

# COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

## COUNCIL UPDATE – ITEM 3 GENERAL DEBATE ON ITEM 3, INCLUDING THE WORKING GROUP ON THE RIGHT TO DEVELOPMENT HUMAN RIGHTS COUNCIL, 12<sup>TH</sup> SESSION 18 AND 22 SEPTEMBER 2009

Overview .....	1
Presentation of report of the Working Group on the right to development .....	1
General debate on Item 3 .....	2
Rights of reply .....	4
Further information.....	4

### Overview

The general debate on Item 3, on the promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, took place on the afternoon of 18 September 2009 and continued on the morning of 22 September. A total of 22 States and over 30 NGOs spoke, with a general focus on the report of the Working Group on the right to development. Issues raised included the Working Group's recommendations on the need to better measure implementation of the right, included through the development of revised criteria for measurement. Other thematic issues raised by States included freedom of expression and the protection of journalists, including in conflict areas, freedom of religious belief and communal violence, human rights and 'traditional values', human rights and HIV/AIDs, the protection of human rights defenders from reprisals, and climate change and human rights.

### Presentation of report of the Working Group on the right to development

On 18 September Ms Mona Rishmawi, Officer in charge of the Research and Right to Development Division in the Office of the High Commissioner for Human Rights (OHCHR), presented the report of the Working Group on the right to development on behalf of the Special Rapporteur Dr Arjun Sengupta. In his statement, Dr Sengupta drew attention to the conclusions and recommendations of the 10<sup>th</sup> session of the Working Group as contained in paragraphs 40 to 48 of the Working Group report.<sup>1</sup> He chose to highlight two overarching recommendations; firstly that the task force shift its focus from pilot-testing the criteria to measuring implementation of the right to development and consolidating its findings. This would lead to presenting a revised list of criteria along with corresponding operational sub-criteria, as well as suggestions

<sup>1</sup> Report of the Working Group on the right to development, A/HRC/12/28, available at [http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-28\\_E.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-28_E.pdf)

for future work, for the consideration of the Working Group at its 11<sup>th</sup> session in 2010. The second recommendation proposed by the task force is that the revised criteria and sub-criteria should address concerns of the international community beyond those enumerated in Millennium Development Goal 8 and cover the essential features of the right to development, as defined in the *UN Declaration of the Right to Development*, in a comprehensive and coherent way.

### General debate on Item 3

Both Nigeria, on behalf of the African Group, and Pakistan, on behalf of the Organisation of the Islamic Conference, raised concern that there has been little progress since the adoption of the *Declaration on the Right to Development*<sup>2</sup> and the Millennium Development Goals (MDGs), and that trade relations continued to impact negatively on developing countries, perpetuating mass poverty and inequality. It called for urgent special measures to address this. Angola also linked development to peoples' right to self-determination, stating that developing States cannot participate in a free market economy when being 'crushed by the burden of debt', while Ghana declared that the current international order, lacking in solidarity, will continue to make it difficult for developing countries to meet their people's needs. Slovenia and Yemen drew parallels between the financial crisis and the increase in the severity of economic and social rights violations. Tunisia, on behalf of the Arab Group, commended the efforts of the Office of the High Commissioner for Human Rights (OHCHR) in taking steps to better realise the right to development, and stated its favour for the adoption of new norms to include issues such as the impact of climate change. The Arab Group also sought a reaffirmation from the Council of its commitment to the right to development.

Egypt, on behalf of the Non-Aligned Movement, and others<sup>3</sup> welcomed the recent **recommendations of the Working Group** and agreed that criteria for measuring the right needed to go beyond the limited scope of the MDGs. Pakistan (on behalf of the OIC) proposed that the Working Group should focus on the implementation of the right, and that it was time for creation of the high-level task force to develop revised criteria in this regard. The United States also thanked the Working Group, expressing that though their views may differ from others on the scope of this right, they will endeavour to take part in the process.

Sweden, on behalf of the European Union, began by expressing its **support for the UN human rights treaty bodies and special procedures** as essential mechanisms in promoting human rights, and called on States to cooperate fully, including through permitting country visits of special procedures. It listed a number of priority thematic concerns, including first **freedom of expression**, without which, it declared, freedom 'does not stand a chance', and States must accordingly protect journalists and the public's right to open debate. Norway also focused on expression as fundamental to the protection of human rights, good governance and economic development, proclaiming that there had never been a famine in a country with a free press and open elections. It expressed strong concern at the trend for shutting out media from conflict areas, and its support for organisations that assist writers and journalists in exile, as well as support for the mandate of the Special Rapporteur on freedom of expression. Denmark also linked freedom of expression as a key element in the manifestation of **freedom of religious belief**, claiming that all must be able to express their views in order to 'build bridges across cultures and religions'. Franciscans International addressed the issue of communal violence in the state of Orissa in India, and urged States through the Council to provide better protection for religious minorities that come under attack.

Sweden also expressed the European Union's commitment to the protection of the rights of the child, welcoming the new Special Rapporteur on violence against **children**. Slovenia also welcomed the creation of a Working Group to consider the elaboration of a complaints procedure under the *Convention on the Rights of the Child* as an important means to increase access to justice. Sweden and Al-Hakim Foundation drew

---

<sup>2</sup> Gabon also criticised the fact that '23 years later nothing has been done'.

<sup>3</sup> Tunisia (on behalf of the Arab Group), Holy See.

particular attention to domestic and sexual violence against women, and Sweden welcomed the appointment of the new Special Rapporteur on violence against **women**. Italy stated that more coordinated action was required by governments, international organisations and civil society in this regard.

Sweden concluded by stating that **human rights defenders** need strongest protection and support, including from **reprisals** on account of their work. The Asian Legal Resource Centre provided a list of recent examples of harassment of human rights defenders in the course of their work in Pakistan, Indonesia and the Philippines, and noted that every attack on human rights defenders further penalises the victims that defenders are aiming to assist.

In line with its attempts to introduce a new resolution on ‘**traditional values and human rights**’, the Russian Federation claimed that one obstacle to fully realising human rights is the perception that human rights are an attempt from outside to impose foreign values. However, rights are inherent and reflect the ‘lasting traditional values of humankind’. Denmark highlighted **discrimination against LGBT persons** as ‘very regrettable’ in 2009, and reminded the Council of the statement by 66 States affirming that human rights apply to all persons irrespective of their sexual orientation, which must not therefore be a grounds for criminal prosecution.

The Maldives uses the general debate to inform the Council that it found the Council’s previous panel debate on **climate change** useful in identifying link with human rights, especially in protecting the most vulnerable.<sup>4</sup> They claimed that they were less clear on the outcomes regarding national and extraterritorial obligations, and the balancing of the two, but they were nonetheless pleased and would carry these outcomes in the Copenhagen Summit on Climate Change in November. They would then decide on next steps in Geneva.

Portugal and the International Commission of Jurists (ICJ) both highlighted the opening for signature of the **Optional Protocol to the *International Covenant on Economic, Social and Cultural Rights*** in New York on 24 September as a significant development in redressing the historic imbalance of a hierarchy of rights, and called upon States that have not yet considered ratification to do so. The ICJ estimated nine signatures on the opening day.

NGOs raised a number of important issues not addressed by States. Human Rights Watch and Conectas addressed the protection of human rights in the context of **HIV/AIDs**, with Human Rights Watch listing means by which those affected are marginalised and denied access to services, while Conectas called upon developed countries to address the impact of intellectual property restrictions on access to essential medicines and to halt seizure of medicines.

Both the Friends of the World Council of Churches and Conscience and Peace Tax International informed the Council of the recent minute of the World Council of Churches on the **right to conscientious objection**, and called upon States to apply their conclusions, including in relation to objection to taxes that support the military.

Other issues raised in the general debate included: the right to self-determination in Kashmir<sup>5</sup>, Western Sahara<sup>6</sup> and elsewhere,<sup>7</sup> the right to food and the global economic crisis (African Union), caste based discrimination in India and Nepal, trends toward the abolition of the death penalty as an enhancement of human dignity (Italy), national efforts to counter terrorism (Spain), the right to water as a public domain and the outcomes of a African ministerial meeting on water (Senegal), contemporary slavery in Mauritania (World Association of Education) and forced labour in Argentina (Permanent Assembly for Human Rights),

---

<sup>4</sup> Also raised by Nord Sud 21.

<sup>5</sup> Pakistan, World Muslim Congress, International Human Rights Association of American Minorities.

<sup>6</sup> Algeria and Morocco.

<sup>7</sup> Interfaith International.

maternal mortality in Sierra Leone (Amnesty International), child rights in armed conflict,<sup>8</sup> and the treatment of indigenous peoples in Bolivia (Indian Council of South America) and the Mapuche in Chile (International Association against Torture).

### Rights of reply

Algeria and Morocco both exercised rights of reply relating to their respective interpretations of the right to self-determination, with Algeria first referring to the right as enshrined in successive General Assembly resolutions as ‘inalienable’ and ‘permanent’. Morocco responded that Algeria persists in interpreting the right in isolation, and that it fails to understand that the UN Charter needs to read as whole. Morocco then attacked France Liberte for ‘lacking intellectual integrity once again’ and for ‘now just reading out declarations written by others’.

Sri Lanka also used its right of reply to challenge its perceived ‘destructive agendas’ of a number of NGOs, and in a convoluted manner referred back to previous comments by Norway about permissible limitations of incitement to hatred by alleging that NGOs are spreading falsehoods that incite hatred against countries that fight terrorism while upholding human rights, and that the Council should not dignify these attempts. It also alleged that the European Union no longer adhered to the principle of condemning the bearing of false witness, but this is something that Sri Lanka and others should come to expect in the ‘modern age’.

### Further information

For further information on the Human Rights Council, please consult the following resources:

- Follow ISHR on Twitter: [@ishr\\_geneva](https://twitter.com/ishr_geneva).
- Web site of the International Service for Human Rights, providing up-to-date information before, during and after sessions of the Council: <http://www.ishr.ch/council>. During the session, ISHR will provide information about the Council’s proceedings on a regular but not daily basis. You can subscribe to receive alerts of our publications by sending an email to [information@ishr.ch](mailto:information@ishr.ch).
- Oral statements made at the Council, as well as other informal documents and draft resolutions are available on the ‘OHCHR extranet’ at <http://portal.ohchr.org/portal/page/portal/HRCExtranet>. Username: ‘hrc extranet’ Password: ‘1session’.
- Web site of the Office of the High Commissioner for Human Rights (OHCHR) on the 12<sup>th</sup> session of the Human Rights Council: <http://www2.ohchr.org/english/bodies/hrcouncil/12session>. For direct access to reports considered, check <http://www2.ohchr.org/english/bodies/hrcouncil/12session/reports.htm>.

*NGOs and human rights defenders seeking more specific information or individual advice on the Council session, please contact the ISHR secretariat by email or phone at +41 (0) 22 919 71 00.*

---

<sup>8</sup> International Institute for Peace, European Union for Public Relations.

## **COUNCIL MONITOR STAFF**

**Eléonore Dziurzynski**, Communications Officer  
**Michael Ineichen**, Human Rights Officer  
**Gareth Sweeney**, Deputy Manager  
**Katrine Thomasen**, Manager International Programme

## **CONTRIBUTORS**

**Felice Drott**, Intern  
**Jade Johnston**, Intern  
**Mabel Kirabo Kiggundu**, Intern  
**Isabella Ries**, Intern  
**Peter Tubman**, Intern  
**Katelan Wick**, Intern

## **ABOUT THE PUBLICATION**

The Council Monitor forms part of the Human Rights Monitor Series produced by ISHR. It provides you with information about all the key developments at the Human Rights Council, including Daily Updates during the session of the Council, an Overview of the session, briefings and updates on the major issues of concern in the transition from the Commission on Human Rights to the Council and other key reports. It is currently an online publication that can be found at [www.ishr.ch](http://www.ishr.ch).

## **SUBSCRIPTION**

If you wish to receive the Council Monitor Daily Updates by e-mail during the Council session, please e-mail [information@ishr.ch](mailto:information@ishr.ch) with 'subscribe' in the subject line. Your e-mail address and personal information will not be shared or sold to any third parties. We may from time to time send you a notification about other publications in the Human Rights Monitor Series that you may be interested in downloading or subscribing to.

## **COPYRIGHT, DISTRIBUTION AND USE**

Copyright © 2009 International Service for Human Rights. Material from this publication may be reproduced for training, teaching or other non-commercial purposes as long as ISHR is fully acknowledged. You can also distribute this publication and link to it from your website as long as ISHR is fully acknowledged as the source. No part of this publication may be reproduced for any commercial purpose without the prior express permission of the copyright holders. ISHR accepts no responsibility for any inaccuracies arising from or connected to unapproved or unofficial translations of its publications or parts thereof.

## **DISCLAIMER**

While every effort has been made to ensure the accuracy and reliability of the information contained in this publication, ISHR does not guarantee, and accepts no legal liability whatsoever arising from any possible mistakes in the information reported on, or any use of this publication. We are however happy to correct any errors you may come across so please notify [information@ishr.ch](mailto:information@ishr.ch).