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Overview

This year the Third Committee (the Committee) considered three country resolutions relating to the human rights situations in: the Democratic People's Republic of Korea (DPRK), Myanmar and Iran. The United States (US) decided not to present a resolution on the human rights situation in Belarus as it had done in recent years, due to the government's decision to release all political prisoners shortly before the main session of the General Assembly (GA) began. Although there was speculation that the US might bring a resolution on the worsening human rights situation in Zimbabwe, this did not eventuate. Nonetheless, the US and France (on behalf of the EU) drew attention to the serious human rights violations occurring in Zimbabwe, Belarus and the Sudan (amongst others) during the Committee's general discussion on country situations.

Many States and human rights defenders were concerned about the passage of the country resolutions in both the Third Committee and the GA this year. This was due in part to the expectation that States belonging to the Non-Aligned Movement (NAM) would strongly argue that the Council's universal periodic review (UPR) process was the only appropriate mechanism to deal with country situations, given its grounding in the principles of impartiality, non-selectivity and non-politicisation. Further, the general level of support for the UPR process amongst States, and the lack of political will in the Council to support country resolutions and country specific special procedures, only added to concerns that more States might vote against country resolutions in the GA. Concern was strongest in relation to the resolution on Iran, due to the fact that Iran's proposal of a no-action motion had been defeated by a margin of only one or two votes in the last two years in the Third Committee.¹ Perhaps because it was buoyed by these factors, Iran also boasted before the Committee that it was confident it would have sufficient numbers to win the no-action motion, and went so far as to co-opt the slogan of then President Elect Obama, 'yes we can'.

Ultimately the no-action motions against the resolutions on Myanmar and Iran were defeated² and all country resolutions were adopted, although generally by a slightly smaller margin than last year.³ Although the GA is likely to consider a small number of country resolutions next year, the heated and protracted debate that these resolutions generated in New York is set to continue, if not escalate as members of NAM and other States opposed to country resolutions seek to dissuade Western States from perpetuating this type of international criticism. This is particularly concerning given resistance in the Security Council to add new situations to its agenda and the Human Rights Council's limited action on country situations.

A confrontational atmosphere was also evident in some of the interactive dialogues with special procedures, particularly with the new mandate holder on the human rights situation in the occupied Palestinian territories (OPT). In addition to dialogues with the Council's special procedures, the Committee also engaged with the Secretary-General's Special Adviser on Myanmar, making an important connection between the work of the Security Council and the GA on this issue.

¹ In 2006, the vote on the no-action motion was 75:77:24, and in 2007 it was 78:79:24.

² The no-action motion against the Myanmar resolution in the Third Committee was defeated by a comfortable margin with 54 States in favour, 90 against and 34 abstentions, which was almost the same as the vote on the no-action motion the previous year. While last year's no-action motion against the Iran resolution was defeated by just one vote (78:79:24), this year's no-action motion was defeated by a larger margin of ten votes (71:81:28). This increased margin was due in part to a decision by seven OIC States to abstain from the vote, rather than joining their colleagues in supporting the motion (Bahrain, Djibouti, Gabon, Libya, the Maldives, Morocco, Yemen).

³ This year the DPRK resolution was adopted with 94 in favour, 22 against and 63 abstentions. In 2007 the vote was 101 in favour, 22 against, and 59 abstentions. The resolution on Myanmar was adopted this year with 80 in favour, 25 against and 45 abstentions. In 2007 the vote was 83 in favour, 22 against and 47 abstentions. This year the vote on Iran was 69 in favour, 54 against and 57 abstentions. In 2007 the vote was 73 in favour, 53 against and 55 abstentions.

Please refer to the technical annex to this report for more information about the special procedures who addressed the Committee and for a list of the key reports and resolutions the Committee considered in relation to country situations.

Democratic People's Republic of Korea

Presentation by Special Rapporteur⁴

Professor Vitit Muntarbhorn, the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea (DPKR) presented his report to the Committee, noting the DPRK's continued refusal to cooperate with his mandate. He also:

- Described the continuing human rights violations in the DPRK as 'highly visible, substantial and exponential.' He noted that widespread repression of civil and political rights (such public executions, the use of torture in the criminal justice system, and rigid control over those professing religious beliefs) created an atmosphere of general insecurity in the DPRK. He urged the international community to develop a calibrated response to address long-standing violations.
- Noted positive developments in the DPRK since his last report, including submission of another periodic report under the *Convention on the Rights of the Child*, and following major floods in August 2007, greater co-operation with humanitarian agencies.
- Criticised the devastating impact of the DPRK's 'military first' policy in depleting resources, impeding the provision of food, and producing mass inequity. In the short term, he urged the government to provide basic necessities to all people and appealed for constructive cooperation with UN and humanitarian agencies to address 'a serious decline in food accessibility, consumption and availability'. In the longer term, he urged the DPRK to build food security through agricultural development and a shift from a pro-military to a pro-people budget.
- Recalled the ongoing abduction of foreign nationals by the authorities, including 17 listed cases of Japanese nationals, and urged the DPRK to respond 'substantively, constructively and expeditiously'.
- Observed that despite stringent efforts to regulate migration, internal migration was rapidly increasing and large numbers of citizens continued to leave the country in search of work or better living conditions. The situation for traditional refugees remained precarious, and increasingly severe sanctions were being imposed on those who sought to leave the country and those forcibly returned. He called for the work of the Office of the UN High Commissioner for Refugees (UNHCR) to be reinforced.

Interactive dialogue⁵

Following the Special Rapporteur's statement, several Western and a few Asian States took part in a dialogue with the Special Rapporteur, with most expressing their concern at the serious, ongoing human rights violations in the DPRK. There was also widespread support for the Special Rapporteur's recommendations regarding the need for full cooperation with the mandate, and technical cooperation with the Office of the High Commissioner for Human Rights (OHCHR). Among the key statements and questions asked of the Special Rapporteur were the following:

- The DPRK labelled the Special Rapporteur's report a 'political fraud' and categorically rejected it, along with the resolution that created the mandate of the Special Rapporteur. The DPRK pledged to 'continue to develop its socialist system that guaranteed the human rights of its people'.

⁴ More information on this special procedure and their mandate is available at:

<http://www.ohchr.org/EN/countries/AsiaRegion/Pages/KPIndex.aspx>

⁵ The UN press release that covers the interactive dialogue is available at:

<http://www.un.org/News/Press/docs/2008/gashc3926.doc.htm>

- Several States raised concerns about the treatment of refugees and asylum seekers from the DPRK (UK, Republic of Korea, Japan, US, Czech Republic). They inquired about the human rights obligations of receiving countries and the practical application of the principles of ‘non-forcible return’ and ‘refoulement’. *The Special Rapporteur commented that there were two types of ‘refugees’ from the DPRK: those who fled in fear of persecution, and a new category of refugees who left the country without an exit permit for non-persecution reasons, but were subsequently unable to return for fear of punishment. In terms of the obligations upon host countries, the Special Rapporteur called on humane treatment for all categories of migrants from the DPRK, noting that States had an obligation to treat both asylum seekers and migrant labourers in a way that protected children and promoted family reunification. He drew attention to recent developments in terms of non-refoulement obligations, noting that States were now under an obligation not to reject asylum seekers at the frontier or in a third country. His own research showed there had been a decline in asylum seekers from the DPRK this year, possibly due to more stringent border controls and tougher reprisals of returnees. He appealed to the DPRK to instruct officials not to punish returnees, and to reform its immigration and criminal laws to ensure a more humane approach to returnees.*
- Recalling that the DPRK would undergo the UPR in 2009, Canada, Japan and France (on behalf of the EU) asked what forms of technical assistance from OHCHR would be useful. *The Special Rapporteur regretted that the government had not accepted any of OHCHR’s offers of technical assistance to date. He hoped this would change with the UPR and suggested cooperation on justice issues, particularly juvenile justice, and the prison system.*
- The Czech Republic asked whether the situation in the DPRK could be used to invoke the responsibility to protect (R2P). The US asked about the role of the international community in countering impunity. *The Special Rapporteur stressed the need to ensure that officials were accountable, given that they currently rarely faced disciplinary action when they violated the DPRK’s human rights laws. When remedies were not available at the local level, States could look to establish accountability at the international level. Similarly, civil society organisations had an important role to play in encouraging both State and individual criminal responsibility in the DPRK, as shown by the coalition of NGOs investigating whether the actions/omissions of the DPRK provided grounds to invoke R2P.*
- Other questions included the potential benefits of the DPRK’s new law on disabilities (UK) and examples of good practice to encourage action and dialogue with the DPRK (Canada).

Resolution⁶

France, on behalf of the EU and Japan, presented this year’s annual resolution on the DPRK. It was intended to draw attention to the ongoing, systematic and widespread violations of human rights being carried out in the DPRK, particularly against women and children. Among the responses sought were: an end to all human rights violations; measures to address the causes of refugee flows; prosecution of human traffickers rather than victims; and the return of abductees. Another overarching objective was to urge the Government of the DPRK to cooperate with the Special Rapporteur, the Office of the High Commissioner for Human Rights (OHCHR) and humanitarian organisations operating in the country. France attested to the balanced nature of the resolution, pointing out that it acknowledged the few positive developments that had occurred, but concluded that the General Assembly ‘cannot remain silent’ in the face of such suffering by the people of the DPRK.

Japan, speaking as co-sponsor, explained that there had been no substantive change in the DPRK since last year, and that concrete action was needed. It strongly urged the DPRK to return all abductees and cooperate fully with both the Special Rapporteur and OHCHR. In an effort to pre-empt the representative of the DPRK, Japan argued the resolution was not politically motivated and that States sought a dialogue with the government. However the DPRK’s refusal to admit any human rights problems prevented cooperation.

⁶ A/C.3/63/L.26, available at <http://www.un.org/ga/third/63/proplist.shtml> The press release on the introduction of this resolution is available at <http://www.un.org/News/Press/docs/2008/gashc3937.doc.htm>

Further, the UPR process, though a positive development, was not a timely instrument, and the Committee with its universal membership, had the authority to act to address the human rights situation in the DPRK.

The DPRK rejected the resolution, labelling it 'a product of political fraud' that was 'devoid of objectivity and fairness.' It attested to the enjoyment of human rights within its jurisdiction, and suggested that the GA's attention would be better directed to the 'daily violations' that were occurring in Iraq, Afghanistan and the occupied Palestinian territories. It reminded the Committee that the UPR was now operational and its human rights record should be reviewed through that mechanism.

This year's resolution on the DPRK was substantially similar to that of the previous year. However new additions included:

- incorporation of four of the recommendations contained in the Special Rapporteur's report, relating to the need for the DPRK to: ensure citizens returning to the DPRK were not punished, address impunity, improve food security and engage in cooperation with the International Labour Organisation (ILO) to improve worker's rights;
- strong encouragement to engage in technical cooperation with OHCHR to help improve human rights and prepare for the UPR in 2009;
- praise to the Special Rapporteur for his work to date, despite his inability to visit and the limited access to information, and an expression of 'serious concern' at the DPRK's 'continued refusal' to recognise the mandate of the Special Rapporteur;
- encouragement to all States to ensure unhindered access to the UN High Commissioner for Refugees and his Office to improve the treatment of refugees; and
- appreciation for the DPRK's recent increased cooperation with the World Food Program and consultations with the United Nations Development Programme to resume cooperation.

The informal negotiations on this text were not open to NGOs so it was not possible to report on the areas of controversy that unfolded during negotiations on this year's text on the DPRK.

The Council's most recent resolution on the situation in the DPRK was significantly shorter and less specific than that presented at the Third Committee.⁷ Its main purpose was to renew the mandate of the Special Rapporteur for an additional year and reiterate the Council's appeal to the Government of the DPRK to cooperate fully with the mandate. Just as debate in the Third Committee was dominated by the question of whether to consider country resolutions, the Council debate focused on whether to continue the practice of country specific special procedures. In the Council, Member States of the NAM strongly advocated that the UPR was a more appropriate mechanism for considering human rights situations rather than a 'politicised' Special Rapporteur.⁸

The vote⁹

This year's resolution was adopted by a comfortable margin in the Third Committee (95:24:62). Last year the Committee passed the resolution by a similar margin (97:23:60).

Prior to the introduction of the resolution, Cuba (on behalf of NAM) made a general statement regarding country-specific resolutions, criticising the 'use of human rights for political ends' and 'taking actions that

⁷ Council Resolution 7/15, presented by Slovenia (on behalf of the EU) and Japan, available at http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_7_15.pdf

⁸ The Philippines and Malaysia shared this view at the Council. The Resolution was adopted with 22 votes in favour, seven against and 19 abstentions.

⁹ The press release on the adoption of this resolution is available at <http://www.un.org/News/Press/docs/2008/gashc3940.doc.htm>

were against the UN Charter'.¹⁰ Specifically in the context of the DPRK resolution, several States observed that the UPR was the optimal mechanism to deal with the human rights situations in particular countries,¹¹ and other States criticised country-specific resolutions as being politically motivated, confrontational and inhibitive of dialogue and cooperation.¹² Panama and Ecuador agreed that the UPR's non-political approach made it the best mechanism to address country situations, arguing that the Third Committee should cease its practice of country resolutions and support the Council as the UN's principal body on human rights matters. Ecuador also encouraged the Council to make use of its special sessions to address serious human rights violations in individual countries. In an effort to further clarify the division of labour between the Third Committee and the Council, Indonesia suggested the Third Committee should limit itself to 'policy-oriented discussions' and make recommendations to the GA plenary. Only when resolutions of the Council faced 'persistent non-implementation by violators' should the Third Committee seek to take action against an individual Member State.

Other States, such as Japan and France (on behalf of the EU), argued that where there were widespread and systematic human rights abuses, the GA had a responsibility to take up those situations without delay. While the UPR was important, they noted that each country was only subject to review every four years and this was conducted by the limited membership of the Council. In contrast, the Third Committee was the GA's expert body on human rights matters that met annually and enjoyed universal membership. As such, they were of the view that both the Council and the Third Committee should address country situations as their procedures were complementary.

In response to the adoption of the resolution, the DPRK criticised the resolution for being politically motivated, claiming that the 'real' intention of the resolution was based on a 'desire by some countries to change the power structure within the country'. The DPRK then reiterated that it 'would continue to foster its own social system for the benefit of its citizens.' The representative also recalled Japan's history of human rights abuses, particularly against Korea, for which it argued Japan had 'refused to express regret or make reparations.'

In the GA plenary, the vote was very similar as compared to the Third Committee (94:22:63). Last year the resolution was passed by a greater majority in the GA plenary (101:22:59).

Myanmar

Presentation by S-G's Special Adviser¹³

The Committee considered the oral report of, and held an interactive dialogue with Special Adviser to the Secretary-General on Myanmar, **Mr Ibrahim Gambari** (the Special Adviser) on 22 October 2008. The Special Adviser was appointed by the Secretary-General in May 2007.

The Special Adviser distinguished his report from that of the Special Rapporteur on Myanmar by emphasising its focus on the work of the Secretary-General's good offices in the 12 months ending October 2008. During this period, the Special Adviser visited Myanmar three times (November 2007, March 2008 and August 2008). For the first time in 44 years, the Secretary-General also visited the country, and subsequently undertook a follow up visit. In his oral presentation the Special Adviser:

¹⁰ This statement reaffirmed the principle established by the Heads of States and Governments of NAM at its 14th Conference in September 2006 regarding country-specific resolutions. Algeria, Sudan, Libya, Syria, Cape Verde and Venezuela made separate statements at the Third Committee indicating their support for Cuba's position.

¹¹ Cuba (on behalf of NAM), Singapore, Myanmar, Nepal, Malaysia, Panama, Ecuador, Egypt, Antigua and Barbuda, Indonesia, Vietnam, Brazil, Belarus.

¹² Singapore, DPRK, Malaysia, Myanmar, Cuba (national capacity), Egypt, China, Lao People's Democratic Republic.

¹³ Further information on the Special Adviser is available at <http://www.un.org/Depts/dpko/SRSG/asia.htm>

- Outlined the key issues that he had stressed to the government during his visits to Myanmar:
 - a) The release of all political prisoners;
 - b) The need for an enhanced dialogue between the government and opposition parties;
 - c) The need for a credible transition process to democratic government;
 - d) Avenues for improving the social and economic conditions in the country; and
 - e) Regularising co-operation through the good offices process. The Special Adviser commented that ‘good offices’ was a process and not an event, and required sustained engagement through regular visits and consultations with all concerned.
- Observed that the ‘unprecedented’ level of cooperation between Myanmar, the UN and ASEAN in coordinating a humanitarian response to Cyclone Nargis pointed to the necessity and merits of a policy of engagement with Myanmar rather than isolation; and
- Emphasised that Myanmar must demonstrate tangible results in the areas of democracy, peace and respect for human rights. Although there had been some improvements in recent months, including the announcement of multiparty elections in 2010, more was required. In particular, Aung San Suu Kyi and other political prisoners had to be released to ensure all political groups could participate in the elections.

Interactive Dialogue¹⁴

A small number of States from diverse regions participated in the dialogue with the Special Adviser. Among the comments made and questions asked were the following:

- While welcoming the improvement in its relationship with the Secretary-General, and crediting the Special Adviser for his role in fostering a spirit of cooperation between the Government and the UN, Myanmar expressed its disappointment at the doubts cast on the constitutional referendum process. The government had made every effort to adhere to its ‘7-step road map’ to democracy and held a free and fair referendum as scheduled, despite the cyclone. Myanmar also provided an extensive account of its response to Cyclone Nargis in an attempt to counter suggestions that it had not responded expeditiously. Cooperation with the UN remained a ‘cornerstone’ of Myanmar’s foreign policy.
- Commenting on Myanmar’s road map to democracy, Indonesia underscored the need for tangible results on ‘various issues of concern’, including the five areas outlined in the Special Adviser’s report. It also appealed to the international community to ‘speak with one voice’ and adopt a ‘consensus-orientated’ approach to its engagement with Myanmar. In this context, Thailand, as the Chair of ASEAN, reiterated its support for the Special Adviser.
- Liechtenstein asked whether the Secretary-General would be visiting Myanmar and if so, when such a visit would take place. *The Special Adviser confirmed that a visit was under discussion, however it would only take place if it would promote progress in the five areas of concern.*

Presentation by Special Rapporteur¹⁵

On 23 October 2008, the Committee considered the oral report of, and held an interactive dialogue with, the Special Rapporteur on the situation of human rights in Myanmar, **Mr Tomás Ojea Quintana**. The Special Rapporteur was appointed in March 2008. In his first address to the Committee, the Special Rapporteur explained that he intended to exercise his mandate in a spirit of co-operation, engagement and encouragement, and that he viewed the establishment of positive working relations with the authorities as indispensable to improving human rights in Myanmar. He also:

- Welcomed the release of seven prisoners of conscience in September 2008, but expressed grave concern at the arrest of new political prisoners later that month.

¹⁴ The UN press release that covers the interactive dialogue is available at <http://www.un.org/News/Press/docs/2008/gashc3925.doc.htm>

¹⁵ Further information on the special procedure is available at <http://www.ohchr.org/EN/countries/AsiaRegion/Pages/MMIndex.aspx>

- Emphasised the need for tangible, achievable and step-by-step benchmarks for the restoration of full democracy in Myanmar. The four core steps he recommended the government take, with assistance from the international community, *prior* to the 2010 elections were:
 - a) revision of all domestic laws to ensure compliance with international human rights stands and provisions of human rights in the new Constitution;
 - b) the progressive release of all prisoners of conscience;
 - c) human rights training for and reform of the military; and
 - d) the establishment of an independent judiciary.
- Urged all countries to continue to provide the necessary funds to assist cyclone survivors; drew attention to the deepening food crisis in certain states; and noted that the government bore principal responsibility for the recovery process.
- Called on the Myanmar army and non-State armed groups to end the following practices: use of violence against unarmed civilians; forcible return of cyclone victims to their villages; recruitment of child soldiers; use of anti-personnel landmines; and forced civilian labour.
- Urged the GA to provide the means for the implementation and realisation of its resolutions through the provision of human and financial resources, *as well as* by providing the space and opportunities for the countries that were the subject of resolutions and their Special Rapporteurs.

Interactive Dialogue¹⁶

The interactive dialogue with the Special Rapporteur was dominated by a number of Western States, with Thailand and Myanmar the only Asian States to participate. Questions focused on how the international community should best respond to the human rights situation in Myanmar and sought the Rapporteur's views on the credibility of Myanmar's commitment to genuine democratisation. Among the statements and questions asked of the Special Rapporteur were the following:

- Myanmar delivered a lengthy statement which initially drew attention to the positive developments identified in the Special Rapporteur's report, but then characterised it as 'Janus-faced' and pointed out each instance where it believed the author was factually incorrect. Myanmar was particularly critical of the allegations regarding the treatment of ethnic minorities, which it argued relied on the unverified and 'distorted allegations of exiles'. To improve the human rights situation in Myanmar, and to comply with the *UN Charter*, Myanmar urged the Special Rapporteur to co-operate with its government. It also identified the Council's universal periodic review as 'a step in the right direction' to avoid selectivity, politicisation and double standards. *The Special Rapporteur recalled that the UN Charter, while emphasising co-operation, also required respect for human rights, which was the core principle guiding his mandate.*
- Canada, Japan, the US and Australia expressed concern that the 2010 elections would be neither free nor fair, given the discredited constitutional referendum process. They asked what concrete steps the government would need to take in the immediate future for the elections to be regarded as legitimate. *The Special Rapporteur reiterated the need for Myanmar to begin immediate implementation of the four essential elements contained in his report to ensure credible elections.*
- The UK asked for the Special Rapporteur's views on the regime's ability to implement his recommendations. The EU, New Zealand and the Czech Republic questioned how the Special Rapporteur would monitor compliance and ensure implementation of his recommendations. They were also interested in the role of the international community in assisting Myanmar's transition to democracy. *The Special Rapporteur called on the international community to assist in all ways possible to help Myanmar with the implementation of the core human rights recommendations contained in his report.*

¹⁶ The UN press release that covers the interactive dialogue is available at <http://www.un.org/News/Press/docs/2008/gashc3926.doc.htm>

- The US, UK and New Zealand emphasised the need to release all political prisoners, indicating explicitly or implicitly their concern with the Special Rapporteur's recommendation for the 'progressive liberation of prisoners of conscience'. *In an effort to clarify this recommendation, the Special Rapporteur explained that wherever a person was detained for the use of their right to freedom of expression, assembly or association, their case should be examined on its merits, with due consideration of its particularities. He linked this recommendation with his recommendation regarding the need to reform all national legislation that limited public freedoms, noting that were such legislation to be amended, there would be no justification for the regime to detain prisoners of conscience. He noted his positive discussions with the Attorney-General on his last visit in regard to a review of the national legislation, and his intention to make headway on this during his next visit.*
- The UK, Japan and New Zealand asked the Special Rapporteur to detail his plans for future visits, including visits to ethnic communities in Myanmar. *The Special Rapporteur reiterated that his visit in August 2008 was 'fruitful' since it had allowed him to meet with victims and to hold private interviews with many prisoners of conscience. However he was unable to visit all regions and hoped that later in 2008 he would return for a longer visit that would include regions with complex human rights situations. He also hoped to 'listen to all voices' during this visit.*

Resolution¹⁷

France (on behalf of the EU) presented this annual resolution, which included programme budget implications as a result of its request that the Secretary-General 'give all necessary assistance to enable the Special Adviser and the Special Rapporteur to discharge their mandates'.¹⁸ The funding sought would cover the costs of the Special Adviser and his staff to carry out the mandate, including overseas travel.

The EU's objective in presenting the resolution was to launch an urgent appeal to Myanmar to respect human rights and fully cooperate with the international community, including UN mechanisms. Although the resolution welcomed some of the positive developments in Myanmar and fully supported the good offices of the Secretary-General, it also recognised that the resolutions of the GA and the Council's May 2008 Special Session on Myanmar had not been implemented. Instead, political prisoners were still being detained, which was a serious impediment to political reconciliation and democracy; the recent constitutional referendum had not been conducted in a free and fair manner; and a range of serious human rights abuses persisted. France appealed for full international cooperation to address the human rights situation in Myanmar.

In response, Myanmar accused the EU of seeking to exploit human rights for political purposes. It labelled the resolution a 'glaring distortion of the facts' that France had developed without input from Myanmar or other States in its region. In its view, the EU was attempting to derail Myanmar's political roadmap to democracy and to give credence to the false allegations of 'exiles' and 'insurgents'. Through this 'harsher' text, the EU sought to 'politicise the tragic humanitarian disaster' of Cyclone Nargis and to 'denigrate' the national referendum process. It failed to welcome significant positive developments over the last year which had been praised by the Secretary-General, the Special Adviser and others. Finally, Myanmar condemned the resolution as intruding into its domestic jurisdiction and of being in breach of the *UN Charter*.

The text of this year's resolution on Myanmar was more detailed and critical than last year. It reflected the EU's frustration with the lack of substantive progress, as well as its resignation to the fact that adoption by consensus would not be possible. Alongside the serious violations that were identified in last year's resolution, this year's text 'strongly condemned' or expressed 'grave concern' about the following:

- the high and increasing number of political prisoners, despite the recent release of a small number of political prisoners;

¹⁷ A/C.3/63/L.33 available at <http://www.un.org/ga/third/63/propolist.shtml> The press release covering the introduction of this resolution is available at <http://www.un.org/News/Press/docs/2008/gashc3937.doc.htm> .

¹⁸ The PBI (A/C.3/63/L.71) requested \$753,200 net (\$837,700 gross) for the period from 1 January to 31 December 2009.

- ‘severe restrictions’ on the freedom of movement, expression and assembly;
- lack of an independent judiciary and the use of censorship;
- the ‘climate of impunity’ that denied victims any effective remedy;
- absence of genuine participation of various political parties and ethnic groups in the process of transition to democracy; and
- the decision of the government to proceed with the constitutional referendum of May 2008 without regard to international standards for free and fair elections.

Significantly, this year’s resolution also ‘strongly called upon’ the Government of Myanmar to ‘take urgent measures’ to end to the use of sexual violence ‘persistently carried out by members of the armed forces.’ Using similarly strong language, the government was also requested to cease targeting people belonging to ethnic groups. Notably, however, there was no inclusion of the allegation made by Amnesty International that the human rights violations against ethnic minorities committed in the eastern state of Kayin (Karen) by the Myanmar military in the past year constituted a crime against humanity, which had been alluded to in the Council’s most recent resolution on Myanmar.¹⁹

Another new development in this year’s text was the inclusion of more detailed recommendations to the Government of Myanmar about the type of cooperation it should demonstrate towards the Special Rapporteur and the good offices of the Secretary-General. It was ‘strongly called upon’ to allow the Special Rapporteur to undertake full and independent investigations into all reports of human rights violations, and to bring those responsible to justice. The meaning of ‘full cooperation’ with the good offices mission should be understood to include the release of all political prisoners and ‘unrestricted access’ by the Special Adviser to ‘all relevant parties’ with the purpose of achieving ‘tangible progress towards democratic reform.’

The text sought to balance its lengthy list of criticisms and recommendations by welcoming several positive developments in Myanmar. It positively referred to: visits by the Special Adviser and Secretary-General to Myanmar; increased cooperation by the Government of Myanmar with the international community following Cyclone Nargis; and the conclusion of an agreement with the ILO to provide redress for victims of labour rights violations.

The language of this year’s resolution was also stronger than that of the recent resolutions in the Council regarding the human rights situation in Myanmar.²⁰ In contrast to the GA text, Council resolutions tended to provide only general references to ‘systematic human rights violations’ and general recommendations about the kinds of responses expected of the Government of Myanmar. The focus of the Council’s resolutions was linked to immediate events like the (then) upcoming constitutional referendum, or to appeal for greater cooperation with international humanitarian aid organisations in the immediate wake of Cyclone Nargis. It was notable, however, that resolutions in both fora ‘strongly called upon’ the Government of Myanmar to release all political prisoners, cease all human rights violations, cooperate fully with the good offices mission and the Special Rapporteur, and engage in a real process of dialogue and national reconciliation with all political parties and ethnic groups.

¹⁹ Amnesty International, ‘Crimes against humanity in eastern Myanmar’, June 2008, available at <http://www.amnesty.org/en/library/asset/ASA16/011/2008/en/d80827f1-3248-11dd-adb0-a55f274f1a5a/asa160112008eng.pdf>
Council Resolution 8/14 expressed concern about ‘reported widespread violations of human rights and international humanitarian law in the Kayin State and Bago Division’ (PP6).

²⁰ Council Resolution 7/31 and Resolution 8/14.

The vote²¹

Two votes were taken on the Myanmar resolution in the Third Committee. The first was a no-action motion, requested by Myanmar, which was defeated. The second was on the resolution itself, which was adopted (89:29:63).

China and the Russian Federation spoke in support the no-action motion proposed by Myanmar. Both countries claimed that the Council's UPR process was the most appropriate mechanism to be deal with country situations because it avoided confrontation and inspired genuine dialogue among Member States. China added that the co-sponsors had conducted closed negotiations, bringing into question their interest in building consensus or enhancing international cooperation on human rights.

Norway and New Zealand spoke against the no-action motion, expressing their regret that it had been proposed. Norway argued that regardless of the content of the resolution, all texts should be reviewed on their merits, delegations should be allowed to express their opinions and procedural rules should not be used to stop action on matters of substance. Further, where serious human rights situations merited consideration, the Third Committee remained the appropriate forum for such discussions given its universal membership. New Zealand pointed to the Committee's mandate to address human rights situations anywhere in the world and the fact it had done so for over 30 years through resolutions, often contributing to improvements in human rights situations. It also emphasised that the UPR was not intended to replace country-specific resolutions, and given the urgent need for action in Myanmar, the situation could not be left until 2011 when Myanmar would next come up for review under the UPR.

The Committee then voted on the no-action motion, which was defeated by a comfortable margin with 54 in favour, 90 against, and 34 abstentions. This was almost the same as last year's vote on a no-action motion in the Third Committee (54:88:34). As in the previous year, most NAM States and China voted in favour of the no-action motion, while WEOG and most Latin American States voted against it.

The vote on the resolution was then adopted with 89 States in favour, 29 against and 63 abstentions, which was similar to the previous year (88:24:66). The majority of ASEAN members either voted against the resolution or abstained, while the NAM and the African Group did not have clear voting patterns.

States voting against or abstaining from the resolution explained that they had done so on the basis that:

- The text exposed the international community's divisions on the issue of Myanmar, whereas a consensus text would have encouraged greater efforts by the Myanmar Government (Indonesia, Thailand, Vietnam);
- The Council's UPR process was the most appropriate mechanism to deal with country-specific matters (Barbados, Belarus, Costa Rica, Cuba, Ecuador, Egypt, Malaysia, Myanmar, Syria);
- The text was an attempt to interfere in the internal affairs of Myanmar under the guise of promoting human rights (Cuba, DPRK, Myanmar, Syria); or
- The text failed to sufficiently reflect the positive steps taken by the Government of Myanmar in the past year towards political reform and democratisation (India, Myanmar).

Japan explained that while it had voted in favour of the resolution because it had hoped it would help to improve the situation of human rights in Myanmar, it was still concerned that the co-sponsors had been uncooperative in incorporating amendments it and others proposed. Japan wanted to see language welcoming Myanmar's announcement of a specific timeframe for the release of political prisoners and the democratisation process. Whilst it expressed concern about the human rights situation in Myanmar, Thailand (as the head of ASEAN) expressed confidence that dialogue rather than confrontation was needed. It

²¹ The press release on the adoption of this resolution by the Third Committee is available at <http://www.un.org/News/Press/docs/2008/gashc3940.doc.htm>

suggested that Cyclone Nargis had demonstrated that the international community could work in partnership with Myanmar to benefit its people. It would therefore continue to co-operate with the UN, the Special Adviser, and the Tripartite Core Group to strengthen relations with Myanmar and promote democratic reform.

Myanmar closed discussions by stating that it disassociated itself from the resolution, and that the results had demonstrated a ‘tyranny of the minority’, with the co-sponsors luring votes through political pressure. Myanmar thanked the representations of the NAM and the OIC, the Asian Group, the African Group, the Group of Latin American and Caribbean countries, the Arab League and ASEAN who had, despite pressure from the EU, taken a ‘principled position’ and cast a negative vote or abstained. It concluded by noting that the Government of Myanmar would continue to cooperate with the Secretary-General’s good offices missions, because cooperation with the UN was ‘a cornerstone of Myanmar’s foreign policy’.

In the GA plenary, fewer States supported the resolution as compared to the Third Committee (80:25:45). However this outcome was similar to last year’s GA plenary vote (83:22:47).

Islamic Republic of Iran

Information before the Third Committee

The Council does not currently have a special procedure on the human rights situation in Iran, and the Council is yet to consider a resolution on the human rights situation in Iran. Thus the main source of information before the Third Committee was the Secretary-General’s report on the situation of human rights in the Islamic Republic of Iran (Iran).²² Although the report acknowledged that Iran had taken positive steps to address some of its discriminatory laws, restrict aspects of the death penalty and increase its cooperation with the Office of the High Commissioner for Human Rights, it identified many serious and continuing concerns including:

- Proposed revision of the Penal Code that would be incompatible with international law, including an article mandating the death penalty for conversion from Islam to other religions (apostasy);
- Continued and widespread application of the death penalty, including in some cases against juveniles, as well as instances of stonings in violation of a circular issued by the judiciary in 2002;
- Islamic punishments including the use of amputation and corporal punishment;
- Penal and civil laws containing discriminatory provisions against women, widespread gender-based violence against women, and restrictions on women’s freedom of movement;
- Intolerance of and human rights abuses committed against religious minorities, most notably against the Baha’i community through arbitrary detention, false imprisonment, destruction of property, and denial of employment, education and government benefits; and
- Restrictions on the right to freedom of peaceful assembly and association and freedom of opinion and expression, which impeded the ability of human rights defenders to carry out their work.

Resolution²³

Canada once again sponsored the resolution on the situation of human rights in Iran, which has been considered every year in the GA since 2003. This year’s resolution was similar to last year’s, with only one entirely new paragraph that expressed ‘deep concern’ about the ‘severe restrictions of freedom of religion and belief,’ singling out the proposed introduction of a mandatory death sentence for apostasy for special

²² A/63/459, available at <http://www.un.org/ga/third/63/docslist.shtml>

²³ A/C.3/63/L.40, available at <http://www.un.org/ga/third/63/propslist.shtml> The UN press release on the introduction of the resolution at the Third Committee is available at <http://www.un.org/News/Press/docs/2008/gashc3936.doc.htm>

mention.²⁴ Another new development was a reference to the impact of restrictions on freedom of opinion and expression on internet users.²⁵ The resolution drew attention to several other concerns expressed in the Secretary-General's report, including 'increasing harassment, intimidation and persecution of human rights defenders' and women human rights defenders in particular, and the need to abolish the use of the death penalty against juvenile offenders.

Introducing the resolution, Canada acknowledged the positive developments contained in the Secretary-General's report. However, given the overall deterioration in the situation since last year, coupled with the report's findings of Iran's continued lack of cooperation with international human rights mechanisms, including treaty bodies and special procedures, Canada concluded that the international community was obligated to take action in the GA. It sought to pre-emptively address anticipated arguments from Iran, NAM and others opposed to the GA's consideration of country resolutions. Canada argued it was never the GA's intention to abdicate its role with regard to human rights by creating the Human Rights Council. While acknowledging that the Council's UPR was an important human rights tool, Canada emphasised that each State was only reviewed every four years, which rendered it no substitute for the annual sessions of the Third Committee and the GA. It concluded that the GA had been provided with a report that it requested from the Secretary-General, which obligated the GA to take up its responsibility to protect fundamental freedoms and human rights.

By way of a right of reply, Iran labelled Canada's resolution as 'void of objectivity or legitimacy' and the 'routine' product of political hostility. Iran alleged that the contents of the Secretary-General's report were based on outdated allegations from previous years, and that it had a range of 'reservations' about its content. Although it acknowledged the right of delegations to raise issues in the Third Committee, Iran argued that the GA should focus on policy recommendations and leave consideration of country situations to the Council's UPR process. The UPR's objectivity, impartiality and non-selectivity rendered it the superior body for the examination of country situations, and the Third Committee's continued attempts to introduce country resolutions only undermined the work of the Council. Finally, Iran asserted its confidence, based on increasing support from Member States in the past two years, that there would be sufficient support for the passage of its no-action motion against Canada's resolution.

The vote²⁶

Canada's resolution on the situation of human rights in Iran had 44 co-sponsors at the time of voting, a process which involved two separate votes. The first vote was on a no-action motion proposed by Iran, supported by Pakistan and Venezuela, which emphatically rejected the resolution and condemned country resolutions as an 'unhelpful process of naming and shaming'. The motion was opposed by Canada and Australia, which criticised it as an 'abuse of procedure' and emphasised the responsibility of both the Third Committee and the GA to fulfil their mandates and consider each resolution on its merits. While last year's no-action motion was defeated by just one vote, this year's no-action motion was defeated by a larger margin of ten votes (71:81:28).²⁷ This increased margin was due in part to a decision by seven States of the Organization of Islamic Conferences (OIC) to abstain from the vote, rather than joining their colleagues in supporting the motion.²⁸

²⁴ Operative paragraph 2(g).

²⁵ OP2(f).

²⁶ The UN press release on the adoption of the resolution at the Third Committee is available at <http://www.un.org/News/Press/docs/2008/gashc3940.doc.htm>

²⁷ WEOG States voted against the no-action motion, while many African and Asian States voted in favour. Caribbean and some African States abstained. In 2007 the vote on the no-action motion was 78:79:24.

²⁸ Bahrain, Djibouti, Gabon, Libya, the Maldives, Morocco, Yemen.

After defeat of the no-action motion, the Committee voted on the resolution and adopted it (70:51:60). Similar to last year's voting pattern, all Western European and Other Group (WEOG) Member States voted in favour of the resolution. Albania was the only OIC State to vote in favour of the resolution, while the remainder either abstained or voted against the resolution. NAM States were divided, with only a minority voting in favour, and the majority of African, Latin American and Caribbean States abstaining or voting against the resolution. The resolution was adopted at last year's session by a similar margin (72:50:55).

When Iran requested a vote on the resolution, it launched an attack on Canada's human rights record. Its allegations included the use of repressive tactics against indigenous peoples, minorities, women and migrants; evasion of due process guarantees; police brutality and unlawful detention. Several States from the OIC and NAM made statements to explain their decision to vote 'no' or abstain. They all expressed their opposition to country resolutions, advocating the constructive dialogue of the UPR as their preferred method of dealing with country situations.²⁹ However, Libya and Brazil noted that this did not mean they condoned the human rights violations occurring in Iran, and Ecuador suggested that where there were allegations of serious human rights violations, a special session of the Council would be preferable to another GA resolution that only undermined the Council.

In the General Assembly plenary, Iran acted in similar fashion to last year's session by immediately calling for a no-action motion. In support of the no-action motion, Iran, followed by Venezuela and Pakistan, reiterated their support for the Council as the most competent and specialised body to address country situations. On this basis Iran argued it was not seeking to hinder debate in the GA, but to counter the manipulation of the human rights system by Canada and others. Conversely, Canada and Australia (speaking on behalf of other States)³⁰ expressed their deep disappointment over Iran's decision to move a no-action in the GA after Member States had clearly voiced their opposition to this tactic by defeating such a motion in Third Committee. The no-action motion was defeated (69:84:25).

In a final challenge to the credibility of the Third Committee and the authority of the GA to consider country-specific resolutions, Iran called for amendments to two operative paragraphs of the resolution.³¹ In explanation of their votes, Canada and France objected to the amendments on procedural grounds, noting that Iran was afforded the opportunity to amend the resolution during its consideration in Third Committee and had not done so. Further, Canada posited that if Iran was concerned that the Secretary-General's report contained inaccuracies, then the Secretary-General's update to the next session of the GA should remedy any errors. Both amendments were voted on separately and both were defeated by reasonable margins.³²

The GA then voted on the resolution as a whole and adopted it (69:54:57), a slightly weaker margin of support than last year's resolution in the GA plenary (73:53:55).³³

Occupied Palestinian Territories

Presentation by the Special Rapporteur³⁴

²⁹ Belarus, Syria, Uganda (on behalf of the OIC), Egypt, Ecuador, Libya, Venezuela, Nicaragua, Cuba, Brazil.

³⁰ Australia spoke on behalf of other States including Andorra, Liechtenstein, the Former Yugoslav Republic of Macedonia, Argentina, Iceland, Palau, San Marino.

³¹ The amendments proposed the deletion of OP6 and OP7. OP6 requested that the Secretary-General submit a report on the human rights situation in Iran to the next session of the GA, while OP7 authorised the GA to continue its examination of the human right situation in Iran at its next session.

³² The amendment to OP6 was defeated (50:72:50). The amendment to OP7 was similarly defeated (50:71:51).

³³ The UN press release on the adoption of the resolution in the General Assembly plenary is available at <http://www.un.org/News/Press/docs/2008/ga10801.doc.htm>

³⁴ Further information on this special procedure is available at <http://www2.ohchr.org/english/bodies/chr/special/countries.htm>

On 23 October 2008, the Committee considered the oral report of, and held an interactive dialogue with, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, **Mr. Richard Falk**. The Special Rapporteur was newly appointed in May 2008 and explained that he had not yet been able to visit Israel or the OPT. As a result, his written report was based on a private visit to Israel and information from ‘reliable’ sources including the UN. The Special Rapporteur:

- Focused on Israel’s continued ‘siege’ of Gaza and occupation of the West Bank, drawing attention to the adverse impacts on the well-being of Palestinians, as well as Israel’s legal responsibilities as the occupying power.
- Found Israel’s occupation, including its increasing restrictions on the movement of Palestinians and continued expansion of settlements on the West Bank, contravened the 2004 International Court of Justice (ICJ) advisory opinion regarding the construction of the wall in the OPT, the *Fourth Geneva Convention*, and the Annapolis Joint Statement of 27 November 2007.
- Highlighted the ongoing human rights violations committed by Israelis against Palestinians in the OPT, including harassment and physical violence against journalists and against peaceful protestors on the West Bank.
- Emphasised the deepening Palestinian health crisis in the OPT and impending ‘humanitarian catastrophe’ in Gaza. He identified the lead causes of this crisis as Israel’s denial or delay in issuing exit permits for Palestinians seeking medical treatment, as well as the lack of adequate medical supplies and equipment in the OPT. These conditions were resulting in severe mental and physical suffering as well as deaths.
- Called upon:
 - a) The GA to request an additional advisory opinion from the ICJ on the effect of the occupation on Palestinians’ right of self-determination;
 - b) The Security Council to assist in the implementation of the 2004 ICJ advisory opinion;
 - c) Switzerland, as repository for the Geneva Conventions, to hold a meeting of States to determine their legal responsibility with respect to the occupation under Article 1 of the Convention;
 - d) The international community to resume economic assistance to the OPT to address the health crisis, regardless of whether Hamas met certain political conditions or whether the ceasefire held;
 - e) The international community to act and invoke its ‘responsibility to protect’ the vulnerable population that was enduring a ‘humanitarian catastrophe’.

Interactive dialogue³⁵

The interactive dialogue was politically charged as Israel and the United States (US) questioned the objectivity of the Special Rapporteur and called for a review of his mandate. Other States concentrated on how the international community should best respond to end the occupation and improve the Palestinian people’s human rights situation. Among the statements and questions asked of the Special Rapporteur were the following:

- Israel and the US criticised the report for being highly politicised, based upon a mandate which has not been reviewed, dependent on unreliable and one-sided sources, and for failing to acknowledge Israel’s right to defend itself in the name of national security. Israel found it hard to rationalise the Special Rapporteur’s ‘vehement publications’ in the past with the requirements of the Code of Conduct that all special procedures were bound by. The US was also concerned by the Special Rapporteur’s suggestion that the Security Council seek to make the ICJ’s advisory decisions binding, arguing that this would interfere with established procedures and undermine other processes already underway. *The Special Rapporteur regretted these personal attacks, which he felt misrepresented his report and his career that had been dedicated to international peace and justice. He was disappointed that Israel threatened him with ‘drastic measures’ should he re-enter without prior authorization and referred to this as ‘a*

³⁵ The UN press release that covers the interactive dialogue is available at <http://www.un.org/News/Press/docs/2008/gashc3926.doc.htm>

big mistake by Israel. The Special Rapporteur sought to refocus the dialogue on Israel's continued violations of international law, pointing out that its failure to abide by the Annapolis summit to end the construction of settlements, as well as its failure to cooperate with his mandate, demonstrated that it was not seriously committed to achieving peace. To demonstrate a minimal show of good faith, Israel should stop the construction of settlements and meet his request for a country visit so he could present a full and transparent picture of the occupation. In response to the US criticism that it was not appropriate for the Security Council to enforce the ICJ's opinions, he countered that after 40 years of occupation, with no end in sight, the onus was now on the UN to develop alternative procedures to relieve the suffering of the Palestinian people.

- Several States sought the Special Rapporteur's advice on how the international community and UN agencies could improve human rights in the OPT, with some specifically asking how they should address the health crisis.³⁶ Lebanon asked whether the international community was obliged to 'break the siege of Gaza'. The Special Rapporteur agreed that there was an obligation 'on all of us' to seek access to the OPT to expose the truth, to alleviate civilian suffering and work toward a peaceful resolution of the conflict. He reiterated the recommendations from his report, including the need for States to consider how they could invoke the 'responsibility to protect' norm in relation to the civilian population of the OPT.
- Lebanon, Cuba and Syria drew attention to the failure of the Security Council to uphold its responsibilities to the Palestinian people. Syria asked for suggestions on how to translate the Special Rapporteur's recommendations into a resolution that would hold Israel accountable for its non-implementation of various international agreements. The Special Rapporteur welcomed the comments of Syria agreeing that 'the time has come when the UN's relationship to future Palestinian self-determination will be judged and assessed by the degree to which it can translate rhetoric into concrete acts.' He also expressed support for Brazil's proposal to address the failure of the Security Council to resolve the conflict over the last 40 years by organising a broad-based UN conference to discuss the failures and develop alternative approaches.

General discussion on country situations

Apart from the countries addressed directly by resolutions,³⁷ the human rights situations in a collection of other countries were raised in the Third Committee's General Discussion on agenda item 64(c), entitled 'Human Rights Situations'.³⁸ The serious, persistent and worsening nature of the violations occurring in the Sudan was raised by several Western States.³⁹ The resulting climate of impunity prompted France (on behalf of the EU) to warn that the Sudanese Government's full cooperation with the International Criminal Court was 'not negotiable' and to recommend that greater cooperation from the government was needed to help step up and deploy the joint UN-African Union hybrid force in Darfur. France also made a point of welcoming the Council's recent decision to renew the mandate of the Special Rapporteur on the human rights situation in the Sudan, but omitted to mention that the resistance to renewal led to a new precedent in the Council of the country mandate being extended for only nine months.

The deepening humanitarian crisis and political stalemate in Zimbabwe was also high on the list of concerns of some Western States.⁴⁰ They condemned President Mugabe's use of violence and intimidation against its political opponents, commented on the need for unrestricted access for humanitarian organisations, and called

³⁶ France (on behalf of the EU), Indonesia, South Africa, Sudan, Egypt, Malaysia, Switzerland. Switzerland asked if the Special Rapporteur would undertake a joint visit to the OPT with the Special Rapporteur on the right to health.

³⁷ In the General Discussion, the situation in the DPRK was raised by France (on behalf of the EU), the US, New Zealand, Australia and Japan. The situation in Myanmar was raised by France (on behalf of the EU), US, New Zealand, Australia and Japan. The situation in Iran was raised by France (on behalf of the EU), US, New Zealand and Australia.

³⁸ These agenda items were discussed during the period 28-30 October 2008.

³⁹ France (on behalf of the EU), US, Australia, New Zealand.

⁴⁰ France (on behalf of the EU), Canada, US, New Zealand.

for a sustainable political solution to the protracted power struggle between Mr. Mugabe and opposition leader, Mr. Tsvangirai, which would reflect the will of the people of Zimbabwe.

The same small group of Western States also expressed concern about the human rights situation in a range of other States with little overlap in their areas of concern:

- France (on behalf of the EU) drew attention to the human rights situations in:
 - a) Sri Lanka (particularly the resumption of the use of child soldiers, violations of the right to freedom of expression and the urgent need for cooperation with the UN bodies and mechanisms);
 - b) Democratic Republic of Congo (systematic use of violence against women, use of child soldiers, the situation of human rights defenders); and
 - c) Somalia, Eritrea, Belarus, Uzbekistan, Cuba.
- The US referred to the ‘deplorable human rights situations’ in a range of countries including Cuba, Belarus, Syria, Uzbekistan, the Russian Federation and China. It criticised the States’ role in violating the right of freedom of expression, opinion and association, particularly in relation to human rights activists, journalists and political opponents.
- New Zealand and Australia raised:
 - a) the 'dire situation' of the population of the OPT, particularly the humanitarian hardship experienced caused by the blockade of Gaza, and appealed to Israel to uphold its legal obligations;
 - b) the 'extreme security challenges' faced by the people of Afghanistan, expressing concern about reports that its national human rights institution was subject to political interference; and
 - c) Australia stressed that Fiji’s military government needed to provide a timeline for elections to ensure the country returned to democracy.

The opportunity for States to speak freely on any human rights situation was used by a number of members of NAM to resoundingly condemn the US and other Western States for their human rights records. Cuba (on behalf of NAM) drew attention to the human rights situations in the US and the EU. Exercising their right to interrupt the US's statement on eight separate points of order, a number of States⁴¹ prevented the US from completing its statement under this agenda item. A further nine States⁴² responded to the statement delivered by the US by detailing its human rights violations at home and abroad, with the US’s treatment of prisoners at Guantanamo Bay, Abu Ghraib and in its domestic prisons coming in for the harshest criticism. The human rights records of the EU⁴³, New Zealand⁴⁴ and Australia⁴⁵ were also criticised by several States, with particular concern being expressed about their treatment of migrants and indigenous peoples.

Speaking on human rights violations occurring within their own territories by occupying forces, the delegations belonging to the OPT, Georgia and Cyprus⁴⁶ each brought the Committee’s attention to the human rights situation in their respective territories/countries.

Looking forward

Given the systemic nature of the violations and overall pattern of defiance towards UN resolutions shown by a handful of States, the next session of the Third Committee looks set to consider of a small number of country resolutions. However all of these resolutions are likely to meet with strong resistance from Member States of the NAM and others who would prefer consideration of country situations to be relegated to the Council and its UPR process. The starkly different position of members of WEOG in this respect is likely to prevent Western States from bringing resolutions on 'new' situations as the Committee as a whole lacks the

⁴¹ Points of order were made by Myanmar, Cuba, Russia (twice), Iran (thrice), and China.

⁴² Belarus, Cuba, DPRK, Iran, Myanmar, Russian Federation, Sudan, Syria, Zimbabwe.

⁴³ DPRK, Iran, Myanmar, Sudan, Zimbabwe.

⁴⁴ Sudan, Zimbabwe.

⁴⁵ Iran, Sudan and Zimbabwe.

⁴⁶ Greece also made reference to the human rights violations occurring in Cyprus by the occupying Turkish forces.

political will to 'name and shame' the States responsible for some of the most egregious human rights violations.

Some States are beginning to look to the review of the Human Rights Council in 2011 as an opportunity to address the relationship between the Third Committee and the Council, and in particular to settle how they will allocate responsibility for addressing country situations between themselves. In the meantime, any attempts to address country situations outside of the UPR or the Council's Special Sessions look set to meet with intense resistance from members of NAM and the OIC. This is particularly concerning given resistance in the Security Council to add new situations to its agenda. It is also far from certain that the remaining country-specific special procedures created by the Council will all be renewed in the coming year.

Background

The General Assembly is the main deliberative organ of the UN. It is composed of representatives of all Member States and has a general mandate to discuss and make recommendations on any matters within the scope of the *United Nations Charter*. Under Article 13 of the Charter, the General Assembly is specifically mandated to 'initiate studies and make recommendations for the purpose of ...assisting in the realisation of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion'. The regular session of the General Assembly runs from the beginning of September to the end of December. Each year the GA addresses over 150 agenda items, which are considered either in the plenary or in one of its six committees.⁴⁷ The Third Committee (Social, Cultural, and Humanitarian) addresses most agenda items relevant to human rights defenders, including advancement of women, children's rights, the rights of indigenous peoples, the elimination of racism, and human rights questions. Numerous special procedures also report to the Third Committee on a number of these issues and engage in an interactive dialogue with States. The Fifth Committee (Administrative and Budgetary) is also particularly relevant to human rights defenders since it evaluates and approves the budgetary requirements arising out of the work of the other five committees. After completing their work, the Third and the Fifth Committee, as well as the other four main committees, submit draft resolutions to the General Assembly for final adoption.

⁴⁷ For further information on the main committees of the GA, refer to the ISHR's General Assembly Fact Sheet: the General Assembly's main committees, available at http://www.ishr.ch/index.php?option=com_content&task=view&id=131&Itemid=192

Technical Annex

Reports⁴⁸

- Note by the Secretary-General transmitting the report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea (A/63/322)
- Report of the Secretary-General on the situation of human rights in the Democratic People's Republic of Korea (A/63/332)
- Note by the Secretary-General transmitting the report of the Special Rapporteur on the situation of human rights in Myanmar (A/63/341)
- Report of the Secretary-General on the situation of human rights in Myanmar (A/63/356)
- Report of the Secretary-General on the situation of human rights in the Islamic Republic of Iran (A/63/459)
- Note by the Secretary-General transmitting the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (A/63/326).

Special procedures

Special procedure	Date for renewal of mandate	GA report number	Date of presentation of report	Date of last presentation of report/s to Human Rights Council	Next report to Human Rights Council due
DPKR	2009	A/63/322	23 Oct 2008	7 th session, March 2008 ⁴⁹ (A/HRC/7/20)	10 th session, March 2009
Myanmar	2009	A/63/341	23 Oct 2008	8 th session, June 2008 ⁵⁰ (A/HRC/8/12)	10 th session, March 2009
OPT	ongoing	A/63/326	23 Oct 2008	8 th session, June 2008 ⁵¹ (A/HRC/7/17)	10 th session, March 2009

⁴⁸ These reports are available at <http://www.un.org/ga/third/63/doclist.shtml>

⁴⁹ Mr Muntarbhorn presented his report to the 7th session of the Council on 13 March 2008. A report of his interactive dialogue with the Council is available at http://www.ishr.ch/hrm/council/dailyupdates/session_007/13_march_2008.pdf

⁵⁰ Mr Tomás Ojea Quintana presented his first report to the HRC, a preliminary analysis of developments in the aftermath of the peaceful demonstrations that took place in the fall of 2007, which were violently suppressed by the government. A report on his interactive dialogue with the Council is available at http://www.ishr.ch/hrm/council/dailyupdates/session_008/6_june_2008.pdf

⁵¹ Mr. Richard Falk presented the report of Mr. John Dugard, the previous Special Rapporteur. A report on the interactive dialogue of the Council with Mr. Falk is available at http://www.ishr.ch/hrm/council/dailyupdates/session_008/16_june_2008.pdf

Key resolutions

Initial resolution number/final number	Main Sponsor	Title	Previous GA resolution	Action
A/C.3/62/L.26 and A/RES/63/190	France (EU)	Situation of human rights in the DPRK	A/RES/62/167 ⁵² annual	Adopted by C3 21 Nov 08 vote: 95:24:62 Adopted by GA 18 Dec 08 vote: 94:22:63
A/C.3/63/L.33/ and A/RES/63/245	France (EU)	Situation of human rights in Myanmar	A/RES/62/222 ⁵³ annual	Adopted by C3 21 Nov 08 vote: 89:29:63 Adopted by GA 24 Dec 08 vote: 80:25:45
A/C.3/63/L.40 and A/RES/63/191	Canada	Situation of human rights in the Islamic Republic of Iran	A/RES/62/168 ⁵⁴ annual	Adopted by C3 21 Nov 08 vote: 70:51:60 Adopted by GA 18 Dec 08 vote: 69:54:57

⁵² See ISHR's report on country situations from the GA's 62nd session, available at http://www.ishr.ch/index.php?option=com_content&task=view&id=131&Itemid=192

⁵³ See ISHR's report on country situations from the GA's 62nd session, available at http://www.ishr.ch/index.php?option=com_content&task=view&id=131&Itemid=192

⁵⁴ See ISHR's report on country situations from the GA's 62nd session, available at http://www.ishr.ch/index.php?option=com_content&task=view&id=131&Itemid=192

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