive grounds. They pointed out that a no-action motion on this resolution had been defeated in the Third Committee, and seeking such a motion in the General Assembly would only undermine the General Assembly's jurisdiction, as well as the authority of the Third Committee. They argued that the General Assembly must be allowed to consider any resolution recommended to it by the Third Committee, and to consider each resolution on its merits.

The proposal for a no-action motion on the resolution was put to a vote and defeated (69:84:25).

Iran then proposed two oral amendments, on the basis that the resolution was part of a political campaign against it. The first proposed the deletion of operative paragraph 6, which requested the Secretary-General to prepare a report on the human rights situation in Iran for the next session of the General Assembly. The second proposed the deletion of operative paragraph 7, which requested the General Assembly to consider the matter at its next session. Canada and France spoke against these proposals, pointing out that they had not been raised during the Third Committee and it was not appropriate to raise them at this late stage in the plenary. Canada also questioned Iran's opposition to operative paragraph 6, given that Iran was critical of the accuracy of information about its domestic human rights situation. It argued that a report from the Secretary-General specifically addressing this question would provide an up-to-date and accurate picture. France suggested that the lack of progress on human rights in Iran justified the General Assembly's request for a report, and Canada added that it would be odd for the General Assembly not to continue to examine the issue at a future session if it had requested a report from the Secretary-General.

The two oral amendments were voted on separately, and both were defeated (50:72:50 and 50:71:51). The General Assembly then voted on the resolution as a whole and adopted it (69:54:57). This was slightly less support than last year in the General Assembly (73:53:55).

Adoption of resolutions with budget implications

Due to their budget implications, the General Assembly delayed its consideration of the following resolutions until 24 December 2008.³² Details of the budget requirements of each are contained in the Programme Budget Implications (PBI) documents listed below. All but two of the resolutions were adopted by a vote:

- Rights of the child (A/C.3/63/L.16/Rev.1 - PBI in L.69) – adopted (159:1³³:0). The appropriations will allow the extension of the mandate of the Special Representative for Children and Armed Conflict for a further three years.
- Follow up to the Durban Declaration and Program of Action (A/C.3/63/L.51/Rev.1 - PBI in L.70) – adopted (109:13³⁴:35). The appropriations will cover costs related to the Durban Review Conference and its preparations.
- Committee on the Elimination of All Forms of Racial Discrimination (A/C.3/63/L.53/Rev.1 – PBI in L.72) – adopted by consensus. The appropriations will cover additional meetings of the Committee.
- Committee on the Rights of the Child (A/C.3/63/L.46/Rev.1 - PBI in L.61) - adopted by consensus (US disassociated from consensus). The appropriations will enable the Committee to meet in parallel chambers on a temporary basis.
- Situation on human rights in Myanmar (A/C.3/63/L.33 – PBI in L.71) – adopted (80:25:45). The appropriations will cover special political missions, good offices and other political initiatives.

³¹ These included Andorra, Liechtenstein, the Former Yugoslavian Republic of Macedonia, Argentina, Palau, Iceland, San Marino.

³² The UN press release covering this meeting of the GA contains further detail about the adoption of these resolutions and the voting patterns. It is available at <http://www.un.org/News/Press/docs//2008/ga10804.doc.htm>

³³ US.

³⁴ Australia, Canada, Denmark, Czech Republic, Israel, Marshall Islands, Netherlands, New Zealand, Palau, Poland, Romania, UK, US.

Statements on sexual orientation and gender identity

18 December 2008 marked the first occasion on which the General Assembly formally and substantively addressed human rights violations based on sexual orientation and gender identity. Rather than preparing resolutions, States opted to make statements on the theme, which are not legally binding and do not require ‘adoption’ by the General Assembly.³⁵ Prompted by the 60th anniversary of the UDHR and the desire of many States to affirm its basic premise that all human rights apply equally to everyone at all times, the first of these statements was delivered by Argentina. Although many intended this statement to “...make debate about human rights and sexual orientation commonplace at the UN” and to “eliminate the taboo that surrounds the problem,”³⁶ it also proved to be the source of division. It elicited a strong response from the OIC, many African States and the Holy See, and prompted Syria to deliver a counter-statement in the General Assembly. Statements from the Holy See, the Russian Federation and Belarus were also delivered in the General Assembly.³⁷

Argentina’s statement represented the strongest text on sexual orientation and gender identity yet to be considered in the General Assembly. Initiated by France, and coordinated by States from four continents,³⁸ the statement was co-sponsored by 66 States from around the world.³⁹ It affirmed that the principle of non-discrimination applied equally to every human being regardless of their sexual orientation or gender identity, and ‘condemned’ human rights violations based on orientation and gender identity, particularly the use of the death penalty and torture, and the deprivation of economic, social and cultural rights, such as the right to health. Further, the statement advocated the worldwide repeal of criminal penalties on the basis of orientation and gender identity, including execution, arrest and detention. It also called for the perpetrators of human rights abuses to be held accountable and emphasised the importance of protecting human rights defenders working on issues of sexual orientation and gender identity.

Syria’s counter-statement, largely orchestrated by Egypt, was co-sponsored by 57 States.⁴⁰ It questioned the ‘so-called notions of “sexual orientation” and “gender identity”’ and expressed ‘serious concern’ at the attempt to introduce these ‘ominous’ concepts into the United Nations. The co-sponsors asserted that not only did these concepts ‘have no legal foundations in any human rights instrument’, but recognition of them could usher in the ‘social normalisation, and possibly the legitimisation of many deplorable acts including

³⁵ According to the GA’s Rules of Procedure (Rule 68), any State can ask to make a statement on any issue that is relevant to the agenda item being discussed, so long as it is within the scope of the UN Charter. All of the SOGI statements were delivered under agenda item 64(b) ‘Promotion and protection of human rights: alternative approaches for improving human rights’.

³⁶ Statement by Dutch Minister for Foreign Affairs, Maxime Verhagen, at a high-level side event at the UN on 18 December 2008.

³⁷ Russia cautioned against the General Assembly considering any topic that exposed division or fostered confrontation amongst States. Belarus expressed its preference for these ‘sensitive’ issues to be approached in a more ‘prudent’ and less ‘hasty’ manner.

³⁸ Argentina, Brazil, Croatia, France, Gabon, Japan, the Netherlands, Norway.

³⁹ Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Cape Verde, Central African Republic, Chile, Colombia, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guinea-Bissau, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Montenegro, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Paraguay, Poland, Portugal, Romania, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, United Kingdom, Uruguay, Venezuela.

⁴⁰ Afghanistan, Algeria, Bahrain, Bangladesh, Benin, Brunei Darussalam, Cameroon, Chad, Comoros, Côte d’Ivoire, Democratic People’s Republic of Korea, Djibouti, Egypt, Eritrea, Ethiopia, Fiji, Gambia, Guinea, Indonesia, Iran, Iraq, Jordan, Kazakhstan, Kenya, Kuwait, Lebanon, Libyan Arab Jamahiriya, Malawi, Malaysia, Maldives, Mali, Mauritania, Morocco, Niger, Nigeria, Oman, Pakistan, Qatar, Rwanda, Saint Lucia, Saudi Arabia, Senegal, Sierra Leone, Solomon Islands, Somalia, Sudan, Swaziland, Syrian Arab Republic, Tajikistan, Togo, Tunisia, Turkmenistan, Uganda, United Arab Emirates, United Republic of Tanzania, Yemen, and Zimbabwe.

paedophilia'.⁴¹ Further, such attempts to 'create "new rights" ...by misinterpreting the Universal Declaration and international treaties ...[could] seriously jeopardise the entire international human rights framework'. States were urged to 'refrain from attempting to give priority to the rights of certain individuals, which could result in positive discrimination at the expense of others' rights.' Instead, they were encouraged to devote special attention to protect the family as 'the natural and fundamental group unit of society'. On a more positive note, Syria's statement 'strongly deplore[d] all forms of stereotyping, exclusion, stigmatisation, prejudice, intolerance, discrimination and violence' directed at any person on any ground, anywhere.

The Holy See had at first voiced strong opposition to the statement that was ultimately read by Argentina. However, following lobbying by human rights defenders around the world, it tempered its message to the General Assembly on 18 December. Like Syria, the Holy See expressed the view that the categories of 'sexual orientation' and 'gender identity' had no clear definition in international law and would create 'uncertainty in the law and challenge existing human rights norms'. However, it went on to condemn all forms of violence against 'homosexual persons' and called on all States to 'do away with' criminal penalties against homosexuals, indicating a significant step forward in its official position on this matter.⁴²

The High Commissioner for Human Rights, Ms Navanetham Pillay, also added her voice to the discussion. She delivered a video statement at a lunchtime high-level side event to express her 'absolute support' for the statement delivered by Argentina.⁴³ She pointed out that evolving jurisprudence renders 'untenable' the argument that international human rights law does not recognise discrimination on the basis of SOGI. Further, she criticised those States that 'continue to criminalise sexual relations between consenting adults of the same sex in defiance of established human rights law' and declared that the UN 'must now show leadership' and 'secure the climate for implementation' of the principles of universality and non-discrimination as expressed in the UDHR.

Although it is clear that much work remains to be done to achieve the 'climate of implementation' that the High Commissioner advocated, it is important to note that no State took issue with the principle that all persons should be equally protected from discrimination and violence. This opens the way for the international community to begin to address this longstanding deficiency in the international human rights protection system, and to engage with lesbian, gay, bisexual, transgender and intersex people in an inclusive, respectful and constructive manner. It now remains to be seen how the General Assembly will take up this challenge in the future, and in particular, many will be watching those most powerful and populated States that chose not to sponsor either the Argentine or the Syrian statement.⁴⁴

Annex

Award of the UN Human Rights Prize 2008

The 2008 UN Prize in the Field of Human Rights was awarded to:

1. Ms. Louise Arbour, former High Commissioner for Human Rights from 2004 until 2008, and former Chief Prosecutor for the International Criminal Tribunals for the former Yugoslavia and Rwanda.

⁴¹ Presumably in an effort to attract more co-sponsors, the text was amended to delete the reference to 'bestiality, or even incest' as other possible consequences of the recognition of discrimination on the basis of SOGI.

⁴² In the past, the Vatican has opposed to the decriminalisation of sexual relations between consenting adults of the same sex.

⁴³ The side event was jointly hosted by the Missions of France, the Netherlands, Argentina, Brazil, Croatia, Gabon and Norway. It was chaired by the Secretary-General of the International Lesbian and Gay Association, Ms Gloria Careaga, and involved speakers from a broad range of States, the High Commissioner for Human Rights, as well as LGBTI activists and human rights defenders from around the world.

⁴⁴ China, India, Russian Federation, South Africa, US.

2. Mr. Ramsey Clark, former United States Attorney-General and rule of law advocate, who played a key role in the civil rights and peace movements in the US, and more recently spoke out against abuses committed in the name of ‘counter-terrorism’.
3. Dr. Carolyn Gomes, co-founder of Jamaicans for Justice, the premier human rights advocacy group in Jamaica, which defends marginalised groups in that country against abuses of the criminal judicial system and other violations of civil rights.
4. Human Rights Watch, one of the world’s leading independent organisations dedicated to defending and protecting human rights, which has been operating for 30 years.
5. Dr. Denis Mukwege, co-founder and director of the General Referral Hospital of Panzi, in Bukavu, South Kivu, in the Democratic Republic of Congo, which treats victims of sexual violence.

Special posthumous awards were given to:

1. Ms. Benazir Bhutto, elected Prime Minister of Pakistan in 1988 and 1993. Regarded as an ardent advocate for democracy and human rights, Ms Bhutto was assassinated following a political rally in December 2007; and
2. Sister Dorothy Stang, of the Sisters of Notre Dame de Namur. Despite numerous death threats, Sister Dorothy defended the rights of the poor, landless and indigenous populations of the Anapu region of Brazil for nearly forty years. She was murdered in 2005 in Anapu, Brazil.

NEW YORK MONITOR STAFF

Michelle Evans, Representative to the UN, New York
Vanessa Jackson, Human Rights Officer, New York

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