

# HUMAN RIGHTS MONITOR

QUARTERLY

ISHR | INTERNATIONAL SERVICE  
FOR HUMAN RIGHTS

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adopts landmark resolution on protection of human rights defenders

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ISSUE 1/3 | APRIL 2010



## A NEW ISHR PUBLICATION

Information for human rights defenders on key developments and opportunities in the UN and regional human rights systems

**T**he International Service for Human Rights (ISHR) is pleased to launch its new publication, the Human Rights Monitor Quarterly. We are introducing this new publication to present a composite picture of key developments in the international and regional human rights systems to human rights defenders.

The Human Rights Monitor Quarterly has been developed in response to continuous evaluations of our information products and the clear need for human rights defenders to receive relevant and timely information and analysis on these developments. It replaces the former New York Monitor, Treaty Body Monitor, UPR Monitor and Council Monitor publications.

The Quarterly will also highlight events, meetings, and opportunities for engagement by NGOs and national human rights institutions in the upcoming quarter and beyond. This publication will be issued three times a year (April, July, and October). In addition, ISHR's annual Human Rights Monitor will continue to examine developments and trends within the main UN human rights bodies and mechanisms covering the 12-month period from January to December of a given year and released in March of the following year. Both the Quarterly and the annual Human Rights Monitor will be available in print and electronic format.

The first edition of the Human Rights Monitor Quarterly includes articles on the 45<sup>th</sup> session of the Committee on the Elimination of Discrimination against Women, the 76<sup>th</sup> session of the Committee on the Elimination of Racial Discrimination, the 53<sup>rd</sup> session of the Committee on the Rights of the Child and the 98<sup>th</sup> session

of the Human Rights Committee, the 4<sup>th</sup> session of the Advisory Committee, the 7<sup>th</sup> session of the universal periodic review (UPR), the 13<sup>th</sup> session of the Human Rights Council, on developments in the Security Council, and an update on the 3<sup>rd</sup> session of the Committee on the Rights of Persons with Disabilities. This edition also includes an article on the 46<sup>th</sup> session of the African Commission on Human and Peoples' Rights and a thematic piece by the International Disability Alliance on the Convention on the Rights of Persons with Disabilities.

This edition highlights, among others, the Human Rights Council's important resolution on protection of human rights defenders; the Democratic People's Republic of Korea's failure to cooperate with the UPR; CEDAW's focus on persistent violence against women in Botswana, Egypt, Malawi, Uzbekistan and the United Arab Emirates; CERD's attention to indigenous rights in Argentina, Cambodia, Guatemala, Panama and concern about attacks on ethnic minorities in Kazakhstan, Slovakia, Japan, and the Netherlands; the Human Rights Committee's grave concern at harassment, violence and killings of human rights defenders in Mexico and Uzbekistan; the Security Council's failure to follow up a briefing on Myanmar and the uncertain future of the peace-keeping missions in Chad and the Democratic Republic of the Congo; and the African Commission on Human and Peoples' Rights examination of Ethiopia, Botswana and the Republic of Congo.

We hope that you will find this new publication interesting and useful. We would be happy to receive your questions, comments or feedback at [information@ishr.ch](mailto:information@ishr.ch). Further information and downloadable online editions can be found at [www.ishr.ch/quarterly](http://www.ishr.ch/quarterly).

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.

Now celebrating our 25th anniversary, we have established ourselves in supporting and facilitating the work of human rights defenders with the United Nations system, at national, regional and international levels.

#### OUR VISION

Our vision is a world where the UN and regional human rights systems effectively promote and protect the human rights of all and where everyone defending human rights enjoys protection of their rights.

#### OUR MISSION

Our mission is to support the engagement of human rights defenders with the UN and regional human rights systems. In turn, ISHR also aims to make these systems more effective, more accessible to human rights defenders, and more responsive to their concerns.

The *Human Rights Monitor Quarterly* is a new publication launched by the International Service for Human Rights in April 2010. It replaces the former *New York Monitor*, *Treaty Body Monitor*, *UPR Monitor* and *Council Monitor* publications and will instead present a global picture of developments in the international and regional human rights systems. The Quarterly will also highlight events, meetings, and opportunities for NGO/NHRI engagement in the upcoming quarter and beyond. This publication will be issued three times a year (April, July, and October). ISHR's annual *Human Rights Monitor* will continue to examine developments and trends within the main UN human rights bodies and mechanisms covering the 12-month period from January to December of a given year and released in March of the following year.

Read more about the annual edition at [www.ishr.ch/hrm](http://www.ishr.ch/hrm).

Downloadable online editions of the Quarterly are available at [www.ishr.ch/quarterly](http://www.ishr.ch/quarterly).

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Special thanks to our guest contributors, Stefan Trömel and the NGO Group for the CRC.

#### ACKNOWLEDGEMENTS

The International Service for Human Rights (ISHR) would like to thank Irish Aid for their support to this project.



**Irish Aid**  
Department of Foreign Affairs  
An Roinn Gnóthaí Eachtracha

#### LAYOUT AND DESIGN

Sarah Song, Geneva.

#### COVER PHOTO

UN Photo/Jean-Marc Ferre

#### PRINTER

Print Carrier

#### CLOSING OF THIS EDITION

30 April 2010.

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# INTERNATIONAL DEVELOPMENTS

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# HUMAN RIGHTS COUNCIL



FRONTLINE

Hebal Abel Koloy is Chairperson of the Borok People's Human Rights Organisation in Tripura, India. He and the other members of the organisation are routinely harassed and intimidated by the authorities. Their office was recently bombed. Protection of human rights defenders was one of the issues discussed by the Human Rights Council.

The Human Rights Council held its 13<sup>th</sup> session from 1 to 26 March. The main session in 2010 saw positive developments with greater State engagement in important discussions and several significant outcomes. Consensus was reached on issues that had previously divided States (torture and the Ad-Hoc Committee on Complementary Standards). Some country resolutions were adopted by greater majority (DPRK and follow-up to 'Goldstone report') and one new one was passed by consensus (Guinea). These outcomes reflect changes in State positions that have long been advocated by those seeking to strengthen the Council's work. States must build on these achievements and avoid the Council falling back into the inertia of block positions.

## INSTITUTIONAL DEVELOPMENTS

State dignitaries made comments on the upcoming review of the Council's work and functioning during the high-level segment.<sup>1</sup> Most comments during the session remained general while many agreed that the UPR could be improved. Of particular note was the United States' (US) comment that it considers the agenda item on the situation in the occupied Palestinian territories 'an aberration' indicating its desire to eliminate Item 7. However, this will have little to no chance of success in the Council.

A recurring issue was the role of the special procedures. There was a clear division of opinion on the independence and conduct of special procedures. Nigeria (on behalf of the African Group) insisted that special procedures strictly abide by the Code of Conduct, and Pakistan, on behalf of the Organisation of the Islamic Conference (OIC), criticised special procedures for 'acting above sovereign States', while South Africa proposed the creation of an 'ethics committee' to monitor implementation of the Code of Conduct. The High Commissioner for Human Rights maintained that the special procedures' Coordinating Committee could ensure its application, while France and Belgium considered that States should be held to a similar code of conduct in their cooperation with special procedures. Undoubtedly, the special procedures will be among the key issues discussed during the review.

<sup>1</sup> The next edition of the *Human Rights Monitor Quarterly* will have an article on the Council's review. Specific proposals touched on the need to base the review on a proper assessment of the Council's work; stricter criteria for membership; accessibility for victims of human rights violations and NGOs from the 'global south'; the Council's capacity to address situations of human rights violations; the role of the Presidency; the relationship of the Council with the General Assembly's Third Committee; the relationship of the Council with OHCHR; the heavy programme of work; the 'disproportionate focus on Israel; avoiding duplication between the UPR and treaty bodies; and the Code of Conduct for special procedures and its implementation. ISHR news piece <http://bit.ly/bgFOxs>.



The President of the Council appointed several new special procedures mandate holders but did not hold 'broad consultations' as required by the Council's institutional framework.<sup>2</sup>

## ANNUAL DIALOGUE WITH THE HIGH COMMISSIONER

The High Commissioner, Ms Navi Pillay, presented her annual report and the 2010-2011 *Strategic and Management Plan* (SMP) for her Office.<sup>3</sup> There was an expectation that the High Commissioner would face criticism for parts of the SMP, in particular its focus on combating impunity, and on non-discrimination including on grounds of sexual orientation.<sup>4</sup> Under these circumstances, it was notable that States were less critical of the High Commissioner than in the past. There were however polarised positions regarding the development of the SMP and the establishment of OHCHR regional offices. Nigeria (on behalf of the African Group), India, China and others considered that the High Commissioner should have consulted the Council before finalising the SMP, while Egypt (on behalf of the Non-Aligned Movement), Pakistan (on behalf of the OIC) and Nigeria (on behalf of the African Group) claimed that the strategic priorities needed to be in line with the 2010-2011 Strategic Framework of the Secretary-General. The United Kingdom (UK), Germany, the Republic of Korea and others<sup>5</sup> instead supported the High Commissioner's operational independence. Ms Pillay responded to concerns in a measured and unperturbed manner, and asserted that she reports to the General Assembly and the Secretary-General.

Algeria and Uzbekistan challenged the basis for establishing national or regional offices without the agreement of all States in the region. Algeria enquired specifically what steps the High Commissioner had taken to consult with concerned States as required by the General Assembly.<sup>6</sup>

States also expressed general support for a UPR follow-up unit in OHCHR; gave positive feedback on OHCHR's proposed role in treaty body reform, and agreed that OHCHR's budget needed to be increased to match its increasing workload. Of particular note was the strong support of a small number of States and a large coalition of NGOs for the High Commissioner's efforts to highlight discrimination on the basis of sexual orientation.<sup>7</sup>

<sup>2</sup> Resolution 5/1, para. 52. India, although agreeing on the candidates suggested by the President, objected to the process because the vacancies had been circulated past the set deadline.

<sup>3</sup> ISHR news piece <http://bit.ly/c5SFVVV>.

<sup>4</sup> Both the African Group (through Algeria) and the OIC (through Pakistan) submitted fairly negative comments on the SMP. The letters are available on the OHCHR extranet at <http://bit.ly/9keUK5>.

<sup>5</sup> Spain (EU), Austria, Greece, Ireland.

<sup>6</sup> General Assembly Resolution 64/243 para. 95 'stresses any that the establishment of any future regional offices of OHCHR requires thorough consultation with all Member States concerned'.

<sup>7</sup> Norway, Chile, Spain (on behalf of the EU). This was set against the African Group's and the OIC's request that the High Commissioner remove all reference to sexual orientation as a ground of

The geographic composition of the staff of OHCHR was again discussed with Cuba, China, Azerbaijan and South Africa complaining about lack of equitable representation. However, Ms Pillay explained in detail the efforts being made and statistics presented showed significant progress. Nevertheless, Cuba presented its traditional resolution, which both France (on behalf of the EU) and the US explained that they would vote against.<sup>8</sup> Despite their opposition, the resolution was once again adopted with a comfortable majority.<sup>9</sup>

Continued attempts at influencing and controlling the High Commissioner's work are likely to be made in the General Assembly as deliberations on Programme 19, the UN's policy framework for its human rights activities, begin later this year.<sup>10</sup>

## THEMATIC AREAS OF FOCUS

At its March 2010 session, the Council held interactive dialogues with 13 special procedures and held six thematic panel discussions.<sup>11</sup>

Prior to the session, some States sought to block consideration of a joint study on 'global practices in relation to secret detention in the context of countering terrorism'<sup>12</sup> undertaken by the Special Rapporteur on the promotion of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on torture, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances.<sup>13</sup> The Council's decision to postpone the consideration of the study, which was regretted by many NGOs and States that had expressed serious concerns about these attempts, at least upheld the legitimate role of special procedures to explore any issue falling under their mandate.

discrimination from the SMP.

<sup>8</sup> Both noted that OHCHR should benefit from the best support from its staff, and that qualifications of staff are more important than geographic representation. France deplored the 'zero-growth cap' on the recruitment of staff from already overrepresented regions, a provision also found in previous resolutions.

<sup>9</sup> 31 in favour, 12 against, and three abstentions. Ghana explained that if it had been present, it would have voted in favour. In 2009, the resolution was adopted by 33 votes in favour, 12 against and two abstentions.

<sup>10</sup> For a summary of the General Assembly's most recent discussion (2008) on Programme 19 and a more detailed explanation of what Programme 19 is and how it is developed, see ISHR's New York Monitor, 63rd session, *Human Rights Council report and the Office of the High Commissioner for Human Rights and annex on p. 17*, available at <http://www.ishr.ch/new-york-monitor/general-assembly>.

<sup>11</sup> For brief summaries of key interactive dialogues see [www.ishr.ch/council](http://www.ishr.ch/council) and for a complete overview of all resolutions adopted, see ISHR's 'Chart of resolutions adopted at the 13th session' available at <http://bit.ly/cpcu0s>. For a list of special procedures reports considered, see ISHR's *Council Alert* for the 13th session. The Council held panel discussions on the economic and financial crises, the draft declaration on human rights education and training, on the rights of persons with disabilities, and two panel discussions on the rights of the child.

<sup>12</sup> A/HRC/13/42.

<sup>13</sup> See ISHR *Council Alert* for the 13th session.

### Protection of human rights defenders: attempts at reopening old debates

The Special Rapporteur on the situation of human rights defenders, Ms Margaret Sekaggya, presented her annual report focusing on security and protection of human rights defenders.<sup>14</sup> She stressed that since the adoption of the Declaration on human rights defenders more than ten years ago violations against human rights defenders have not decreased. Notably, Ms Sekaggya encouraged the Council to urge States to provide information about cases of reprisals against human rights defenders. She regretted the decrease in the response rate to communications by governments and named States that have not responded to her requests for visits.<sup>15</sup> The Special Rapporteur announced that she will focus on women human rights defenders in her next report to the Council.

The report was largely welcomed and many States were alarmed at the criminalisation of human rights defenders' work and their portrayal as 'terrorists, political opponents, and enemies of the State'.<sup>16</sup> However, some States reiterated concerns about the definition of human rights defenders claiming that defenders 'misuse their label' and seek some elevated status for themselves beyond the law.<sup>17</sup> Ms Sekaggya countered that the Declaration already provides a definition of human rights defenders.

However, this question was one of several controversial issues that some States raised during the negotiations of the draft resolution on protection of human rights defenders presented by Norway. It was the first Council resolution on human rights defenders with a specific focus. Despite Norway initiating early, transparent and extensive negotiations, the process proved very difficult and was at times at risk of collapsing as some States sought to rewrite the content of the Declaration and lower or restrict the protection extended to all those working to promote and protect human rights. Several important concessions were made by the main sponsor to reach a compromise acceptable to all States. The resolution is significant in that it urges States to promote a safe and enabling environment for human rights defenders and to acknowledge their legitimate role and important work. It also encourages States to set up a focal point for consultation with human rights defenders and develop early warning systems.

### The role of the legal profession in preventing torture

After long negotiations, the Council adopted without a vote a resolution focusing on the role of judges, prosecutors and

lawyers in the prevention of torture.<sup>18</sup> It marks a continuation of Denmark's approach of developing themed resolutions on torture geared toward practical implementation and builds upon Special Rapporteur on torture, Mr Manfred Novak's conclusion that the primary cause of torture is the malfunctioning of criminal justice systems.

The Special Rapporteur presented his final report to the Council as his term ends in November 2010. The interactive dialogue with Mr Nowak, who has been very outspoken throughout his term, proved less controversial than last year, when he was criticised for examining the death penalty as a form of cruel or inhuman punishment.<sup>19</sup>

Despite the relatively smooth interactive dialogue, the consensual adoption of the resolution was preceded by difficult negotiations.<sup>20</sup> Several States, including the Russian Federation, Pakistan, Algeria and Jordan, were critical of the focus on the 'legal profession', which they claimed did not belong in a resolution on torture. They also objected to independent judicial review of institutional safeguards against torture as being incompatible with their domestic judicial systems. The US objected to the resolution's encouragement of the provision of *habeas corpus* for detainees. The resolution was revised to accommodate these demands, in spite of Switzerland, Norway and Austria's objections that doing so weakened the text.

### Promotion and protection of human rights while countering terrorism

After similarly protracted negotiations the Council also found consensus on a resolution on the 'protection of human rights and fundamental freedoms while countering terrorism'.<sup>21</sup>

The interactive dialogue with the Special Rapporteur on the promotion and protection of human rights while countering terrorism, Mr Martin Scheinin, provoked mixed reactions. Although many States welcomed the focus of his annual report on the right to privacy in the context of countering terrorism, the delay in submitting a compilation report requested by the Council on 'good practices that ensure respect for human rights by intelligence agencies while countering terrorism' caused much dismay.<sup>22</sup> Mr Scheinin explained that he saw it as his right to decide on the focus of his reports, and that due to limited resources he had been unable to draft the compilation report as well.

The criticisms resurfaced during the negotiations of the resolution. Pakistan, India, the Russian Federation, Algeria and

<sup>14</sup> For more information on the interactive dialogue and the negotiations, see <http://bit.ly/8ZNp5>.

<sup>15</sup> Belarus, Bhutan, Chad, China, Egypt, Equatorial Guinea, India, Kenya, Malaysia, Mozambique, Nepal, Pakistan, the Philippines, Russian Federation, Singapore, Sri Lanka, Syria, Tunisia, Turkmenistan, Uzbekistan, Venezuela, Zimbabwe.

<sup>16</sup> EU, Sweden, Switzerland, Netherlands.

<sup>17</sup> Pakistan (on behalf of the OIC), the Russian Federation, Bangladesh, China, Sri Lanka, Iran, Egypt, Morocco.

<sup>18</sup> Resolution 13/19, sponsored by Denmark.

<sup>19</sup> See ISHR's Human Rights Monitor 2009, available at <http://www.ishr.ch/hrm>.

<sup>20</sup> Last year's resolution on torture was adopted by vote for the first time.

<sup>21</sup> Resolution 13/25, sponsored by Mexico.

<sup>22</sup> In its Resolution 10/15 the Council asked for such a compilation report to be presented at its 13th session.

others argued that the resolution should be critical of the Special Rapporteur's delay in submitting the report, and that this should be qualified as 'non-compliance with the mandate'. On the other hand, the US, Lichtenstein, Canada and Sweden (on behalf of the EU) argued that the resolution should focus on encouraging the submission of the report, rather than blaming the Special Rapporteur. The adopted text 'regrets' that the compilation report was not submitted on time but rightfully does not qualify this as 'non-compliance'. As with the joint study on secret detention States sought to construct an argument that special procedures are limited to providing expertise to the Council at its explicit request. This would undermine the system of special procedures and would clearly be inconsistent with the institution-building package.

Although it was the focus of the Special Rapporteur's annual report, the right to privacy in the context of countering terrorism was particularly controversial during the negotiations. Interestingly, it led to an unusual convergence of interests. The US and Egypt suggested simply recalling existing international obligations in this regard, whereas Norway, Lichtenstein and Pakistan (on behalf of the OIC) suggested stronger language, calling for proportionality when restricting privacy rights and judicial review of such restrictions. Coordination and cooperation between special procedures and OHCHR, and the Security Council was another controversial issue, with Norway, Switzerland and the EU encouraging mainstreaming, and China, the Russian Federation and the US objecting to the concept. Prior to the adoption of the resolution, China and Cuba noted their reservations regarding dialogue between the Council, OHCHR and the Security Council.

### Annual focus on children's rights

The Council held its annual full day meeting on the rights of the child with a focus on fighting sexual violence against children, an interactive dialogue with the a Special Representative of the Secretary-General on children in armed conflict, and adopted a thematic resolution following-up on the day of discussion, and a procedural resolution on the drafting of an optional protocol to the *Convention on the Rights of the Child* (CRC).<sup>23</sup>

The negotiation of an optional protocol will be challenging, as diverging opinions continue to exist on a number of substantive issues, including its complementarity with existing procedures and the specificity of a complaint procedure for children.

Next year's annual full day discussion will be on the promotion and protection of the human rights of street children.

<sup>23</sup> For an overview of the first session of the Working Group on the elaboration of an optional protocol to the CRC, see the chapter on Standard Setting in ISHR's *Human Rights Monitor 2009*.

### Changing dynamics on religious intolerance

The controversial initiative on 'defamation of religions' by the OIC and the continuation of the work of the Ad-hoc Committee on Complementary Standards were among the key decisions at this session.<sup>24</sup>

The resolution on 'defamation of religions', traditionally presented by Pakistan (on behalf of the OIC), has long been one of the most divisive issues in the Council,<sup>25</sup> and divisions continued as some supported the draft<sup>26</sup> and others felt the approach was misguided.<sup>27</sup> Although the resolution was still adopted it lost support this year.<sup>28</sup> Argentina, Uruguay, Mexico, Zambia and the Republic of Korea, changed their vote from abstention to against. Only Burkina Faso changed from abstention to in favour. Several States also explained their position with Senegal, which currently chairs the OIC, reaffirming its commitment to freedom of expression while combating intolerance. Japan and Brazil, although they both abstained, expressed strong concerns about the concept of 'defamation of religions'. For the first time, Argentina, Mexico and Uruguay joined Chile in voting against. The shift in positions clearly indicate that opinions on the this issue are changing and could perhaps create the necessary conditions for a more constructive approach to religious intolerance.

The Council also found consensus on a largely procedural resolution on the continued work of the 'Ad-hoc Committee on Complementary Standards' (the Ad-hoc Committee), which hopefully will form the basis for a more constructive atmosphere within the Ad-hoc Committee. However, the fact that France on behalf of the EU 'disassociated' itself from the consensus indicates that this dialogue will continue to be challenging. The next session of the Ad-hoc Committee will take place from 29 November to 10 December 2010.<sup>29</sup>

### Other significant developments

The Council also considered the report of its Advisory Committee, including the draft UN Declaration on human rights education and training. It decided to establish an open-ended intergovernmental Working Group to negotiate finalise and submit the Declaration to the Council for adoption by its 16<sup>th</sup> session.<sup>30</sup>

<sup>24</sup> ISHR news piece at <http://bit.ly/aEiG4V>.

<sup>25</sup> ISHR *Human Rights Monitor 2009*.

<sup>26</sup> Egypt, Libya.

<sup>27</sup> UK on behalf of EU, Mexico, Japan, Norway, Republic of Korea.

<sup>28</sup> This year's vote was 20 in favour, 17 against and eight abstentions, compared to last year: 23 in favour, 11 against and 13 abstentions. Cameroon, Angola and Gabon were not present when the vote was taken, and Cameroon (a member of the OIC) withdrew its co-sponsorship.

<sup>29</sup> ISHR news piece at <http://bit.ly/agYSei>.

<sup>30</sup> See the article on the Advisory Committee in this edition.



For the first time, the Council adopted a resolution on the protection of journalists in armed conflict, which will lead to a panel discussion at the next session in June.<sup>31</sup>

## COUNTRY WORK

The Council's action, and in most cases inaction, on situations of human rights violations has long been one of its most criticised shortcomings.

This session brought some positive developments in this regard, while the Council's action on other situations still fell short of expectations.

The High Commissioner again brought several country situations of concern to the Council's attention.<sup>32</sup> While a number of States shared her concerns,<sup>33</sup> the States in question generally refuted the concerns and no action was taken.<sup>34</sup> Bangladesh even proposed that OHCHR should focus on thematic priorities only to avoid allegations of selectivity.

### Democratic Republic of the Congo (DRC): cooperation on paper only

The situation in the Democratic Republic of the Congo (DRC) was again of concern to the Council as it considered the second report of seven thematic special procedures mandate holders.<sup>35</sup> They advised the Council that 'the human rights situation has not improved since [the] initial report and remains serious.' Accordingly, they recommended the re-establishment of a country mandate on the DRC. The Special Rapporteur on human rights defenders also submitted her mission report and expressed concern about the widespread stigmatisation, threats and arbitrary detention faced by defenders.<sup>36</sup>

The DRC rejected both the findings of the group of seven mandate holders and the Special Rapporteur on human rights defenders. It argued that insufficient technical assistance was a

major obstacle to improving the situation, thus abdicating its primary responsibility. Its claim that the Government was willing to engage was unconvincing under the circumstances.

The Council adopted a resolution on the 'situation of human rights in the DRC and the strengthening of technical cooperation and consultative services' by consensus. Reflecting the unwillingness of the Government to be subject to international scrutiny, the resolution does not establish a dedicated mandate on the DRC, despite strong support from the US, the EU and others. It also fails to introduce coordination mechanism as suggested by Brazil, although the US in an explanation of vote expressed its understanding that the group of special procedures would choose an informal coordinator from amongst themselves.

Interestingly, the resolution requests the Government to develop 'targets and benchmarks' for the assistance it receives to facilitate the implementation of recommendations and to report thereon. The Council also requested a further report by the seven thematic special procedures by March 2011. The current and future reports of the seven special procedures as well as the Government's progress report on the benchmarks should be taken into account when the Security Council considers the extension of the mandate of MONUC.<sup>37</sup>

### Myanmar: calls for greater cooperation

The Council's debate on the report of the Special Rapporteur on the situation of human rights in Myanmar, Mr Tomás Ojea Quintana, was reasonably constructive. Mr Quintana was quite critical of the Government of Myanmar and underlined that in the current environment elections planned for 2010 could not be credible, in particular in the absence of full political participation for all. The Special Rapporteur rejected the Government's claims that 'there are no political prisoners' and the consistent denials of discrimination against the minority Muslim population. Myanmar unsurprisingly rejected most findings, reiterating its claim that 'only people who break the law' are imprisoned.

The Council extended the mandate of the Special Rapporteur for another year.<sup>38</sup> In view of the Government's minimal cooperation with the Special Rapporteur, it was particularly important that the Council urged it 'to continue to respond favourably and on a more timely basis' to visit requests. This set a higher bar for cooperation than the standard language used in most other resolutions. The resolution also urges the implementation of the report's recommendations although not specifically the suggested establishment of a 'commission of inquiry with a specific fact-finding mandate to address the question of international crimes'. The resolution was adopted by consensus, but Japan said 'the resolution could have dem-

<sup>31</sup> Resolution 13/24.

<sup>32</sup> Including Iran, Sri Lanka, Egypt, Australia, Italy, US, and Haiti.

<sup>33</sup> Canada, US, UK, Italy.

<sup>34</sup> Egypt in relation to indiscriminate attacks on civilians on its borders, Sri Lanka in relation to the treatment of human rights defenders (alleging that many use the term to disguise political objectives), Iran in relation to post-election protests, Slovakia in relation to treatment of the Roma.

<sup>35</sup> At its 7th session, the Council requested the Special Rapporteur on violence against women, the Representative of the Secretary-General on the human rights of internally displaced persons, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the right to health, the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises and the Special Representative of the Secretary-General for children and armed conflict to submit to the 10th session a report on technical assistance to the DRC and urgent examination of the situation in the east of the country (A/HRC/10/59). The request was renewed in Resolution 10/33 when the special procedures were requested to report again to the 13th session (A/HRC/13/63).

<sup>36</sup> See <http://bit.ly/ajs3zL> for more information on the dialogue.

<sup>37</sup> See the article on the Security Council in this edition.

<sup>38</sup> Resolution 13/26.

onstrated more balance' and China and India noted their concern, with India 'disassociating' itself from the text.

### DPRK: weaker text but stronger support

The Special Rapporteur on the Democratic People's Republic of Korea (DPRK), Mr Vitit Muntarbhorn, presented his final report to the Council (his mandate will end in July 2010). The Council also considered the UPR outcome on the DPRK.

Many States expressed concerns about the situation in the country and support for renewal of the mandate of the Special Rapporteur.<sup>39</sup> Both Japan and Chile among others stressed that the UPR was not sufficient to address situations such as the DPRK. This analysis was confirmed by the DPRK's refusal to accept any of the 167 UPR recommendations raising serious questions about its cooperation with that mechanism.<sup>40</sup> Some States continued to express opposition to country specific resolutions and mandates in general. They accused the Council of targeting the DPRK for political reasons, with the Russian Federation and Pakistan (on behalf of the OIC) questioning the validity of a country mandate when the Government concerned does not cooperate.<sup>41</sup> These States urged the Council to constructively engage the DPRK, avoid confrontation, and focus on the UPR as the fairest means of promoting and protecting human rights.

The resolution on the DPRK renews the mandate of the Special Rapporteur but is regrettably weak on substance and does not pick up key recommendations from the report, including on the possibility of the International Criminal Court (ICC) addressing impunity enjoyed by 'the power base' in the DPRK.

The resolution was adopted by a slightly wider margin than in the past,<sup>42</sup> as Brazil changed its position from abstention to in favour, and Nigeria from against to abstention.<sup>43</sup> This left Egypt as the only African member to maintain a principled stance against country mandates.

### Occupied Palestinian territories: further follow-up to the Goldstone report

The Council adopted by vote five resolutions on the situation in Palestine and other occupied Arab territories, and State positions were mostly predictable.<sup>44</sup> The discussion on contin-

ued follow up to the 'Goldstone report', the report of the UN Fact-finding mission on the Gaza conflict, reflected usual divergences among States on the Israeli-Palestinian conflict.<sup>45</sup> While the High Commissioner and a number of States, including Chile and Brazil, emphasised the inadequacy of investigations to date by Israel and Palestine, as called for by the Goldstone report, others were mainly critical of Israel.

Despite concerns it would duplicate efforts underway at the General Assembly, Palestine and Pakistan (on behalf of the OIC) presented a resolution on follow-up to the 'Goldstone report', which establishes a Committee of Independent Experts to 'monitor and assess any domestic, legal or other proceedings undertaken, (...) particularly investigations of human rights violations and war crimes'. Israel called the resolution a 'sinkhole' for UN resources, and claimed it was politically motivated. Other States objected that establishing such a committee was premature<sup>46</sup> and were concerned that the fund established by the resolution would only compensate Palestinian victims.<sup>47</sup> However, the resolution was adopted by a larger majority than the Council's first follow-up decision on the Goldstone report. This indicates growing dissatisfaction with the lack of investigative efforts by both parties.<sup>48</sup>

The resolution on the Right of the Palestinian People to Self-determination, which has usually been adopted without a vote, went to a vote this year as the US called for a vote based on its principled opposition to Item 7.<sup>49</sup> The US even opposed the resolution on Israeli settlements in the occupied Palestinian territories including East Jerusalem and in the occupied Syrian Golan, in blatant contradiction of its stated opposition to Israeli settlements.<sup>50</sup>

The Council's handling of the OPT situation remains highly political. In this context, it was not surprising but still disappointing that the US failed to acknowledge the severe and ongoing human rights violations occurring in the OPT and not live up to its own commitment to act on the basis of principle.

### Other country situations

The Council considered the report of the Independent Expert on the situation of human rights in Somalia, Mr Shamsul Bari. In September 2009 the Council extended the Independent Expert for one year, and asked for a mid-term report at this

<sup>39</sup> ISHR news at <http://bit.ly/blfIXm>.

<sup>40</sup> See the article on the UPR in this edition.

<sup>41</sup> DPRK, Syria, Cuba, China, Angola, Sudan, Myanmar, Pakistan (on behalf of the OIC).

<sup>42</sup> Cuba, Egypt, China, Indonesia and the Russian Federation all explained their negative vote, outlining their 'principled' position against country mandates that do not enjoy the support of the country concerned. The resolution was adopted with a vote of 28 in favour, five against and 13 abstentions. In 2009, the resolution was adopted with 26 in favour, six against and 15 abstentions.

<sup>43</sup> Prior to the adoption, Brazil regretted the lack of cooperation by the DPRK with the UPR process and called on it to commit to implementing recommendations made by the Working Group.

<sup>44</sup> See ISHR 'Chart on resolutions adopted at the 13th session' available at

<http://bit.ly/cpcu0s>.

<sup>45</sup> ISHR news piece at <http://bit.ly/c3dIKE>.

<sup>46</sup> Mexico, Japan, the Netherlands.

<sup>47</sup> Argentina, Mexico, Uruguay, and Chile.

<sup>48</sup> The resolution at the 12th special session (HRC/RES/S-12/1) was adopted by 25 votes in favour, six against and 11 abstentions. The follow-up resolution adopted at the 13th session was adopted by 29 in favour, six against and 11 abstentions. Bosnia and Herzegovina, Slovenia, and Uruguay changed their votes from abstention to in favour.

<sup>49</sup> Resolution 13/6, adopted by 45 in favour, one against, with Cameroon being absent.

<sup>50</sup> Resolution 13/7, adopted by 46 in favour and one against (US).

session, which did not receive much attention.

The human rights situation in Guinea was reportedly discussed in the Council's confidential complaint procedure but that did not result in any formal outcome. Rather the African Group presented a draft resolution on strengthening technical cooperation service in Guinea, that also condemns the massacre and serious human rights violations committed there in September 2009. The resolution recognises the efforts of OHCHR to establish an office in the country and invites the High Commissioner to report on the work of her Office and the human rights situation in Guinea in March 2011.

The report requested from the High Commissioner on human rights violations in Honduras following the coup d'état there in June 2009 only received little attention and did not result in any follow-up.<sup>51</sup> Both the report and Colombia (on behalf of GRULAC) suggested that the upcoming UPR in December 2010 would be an opportunity for Honduras to assess progress made in the implementation of the report's recommendations.

During the general debate on Item 4, many States expressed grave concern over the human rights violations in Iran, but the Council again failed to take any action to address that situation.<sup>52</sup> Other situations of serious concern to these States included the DRC, Myanmar, Sri Lanka, and the Sudan. Other country situations highlighted included Belarus, China, Cuba, Darfur (Sudan), the Democratic Republic of the Congo, Ethiopia, Eritrea, Myanmar, Nigeria, Viet Nam, Sri Lanka, Uzbekistan and Zimbabwe.<sup>53</sup> It was the first time States expressed concern about the situation in Cuba since the mandate of the Special Representative on Cuba was discontinued in 2007. It was apparently not a result of any recent negative developments, and somehow left questions about why it was being raised now.

Cuba argued that States imposing 'modern wars of conquest' were hypocritical and resorting to 'distraction tactics' in order to hide their own human rights violations. Those tactics were used by Iran and the DPRK which called attention to the 'alarming human rights situations' in EU States, particularly with respect to minorities and immigrants, and to the attacks on civilians in Iraq and Afghanistan. ■

<sup>51</sup> Resolution 12/14.

<sup>52</sup> France, Norway, Japan, UK, Netherlands, Austria, Denmark, US, Israel, Romania, Australia, Ireland.

<sup>53</sup> Germany.

# UNIVERSAL PERIODIC REVIEW

UPR 7<sup>th</sup> session and adoption of reports from the 6<sup>th</sup> session.

Iran and DPRK fail to cooperate with the UPR as other negative precedents are set



The 7th session of the universal periodic review (UPR) Working Group took place from 8 to 19 February. The Working Group reviewed the human rights situation in the following countries: Angola, Bolivia, Bosnia and Herzegovina, Egypt, El Salvador, Fiji, Gambia, Iran, Iraq, Italy, Kazakhstan, Madagascar, Nicaragua, San Marino, Slovenia, and Qatar.

## Performance of States under Review

Most of the States under Review (SuRs)<sup>1</sup> were represented by high-level delegations,<sup>2</sup> although ranging two representatives in the case of Fiji up to 32 in the case of Iran. States generally used 20 to 30 minutes to present their current human rights situation, with the exception of El Salvador, which used 42 minutes to effectively repeat the State report. A number of States used the opportunity, however, to update the Working Group on new legislation or other new measures.<sup>3</sup> Italy, San Marino, and Slovenia also addressed advance written questions in detail, whereas Angola and Iran made no reference to advance questions. Others simply avoided sensitive questions related to sexual orientation, abortion, and the death penalty.<sup>4</sup>

Many members of the Working Group did not make full use of the opportunities available for engaging with SuRs. Only European States,<sup>5</sup> and Argentina and Canada submitted advance written questions to SuRs, thus limiting the opportunity to receive more comprehensive answers and allowing the members of the Working Group to receive necessary clarifications before making concrete recommendations.

Most SuRs participated constructively in the dialogue with other States, taking the floor twice and trying to duly address all the questions. Iran, Slovenia and Egypt took the floor three times.<sup>6</sup> However, Nicaragua, San Marino, Angola, and Madagascar only took the floor once to respond to clusters of questions thus avoiding the above-mentioned sensitive issues.

<sup>1</sup> In order of review: Qatar, Nicaragua, Italy, El Salvador, Gambia, Bolivia, Fiji, San Marino, Kazakhstan, Angola, Iran, Madagascar, Iraq, Slovenia, Egypt, and Bosnia and Herzegovina.

<sup>2</sup> Only Fiji was an exception as the head of the delegation was the Permanent Representative to the Mission in Geneva.

<sup>3</sup> Nicaragua, Italy, Bolivia, San Marino, Angola, Madagascar, Iraq, Slovenia, and Bosnia and Herzegovina.

<sup>4</sup> Countries which avoided these issues when answering questions submitted in writing were: Qatar, Nicaragua, El Salvador, Bolivia, Fiji, Kazakhstan, Iraq, Egypt and Bosnia and Herzegovina.

<sup>5</sup> In particular Denmark, Latvia, Sweden, Norway, UK, Czech Republic, Germany, and the Netherlands.

<sup>6</sup> Even though Fiji took the floor twice during the interactive dialogue their responses were very brief and avoided answering concrete questions. It claimed that most of the questions and remarks were addressed partly if not fully during the presentation of the State report.



A recurring defence by SuRs related to tradition, culture and the 'will of the people' for the failure to protect all human rights. The Gambia ascribed traditional values to criminalisation of homosexuality and Nicaragua argued that its people want abortion to be prohibited. Nicaragua blamed 'the West' and unjust international trade for its lack of development and thus the lack of full enjoyment of human rights, Bolivia blamed previous governments for poverty and lack of employment, and Iran expressed dissatisfaction with the sanctions adopted against it as a hindrance to the realisation of human rights. Others explained lack of progress as a consequence of the poor economic situation (Gambia and Fiji), or a lack of human resources (Qatar and San Marino).

### NGO engagement in the process

There were significant differences in the level of engagement by NGOs in the UPR processes, with submission of information by over 30 relevant stakeholders for Egypt, Iran and Iraq,<sup>7</sup> to five or less in the cases of Madagascar, Qatar and San Marino.<sup>8</sup> Qatar, Gambia, Madagascar and Slovenia witnessed a significantly higher proportion of international submission.<sup>9</sup> In the case of Iran it was also noteworthy that a high number of international stakeholders contributed to the report.<sup>10</sup>

While NGO side events also serve to highlight current issues in SuRs, it remains not widely used and at the 7<sup>th</sup> session such events were only held with regard to Fiji, Kazakhstan, Iran and Iraq.

### The speakers list

Demand to speak by members of the Working Group was high in the case of most SuRs; statements were not delivered due to time constraints in eight of the 16 States reviewed.<sup>11</sup> High demand was largely symptomatic of supportive statements made by friendly States in order to 'filibuster' the dialogue, particularly where there is international interest in the SuR.<sup>12</sup>

The trend of filibustering is problematic as laudatory and vague comments crowd critical comments and recommendations out of the discussion. In the case of Qatar only five States made critical comments, while the majority commended

Qatar's progress in areas of social development and urged Qatar to 'continue' current efforts.

However, in most cases critical States were also able to take part in the review. The UPR of Iran exhibited a new development in this area, as the first States to speak were the United States, Canada, France, Slovenia, Israel, Australia and the United Kingdom, States who sharply criticised Iran on civil and political rights violations. These States made significant efforts to secure their spots on the list, demonstrating that strategic usage of the speaker's list occurs on all sides. It was also noteworthy that the United States' statement was delivered by its Under-Secretary of State for Democracy, Human Rights and Labour.

By contrast, members of the UPR Working Group exhibited a lack of interest in States such as San Marino (26 interventions) and Madagascar (24), where statements were made nearly exclusively by States from the 'Western Europe and other States' block. While lack of interest in Madagascar was the result of a deliberate political message by States in the African Union following a coup d'état in that country,<sup>13</sup> the case of San Marino conforms to previous trends of shorter speakers lists in small European and Pacific Island States.

### Questions and recommendations to States under Review

This session also continued to reflect the political nature of the mechanism and its use as a forum for bilateral exchange rather than multilateral dialogue. States asked stock questions on issues of national interest.<sup>14</sup> There also remained considerable repetition of questions or recommendations by members of the Working Group that were already addressed by the SuR.<sup>15</sup>

The number of recommendations ranged from 189 (Iran), Egypt (165) and Iraq (156) to 56 (San Marino). Five of the SuRs left all recommendations pending, including Bosnia and Herzegovina, Italy and Slovenia in accordance with standing European Union (EU) practice.<sup>16</sup> Latin American States continued to be among the most cooperative in their engagement; Bolivia accepted all recommendations while Nicaragua and El Salvador accepted most recommendations and rejected none.<sup>17</sup> Bolivia and El Salvador also continued the trend among

<sup>7</sup> In the case of Egypt 37 stakeholders contributed to the report, in the case of Iran 67 stakeholders and in the case of Iraq 50 stakeholders.

<sup>8</sup> In the case of Madagascar and Qatar only five stakeholders contributed to the report and in the case of San Marino only three stakeholders contributed to the report.

<sup>9</sup> In the case of Qatar five international and no national stakeholders contributed to the report, in the case of Gambia 11 international and one joint statement of four national NGOs contributed to the report, in the case of Madagascar where four international and only one national stakeholder contributed to the report, and in the case of Slovenia where five international and two national stakeholders contributed to the report.

<sup>10</sup> 24 international stakeholders submitted information (as did 43 national stakeholders).

<sup>11</sup> In sessions with high demand, a largely ineffective two-minute time limit was placed on statements in order to accommodate more statements.

<sup>12</sup> It is noteworthy that in the case of Egypt 34 statements were not delivered and in the case of Iran 27 statements were not delivered.

<sup>13</sup> Current Head of State, Didier Ratsiraka seized power in a military coup in 2009.

<sup>14</sup> France and Argentina, on the ratification of International Convention on the Protection of all Persons from Enforced Disappearances, Armenia on religious discrimination, Denmark on issues related to torture, etc.

<sup>15</sup> See ISHR's statement in the General Debate on Item 6 during the 13th session of the Human Rights Council, available at [www.ishr.ch/component/docman/doc\\_download/875-ishr-statement-during-the-general-debate-on-the-upr](http://www.ishr.ch/component/docman/doc_download/875-ishr-statement-during-the-general-debate-on-the-upr)

<sup>16</sup> Angola and Fiji also left all recommendations pending.

<sup>17</sup> Nicaragua accepted 68 out of 110 recommendations, El Salvador accepted 77 out of 118 recommendations, and Bolivia accepted all 78 recommendations made to it.



Latin American States of making ‘voluntary pledges and commitments,’ beyond the scope of recommendations received from the Working Group. Iraq also made voluntary pledges and commitments.

Iran (45 out of 189), the Gambia (32 out of 141) and Iraq (27 out of 156) rejected the most recommendations. Iran, Egypt and San Marino provided some explanation for rejecting recommendations. Iran classified 28 of these as ‘inconsistent with the institution-building text and/or not internationally recognised human rights, or not in conformity with its existing laws, pledges and commitments.’<sup>18</sup> Egypt simply specified that 14 of its 21 rejected recommendations ‘did not enjoy [its] support since Egypt considers they are inaccurate and/or factually incorrect.’ Alternatively, San Marino provided an explanation in paragraph form beneath each recommendation it rejected, a good practice exhibited by very few States in previous sessions.<sup>19</sup>

The good practice of cross-referencing human rights treaty body recommendations also continued with CEDAW recommendations mentioned most frequently.<sup>20</sup> Working Group members also recommended many SuRs to submit their overdue reports to treaty bodies<sup>21</sup> and to extend open invitations to all special procedures of the Council.<sup>22</sup>

The 7<sup>th</sup> session regrettably saw a continuation of SuRs rejecting recommendations that contradict their existing international obligations, such as Egypt’s blatant rejection of Israel’s recommendation to ‘Conduct a wide-ranging review of Egyptian human rights law in order to bring them into line with Egypt’s international commitments, as so pledged in its Human Rights Council candidature and within its National Report,’ or Qatar’s rejection of Sweden’s recommendation ‘To end discrimination against women by amending its legislation to guarantee women equal rights, in accordance with its international obligations, including with regard to marriage and divorce.’ Iran also rejected recommendations in blatant contradiction of its international legal obligations.<sup>23</sup> The Gambia rejected a particularly large number of recommendations that contradict international human rights standards, particularly in the areas of women’s rights and freedom of expression.<sup>24</sup> Of

the Gambia’s 30 rejected recommendations, three contradict its obligations under CEDAW, and 16 contradict its obligations under ICERD.

SuRs rejected a large number of recommendations on issues of women’s rights and the rights of lesbian, gay, bisexual and transgender persons (Egypt, the Gambia, Qatar, Iran, San Marino, Iraq) and on the abolition of the death penalty (Gambia, Egypt, Qatar, Iran and Iraq). 22 of Iraq’s 27 rejected recommendations involved the establishment of a moratorium on the death penalty.

### Adoption of final reports

Adoption of draft reports of the UPR Working Group was, for the most part, highly procedural with Working Group members only commenting to make small technical edits to draft reports. Yet the adoption of draft reports on Egypt and Iran became a forum for debate on procedural and more substantive issues.

Egypt objected to the practice of recording the original wording of a recommendation in a footnote in the case of a specific recommendation by Chile, which it refused to accept unless the footnote was edited to clarify that Chile had requested the change.<sup>25</sup> This practice has been employed since the 5<sup>th</sup> session of the UPR in order to establish a record of modifications to recommendations. Pakistan, Nigeria and Cuba supported Egypt’s objection to the footnote on the grounds that all parties could agree, and that citing the original text of the recommendation would be redundant and add unnecessary length to the report. The United States and the Netherlands objected that the previous practice is important for preserving a faithful record of proceedings, and removing the footnote would tamper with that record. The Chairperson accepted the change, given that ‘all relevant’ parties agreed. Though he clarified that it would not stand as a precedent, this may be the emergence of a problematic new practice.

At the adoption of the draft report on Iran, the United Kingdom, the United States and several European States sought explanation from Iran on rejected recommendations that fall within basic international human rights obligations<sup>26</sup> on the grounds that they were ‘inconsistent with the institution-building text and/or not internationally recognised human rights...’ Iran’s rejections were even more inconsistent given its acceptance of Kuwait’s recommendation to ‘continue to respect international humanitarian law and international law

<sup>18</sup> This last cause is particularly problematic as it cites domestic law as a justification for non-adherence to international human rights standards.

<sup>19</sup> Including Colombia and Costa Rica.

<sup>20</sup> El Salvador, the Gambia, Angola, Iraq, Slovenia, and Bosnia and Herzegovina.

<sup>21</sup> The reviews of Gambia, Fiji, Angola, Iraq, and Egypt.

<sup>22</sup> The reviews of Qatar, El Salvador, Fiji, Angola, Iran, Madagascar, Iraq, Egypt, and Bosnia and Herzegovina.

<sup>23</sup> To be discussed in greater depth in the section on the adoption of draft reports.

<sup>24</sup> For example; the Netherlands’ recommendation to ‘Guarantee equal treatment and non discrimination of women also with regard to areas concerning personal status, particularly, adoption, marriage, divorce and inheritance according to international human rights standards,’ and Canada’s recommendation to ‘Amend legislation to comply with

international obligations to guarantee freedom of expression.’

<sup>25</sup> Recommendation 85 by Chile reads, ‘Advance in the promotion of the status of women in society in order to achieve full equality in rights between women and men in all matters,’ with the text ‘especially in relation to marriage, divorce and inheritance,’ removed from the end of the original recommendation.

<sup>26</sup> Rejected recommendations included allowing the Special Rapporteur on torture to visit the country, releasing political prisoners and taking measures to end discrimination and harassment against persons belonging to ethnic and religious minorities.

in general,' and other recommendations that contain similar content to those rejected.<sup>27</sup> Iran responded that it refuses to support recommendations produced by an 'organised clique' using 'poisonous language' and disrupting the cooperative spirit of the UPR.

### Human Rights Council debate and action in relation to the UPR

The 13<sup>th</sup> session of the Council in March 2010 witnessed the adoption of the reports from the 6<sup>th</sup> session of the UPR of December 2009, although not without controversy.<sup>28</sup> Most notable was adoption of the report on the Democratic People's Republic of Korea (DPRK) and the State's failure to accept a single recommendation, setting the harmful precedent of allowing States to merely 'note' all recommendations without any explanation,<sup>29</sup> which is clearly not in line with the Council's institution-building text.<sup>30</sup> In similar fashion, some States left recommendations pending at the adoption.<sup>31</sup> One other disruption of note related to Cyprus' allegation that it had 'not been treated by its peers [that is, Turkey] in accordance with the principles of the UPR',<sup>32</sup> although this ultimately did not affect the adoption of its UPR report.

Other issues related to the adoption of reports included the low number (six of 16) of written responses to pending recommendations, the overwhelming tendency of member and observer States to commend the SuR for engaging in the UPR, without reference to substance, and the comparatively more critical engagement by predominantly international NGOs.

The general debate on Item 6 was notable for the sizeable increase in participation of both States and NGOs from the previous general debate, and provided a good opportunity to outline priority areas for the UPR's review in 2011, including

translation of reports (Nigeria), the need to address issues surrounding the speakers list (India), the need to ensure the clear acceptance and rejection of recommendations (Norway and the United States, who used the time to express strong concern at the practice of the DPRK in particular); and criticism of the rejection of recommendations on the alleged basis of not being factually correct or in accordance with national law or practice (Canada, Israel).<sup>33</sup>

NGOs also used the general debate to draw attention to areas requiring future improvement, including the rejection of recommendations based on treaty obligations,<sup>34</sup> clarification of accepted and rejected recommendations,<sup>35</sup> strengthening national consultations after UPR reviews,<sup>36</sup> and fixing the speakers list.<sup>37</sup>

Positive examples of follow-up in the general debate included a grid document from the United Kingdom and Colombia's action plan. The United States, on the other hand, used the general debate to inform States of its planning for the UPR, including a website to receive comments from any stakeholders.

Overall, the general debate proved reasonably useful as a means to provide follow up and as a measurement of States' initial priorities in relation to improving (as they interpret it) the functioning of the UPR. ■

<sup>27</sup> 'Fully implement the standing invitation extended to the United Nations human rights special procedures (Chile),' 'Respect the human rights of prisoners and detainees, and investigate and stop immediately any alleged abuses (Ireland)'.

<sup>28</sup> For a more detailed summary of the adoption of reports than the one provided here, see [www.ishr.ch/council-news/740-human-rights-council-adopts-6th-session-upr-reports-holds-half-way-general-debate](http://www.ishr.ch/council-news/740-human-rights-council-adopts-6th-session-upr-reports-holds-half-way-general-debate)

<sup>29</sup> This had also happened with the adoption of the report on Israel. For a more detailed summary of the adoption of the report of the DPRK, see 'The Democratic People's Republic of Korea accepts none of UPR's 167 recommendations' at [www.ishr.ch/council-news/725-the-peoples-democratic-republic-of-korea-accepts-none-of-uprs-167-recommendations](http://www.ishr.ch/council-news/725-the-peoples-democratic-republic-of-korea-accepts-none-of-uprs-167-recommendations)

<sup>30</sup> Council Resolution 5/11 provides that 'Recommendations that enjoy the support of the State concerned will be identified as such. Other recommendations, together with the comments of the State concerned thereon, will be noted. Both will be included in the outcome report to be adopted by the Council.' The provision does not allow States to take note of a recommendation and instead they should provide a clear response as to whether they accept it or not.

<sup>31</sup> Albania, Bhutan, Brunei, Costa Rica, Cote d'Ivoire, DPRK, DRC, Ethiopia, Iran. See [http://www.upr-info.org/IMG/pdf/Responses\\_to\\_Recommendations\\_S6.pdf](http://www.upr-info.org/IMG/pdf/Responses_to_Recommendations_S6.pdf)

<sup>32</sup> For a more detailed explanation of the controversy surrounding Turkey's comment and Cyprus' response, see [www.ishr.ch/upr/630-cyprus-disassociates-itself-from-upr-outcome](http://www.ishr.ch/upr/630-cyprus-disassociates-itself-from-upr-outcome)

<sup>33</sup> For a more detailed summary of the general debate, see [www.ishr.ch/council-news/740-human-rights-council-adopts-6th-session-upr-reports-holds-half-way-general-debate](http://www.ishr.ch/council-news/740-human-rights-council-adopts-6th-session-upr-reports-holds-half-way-general-debate)

<sup>34</sup> ISHR, FIACAT.

<sup>35</sup> Canadian HIV/AIDS Legal Network (including the proposal that the President compile a list of best practices in a Presidential statement).

<sup>36</sup> ISHR.

<sup>37</sup> Amnesty International, Cairo Institute for Human Rights Studies.

## ADVISORY COMMITTEE



UN PHOTO/SOPHIA PARIS

About 50,000 internally displaced people have made a makeshift tent camp on the golf course of the Pétionville Club, a privately owned golf and tennis club in Port-au-Prince.

The Human Rights Council Advisory Committee (the Advisory Committee) held its 4<sup>th</sup> session from 25 to 29 January 2010. It adopted six recommendations for the consideration of the Human Rights Council (the Council) at its March 2010 session on: human rights education and training, right to food, elimination of discrimination against persons affected by leprosy and their family members, human rights of the older person, missing persons, and protection of the human rights of civilians in armed conflict.<sup>1</sup>

The Council at its March session held a non-competitive election and re-elected six Advisory Committee members and one new member.<sup>2</sup>

At the Advisory Committee's 4<sup>th</sup> session, Committee member Mr Emmanuel Decaux presented a third draft of the 'declaration on human rights education and training' requested by the Council in September 2007.<sup>3</sup> One of the over-arching themes of discussion was the distinction between the 'right to education' and the 'right to human rights education'. As a result, the draft declaration was revised to state that human rights education 'is related to the full implementation of the right to education'.<sup>4</sup> The exact scope of the right to human rights education will be a recurring issue during future discussions.

The Council discussed the draft declaration at its March session. While discussions in the Advisory Committee focused on substance, debates in the Council centred on procedural issues. The Council adopted a resolution establishing an open-ended intergovernmental Working Group to negotiate, finalise, and submit to the Council an updated draft declaration.<sup>5</sup> The allocation

<sup>1</sup> Advisory Committee reports, studies, and recommendations from its 4<sup>th</sup> session are available at [www2.ohchr.org/english/bodies/hrcouncil/advisorycommittee/session4/documentation.htm](http://www2.ohchr.org/english/bodies/hrcouncil/advisorycommittee/session4/documentation.htm). Other topics briefly discussed during the 4<sup>th</sup> session included the right to international solidarity; gender and disability mainstreaming in the Advisory Committee's work; and the promotion of a democratic and equitable international order. However little to no progress was made during the session and no recommendations were made to the Council on these topics.

<sup>2</sup> Ms Zulficar, Mr Sakamoto, Ms Chung, Mr Kartashkin, Mr Bengoa Cabello, and Mr Heinz were re-elected. One new member, Mr Alfred Ntunduguru Karokora of Uganda, was elected.

<sup>3</sup> Human Rights Council Resolution 6/10, 28 September 2007.

<sup>4</sup> Previous drafts simply noted that they were 'indissociable' from one-another.

<sup>5</sup> Council Resolution 13/15. The resolution also invites Mr Decaux to participate in the Working Group meetings.



of additional resources for the Working Group caused some concern, particularly with the UK, the European Union and Japan.<sup>6</sup> In this light, agreement for the establishment of a working group was found on the basis that an informal process would precede the Working Group's formal session.<sup>7</sup> It will be particularly challenging to ensure the participation of stakeholders, including providers of human rights education, in both the formal and informal processes.

Regarding the right to food, the Council had tasked the Advisory Committee to 'undertake a study on discrimination in the context of the right to food'.<sup>8</sup> At its 4<sup>th</sup> session, the Advisory Committee agreed that the preliminary report drafted by Mr Jean Ziegler successfully identified good practices and anti-discriminatory strategies in response to the Council's request. Much of the discussion, however, went further and focused on the specific needs of vulnerable groups including refugees, prisoners, and indigenous peoples, and accordingly the Advisory Committee called for a separate study on the rights of peasants, fishermen, and rural women in relation to the right to food. It did not reach agreement on whether to recommend drafting a specific convention on the rights of peasants and instead decided to await direction from the Council. The Council 'acknowledged' the Advisory Committee's work on the right to food. It encouraged the completion of the study on discrimination in the context of the right to food after taking into account views of all stakeholders. At the same time, it followed the Advisory Committee's recommendation to start a new, separate 'preliminary study' on the 'rights of people working in rural areas'. However, it did not provide guidance on the possible drafting of a specific convention in this regard.<sup>9</sup>

In response to the Advisory Committee's decision to evaluate the necessity of a study on the human rights of older persons, a working paper on the issue was submitted to the 4<sup>th</sup> session and gained the unanimous support of the Advisory Committee. The Advisory Committee agreed that because it conducted the study without an explicit mandate from the Council, it should 'proceed with caution'. Accordingly, the Advisory Committee, as in the case of the right to food, refrained from making specific recommendations, or even recommending a new convention on this topic as suggested in the working paper.<sup>10</sup>

Instead, it 'expressed the hope that the (...) Council will consider entrusting the Advisory Committee with the preparation of a study' on the issue. During the Council's March session, the Republic of Korea expressed its support for this study, which was not surprising given that the paper was prepared by the Korean Committee member Ms Chung Chinsung. The Council merely noted that the Advisory Committee's recommendation 'may be addressed in the context the work of the Council at its future sessions'.<sup>11</sup> This essentially means that the paper will not receive any formal endorsement, and that there is unlikely to be any follow up until a State takes up the topic in the Council. It will be interesting to see if the Republic of Korea will take on this task.

Similarly, Japan at the March session of the Council showed its strong support for the work of Japanese Committee Member Mr Shigeki Sakamoto on the draft principles and guidelines on the elimination of discrimination against persons affected by leprosy and their family members.<sup>12</sup> In September 2009, the Council had requested the Advisory Committee to hold further consultations with relevant stakeholders.<sup>13</sup> At its 4<sup>th</sup> session, the Advisory Committee expressed appreciation about comments and suggestions received, including from States, NGOs, and the World Health Organization (WHO),<sup>14</sup> and agreed that the majority will be included in the final draft to be submitted to the 15<sup>th</sup> session.

Another study under consideration was on best practices on the issue of missing persons.<sup>15</sup> The Committee sent a questionnaire to States in September 2009; as of the 4<sup>th</sup> session responses had been received from only 18 States. Discussion in the Committee largely focused on the scope of the study, definitions of missing persons especially in comparison to victims of enforced disappearances; definitions of armed conflict and 'belligerents'; and the importance of not duplicating work of existing national institutions in this area.

The final recommendation adopted by the Advisory Committee addresses the preparation of a study on the human rights of civilians in armed conflict. The Advisory Committee was tasked with preparing a draft, following the proposal by Egypt for an expert consultation on the topic.<sup>16</sup> Committee Member Ms Mona Zulficar volunteered to join the upcoming expert

<sup>6</sup> As the funds for the Working Group have to be approved by the 5th Committee of the General Assembly in late 2010, the Working Group session will likely take place in early 2011.

<sup>7</sup> During informal consultations on the draft resolution, several States expressed their preference for an informal process of negotiations.

<sup>8</sup> Council Resolution 10/12, 26 March 2009. Other topics briefly discussed during the 4th session included the right to international solidarity; gender and disability mainstreaming in the Advisory Committee's work; and the promotion of a democratic and equitable international order. However little to no progress was made during the session and no recommendations were made to the Council on these topics.

<sup>9</sup> See paragraph 42-44 of Council Resolution 13/4.

<sup>10</sup> The Advisory Committee referred to its mandate, by which it 'may propose (...) research proposals within the scope of the work set

out by the Council', apparently in defense of its initiative in this area. See paragraph 77 of Council Resolution 5/1, 28 June 2007.

<sup>11</sup> Human Rights Council Presidential Statement 13/1.

<sup>12</sup> Council Resolution 8/13, 18 June 2008.

<sup>13</sup> Human Rights Council Resolution 12/7, 1 October 2009.

<sup>14</sup> The text received from the WHO regarding isolation was subsequently incorporated as a footnote to the draft.

<sup>15</sup> Council Decision 12/117, 1 October 2009. See the OHCHR extranet available at <http://portal.ohchr.org> for responses to the OHCHR questionnaire on this issue, and ISHR's Human Rights Monitor 2009 for further background.

<sup>16</sup> Council Resolution 9/9 and 12/5.

consultation, a recommendation that was 'welcomed' by the Council at its March session.<sup>17</sup>

During its March session, the Council largely welcomed the work of the Advisory Committee. However, the Russian Federation and the European Union recalled the Advisory Committee's restricted mandate thus indirectly expressing some reservations about its work.<sup>18</sup> In addition to the two specific decisions on human rights education and the right to food, the Council endorsed a Presidential Statement that broadly noted the Advisory Committee's work.<sup>19</sup> The Presidential Statement was adopted by consensus, but India 'disassociated' itself from the text. In a note circulated subsequently, it expressed its 'displeasure at the continuing disregard' by the Advisory Committee for its mandate.<sup>20</sup> In particular, India took issue with the Advisory Committee's 'expression of hope' on the human rights of the elderly, claiming that it was beyond the Advisory Committee's mandate to examine the issue without a 'specific request by the Council'.

The Council's practice of simply noting the Advisory Committee's work is problematic. Because of its limited mandate to undertake or continue work at its own initiative, 'noting' the work is insufficient to follow up specific studies or proposed initiatives. These are likely to remain 'orphans' until States take up the issue in the Council, and the Advisory Committee remains unable to place issues on the Council's agenda. With the exception of the draft declaration on human rights education and training, which enjoys the support of a cross regional platform, all issues are primarily driven by the interests of individual States. Thus, Cuba is taking the lead on the right to food; Japan is taking the lead on persons with leprosy; the Republic of Korea is taking the lead on the rights of the elderly; and Egypt leads on the protection of civilians in armed conflict. Within the Advisory Committee, many of the topics are worked on by nationals of the States interested in a topic, or in the case of the right to food by Mr Jean Ziegler who was previously the Special Rapporteur on food and enjoys a close working relationship with Cuba.

The Advisory Committee is clearly still trying to find its place in the human rights system. Equally the Council seems to be struggling to define how the Advisory Committee could be provide it with specific expert advice. So far States have mostly used it to advance a particular national interest. At the same time, the experience of the draft declaration on human rights education and training is demonstrating how the Advisory Committee can benefit the broader human rights community. This should guide future Council requests to the Advisory Committee. ■

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<sup>17</sup> See fn 11 above

<sup>18</sup> [www.ishr.ch/council-news/737-human-rights-council-discusses-report-of-its-advisory-committee](http://www.ishr.ch/council-news/737-human-rights-council-discusses-report-of-its-advisory-committee).

<sup>19</sup> See fn 11 above.

<sup>20</sup> A/HCR/13/G/22, available at [http://ap.ohchr.org/documents/sdpage\\_e.aspx?b=10&se=104&t=2](http://ap.ohchr.org/documents/sdpage_e.aspx?b=10&se=104&t=2).



# COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN



The Committee on the Elimination of Discrimination against Women (the Committee) held its 45<sup>th</sup> session in Geneva from 18 January to 5 February 2010. During the session, the Committee considered reports from eight State parties to the Convention on the Elimination of All Forms of Discrimination against Women (the Convention): Botswana, Egypt, Malawi, Netherlands, Panama, Ukraine, United Arab Emirates (UAE) and Uzbekistan. Generally, the session was fruitful and saw interactive discussion on the most pertinent issues. Key common themes to emerge from the diverse examinations included the legal status and domestic implementation of the Convention; stereotypes and traditional values; violence against women and trafficking; and health, with a focus on sexual and reproductive health. Other notable developments included an informal meeting with non-governmental organisations to discuss their interactions with the Committee and the Committee's issuing of a statement on the situation in Haiti.

The quality and commitment of State delegations to the process varied greatly; while the majority of States approached the examination in a spirit of constructive dialogue, the Uzbekistan and Dutch delegations were less open to engagement with the Committee. In the cases of Botswana and Malawi, a greater impediment to useful dialogue was the absence of legal and cross-departmental technical expertise, which resulted in incomplete responses to the Committee's questions. Delegations were generally gender-balanced (especially notable were the Dutch and UAE delegations); and the size of delegations ranged from five members (Malawi and Uzbekistan) to over twenty in the cases of Egypt, UAE and the Netherlands.

## NGO participation in the 45<sup>th</sup> session

The Committee held its two regular open meetings with members from NGOs and national human rights institutions<sup>1</sup> on 18 and 25 January 2010.<sup>2</sup> With the exception of Uzbekistan and the UAE, all the other State parties to be examined had representatives from national NGOs presenting oral statements during the informal meetings with the Committee. Uzbek activists were not present for fear of reprisals but had submitted information. By contrast, no national NGO presented alternative information in the case of UAE due to a lack of organised civil society. Overall, 17 high quality NGO reports were submitted, including seven reports from coalitions and networks of NGOs.<sup>3</sup>

The Committee welcomed these contributions, stressing the importance of civil society involvement at all levels of the Committee's work. While serious concerns were expressed regarding the absence of Uzbek representatives, the public statement<sup>4</sup> on the Committee's cooperation with NGOs failed to reflect the issue of the protection of human rights defenders.

<sup>1</sup> Only one national human rights institution, from the Netherlands, attended the meeting on 25 January 2010.

<sup>2</sup> On 18 January 2010, NGOs made oral statements on the examinations of Malawi, Uzbekistan, and Ukraine. The meeting on 25 January 2010 was devoted to presentations from NGOs on UAE, Botswana, Egypt, Netherlands, and Panama.

<sup>3</sup> Botswana Council of non-governmental organisations (BOCONGO), Egyptian NGOs CEDAW Coalition, Alliance for Arab Women, Dutch CEDAW Network, Dutch Network, Women Consortium of Ukraine, and Coalition of Uzbek Women's Rights.

<sup>4</sup> 'Statement by the Committee on the Elimination of Discrimination against Women on its relationship with non-governmental organizations, 45th

The Committee referred to NGO reports during its examination of all State reports, relying in particular on alternative information in relation to issues of Roma women (Ukraine); migrant domestic women workers (UAE); and sexual minorities (Panama).

## THEMES

### Legal status of the Convention

The legal status of the Convention in the domestic law of States was considered by the Committee in every session, and is essential to its overall assessment of implementation at the national level. Questions to States included whether the definition of non-discrimination in national constitutions and relevant legislation is consistent with Article 1 of the Convention,<sup>5</sup> and the extent to which courts are able to invoke or give primacy to the Convention's provisions.<sup>6</sup>

The gap between ratification of the Convention and the incorporation of the Convention's provisions into domestic law was especially evident during the examination of Malawi.<sup>7</sup> Committee members highlighted the slow progress made in enacting bills on gender equality, and inquired into domestic processes for implementing the Convention, as well as any structural or capacity obstacles facing Malawi that may have contributed to this delay. As in the case of Uzbekistan,<sup>8</sup> Committee members stressed the importance of the role of the Gender Ministry in actively prioritising gender equality legislation before Parliament.

The Committee also considered the adverse impact of local practices on the implementation of the Convention, with attention to the relationship of customary law to the Constitution and the mechanisms available to women alleging discrimination under customary law in Botswana as one example.

### Stereotypes and traditional values

During its 45<sup>th</sup> session, the Committee drew particular attention to the question of the impact of stereotypes and traditional (including patriarchal) values on the enjoyment by women of their rights. This was notable on the issues of women's access to certain professions (Panama); women's participation in political life (Egypt); access to education (Malawi) and the constraints imposed by cultural stereotypes in these areas.

The Committee systematically reflected on the dynamic nature of cultural norms and traditional values in every society, arguing that these are not static but subject to change.<sup>9</sup> It further emphasised that States cannot invoke cultural relativism to justify discriminatory practices or attitudes towards women, inquiring for example whether the UAE and Egypt<sup>10</sup> are considering withdrawing their reservations to Article 2 of the Convention, (which cite the inconsistency of the Article with Shariah law).<sup>11</sup> In other cases, the Committee stated that the proliferation of legislative and institutional reforms is not sufficient to bring about cultural changes (Ukraine, Botswana).

States reviewed were encouraged to undertake serious measures such as enhancing public and political representation and participation of women, revising educational materials, and involving civil society, media and advertising in awareness raising campaigns in order to combat stereotyped representations of women and accomplish de facto gender equality (Uzbekistan, Egypt, UAE, Ukraine, Panama).

Another key issue related to the stereotyping of women belonging to minorities, indigenous populations and other vulnerable groups (Panama, Ukraine, UAE).

### Violence against women

The members of the Committee adopted a holistic approach when considering information provided by States in relation to violence against women. In reference to its General Recommendation 12,<sup>12</sup> the Committee stressed the need for national reports to supply information on a wider spectrum of forms of violence against women, and identified the following as examples requiring additional attention: marital rape (Botswana, Egypt, UAE); harmful traditional practices such as early marriages, forced marriages, bride kidnapping (Egypt); violence against women in prisons and detention centres (Egypt); female genital mutilation and honour killings (Egypt, UAE); sexual harassment in the work place (Panama, Egypt, Ukraine) and of young girls in schools (Malawi); corporal punishment of young girls (Malawi, UAE); and violence against women journalists and human rights defenders (Uzbekistan, Egypt).

In addition, the Committee focused on States' efforts to set out effective preventive measures to combat violence against women and ensure access to prosecution offices, legal aid, medical and psychological assistance, rehabilitation and reintegration centres and remedies for female victims. Special attention was given to the effectiveness of sanctions and to the

session', available at <http://www2.ohchr.org/english/bodies/cedaw/docs/statements/NGO.pdf>

<sup>5</sup> Hyperlink to examination of UAE.

<sup>6</sup> ISHR report on CEDAW's examination of Uzbekistan, available at <http://www.ishr.ch/treaty-body-monitor/cedaw/654-ishr-report-on-cedaws-examination-of-cedaw-20-january-2010>

<sup>7</sup> ISHR report on CEDAW's examination of Malawi, available at <http://www.ishr.ch/treaty-body-monitor/cedaw/658-ishr-report-on-cedaws-examination-of-malawi-22-january-2010>

<sup>8</sup> ISHR report on CEDAW's examination of Uzbekistan, available at <http://www.ishr.ch/treaty-body-monitor/cedaw/654-ishr-report-on-cedaws-examination-of-cedaw-20-january-2010>

<sup>9</sup> Examinations of Ukraine, Egypt, Uzbekistan, Malawi.

<sup>10</sup> ISHR report on CEDAW's examination of Egypt, available at <http://www.ishr.ch/treaty-body-monitor/cedaw/661-ishr-report-on-cedaws-examination-of-egypt-28-january-2010>

<sup>11</sup> The Committee members underlined that other Arab countries, part of the same religious sphere, have gradually withdrawn reservations to various articles of CEDAW.

<sup>12</sup> CEDAW General Recommendation No. 12 on violence against women, available at <http://www2.ohchr.org/english/bodies/cedaw/comments.htm>

introduction in certain countries (Ukraine, UAE) of corrective programmes for perpetrators of violence against women.

### Health

The Committee's comprehensive questions under Article 12 focused on issues of sexual and reproductive health and sought to underline the interdependency of high standards of health with the realisation of other Convention rights so as to address the 'fundamental causes' of health problems. In Malawi's review,<sup>13</sup> for example, Committee members highlighted the connections between high maternal mortality rates and the widespread practice of unsafe abortions,<sup>14</sup> and between efforts to combat HIV/AIDS and illiteracy among women and underlying traditional practices and gender stereotypes. The Committee also emphasised a connection between the realisation of women's right to health and States' wider development and poverty reduction strategies (Botswana, Malawi).

At times, however, questions appeared to be asked as a matter of routine, including notably on the issue of HIV/AIDS in Botswana, and on the provision of mental health care services for women in all examinations. Other issues discussed included malnutrition (Uzbekistan); adequate provision of rural health services (Malawi); and tuberculosis among Roma women (Ukraine).

### Women migrant domestic workers

Of particular concern in the examination of the UAE was the question of severe discrimination affecting women migrant domestic workers, predominantly from South Asia, who were vulnerable to abuse and exploitative practices, physical or sexual violence, malnourishment, poor access to health care, home confinement, and exclusion from domestic labour laws. The Committee recommended that the UAE establish an effective enforcement mechanism to improve the situation of this specific group.<sup>15</sup>

### Other thematic issues

Other issues raised in State examinations included reservations to the Convention (Egypt); polygamy (Uzbekistan, Malawi, Botswana, Egypt); women's land ownership and property rights (Ukraine, UAE, Malawi); women's access to credit (Botswana, Malawi); access of rural women to information technology (Panama); ensuring rights of older women (Panama, UAE); and witchcraft (Malawi). The Committee called for more extensive and disaggregated statistics in the areas of health, violence against women and stereotypes in all State examinations.

<sup>13</sup> ISHR report on CEDAW's examination of Malawi, available at <http://www.ishr.ch/treaty-body-monitor/cedaw/658-ishr-report-on-cedaws-examination-of-malawi-22-january-2010>

<sup>14</sup> This issue was raised in almost every State examination during the session.

<sup>15</sup> The NGO Mafiwasta describes this as 'conditions of forced labour' in the 2009 CEDAW Shadow Report: The United Arab Emirates, p. 5.

## OTHER DEVELOPMENTS

Unlike the practice of most other human rights treaty bodies, the majority of CEDAW's discussions on working methods or other developments took place in closed sessions. However, CEDAW did hold an important open meeting with NGOs to discuss their interactions with the Committee, including in relation to NGO submissions to the pre-session working group and the plenary sessions, to the new follow-up procedure, to the Optional Protocol, and to participation in briefings.<sup>16</sup> While the Committee's outcome public statement failed to adequately address NGOs' concerns related to the physical protection of human rights defenders, it nonetheless showed significant progress in the Committee's willingness to endorse webcasting and videoconferencing, thus facilitating better and possibly safer NGO engagement with the Committee.<sup>17</sup>

The Committee also issued a statement on the situation in Haiti in response to the 12 January earthquake, emphasising the need for inclusion of a gender perspective in all humanitarian relief efforts and the importance of the full participation of women in decision-making processes relating to the long-term reconstruction of Haiti.<sup>18</sup>

During the session Committee members made frequent references to the work of other treaty bodies and the universal periodic review (UPR) mechanism, including for example the recommendation in the UPR that the UAE establish a national human rights institution.<sup>19</sup> The Committee also called upon States to accept the amendment to Article 20(1) of the Convention so as to extend its annual meeting time to three sessions per year of three weeks each, and to ratify the Optional Protocol to the Convention.

For information on the upcoming 46<sup>th</sup> session of the Committee, see the 'Upcoming opportunities for NGO engagement' section of this publication. ■

<sup>16</sup> 'CEDAW holds informal meeting with NGOs to discuss interaction, 19 January 2010', available at <http://www.ishr.ch/treaty-bodies/652-cedaw-holds-informal-meeting-with-ngos-to-discuss-interaction-19-january-2010>

<sup>17</sup> 'Statement by the Committee on the Elimination of Discrimination against Women on its relationship with non-governmental organizations, 45th session', available at <http://www2.ohchr.org/english/bodies/cedaw/docs/statements/NGO.pdf>

<sup>18</sup> Available at <http://www2.ohchr.org/english/bodies/cedaw/comments.htm>

<sup>19</sup> Other examples included reference to the Human Rights Committee recommendation on training of law enforcement personnel (Ukraine) and the UPR recommendation on corporal punishment of girls in schools (Botswana).



# COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION



Young Kazakh shepherd riding a horse in Karkara pastures, Kazakhstan.

UN PHOTO/F. CHARTON

The Committee on the Elimination of Racial Discrimination (the Committee) held its 76<sup>th</sup> session in Geneva from 15 February to 12 March 2010, the first time its session was extended to four weeks. Likewise the Committee for the first time expanded consideration of reports to eleven State parties to the International Convention on the Elimination of all Forms of Racial Discrimination (the Convention): Argentina, Cambodia, Cameroon, Guatemala, Iceland, Japan, Kazakhstan, Monaco, Netherlands, Panama, and Slovakia. The session also marked the election of a new Chair of the Committee, Mr Anwar Kemal, along with new vice-chairs and a new Committee rapporteur.<sup>1</sup> New Committee members Ms Anastacia Crickley (Ireland), Mr Gun Kut (Turkey), and Mr Waliakoye Saidou (Niger) were also welcomed.

The performance of the new officers and Committee members during examinations was mixed. Time was often dominated by a small number of long-serving Committee members.<sup>2</sup> Nor did the new Chairperson impose any restrictions on speaking time, as has been the established practice of the Committee.

While certain Committee members consistently raised specific topics during the examinations,<sup>3</sup> others were at times inclined to lengthy academic discussions not necessarily relevant to the dialogue.<sup>4</sup> The quality of the Committee's country rapporteurs also varied greatly throughout the session,<sup>5</sup> with a number taking the opportunity to provide a systematic overview of the situation of racial discrimination in the State in question,<sup>6</sup> others focusing on the content of the State report and specific issues,<sup>7</sup> and some presenting more general historical and cultural commentary.<sup>8</sup>

## THEMES

### Status of the Convention in domestic legal systems

An important theme throughout all State examinations was the status of the Convention in the domestic legal system. As with other issues raised by the Committee, the issue of definitions and terminology was central to discussion. In the case of

<sup>1</sup> The new vice-chairs elected were Mr Cali Tzay, Ms Dah, and Mr Prosper. The rapporteur elected was Mr Diaconu.

<sup>2</sup> Mr Avtonomov, Mr De Gouttes, Mr Diaconu, Mr Murillo Martinez, and Mr Thornberry accounted for approximately 50% of opportunities to take the floor, while Ms Dah, Mr Ewomsan, Mr Huang, Mr Kemal, and Mr Kut accounted for approximately 10%.

<sup>3</sup> Mr Thornberry (indigenous peoples and legal rights), Mr Peter (national and regional human rights mechanisms), Mr Ewomsan (people of African descent), Mr Kut (statistics and data analysis).

<sup>4</sup> Mr Amir, Mr Avtonomov, Mr Diaconu, Mr Lindgren.

<sup>5</sup> Country rapporteurs are selected Committee members responsible for the preparation of the list of issues for their respective State, leading the examination, and preparing the preliminary concluding observations and recommendations, which are then discussed and adopted by the Committee as a whole.

<sup>6</sup> Mr Thornberry (Japan), Mr Ewomsan (Cameroon), Mr De Gouttes (Argentina).

<sup>7</sup> Mr Diaconu (Kazakhstan), Mr Murillo Martinez (Guatemala).

<sup>8</sup> Mr Kemal (Iceland), Mr Prosper (Cambodia).

Cambodia for instance, the State's definition of discrimination was described as both confusing and inaccurate.<sup>9</sup> Similarly, Committee members expressed concern over inconsistent use of the terms 'race', 'minority', and 'national minority' in legislation in Kazakhstan.

Committee members urged Cambodia, Japan, Monaco, Cameroon, Kazakhstan and Iceland to adopt comprehensive anti-discrimination laws, or consolidate existing fractured laws. While some States noted their respective constitutions provided for freedom from discrimination, the Committee argued that it was not sufficient to have a 'generous' constitution, and that specific laws on racial discrimination provide a greater measure of legal certainty.<sup>10</sup>

### State institutions to combat discrimination

The Committee took the opportunity to encourage Slovakia and Japan to establish independent national human rights institutions in accordance with the Paris Principles. While some States had already created such institutions, the Committee was concerned over lack of independence or funding. The Kazakhstan Commission on Human Rights was described by Mr Saidou as lacking independence from the executive, and Mr Ewomsan encouraged Cameroon to strengthen both the financial and operational independence of its National Commission on Human Rights and Freedoms.

A number of States under review described their national mechanisms for addressing discrimination specifically. Argentina outlined its 24-hour, toll-free discrimination hotline, and the Netherlands highlighted its nationwide system of local anti-discrimination services. With respect to prosecution of discrimination-related offences, the Committee stressed that a small number of complaints or convictions was not necessarily a positive sign, and usually indicated a lack of awareness of the law or complaints bodies available. The Committee therefore welcomed awareness-raising efforts, such as training of magistrates in Cameroon, and television addresses by the Panamanian Ombudsman encouraging the public to report violations.

### Status of indigenous peoples

The issue of the status of indigenous peoples dominated the examinations of six States,<sup>11</sup> with particular attention paid to recognition of indigenous communities and approaches to defining indigenous peoples. The Committee highlighted the importance of self-identification, with regard to conducting national censuses (Guatemala, Panama, Argentina), and registration of indigenous communities (Argentina) in the context of historical self-denial of indigenous identity. Committee members also sought more information on States' distinc-

tion between 'indigenous' and 'ethnic minority' social groups (Panama, Slovakia).

The issue of indigenous land rights and ownership was central in several examinations, particularly in the context of development. Committee members expressed serious concern over the impact of forced evictions resulting from large-scale development and mining projects (Argentina, Cambodia, Panama), and sought to assess the adequacy of reparations (Argentina, Cambodia) and the legally binding nature of consultation processes (Guatemala, Panama). Committee members stressed the importance of the role of the State in ensuring the participation of indigenous communities in negotiation processes for development projects, underscoring the significant power imbalances between private multinational corporations and indigenous communities, and the rights and interests of indigenous communities as part of the national interest (Cambodia, Guatemala, Panama).

Committee members also questioned States on protection of the rights of indigenous peoples in domestic legal systems, including the status of implementation of the Declaration on the Rights of Indigenous Peoples (Argentina, Cameroon, Japan, Panama); access of indigenous peoples to education (Argentina, Cambodia, Cameroon); access to justice (Cameroon, Guatemala); violence against indigenous peoples (Guatemala); stereotypes (Guatemala); and early warning and urgent action mechanisms (Panama).

### Status of ethnic minorities

Considerable reference was made throughout the session to ethnic minorities. While welcoming the adoption of some positive measures regarding the protection of ethnic minorities (Slovakia, Kazakhstan, Cambodia, Cameroon, Japan, Netherlands), Committee members stressed the importance of effective implementation and monitoring of such initiatives, particularly at the local level, and of actively raising awareness among the public, minorities, and the judiciary about relevant laws, policies, and programmes.

The Committee was supportive of policies and efforts to promote the teaching of State languages to newcomers (Iceland, Netherlands) and welcomed efforts at bilingual education in States with significant minority language populations or official bilingualism (Cameroon, Argentina, Guatemala). However, deficiencies regarding the quality of education in minority languages, as well as the teaching of minority languages themselves, were also highlighted (Cambodia, Kazakhstan, Iceland).

The Committee also noted with concern reports of rising ethnic tensions and increases in attacks against ethnic minorities (Kazakhstan, Slovakia, Japan, Netherlands); limited participation of minorities in political life and decision-making processes (Slovakia, Cameroon, Guatemala); an absence of or insufficient information on Roma populations in State reports (Monaco,

<sup>9</sup> Cambodia's combined 8th to 13th periodic reports available at <http://www2.ohchr.org/english/bodies/ceerd/cerds76.htm>

<sup>10</sup> Specifically in regard to Kazakhstan.

<sup>11</sup> Argentina, Cambodia, Cameroon, Guatemala, Japan, Panama.



Kazakhstan, Netherlands); access to land for minority groups (Cambodia, Kazakhstan); socio-economic disparities among different ethnic groups (Slovakia, Japan, Kazakhstan, Argentina); access to citizenship for minority groups such as the Khmer Krom and ethnic Vietnamese (Cambodia); allegations of forced sterilisation of Roma women, and the education of certain Roma children in special schools (Slovakia); and variations in terminology used by States when referring to ethnic minorities, leading to confusion as to what rights these groups may invoke (Cameroon, Kazakhstan, Panama, Japan). The Committee expressed concern that excessive emphasis on these communities' unique cultures, histories and traditions may exacerbate their segregation and have a negative impact on integration efforts (Slovakia, Japan).

### Incitement and hate-speech

The issue of hate-speech and incitement to racial discrimination was raised by Committee members in the majority of State examinations,<sup>12</sup> yet in most cases questions were brief. Committee members were interested in States' approaches to criminalising hate speech and incitement to racial discrimination (Kazakhstan, Slovakia, Cameroon), including definitions of racially motivated offences (Slovakia). Additional questions were posed on States' legislation on political parties and limitations on freedom of association, specifically relating to the legality of organisations that operate to incite racial discrimination (Monaco, Cambodia, Cameroon, Netherlands).

Committee members also emphasised the role of the media in both perpetuating and addressing the issue of hate speech (Japan), as well as the potential of a code of ethics for journalists (Monaco), public awareness-raising campaigns (Slovakia), and the need for increased data collection on hate crimes in combating the issue (Monaco).

### Additional issues discussed

An issue that received attention in every State examination was the lack of disaggregated statistical data. The Committee noted that this prevented it from gaining accurate insights into, among other things: racial diversity (Cambodia); success of integration policies and discrimination complaint procedures (Netherlands); success of criminal code reforms (Slovakia); populations of indigenous groups (Panama); and the socio-economic status of specific populations (Argentina, Kazakhstan, Cameroon). The Committee urged States to provide more detailed data in upcoming reports through more precise and widespread national censuses.

Mr Thornberry and other Committee members also made frequent reference to ILO conventions,<sup>13</sup> States' obligations to live

up to those conventions they had ratified, and encouragement to accede to those they had not. The Committee specifically noted that while Panama had previously acceded to Indigenous and Tribal Populations Convention, 1957 (C107) it should work toward ratifying Convention No. 169, as the latter extends States' obligations to respect their language, culture, and traditions. Panama argued in response that Convention No. 169 goes beyond the purview of the ILO, though the Committee disagreed.

## OTHER DEVELOPMENTS

During the opening meeting of the session, the Committee heard a statement from the director of the Treaties Division at OHCHR, Mr Salama, addressing treaty body reform and the recent 'Dublin Statement'.<sup>14</sup> In the pursuing dialogue Mr Thornberry wondered where 'streamlining of treaty bodies' would be going in the coming years; Mr De Gouttes called for formal exchanges between the President of the Human Rights Council and the treaty bodies; and Mr Avtonomov proposed more formal links between treaty bodies themselves. Mr Salama responded that there is yet no 'preconceived or fixed solution' and that the Dublin Statement was just a first step.

Following Mr Salama's statement, several Committee members raised points with regard to future reforms, including improving interaction with the universal periodic review (UPR) mechanism of the Human Rights Council (Mr De Gouttes), changing the Committee meeting venue from Palais Wilson to the larger Palais des Nations to 'increase visibility' (Mr Avtonomov), distributing State examinations over the full session with closed meetings interspersed (Mr Lindgren), and the possibility of having one meeting per year in New York to enable States who cannot come to Geneva to interact with the Committee (Mr Cali Tzay). The willingness of the Committee to openly discuss these changes in terms of efficiency is a positive sign for the continued development of the Committee's work.

Committee members also expressed a desire to formalise NGO interaction, where Mr Thornberry noted that attendance of NGOs at the previous session had been the lowest he could recall, perhaps due to greater interest in the universal periodic review mechanism (UPR) of the Human Rights Council. It was also worthy of note that Mr Thornberry considered that lunchtime briefings with NGOs were not preferable, as this may instigate a discussion on moving to a model employed by other treaty bodies for engaging directly with NGOs, a working method that currently shows no harmonisation across the treaty bodies. ■

<sup>12</sup> Argentina, Cambodia, Cameroon, Iceland, Japan, Kazakhstan, Monaco, Netherlands, Slovakia.

<sup>13</sup> Conventions that the Committee drew attention to were: Discrimination (Employment and Occupation) Convention (C111), Migrant Workers (Supplementary Provisions) Convention (C143), and Indigenous and Tribal Peoples Convention (C169).

<sup>14</sup> The Dublin Statement on the Process of Strengthening of the United Nations Human Rights Treaty Body System was prepared by a group of former and current treaty body members, acting in their personal capacities, in November 2009. Available at [www.nottingham.ac.uk/hrlc/documents/specialevents/dublinstatement.pdf](http://www.nottingham.ac.uk/hrlc/documents/specialevents/dublinstatement.pdf)

# COMMITTEE ON THE RIGHTS OF THE CHILD

The NGO Group for the CRC is a global network of 71 national and international NGOs that works through its Secretariat and thematic working groups to promote the monitoring and implementation of the UN Convention on the Rights of the Child and its two Optional Protocols. The NGO Group provides a coordinated platform for NGO action in relation to the Committee on the Rights of the Child and plays a central role in key child rights developments at the international level. For more information about the NGO Group for the CRC and its activities: [www.childrightsnet.org](http://www.childrightsnet.org)



PIERRE VIROT

Student at the Colegio Vincente Wong near the Hacienda Mirador de Ila, Ecuador.

From 11 to 29 January 2010, the Committee on the Rights of the Child (the Committee) held its 53<sup>rd</sup> session and met in two parallel chambers to examine 16 reports from 11 States parties. Under the Convention on the Rights of the Child (CRC) the Committee examined the reports of Burkina Faso, Cameroon, Ecuador, El Salvador, Estonia, Mongolia, Norway, Paraguay, and Tajikistan.

Under the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC), the Committee considered the reports of Ecuador, El Salvador, Estonia and Mongolia. Under the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC), it examined the State party reports of Ecuador, Israel, Liechtenstein and Mongolia. The consideration of the State party report of Sierra Leone on the OPSC and OPAC was postponed until September 2010 due to the State delegation not receiving its visa in time for the session.

## Working in two chambers

At the 53<sup>rd</sup> session the Committee resumed its work in two parallel chambers in order to address the huge backlog of reports pending consideration under the CRC and its two Optional Protocols (OPs). The Committee will continue working in two chambers throughout its sessions in 2010 and will examine twice as many reports as in its previous sessions. While holding sessions in two chambers will provide a temporary measure to address the backlog, the Committee discussed measures and working methods in relation to the consideration of the large number of reports received under the CRC and its OPs.

## Overview of the 53<sup>rd</sup> session of the CRC

Almost all Committee members were present at the session. The Committee members were assigned to two chambers according to a set of criteria including their areas of expertise, region, gender and length of membership.<sup>1</sup> The Committee's Chairperson Ms Yanghee Lee (Chamber A) and the Vice-Chairperson Mr Jean Zermatten (Chamber B) chaired the two chambers.

## NGO participation in the 53<sup>rd</sup> session of the CRC

For the 53<sup>rd</sup> session, the Committee received over 56 NGO reports both under the CRC and its OPs on all countries except for Liechtenstein. The session was also attended by a large number of NGO representatives including national NGOs from

<sup>1</sup> Chamber A: Agnes Aidoo, Hadeel Al-Asmar, Luigi Citarella, Peter Guran, Hatem Kotrane, Yanghee Lee, Rosa Maria Ortiz, Dainius Puras, Susana Villaran de la Puente. Chamber B was composed of the following Committee members: Kamel Filali, Maria Herczog, Moushira Khattab, Sanphasit Koompraphant, Lothar Krappmann, Marta Mauras Perez, Awich Pollar, Kamla Devi Varmah, Jean Zermatten.

Mongolia (six), Estonia (one), Cameroon (two), Israel (four), Tajikistan (three), El Salvador (three), Paraguay (one), Burkina Faso (one), Ecuador (one) and Norway (six).

Most States parties sent relatively high-level and large delegations mostly composed of high-ranking officials and ministers, representing different ministries and departments and the Permanent Representatives to the UN in Geneva. However, Liechtenstein was represented by a very small delegation composed of the Ambassador to the UN in Geneva.

Overall, most of the country examinations were held in frank, transparent and open spirit. Most of the State delegations, especially those with recently elected governments (Ecuador, Paraguay, El Salvador), demonstrated political will and commitment to child rights. While the responses were to some extent open and self-critical, they mostly focused on existing legislation, policies and programmes and provided limited information on implementation and budgetary allocations. NGO reports were, therefore, valuable sources of information for analysing State compliance with the principles and standards of the CRC.

The Committee started the dialogues by asking a set of questions covering the main provisions of the CRC, mostly focusing on the general measures of implementation such as definition of the child; general principles of the CRC, including child participation and respect for the views of the child; civil rights and freedoms including birth registration and protection of privacy; and the situation of indigenous people and children with disability. The second set of questions focused on the family environment, including the issues of adoption and alternative care; basic health and welfare, including the issues of HIV/AIDS, drug use, tobacco and alcohol consumption; harmful traditional practices, including female genital mutilation (FGM) and early marriages, as well as special protection measures, including the issues of child labour and violence against children; juvenile justice issues; and the situation of refugee children.

Most delegations divided answering questions among its members, whereas some, including Burkina Faso, left this mainly to the head of delegation. Most of the answers provided were to some extent open and self-critical, although some of the States parties did not respond to some of the most sensitive issues. Certain questions remained unanswered, including the ones on the role of and cooperation with civil society.

While noting many positive changes and legislative developments, the Committee pointed out several persisting challenges across different countries, pertaining to among others, harmonisation of legislation with the provisions of the CRC, development of a comprehensive national strategy on children, clarification of the status of State agencies working with children, budgetary allocations for children's programmes, and

where relevant, establishment of complaints mechanisms as well as independent national human rights institution in line with the Paris Principles.

#### Overview of the dialogue under the OPAC and OPSC

States parties scheduled to be examined under the OPs, sent relatively small-sized delegations with the exception of Estonia which was represented with a large high-level delegation led by the Secretary of the Ministry of Foreign Affairs and accompanied by the representatives from the Police and Border Guard, the Office of the Chancellor of Justice and the Ministry of Justice. There was no specialist from the Ministry of Defence or other relevant ministries in the delegation of Mongolia to present its reports under the OPs.

The main issues of concern raised under the OPSC were about the definition of sale of children set forth in the OPSC, and the distinction between sale of children and child trafficking which are often a cause of confusion; policies and programmes undertaken towards institutionalising the prohibition and prevention of the sale of children, child pornography, and child prostitution; criminal prosecution of perpetrators of crimes set forth in the OPs; protection of the rights of child victims; internet safety and systematic data collection on the issues of sale of children, child sex tourism and child prostitution; and international cooperation on cases involving extradition of perpetrators charged with offences under the OPs.

The main issues of concern raised under the OPAC concerned harmonisation of domestic legislation with the OP, the promotion of peace education, the export of small arms and light weapons, military schools, the age of voluntary conscription and army recruitment, the use and involvement of children in armed conflicts and hostilities, and the rehabilitation of child victims of hostilities.

#### 54<sup>th</sup> pre-session working group meeting

The pre-session working group meeting of the Committee is a 3-hour private dialogue between non-governmental actors and Committee members. The purpose of the meeting is to identify the main questions that would be discussed with the representatives of the reporting State.

The 54<sup>th</sup> pre-session meeting was attended by NGO representatives from Argentina, Belgium, Colombia, Japan, Grenada, Guatemala, Macedonia, Nigeria, and Serbia. The invited NGOs discussed priority issues and provided information on the implementation of the CRC and/or OPs to guide the Committee on the best ways of approaching sensitive issues in the dialogue with the State party in May 2010. The pre-session was attended by UN specialised agencies including UNICEF and in some cases UNHCR, UNESCO, ILO and WHO.

The Committee's next session will take place from 25 May to 11 June 2010, when it will meet in two parallel cham-

bers to consider the periodic reports of Argentina, Belgium, Grenada, Guatemala, Japan, Macedonia, Nigeria, and Tunisia under the CRC; the initial reports of Argentina, Colombia, Japan, Macedonia, and Serbia, and the periodic report of Belgium under the OPSC; and the initial reports of Argentina, Colombia, Japan, Macedonia and Serbia under the OPAC.

### Working methods of the Committee

The Committee decided not to hold a day of general discussion in 2010 as it wanted to take advantage of the two chambers to examine as many State reports as possible. However, the Committee discussed, in general terms, initiatives for two future general comments; one on article 3 on the best interests of the child; and another on article 19 on violence against children. On 23 January, the first joint Working Group meeting of the Committee on the CRC and the Committee on the Elimination of Discrimination against Women also took place with the support of UNICEF to discuss possible areas of collaboration.

### 20<sup>th</sup> Anniversary of the adoption of the CRC

A two-day celebration of the 20<sup>th</sup> anniversary event was held in Geneva from 8 to 9 October 2009 to mark the adoption of the Convention on the Rights of the Child. The event focused on the theme Dignity, Development and Dialogue. The two-day event was attended by around 700 persons, including the representatives of States parties, UN agencies and other inter-governmental organisations, national human rights institutions, international and national NGOs, children's and youth groups (eight youth reporters and 15 children aged 12 and above). More than 60 States and 130 NGOs and academic institutions were represented.

The purpose of two-day event was to celebrate the twentieth anniversary of the CRC; to highlight three main challenges in the implementation of the Convention: ensuring the dignity of the child, providing the child with possibilities for development and facilitating dialogue between adults; to evaluate the status and implementation of the CRC; and to identify priorities for the future taking into consideration the two OPs to the Convention. ■

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# HUMAN RIGHTS COMMITTEE



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Violence against women was one of the common themes addressed by the Human Rights Committee at this session.

The Human Rights Committee (the Committee) held its 98<sup>th</sup> session in New York from 8 to 26 March 2010 and reviewed reports from Argentina, Mexico, New Zealand and Uzbekistan. Uzbekistan stood out as one of the most argumentative delegations in the memory of some seasoned Committee members. Its insistence that the massacre of hundreds of protestors by Uzbek security forces in 2005 at Andijan was a 'closed chapter', was a prime case in point. This may have contributed to the Committee's high praise for New Zealand, whose review immediately followed Uzbekistan's, but it too was not spared from probing questions. Tension accompanied Mexico's review, largely as a result of the serious human rights violations that have occurred against the backdrop of rampant organised crime and drug trafficking. This, coupled with Mexico's tendency to focus on policies and programmes, rather than directly answering questions, resulted in its review running well over time. Argentina enjoyed a more constructive exchange, but generally failed to respond to requests for new information or disaggregated statistics.

To varying degrees, the common themes raised by the Committee were: poor domestic enforcement of the International Covenant on Civil and Political Rights; use of torture; overcrowded prisons and ill-treatment of detainees; violence against women and trafficking; impunity for attacks and killings of journalists and human rights defenders; and violation of indigenous rights, particularly in relation to land and resources. All States were represented by high-level delegations ranging from 30 members (Mexico) to just five (Uzbekistan). The Committee chastised Uzbekistan for its all-male delegation, but other State delegations had a good gender balance.

Over the three week session, the Committee's work was hampered by inadequate translation of documents. Each of the States under examination provided written responses to the list of issues on time, but none were translated prior to the session, forcing States to spend precious time orally conveying this information. The Special Rapporteur on follow-up on concluding observations also complained his work was affected by the same problem. Many Committee members bemoaned the situation which they thought would only worsen over time and appealed to colleagues to adopt innovative working methods that would shorten States parties' reports and improve overall efficiency.

Progress was made on the first reading of a new draft general comment on freedom of opinion and expression, and revised guidelines on State party reports, although it will be some time before either is finalised. Whilst the Committee's failure to make these draft documents public was at odds with its goal to improve transparency of its methods of work, its decision later in the session to broadcast all future public meetings on YouTube demonstrated its commitment to greater public scrutiny.

## NGO participation in the 98<sup>th</sup> session

NGO participation got off to a bad start as a result of unannounced and poorly coordinated security measures on the first morning at UN headquarters. Luckily, the Committee postponed the NGO briefing until all participants from all States under review were in attendance. As a result of the large number of NGOs, each statement was limited to three minutes. Mexico's NGO attendance was particularly large with more than ten organisations. Although only two New Zealand NGOs were represented at the session, a third organisation participated at the lunchtime briefing by video link, which worked well. New Zealand's national human rights institution (NHRI) also briefed the Committee. Committee members benefitted from more



detailed informal lunchtime briefings from NGOs and the NHRI, although these were generally poorly attended by Committee members.<sup>1</sup>

The impact of this concerted NGO input was apparent throughout the session. Committee members directly referred to individual cases and other details contained in NGO reports, and in some instances, openly conferred with NGOs during the examination. At the request of Uzbek NGOs, Ms Keller read into the record the names of human rights defenders who had suffered abuse, not only to draw attention to their situation, but with the expectation it would protect them from further abuse.

The reactions from State delegations ranged from welcoming to dismissive of NGO participation. Argentina and New Zealand thanked NGOs for their contributions,<sup>2</sup> whilst Uzbekistan accused Committee members of placing undue emphasis on NGO input which was 'not always honest or objective' and 'sometime politically motivated.'

## THEMES

### Legal status of the Covenant

In its concluding observations, the Committee directed all four States to fully entrench the provisions of the International Covenant on Civil and Political Rights (ICCPR) in their domestic laws and ensure they were implemented. It was unmoved by repeated arguments from Mexico and Argentina that their federal structures made it difficult to ensure compliant legislation was enacted or enforced at the local level. Whilst it acknowledged the raft of legislative reforms Uzbekistan had undertaken since its last report, the Committee was unconvinced they achieved the direct application of the Covenant. After reading from Human Rights Watch's submission, Mr Thelin concluded that progress towards democracy and the rule of law appeared to have 'gone backwards' and 'Uzbekistan expressed all the traits of a totalitarian State'. In the case of New Zealand, the Committee was concerned that the Parliament had adopted almost twenty bills, despite formal notification that they were inconsistent with the Bill of Rights Act, which itself was not fully compliant with the Covenant. Ms Majodina and Ms Keller referred to New Zealand's recent commitment under the UPR process to better incorporate its international human rights obligations into domestic law, and suggested it start by assuring all victims access to effective domestic remedies.

### Torture and ill-treatment

The Committee was deeply concerned by evidence of wide-

spread torture (Argentina, Mexico, Uzbekistan). Delegations were asked whether: the definition of torture in national legislation was consistent with the Convention against Torture (Mexico, Uzbekistan); the State (rather than the victims of torture) bore the burden of proof (Mexico); and if evidence obtained under torture was admissible in court proceedings (Mexico, Uzbekistan). In all three States, the Committee expressed concern about the lack of hard data on reports of torture and official disinterest in properly investigating them, which fed a culture of impunity. It reminded States parties of their obligation to ensure the prompt and independent investigation of all such reports, provide victims of torture or their families with reparations, and sentence perpetrators proportionately with the seriousness of the crime. Mr Rodley also encouraged Mexico and Uzbekistan to require that all interrogations be recorded to prevent torture.

Regarding ill-treatment of prisoners, the Committee's primary concern was overcrowding, which was evident in all four States under review, but extreme in Mexico. Other concerns included: treatment of mentally ill prisoners (New Zealand), privatisation of prison management (New Zealand); failure to separate male and female prisoners (Mexico); lengthy pre-trial detention (Argentina, Mexico, Uzbekistan); incommunicado detention (Mexico); excessive use of force by police and prison staff (Argentina). Argentina was asked to report back within one year on its efforts to improve prison conditions and reduce torture and ill-treatment by police and prison staff.

### Violence against women, including trafficking

Given the prevalence of killings of women in parts of Mexico, particularly at the hands of the military, and the culture of impunity surrounding these crimes, it was no surprise that Mexico came under intense questioning in this respect. Citing individual cases in NGO submissions, Mr Salvioli pressed for more detailed information to assess the State's overall commitment to investigate, prosecute and prevent these crimes. Although Mexico pointed to a range of initiatives to improve legal protections, provide access to justice and support victims, it admitted that these were yet to significantly reduce the level of violence against women. The Committee recommended that Mexico make a more concerted effort and report back within a year on its progress.

Domestic and family violence were acknowledged as problems where all the States examined needed to improve. However, Uzbekistan was singled out for particular criticism, given its failure to criminalise such violence, as was Argentina, whose legislative protections were limited to the province of Buenos Aires. The persistence in Uzbekistan of practices that Ms Wedgewood labelled 'medieval', such as polygamy, forced marriage and bride abduction, were also condemned by the Committee as unacceptable, regardless of their cultural or religious origins.

<sup>1</sup> Members who attended a number of the briefings included Ms Majodina, Mr O'Flaherty, Mr Rodley, Mr Salvioli, Mr Thelin.

<sup>2</sup> However, NGOs were critical of the State's failure (Argentina) or poor attempt (New Zealand) at consulting them about the content of their State reports.

The Committee also recognised trafficking in women as a universal problem for the four States, and was thus surprised by New Zealand's rationale it was immune from the global trade, given no case had been brought under its trafficking law. The Committee recommended training for law enforcement and judicial personnel to raise awareness of the crime and the rights of victims.

### Violations of rights to freedom of expression and association

The Committee was gravely concerned by the level of harassment, violence and killings experienced by human rights defenders and journalists in Mexico and Uzbekistan, as well as the impunity enjoyed by perpetrators. Committee members used detailed information provided by NGOs to confront each State about specific cases and seek responses.

Uzbekistan denied that any journalist had been persecuted, pointing to various laws guaranteeing freedom of expression, and defending its counter-terrorism legislation against accusations it was misused to silence 'dissident' individuals. Mexico came under pressure from the Committee to justify the presence of military forces in parts of the country to maintain law and order, given there was no declared state of emergency. Members were particularly concerned by the use of military (not civilian) courts to hear cases against human rights defenders that were committed by the military. Reflecting the urgent need for concerted improvement, the Committee asked Uzbekistan and Mexico (within a year) to report back on their efforts to: guarantee human rights defenders the right of freedom of expression and to safely undertake their work; promptly and impartially investigate all threats, attacks and killings of defenders; provide detailed information about the prosecution of perpetrators; and review or decriminalise defamation laws.

### Indigenous peoples' rights

Although the Committee addressed the need for Mexico and Argentina to protect indigenous ownership of their traditional lands, and in the case of Argentina, to end violent evictions of indigenous communities, New Zealand came under greater scrutiny for its treatment of indigenous rights. Information provided by Maori organisations was directly incorporated into Committee members' questions, which covered long-standing areas of dispute, including lack of legal enforceability of the Treaty of Waitangi after almost 200 years, as well as the credibility of the Government's efforts to consult with Maori to settle land, foreshore and seabed claims in good faith. Equal emphasis was given to whether Maori enjoyed equality before the law, given their alarmingly high rates of incarceration, and the apparent targeting of Maori communities and use of extreme force when implementing counter-terrorism laws.

### Other thematic issues

Other issues addressed during the examinations included: reservations (Mexico, New Zealand); access to abortion

(Argentina and Mexico); due process protections in counter-terrorism responses (New Zealand, Uzbekistan); treatment of asylum seekers (New Zealand); age of criminal responsibility (Argentina, New Zealand, Uzbekistan); violence against children (New Zealand); forced child labour (Uzbekistan); women's participation in leadership positions (New Zealand); discrimination on grounds of sexual orientation (Mexico, Uzbekistan); and freedom of religion/belief (Argentina, New Zealand, Uzbekistan).

## OTHER DEVELOPMENTS

The Committee held three public meetings to continue its first reading of a new draft general comment on freedom of opinion and expression.<sup>3</sup> Progress was slow but steady, enabling the Committee to approach the halfway point of the text and begin what will be a lengthy discussion on the 'limitations to freedom of expression'. One public meeting on 'methods of work' was held to continue the first reading of 'draft revised guidelines for State party reports under the ICCPR'. Considerable time was spent debating whether to set page limits for State party reports, but strong differences of opinion prevented consensus. Lengthy discussions on other parts of the text meant overall progress on the text was marginal.

In its closed meeting on working methods, one of the topics discussed was 'focused reports'. As is already the practice with the Committee against Torture, the option to submit a report based solely on a State party's responses to the list of issues would provide an alternative to the lengthy, more comprehensive periodic reports.<sup>4</sup> Although the Committee did not indicate its views on 'focused reports', this issue will be the main theme for discussion at the next Inter-Committee Meeting in June 2010. ■

The Committee also announced the following decisions:

- As of its 100<sup>th</sup> session in October 2010, a State party whose initial report to the Committee is ten or more years overdue will be asked to report by a specific deadline. Failure to do so will result in the Committee considering that country in the absence of a report.
- Appointment of Ms Majodina as the focal point to deal with NGOs, with a focal point on national human rights institutions to follow. All correspondence should be sent via the Secretary of the Committee, Ms Prouvez, [nprouvez@ohchr.ch](mailto:nprouvez@ohchr.ch)
- A high-level interactive dialogue will be held to mark the Committee's 100<sup>th</sup> session in October.

<sup>3</sup> ISHR has published an article outlining the main areas of progress on the draft general comment, as well as unresolved issues that the Committee will take up at its next session. Available at <http://www.ishr.ch/draft-general-comments/present-draft-general-comments>

<sup>4</sup> It is proposed that either the State party or the Committee could request that a 'focused report' is submitted in place of a periodic report.

# SECURITY COUNCIL



UN PHOTO/MARTINE PERRET

United Nations Peacekeepers, joined by the members of the Patriotic Force of Resistance (FRPI), welcome the announcement of the signing of the disarmament agreement with the representatives of the government of the Democratic Republic of the Congo and the United Nations Mission in the Democratic Republic of Congo.

There have been a number of noteworthy developments in the work of the Security Council (the Council) this year, ranging from a new mandate for the UN's assistance mission in Afghanistan that encourages Afghanis to take charge of running their country, to a more concerted effort to enforce the arms embargo in Somalia. However, serious human rights concerns have arisen on two fronts, which are elaborated below. The first concerns the Council's failure to take action in response to Myanmar's 'unfair' electoral process. The second stems from increasing pressure on the Council from some African States to prematurely withdraw UN peacekeepers. Both developments raise concerns about the ability and willingness of the Council to ensure the protection of civilians where there are threats to international peace and security.

## Security Council fails to respond following informal briefing on Myanmar

The Security Council met in an informal briefing on 24 March to discuss the situation of Myanmar<sup>1</sup> following the Government's recent adoption of five electoral laws.<sup>2</sup> The UK, the main advocate for greater Security Council involvement in Myanmar (supported by France, the US, and Austria), pushed for the meeting to signal the Council's concern about the new laws, one of which would disqualify opposition leader Ms Aung San Suu Kyi from participating or voting in the elections.<sup>3</sup>

China, who along with the Russian Federation voted against Myanmar's original placement on the Council's agenda in 2006,<sup>4</sup> agreed to an informal briefing as long as no immediate outcome resulted. Consequently, following the briefing, the Council remained silent on the new electoral laws. This was despite the fact that both the Secretary-General and the Human Rights Council<sup>5</sup> have said the laws fall well short of international expectations regarding free and fair elections, and the Council itself has previously stated that an inclusive process is crucial to ensuring a credible election outcome.<sup>6</sup>

<sup>1</sup> This was the first time the Council had addressed questions relating to Myanmar since August 2009.

<sup>2</sup> The first general elections in Myanmar in twenty years will be held in 2010 though the Government has not yet announced an exact date.

<sup>3</sup> The laws, announced on 10 March, relate in part to the registration of political parties, and prohibit anyone with a criminal conviction from being a member of an official party, thus preventing political prisoners from participating in future national elections, including Aung San Suu Kyi, the leader of the National League for Democracy (NLD). In response the NLD decided to boycott the elections.

<sup>4</sup> China and Russia also vetoed a resolution concerning the human rights situation in Myanmar in 2007.

<sup>5</sup> A/HRC/13/L.15.

<sup>6</sup> S/PRST/2008/13; S/PRST/2007/37; SC/9731 (13 August 2009); SC/9662 (22 May 2009); SC/9228 (17 January 2008); SC/9171 (14 November 2007). Other expectations laid out in these documents include: the importance of releasing all political prisoners, the need for the government to take

During the closed briefing, the Secretary-General's chef-de-cabinet and 'interim' envoy on Myanmar, Mr Vijay Nambiar, briefed the Council on recent developments, including the rejection of Ms Suu Kyi's appeal against her extended house arrest and the new electoral laws. Significantly, Mr Nambiar also presented the report of the UN Special Rapporteur on the situation of human rights in Myanmar, Mr Tomas Ojea Quintana, who visited the country in February.<sup>7</sup> Given that the interim envoy only took up the post in January and is yet to visit Myanmar,<sup>8</sup> the consideration of the Special Rapporteur's report was a crucial opportunity for Council members to obtain up-to-date and reliable information on the situation.

The Special Rapporteur suggested that some human rights violations may amount to crimes against humanity or war crimes and as such, warranted referral to the International Criminal Court.<sup>9</sup> Given the Government's failure to investigate these 'gross and systematic' violations, he further recommended the UN consider establishing a Commission of Inquiry (COI) with a fact-finding mandate to investigate. The Council is unlikely to set up such a commission in the near future given China's stance, and it is not even clear if Council members referred to or discussed this recommendation during the closed consultations.

The divisions in the Council on the best way to respond to the new developments reflect long-standing differences among the permanent five members about when the Council should act in Myanmar and what particular actions would positively influence the Government. One unresolved issue is whether the situation in Myanmar is a threat to regional or international peace and security, which is the threshold for triggering Council action. The UK views a flawed election process as a precursor to instability in the country and thus a potential threat to regional peace and security. China, supported by the Russian Federation, both of which have economic interests in the country, steadfastly maintain that no such threat exists and, moreover, assert that any attempt by the Council to weigh in on the electoral process would impinge on Myanmar's sovereignty. China also maintains that Council rebukes only hamper diplomatic efforts carried out through the Secretary-General's good offices, despite the fact that scant progress has been made through this route in the last few years.<sup>10</sup>

measures to create the necessary conditions for a genuine dialogue with Ms. Suu Kyi and all concerned parties and ethnic groups to achieve an inclusive national reconciliation, and calling on the government to address political, economic, humanitarian and human rights issues.

<sup>7</sup> A/HRC/13/48.

<sup>8</sup> It is unclear if or when the Secretary-General will appoint a dedicated envoy, rather than an interim person who has many other responsibilities. Although the US and UK appear supportive of Mr. Nambiar, the appointment of a new envoy would signal a serious commitment by the Secretary-General at a time when Myanmar is at a critical juncture.

<sup>9</sup> The Security Council has the authority to refer a country to the ICC for investigation if mass atrocity crimes are alleged.

<sup>10</sup> The Secretary-General has expressed disappointment with recent efforts, including his own, saying in March that it was "frustrating"

Following the Council briefing, the Secretary-General met in a closed-door meeting with the Group of Friends on Myanmar<sup>11</sup> on 25 March. Afterwards he urged the Government to 'create conditions that give all stakeholders the opportunity to participate freely in elections' and said that the Group believed inclusive elections were necessary to advance the prospect of stability, democracy and development in Myanmar. However he gave no indication of how the Group or the Council would help achieve this.

Meanwhile, the Government of Myanmar continues to ignore a myriad of expectations set out in previous Council statements. Instead of stepping up pressure with a strongly worded Council resolution, China and the Russian Federation prefer to refer the situation 'back' to the Human Rights Council. However Myanmar's track record in this forum is also appalling, as reflected by its open rejection of resolutions on the human rights situation and strained relations with the Special Rapporteur.

It is unclear what level of involvement the Council will undertake in the next few months. The setting of the date for the general election or a visit by the interim envoy to the country could be the triggers for another briefing. It will hopefully not be another opportunity lost by the Council to ensure Myanmar lives up to its international responsibilities.

### Civilians at risk: DRC and Chad request withdrawal of UN peacekeeping missions

The recent requests by two African States - the Democratic Republic of Congo (DRC) and Chad - for the drawdown and/or withdrawal of the UN peacekeeping missions (MONUC<sup>12</sup> and MINURCAT<sup>13</sup> respectively) poses a considerable challenge for the Council this year. The Council needs to respond to the host countries' wishes while ensuring that any phasing out of peacekeeping staff or troops does not undermine each mission's mandate to protect civilians.

and "disappointing" that the country's military leader had not yet implemented commitments he made during their meeting in July 2009 including the release of political prisoners and Ms Suu Kyi. The UN news story, 25 March 2010, is available at [www.un.org/apps/news/story.asp?NewsID=34201&Cr=myanmar&Cr1=](http://www.un.org/apps/news/story.asp?NewsID=34201&Cr=myanmar&Cr1=)

<sup>11</sup> The group comprises the five permanent members of the Council plus Australia, India, Indonesia, Japan, Norway, Singapore, South Korea, Thailand, Vietnam and the European Union. It was set up by the Secretary-General in December 2007 as a forum for informal discussions and for developing shared approaches to back UN efforts to promote democracy and national reconciliation in Myanmar.

<sup>12</sup> The UN Mission in the Democratic Republic of Congo (MONUC) was established in 1999 to monitor the Lusaka Ceasefire Agreement. Over the past decade, it has evolved through multiple phases in response to changing conditions in the DRC. Based on agreements with the DRC Government, the UN envisaged a progressive withdrawal over three years.

<sup>13</sup> The UN Mission in the Central African Republic and Chad (MINURCAT) was established in 2007 to ensure the security of about 450,000 refugees and displaced persons in eastern Chad and north-east Central African Republic. It was originally envisaged that it would be required until at least 2011.



In 2009, the Government of the DRC requested that the Security Council order MONUC's withdrawal by August 2011, with the first troop departure to precede the country's celebration of 50 years of independence in June this year. Chad originally requested that the Council not renew MINURCAT's mandate past March, however more recently they agreed to keep the civilian part of the mission, providing the military component withdrew.

Rather than being based on a realistic assessment of actual conditions, both requests appear politically motivated. National multiparty elections will be held in the DRC in 2011, and legislative elections in Chad this year. Chad also argues that its request is based on 'the new context in the region' including an improved relationship with the Sudan, and a stronger capacity of the national police force to provide security in eastern Chad.<sup>14</sup> Both these claims are contested by human rights groups.<sup>15</sup> On 15 March, the Council unanimously authorised a two-month extension of MINURCAT to provide more time for members to discuss the options.<sup>16</sup>

The Council plans to take action on the DRC at the end of May when MONUC's mandate expires, and following a Council mission to the DRC in April. In his March 2010 report on the DRC, the Secretary-General recommended the Council withdraw up to 2,000 troops by 30 June 2010, which Council members appear united in supporting, so long as the withdrawal is responsibly undertaken and does not put civilians at risk. However, divisions may arise during negotiations on a new resolution depending on the intransigence or flexibility of the Government's position.<sup>17</sup>

Both peacekeeping missions provide vital support for protection of civilians, security sector reform, and defending against human rights abuses. In the DRC, some Council members have expressed concern that MONUC's departure would leave a security vacuum in the highly unstable east, where the Democratic Forces for the Liberation of Rwanda (FDLR) and Lord's Resistance Army (LRA) remain active, and where MONUC is supporting national army forces fighting these rebel groups.<sup>18</sup> Moreover, members of the national army and police force have been criticised for committing serious human rights violations with impunity, including summary executions, sexual violence, torture and ill-treatment.<sup>19</sup> In Chad, a central

concern is the security and welfare of thousands of refugees and internally displaced persons, who would be placed at risk if UN peacekeepers left. Humanitarian aid groups and UN staff working on critical rule of law programmes would also be unable to operate without MINURCAT's protection.

The timing of any drawdown presents a serious dilemma for the Council. Some members have expressed concern that any gains will be lost in a premature withdrawal, and do not want arbitrary deadlines imposed. The Secretary-General has laid out key benchmarks for withdrawal of both peacekeeping missions in his reports to the Council. In his March report on the DRC,<sup>20</sup> the Secretary-General reiterated that the benchmarks developed in 2007<sup>21</sup> were still valid for the gradual drawdown of MONUC.<sup>22</sup> One option in the DRC is the wholesale reconfiguration of the mission, with MONUC retaining jurisdiction over the volatile east while progressively handing over tasks in the rest of the country to the UN country team and Government.<sup>23</sup> In the case of Chad, the Secretary-General's report from December 2008 laid out the benchmarks required for MINURCAT's withdrawal.<sup>24</sup>

Amid these developments, the Council debated exit and transition strategies for peacekeeping missions. A presidential statement resulted which stressed that the Council needs to improve its strategies for ending or reconfiguring peacekeeping missions, including by developing clear, credible and achievable mandates for a transition mission and assigning appropriate resources to carry out those mandates.<sup>25</sup> Implementation of this commitment would clearly benefit any transition or reconfiguration of missions in the DRC and Chad. ■

<sup>14</sup> S/2010/115, 3 March 2010. Letter to the President of the Security Council from the Permanent Representative of Chad to the UN.

<sup>15</sup> For example, Human Rights Watch sent a letter to the Security Council on the consequences of MINURCAT's withdrawal from Chad, 16 February 2010, available at [www.hrw.org/en/news/2010/02/17/letter-un-security-council-consequences-minurcat-withdrawal-chad](http://www.hrw.org/en/news/2010/02/17/letter-un-security-council-consequences-minurcat-withdrawal-chad)

<sup>16</sup> Security Council Resolution 1913.

<sup>17</sup> China will likely align itself with the DRC Government.

<sup>18</sup> About 95 percent of MONUC troops are based in the east.

<sup>19</sup> A/HRC/13/63, 8 March 2010. The second joint report of seven UN independent experts on the situation in the DRC. Significantly following DRC's review under the Human Rights Council's UPR process in December 2009, the Government rejected several recommendations relating to accountability of its security forces,

including that it create an independent mechanism to take action against those responsible for serious human rights violations.

<sup>20</sup> S/2010/164.

<sup>21</sup> The Secretary-General included benchmarks for the gradual drawdown of MONUC in his 14 November 2007 report, S/2007/671, as a result of a request by Security Council Resolution 1756 (2007).

<sup>22</sup> S/2007/671. The benchmarks include: the need for Congolese and foreign armed groups to no longer pose a significant threat to peace and stability in the DRC or to neighboring countries; and that the national army and police force have capacity to assume responsibility for the country's security, including duties performed by MONUC.

<sup>23</sup> Security Council Resolution 1856 from 2008 speaks to this issue by requesting the Secretary-General to provide recommendations on the progressive handover of tasks related to the strengthening of democratic institutions and the rule of law from MONUC to the UN country team and bilateral and multilateral partners in western DRC.

<sup>24</sup> S/2008/760. The benchmarks include: the voluntary return and resettlement in secure conditions of a critical mass of internally displaced persons; the capacity of local authorities to provide the necessary security for refugees, internally displaced persons, civilians and humanitarian workers; and the ability of the national law enforcement agencies to maintain law and order with respect for international human rights standards.

<sup>25</sup> S/PRST/2010/2.

# REGIONAL DEVELOPMENTS

THE AFRICAN COMMISSION ON  
HUMAN AND PEOPLES' RIGHTS P.31

# THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS



INTERNATIONAL SERVICE FOR HUMAN RIGHTS

Joint NGO workshop at the 46<sup>th</sup> session of the African Commission on Human and Peoples' Rights with the participation of the ACHPR Special Rapporteur on Human Rights Defenders, Ms Reine Alapini-Gansou (center).

**T**he African Commission on Human and Peoples' Rights (ACHPR) was established by the African Charter on Human and Peoples' Rights (the African Charter) and is the main regional body with a mandate to promote and protect human rights in Africa. The ACHPR has its headquarters in Banjul, the Gambia and convenes its ordinary sessions twice per year, usually in May and November. The venue of each session rotates among the State parties to the African Charter.

The ACHPR is composed of 11 members who serve in an independent capacity as commissioners and thematic special rapporteurs of the ACHPR. The main functions of the ACHPR are to protect and promote human rights, and to interpret the provisions of the African Charter. States parties to the African Charter are required to submit periodic reports to the ACHPR, which are then examined at its formal sessions through an interactive dialogue with Commissioners.

Each two week session of the ACHPR is preceded by a three-day Forum for the Participation of Non-Governmental Organisations (the NGO Forum), organised by the African Centre for Democracy and Human Rights Studies (ACDHRS) and funded by the UN Office of the High Commissioner for Human Rights (OHCHR), which is well-attended by NGOs from all over Africa.<sup>1</sup>

The 46<sup>th</sup> session of the ACHPR, held in Banjul from 11 to 25 November 2009, was convened amid much speculation that the session might be moved to another African country given the alleged statements made by President Yahya Jammeh in September 2009 threatening the safety of human rights defenders in the Gambia.<sup>2</sup> Amidst rumours of a boycott by a number of NGOs and a resolution<sup>3</sup> passed by the ACHPR at its 7<sup>th</sup> extra-ordinary session in Dakar, Senegal (5-11 October 2009) calling for President Jammeh to withdraw his statements, the session was eventually convened in Banjul, and attended by a smaller but still significant number of NGOs. The controversy was widely discussed among NGOs throughout the Forum, and included suggestions by NGOs to move the secretariat of the ACHPR out of the Gambia.

## NGO Forum

The NGO Forum was held from 7 to 9 November 2010 and was attended by over 100 participants, roughly half the usual amount of attendees, including from national, regional and international NGOs, human rights defenders' networks, and representatives of OHCHR. The NGO Forum provided space for an overview of the situation of human rights and democracy in

<sup>1</sup> ISHR has been attending and actively participating in the NGO Forum as well as the ACHPR as an accredited observer since 2000.

<sup>2</sup> Amnesty International press release. Available at: <http://www.amnesty.org/en/library/info/AFR27/007/2009/en>.

<sup>3</sup> Full text of the resolution can be found at: [http://www.achpr.org/english/\\_info/news\\_en.html](http://www.achpr.org/english/_info/news_en.html).

Africa, followed by regional updates on human rights situations in various sub-regions. Updates from countries of concern included a focus on Guinea Conakry, Kenya, Niger, the Sudan, Zimbabwe and the Gambia. A discussion on human rights defenders included a presentation from Commissioner Reine Alapini-Gansou, Special Rapporteur on human rights defenders in Africa, highlighting the continuing challenges facing defenders on the continent. Special interest working groups allowed NGOs to discuss priority issues in more detail, such as prevention of torture, prisons and penal reform; the situation of refugees, asylum seekers, internally-displaced persons and migrants in Africa; the African Court on Human and Peoples' Rights and the International Criminal Court; indigenous communities; the death penalty; human rights defenders; freedom of expression; situations of women and girls and the African Union Women's Protocol; economic, social and cultural rights; children's rights; rights of gay, lesbian, transgendered, bisexual and inter-sex persons; and election monitoring in Africa. Also of note was mention of the Government of Zimbabwe denying entry to the UN Special Rapporteur on torture, Mr Manfred Nowak, by both Zimbabwean and international NGOs.

The NGO Forum forwarded five country-specific resolutions, seven thematic resolutions and seven recommendations for consideration by the African Commission on Human and Peoples' Rights (ACHPR).<sup>4</sup> The 46<sup>th</sup> session of the ACHPR saw the adoption of resolutions on more substantive human rights issues proposed by the NGO Forum than in the past, where there were more procedural resolutions. Four out of 19 NGO resolutions were adopted by the Commission, also an increase on previous years.

#### 46<sup>th</sup> session of the African Commission on Human and Peoples' Rights

The main session of the ACHPR saw the end of term of Mr Bahame Tom Mukirya Nyanduga as a Commissioner and as interim Chair, and the election of a new Chairperson of the ACHPR, Ms Reine Alapini-Gansou, whose mandate as Special Rapporteur on human rights defenders in Africa also came to an end. Two new Commissioners were appointed, Mr Bechir Khalfallah (Tunisia), and Mr Mohamed Fayek (Egypt). Mr Khalfallah took over as the new Special Rapporteur on human rights defenders. Mr Fayek was appointed as the new Special Rapporteur on refugees, asylum seekers and internally displaced persons in Africa, taking over from Mr Nyanduga.

<sup>4</sup> A resolution on the general human rights situation on the African continent highlighted the specific situations in Guinea, Kenya, Eritrea, Somalia, the Sudan, Chad and the Democratic Republic of Congo and called on member States to take legislative and other measures to end impunity for human rights violations in the country. Other resolutions focussed on the impact of climate change on human rights in Africa, the need to conduct a study on the implementation of the right to freedom of association in Africa, and another urging member States to take appropriate measures to monitor the impact of the global financial crises on vulnerable groups like the poor, women, children, refugees and displaced persons, indigenous peoples, the disabled and persons living with HIV/AIDS.

NGOs highlighted the need for these mandates to be implemented with independence by the new Commissioners, taking into account the well-established working methods and commitment of their predecessors. The appointment of the two new Commissioners from North Africa has also ensured equitable representation of all sub-regions of the continent within the ACHPR. During the session a new Bureau was also elected, which, compared to the composition of the previous bureau, better respects gender balance, a concern previously raised by NGOs and which the ACHPR appears to have taken into consideration.

All in all, while there were approximately 100 representatives of the NGO community present at the NGO Forum prior to the ACHPR session, the number dwindled significantly after the opening of the main session of the Commission to less than 50. The lack of investment of NGOs in the main session remains of serious concern, and demonstrates the need for improving NGO participation in this process both in terms of engagement, but also in terms of ensuring the predictability of when country reviews will take place, so as to allow for NGOs to plan their participation.

The main session saw the examination of the State reports of Ethiopia, Botswana and the Republic of Congo (Brazzaville), with a somewhat expected 'no-show' by the delegations of the Democratic Republic of Congo (DRC) and Cameroon. With regards to the DRC, the State has failed to report to the ACHPR on three previous occasions when it has been scheduled to be reviewed, and it remains to be seen whether the DRC will yet appear before the ACHPR, and if not, if it can provide a valid excuse for its persistent absences.

Some of the key questions in relation to the examination of Ethiopia were: the protection of freedom of association given recent legislation restricting foreign funding to human rights NGOs; protection of freedom of expression and the need to repeal criminal defamation laws; and the treatment of pastoralist communities in the country. The country rapporteur ended by stating that the delegation had not answered most questions put to it, and said that deferring its replies to written responses prevented the ACHPR from effectively engaging with the Government.

Key issues in the examination of Botswana were: the discriminatory effect of customary law, which is 'unwritten and subject to variation' on women in the country; reservations to the definition of torture contained in Article 1 of the UN Convention Against Torture; targeting of journalists using defamation laws; concerns in relation to the Media Practitioners Bill; the death penalty; and limitations on freedom of association through restrictive registration procedures.<sup>5</sup>

<sup>5</sup> A regime of declaration is one whereby a group can declare its intention to be an association without waiting for a decision by a regulatory authority, whereas a 'compulsory' regimes is one where an



The examination of the Republic of the Congo (Brazzaville) raised questions regarding plans to operationalise the newly established national human rights institution, including by supplying office space, in order to allow the institution to fulfill its mandate. The Government was also pressed on plans to implement the UN Declaration on Human Rights Defenders and other relevant regional instruments that recognise the right to protect human rights.

Besides the specific concerns that were raised in relation to each review, some of the common issues raised by Commissioners were: the lack or insufficient use of statistics in the State reports allowing Commissioners to measure the progress of implementation; the need for States to better follow reporting guidelines; and the need for civil society to be more involved in the preparation of the State report. Although there have been improvements in the way that States report to the ACHPR, in particular by making these reports reflect the human rights situation in the country more accurately, efforts clearly still need to be made to make these reports fully compliant with the ACHPR reporting requirements.

The ACHPR adopted concluding observations on the Congo but deferred adoption of concluding observations on Botswana and Ethiopia until after receipt of further information from these States.

The ACHPR also adopted resolutions on the establishment of a working group on extractive industries, the environment and human rights violations in Africa; climate change and human rights and the need to study its impact in Africa; the need for a study on freedom of association in Africa; and on the impact of the global financial crisis on the enjoyment of social and economic rights in Africa.<sup>6</sup>

The violation of rights of lesbian, gay, bisexual, transgender and inter-sex persons (LGBTI persons) was also repeatedly raised during the course of the NGO Forum and main session, including with reference to the application of the Coalition of African Lesbians for observer status with the ACHPR, which had been deferred for consideration from the previous session. One of the key challenges at the session was therefore the adoption of the ACHPR's position paper on LGBTI issues, which was again postponed to the 47<sup>th</sup> ACHPR for further consideration. This has had the effect of further delaying the decision of whether to grant observer status to the Coalition of African Lesbians. The inability of the ACHPR to take a principled substantive position on consideration of LGBTI issues has already caused participant LGBTI organisations to question whether there is any real value in their engagement with the ACHPR while this issue remains unresolved. Given

the prevalence of discrimination and violence against sexual minorities in Africa, it remains to be seen whether the ACHPR will take the position of States or NGOs at the 47<sup>th</sup> session in May 2010.

Although the 46<sup>th</sup> session of the ACHPR had a difficult start, it concluded with several positive outcomes and no major incidents with the Government of the Gambia, ending with a final communique on 25 November 2009 that summarised the main outcomes of this session.<sup>7</sup>

### Next developments

The ACHPR was supposed to hold its next ordinary session from 12 to 26 May 2010 in Tunis, Tunisia. However, it now appears that the next session will be held, once more, in Banjul in the Gambia. What seemed like a good opportunity to raise the specific concerns of defenders working in North Africa, and in Tunisia in particular, now appears to have been discarded precisely for this reason. The momentum being generated by civil society in Tunisia and abroad for the proposed session appears to have convinced the Government of Tunisia to withdraw its acceptance to host the 47<sup>th</sup> session of the ACHPR.

The 47<sup>th</sup> session of the ACHPR will examine the situation of human rights in the DRC, Cameroon, Madagascar and Rwanda. The human rights records of these States have presented long-standing concerns for the ACHPR, and the session will provide an opportunity to question these States about the status of implementation of their obligations under the African Charter. The challenge will be how to mobilise civil society to actively participate in these examinations. Again, it remains to be seen whether the delegation from the DRC will actually report to the ACHPR, given its non-appearance at previous sessions. The review of the DRC will be taking place following its review under the universal periodic review (UPR) mechanism of the UN Human Rights Council in February 2010.

The ACHPR position paper on the LGBT rights will once again come up for consideration at the 47<sup>th</sup> session and its consideration will be a decisive moment for the ACHPR and LGBTI rights on the continent.

The ACHPR is also expected to appoint the experts of the working group on the question of extractive industries in Africa and human rights violations, at the next session.

Given that the 47<sup>th</sup> session will be held in Banjul, it will create new opportunities for NGOs to raise their concerns about the deteriorating situation in the Gambia and for the ACHPR to further debate the situation. However, it is unclear what level of NGO participation to expect at the 47<sup>th</sup> session, given their experiences prior to the last session. ■

association can be penalised (with often severe results such as being shut down) for not registering with a formal authority.

<sup>6</sup> For full list, please refer to the final communique available at : [http://www.achpr.org/english/\\_info/news\\_en.html](http://www.achpr.org/english/_info/news_en.html).

<sup>7</sup> Available at: [http://www.achpr.org/english/communiqués/Final%20Communique\\_46\\_OS.pdf](http://www.achpr.org/english/communiqués/Final%20Communique_46_OS.pdf).

# THEMATIC FOCUS

IMPLEMENTATION OF THE CONVENTION OF THE RIGHTS OF  
PERSONS WITH DISABILITIES:  
A HUGE CHALLENGE, A HUGE OPPORTUNITY P.35

# IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES:

## A Huge Challenge, A Huge Opportunity

**STEFAN TRÖMEL**, Executive Director of the International Disability Alliance

IDA (the International Disability Alliance) is the umbrella network of organisations of persons with disabilities, currently encompassing 9 global organisations and 4 regional organisations. IDA, which played a leading role among disability organisations during the negotiation process of the CRPD, has as its main mission to promote the full and effective implementation of the Convention. Information on IDA can be found on its website: [www.internationaldisabilityalliance.org](http://www.internationaldisabilityalliance.org).



**T**he Convention on the Rights of Persons with Disabilities (CRPD) entered into force on 3 May 2008 and has up to now been ratified by 82 States and signed by another 62 States. An Optional Protocol, allowing for individual communications and inquiry procedures, has also entered into force, which so far has been ratified by 51 States Parties.

The CRPD was negotiated between 2002-2006 in the framework of an Ad Hoc Committee established by the UN General Assembly. The negotiation process was characterised not only by the high level of consensus among all States, which led to its unanimous adoption, but also by the very active participation of organisations of persons with disabilities.

Already at the outset of the negotiation process, organisations of persons with disabilities joined forces and established the International Disability Caucus, an informal network of international, regional and national organisations that was to become a key player in the negotiation process. Its slogan 'Nothing about us without us' was a clear message to everybody that a convention addressing the rights of persons with disabilities could not be negotiated without their involvement.

Some doubts were expressed at the beginning of the process on the need for such a thematic convention in view of the fact that the rights of persons with disabilities were already covered, albeit implicitly, in the existing human rights treaties. However, a very timely report which had been commissioned by then High Commissioner for Human Rights Ms Mary Robinson clearly showed the very little attention the UN human rights system had so far paid to the rights of persons with disabilities. This analysis led the authors of the study to make the case for a thematic convention. It insisted that such a convention would not be detrimental to the mainstreaming of the rights of persons with disabilities in the UN system, as some had argued, but would instead contribute to increased attention within the overall UN human rights system to persons with disabilities.

States were permanently reminded during the negotiation process that the purpose of the convention was not to create new rights for persons with disabilities, but to ensure that persons with disabilities could enjoy the rights already established at the international level on an equal basis with others.

The Convention on the Rights of Persons with Disabilities is a comprehensive treaty. While containing very strong anti-discrimination provisions, it is not a purely anti-discrimination treaty like the Convention on the Elimination of Discrimination against Women (CEDAW) and the Convention on the Elimination of Racial Discrimination (CERD). It is more similar in scope to the Convention on the Rights of the Child (CRC). It incorporates a very advanced approach to disability and some of its provisions, especially in the area of legal capacity of persons with disabilities, are groundbreaking and imply the need for legislative changes in all countries of the world.

Being the first human rights treaty adopted in the 21<sup>st</sup> century, it also incorporates a number of novelties compared to previous human rights treaties, including:

- A specific article on international cooperation which, while insisting that the fundamental obligation to ensure the human rights of persons with disabilities lies with each State Party, highlights the important role international co-operation can play to accelerate the enjoyment of human rights in developing countries, thus establishing also an obligation on States that provide international assistance to take into account the rights of persons with disabilities.
- An obligation that States Parties establish a national infrastructure for the implementation and monitoring of the Convention, in particular the establishment of one or more independent national mechanisms which should take into account the Paris Principles relating to the Status of National Institutions.<sup>1</sup>
- The explicit reference to civil society, in particular to representative organisations of persons with disabilities, and their key role in the implementation and monitoring of the Convention.
- The interrelated, indivisible and interdependent nature of civil, political, economic, social and cultural rights is not only mentioned in the preamble of the Convention, but also reflected in the way in which the different types of rights are intermingled, avoiding any notion of first- and second-class rights.
- Accessibility being a key element throughout the Convention text, it is also reflected in the fact that all articles do not just have numbers but also titles, and it is required that the treaty text be made available in alternative formats.

The Conference of States Parties to the CRPD, which has already met twice and which will continue to meet on an annual basis, is not limited in its role to the election of the members of the Committee on the Rights of Persons with Disabilities,<sup>2</sup> but has also a more substantive nature.

The Committee, the treaty body established by the Convention to monitor its implementation, has held three sessions so far in Geneva and has adopted its rules of procedure, working methods and reporting guidelines. The Committee currently comprises 12 experts, but the number will increase to 18 in January 2011. Elections will be held during the third Conference of States Parties, which will take place in New York on 1-3 September 2010.

The first reports from States Parties are due to be submitted in June 2010, two years after the entry into force of the CRPD for the first twenty States Parties, and it is expected that the first examination of State reports by the Committee will be scheduled for February 2011.

The International Disability Alliance (IDA) has been closely monitoring the work of the Committee and has as its main goal to ensure that national organisations of persons with disabilities are provided with the information and capacity to engage successfully in the reporting process of the Committee. The work done by other NGOs, in particular in the context of the Committee on the Rights of the Child and Committee on the Elimination of Discrimination against Women, has clearly been inspiring to define our future work.

Moreover, IDA is working towards increased attention to the rights of persons with disabilities in the context of other UN human rights treaties. For this purpose, IDA provides to its members and all interested stakeholders a thorough disability-analysis of all documents presented to as well as produced by the different treaty bodies. Moreover, IDA is also following closely the drafting of new General Comments by the different UN human rights treaty bodies to ensure adequate attention to the rights of persons with disabilities and consistency with the provisions of the Convention. The General Comment on non-discrimination recently adopted by the Committee on Economic, Social and Cultural Rights incorporated contributions submitted by IDA.

IDA is promoting the mainstreaming of the rights of persons with disabilities in the Human Rights Council with a special focus on the universal periodic review (UPR) and on the role of the special procedures of the Council. The Council resolution adopted in 2008 (A/HRC/RES/7/9) requests all special procedures to mainstream the rights of persons with disabilities in their work.

<sup>1</sup> Adopted by General Assembly Resolution 48/134 of 20 December 1993.

<sup>2</sup> The human rights treaty body established by the Convention to monitor State Parties' implementation.



IDA supports the 'Group of States Friends of the CRPD', a cross-regional grouping of States co-chaired by Mexico and New Zealand, that has contributed to the increasing attention by the Human Rights Council to the rights of persons with disabilities, not only through the annual resolution on the rights of persons with disabilities adopted at the March session, but also by including references to persons with disabilities in other relevant resolutions.

Following a very successful seminar on monitoring the rights of persons with disabilities held in Geneva in January of this year, IDA is currently producing a guidance document targeting national organisations of persons with disabilities,<sup>3</sup> which will provide them with information on how to engage in the reporting process of the Committee, but also with the other relevant UN human rights treaty bodies as well as other UN human rights mechanisms.

The CRPD has explicitly put persons with disabilities on the human rights agenda. This is undoubtedly leading to a significant increase in the attention to the rights of persons with disabilities among mainstream human rights organisations, national human rights institutions, as well as the relevant human rights departments of governments. It is important to ensure that this increased attention is done in a way which is consistent with the CRPD, and with the full involvement of organisations of persons with disabilities. While the rights of persons with disabilities are a relatively uncontroversial issue, the main challenges to overcome are invisibility, ignorance and prejudice.

The CRPD also means the need for change for organisations of persons with disabilities, which need to acquire new skills and become familiar with new mechanisms. Organisations of persons with disabilities need to consider themselves as human rights organisations and actively participate in all mainstream human rights processes at national, regional and international levels, a participation that usually will be more effective by joining existing coalitions of human rights organisations. Undoubtedly the UPR provides a unique opportunity in such a process of alliance building.

The CRPD has filled a gap in the human rights architecture by seeking to ensure that the 650 million persons with disabilities, 10% of the world population, enjoy their human rights on an equal basis with others. The CRPD's full implementation requires the active engagement by all stakeholders and the involvement of organisations of persons with disabilities in all stages of the process. ■

<sup>3</sup> The guidance document will be available through this link: [www.internationaldisabilityalliance.org/projects-and-events/guidance-document-on-parallel-reporting](http://www.internationaldisabilityalliance.org/projects-and-events/guidance-document-on-parallel-reporting)

### Committee on Rights of Persons with Disabilities holds 3<sup>rd</sup> session

The 3<sup>rd</sup> session of the Committee on the Rights of Persons with Disabilities (the Committee), which took place from 22-26 February 2010, was held mostly in private session, with a public meeting only on 26 February 2010 with States parties to the UN Convention on the Rights of Persons with Disabilities (the Convention), UN agencies and NGOs to discuss the reporting obligations of States parties to the Convention.<sup>1</sup>

Committee Chairperson Mr Ron McCallum highlighted the Committee's reporting Guidelines<sup>2</sup> for States as 'an essential part of the reporting mechanism'. The Committee also emphasised the importance of States establishing national monitoring mechanisms under article 33 of the Convention to assist them in their reporting obligations, as well as the participation of civil society in the monitoring process.

In the ensuing dialogue with the Committee, States were particularly interested in the possible elaboration by the Committee of general comments on specific articles of the Convention to assist them in their reporting obligations. This included a possible general comment on Article 12 (legal capacity of persons with disabilities) following the Committee's day of general discussion on this article at its 2<sup>nd</sup> session in October 2009. Committee members expressed their hope to continue the Committee's systematic analysis of articles of the Convention, highlighting plans to hold a second day of general discussion on the issue of 'accessibility' under Article 9 during the Committee's 4<sup>th</sup> session on 6 October 2010.<sup>3</sup>

Mr McCallum also announced the election of Ms Maria Soledad Cisternas as the Committee's Special Rapporteur on individual communications under the Optional Protocol to the Convention, and that, upon the 80<sup>th</sup> ratification of the Convention by France on 18 February 2010, the Committee's membership will increase from 12 to 18 members.

<sup>1</sup> According to Article 35 of the Convention, States parties are required to send their initial reports to the Committee within two years of ratifying the Convention. 20 States will be legally required to report to the Committee by May 2010.

<sup>2</sup> Guidelines on treaty-specific document to be submitted by states parties under article 35, paragraph 1, of the Convention on the Rights of Persons with Disabilities. UN Doc. CRPD/C/2/3/.

<sup>3</sup> The 4<sup>th</sup> session is scheduled to take place from 4 to 8 October 2010.

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# OPPORTUNITIES FOR NGO ENGAGEMENT

## COUNTRY EXAMINATIONS AND REVIEWS

### COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

#### What's coming up?

The Committee on Economic, Social and Cultural Rights will hold its 44<sup>th</sup> session from 3 to 21 May in Geneva. It will examine the reports of Afghanistan, Algeria, Colombia, Kazakhstan, and Mauritius.

The Pre-Sessional Working Group will take place from 25 to 28 May to prepare the lists of issues for the upcoming examinations of the Republic of Moldova, the Russian Federation, Sri Lanka, Turkey, and Yemen.

At its November session the Committee will examine the following countries: the Dominican Republic, the Netherlands, Uruguay, Sri Lanka, and Switzerland.

#### What can you do?

If you are working on economic, social and cultural rights in any of the countries to be examined in November you can submit information for the Committee to the Secretariat: Ms Susan Mathews, [smathews@ohchr.org](mailto:smathews@ohchr.org). Please inform the Secretariat in advance if you intend to submit information. You are encouraged to check the website in June for up-to-date information about the November session and relevant deadlines.

### COMMITTEE AGAINST TORTURE

#### What's coming up?

In November, the Committee against Torture will prepare its preliminary questions (the 'list of issues') for the examination in 2011 of the following countries: Algeria, Australia, Belgium, Burundi, Chad, China, Costa Rica, Guyana, Iceland, Indonesia, Kazakhstan, Kenya, Lithuania, Montenegro, Qatar, Republic of Korea, Serbia, Sweden, Tajikistan, Republic of Macedonia, Togo, and Zambia.

#### What can you do?

If you are working on issues related to torture in any of these countries, you can submit information to the Committee by 16 August 2010. Information should be sent to the Secretariat of the Committee at [jnataf@ohchr.org](mailto:jnataf@ohchr.org) and [registry@ohchr.org](mailto:registry@ohchr.org). More detailed information regarding NGO submissions and other engagement with the Committee is available at:

[http://www2.ohchr.org/english/bodies/cat/follow\\_up\\_ngo.htm](http://www2.ohchr.org/english/bodies/cat/follow_up_ngo.htm)

#### Background

Under the new optional reporting procedure adopted by the Committee against Torture in May 2007, the Committee will adopt a list of issues to be transmitted to the State party prior to the submission of a State report. The State party's response to the list of issues will then constitute the State party's report under Article 19 of the Convention. The list of issues will be drafted on the basis of information received by the Committee, including submissions by NGOs.

### COMMITTEE ON THE RIGHTS OF THE CHILD

#### What's coming up?

On 25 May-11 June the Committee on the Rights of the Child will examine the following countries: Argentina, Belgium, Grenada, Guatemala, Japan, Nigeria, The former Yugoslav Republic of Macedonia, and Tunisia under the Convention on the Rights of the Child; Argentina, Belgium, Colombia, The former Yugoslav Republic of Macedonia, Japan, Serbia under the Optional Protocol on the sale of children (OPSC); and Argentina, Colombia, Japan, Serbia, The former Yugoslav Republic of Macedonia under the Optional Protocol on the involvement of children in armed conflict (OPAC).

#### What can you do?

Information on NGO participation can be found in 'A Guide For Non-Governmental Organizations Reporting to the Committee on The Rights of the Child' available at: <http://www.crin.org/docs/Reporting%20Guide%202006%20English.pdf>.

If you are interested in submitting information for upcoming examinations (for the list of countries, please see: <http://www2.ohchr.org/english/bodies/crc/sessions.htm>) you can contact the NGO Group on the CRC for advice: <http://www.childrightsnet.org>

### COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

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#### What's coming up?

On 12-30 July 2010, the Committee on the Elimination of Discrimination against Women will examine the following States during its 46<sup>th</sup> session in New York: Albania, Argentina, Australia, Fiji, Papua New Guinea, Russian Federation, and Turkey and consider an 'exceptional report' on India.

#### What can you do?

If you are working on discrimination on any of the countries above you can submit information to the Committee by 28 June at [cedaw@ohchr.org](mailto:cedaw@ohchr.org).

Detailed information regarding the submission of information by NGOs can be found at: [http://www2.ohchr.org/english/bodies/cedaw/docs/NGO\\_Participation.final.pdf](http://www2.ohchr.org/english/bodies/cedaw/docs/NGO_Participation.final.pdf).

### COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

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#### What's coming up?

On 2-27 August 2010, the Committee on the Elimination of Racial Discrimination will hold its 77<sup>th</sup> session and examine the reports of Australia, Bosnia and Herzegovina, Denmark, El Salvador, Estonia, France, Islamic Republic of Iran, Morocco, Romania, Slovenia, Spain and Uzbekistan.

The Committee will hold an open meeting with NGOs to discuss their participation in the Committee's work. The meeting is likely to take place on 2 August. Please check the Committee's programme of work for the session for the exact date: <http://www2.ohchr.org/english/bodies/cerd/cerds77.htm>

#### What can you do?

If you are working on issues related to racial discrimination in any of the above countries, you can submit information to the Committee through the Secretariat: Ms Gabriella Habtom: [ghabtom@ohchr.org](mailto:ghabtom@ohchr.org).

### HUMAN RIGHTS COMMITTEE

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#### What's coming up?

On 12-30 July 2010, the Human Rights Committee will examine the following States during its 99<sup>th</sup> session in Geneva: Cameroon, Colombia, Estonia and Israel.

Country Report Task Forces will develop and adopt list of issues on reports submitted by Ethiopia, Mongolia, Kazakhstan, Slovakia, and Togo, which will be examined in 2011.

#### What can you do?

If you are working on issues related to civil and political rights in any of these countries, you can submit information to the Committee for its examinations and to assist it in drafting the lists of issues. Information on Cameroon, Colombia, Estonia and Israel should be sent by 1 June to the Secretariat of the Committee: Ms Nathalie Prouvez, [nprouvez@ohchr.ch](mailto:nprouvez@ohchr.ch)



## UNIVERSAL PERIODIC REVIEW

### What's coming up?

The UPR will review the following States during its 9<sup>th</sup> session from 30 November to 11 December 2010: Liberia, Malawi, Mongolia, Panama, Maldives, Andorra, Bulgaria, Honduras, United States, Marshall Islands, Croatia, Jamaica, Libya, Micronesia, Lebanon, and Mauritania.

### What can you do?

You can submit information for the stakeholder summaries on the countries that will be examined at the UPR's 10<sup>th</sup> session (January 2011). Your submission should follow these guidelines:

<http://www.ohchr.org/EN/HRBodies/UPR/Documents/TechnicalGuideEN.pdf>

The deadline is 5 July 2010 for submissions on Mozambique, Namibia, Niger, Rwanda, Sao Tome and Principe, Myanmar, Nauru, Nepal.

The deadline is 12 July 2010 for submissions on Oman, Paraguay, Saint Kitts and Nevis, Saint Lucia, Australia, Austria, Estonia and Georgia.

Your submission should be sent to: [uprsubmissions@ohchr.org](mailto:uprsubmissions@ohchr.org).

## MEETINGS

### HUMAN RIGHTS COUNCIL, 14<sup>TH</sup> SESSION

#### What's coming up?

The Council will hold its 14<sup>th</sup> session from 31 May to 18 June. The Council will hear an update from the High Commissioner for Human Rights and hold interactive dialogues with a number of its special procedures, including on education, on trafficking, on summary executions, on independence of judges and lawyers, on migrants, on transnational corporations, on violence against women, on the right to health, on effects of foreign debt, on extreme poverty, on freedom of expression, on cultural rights, on racism, and on the human rights situation in the Sudan, and in Haiti.

#### What can you do?

If you work with an ECOSOC accredited NGO you can submit written statements to the Council and make oral statements under all agenda items. More information about NGO participation is available at

<http://www2.ohchr.org/english/bodies/hrcouncil/ngo.htm>

### NGO INPUT INTO 2010 HIGH LEVEL SUMMIT ON MILLENNIUM DEVELOPMENT GOALS (MDGS)

#### What's coming up?

On 14-15 June 2010, the General Assembly will hold 'informal interactive hearings' with NGOs, civil society organisations and the private sector in New York. These are part of the preparatory process for the high-level summit on the Millennium Development Goals that will take place in the General Assembly on 20-22 September 2010.

### ANNUAL MEETING OF SPECIAL PROCEDURES

#### What's coming up?

The 17<sup>th</sup> Annual Meeting of special procedures will take place in Geneva from 28 June to 2 July. More information about the meeting will become available here: <http://www2.ohchr.org/english/bodies/chr/special/meeting.htm>

## INTER-COMMITTEE MEETING AND MEETING OF TREATY BODY CHAIRPERSONS

### What's coming up?

The 11<sup>th</sup> Inter-Committee meeting (28-30 June) and 22<sup>nd</sup> meeting of Chairpersons (1-2 July) will take place in Geneva at the end of June.

The annual Meeting of Chairpersons of the Human Rights Treaty Bodies provides an opportunity to discuss the work of the nine treaty bodies and consider ways to enhance the effectiveness of the treaty body system as a whole. More information on the meeting will be made available here: <http://www2.ohchr.org/english/bodies/icm-mc/documents/I1.htm>

## SPECIAL PROCEDURES' VISITS

You can stay up to date about upcoming visits by the special procedures to countries around the world at:

<http://twitter.com/unrightswire>

## ELECTIONS AND APPOINTMENTS

### HUMAN RIGHTS COUNCIL ELECTIONS

#### What's coming up?

On 13 May the General Assembly will elect 14 members of the Human Rights Council. Currently, the number of candidates is the same as the number of vacant seats for all regional groups. Information about the candidates and their pledges are available at: <http://www.un.org/ga/64/elections/hrc/index.shtml>.

#### What can you do?

You can press your Government to run for election to the Council and to present voluntary pledges in accordance with 8 of General Assembly *Resolution 60/251*.

### APPOINTMENT OF SPECIAL PROCEDURES MANDATE HOLDERS

#### What's coming up?

At the June session of the Human Rights Council (31 May-18 June) the President of the Council will appoint new mandate holders to the following mandates: Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the right to education; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights; Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea; Independent Expert on the situation of human rights in Burundi; Working Group on the use of mercenaries as a means of impeding the exercise of the right of peoples to self determination (Member from the Group of Asian States); Working Group on Enforced or Involuntary Disappearances (Member from the Group of Latin American and Caribbean States). The Consultative Group will present a list of recommended candidates to the President at least one month before the beginning of the June session. The recommendations of the Consultative Group will be made available on the HRC Extranet: <http://portal.ohchr.org/portal/page/portal/HRCExtranet>

In September the President will appoint new mandate holders to serve as the Representative of the Secretary-General on the human rights of internally displaced persons and as the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

More information about the qualifications required and the process is available at <http://www2.ohchr.org/english/bodies/chr/special/nominations.htm>

#### What can you do?

For the mandates to be appointed in June, you can submit your views on the candidates shortlisted by the Consultative Group to the President at [hrcpresidency1@ohchr.org](mailto:hrcpresidency1@ohchr.org).

Candidatures for the mandates to be filled in September can be submitted to the Secretariat at the following address: [hrcspecialprocedures@ohchr.org](mailto:hrcspecialprocedures@ohchr.org) or HRC Secretariat, c/o Fei Xing (Mailing address: Office of the United Nations High Commissioner for Human Rights, Room PW 4-072, Palais des Nations, 8-14 avenue de la Paix, CH-1211, Geneva 10; Tel: +41 (0)22 917 9604; Fax: +41 (0)22 917 9008). The deadline for submission of candidatures is 25 June.

## CONTRIBUTIONS TO STUDIES AND REPORTS

### STUDY ON CHILDREN AND MIGRATION

#### What's coming up?

The Human Rights Council has requested OHCHR to prepare 'a study on challenges and best practices in the implementation of the international framework for the protection of the rights of the child in the context of migration' (Resolution 12/6).

#### What can you do?

You can submit information for the study by 1 May 2010 at [registry@ohchr.org](mailto:registry@ohchr.org), to the attention of Ms Pia Oberoi or by fax to +41 22 917 90 08.

### REPORT ON ELIMINATION OF RACISM

#### What's coming up?

The General Assembly *Resolution 64/148* entitled 'Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action' requests the Secretary-General to submit a report with recommendations on the implementation of the resolution to the General Assembly at its sixty-fifth session. The link to the resolution is <http://ap.ohchr.org/documents/alldocs.aspx>

#### What can you do?

You can send contributions to this report by 28 May 2010 in electronic format to Ms Barbara Paoletti: [bpaoletti@ohchr.org](mailto:bpaoletti@ohchr.org). Contributions should not exceed five pages and focus on measures taken to implement the above-mentioned resolution.

ISHR ACTIVITIES:

TREATY BODY AND UPR COURSE

2 - 14 MAY 2010  
Focusing on national implementation of international recommendations.

NGO FORUM @ AFRICAN COMMISSION

9 - 12 MAY 2010

REGIONAL MEETINGS:

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

12 - 28 MAY 2010  
Banjul, the Gambia.

UN MEETINGS:

CAT

26 APRIL 2010 - 14 MAY 2010  
Austria, Cameroon, France, Jordan, Liechtenstein, Switzerland, Syrian Arab Republic

CMW

26 APRIL 2010 - 7 MAY 2010  
Algeria

HUMAN RIGHTS COUNCIL ORGANISATIONAL MEETING

20 MAY 2010

CESCR PRE-SESSIONAL WG

24 - 28 MAY 2010  
Sri Lanka, Yemen, Russian Federation, Turkey, Republic of Moldova, Mali

CRC

24 MAY 2010 - 11 JUNE 2010  
Argentina, Belgium, Grenada, Guatemala, Japan, Nigeria, The former Yugoslav Republic of Macedonia, Tunisia  
OPSC: Belgium, Colombia, The former Yugoslav Republic of Macedonia, Japan, Serbia  
OPAC: Argentina, Colombia, Japan, Serbia, The former Yugoslav Republic of Macedonia

UPR

3 - 14 MAY 2010  
Kyrgyzstan, Kiribati, Guinea, Lao People's Democratic Republic, Spain, Lesotho, Kenya, Armenia, Guinea-Bissau, Sweden, Grenada, Turkey, Guyana, Haiti, Kuwait, Belarus

CESCR

3 - 21 MAY 2010  
Algeria, Colombia, Mauritius, Kazakhstan, Afghanistan

HUMAN RIGHTS COUNCIL

31 MAY 2010 - 18 JUNE 2010

ANNUAL MEETING OF CHAIRS OF TREATY BODIES AND INTER COMMITTEE MEETING

28 JUNE 2010 - 2 JULY 2010

ANNUAL MEETING OF SPECIAL PROCEDURES

28 JUNE 2010 - 2 JULY 2010

CEDAW (NYC)

12 - 30 JULY 2010  
Albania, Argentina, Australia, Central African Republic, Fiji, Grenada, Papua New Guinea, Russian Federation, Seychelles, Turkey

OPCAT

21 - 25 JUNE 2010

HUMAN RIGHTS COUNCIL ORGANISATIONAL SESSION

21 JUNE 2010

EXPERT MECHANISM ON RIGHTS OF INDIGENOUS PEOPLE

12 - 16 JULY 2010

HUMAN RIGHTS COMMITTEE

12 - 30 JULY 2010  
Cameroon, Colombia, Estonia, Israel, Task Forces: Ethiopia, Mongolia, Kazakhstan, Slovakia, Togo

MAY 2010

JUNE 2010

JULY 2010