

COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

COUNCIL UPDATE – ITEM 8 HUMAN RIGHTS COUNCIL, 12TH SESSION 30 SEPTEMBER 2009

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Overview

The general debate under Item 8 on follow-up to the Vienna Declaration and Programme of Action was dominated by the Russian Federation's resolution on 'traditional values'. Although States appeared to be reluctant at this stage to criticise its content and apparent intent to allow States to invoke undefined 'traditional values' as a justification for violating human rights, NGOs were far more forthright in their criticism, calling on States to condemn all manoeuvres that seek to roll back on internationally agreed standards, and calling on the Council to 'get back to the business of human rights'.

General debate on Item 8

The Russian Federation introduced its **draft resolution on traditional values**¹ in an obtuse manner by claiming that such (undefined) traditional values could have a 'powerful unifying potential' in bringing civilisations together, and to this end it was important to bring into play the moral and ethical components of human rights standards. It stated that recently it has heard talk of cultural diversity being an obstacle to human rights, and that States must take into account national and regional specificities when assessing human rights protection and promotion. It concluded that norms regulating human rights should be based on values, traditions and customs which are in harmony with them.

Human Rights Watch was the first NGO to criticise the resolution, stating that it failed to acknowledge that human rights violations are often defended by invoking traditional values. It could not see what made a value 'traditional', and stated that defining such concepts was not the work of the Council. What certain people may consider 'traditional' may in fact stand in opposition to human rights, and it stressed that in such instances rights must supersede traditions. It used the example of women's rights as rights that have been, and still are, considered to be contrary to traditional values.

In a joint statement,² COC Netherlands directed its criticism more squarely at the current draft resolution as 'divisive...polarizing and [something that] risks diminishing respect for the Council'. It noted the irony that this

¹ A/HRC/12/L.13.

² European Region of the International Lesbian and Gay Association (ILGA-EUROPE), Federatie van Nederlandse Verenigingen tot Integratie van Homoseksualiteit COC Nederland.

was being tabled under Item 8, as paragraph 38 the Vienna Declaration imposes upon States the positive obligation to eliminate ‘the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism’. Re-iterating the risk of invoking traditional values to violate human rights, it proclaimed that none of the reasons advanced by the Russian Federation for the resolution stood up under scrutiny, and it requested to know why the resolution did not use ‘universal values’ or ‘common values’ to address this point. It stated that the concept of ‘traditional values’ was impossible to define, and that the Council was ‘a council of human rights, not a council of tradition’.

Action Canada for Population and Development stated that some still advance ‘so-called tradition’ for the wrong reasons, such as claiming that combating marital rape contravenes traditional notions of a woman’s duty to obey her husband, and it called on the Council to oppose this resolution as ‘we know from our history and current struggles that tradition is a mixed set of values that could be used to block attempts to end human rights violations’. The Canadian HIV/AIDS Legal Network also noted that the Russian Orthodox Church has begun to interfere in secular affairs in recent years, including event at the Council on cultural rights where the patriarch of the Russian Orthodox church referred to ‘homosexual attitudes’ as ‘destructive for the institution of family’, and the NGO urged the Russian Federation to reaffirm universal values rather than using the language of traditional values. Forum Asia also urged that the ‘Council should not be seen as promoting such harmful practices by endorsing an ill-defined notion of “traditional values”’, and that any adoption would constitute ‘an enormous setback in the realization of human rights and for those who have fought and struggled against the “Asian values”³ doctrine.’

The Russian Federation did not respond to any of these criticisms.

The **protection of human rights defenders** was another prevalent topic of discussion during the general debate. States and NGOs expressed concern for the safety of human rights defenders in Guinea, the Russian Federation, and Gambia.

Amnesty International drew attention to recent controversial comments made by the President of Gambia, in which he openly threatened the lives of human rights defenders in the country. It added that the Council should urge the President to retract the statement and to call for access for defenders and observers in order to investigate the human rights situation in the country. Norway also expressed serious concern over these statements and urged the Government of Gambia to hold accountable anyone responsible for acts of violence, intimidation or discrimination against human rights defenders. Sweden, on behalf of the European Union (EU), pointed out that the Vienna Declaration highlights the role of civil society in ensuring respect and promotion of human rights. It drew attention to the dangerous situation for human rights defenders in Guinea and urged the current leadership to respect human rights and ‘allow a return to democracy and constitutional order’. Norway echoed this call to respect human rights and restore democracy, adding a request to governments all over the world to do more to protect human rights defenders. The International Commission of Jurists highlighted the dangerous situation for human rights defenders in the Northern Caucasus and urged the Government of the Russian Federation to comply with its international obligations to identify those responsible for recent attacks against human rights defenders and bring them to justice.

The **human rights of women** was a theme throughout much of the debate. Some NGOs drew attention to specific human rights issues effecting women throughout the world. For example, The Association for World Education urged the Council to take action against practices contrary to human rights such as female genital mutilation in Egypt and child marriage in Iran. The International Humanist and Ethical Union expressed serious concern about the high occurrence of rape in Iranian prisons and called upon the Council to condemn ‘barbaric punishments’ against women in Iran.

³ Forum Asia statement: ‘It is our view that this draft resolution is a reprise of the vague doctrine of “Asian values” that has been pushed forward and advocated for by several Asian States including the member States of the Association of Southeast Asian Nations (ASEAN). They have maintained that the universality of human rights is subordinate to the values that are particularly unique to the Asian region. Many governments in Asia often adopt a culturally relativist approach to justify poor human rights records, excuse specific human rights violations, and avoid taking a stance on the human rights records of neighboring countries.’

Many States and NGOs emphasised the importance of **integration of a gender perspective** in the work of the Council and encouraged the Council to make the protection of the rights of women a high priority. States and NGOs were generally supportive of recent efforts from the Council and other UN bodies towards these ends, but called for further action. Belarus commended OHCHR on its recent report concerning the integration of human rights of women into the UN system and suggested that the Council, within the context of the UPR, give more attention to the efforts of States to counter human trafficking. The Center for Women’s Global Leadership expressed support for the General Assembly’s adoption of *Resolution 63/311* (14 September 2009) creating a gender equality entity, but urged the Council to do more to deepen the inclusion of a gender perspective in its work. Some participants in the dialogue also drew attention to the link between women’s empowerment and development⁴ and the importance of reforming legal systems denying equality between men and women.⁵ The United States reminded the Council of the Vienna Declaration’s proclamation that the human rights of women should form an integral part of the UN’s human rights activities, including the promotion of all human rights instruments relating to women.

Slovenia was met with disapproval by some States after delivering a statement expressing concern about specific human rights violations in several countries. Slovenia denounced executions of minors in Iran, violations of rights of civilians affected by armed conflict in Sri Lanka, the recruitment of child soldiers in the Democratic Republic of Congo, ‘gross and systematic violations of human rights’ in Somalia, ‘grave violations’ of human rights in the Sudan, and ‘the situation of prisoners of consciousness’ in Myanmar.

Sri Lanka, the Sudan and Iran exercised their right of reply to Slovenia’s statement. Each State categorically denied Slovenia’s allegations of human rights violations in their respective countries and questioned the accuracy of Slovenia’s information. Sri Lanka insisted that there are no civilians in the State associated with armed forces, as asserted by Slovenia, and asked that Slovenia update its information on the ‘former conflict’ before making comments on such sensitive and complex matters. The Sudan stated that it was sorry to hear Slovenia’s incorrect and misleading information. It asserted that ‘all regional and UN reports’ show improvement in the human rights situation in the Sudan, although it neglected to specify which reports it was referring to or elaborate on any specific improvements in the human rights situation in the country. Iran claimed that Slovenia’s accusations of executions of minors in Iran were unsubstantiated because there has been ‘no recent execution’ of a minor under the age of 18 in Iran. Both Iran and Sri Lanka objected to Slovenia’s statements on the additional grounds that country situations are only appropriate for discussion during the Item 4 debate. The President of the Council did not specifically comment on whether or not Slovenia’s statement was relevant to the Item 8 debate, although he did make several statements throughout the debate urging participants in the discussion to carefully contextualise their comments to the item under discussion.

Also of note was Thailand’s announcement of the establishment of a new regional human rights mechanism. Thailand, on behalf of the Association of Southeast Nations (ASEAN), highlighted the Vienna Declaration’s call to States to strengthen regional arrangements for the promotion and protection of human rights and to consider the possibility of establishing regional and sub-regional arrangements where they do not already exist. Thailand then announced the recent establishment of the **ASEAN Intergovernmental Commission on Human Rights**, which is the first regional human rights mechanism in that region. Thailand explained that the regional body would be formally launched during the ASEAN Summit in Hua Hin, Thailand during October of 2009. The International Coordinating Committee (ICC) of National Human Rights Institutions welcomed the establishment of a human rights mechanism in the ASEAN region and emphasised the importance of the establishment of the Commission as a ‘truly independent, impartial, expert-driven and well-resourced’ human rights mechanism. Furthermore, it expressed concern about the absence of a clear protection mandate in the current terms of reference and emphasised the importance of ensuring that the Commission would be supported by a separate, permanent Secretariat to guarantee its independence.

⁴ Indian Council of Education.

⁵ European Union for Public Relations.

The International Service for Human Rights drew attention to the importance of preservation and strengthening of special procedures. It highlighted the importance of special procedures as a link between the Council and human rights defenders around the world and pointed out that all States committed to full cooperation with special procedures and mechanisms with the adoption of the Vienna Declaration. The International Service for Human Rights then drew attention to States' low response rate to communications and requests for visits by mandate holders and urged the Council to find ways to encourage States to cooperate with special procedures. To this end, it suggested that the Council hold a panel discussion on the topic, to be followed by an annual Council assessment of State cooperation with special procedures. It then called upon all States to enhance cooperation with special procedures in all aspects of their work.

Further information

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- 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.
- 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 12th 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.

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