

# HUMAN RIGHTS MONITOR

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FOR HUMAN RIGHTS

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**W**hile the 21<sup>st</sup> session of the Human Rights Council (the Council) appeared on the surface to be relatively low-key, certain negative developments exposed deeper concerns for civil society (p.1). Even while a ground-breaking Council panel discussion sought to draw more attention to the issue of reprisals against those that cooperate with the UN, human rights defenders attending the session continued to be harassed and threatened. The session also saw States pass a dangerous resolution on traditional values, led by Russia, pre-empting the more constructive study on traditional values that is currently being prepared by the Council's Advisory Committee (p.7). The aggressive approach of the text's co-sponsors highlights the reinvigoration of attacks on the universal application of all human rights, just as the international community gears up to celebrate the 20<sup>th</sup> anniversary of the Vienna Declaration and Programme of Action in 2013.

With a total of 32 resolutions passed at the session, the financial and resource burden placed on the Office of the High Commissioner for Human Rights continues to be problematic. The Council's response to country situations was also disappointing. Many such resolutions, including on Sudan, South Sudan, Somalia, and Mali, were compromised by efforts to maintain the cooperation of the countries in question. On a more positive note, in addition to the high profile panel discussion on reprisals, resolutions passed on the safety of journalists, and the rights to freedom of peaceful assembly and association were encouraging signs of the Council taking on board the concerns of civil society.

The International Service for Human Rights (ISHR) is an international non-governmental organisation based in Geneva, at the heart of the United Nations human rights system, with a small branch office in New York.

Founded in 1984, we have established ourselves in supporting and facilitating the work of human rights defenders with national, regional and international human rights systems.

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#### EDITORS

Michael Ineichen, Olivia Starrenburg.

#### CONTRIBUTORS AND EDITORIAL SUPPORT

Isabelle Chaumont, Natasha Chokhani, Heather Collister, Zselyke Csaky, Aidan Einfeld, Ilaria Ghelardoni, Christian Rogers, Madeleine Sinclair.

Special thanks to our guest contributors, Roisin Fegan of the NGO Group for the Convention on the Rights of the Child, and Victoria Lee of the International Disability Alliance.

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#### LAYOUT

adb atelier dominique broillet, Geneva.

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#### GENEVA OFFICE

Rue de Varembe 1, 5<sup>th</sup> floor  
P.O. Box 16  
CH-1211 Geneva 20 CIC  
Switzerland

#### NEW YORK OFFICE

777 UN Plaza, 8<sup>th</sup> floor  
New York  
NY 10017  
USA

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# INTERNATIONAL DEVELOPMENTS

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# HUMAN RIGHTS COUNCIL

## Worrying signs of regression at 21<sup>st</sup> session



Photo: UN Photo/Jean-Marc Ferré

Secretary-General Ban Ki-moon (right) speaks with Kassym Jomart Tokayev (left), Director-General of the UN at Geneva, during the session.

While the 21<sup>st</sup> session of the Human Rights Council (the Council), from 10 to 28 September, appeared on the surface to be relatively low-key, certain negative developments exposed deeper concerns for civil society. Even while a ground-breaking Council panel discussion sought to draw more attention to the issue of reprisals against those that cooperate with the United Nations, human rights defenders attending the session continued to be harassed and threatened. The session also saw States pass a dangerous resolution on traditional values, the latest in a series of resolutions led by the Russian Federation.

Furthermore, with a total of 32 resolutions passed at this session, the financial and resource burden placed on the Office of the High Commissioner for Human Rights (OHCHR) continues to be problematic. A cross-regional group of 30 States<sup>1</sup> delivered a joint statement noting these challenges and calling for the more sustainable resourcing of OHCHR. They implored their peers to continue to provide voluntary contributions, but also to consider the current financial constraints when mandating new activity. During the debate on technical assistance and capacity building under the Council's agenda item 10, most States emphasised the importance of the technical assistance provided by OHCHR and called for this to be continued. However, in her address to the Council, the High Commissioner for Human Rights, Ms Navanethem Pillay, said OHCHR was close to 'breaking point'. She explained that her office's regular budget was not sufficient to support the international human rights mechanisms nor the mandates created by the Council every year, and had to rely on extra-budgetary funding. The UN Secretary-General, Mr Ban Ki-moon, addressing the Council at the opening of the session, called on States to increase budget allocations to OHCHR, describing this as one of the key challenges facing the UN. As the Council shows no sign of exercising restraint in its demands on OHCHR, this issue is likely to take on increasing urgency at future sessions.

This article provides an overview of developments at the 21<sup>st</sup> session and does not attempt to exhaustively discuss it. For more detailed information see the OHCHR report of the session, UN press releases, a full list of resolutions adopted, and ISHR's news stories published throughout the session.<sup>2</sup>

### CONTROVERSIAL APPOINTMENTS OF EXPERTS

There were some controversial appointments to the Council's expert bodies made at this session, including to the Human Rights Council Advisory Committee. The candidate for the Asian vacancy on the Advisory Committee, Mr Saeed Mohamed Al Faihani from Bahrain, has held several positions within the Bahraini Government, most recently within the Ministry of Human Rights and Social Development. He is also a former Ambassador to the UN in Geneva. At the time of Mr Al Faihani's name being put forward he still held a government post, which many stakeholders saw to be a clear conflict of interest. Even after he resigned that post, thus clearing the formal conflict, his government career leaves doubt of his full independence. Given that Bahrain has been increasingly criticised during recent sessions of the Council by States and NGOs for the suppression of peaceful protests and its harassment of human rights defenders, the presentation of this candidate raised particular concerns.

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1 Argentina, Australia, Austria, Botswana, Chile, Cote d'Ivoire, El Salvador, France, Greece, Guatemala, Honduras, Italy, Liechtenstein, Luxembourg, Maldives, Mexico, Monaco, Morocco, Nigeria, Norway, Pakistan, Peru, Qatar, Saudi Arabia, Senegal, Switzerland, Thailand, Tunisia, Turkey, and Uruguay.

2 The report of the session containing details about the proceedings is available at <http://bit.ly/NmHKf4>, press releases at <http://bit.ly/btifvi>, a full list of resolutions adopted at <http://bit.ly/VXXCKV>, and ISHR news stories at [www.ishr.ch/council](http://www.ishr.ch/council).

Following the appointment of Mr Al Faihani, the President of the Council said the provisions of the institution-building package relating to conflicts of interest had been applied in this and all other cases.<sup>3</sup> Belgium, speaking after the appointment on behalf of the Western European and Others Group (WEOG), reiterated the criteria for eligibility, stressing that these criteria apply before candidates are nominated as well as once they are elected. Belgium added that it is the responsibility of the States that propose candidates to ensure those nominated are eligible.

Mr Miklos Haraszti was appointed by the President to the newly-created mandate of Special Rapporteur on Belarus, a departure from the recommendation of the Consultative Group<sup>4</sup> who had suggested Ms Sophie Hanne Greve of Norway. Cuba, the Russian Federation, and China all dissociated themselves from the appointment of Mr Haraszti. Fundamentally, the objections were based on their opposition to the creation of the Special Rapporteur mandate, which was one of the major successes of the June 2012 session of the Council. For Cuba, the appointment of an EU mandate holder 'fosters politicisation', given that the creation of the mandate was an EU initiative. The President justified her decision on the basis of Mr Haraszti's Russian language skills.

Also appointed at this session was Ms Sheila Beedwantee Keetharuth, from Mauritius, to the mandate of Special Rapporteur on Eritrea, which was created in June following an African Group-led initiative. Just as Belarus was opposed to the mandate on its own country situation, Eritrea fought the creation of this mandate, denouncing it as 'politicised'. It was notable therefore that, unlike in the situation of Belarus, no State alleged the process was unfairly selective in focusing on Eritrea, nor did anyone take issue with the mandate holder being African.

Finally, Mr Marc Pallemaerts from Belgium was appointed as Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes.

## NGO PARTICIPATION

This was the second session at which NGOs could participate by recorded video-message. However, only one NGO made use of this opportunity, during the adoption of the UPR working group report on Indonesia. Some NGOs have

raised concerns around the fairness of a system that sometimes requires them to invest time and effort recording a message without any guarantee that it will be aired. The further development of opportunities for remote participation and the eventual move to video conferencing as opposed to recorded video messages depends, to a large extent, on the visible existence of a demand for remote participation. It is important that NGOs participate at this stage of the process to demonstrate there is such a demand.

Also at this session, the sign-up process for NGOs to speak during the UPR adoptions was managed through an online system to enable remote participation. Speaking during the general debate on the UPR later in the week, Morocco claimed these changes had made it harder for the national NGOs who were unaware of the new methods to be involved, even though remote sign-up seems to be a more equitable method than the physical race to the speakers list, as was previously the case.

However, NGO participation overall was greater than at previous sessions. There were 134 written statements submitted, compared to 91 at last year's September session. Some NGOs highlighted the difficulty of complying with the deadline for submitting written statements (i.e. two weeks before the start of the session) when many special procedure reports are not yet published at that point. OHCHR plans to carry out a survey of NGOs to discover how their participation could be better facilitated. Processing these statements in time for the relevant agenda item can be a challenge for OHCHR, however at this session almost all such statements were treated in time.<sup>5</sup> It is however another source of concern in relation to OHCHR's resources.

## COUNTRY SITUATIONS

The Council's deliberations and actions on country situations were disappointing for human rights defenders. Many resolutions were adopted under its agenda item 10, reflecting a growing trend at the Council. Item 10, with a focus on assisting a country to promote and protect human rights through providing technical support, takes the cooperation of the concerned government as its starting point. This works well if that cooperation is genuine. However, in cases where cooperation is tactical rather than authentic, this approach can result in resolutions that do not accurately reflect the reality of the situation on the ground, with a compromise of language being the price for keeping the concerned country on side. If the Council wants to avoid enabling a country to mask the true extent of human rights violations, it should always insist on clear benchmarks to measure human rights progress, particularly if a cooperative approach is chosen.

In light of OHCHR's financial and resource challenges, it is particularly important that technical assistance be directed

3 The Council's institution-building package (Resolution 5/1) states in relation to elections to the Advisory Committee that, '[i]ndividuals holding decision-making positions in government or in any other organisation or entity which might give rise to a conflict of interest with the responsibilities inherent in the mandate shall be excluded'.

4 The 'Consultative Group' is a group of five ambassadors, each representing one of the regional groups, tasked with presenting a make one word shortlist of candidates of special procedures mandate holders for appointment by the President of the Council. Currently, the Consultative Group is composed of the ambassadors of Iraq, Norway, Nigeria, Slovakia and Cuba.

5 As noted during a side event with OHCHR participation.

to initiatives that are most likely to bear fruit. Increasing calls for technical assistance from States that have not, in all cases, demonstrated a genuine commitment to improving the human rights situation in their countries is a poor investment of OHCHR's limited budget.

The renewal of the mandate of the Independent Expert on the situation in the Sudan exemplified the difficulties of discussing certain situations in the context of agenda item 10. There had been calls from human rights defenders for this mandate to be renewed under item 4 – 'human rights situations that require the Council's attention' – rather than item 10, as this was seen to be more likely to enable stronger language to be introduced without having to rely on the Government's agreement. However, the resolution was once again renewed under the latter agenda item. While the language is stronger than the previous resolution on Sudan,<sup>6</sup> it remains a minimal acknowledgement of the human rights violations taking place. The bulk of the latest resolution welcomes developments in Sudan, including the Government's promotion and protection of human rights, the cooperation extended to the Independent Expert, and the steps taken by the Government to implement the recommendations it received during its UPR. At the adoption of the resolution, Sudan claimed it was in 'full readiness to cooperate' with the Council and that it would 'pursue the same approach as before'. So far, however, Sudan has not permitted the Independent Expert to access Darfur despite his request, which stands in stark contrast to the rhetoric of cooperation.

The Council also adopted a weak resolution on South Sudan, 'recognising the challenges' the new country faces and calling on OHCHR to provide technical assistance and training where needed.

A resolution passed on Somalia, which 'reinforces' the mandate of the Independent Expert in the context of his work with the new government, has more robust language than that on South Sudan. The resolution on Somalia 'strongly condemns grave and systematic human rights abuses perpetrated against the civilian population.' However, its continued emphasis on the mandate holder supporting 'the efforts of the Government [...] to ensure respect for human rights' is not an appropriate response to the concerns expressed in the initial part of the resolution.

The resolution on Yemen endorses the planned opening of an OHCHR country office, and highlights the steps taken towards accountability at the national level and the commitment of the Government to 'transparent and independent' investigations that 'adhere to international standards'. While, again, the language does not fully mirror the reality of developments on the ground, the inclusion of a reference to the Government's positive commitments gives these pledges greater visibility, and provides a means of holding the

Government accountable for them. The State's agreement to an OHCHR presence is a significant step, and could enable close follow-up at the country level.

The Commission of Inquiry on Syria held its latest interactive dialogue with the Council.<sup>7</sup> After the previous extension of the Commission's mandate in March, the Council decided to further extend the mandate, this time until the 22<sup>nd</sup> session of the Council (March 2013). The resolution also requests the Secretary-General to provide the Commission with additional resources, including staffing. The President appointed Ms Carla del Ponte and Mr Vitit Muntarbhorn to the Commission, joining Mr Paulo Sergio Pinheiro (Chairperson), and Ms Karen Koning AbuZayd. As a former prosecutor at the International Criminal Tribunals for Rwanda and for the former Yugoslavia, Ms del Ponte has the experience to build a strong criminal case should the situation come before the International Criminal Court (ICC). The latest resolution on the situation in Syria once again fails to make a direct call for referral to the ICC, though the number of States bidding for this during the interactive dialogue increased.<sup>8</sup>

The strain that supporting a Commission of Inquiry places on OHCHR's resources was clearly apparent as the Office announced it would request emergency funding from the Advisory Committee on Administrative and Budget Questions in order to sustain the mandate of the Commission.

Following on from the High Commissioner's report to the session on the human rights situation in Northern Mali,<sup>9</sup> the Council passed another resolution on Mali (also under item 4). It requests OHCHR to monitor and report on the human rights situation in the entire country (though the particular emphasis on the North remains). UN Assistant Secretary-General, Mr Ivan Šimonović visited Mali from 5 to 8 October to undertake an assessment of the human rights situation in the country, and to identify areas for potential cooperation between OHCHR and the Government. OHCHR is to submit its report to the 22<sup>nd</sup> session of the Council.

## THEMATIC DEVELOPMENTS

### Reprisals

The session saw a number of significant thematic developments. The issue of reprisals had a high profile with the Council's first panel discussion dedicated to the problem. The panel included contributions from the Secretary-General, Mr Ki-moon, and the High Commissioner, Ms Pillay.

6 Previous resolution (18/16) available at <http://bit.ly/VAMwFK>.

7 Report of the Commission on Inquiry into the Situation in Syria: <http://bit.ly/Rijusf>.

8 Including Austria, Botswana, Bulgaria, Costa Rica, Croatia, Czech Republic, France, Honduras, Ireland, Lithuania, Maldives, Switzerland, and UK.

9 Requested by Council Resolution 20/17, available at <http://bit.ly/Q30oKs>.

Some interesting suggestions were raised during the debate, including the idea of in-country focal points to develop plans to prevent reprisals and to act as an intermediary between defenders, national governments and the international human rights system. France suggested appointing such a focal point at the international level, within the Secretary-General's office, to investigate allegations of reprisals and ensure they are followed up at the national level.

Hungary, the traditional sponsor of this resolution, does not currently plan to present a follow-up resolution until September 2013. Should this prove to be the case, the challenge will be to ensure progress is not stalled, and that concrete steps are taken in the meantime to protect against and respond to reprisals.

While it was encouraging that many States had clearly thought about the problem and attempted to propose solutions, it was disappointing that this did not follow through even to the following week's item 5 debate on human rights mechanisms. The debate was the first opportunity for the Council to consolidate the points raised during the panel and to move the discussion on reprisals into the Council's broader agenda. It was particularly disappointing that the States mentioned in the Secretary-General's report on reprisals did not heed calls from peers and NGOs to publicly respond to the report's specific allegations.

In terms of how to consolidate progress at the level of the Council, a few States raised the idea of an annual discussion under item 5, something Hungary had tried and failed to achieve in the resolution that created the panel discussion. It is hoped that, following the initial panel discussion, future reports of the Secretary-General will benefit from more interest by States. The panel, however, also clearly showed that reporting on and discussing cases of reprisals after they occur is insufficient, even more so as the September session was again the scene of harassment and intimidation against participating human rights defenders. For instance, Mr Mohammed Al-Maskati from Bahrain, who tweeted about his attendance at the Council session, received phone calls while in Geneva threatening his life.<sup>10</sup> On his return to Bahrain, Mr Al-Maskati was briefly detained facing charges of taking part in 'illegal protests and gatherings'.

In moving this debate forward, the Council has the support of high profile voices such as the Secretary-General, who in an address to the opening session of the Council listed combatting reprisals as one of the five key challenges facing the UN human rights system. The High Commissioner also highlighted both the need and the right of human rights defenders to participate in the work of the UN.

10 Mr Mohammed Al-Maskati was also amongst the group of Bahraini defenders who attended the UPR of Bahrain in May, and who faced a series of government-led intimidations on their return to Bahrain.

The Council President, who had made a strong statement about allegations of reprisals during the UPR of Bahrain, continued to take an active approach. At a meeting of the Council's bureau<sup>11</sup> she noted that she had raised these allegations with the Bahraini delegation. At the closing of the 21<sup>st</sup> session, the President reiterated the obligation of States to create a safe environment for human rights defenders. She called on the Council to exercise its responsibility to ensure those who cooperate with it and its mechanisms can do so without fear for themselves or their families.

### Traditional values

The Council held its first interactive dialogue with the Advisory Committee, represented by outgoing member Mr Jean Ziegler,<sup>12</sup> on the several thematic studies the Advisory Committee has been working on, as mandated by the Council.<sup>13</sup> Relating generally to the work of the Advisory Committee, the debate divided States between those who felt that the Advisory Committee is producing significant and useful work (Cuba, Republic of Korea, Venezuela, and the Russian Federation), and those that felt the Committee is not functioning effectively (the US in particular, which referred back to the position it had taken during the review of the Council).

Of the Committee's current mandates it was the one on traditional values and human rights that received the most attention from the few States that participated in the debate. The presentation of the current study on traditional values to the Council, scheduled for this session, has been delayed until the March 2013 session, so that the drafting group can integrate the many comments received on the latest draft. Nevertheless the Russian Federation chose to continue with the presentation of its latest resolution on traditional values. For more discussion on this and the Advisory Committee's latest draft see the article on p.7.

The more aggressive approach of the text's co-sponsors within the Human Rights Council highlights the reinvigoration of attacks on the universal application of all human rights, just as the international community gears up to celebrate the 20<sup>th</sup> anniversary of the Vienna Declaration and Programme of Action (VDPA) in 2013. The high-level panel to be convened in March 2013<sup>14</sup> will be an opportunity to reaffirm the continued and full validity of the VDPA, but may also be a venue for

11 The Council's bureau consists of the President plus the other regional coordinators. For the 2011 – 2012 cycle the regional coordinators are Austria, Hungary, Kyrgyzstan, and Cameroon.

12 Mr Ziegler's term as member of the Advisory Committee has now ended.

13 The Advisory Committee has been working on mandates from the Council on traditional values and human rights, the issue of hostage-taking by terrorist groups, human rights and international solidarity (final study submitted to 21<sup>st</sup> session of the Council), promotion of the human rights of the urban poor, and rural women and the right to food.

14 See A/HRC/RES/21/20, available shortly on <http://bit.ly/Y79FUk>.

continued attempts to undermine human rights by reference to concepts such as traditional values.

### Reporting on the UPR

One key issue to emerge during the general debate on the UPR was OHCHR's publication of short summaries immediately after each review, which was done for the May meetings of the working group. These reports are targeted at the media, but are also a very useful resource for human rights defenders. At the time, some States, including the Russian Federation, China, Indonesia, Malaysia, and India, expressed concern about the summaries, saying they were selective, inappropriate and 'distort the nature and the outcome of the coverage'. This criticism was repeated at the Council session, with Ecuador and China claiming that OHCHR had promised to remove the summaries from its website. Brazil stated that, while it understood the summaries were well-intentioned, they were not part of the institution-building package. OHCHR responded that the reporting was an important part of keeping the UPR process transparent and of keeping stakeholders informed. Summaries continued to be published during the 14<sup>th</sup> session of the UPR in October 2012.<sup>15</sup>

### Defamation of religion

In a worrying development, Egypt with the support of the OIC attempted to hijack the negotiations on the resolution on racism. However, unlike on previous occasions, the African co-sponsors of the text resisted these attempts and maintained the focus on racism and xenophobia. The final version of the resolution, which is formally called 'From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance', does not include reference to so-called 'defamation of religion'. Since 2011, language on 'defamation of religion' has been replaced in the Council by the more constructive approach developed at the 16<sup>th</sup> session, when States reached consensus on Resolution 16/18 on 'intolerance [...] against persons based on religion or belief'. At the time, human rights advocates welcomed Resolution 16/18 as the Council's clear affirmation that, while individuals should not be discriminated against based on their religion, religions *per-se* do not benefit from human rights protection.

Egypt's regressive attempt to revert back to the idea of 'defamation of religion' was linked to the violent response across the Middle East to a film said to insult Islam. It is also reflected in an Organization of Islamic Cooperation (OIC) communiqué from a meeting of foreign ministers, which notes the 'laudable' efforts of the OIC grouping at the Council to place 'defamation of religions' at the top of the agenda of the Council. The communiqué calls on the international community 'to exert efforts to prevent incitement to hatred and discrimination against Muslims, and to take effective measures

to combat the defamation of religions and negative stereotyping against persons based on their religions, faith or race'.<sup>16</sup> However, following the latest Council session, the OIC Ambassador to the UN publicly stated that the position of the OIC had fundamentally changed with the adoption of Resolution 16/18, and he denied that the OIC had been amongst those calling for criminalisation of defamation of religion in the aftermath of the violence.<sup>17</sup>

### Safety of journalists

A resolution on the safety of journalists, led by Austria with the support of Brazil, Morocco, Tunisia, and Switzerland, was adopted by consensus. The resolution calls for OHCHR and the Special Rapporteur on freedom of expression to compile good practices in the protection of journalists, prevention of attacks, and the fight against impunity, and to present this report to the 24<sup>th</sup> session of the Council. China attempted to insert language relating to the need for journalists to respect national laws. A compromise was reached, recalling Article 19 of the *International Covenant on Civil and Political Rights*, including the limits that can be placed on freedom of expression where these are necessary to protect the rights or reputations of others, or to protect national security, public order, public health, or morals. The resolution includes reference to protection measures designed for human rights defenders, noting that, in many instances, these same measures can be used when designing measures for the protection of journalists.

### Peaceful assembly and association

Finally a resolution on the rights to freedom of peaceful assembly and association, presented by the US, with key supporters including the Czech Republic, Indonesia, Lithuania, the Maldives, Mexico, and Nigeria, was adopted by consensus. The resolution focuses on the important role of freedom of peaceful assembly and association for the work of civil society, including human rights defenders. It invites the Special Rapporteur in freedom of assembly and association to include this in his next report, and further requests him to present an annual report to the General Assembly.

## LOOKING AHEAD

The General Assembly elected new members to the Human Rights Council on 12 November.<sup>18</sup> The change of membership may lead to a shift in dynamics within the Human Rights Council, as Russia, China and Cuba will all leave the Council.<sup>19</sup>

<sup>16</sup> Final communiqué of the annual coordinating meeting of Ministers of Foreign Affairs of the OIC member States, 23 September 2011, <http://bit.ly/PSndSO>.

<sup>17</sup> <http://bit.ly/Xy0Gur>.

<sup>18</sup> <http://bit.ly/TtTEGn>.

<sup>19</sup> Bangladesh, Belgium, Cameroon, China, Cuba, Djibouti, Hungary, Kyrgyzstan, Mauritius, Mexico, Nigeria, Norway, Russian Federation, Saudi Arabia, Senegal, US, and Uruguay will all end their terms at the end of 2012. Of these, the US will seek a second term.

<sup>15</sup> <http://bit.ly/TtpDIA>.

Even if non-members play an important role in Council dynamics, given the political weight of the outgoing members, their departure has the potential to shift the Council in a more positive direction. This is likely to be particularly important for the consideration of country resolutions, which are often controversial and have in many instances faced principled opposition by Russia, China and Cuba.

Candidate States were invited to speak at an event organised by ISHR and Amnesty International. This event enabled States to present their election pledges in a public forum and elaborate on how they plan to implement them. Argentina, Estonia, Germany, Greece, Ireland, Montenegro, Sweden, and the US accepted this invitation.<sup>20</sup>

The Council's 21<sup>st</sup> session was the last to be presided over by Ms Laura Dupuy Lasserre of Uruguay. Her successor will come from the Eastern European Group of States. At the time of writing, Poland and the Czech Republic seem to be the strongest contenders for the Presidency. Ms Dupuy Lasserre has become a strong President, who has taken some good initiatives during her 18 months in charge. It is to be hoped that some of those initiatives, particularly her strong stance on reprisals, have set a precedent that future Presidents will follow.

### Other developments

The Council adopted the *Guiding Principles on Human Rights and Extreme Poverty*. The principles were adopted by consensus, and provide global policy guidelines focusing specifically on the rights of people living in poverty.<sup>21</sup> Also adopted by consensus was a paper on technical guidance on the application of a human rights based approach to the implementation of policies and programmes to reduce preventable maternal mortality and morbidity. A group of Arab, Islamic, and African States<sup>22</sup> delivered a statement disassociating themselves from the technical guidance and specifically its reference to 'sexual and reproductive health rights' on grounds that 'there is no international consensus on sexual rights'.

A resolution on corruption and human rights sets up a panel discussion on the issue of the negative impact of corruption on the enjoyment of human rights, to be held at the Council's 22<sup>nd</sup> session.

Meanwhile, this session's resolution on safe drinking water and sanitation, recognising a human right to water and sanitation derived from the right to an adequate standard of living, was for the first time adopted by consensus. However, the resolution fails to specify the elements of the rights of water and sanitation, or make recommendations relating to the provision of water and sanitation to informal settlements.

The Council continued work on promoting the *Guiding Principles on Business and Human Rights*, including encouraging all UN entities to develop guidance and training to assist governments, businesses, and civil society in disseminating the Principles, and organising a panel discussion at the 22<sup>nd</sup> or 23<sup>rd</sup> sessions of the Council.

For the full list of all resolutions adopted at the session see <http://bit.ly/VXXCKV>. ■

20 This event took place on 19 October 2012. See an ISHR news piece on the event at <http://bit.ly/S4Vcnc>.

21 <http://bit.ly/RmgxaB>.

22 Delivered by Saudi Arabia on behalf of Bahrain, Bangladesh, Brunei-Darussalam, Egypt, Iran, Kuwait, Libya, Malaysia, Mauritania, Oman, Pakistan, Qatar, Saudi Arabia, Sudan, Syria, Uganda, United Arab Emirates, and Yemen.

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# HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE

Revised traditional values study shows promise, but concerns remain



Photo: Trey Ratcliff

The Human Rights Council adopted a new resolution on traditional values during its 21<sup>st</sup> session, even while an Advisory Committee study on traditional values is still ongoing.

Continuing efforts to push forward and legitimise the concept of traditional values, spearheaded by the Russian Federation, and seen by many as a serious threat to universal human rights standards, manifested themselves most recently at the 21<sup>st</sup> session of the Human Rights Council (the Council), with the adoption of another such resolution.<sup>1</sup> Controversially, member States progressed this resolution before the Human Rights Council Advisory Committee (the Advisory Committee or Committee) had been able to submit its own report on traditional values to the Council. The Advisory Committee discussed the latest draft of its study, a much improved version from the perspective of protecting the universality of human rights, at its 9<sup>th</sup> session in August 2012. However, the Committee chose to request more time from the Council to finalise the study, rather than submit it as requested to the 21<sup>st</sup> session. For the Council to move ahead with another resolution without waiting for the input that it requested from the Advisory Committee is procedurally irregular.

The Russian Federation's and co-sponsors' approach to promoting traditional values has been extremely controversial, which was reflected in the Advisory Committee's discussions on the subject. Indeed, the resolution<sup>2</sup> that gave the mandate to the Committee to prepare the study was adopted by 24 States voting in favour, while 22 either voted against, abstained or were absent (14 against and 7 abstentions, Gabon was absent).<sup>3</sup> This is far from a resounding endorsement by member States.

The adoption of this latest resolution saw the controversy around the Russians' initiative, which until now had been largely substantive, spill over into procedural matters. Not only did the Russian Federation choose to present this resolution without waiting for the Advisory Committee to finalise its study requested by the last resolution on the subject, but it also failed to give States the space to fully engage in negotiations on the resolution's draft text. After holding one informal negotiation, during which the text and the timing of the resolution were heavily criticised by States, Russia announced it would not hold any more open meetings. The resolution saw a vote of 25 in favour, 15 against, and 7 abstentions.

## ADVISORY COMMITTEE DISCUSSES TRANSFORMED NEW DRAFT

The first draft of the study on traditional values was presented to the 8<sup>th</sup> session of the Committee, in February 2012, by the Rapporteur, Russian Committee member Mr Vladimir Kartashkin.<sup>4</sup> It was heavily criticised in several respects<sup>5</sup> and it was decided that a new draft needed to be prepared for the 9<sup>th</sup> session. Committee member Ms Chung Chinsung agreed to take the lead on redrafting the text.

The first draft of the study presented by Mr Kartashkin developed the notions of traditional values linked to the concepts of dignity, freedom and responsibility. It was widely criticised by several Committee members and many NGOs and States

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1 See article on the Human Rights Council's 21<sup>st</sup> session on page 1 of this publication.

2 This study was requested in Council Resolution 16/3, available at <http://bit.ly/gQtWfV>.

3 Libya's voting rights were suspended at the time.

4 The first draft is available at <http://bit.ly/OQrIBx>.

5 See issue 2, 2012 of the *Human Rights Monitor Quarterly*, p. 7, available at <http://bit.ly/LeRZIA>.

– largely because it was said to undermine the concept of universal human rights by prioritising traditional values. Criticisms of the first draft also pointed to two other shortcomings. First, the notion of responsibility was described as if the enjoyment of the human rights by a person depended on their moral and legal behaviour. Second, the draft did not include any reference to the possible negative impact of traditional values. The revised draft addressed both of these issues in a manner compatible with human rights law.

In the revised version, the concepts of dignity, freedom and responsibility are presented in the framework of international human rights law, while stating these concepts are also to be found in many traditions. The revised draft includes a section on the relationship between traditional values and human rights, which explores how some universal values, such as dignity, on which human rights are based, have roots in diverse traditional and cultural contexts. This section crucially clarifies the limits of how the concept of ‘dignity’ can be used with regard to human rights, thus ensuring it is not used to undermine them. It also contains a subsection on the negative impact of traditional values on women and minority groups, addressing one of the main criticisms of the first draft, and responding to the Committee’s mandate to include a gender perspective in all its work.<sup>6</sup>

However, in its intervention, the Russian Federation restated the argument given at previous Committee sessions, that the notion of ‘negative values’ is paradoxical. It implied that mentioning the negative impact of some traditional practices does not fulfil the mandate given by the Council, which calls for discussion on how traditional values promote human rights. However, others have argued that in order to understand how traditional values promote human rights it is necessary to show also how they can undermine them. The revised draft also addresses how these values can contribute to the promotion and the protection of human rights through examining the role of human rights education and families. It exposes good practices for enhancing respect for human rights through appeal to locally familiar values.

### Heated debate on the concept of ‘responsibility’

The focal point of the debate on the new draft remained the section on ‘responsibility’, a concept that has previously been used as an avenue for seeking to restrict the work of human rights defenders. It is on this subject that the views of Committee members are most divided. Several Committee members, together with Switzerland and the United States, and NGOs, expressed concern that importing the concept of individual responsibility into international human rights law would threaten the universality of human rights. It is also not a concept that needs further development in international human rights law. This understanding was at the basis of the Economic and Social Council’s (ECOSOC) vote

against a proposal by the Commission on Human Rights (the Commission) to develop a text on ‘human responsibilities’ in 2005.<sup>7</sup>

The Russian Federation, however, backed up Mr Kartashkin’s position by noting that Article 19 of the *International Convention on Civil and Political Rights*<sup>8</sup> includes reference to individual responsibility, as does the *Convention of the Rights of the Child*,<sup>9</sup> which contains a reference to the responsibility of parents. The representative said both instruments should be included in the study to illustrate the responsibility of individuals in cases of human rights violations.

### FUTURE STEPS

The attempt to portray traditional values as wholly positive is clearly set to continue with the emphasis, in the Council’s latest resolution, on best practices in using traditional values to promote human rights.

It is unfortunate that at the adoption of the resolution, States from the Group of Latin American and Caribbean Countries (GRULAC) in particular, many of whom made strong statements against the concept of traditional values, did not all follow Mexico and Costa Rica in voting against it, choosing instead to abstain. Chile, Uruguay, Peru, and Guatemala, all spoke out strongly for the universality of human rights, with Uruguay noting that the latest draft study from the Advisory Committee clearly shows that traditional values cannot form alternative international standards. However, they chose to reserve their positions until the report from the Advisory Committee is finalised. There were indications these States would change their vote in the future, with Chile and Guatemala in particular stating they would expect any future resolution on the subject to express full concern for universality, if it was to be acceptable to them.

The Advisory Committee’s report is now due to be submitted to the 22<sup>nd</sup> session of the Council in March 2013. The compilation of best practice is to be submitted to the Council in summary form before its 24<sup>th</sup> session, in September 2013. ■

<sup>6</sup> Human Rights Council Resolution 6/30.

<sup>7</sup> <http://bit.ly/RijyN0>. It is notable that the division of votes in the Commission and ECOSOC was similar to that on traditional values in the Human Rights Council.

<sup>8</sup> While it is accurate that Article 19 of the *International Convention on Civil and Political Rights* mentions that ‘the exercise of the rights provided for in [the Convention] carries with it special duties and responsibilities’, the Convention also provides that restrictions ‘shall only be such as provided by law and are necessary’ in a democratic society for the purpose of protecting ‘national security, public order, public health or morals or the rights and freedoms of others’.

<sup>9</sup> The *Convention of the Rights of the Child* says in its Article 18 that ‘both parents have common responsibilities for the upbringing and development of the child’. However, the Convention puts duties on States Parties. In particular, for the purpose of guaranteeing and promoting the rights set forth in the Convention, States are required to provide appropriate assistance to parents and legal guardians to perform their child-rearing responsibilities.

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# HUMAN RIGHTS COMMITTEE

Armenia, Iceland, Kenya, Lithuania, and the Maldives reviewed at 105<sup>th</sup> session



Photo: Emilio Kuffner

Women in Kilimambogo, Kenya. A National Gender Equality Commission was one initiative, highlighted by Kenya in its review, aimed at aligning the State's new constitution with the International Covenant on Civil and Political Rights.

**M**onday 9 July marked the beginning of the 105<sup>th</sup> session of the Human Rights Committee (the Committee), which saw Armenia, Kenya, Lithuania, and Iceland returning for another round of examination. A newcomer to the review was the Maldives, which submitted its initial report this year, undergoing a thorough first inspection. Issues of nationalism, women's rights and the rights of lesbian, gay, bisexual and transgender (LGBT) persons were among the themes discussed. The session ended on 27 July.

The Committee marked the death of one of its longest serving members, Mr Rajsoomer Lallah, who had been on the Committee since its inception in 1977. Mr Lallah was highly spoken of by each of the members, and a minute's silence was held in his memory.

Typically, some of the State reports were submitted late. Armenia's submission was by far the latest, clocking a delay of just over a decade. Concessions were granted to the other late States. Kenya's ongoing constitutional overhaul, and the submission of the Maldives initial, more detailed report both qualified as extenuating circumstances.

In a notable alteration to the Committee's normal annual programme, the March 2013 session of the Committee, which is generally held in New York, will take place in Geneva for budgetary reasons. There have been sporadic conversations about moving sessions of both the Human Rights Committee and the Committee on the Elimination of Discrimination against Women to Geneva.

At its 106<sup>th</sup> session in October 2013, the Committee will start the process of drafting a new general comment, on Article 9: liberty and security of person. It held a general discussion on 25 October to solicit views from interested parties. ISHR will report on the October session in its January edition of the *Human Rights Monitor Quarterly*.

## STATE ENGAGEMENT AND REPORTS

The delegation of Iceland, composed of three government representatives, proved ill-equipped to answer some of the Committee's questions, due to the absence of relevant expertise. The Committee, however, praised the Icelandic report for its thoroughness. The report introduced new measures to counter gender violence, and the inclusion of new human rights mechanisms into its national statute. Iceland's lack of serious political or civil threats, reflected in a statement made by the Icelandic Human Rights Centre (IHRC), underscored the State's success regarding its current human rights provisions. Despite some criticism by the Committee concerning the inadequacy of the Icelandic delegation's expertise, the delegation answered most questions concisely and directly.

Armenia's delegation of nine, which included the head of its Human Rights and Humanitarian Issues Department, and its permanent representative to the United Nations in Geneva, was among the most male dominated. In spite of the delegation's expertise, its members repeatedly evaded challenging questions, using pre-prepared answers. The Committee also became frustrated by the national report for its lack of content and careless composition. Because the report had been submitted so

late, it had been amalgamated with an older report, instead of thoroughly updated. The delegation drew particular attention to improvements in transparency and equality within the country's electoral system.

The Maldives submitted its initial report, which required an additional half-day to review. The review came after the political turmoil earlier in 2012, which saw Mr Mohamed Nasheed replaced as president by Mr Mohammed Waheed Hassan. The delegation reflected the new administration's close ties to ex-president Mr Maumoon Abdul Gayoom, whose 30-year rule ended when he lost the country's first democratic election to Mr Nasheed in 2008. The delegation was headed by Mr Mohamed Jameel Ahmed, Minister of Home Affairs, who had been the Justice Minister under President Gayoom. Accompanying him was Mr Gayoom's daughter, Minister of State for Foreign Affairs, Ms Dunya Maumoon. The rest of the delegation consisted of members of the Geneva mission.<sup>1</sup>

The report contained an exhaustive compilation of data and facts about the nation. During the delegation's presentation, its members, despite their strong connections to the pre-2008 administration, made frequent reference to the new constitution that was drawn up after the elections in 2008. The constitution contains a bill of rights, designed to reflect the International Covenant on Civil and Political Rights (the Covenant) and all of the other human rights treaties to which the Maldives is a signatory. Speaking with enthusiasm, the delegation answered the Committee's questions head-on.

Kenya's delegation – the largest at the session – consisted of 12 representatives, the majority of whom came from the Ministry of Justice, National Cohesion and Constitutional Affairs (JNCC). Kenya's ongoing constitutional reform, which has caused a lengthy period of transition, meant members of other ministries were not available to answer the Committee's questions. The introduction of a National Gender Equality Commission and the decriminalisation of homosexuality were two provisions the JNCC had drafted in an attempt to align Kenya's new constitution with the Covenant. The delegation was forthcoming with information, and readily admitted it was unable to answer questions due to gaps in delegates' knowledge.

The delegation of Lithuania was congratulated, not only for a thorough knowledge of the country's current state of affairs, but also for the national report itself. However the delegation was evasive in answering questions relating to nationalism and LGBT persons.

Most delegations had a good gender balance. There were 19 female delegates and 21 male delegates across all reviewed States, with two of the five delegations led by women. The quality of the delegates also helped to make the dialogues constructive and informed, involving ministers from the States' foreign, justice, and home ministries.

<sup>1</sup> Composition of the Maldivian delegation: <http://bit.ly/TpQ3Vv>.

## THEMES

### Lesbian, gay, bisexual, and transgender rights

A common theme throughout the discussions was the rights of LGBT individuals. The rising popularity of National Socialism in both Armenia and Lithuania recently sparked a wave of xenophobia. This has resulted in verbal and physical attacks against LGBT persons (who are portrayed as being outside of mainstream society and national or 'traditional' values) and Jewish people. Armenian non-governmental organisations (NGOs) brought several concerns to the attention of the Committee, including the fire-bombing of a gay bar and the introduction of State-funded textbooks containing homophobic content. The Committee pressed the Armenian delegation on its provisions to protect LGBT persons and their rights to access public services. The delegation responded in a contradictory manner, saying it condemned any form of discrimination, but adding that no specific anti-discrimination provisions exist. It said homosexuality, decriminalised in 2003, could not be used to deny a person access to public services. The Committee took note of Armenia's weak response, and continued to express its concern for the rights of LGBT persons in Armenia.

NGOs from Lithuania highlighted cases of violence against LGBT protesters, involving fire-bombs and smoke-grenades. They also raised the Civil Code of Lithuania, which effectively denies transgender individuals from undergoing complete gender reassignment, despite a finding by the European Court of Human Rights that this violates the European Convention on Human Rights. The delegation attempted to explain that in the 20 years Lithuania has been a liberal democracy, not enough time has elapsed for reactionary sentiment to disappear. The Committee was not satisfied with this reasoning, citing a UNESCO recommendation to Lithuania and other Baltic nations to take measures to protect freedom of speech for LGBT individuals. The delegation admitted no such provisions exist, and acknowledged there are no plans to develop these in the future.

Despite both the Maldives and Kenya having strong Islamic traditions, LGBT rights were not discussed at any length, as issues concerning constitutional reforms took precedence. However, a delegate of the Maldives did confirm that homosexuality is still a criminal offence, punishable by either exile or public flogging. The Committee raised the obvious conflict between Sharia law and the Covenant, recommending to both nations that homosexuality should be decriminalised and LGBT persons should receive equal treatment before the law.

### Women's rights

The main issue of concern in the review of Iceland was women's rights. Some of Iceland's recent policy initiatives were encouraging, for example, its adoption of a method of work used in Austria that will provide Iceland's emergency services

with greater powers to document and intervene in cases of domestic abuse. On the other hand, the Committee was troubled by the absence of data provided by the Icelandic delegation, who informed the Committee that many cases of domestic abuse are never reported. Unable to quantify the situation, the Committee could only recommend that Iceland should pay more attention to data collection and awareness-raising.

Although small, some progress has been made in enshrining women's rights in Kenya's new constitution. Whilst 39 percent of women in Kenya claim to have been victims of domestic or sexual abuse, examples of reform in the country, including the establishment of the Female Genital Mutilation (FGM) Board and the Political Parties Act, have begun the process of female empowerment. The Committee was concerned about Sharia law, which it described as Kenya's biggest threat to female emancipation. Policies to entrench Kenya's reforms have clearly targeted the Islamic doctrine, allowing women to participate in politics, decide the terms of their marriage (polygamous or monogamous), and to allow postnatal women back into education.

Despite sharing many of Kenya's characteristics, progress in the Maldives has been comparatively slow. Committee member Mr Fabián Omar Salvioli stressed that even the country's courts discriminate against women, with the testimony of two male witnesses more highly valued than that of four female witnesses. Statistically, more women than men are punished corporally, despite the introduction of a new, human rights-based constitution in 2008. Mr Ahmet, head of the delegation of the Maldives, reasserted the pre-eminence of Sharia law over the national constitution, much to the concern of the Committee. However, there were also positive developments, such as the appointment of several female judges, legislation on domestic sexual violence, and the introduction of a gender ministry. Sir Nigel Rodley expressed the Committee's unwavering desire to see the Covenant fully implemented in the Maldives, and to take precedence over Sharia law.

### Nationalism

Growing national socialist sentiment in parts of Eastern Europe and Eurasia was another noticeable theme. Accounts by Armenian NGOs of an ultra-nationalist youth organisation called the Armenian Eagles (AE), present worrying records of indoctrination and conditioning. Mr Khachik Asryan, both the leader of the AE and the Government's deputy minister for youth and sports, directly finances the 'patriotic non-governmental organisation' using State funds. When questioned by the Committee, Armenia's delegation refused to comment on this matter.

In Lithuania, several days of festivities were held to mark the reburial of Lithuania's Nazi collaborator Juozas Brazaitis. A State ceremony was held in Vilnius to commemorate the return of his remains, ignoring the objections of Jewish

communities. Lithuanian NGOs also depicted their country as having solid roots in National Socialism, recounting cases of thugs defacing Jewish monuments on Hitler's birthday. A recent court case legalised the public use of the swastika, claiming it to be an ancient Lithuanian symbol. Lithuania's delegation agreed with the Committee's anxiety; however, it also attempted to justify the outcome of the court case with the excuse that knowledge of the holocaust only came to Lithuania 20 years ago.

### NGO PARTICIPATION

NGOs played an important role in directing the Committee's questions to States. Aside from the Icelandic Human Rights Centre (IHRC), which chiefly reiterated Iceland's solid human rights record, other NGOs tended to raise interesting points that were later discussed by the Committee. However, the IHRC highlighted some statistics about domestic violence, and prompted the Committee to focus in detail on the issue of women's rights in Iceland. There was some confusion about the status of the IHRC as an NGO, since it has functions close to those of a national human rights institution (NHRI). However, overall it was praised for the expertise it brought to the Committee.<sup>2</sup>

The Committee used a great deal of information provided by Armenian NGOs, which helped shape the debate. One such NGO, Pink Armenia, focused the Committee's attention on Armenia's lack of progress, or regression, regarding LGBT rights. The suspiciously high number of 'accidental' deaths within the armed forces became another talking point raised by NGOs. However, the Armenian delegation aimed to undermine these claims, arguing that 'illegitimate sources' rendered the information worthless.

The remainder of the States reacted to the NGOs' submissions without such dismissal. Despite some damning accusations by NGOs regarding the ties of some of Lithuania's high officials to National Socialism, Lithuania's delegation responded calmly and with interest, even mentioning inquests into the recent outbreaks of xenophobia in Vilnius. However, NGO criticism of the Maldives' prison system, including instances of torture, did not match figures presented in the national report. While the NGO reports presented disturbed the Maldivian delegation, the Committee did not have time to pursue the issue due to the quantity of other issues raised. ■

<sup>2</sup> The IHRC has assumed the function of an NHRI as set out in the Paris Principles, although its power, independence, and financing are not established by statute. However, it receives approx. 14 million Icelandic Krona p.a. from the Government. See its alternative report on Iceland for more information <http://bit.ly/QawG88>.

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# COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Bahamas, Bulgaria, Guyana, Indonesia, Jamaica, Mexico, New Zealand, and Samoa under review



Photo: UdeyIsmail

The Committee on the Elimination of Discrimination against Women (the Committee) held its 52<sup>nd</sup> session in New York from 9 to 27 July 2012.<sup>1</sup> It considered the reports of eight State parties to the *Convention on the Elimination of All Forms of Discrimination Against Women* (the Convention): Bahamas, Bulgaria, Guyana, Indonesia, Jamaica, Mexico, New Zealand and Samoa. Some of the key issues raised during the reviews were the integration of the Convention in domestic legal systems, human trafficking, political participation, and violence against women.

## ENGAGEMENT BY STATES

State delegations varied in size, from Indonesia with 27 representatives to Guyana with eight. Women formed a majority for each of the delegations. The delegations varied in their approach to engagement with the Committee. Mexico answered some questions in great detail, but tended to disregard those it considered to be outside the parameters of its report. The Committee criticised Guyana's delegation for its constant refuting of information provided by non-governmental organisations (NGOs) cited by the Committee. It also had to remind the Guyanese delegation that disclosure on the part of the State is imperative to ensure adequate recommendations. The Indonesian delegation generally ignored questions on controversial matters, such as female genital mutilation (FGM) and issues related to sexual orientation and gender identity, giving only vague responses when pressed. The Bulgarian delegation was commended for its broad representation of competencies. The Committee's exchange with Jamaica was generally constructive and cooperative.

## NGO AND NHRI PARTICIPATION

NGOs submitted reports for each State examined and several NGO representatives briefed the Committee on 9 and 16 July. The method of NGO input varied considerably depending on the State. For example, Samoan and Jamaican NGOs were represented by umbrella organisations; the Samoa Umbrella for NGOs (SUNGO) and CEDAW 2012 Working Group, respectively. Fifty-two national Indonesian NGOs also jointly presented under a coalition called the CEDAW Working Group. The Committee was receptive to all of the issues raised in the NGO reports and briefings, seeking more information about several matters raised in them. The Indonesia Commission on Violence Against Women, Equal Employment Opportunities from New Zealand, and a Mexican human rights institution were the only national human rights institutions (NHRIs) to engage in dialogue with the Committee.

## MAIN THEMES

### Domestic integration of the Convention

The Committee criticised Indonesia for not enshrining gender equality in its Constitution, and pointed to more than 100 discriminatory bylaws at the provincial level, particularly in Aceh and Papua. It asked if the Ministry of Affairs had conducted

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<sup>1</sup> The Committee subsequently held its 53<sup>rd</sup> session from 1 to 19 October in Geneva, which will be covered in issue 1, 2013 of the *Human Rights Monitor Quarterly*.

a judicial review of these bylaws. The delegation acknowledged the Committee's concerns, stating the Ministry of Justice and Human Rights was attempting to ensure the principle of gender-equality, in particular through provincial committees working towards implementation of Indonesia's national action plan on human rights.

The Committee reproached the Bahamas regarding its reservation to the Convention's article on the equality of men and women (Article 2A). The Committee noted the Bahamian constitution does not provide for prohibition of discrimination against women. Citing this as impermissible, the Committee noted the Government had not taken any steps to withdraw its reservation. The delegation said its constitution could not be changed without a referendum, assuring the Committee the recommendations would be taken into consideration and that a new referendum would be held in the near future. A previous referendum in 2002 did not garner sufficient votes.

Mexico faced repeated questioning about protection from discrimination, in the face of divergent state and federal legislation. The Committee noted that federalism could become a cover for violence against women. It asked about initiatives to strengthen the coordination between federal, state and municipal levels of the government.

Samoa avoided the Committee's question on whether the Convention could be directly invoked in its courts. The Committee noted that Samoans had limited knowledge of the Convention, despite educational efforts by the Ministry of Women's Affairs. Recalling Samoa's previous review, the Committee acknowledged that laws against sex-based discrimination are now enshrined in the constitution.

The Committee remarked that Jamaica has still not ratified the Optional Protocol to the Convention, despite assurances during its last review in 2006 that it would. The delegation explained that the government that had made the commitment had subsequently lost the election, in 2007. The delegation pledged to ratify the Optional Protocol in short order.

### Trafficking

The issue of trafficking was raised with every State under review. With respect to Guyana, the Committee acknowledged trafficking was a problem related to organised crime, but questioned the effective implementation of anti-trafficking laws. The Committee asked about national plans to combat poverty and other causes of trafficking. The delegation cited the 2005 Combatting Trafficking in Persons Act, noting only a few cases have been prosecuted. The delegation also mentioned several agencies that provide psychosocial, medical and economic support to victims of trafficking.

The Committee devoted considerable time to the issue of trafficking in Mexico, and its inextricable link to violence and

organised crime. Attributing the high levels of trafficking to impunity, the Committee questioned the mechanisms currently in place to combat trafficking. It also urged the delegation to combat organised crime in an effort to end trafficking.

Jamaica was praised for its Trafficking Act and system of referrals for victims to relevant service providers. However, the Committee remarked that trafficking is still widespread throughout Jamaica. Referencing its meeting with NGOs, the Committee cited low prosecution of traffickers as a major problem. It stated its continued concern that a majority of resources are devoted to countering transnational trafficking while internal trafficking remains largely ignored.

The Committee highlighted the large number of Indonesian female migrants as potential victims of trafficking, questioning the delegation on its anti-trafficking efforts. The delegation responded that Indonesia was fully committed to eradicating trafficking, citing its ratification of the *Convention on Transnational Organized Crime* and the *Convention on the Protection of the Rights of All Migrant Workers and Their Families*. In addition, it said Law 21 of 2007 has established an anti-trafficking taskforce and provides protection to victims.

In its review of New Zealand, the Committee noted investigations of trafficking generally did not result in prosecution. The Committee asked if 'mail-order' brides and prostitutes were seen as potential victims of trafficking. The delegation responded that legal action was only taken if the 'mail-order brides' were brought to New Zealand against their will. Addressing prostitution, which is legal in New Zealand, the delegation explained that government assistance in finding alternative work is only provided to sex workers if they make the choice to work in a different industry.

### Violence against women

Indonesia faced repeated questions from a number of Committee members on the prevalence of FGM. Committee members noted it was not an Islamic practice but rather a harmful traditional practice, and enquired about measures taken to outlaw it. As the Ministry of Health had issued regulations for FGM performed by health professionals, the Committee criticised Indonesia for institutionalising, rather than abolishing the practice. The delegation ultimately agreed to start a dialogue between religious leaders and civil society, taking into account the Committee's position on FGM.

The Committee followed up on the recommendations from its last review of Bulgaria concerning laws on violence against women and domestic violence. The delegation spoke of a 2009 domestic violence prevention programme with guidelines aimed at educating police and other authorities. The Committee remained concerned that courts are not applying the shifting of the burden of proof to favour the victim, despite legislation to this effect. Bulgaria was also

reproached for the scarcity of and insufficient funding for shelters for domestic violence victims.

Samoa was questioned about measures to keep victims and shelter personnel safe. The delegation admitted the Government did not operate shelters because families were seen as being responsible for providing a protective environment themselves for women. There were, however, NGO-run victim shelters in Samoa. The Committee emphasised the need for statistics on violence against women.

Mexico faced extensive questioning about its efforts to reduce violence against women. The Committee noted the extent of this issue; girls were victimised in schools, and police officers often operated in a climate of impunity. Observing that three different agencies worked on violence against women, the Committee asked how frequently they met and what types of joint mechanisms were in place. The delegation admitted the agencies' efforts were largely fragmented and uncoordinated.

### Political participation of women

The Bahamas drew criticism for the low levels of women in politics despite constituting the majority of the population. The Committee questioned the Government's role in facilitating involvement, noting the lack of legal barriers to women's participation in political life. The delegation responded that efforts are in place to promote women's engagement in politics. As an example, it cited an NGO-government partnership that organises meetings with electoral candidates and raises awareness of women's issues.

In its review of Bulgaria, the Committee welcomed women's active participation in elections but expressed its continued concern about the low percentage of female candidates elected. Bulgaria was urged to consider introducing quotas on women's seats in parliament, and was questioned about the availability of training and financial incentives to encourage women's political participation.

Jamaica was praised for the high representation of women in the legal system and its election of a female prime minister. However, the Committee was concerned this did not necessarily translate to greater sensitivity regarding women's issues, and noted the low percentage of women in elected positions. In order to improve participation, the Committee pressed the delegation to introduce quotas as well as programmes to change cultural attitudes towards women's political participation. The delegation pushed back, arguing it could not impose quotas in a democratic system.

The Committee commended New Zealand for having its first Asian woman in Cabinet. However, the overall decrease in the number of women in politics led the Committee to call for the introduction of temporary special measures to promote broad female participation. The delegation replied

there was no desire for the introduction of such measures. The Committee remarked that the lack of participation could be due to a lack of training available to potential future leaders. The Committee urged New Zealand, as 'the first country where women were eligible to vote', to aim for parity.

## OTHER ISSUES

### Sexual orientation and gender identity

During the NGO briefing, numerous Committee members expressed concern about the plight of lesbian and bisexual women, and transgender persons. In Guyana, widespread intolerance based on sexual orientation and gender identity led to harassment and violence, often at the hands of State actors. Furthermore, a law criminalising cross-dressing reinforced homophobic attitudes. The Committee noted the lack of legal protection of lesbian, bisexual and transgender persons, which results in a climate of repression, despite a lack of criminalisation.

NGOs reported that members of the lesbian, gay, bisexual and transgender community in Indonesia also faced increasing attacks and employment discrimination. Furthermore, lesbians often suffered sexual abuse at the hands of male family members in a misguided and wrongful attempt to change their sexual orientation. NGOs said the State remained silent on these abuses, providing no protection or redress. They urged the Committee to recommend protection from violence and discrimination and for improved access to justice.

Pacific Women's Watch informed the Committee of the high levels of violence and discrimination against transgender persons in New Zealand. The Committee picked up on this issue, asking the delegation about the state of healthcare for transgender persons.

### 30<sup>th</sup> Anniversary of the Committee

On 9 July, 2012, the Office of the High Commissioner for Human Rights (OHCHR) and UN Women held a celebration of the Committee's 30<sup>th</sup> anniversary. Mr Charles Radcliff, a senior OHCHR officer, opened the meeting, congratulating the Committee for establishing itself as an authoritative body on the implementation of women's rights. The theme of the event was 'Focusing on Women's Political Participation and Leadership – In Pursuit of Equality'. Speakers included Mr Jan Eliasson, Deputy Secretary-General, Ms Michelle Bachelet, Executive Director of UN Women, and Mr Ivan Šimonovic, Assistant Secretary-General of OHCHR. ■

# COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES

Argentina, China and Hungary reviewed by the Committee



Photo: David Ian Roberts

China's Gold Medal Relay Team at the London 2012 Paralympics. China was one of three states reviewed by the Committee as its 8<sup>th</sup> session.

The Committee on the Rights of Persons with Disabilities (the Committee) broke new ground at its 8<sup>th</sup> session (17 – 28 September). For the first time, the Committee met for two weeks and examined three State reports: China, Argentina and Hungary. This represented one week more meeting time than previous sessions and a doubling of the number of state reviews by the Committee to date. The Committee also adopted the list of issues on Paraguay.

The Committee continued to support the webcasting of the public sessions. The number of viewers of the live webcast<sup>1</sup> confirmed keen global interest in the reviews, attracting visitors from 38 countries.<sup>2</sup> Sign language interpretation provided during the session was also webcast live to ensure the participation of deaf and hard of hearing viewers. Based on the success of the webcasting at this session and those of other treaty bodies, currently conducted by Geneva-based non-governmental organisations (NGOs), it is clear the High Commissioner for Human Rights' proposal for her Office to undertake webcasting of all treaty body reviews would respond to a real need for better access to treaty body information.

In this vein, the Committee adopted a statement to express support for several of the High Commissioner's proposals in the treaty body strengthening process. It also adopted the Addis Ababa guidelines on the independence and impartiality of members of the human rights treaty bodies.<sup>3</sup>

## STATE REVIEWS: RECURRENT GAPS IN HARMONISATION

The review of China was exceptional in terms of the fifty-person strong government delegation, which included representatives of mainland China, Hong Kong Special Administrative Region (SAR) and Macao SAR. The room was further crowded by the presence of UN security officers, as had been requested by the delegation.

Although the States under review belonged to different regions and represented varied political and legal systems, recurrent themes surfaced throughout the three dialogues. These focused largely on the failure of governments to harmonise their laws, policies and practices with the *Convention on the Rights of Persons with Disabilities* (the Convention). In particular, the Committee was not satisfied with the efforts taken by the Argentine Federal Government to ensure the application of the Convention at the provincial level in the last four years since ratification. During China's review, the Committee raised the lack of a human rights-based approach to disability. This was reflected by the State's use of a medical model definition of disability, and the lack of clarity in the law, which impedes raising claims of disability-based discrimination. In Hungary's review, the refusal to recognise persons with psychosocial disabilities as persons with disabilities was raised by the Committee as being contrary to Article 1 of the Convention.

1 Webcasts of state reviews are available China: <http://bit.ly/RPk4n5>, Argentina: <http://bit.ly/S3ndOb>, Hungary: <http://bit.ly/R4ozZ0>. The webcast of a side event by the French Defender of Rights: <http://bit.ly/V9kjpk>. Webcasts of the sign language interpretation: <http://bit.ly/PKUAKK>.

2 The largest proportion of viewers was from mainland China, with many from Hong Kong, Macao and Taiwan.

3 <http://bit.ly/Q8eGLD>.

The Committee expressed dissatisfaction with the lack of political will in all three countries to give full effect to the right to live in the community, as required by Article 19. Committee members were displeased by the excessively lengthy time-span of the Hungarian Government's deinstitutionalisation strategy, adopted in 2011. The strategy aims to integrate persons with disabilities currently segregated in residential institutions into the community, and will be rolled out over a thirty-year period. In addition, Committee members questioned whether the newly-introduced 'supported living centres', to which residents would be transferred, were in fact 'institutions' in themselves, being designed for up to 30 residents. The Committee also questioned the use of European Union structural funds to build new institutions rather than to invest in the development of community-based services in accordance with Article 19. With respect to China, Hong Kong and Macao, the Committee aired similar concerns about the overuse of institutional care and the lack of resources allocated to ensuring independence and a choice of living arrangements in the community.

DPOs were supported by the Committee as having an important role in the development of legislation and policies to implement the Convention,<sup>4</sup> and in participation in national implementation and monitoring frameworks.<sup>5</sup> The large presence of Hong Kong DPOs and NGOs at the session magnified the absence of their counterparts from mainland China. While the Chinese Government presented the China Disabled Person's Federation (CDPF) as the official representative body of persons with disabilities in the country, Committee members questioned its independence, especially given the organisation's mandate is affirmed by law. The extent to which the Government engages in consultation with a wide range of fully independent DPOs was also raised.

Also absent from this session were DPOs from Hungary. Several Committee members brought attention to their absence, which was a stark contrast to their active participation leading up to the adoption of the list of issues. Members enquired about the modalities of government funding for DPOs, in order to clarify whether undue pressure was being put on DPOs engaging in national and international advocacy. It would appear that the Committee's concerns were well founded and the independence of DPOs put at risk.<sup>6</sup>

The Committee also asked for confirmation from all States on the independent body designated to undertake monitoring

4 As inscribed in Article 4(3), on the involvement of and consultation with persons with disabilities through their representative organisations.

5 Outlined under Article 33(2), persons with disabilities and DPOs should be involved and participate in the designated independent monitoring body.

6 Civil society has reported on the manner in which the Hungarian Government is compromising the independence of DPOs at both national and international levels. An article by Hungarian civil society (in Hungarian) at <http://bit.ly/QAMI53>.

of the Convention's implementation, as required by Article 33(2) of the Convention, with specific requests for information on how the mechanisms fulfilled the Paris Principles.<sup>7</sup> In this respect, the Committee queried how the Disability Observatory of Argentina could be considered as the independent body when its statute places it under the framework of CONADIS, the Government's coordinating mechanism under Article 33(1), and it is neither financially nor politically independent from the executive power.<sup>8</sup>

Committee members welcomed ongoing efforts to reform the law in accordance with the Convention, in particular with respect to Article 12, which calls for the protection and promotion of the right of persons with disabilities to exercise their legal capacity on an equal basis with others. Hungary and Argentina are currently reforming their civil codes to give effect to this requirement, yet the Committee was vocal in expressing its frustration at the inadequate steps taken both procedurally and substantively. According to the Committee, legislative reform was moving ahead without consultation with DPOs, leading to draft laws that continue to misinterpret and fall short of the Convention. Draft laws in Argentina and Hungary maintain substituted decision-making<sup>9</sup> and the Committee reminded delegations that even a partial restriction of legal capacity was in violation of Article 12.

Given the direct link often made in legislation between the status of one's legal capacity and the right to vote, the Committee was vigilant in raising the universal suffrage of persons with disabilities, enshrined in Article 29 of the Convention. This includes persons who have been deemed by a court as 'incompetent' to exercise their legal capacity, or to vote, specifically. Several members sought from the Hungarian delegation the '*raison d'être*' for the denial of the right to vote of persons with disabilities.

## CONCLUDING OBSERVATIONS

Issues of equal recognition before the law and participation in political and public life were demonstrated to be fundamental in the view of the Committee; the Concluding Observations for both Hungary and Argentina require the States to report back within a year on the measures taken to implement these provisions.

The recommendation on Article 12 for Hungary spells out the Committee's understanding of this provision as central to the exercise of all rights: take immediate steps to derogate guardianship in order to move... to supported

7 Article 33(2) calls for the designation of an independent monitoring mechanism that conforms with the Paris Principles.

8 Article 33(1) calls for a coordination mechanism established within the Government to coordinate its action to implement the Convention.

9 Systems in which persons with disabilities, wholly or partially lose their legal personhood, and decisions are made on their behalf by an appointed guardian or trustee.

decision-making, which respects the person's autonomy, will and preferences, including with respect to the individual's right, on their own, to give and withdraw informed consent for medical treatment, to access justice, to vote, to marry, to work, and to choose their place of residence.<sup>10</sup>

In this context, for the first time in its Concluding Observations, the Committee provided further explanation of the measures needed in a regime of 'supported decision-making',<sup>11</sup> in line with Article 12. With respect to China, the Committee outlined the need for the preparation of a blueprint to promote and establish supported decision-making inscribed in the law, which recognises all persons' legal capacity and the right to exercise it; the development of accommodations and access to support; regulations to ensure respect for a person's autonomy, will and preferences, and feedback mechanisms.<sup>12</sup>

This guidance by the Committee on the implementation of Article 12 is very much welcome particularly because States are prone to misinterpretation of this provision, as the dialogues confirmed. The recent ratification of the Convention by Poland with an interpretive declaration<sup>13</sup> on Article 12, exemplifies the frequently misconstrued reading of this core provision. Described as the 'heart of the Convention',<sup>14</sup> and the embodiment of the essential paradigm shift introduced by the Convention, it follows that reservations or declarations pertaining to Article 12 are incompatible with the object and purpose of the Convention.

Other points of interest raised in the Concluding Observations:

- Follow up measures for mainland China to report back in one year on steps taken to: pursue investigations and prosecutions concerning the abductions and deaths of children with intellectual disabilities exploited in mines; revise the law to permit a diversified range of DPOs, beyond the CDPF, to represent the interests of disabled people; establish an independent monitoring body in accordance with the Paris Principles.
- Right to free and informed consent of the individual, on their own, regarding: medical treatment including mental health care,<sup>15</sup> sterilisation and abortion,<sup>16</sup> medical experimentation,<sup>17</sup> rehabilitation,<sup>18</sup> access to justice, voting, marrying, working, and choosing their place of residence.<sup>19</sup>

- Recommendations for the promotion of inclusive education in mainstream schools, with particular attention to Roma and indigenous children with disabilities.<sup>20</sup>
- Calls for the adequate allocation of resources for: DPOs to fulfil their role under Article 4(3); inclusive education encompassing accessibility of tertiary education and teacher training, removal of barriers and accessibility training; development of community based services and support for independent living including in rural areas, legal aid service centres, public medical services, and services and programmes for children with disabilities.<sup>21</sup>
- Recommendations, for the first time, on access to justice<sup>22</sup> and the right to social protection under Article 28; access to disability and welfare benefits to migrant workers and their families,<sup>23</sup> and for persons with disabilities living in rural areas.<sup>24</sup>
- References to sister treaty body recommendations, namely the Committee on the Rights of the Child,<sup>25</sup> and the Human Rights Committee,<sup>26</sup> and concerning the Optional Protocol to the Convention against Torture;<sup>27</sup>
- Data collection and analysis on: gender and age sensitive indicators, including Roma and indigenous persons with disabilities, those living in rural areas, and in particular women, children, institutionalised persons, persons deprived of their legal capacity;<sup>28</sup> multiple discrimination;<sup>29</sup> prevalence of exploitation, and abuse and violence;<sup>30</sup> fulfilment of the employment quota in the public sector.<sup>31</sup>

## 2012 Committee Elections

Leading up to the 8<sup>th</sup> session, elections were held at the Conference of States, resulting in the following members being re-elected: Mr Mohamed Al-Tarawneh (Jordan), Ms Maria Soledad Cisternas Reyes (Chile), Ms Ana Pelaez Narvaez (Spain), and Ms Silvia Judith Quan-Chang (Guatemala). Five new members will join the Committee from January 2013: Mr Laszlo Gabor Lovaszy (Hungary), Ms Diane Mulligan (UK), Ms Safak Pavey (Turkey), Mr Monthian Buntan (Thailand), and Mr Martin Mwesigwa Babu (Uganda). ■

10 CRPD/C/HUN/CO/1, para 26.

11 Supported decision-making is a mechanism which assists them in their decision-making. This is in opposition to substituted decision-making because it does not replace the individual's decision or take away any of their rights or legal personhood.

12 CRPD/C/CHN/CO/1, para 22.

13 <http://bit.ly/327IZI>.

14 Mr Gábor Gombos, Committee member.

15 CRPD/C/HUN/CO/1, para 28.

16 CRPD/C/ARG/CO/1, paras 31, 32; CRPD/C/CHN/CO/1, paras 33, 34.

17 CRPD/C/HUN/CO/1, para 30.

18 CRPD/C/CHN/CO/1, paras 39, 40.

19 CRPD/C/HUN/CO/1, para 26.

20 CRPD/C/ARG/CO/1, paras 37, 38; CRPD/C/CHN/CO/1, paras 35, 36, 74, 94, 95; CRPD/C/HUN/CO/1, paras 39-41.

21 CRPD/C/CHN/CO/1, paras 59, 60; CRPD/C/ARG/CO/1, paras 15, 16.

22 CRPD/C/CHN/CO/1, para 24.

23 CRPD/C/ARG/CO/1, paras 45, 46.

24 CRPD/C/CHN/CO/1, paras 43, 44.

25 CRPD/C/HUN/CO/1, paras 21, 22.

26 *ibid*, paras 29, 30.

27 CRPD/C/ARG/CO/1, paras 27, 28.

28 CRPD/C/HUN/CO/1, paras 47-49.

29 CRPD/C/ARG/CO/1, para 50.

30 CRPD/C/CHN/CO/1, para 30; CRPD/C/ARG/CO/1, paras 30, 49, 50.

31 CRPD/C/ARG/CO/1, para 44.

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# COMMITTEE ON THE RIGHTS OF THE CHILD

Focus on children in international migration situations



Photo: UN Photo/Albert Gonzalez Farran

The rights of international migrant children were a particular focus at the 61<sup>st</sup> session of the Committee on the Rights of the Child (the Committee), which took place from 17 September to 5 October, and during the Day of General Discussion on the same issue (28 September).

At the 61<sup>st</sup> session, the Committee examined ten reports from seven countries, including two integrated reports, which combine periodic reporting on both the *Convention on the Rights of the Child* (the Convention) and the optional protocols. Liberia, Namibia, Andorra, and Bosnia and Herzegovina were all reviewed under the Convention; Austria, Albania and Canada – whether integrated or initial reports – were examined under the Convention, the *Optional Protocol on Sale of Children, Child Prostitution and Child Pornography* (OPSC), and the *Optional Protocol on Children in Armed Conflict* (OPAC). The State reports, NGO submissions and concluding observations are available on the Committee’s website.<sup>1</sup>

The session was webcast live and viewed from around the world. The possibility of watching the live stream is still relatively unknown; however, in small ways, it is having a meaningful impact on raising awareness about the work of the Committee and child rights discourse more broadly. In Canada, for example, the National Committee of UNICEF publicised the webcast, and NGO partners conducted a simultaneous live blog to explain some of the issues being discussed. This helped to make the dialogue more accessible to children and to those unfamiliar with the technical jargon on treaty implementation. Furthermore, it led to the Committee’s review of Canada being featured in several local media outlets. Videos of the 61<sup>st</sup> session are archived on the website and available for download.<sup>2</sup>

## COMMITTEE ELECTIONS

On 18 December 2012, at the 14<sup>th</sup> Meeting of States Parties to the Convention on the Rights of the Child, States will elect nine new members of the Committee. Successful candidates will assume their posts on 1 March 2013, for a four-year term.<sup>3</sup>

As part of the ongoing treaty body strengthening process, NGOs, UN agencies, and some States, have highlighted the importance of the nomination of good candidates for election to treaty bodies. Electing strong candidates to the treaty bodies is one way States can strengthen the process with immediate effect. In turn, NGOs can draw the attention of States to the work of good candidates that could be nominated. In her report of June 2012, the High Commissioner for Human Rights called on States to ‘adopt, within their respective settings, national policies and processes’<sup>4</sup> for the nomination of treaty body candidates.

As for previous elections, the NGO Group for the Convention on the Rights of the Child (the NGO Group) has been raising awareness about the upcoming election process and mobilising NGOs and States around the nomination of the most suitably

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1 Documentation for the Committee’s 61<sup>st</sup> session: <http://bit.ly/P1z1QG>.

2 Treaty Body Webcast: [www.treatybodywebcast.org](http://www.treatybodywebcast.org).

3 Webpage for Committee elections 2012: <http://bit.ly/WmDLUK>.

4 *Strengthening the United Nations human rights treaty body system: A report by the United Nations High Commissioner for Human Rights, Navanethem Pillay*. Available here: <http://bit.ly/RAFqAc>.

qualified experts.<sup>5</sup> The NGO Group has written to all States Parties to the Convention to highlight the need for them to nominate and elect independent and impartial candidates with demonstrated expertise in the field of human rights and particular commitment to respect for children's human rights. Furthermore, the NGO Group has contacted national child rights NGOs and coalitions to get feedback on the nominated candidates, while the Child Rights Information Network (CRIN) has conducted interviews with the candidates, which it will post on its website.<sup>6</sup>

The NGO Group is actively encouraging States to respond in their own capacity to the call for sustaining the expertise of treaty bodies. For more information on candidates, or to learn more about the process the NGO Group has undertaken, contact Ms Lisa Myers: [myers@childrightsnet.org](mailto:myers@childrightsnet.org)

## CHILDREN IN INTERNATIONAL MIGRATION SITUATIONS

The migration of children within and across borders is not a new phenomenon, and it is a topic well known to the Committee. There are also diverse reasons for child migration, exposing children to a wide range of risks. Therefore, producing an exhaustive list of 'push' and 'pull' factors and the corresponding responses required would only undermine the need for flexibility and coordination of States' protection for these children.

Since a child's migration status changes when crossing international borders, child migration is a regional and international issue, as well as a national one. States must therefore view relationships with neighbouring countries as integral to the success of their response to the children concerned. Systems put in place to respond to the needs of children in migration situations must account for the full range of children's human rights, regardless of migration status.

This year the Committee dedicated its 'Day of General Discussion' to the rights of children in the context of international migration. A key element – which is not new, but is worth reiterating – was the importance of a State's coordinated, multi-agency response to a child arriving on its territory. Furthermore, coordinating bodies in countries of origin, transit and destination must be in dialogue with one another to ensure that a child's rights are upheld throughout the migration process, that decisions are made in a child's best interests, and that the child is met with coordinated follow-up upon arrival.

The Day of General Discussion highlighted the inconsistencies in how children are treated when they move across international borders. Children speaking on the panel noted that children are more likely to trust their peers, especially when they find themselves in vulnerable situations, and that adult officials should show more signs of approachability. If children fear that their case will not be handled with due process, or if there is a risk of maltreatment or criminalisation, they are less likely to seek help or go through the official process of migration. The child participants highlighted the importance of birth registration and the issuance of birth certificates so that children are visible to the State and can obtain the correct travel documents.

Children often receive hostile reactions from border officials. Many are either falsely assumed to be victims of trafficking, or are criminalised for the mere fact of migrating. This often results in detention and denial of access to essential services. The criminalisation of irregular migrant children was said to present a substantial barrier to their identification and protection. Furthermore, children were often not heard in administrative proceedings, and decisions to return children to their country of origin, transit country, or to permit their stay in the country of final destination, were often taken without due consideration of the best interests of the affected child. The Committee's recommendations following the Day of General Discussion are expected to be available in March 2013. One possible outcome, suggested by the Special Rapporteur on the Human Rights of Migrants during the workshop discussion, could be to undertake a study of existing mechanisms available to children in international migration situations, so as to identify best practices that can be implemented for particular cases and even replicated in other States.

It was apparent that the Committee was already capturing many of these concerns in discussions with States at the 61<sup>st</sup> session. The number of migrant children in some countries under review was unknown due to their lack of visibility and the range of responses by States to children in migration situations varied tremendously. Under the Convention, States are obligated to respect and ensure the full set of rights 'to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status'.

Discrimination towards migrant children in access to services, particularly health and education, which can limit their full development, was of concern to the Committee. The review of Andorra showed that many children migrated to the country with parents who were seasonal migrant workers. Although the Constitution guarantees access to health services for children of migrants, in practice this is limited to emergency situations since the State had assessed that Andorran citizens would not support the use of State funds

<sup>5</sup> The NGO Group for the Convention on the Rights of the Child Fact-sheet, *Elections to the Committee on the Rights of the Child: Information for NGOs*, available in English, French and Spanish: <http://bit.ly/OHzcB2>.

<sup>6</sup> Child Rights Information Network webpage on 2012 Committee elections: <http://bit.ly/OHzcB2>.

to provide free education and health services for these children. The Committee recommended that the State review its law and policy to guarantee protection for the rights of migrant children, regardless of the status of their parents, and work 'to change stereotypes and discriminatory attitudes against such groups of children'.<sup>7</sup>

To Albania, the Committee addressed questions about how border officials were trained to handle children, and whether immigration procedures were child-friendly, including interviews with children and conditions for children held at border crossings. The State explained that children were supervised by specially-trained officials, and held in units separate from adults while their documents were being reviewed. In its concluding observations,<sup>8</sup> the Committee made specific recommendations on how the State can follow up to provide better protection for children, particularly in irregular migration situations.

The Committee welcomed efforts by Austria to address the integration of migrant children, for example in the form of support offered to reduce language barriers and improve equal opportunities in education. However, the Committee encouraged the State to go further to address issues of discrimination towards migrants, and to make information available in the languages of major migrant communities to improve their access to essential services and support social integration.

NGOs are encouraged to include information about children in migration situations, as well as assessments of the child-friendly nature of immigration procedures, in their reports to the Committee.

## GENERAL COMMENTS

The Committee continues its work on five general comments. Those on the right to play (Article 31), the right to health (Article 24), the best interest of the child (Article 3(1)) and child rights and the business sector, are all in advanced stages of drafting. The Committee expects it may adopt some of the general comments at its 62<sup>nd</sup> session in January 2013. The Committee has welcomed input from civil society on general comments during the drafting process. Copies of these contributions are available on the Committee's website.<sup>9</sup>

The joint General Comment on harmful practices, being drafted in collaboration with the Committee for the Elimination of Discrimination against Women, was discussed in joint

meetings between the two committees in the course of the 61<sup>st</sup> session. The committees discussed next steps for further work on this general comment in 2013. Opportunities to make submissions on general comments are posted on the Committee's website.<sup>9</sup>

### Call for NGO Reports

The 63<sup>rd</sup>–64<sup>th</sup> pre-session of the Committee will take place in February 2013. The States to be reviewed are China (under the Convention and OPAC), Moldova (under OPSC), Kuwait, Luxembourg, Monaco, Sao Tomé and Príncipe and Tuvalu (all under the Convention only). To submit an NGO report for consideration by the Committee, email Roisin Fegan: fegan@childrightsnet.org at the NGO Group. Online guides about the reporting process are available at <http://bit.ly/SyMRLJ>.

### Third Optional Protocol on a Communications Procedure (OP3 CRC)

In September, Gabon and Thailand ratified the OP3 CRC. Eight more ratifications are needed before the protocol comes into force. When this happens, OP3 CRC will apply to all these States, and then upon ratification by each subsequent State. For children and their representatives to be able to use this new procedure, it is therefore crucial that each State ratifies OP3 CRC. Over 40 organisations have already gathered as an International Coalition to join advocacy efforts. Join them or find out more at [www.ratifyop3crc.org](http://www.ratifyop3crc.org). ■

7 *The Committee on the Rights of the Child Concluding Observations to the State of Andorra under the Convention*: p.10, CRC/C/AND/CO/2.

8 *The Committee on the Rights of the Child Concluding Observations to the State of Albania under the Convention*: p.19, CRC/C/ALB/CO/2-4.

9 Submissions received on the General Comment on the right to health are available at <http://bit.ly/yjzFAD>, on child rights and the business sector at <http://bit.ly/WmEpkY>, and on harmful practices: <http://bit.ly/jC94Gz>.

# THEMATIC FOCUS

TREATY BODY STRENGTHENING P. 22

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# UPDATE ON TREATY BODY REFORM

Discussion moves to the General Assembly



Photo: UN Photo/Paulo Filgueiras

The UN High Commissioner for Human Rights speaks at a treaty body strengthening consultation for States, held in New York on 2 April 2012. From left to right: Ivan Simonovic, Assistant Secretary-General in the Office of the High Commissioner for Human Rights; Nassir Abdulaziz Al-Nasser, President of the General Assembly; Navanethem Pillay, the High Commissioner; and UN Secretary-General, Ban Ki-moon.

Since late 2009, strengthening of the UN treaty body system has been on various UN bodies' agendas. What started out as an initiative by current and former members of treaty bodies, lead into a multi-stakeholder consultation coordinated by the Office of the High Commissioner for Human Rights (OHCHR) – dubbed the Dublin process.

But in 2012, treaty body reform saw major developments. As the 'Dublin process'<sup>1</sup> was due to culminate in a report by the High Commissioner for Human Rights, the issue became politically charged when certain Member States in New York launched a rival 'intergovernmental process' in the General Assembly. Human rights defenders in particular suffered a significant setback, as the intergovernmental process did not provide adequately for their participation.

This article aims to provide an overview of key developments in treaty body reform over recent months and outlines the prospects for future developments.

## THE INTERGOVERNMENTAL PROCESS

The idea for an intergovernmental process was originally raised by China in the General Assembly Third Committee in November 2011.<sup>2</sup> However, most did not anticipate such an idea would progress, and several States were caught off guard when a resolution calling for the creation of such a working group was circulated by the Russian Federation in late December 2011. Negotiations on the text proved difficult from the beginning, with States deeply divided on key issues such as the mandate, participation and timing of such an intergovernmental process.

Following two months of intense negotiation, the General Assembly passed a resolution on 23 February 2012 creating the 'Intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system.'<sup>3</sup> The controversial Resolution 66/254 was tabled by Russia.<sup>4</sup>

The resolution requested the President of the General Assembly (PGA) to launch an intergovernmental process to conduct negotiations on strengthening and enhancing the effective functioning of the treaty body system. Furthermore, it requested the PGA to appoint two co-facilitators to assist him in that regard. After several months of deliberation, the PGA appointed the ambassadors of Iceland and Indonesia to these roles.

The process was to commence 'no earlier than April 2012' and the PGA was to report on the 'deliberations and recommendations' by the end of the 66<sup>th</sup> session of the General Assembly,<sup>5</sup> with a possible extension of the process at that point.

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1 <http://bit.ly/Rftgij>.

2 <http://bit.ly/UEuXsi>.

3 <http://bit.ly/wd3sW2>.

4 Co-sponsored by Algeria, Bangladesh, Belarus, Bolivia, China, Cuba, Democratic People's Republic of Korea, India, Indonesia, Iran, Nicaragua, Pakistan, Russia, Syria, Sudan, Tajikistan, Thailand, Venezuela, Vietnam, and Zimbabwe.

5 September 2012.

Though the resolution was passed with 85 votes in favour, 66 States made their procedural and substantive concerns known by abstaining from the vote. No State voted against the resolution. Regional divisions were clear, with the vast majority of votes in favour coming from the African, Asian, and the Latin American and Caribbean (GRULAC) groups. The Western European and Others (WEOG) and Eastern European (EEG) groups abstained for the most part. Forty-two States were absent.<sup>6</sup>

Part of the controversy stemmed from the fact that the inter-governmental process began as the OHCHR-led Dublin process on treaty body strengthening was still ongoing. The Dublin process involved a series of multi-stakeholder consultations since late 2009 and was to culminate in a report<sup>7</sup> by the High Commissioner in early 2012. The report, which was to provide a basis for decisions by all stakeholders on which proposals to implement and how, was delayed to allow for further consultations with States.<sup>8</sup> In the meantime, the inter-governmental process was launched, leaving its relationship with the Dublin process and the High Commissioner's report ambiguous. Ultimately the High Commissioner's report was released at the end of June, following which the co-facilitators of the intergovernmental process held consultations with States on 2 July and again from 16 to 18 July 2012.

## THE JULY 2012 CONSULTATIONS

While States continued to argue about the relevance of the High Commissioner's report,<sup>9</sup> the co-facilitators of the inter-governmental process essentially used it as the basis for drawing up a list of issues for discussion during the State consultations. The debate amongst States covered four broad areas, which included the proposal for a comprehensive reporting calendar;<sup>10</sup> methods of work; the reporting process; and capacity to implement treaty body obligations.

Several States supported the idea of a comprehensive reporting calendar in principle but voiced concerns that the proposed cycle of reporting would be unsustainable and very costly. A number of States were also in favour of the High Commissioner's suggestions to increase the visibility and

accessibility of the treaty bodies through webcasting and videoconferencing.<sup>11</sup>

Non-governmental organisations (NGOs), including ISHR, voiced their concerns with a suggestion in the High Commissioner's report that formal sessions between treaty bodies and NGOs be public, as this would heighten the risk of reprisals against those cooperating with the treaty bodies. In that regard, many NGOs and States<sup>12</sup> welcomed the report's focus on reprisals, in particular the suggestion to establish treaty body focal points on reprisals as a first step.

Several less progressive States also put forward negative proposals. A group of countries calling themselves 'the cross-regional group' or 'CRG'<sup>13</sup> presented a unified front in the consultations. Their shared goals seemed to be to limit the independence of the treaty bodies and increase State oversight of the bodies' work. Among other things, the CRG called for a code of conduct and accountability mechanism for treaty body experts, equitable geographical representation in the treaty bodies, and increased transparency of interaction between the treaty bodies and non-state stakeholders. Though States supportive of the independence and strengthening of the system were vocal in their opposition to such measures as a code of conduct, they were in general less coordinated in their response, and had little substantive counterweight to offer. One of the chief difficulties for the treaty body-friendly States was, and still is, a lack of consensus on the need for additional resources. While many have consistently called for increased resources, which would be necessary to implement some of the proposed reforms, others, particularly the United States and the United Kingdom, have strongly opposed the idea of increasing financial commitments.

## NGO PARTICIPATION

Another troubling aspect of the intergovernmental process from the start was the inadequate provision for the participation of key non-state stakeholders, in stark contrast to the broad consultations facilitated by OHCHR in the context of the Dublin process. The resolution establishing the inter-governmental process requested the PGA to work out 'separate informal arrangements, after consultation with Member States' that would allow treaty bodies, national human rights institutions and 'relevant' NGOs to provide input and expertise, 'bearing in mind the intergovernmental nature of the process'. Several States that abstained from voting on the

6 A voting record can be accessed at <http://bit.ly/UEkLju>, and breakdown of votes by region at <http://bit.ly/UEkQUK>.

7 <http://bit.ly/Rftgij>.

8 OHCHR held consultations with States in New York on 2 and 3 April 2012 in an effort to satisfy those States that felt insufficiently consulted in the Dublin process.

9 In particular, less progressive States responsible for creating the intergovernmental process argued that the High Commissioner's report should be just one aspect of the basis for discussions.

10 This proposal would organise the current reporting deadlines into a single comprehensive reporting calendar, based on a periodic five-year cycle. Within this five-year period, there would be a maximum of two reports per year due for a State that is a party to all the treaties.

11 Canada, Costa Rica, Ireland, El Salvador, Japan, Korea, Mexico, Thailand, Switzerland, USA, Liechtenstein, Colombia, the African Group and the Caribbean Community (CARICOM). States in the 'cross regional group' (see footnote 13) did not support webcasting and videoconferencing unless the State concerned expressed its consent, and suggested that all meetings, including those with non-state stakeholders, be webcast.

12 Including the EU, Australia, Israel, USA, Thailand, and the African Group.

13 Belarus, Russia, Bolivia, China, Cuba, Iran, Nicaragua, Cuba, Pakistan, Syria, and Venezuela.

resolution continued throughout the consultations to call for greater participation of other stakeholders.<sup>14</sup>

In the end, two NGO representatives were invited by the co-facilitators to participate in panels during the State consultations in mid-July,<sup>15</sup> and NGOs were able to observe the discussions amongst States and take the floor during side events. Separate NGO consultations were also held on 4 September 2012. In a particularly concerning move, NGOs without ECOSOC accreditation<sup>16</sup> were subjected to a procedure whereby States could object anonymously to their participation without providing a reason or any recourse to the concerned NGO.<sup>17</sup> This was controversial as language limiting participation to ECOSOC accredited NGOs had been negotiated out of Resolution 66/254, and NGO engagement with the treaty bodies has never been limited in such a way.<sup>18</sup> Alkarama,<sup>19</sup> an NGO that regularly contributes to the work of the treaty bodies, was prohibited from participating because of an objection from Algeria. During the NGO consultations, USA, Canada, Switzerland, Israel, and the European Union challenged the 'non-objection' procedure, stating there was no agreement on its use, while China, Russia and Algeria argued that the rule is well established for non-accredited NGOs in General Assembly proceedings.<sup>20</sup>

Statements at the adoption of the resolution to extend the intergovernmental process indicated States were still divided on NGO participation. Russia on behalf of the CRG called for strict compliance with Resolution 66/254 and the intergovernmental nature of the process, while the USA strongly supported NGO participation in all aspects of the discussion.

## PROSPECTS FOR FUTURE DEVELOPMENTS

The co-facilitators of the inter-governmental process concluded their work in the General Assembly's 66<sup>th</sup> session with a non-substantive progress report to the PGA, describing the State and NGO consultations. The co-facilitators recommend in that report that a comprehensive cost review of the treaty system be provided by the end of 2012. In the final hours of the session, on 17 September 2012, Member States adopted a consensus resolution extending the intergovernmental process.<sup>21</sup>

Regarding a timeline for the process, States were divided in the negotiations about whether the resolution should prescribe a fixed end date, within the 67<sup>th</sup> session,<sup>22</sup> or should not be constrained.<sup>23</sup> Reflecting the different State positions, the resolution vaguely 'decides to extend the intergovernmental process [...] with a view to identifying' concrete and sustainable measures in the next session.

As the General Assembly is now in the middle of its intense Third Committee work, in the last months of 2012, further discussion in the context of the intergovernmental process has been postponed until early 2013. In the meantime, the Third Committee will be confronted by requests from several treaty bodies for temporary additional funding to deal with their backlogs of country reviews.<sup>24</sup> However, language providing that the continuation of the intergovernmental process should not prejudice such temporary measures was ultimately dropped from the resolution, leaving the prospects for those funding requests uncertain. ■

14 Including Switzerland, USA, Mexico, Liechtenstein, Costa Rica, and El Salvador, Canada, EU, New Zealand, and Australia.

15 ISHR participated in a side event on 'The role of the UN system and civil society in supporting Member States and their capacity to implement'; Amnesty International participated in a panel discussion on the 'Capacity to Implement'.

16 ECOSOC status provides NGOs with access to a range of fora at the UN and is granted by the UN's Economic and Social Council on the recommendation of its Committee on NGOs. The Committee has come under criticism in recent years as it is known for excessive politicisation, and the balance of the Committee's membership tends towards States that do not support a vibrant civil society at the UN. See <http://bit.ly/Qj9se9> for an earlier ISHR article on the ECOSOC NGO Committee.

17 This procedure, whereby decisions to allow NGOs to participate are taken on a 'non-objection' basis has become prevalent in a range of meetings at UN headquarters in recent years.

18 This also resulted in the co-facilitators having to reschedule the meeting from its original date of 31 July because the three working days' notice they provided was insufficient for Member States to 'vet' the non-ECOSOC accredited NGOs wanting to participate.

19 [www.alkarama.org](http://www.alkarama.org).

20 While this procedure has become more common in the General Assembly in recent years, it is not universally applied.

21 Resolution 66/295.

22 Including Liechtenstein, Switzerland, Canada, EU, New Zealand, USA, Australia, and South Africa.

23 Including China, the African Group, Russia on behalf of the CRG, and the Philippines.

24 Additional information can be found in ISHR's Alert for the 67<sup>th</sup> session of the General Assembly, available at <http://bit.ly/RqpK57>.

# UPCOMING EVENTS

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# QUICK REFERENCE GUIDE

## NGO engagement opportunities by country

November 2012 – March 2013

The table below is a quick reference guide to countries that feature within the 'Opportunities for NGO Engagement' section of this publication (pages 28 to 32). Only those countries featured in one or more of the upcoming meetings are listed in the table.

### ACRONYMS

CESCR:	Committee on Economic, Social and Cultural Rights (p. 28)
CEDAW:	Committee on the Elimination of Discrimination against Women (p. 28)
UPR:	Universal Periodic Review (p. 28)
CERD:	Committee on the Elimination of Racial Discrimination (p. 29)
CCPR:	Human Rights Committee (p. 29)
SP visits:	Special procedures' visits (p. 32)

	CESCR	CEDAW	UPR	CERD	CCPR	SP visits
Angola		X			X	
Austria		X				
Bahamas			X			
Barbados			X			
Belize					X	
Botswana			X			
Bulgaria	X					
Burundi			X			
Cambodia		X				
Canada				X		
China-Hong Kong					X	
China-Macao					X	
Cyprus		X				
Ecuador	X					
France			X			
Greece		X				X
Hungary		X				
Iceland	X					X
Israel			X	X		
Italy				X		
Jordan				X		
Kuwait				X		
Kyrgyz Republic						X
Laos				X		
Liechtenstein			X			
Luxembourg			X			

	CESCR	CEDAW	UPR	CERD	CCPR	SP visits
Macedonia		X				
Madagascar						X
Mali			X			
Mauritania	X					
Montenegro			X			
Mexico				X		
Pakistan		X				X
Paraguay					X	
Peru					X	
Portugal				X		
Qatar				X		
Romania			X			
Senegal				X		
Serbia			X			
Solomon Islands		X				
Tonga			X			
Turkey						X
Turkmenistan				X		
United Arab Emirates			X			
United Republic of Tanzania	X					
Vietnam				X		

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# OPPORTUNITIES FOR NGO ENGAGEMENT

November 2012 – March 2013

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## COUNTRY EXAMINATIONS AND REVIEWS

For more detailed and up-to-date information, please consult the relevant treaty body pages at <http://bit.ly/feFwjo> or the UPR website at <http://bit.ly/ea8LRG>. For an overview of the UN treaty body system and its functions, you can download a free copy of ISHR's Simple Guide to the UN Treaty Bodies at <http://bit.ly/dB7B73>.

### COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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#### What's coming up?

The Committee on Economic, Social and Cultural Rights will hold its 49<sup>th</sup> session from 12 to 30 November in Geneva. It will examine the reports of Bulgaria, Ecuador, Iceland, Mauritania, and the United Republic of Tanzania. At its pre-sessional working group, from 3 to 7 December, the Committee will prepare the lists of questions for Denmark, Kuwait, Lithuania, Rwanda, Togo (TBC), Albania, and Egypt, which will be reviewed at a later session. See <http://bit.ly/Rurv1e> for an overview of upcoming reviews.

#### What can you do?

NGOs may participate in parts of both the 49<sup>th</sup> session and the pre-sessional working group following it. Further information about NGO participation can be found at <http://bit.ly/hkv5nJ>.

### UNIVERSAL PERIODIC REVIEW

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#### What's coming up?

The Universal Periodic Review (UPR) will hold its 15<sup>th</sup> session from 15 January to 1 February 2013 in Geneva. The countries to be reviewed are France, Tonga, Romania, Mali, Botswana, Bahamas, Burundi, Luxembourg, Barbados, Montenegro, United Arab Emirates, Israel, Liechtenstein, and Serbia.

#### What can you do?

The deadline for submissions on the countries to be examined at the 15<sup>th</sup> session has now passed. Guidelines for submissions to future sessions can be found at <http://bit.ly/d07u3s>. Submissions should be sent to [uprsubmissions@ohchr.org](mailto:uprsubmissions@ohchr.org) following the above-mentioned guidelines. A timeline for NGO participation can be found at <http://bit.ly/x5kUYL>. Submissions should be sent at least five months before the relevant session of the UPR. Further information on submissions and deadlines can be found at <http://bit.ly/cmalvM>.

The deadline for NGOs to submit written contributions for the 17<sup>th</sup> Session of the UPR (which will take place in October 2013) is early March. The session will include reviews of Belize, China, Central African Republic, Chad, Jordan, Malaysia, Malta, Monaco, Mauritius, Mexico, Nigeria, Republic of Congo, Saudi Arabia, and Senegal.

In most cases, the ideal moment for human rights defenders to engage with government missions in Geneva on UPR recommendations is around six weeks prior to the review. During the end-of-year holidays, activity levels in Geneva are low.

### COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

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#### What's coming up?

The Committee on the Elimination of Discrimination against Women will hold its 54<sup>th</sup> session from 11 February to 1 March 2013 in Geneva. It will examine the reports of Angola, Austria, Cambodia, Cyprus, Greece, Hungary, Macedonia, Pakistan and Solomon Islands. For more information about the session visit <http://bit.ly/RPaLiD>.

**What can you do?**

If you are working on discrimination against women in any of the countries under review, you can submit information to the Committee. Submissions should arrive at least two weeks before the start of the session. They can be sent in Microsoft Word format to [bsmith@ohchr.org](mailto:bsmith@ohchr.org) and [cedaw@ohchr.org](mailto:cedaw@ohchr.org), indicating whether the materials may be published on the Committee's website; and also in hard copy (30 copies) to CEDAW Secretariat, Office of the High Commissioner for Human Rights (OHCHR), Palais Wilson, 52 Rue des Paquis, CH-1201 Geneva, Switzerland. An information note regarding NGO participation is available at <http://bit.ly/dayPAF>.

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**COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION**


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**What's coming up?**

The Committee on the Elimination of Racial Discrimination will hold its 82<sup>nd</sup> session from 11 February to 1 March 2013 in Geneva. It will examine the reports of Canada, Italy, Israel, Jordan, Kuwait, Laos, Mexico, Portugal, Qatar, Senegal, Turkmenistan, and Vietnam. To find out more about the session visit <http://bit.ly/X08d5O>. An information note for NGOs is available at <http://bit.ly/QMtD0L>.

**What can you do?**

If you are working on the issue of racial discrimination in any of the countries under review, you can submit information to the Committee. The deadline for submissions is 30 January 2012. They can be sent electronically to Gabriella Habtom at [cerd@ohchr.org](mailto:cerd@ohchr.org); and also in hard copy (20 copies) to CERD Secretariat, 8-14 Avenue de la Paix, CH 1211 Geneva 10, Switzerland. Further information on NGO participation with the Committee can be found in *A Guide for Civil Society Actors*, which is available at <http://bit.ly/u01iBY>.

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**HUMAN RIGHTS COMMITTEE**


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**What's coming up?**

The Human Rights Committee will hold its 107<sup>th</sup> session from 11 to 28 March 2013 in Geneva. It will examine the reports of Angola, China-Macao, China-Hong Kong, Peru and Paraguay. Belize will be discussed in the absence of a report.

**What can you do?**

The deadline for submissions has not yet been published. It will be included in the information note for NGOs, which will be available at <http://bit.ly/TMgbuE>.

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**UN MEETINGS**


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**GENERAL ASSEMBLY AND THIRD COMMITTEE**


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**What's coming up?**

In New York, the 67<sup>th</sup> session of the General Assembly is ongoing until 24 December, and its Third Committee is ongoing until 28 November.

**What can you do?**

Any ECOSOC accredited NGO may attend the General Assembly and/or the Third Committee as an observer provided they attain an appropriate grounds pass. For more information on applying for and obtaining a pass, consult the website here: <http://bit.ly/xbPqKe>.

## FORUM ON BUSINESS AND HUMAN RIGHTS

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### What's coming up?

The UN Forum on business and human rights will hold its 4<sup>th</sup> session on 4 and 5 December in Geneva. The forum was established as part of Resolution 17/4 and is guided to 'discuss trends and challenges in the implementation of the Guiding Principles and promote dialogue and cooperation on issues linked to business and human rights.'

### What can you do?

The Forum will seek to formulate concrete thematic recommendations from a broad array of experts. Further information about the Forum, including the provisional agenda, the concept note on the theme, and more information about how to participate are available at <http://bit.ly/xfDD92>.

## COMMITTEE ON NON-GOVERNMENTAL ORGANISATIONS

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### What's coming up?

The regular session of the Committee on NGOs will take place in New York from 21 to 30 January 2013. During the session, NGO applications for ECOSOC accreditation that have been deferred from earlier sessions will be considered by the Committee. The Committee will also review quadrennial reports of NGOs. The Committee's recommendations will be sent to the Economic and Social Council for its approval in July.

### What can you do?

If your NGO has submitted an application or a quadrennial report, you can register to attend the meeting using the following link: <http://bit.ly/TaQGXc>. All NGOs already in consultative status with ECOSOC can attend and observe the session. Reports of previous sessions of the Committee, as well as press coverage of the Committee issued on the days when it is in session, are available at: <http://csonet.org>.

## HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE

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### What's coming up?

The Human Rights Council Advisory Committee will hold its 10<sup>th</sup> session from 18 to 22 February 2013 in Geneva.

### What can you do?

NGOs can submit information to the Committee on any of the studies it is preparing. Information can be submitted to the Committee Secretariat, by emailing [hrcadvisorycommittee@ohchr.org](mailto:hrcadvisorycommittee@ohchr.org), which will ensure it reaches the relevant Committee members. NGOs may also attend the session and make oral statements. Written statements can be submitted two weeks in advance of the opening of the session to [hrcngo@ohchr.org](mailto:hrcngo@ohchr.org). More information about NGO engagement with the Committee can be found at <http://bit.ly/9UJoyG>.

## HUMAN RIGHTS COUNCIL

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### What's coming up?

The Human Rights Council will hold its 22<sup>nd</sup> session from 25 February to 22 March in Geneva. More information will be made available in due course, at <http://bit.ly/HBVX2h>.

### What can you do?

If you work with an ECOSOC accredited NGO you may attend all sessions of the Council. You may also submit written statements and request rooms to organise parallel events. You may register to deliver oral statements under all agenda items. More information about the Council and NGO participation is available at <http://bit.ly/QMPQf8> and at [www.ishr.ch/council](http://www.ishr.ch/council).

## COMMISSION ON THE STATUS OF WOMEN

### What's coming up?

The Commission on the Status of Women will hold its 57<sup>th</sup> session in New York from 4 to 15 March 2013. Themes this session will include the elimination and prevention of all forms of violence against women and girls; and, the equal sharing of responsibilities between women and men, including caregiving in the context of HIV/AIDS. More information about the session is available at <http://bit.ly/NCwyyvN>.

### What can you do?

NGOs in consultative status with the Economic and Social Council may register to attend the event, submit written statements, make oral statements, and organise parallel events around the session.

Online pre-registration to attend the event will run from 5 November 2012 to 13 January 2013. More information about NGO participation can be found at <http://bit.ly/8BGO40>. Questions regarding NGO participation can be sent to [csw@unwomen.org](mailto:csw@unwomen.org), with the nature of the enquiry in the email subject line. Live webcasts of meetings will be available at <http://www.un.org/webcast>.

## ECOSOC accreditation

Some forms of formal participation in the work of the UN require NGOs to hold consultative status with ECOSOC. NGOs may apply for ECOSOC consultative status under Article 71 of the Charter of the United Nations and ECOSOC Resolution 1996/31. These accredited organisations may participate in meetings of ECOSOC and its subsidiary bodies, including the functional commissions, in accordance with the rules of procedure of those bodies. For more information visit <http://csonet.org>. ■

## WORKING GROUPS

### WORKING GROUP ON HUMAN RIGHTS AND TRANSNATIONAL CORPORATIONS AND OTHER BUSINESS ENTERPRISES

#### What's coming up?

The Working Group on the Issue of Human Rights and Transnational Corporations and other Business Enterprises will hold its 3<sup>rd</sup> session from 26 to 30 November in Geneva.

#### What can you do?

Submissions are welcomed at all times by the Working Group. They can be sent to the Secretariat by email to [wg-business@ohchr.org](mailto:wg-business@ohchr.org). Receipt of submissions will be acknowledged, although there may be delays at times due to the high volumes of information received. All information reaches the Working Group and will be taken into consideration as appropriate by its members, as per the group's working methods. more information visit <http://bit.ly/zKhH0U>.

### WORKING GROUP ON THE USE OF MERCENARIES

#### What's coming up?

The Working Group on the Use of Mercenaries will hold its 17<sup>th</sup> session from 3 to 7 December.

#### What can you do?

Submissions to the Working Group can be made using the questionnaire available at <http://bit.ly/PlrAWs>. They can be sent to the Secretariat by email to [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org); fax to +41 22 917 9006; or post to Working Group on the use of mercenaries, Office of the High Commissioner for Human Rights, United Nations Office at Geneva, 8-14 avenue de la Paix, 1211 Geneva 10, Switzerland. Information will be taken into consideration by the Working Group according to its working methods. For more information visit <http://bit.ly/yZkmK9>.

## SPECIAL PROCEDURES' VISITS

- The Special Rapporteur on migrants, Mr François Crépeau, will visit Greece from 26 November to 3 December. See: <http://goo.gl/jCjKl>.
- The Special Rapporteur on summary executions, Mr Christof Heyns, will visit Turkey from 26 to 30 November. See: <http://goo.gl/VfFhz>.
- The Special Rapporteur on contemporary forms of slavery, Ms Gulnara Shahinian, will visit Madagascar from 10 to 20 December. See: <http://goo.gl/kev9B>.

To find out how you can support the visits, please contact the respective mandate-holder at their email, found in the directory at <http://goo.gl/94Dkt>.

## REGIONAL MEETINGS

### INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

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#### What's coming up?

The Inter-American Commission on Human Rights (IACHR) will hold its 147<sup>th</sup> Period of Sessions from 7 to 22 March 2013 in Washington, D.C. While the session is closed to the public, hearings will take place alongside the session. Any NGO or individual may request a hearing - the majority of which are public and are webcast.

#### What can you do?

Requests for hearings and working meetings should be addressed to the IACHR and sent by mail: Inter-American Commission on Human Rights, 1889 F St., N.W., Washington, D.C., U.S.A. 20006. Or, by email: [cidhoea@oas.org](mailto:cidhoea@oas.org). Or, by fax: (202) 458-3992 (+1 is the country code for the United States).

### AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

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#### What's coming up?

The African Commission will hold its 53<sup>rd</sup> ordinary session from 9 to 23 April 2013. A three-day NGO Forum to discuss issues of concern and prepare recommendations for the Commission will take place prior to the session.

#### What can you do?

All NGOs with observer status with the African Commission are invited to attend the Commission's 53<sup>rd</sup> session, at their own cost. NGOs without observer status may also attend but do not have speaking rights. More information about registering to attend will be made in due course at [www.achpr.org/sessions](http://www.achpr.org/sessions).

All NGOs are welcome to take part in the NGO Forum. You can find out more and register to participate here: [www.acdhrs.org](http://www.acdhrs.org).

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# USEFUL LINKS

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## UN BODIES

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Office of the High Commissioner for Human Rights: [www.ohchr.org](http://www.ohchr.org)

Human Rights Council: [www2.ohchr.org/english/bodies/hrcouncil](http://www2.ohchr.org/english/bodies/hrcouncil)

General Assembly: [www.un.org/ga](http://www.un.org/ga)

Human Rights Committee: [www2.ohchr.org/english/bodies/hrc](http://www2.ohchr.org/english/bodies/hrc)

Committee on Economic, Social and Cultural Rights: [www2.ohchr.org/english/bodies/cescr](http://www2.ohchr.org/english/bodies/cescr)

Committee on the Elimination of Racial Discrimination: [www2.ohchr.org/english/bodies/cerd](http://www2.ohchr.org/english/bodies/cerd)

Committee on the Elimination of Discrimination against Women: [www2.ohchr.org/english/bodies/cedaw](http://www2.ohchr.org/english/bodies/cedaw)

Committee against Torture: [www2.ohchr.org/english/bodies/cat](http://www2.ohchr.org/english/bodies/cat)

Committee on the Rights of the Child: [www2.ohchr.org/english/bodies/crc](http://www2.ohchr.org/english/bodies/crc)

Committee on Migrant Workers: [www2.ohchr.org/english/bodies/cmw](http://www2.ohchr.org/english/bodies/cmw)

Committee on the Rights of Persons with Disabilities: [www.ohchr.org/EN/HRBodies/crpd](http://www.ohchr.org/EN/HRBodies/crpd)

Committee on Enforced Disappearances: [www.ohchr.org/EN/HRBodies/ced](http://www.ohchr.org/EN/HRBodies/ced)

Special Rapporteur on the situation of human rights defenders: [www.ohchr.org/EN/Issues/SRHRDefenders](http://www.ohchr.org/EN/Issues/SRHRDefenders)

Universal Periodic Review: [www.ohchr.org/en/hrbodies/upr](http://www.ohchr.org/en/hrbodies/upr)

Secretariat of the ECOSOC NGO Committee: [www.csonet.org](http://www.csonet.org)

## REGIONAL ORGANISATIONS

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African Commission on Human and Peoples' Rights: [www.achpr.org](http://www.achpr.org)

Asia Pacific Forum of National Human Rights Institutions: [www.asiapacificforum.net](http://www.asiapacificforum.net)

ASEAN Intergovernmental Commission on Human Rights: [www.aseansec.org/22769.htm](http://www.aseansec.org/22769.htm)

Council of Europe: <http://conventions.coe.int>

European Union Guidelines on Human Rights Defenders: <http://bit.ly/dxG2MP>

Inter-American Commission on Human Rights: [www.oas.org/en/iachr](http://www.oas.org/en/iachr)

## CONTRIBUTORS TO THIS ISSUE

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NGO Group for the Convention for the Rights of the Child: [www.childrightsnet.org](http://www.childrightsnet.org)

International Disability Alliance: [www.internationaldisabilityalliance.org](http://www.internationaldisabilityalliance.org)

ISHR EVENTS:

WORKSHOP FOR NGOS AND NHRIS

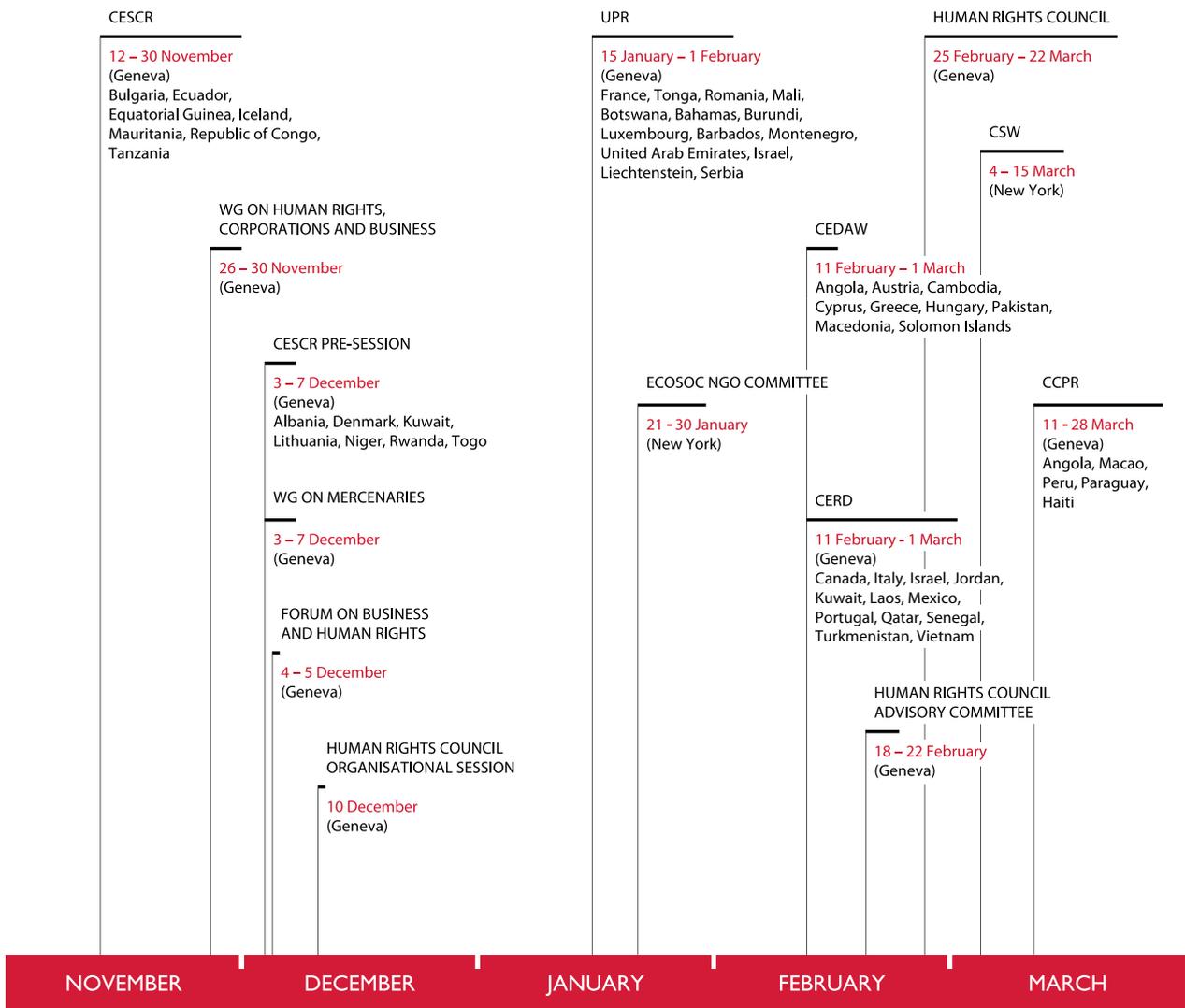
5 – 7 December  
(Bangkok)

REGIONAL MEETINGS:

INTER-AMERICAN  
COMMISSION  
ON HUMAN RIGHTS

7 – 22 March  
(Washington, DC)

UN MEETINGS:



UPCOMING EVENTS NOVEMBER 2012 – MARCH 2013