

HUMAN RIGHTS MONITOR

QUARTERLY

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The response to the issue of sexual orientation and gender identity by the General Assembly and the African Commission on Human and Peoples' Rights (ACHPR) this quarter, demonstrated just how far the international community has to travel before it extends adequate and equal human rights protections to lesbian, gay, bisexual, transgender and intersex (LGBTI) people. During the 65th session of the General Assembly (P. 1), the Third Committee removed a reference to sexual orientation from a resolution on extrajudicial executions – undermining efforts to increase State protection for LGBTI people. Fortunately, a strong counter-response by States and human rights defenders saw the reference to sexual orientation eventually reinstated.

Discrimination against LGBTI people also marred the 48th Ordinary Session of the ACHPR in November (P. 34). The ACHPR denied observer status to an NGO focused on protecting the human rights of lesbians across the continent, the Coalition of African Lesbians (CAL). ISHR presented a statement to the ACHPR requesting the decision to exclude CAL be reconsidered, an action also taken by numerous other NGOs. CAL has not yet been granted observer status. Helping to provide protection for human rights defenders vulnerable to attack and intimidation, especially those working on issues of sexual orientation and gender identity, is a priority area for ISHR in the coming year.



ISHR | INTERNATIONAL SERVICE FOR HUMAN RIGHTS

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 national, regional and international human rights systems.

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* was launched by the International Service for Human Rights in April 2010. It replaces the former annual *Human Rights Monitor*, *New York Monitor*, *Treaty Body Monitor*, *UPR Monitor* and *Council Monitor* publications, and presents a global picture of developments in the international and regional human rights systems. The *Quarterly* also highlights events, meetings and opportunities for NGO/NHRI engagement in the upcoming quarter and beyond. This publication is issued four times a year, in January, April, July, and October.

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EDITORS

Michael Ineichen, Olivia Starrenburg, Katrine Thomasen.

CONTRIBUTORS

Heather Collister, Michelle Evans, Alexandra Frizzel, Leyla Ghavan, Nassim Hooshmandnia, Michael Ineichen, Giulia Ingrassia, Vanessa Jackson, Antoinette Krugel, Olivia McMillan, Peter Nagy, Eleanor Openshaw, Kristina Sam, Katrine Thomasen.

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information@ishr.ch

For more information about our work, or any of the issues covered in this edition, please visit our website: www.ishr.ch or contact us: information@ishr.ch

GENEVA OFFICE

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

NEW YORK OFFICE

777 UN Plaza, 8th floor
New York
NY 10017
USA

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GENERAL ASSEMBLY 65TH SESSION



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The issue of sexual orientation featured again throughout the Third Committee¹ (October to November 2010) and deeply divided States along regional lines. Although the discussions demonstrated just how far the international community has to travel before it extends international human rights protections to lesbian, gay, bisexual, transgender and intersex (LGBTI) people, they also prompted the US to step forward as a lead advocate for LGBTI rights at the UN. The US' commitment to speak up and be proactive on the issue, together with massive mobilisation by LGBTI NGOs globally, led to one of the most anticipated plenary meetings on record.

The theme of religion took on a more prominent role, due mostly to the controversial text on defamation of religion, but also because of a growing number of religion-focused initiatives, including a new plenary text on 'interfaith harmony' from Jordan. The unbending approach of some States in the Organisation of Islamic Conference (OIC) during negotiations on the defamation resolution ensured support for it continued to wane. The European Union (EU) resolution on the elimination of religious intolerance maintained a fragile consensus. However, in a plenary intervention that shamelessly favoured politics over principle, the OIC threatened to break the consensus in 2011 as retaliation for Western States' lack of cooperation on the defamation text.

On the positive side, more States voted in favour of stronger country resolutions, and for a text calling for a moratorium on the death penalty. They also agreed to establish a working group to consider the feasibility of an international instrument on the human rights of older persons. The ongoing resource constraints affecting the treaty body system prompted States to agree to reinvigorate the process of comprehensive treaty body reform. For human rights defenders, the acknowledgement of reprisals against people who cooperate with the UN system in the resolution on torture was a welcome development.

Resolutions that had a more difficult passage included violence against women and the right to development. The call for a high-level meeting of the General Assembly to mark the ten-year anniversary of the Durban racism conference marred the passage of the already divisive omnibus racism resolution. The adoption of the annual report of the Human Rights Council (the Council) also proved a challenging and complex undertaking. It spurred many States to call for procedural obstacles, such as ambiguous reporting and budget lines between the Council and the General Assembly, to be addressed during the ongoing review of the Council.

THEMATIC DEVELOPMENTS

Reference to sexual orientation in extrajudicial executions resolution sparks controversy

Following the divisive debates during last year's Third Committee in relation to sexual orientation and gender identity, it was not surprising that opponents to the use of this term at the UN organised cross-regional support for their negative initiatives in 2010.² The backlash against any recognition of LGBT rights at the UN began early in the session with the rejection of the final report to the General Assembly of the outgoing Special Rapporteur on education. The report, which recognised the human right to 'comprehensive sexual education', was successfully shelved by opposition from African, Arab, Islamic and

¹ The General Assembly (GA) allocates the bulk of its work to six committees. The Third Committee considers human rights questions. In December, the Committees present their recommendations, usually in the form of draft resolutions and decisions, to a plenary meeting of the General Assembly for its consideration and adoption. At the time of writing only the Third Committee draft resolutions were available online at <http://bit.ly/eXnKM3>. Check <http://bit.ly/5UC64R> for final GA resolutions. In this report, references to voting on a resolution refer to plenary voting, unless otherwise indicated.

² The debates in 2009 were sparked by the report of the Special Rapporteur on counter-terrorism, Mr Martin Scheinin. He interpreted his mandate, to include a 'gender perspective' in his work, to mean he should address how the rights of LGBTI individuals are impacted by States' counter-terrorism measures.

Caribbean States.³ Informal negotiations on the resolution on the rights of the child⁴ (jointly sponsored by the EU and the Latin American and Caribbean Group (GRULAC)) were complicated by opposition from some OIC members (led by Syria and Qatar) and the Holy See⁵ to various proposals, including language viewed as LGBT-related.⁶

Despite these early warning signs, Western and Latin American States appeared caught off-guard by the African Group's amendment to the extrajudicial executions resolution.⁷ The fact that the African Group voted as a block with the support of the Arab Group and the OIC, meant its amendment was adopted by a margin of nine votes in the Third Committee.⁸ As a result, the long-standing paragraph that referred to more than 15 groups that are vulnerable to extrajudicial killings, no longer specifically urged States to protect against killings committed on the basis of sexual orientation.

Human rights defenders saw this as a major backward step. The resolution on extrajudicial executions was the only UN text where member States formally acknowledged their responsibility to prevent discrimination on the basis of sexual orientation. The language had been a feature of the resolution since 1999, when it was incorporated at the recommendation of the Special Rapporteur on extrajudicial executions. Although it was routinely the subject of a vote in the Third Committee, States had always voted to retain the reference to sexual orientation. As Sweden warned in 2010, the loss of the reference falsely implied the General Assembly was prepared to turn a blind eye to killings targeting people because of their perceived or actual sexual orientation.

The counter-response from States was decisive. On International Human Rights Day, the US Ambassador spoke of being 'incensed' by the vote and vowed to 'fight to restore the reference to sexual orientation'.⁹ At the same UN high-level event, for the first time, the UN Secretary-General, Mr Ban Ki-moon, pledged to 'speak out, at every opportunity, wherever I go ...to rally support for the decriminalization of homosexuality everywhere in the world.' These two speeches, combined with a major lobbying effort by the US and LGBTI

NGOs around the world, proved sufficient to convince States to change their vote in the plenary and reinsert the reference to sexual orientation into the resolution.¹⁰

Regardless of the outcome on the extrajudicial executions resolution this session, the battle lines in relation to future discussion of sexual orientation and gender identity at the UN are now firmly drawn. The challenge for States, the leadership of the UN human rights system, and civil society is to foster a constructive dialogue on those aspects of the debate where there is the most potential for consensus, such as unlawful killings and decriminalisation of consensual homosexual behaviour. It is essential a multiplicity of voices take part in these dialogues, so they cannot be dismissed as a 'Western initiative', designed to impose foreign values onto others without respect for their religious or cultural diversity.

Good result, bad atmosphere on defamation of religion

Old fault lines were also re-opened by the 'defamation of religion' text. Despite the genuine desire of Morocco (on behalf of the OIC) and the US to find middle ground, the negotiation process proved to be ideologically driven and alienated many States. The text ultimately passed with less support than last year indicating the international community's support for the concept of 'defamation of religion', continues to decline.¹¹ This mirrored a development at the Council, where support for the defamation of religion resolution was at an all-time low during its March 2010 session. The resolution contained some superficial changes compared to the 2009 text, including the replacement of 'defamation of religions' with 'vilification of religions' in most of the resolution. However these, and other supposed concessions made by the sponsors,¹² were inadequate to dispel most States' concerns about negative implications of the defamation concept, for both freedom of religion and belief, and freedom of expression. Unfortunately, discussions on this polarising issue were not only limited to the resolution. It also featured as a prominent theme in the interactive dialogues with the special procedures on racism and on freedom of religion and belief.¹³

As in previous years, the General Assembly adopted the EU-sponsored resolution on the elimination of all forms of intolerance and of discrimination based on religion or belief without a vote. However as a result of losing ground on defamation, the OIC repeatedly attempted to inject language relevant to it into the EU resolution, and to obstruct new

3 More information is available at <http://bit.ly/es60Pe>.

4 A/C.3/65/L.21/Rev.1. The EU and GRULAC retained the same format for the resolution as in 2009, which meant States focused their negotiations on the 2010 theme of early childhood, rather than entering into discussions on existing sections of the omnibus text.

5 The Holy See (representing the Vatican) has permanent UN observer status.

6 This included resistance to words like 'households' (instead of parents) which some construed to endorse same sex couples.

7 A/C.3/65/L.29/Rev.1. The amendment (contained in A/C.3/65/L.65) replaced the words in Operative Paragraph (OP) 6(b) '...any discriminatory reason, including sexual orientation' with '...discriminatory reasons on any basis'.

8 The vote was 79:70:17 (for:against:abstentions). More information is available at <http://bit.ly/bUmvRR>. In 2008, Uganda (on behalf of the OIC) proposed a similar amendment to the resolution, which was defeated in the Third Committee: 59:77:25.

9 The US Ambassador's statement and more information about the high-level event is available at <http://bit.ly/hvUHKk>.

10 The US amendment was adopted by a vote of 93:55:27 (for:against:abstentions). Angola, South Africa, Rwanda, and Cape Verde broke ranks with the African Group to vote in favour. The resolution was then adopted as amended by a vote of 122:1:62.

11 A/C.3/65/L.46. The resolution was adopted by a vote of 79:67:40. This was a margin of 12 votes, compared to 19 in 2009.

12 This included the addition of a reference to religions other than Islam, in PP9: 'including Islamophobia, Judeophobia and Christianophobia'.

13 More information on the interactive dialogues and adoption of the defamation resolution is available at <http://bit.ly/gjd6Nc>.

language aimed at strengthening the text. This led to the withdrawal by the EU of new language on anti-discrimination legislation, and language reaffirming the right to change one's religion. Part of the success of the OIC strategy was holding the EU to 'compromise' language agreed to at the Council in June 2010 in the resolution renewing the mandate of the Special Rapporteur on freedom of religion or belief.¹⁴

It is not clear how the steady erosion of support for combating 'defamation of religion' at the General Assembly will affect the OIC's strategy at upcoming meetings, including the next Ad Hoc Committee on Complementary Standards (postponed from November 2010 to early 2011) and the Council in March 2011, when the OIC is expected to table another resolution on the subject. However, the developments create renewed momentum for NGOs and supportive States to build on efforts to fight 'defamation of religion'.¹⁵

The fate of the religious intolerance resolution is regrettably linked to the defamation text. During the General Assembly's adoption of the Third Committee reports, the OIC indicated it would withhold its support for the religious intolerance text in 2011 since the EU did not support its defamation text. The fragile consensus on the resolution is thus unlikely to hold unless further concessions to the OIC are made. 2011 may also see the introduction of a US-sponsored 'compromise' resolution, similar to the one on freedom of expression co-sponsored with Egypt at the Council in 2009. The US had suggested it would bring such a text in 2010, but this never materialised.

G77 insists on high-level event for Durban anniversary

Unsurprisingly, consensus on the annual five-part resolution on the implementation of and follow up to the Durban Declaration and Programme of Action (DDPA) proved elusive again in 2010.¹⁶ The major controversy was the inclusion by the Group of 77 (G77) of a call for a one-day high-level meeting of the General Assembly in 2011, to commemorate the

tenth anniversary of the adoption of the DDPA. The initiative was viewed as inherently flawed by Western States and Israel. Their main concern was its bad timing (coinciding with the tenth anniversary of 'September 11'), and the possibility of a repeat of the vitriol of past Durban events, rather than a focus on an anti-racism agenda. The same States also failed to see value in adopting another political declaration only a year after the Durban review conference.¹⁷

Many States also criticised the flawed negotiation process,¹⁸ and complained several provisions lacked conformity with international law, especially with ICCPR Articles 18, 19 and 20. In addition, the text did not show a clear commitment to protect all individuals from racism, regardless of the group or community they belong to. Regrettably, only a small group of States (a few G77 members, the EU and some Western European and Others Group (WEOG) States) participated in negotiations on this resolution. Without broader, more serious engagement by the international community, the negotiation dynamics and the voting pattern on the resolution are unlikely to change.

Less acrimonious negotiations on death penalty

A resolution renewing the General Assembly's call for a moratorium on the use of the death penalty was also adopted by vote, with a slightly larger margin than last year.¹⁹ The resolution, the third text in four years, calls on States to respect international standards that safeguard the rights of those facing the death penalty, and to make available information on their use of the death penalty. The passage of the resolution was less acrimonious than in recent years, because retentionist States who failed to 'kill' the resolution on the death penalty in 2007, now reluctantly accept the issue as part of the General Assembly's work.²⁰ In 2010, key detractors (such as Egypt, Botswana, Singapore, and Bahamas) proposed hostile amendments to weaken the text in the Third Committee but were defeated.²¹ The resolution is biennial so the General Assembly will not formally consider the death penalty again until 2012.

General Assembly takes a stand on reprisals

The Sub-Committee on the Prevention of Torture brought the serious problem of reprisals against individuals who cooperate with the UN human rights system to the attention of the

14 The language on the right to change one's religion was included in 2007 Council Resolution 6/37, which was adopted by a vote for the first time. However States did not include it in the June 2010 Council resolution to renew the Special Rapporteur's mandate to maintain consensus. The Council 2010 and General Assembly 2010 resolutions can accommodate States' different interpretations of international law on this issue, thus the compromise language in both texts was ultimately not a 'deal-breaker' for the EU.

15 Several other meetings in 2011 may be important for defenders watching this brief. From 7- 25 March 2011 in New York, the Human Rights Committee will read for the second time draft General Comment No. 34 on Article 19 of the *International Covenant on Civil and Political Rights* (ICCPR). The draft includes paragraphs on the decriminalisation of defamation and blasphemy. From 9-10 February 2011 in Vienna, OHCHR will hold an expert workshop on the prohibition of incitement to national, racial or religious hatred, as a follow-up to the 2008 expert seminar on articles 19 and 20 of the ICCPR. More information is available at <http://bit.ly/eos4e6>.

16 A/65/454. The General Assembly vote on the resolution was 104:22:33 (for:against:abstentions).

17 Those voting against included US, UK, Germany, Italy, Sweden, Canada, Netherlands, Australia, Czech Republic, Denmark, Estonia, Israel, Latvia, Lithuania, Marshall Islands, Micronesia, Palau, Poland, Romania, Slovakia, and The former Yugoslav Republic of Macedonia. EU States who did not vote against the text abstained on it.

18 The US, EU and Switzerland (on behalf of Iceland, Liechtenstein, New Zealand, and Norway). They criticised the limited number of 'informals', and the introduction by the G77 of four pages of amendments just before the vote in the Third Committee.

19 A/C.3/65/L. 23/Rev.1 . The resolution was adopted by a vote of 109:41:35. The vote in 2008 was 106:46:34.

20 For more information on the adoption of the death penalty resolution, see <http://bit.ly/eDny2T>.

21 See A/C.3/65/L.61, A/C.3/65/L.62, A/C.3/65/L.63, available at <http://bit.ly/eXnKM3>. Voting sheets available at <http://bit.ly/hPzFX0>.

General Assembly.²² In a welcomed move, Denmark included a new paragraph in its annual resolution on torture to take up this issue. States were reminded they have an obligation to ensure no person or organisation is subject to 'any sanction or prejudice' because of their 'contact' with a national or international body that works to combat or prevent torture and ill-treatment.²³ Although this proved a controversial addition for some States, it was a long-overdue step by the General Assembly that should be built upon in years to come, including by the Council.

States' obligation to ensure victims of torture and ill-treatment can access a range of rehabilitation services was also elaborated in the 2010 text, which was adopted by consensus. Although victims' entitlement to redress, compensation and rehabilitation was already addressed, the text now spells out States' responsibility to establish or at least support rehabilitation facilities for victims, and to ensure the safety of their staff and patients.²⁴

Report by Special Rapporteur on human rights defenders gets luke-warm reception

No resolution on human rights defenders was adopted in 2010 (it is biennial and will be considered again in 2011) and the Special Rapporteur's report was not enthusiastically received by many States. The EU, Pakistan and the UK questioned the appropriateness of assigning human rights responsibilities to non-state actors, and argued only States can be responsible for human rights violations. The Special Rapporteur vigorously defended the analysis in her report by pointing out the *Declaration on Human Rights Defenders* itself assigns these responsibilities to non-state actors. However, she agreed States bear the ultimate responsibility under human rights law to respect, protect and fulfill human rights, which includes exercising due diligence to prevent, investigate and punish any violations by non-state actors.²⁵

States shun controversial recommendations by Special Rapporteur on counter-terrorism

Mexico avoided incorporating the Special Rapporteur's controversial call for an overhaul of the Security Council's counter-terrorism framework into its annual resolution on counter-terrorism.²⁶ Nonetheless, the Mexican delegation ensured a general acknowledgement of the report of the Special Rapporteur was restored to the text, despite objections from some permanent members of the Security Council.²⁷

22 The Sub-Committee's annual report (A/65/44, Annex VII, para.35, available at <http://bit.ly/hwhhOy>) expressed 'concerns about the possibility of reprisals after its visits to interview people in detention'.

23 OP9 of A/C.3/65/L.26/Rev.1.

24 Report of the Special Rapporteur on torture (A/65/273 para.91), available at <http://bit.ly/hwhhOy>.

25 More information about the reception of the Special Rapporteur's report is available at <http://bit.ly/gDKBTy>.

26 More information about the reception of the Special Rapporteur's report in the General Assembly and Security Council is available at <http://bit.ly/dWGEMM>.

27 The Russian Federation and the US objected to OP18, which 'takes note'

Attempts at other modest changes also succeeded, and the text was adopted by consensus. Changes included the incorporation of new language regarding States' obligation to safeguard the right to privacy in their counter-terrorism responses.²⁸ In an effort to improve the UN's own record on mainstreaming human rights across its counter-terrorism work, the General Assembly requested all seven of the UN's working groups on counter-terrorism incorporate a human rights perspective in their work.²⁹ It also called on UN bodies to ensure any legislative or other follow-up measures taken by States as a result of UN technical assistance, are consistent with international human rights law.

Consensus on violence against women endangered by debate over 'traditional values'

Although 2010 was a ground-breaking year for gender equality at the UN,³⁰ the negotiation of the resolution on violence against women again proved very difficult, though consensus was maintained.

One of the major contentions was a paragraph adopted by consensus in 2008, which referred to the need for States to 'refrain from invoking any custom, tradition or religious consideration' to avoid their obligations to end discrimination against women.³¹ However, controversies at the Council in the intervening years about whether undefined 'traditional values' could be used to justify human rights violations, meant some delegations in New York saw the language in a new light this time around.³²

The reluctance of the main sponsors to deviate from agreed language led the African group to table a series of controversial amendments.³³ Although these were ultimately withdrawn and the language on traditional values remained unchanged, the co-sponsors had to orally incorporate several other amendments to achieve consensus.³⁴ This did not avoid a string of criti-

of the report. In 2009, States deleted any positive acknowledgement of the Special Rapporteur's report, as most objected to its recommendations on how to protect the rights of LGBTI individuals when implementing counter-terrorism measures.

28 A/C.3/65/L.43/Rev.1, OP 6(f) provides that where States 'interfere' with the right to privacy, legislation is required to regulate State action, ensure effective oversight and appropriate redress.

29 A/C.3/65/L.43/Rev.1, OP14. More information on the working groups is available at <http://bit.ly/fKpRdm>.

30 Among the initiatives taken were: GA's creation of a new agency to work on gender equality and women's empowerment (UN Women), GA's adoption of a global plan of action against trafficking in persons; the Council's establishment of a working group on discrimination against women; Security Council's adoption of *Resolution 1960* to combat impunity for mass rape; Secretary-General's launch of a global strategy on women and children's health.

31 OP8 of A/C.3/65/L.17/Rev.2. This language was taken from the Beijing Declaration.

32 See ISHR news story on 'traditional values and human rights' seminar at <http://bit.ly/fNkguK>.

33 A/C.3/65/L.28. The African Group proposed a reference to 'harmful aspects of certain traditional, customary or modern practices' in OP8.

34 For example, Latin American States (led by Guatemala) strongly objected to the deletion of agreed language on violence against indigenous

cal statements from Morocco (on behalf of the Arab Group), the Russian Federation, Pakistan and the Holy See. They stressed religions' long history of safeguarding the well-being of all people. The Russian Federation added that harmful practices should be distinguished from traditional values, as the latter contributed to the enjoyment of human rights.

Another notable change to the resolution was its conversion to a biennial 'omnibus' text that deals with all aspects of eliminating violence against women.³⁵ To ensure the resolution more comprehensively reflects States' legal obligations to prevent violence from occurring, the co-sponsors successfully incorporated more than ten recommendations from the report of the Special Rapporteur on violence against women³⁶ Changes were also made to equally recognise the work of the International Criminal Court and the ad hoc international criminal tribunals to end impunity for rape and other crimes of sexual violence.³⁷

Potential for a convention on the rights of older persons

In an historic move, and despite considerable resistance from some Western States, the General Assembly agreed to establish an open-ended working group to strengthen the protection of the human rights of older persons.³⁸ It will consider the existing international framework for the human rights of older persons and identify '...possible gaps and how best to address them, including by considering ...the feasibility of further instruments and measures'. Although this does not guarantee a legally-binding convention will result,³⁹ it is the first time UN resources will be used to facilitate inclusive, expert and focused discussion on how best to improve the lives of older persons. The first meeting of the working group will take place in early 2011 to decide on a programme of work. This and other meetings of the working group will be held in New York, and will be open to participation by States, 'relevant NGOs with an interest in the matter', UN special procedures, treaty bodies and others. It is anticipated the working group will hold two subsequent meetings in 2011.

General Assembly overturns agreed language on the right to development

In 2010 Cuba (on behalf of the Non-Aligned Movement (NAM)) introduced new language to suggest a legally-binding international standard on the right to development, however this proved a step too far for most Western States.⁴⁰ Not only

was this a departure from language agreed in the General Assembly for several years, it also ran counter to the Council resolution on the same issue that had been adopted only a matter of weeks earlier. Although only a handful of States spoke up,⁴¹ they consistently criticised the main sponsor for its unwillingness to consider constructive proposals that might have allowed for adoption by consensus.⁴²

Most of the States that voted 'no' expressed support for the right to development and indicated their preparedness to continue to engage in discussions on the matter in Geneva. Nonetheless Belgium (on behalf of the EU) suggested NAM should bring a procedural resolution to the next General Assembly and leave the substantive discussions to the Council.

World conference on indigenous peoples

At the instigation of Bolivia, the General Assembly agreed to hold a high-level meeting in 2014 to 'share perspectives and best practices on the realisation of the rights of indigenous peoples'.⁴³ Details relating to how indigenous peoples will participate are to be determined by the President of the General Assembly, following consultations with States and indigenous peoples. The challenge will be to balance UN security restrictions that apply during all high-level events, with the need to ensure indigenous representatives can participate in a manner they consider meaningful and empowering.

COUNTRY RESOLUTIONS

For the third year running, the General Assembly only dealt with the human rights situation in three countries: the Democratic Peoples' Republic of Korea (DPRK), Myanmar and Iran. With the universal periodic review (UPR) well established at the Council, much of the discussion focused on the principled objection of NAM members and others (Brazil, China, and the Russian Federation) to country specific resolutions in New York. However, many NAM members either voted in support of one or more of the resolutions, or abstained.⁴⁴ The DPRK's non-acceptance of all 161 UPR recommendations, along with its long-standing refusal to cooperate with the UN human rights system, was the likely reason for deviation from the NAM policy in the case of the DPRK resolution.⁴⁵ The DPRK's failure to return abducted Japanese citizens also prompted some States to support the resolution.⁴⁶

developed into the basis for consideration of an international legal standard rather than agreed language of 'evolve into a basis for consideration of an international legal standard'.

women, which was ultimately reinserted (PP4 of L17).

35 The practice up until 2010 has been to alternate the focus of the resolution each year between the responsibilities of States to end violence against women, and the role of the UN system in this respect.

36 OP16.

37 PP5 and OP18.

38 A/C.3/65/L.8/Rev.1, sponsored by the G77 and China, was adopted by consensus.

39 Other potential outcomes include the establishment of a Special Rapporteur, or development of an optional protocol to the ICCPR or ICESCR.

40 OP8 of A/C.3/65/L.41/Rev.1 suggested the standards would be

41 Belgium (on behalf of the EU), Canada, Switzerland, and the US.

42 The resolution was adopted by vote, at the request of the US, 133:24:28 (for:against:abstentions).

43 A/C.3/65/L.22/Rev.1.

44 Chile voted in favour of all three country resolutions, whereas Colombia and the Philippines consistently abstained. India voted against the resolution on Myanmar, but abstained from the votes on DPRK and Iran. Benin and Brazil both abstained from the votes on Myanmar and Iran, and Brazil continued its positive vote on the DPRK as at the Council.

45 A/C.3/65/L.47. The vote on the DPRK resolution was 106:20:57.

46 Benin, a NAM member, voted in favour of the resolution on the DPRK to

In the case of Myanmar and Iran, the motivations behind States' voting patterns were more complicated. Both texts were significantly strengthened, though only the resolution on Iran was adopted with a wider margin than in recent years.⁴⁷ It remains to be seen whether this outcome is helpful to those States that want to ensure the General Assembly and the Council continue to adopt country resolutions.

The passage of the EU's resolution on Myanmar⁴⁸ through the Third Committee was complicated by the first national elections in 20 years being held mid-session, on 7 November. This led several key regional power brokers, such as China and some Association of Southeast Asian Nations (ASEAN) members, to warn of the adverse consequences for the country and the region, if the international community sought to intervene at such a critical moment. These factors weighed on EU members, who ultimately decided not to call for establishment of a commission of inquiry to investigate mass atrocity crimes in Myanmar since 2002.⁴⁹ Although this was a central recommendation of the Special Rapporteur on Myanmar, its omission from the text probably helped to discourage Myanmar from bringing a non-action motion. Nonetheless, the EU stood firm on its harsh criticism of the electoral process in Myanmar, and one ASEAN member (Philippines) agreed the election irregularities should be addressed.⁵⁰

On many issues, the EU was able to strengthen existing language. A range of benchmarks were established⁵¹ to enable both the Council and the General Assembly to review Myanmar's progress over the coming year. If its actions fall short, the call for a commission of inquiry could well be revived in 2011.⁵²

The surprise amongst the country resolutions was Canada's text on Iran. The increase in support for the text was not widely anticipated,⁵³ nor was the embarrassing margin of defeat that Iran's no-action motion suffered in the Third Committee.⁵⁴

show solidarity to Japan. It explained this was the first time it ever supported a country resolution. Brazil also cited the DPRK's record on abductions as a factor in its 'yes' vote.

47 The vote on the Myanmar text was 85:25:46 (for:against:abstentions), as compared to the 2009 vote of 86:23:39. The vote on the Iran resolution was 78:45:59 as compared to the 2009 vote of 74:49:59.

48 A/C.3/65/L.48/Rev.1.

49 More information is available at <http://bit.ly/grDkaY>.

50 Brazil, China and Vietnam welcomed the elections, particularly their peaceful nature. India, Indonesia and Thailand regarded the elections as a positive step.

51 These included calling on the Government to undertake an independent investigation into human rights violations 'without further delay, and to initiate 'an inclusive post-election phase'.

52 The Council's special procedures mandates on the DPRK and on Myanmar both expire in March 2011, and the Council will have to decide on their continuation. It is not clear how this will affect future resolutions at the General Assembly on these countries.

53 A/C.3/65/L.49.

54 The vote on the no-action motion in 2010 was lost by 40 votes: 51:91:32. The no-action motion was said to be a last-minute decision by the high-level delegation from Tehran that came to lobby against the resolution. Iran last attempted a no-action motion in 2008, which it lost by ten votes (70:81:28), and in 2007 its no-action motion was lost by only one vote (78:79:24).

Canada erred on the side of caution with the content of the text, and did not take up the recommendation of several human rights organisations to establish a follow-up mechanism on Iran. It also omitted any reference to the official visit to Iran by the High Commissioner for Human Rights, which she vowed to undertake in 2011.⁵⁵ Instead, the resolution presents a range of measures that will heighten the level of scrutiny of the human rights situation in Iran over the coming year, by both the General Assembly and the Human Rights Council. Key among these is a request that the Secretary-General submit an interim report to the 16th session of the Council (March 2011), which is yet to address the situation in Iran. The Secretary-General's annual report to the next General Assembly on the same matter should include 'options and recommendations to improve' the implementation of the resolution, thereby leaving the door open for the Secretary-General to suggest an appropriate follow-up mechanism. In addition, the resolution 'strongly encourages' Iran to 'seriously consider' the recommendations from its UPR, and to do so with the 'full and genuine participation of civil society'.

In response to the concerns raised in the Secretary-General's report, the General Assembly also supported strong language to protect human rights defenders, journalists, religious minorities, political opponents, students and other groups be retained or further strengthened.

INSTITUTIONAL DEVELOPMENTS

Review of the Council should address reporting and resourcing problems

The process for adoption of the Council's report followed a similarly complicated path to the previous year. The Third Committee was asked to consider numerous recommendations from the Council that required action, and the plenary of the General Assembly dealt with the report as a whole.⁵⁶

In the Third Committee some recommendations were addressed individually in separate resolutions,⁵⁷ in addition to a general resolution sponsored by the African Group that 'acknowledged' all the recommendations.⁵⁸ The EU object-

55 The High Commissioner made this announcement in April 2010, when she expressed concern about Iran's violent response to protesters during and after the 2009 presidential elections. See <http://reut.rs/ei3FnH>.

56 The annual report to the GA comprised of the reports of the 12th-15th sessions of the Council, and the report of the 13th special session (A/65/53 and A/65/53/Add.1). The seven recommendations and requests were contained in Resolutions 15/1 (follow-up to fact-finding mission on the humanitarian flotilla); 15/7 (expansion of indigenous Voluntary Fund); 15/10 (leprosy); 15/18 (20th anniversary of working group on arbitrary detention); 15/21 (new Special Rapporteur on rights to freedom of assembly and association); 15/23 (new working group on discrimination against women in law and practice); 15/26 (working group to consider an international regulatory framework for private military and security companies). The latter four of these resolutions contained programme budget implications.

57 Leprosy (A/C.3/65/L.37). Right to truth (A/C.3/65/L.59), enforced disappearance (A/C.3/65/L.30).

58 A/C.3/65/L.57.

ed to this approach on procedural grounds. It argued States should be given an opportunity to present their views on each of the Council's recommendations, and the Third Committee should not comment on the report as a whole. Together with other delegations, the EU reiterated its objection to the Council's report being taken up in the Third Committee, rather than the plenary of the General Assembly.⁵⁹

At the request of Israel, the general resolution on the Council's report was put to a vote. Israel objected to being unfairly targeted by the Council. Although Israel did not refer to it directly, Morocco (on behalf of the OIC) and Turkey drew attention to the Council's recommendation the General Assembly consider the report of the fact-finding mission that investigated Israel's attacks on the so-called Flotilla.⁶⁰ As a staunch ally of Israel, this resolution placed the US in a difficult position. It explained that, as a member of the Council, it had been proud to support a number of its resolutions over the past year. However, there were a number of resolutions that unfairly singled out Israel and excluded violations by Hamas, which it could not support. Together with the EU and some Latin American States, the US abstained.⁶¹ The report was supported by 123 States, with only Israel voting against it.

The President of the Council presented the Council's report to the Third Committee and the plenary, and emphasised the review of the Council provided a 'timely opportunity to address the relationship between the General Assembly and the Human Rights Council'. In particular, he appealed to the General Assembly to align the Council's reporting cycle with that of the General Assembly, as this would help provide 'adequate financial and political backing' and ultimately enable the Council to promptly respond to human rights issues.⁶² He explained that currently, newly-established Council activities and mandates were either being postponed or supported by reallocating resources on a temporary basis, which had negative implications for both the Council and the work of OHCHR. When States discussed the report of the Council, most agreed these procedural and technical issues required effective solutions and should be addressed when the General Assembly undertakes its review of the status of the Council.⁶³

The High Commissioner for Human Rights also touched on the review in her address to the Third Committee, and referred to the OHCHR non-paper on the review.⁶⁴ She also offered constructive suggestions to improve the flow of information between the Council and General Assembly, to help ensure Council decisions with financial implications are implemented in a timely manner. One suggestion was that the General Assembly take up the relevant issues soon after they have occurred in the Council, rather than waiting until the end of the year to do so. An alternative or complementary idea could be to establish a contingency fund to provide money at required times.

States reluctant to approve additional resources for treaty bodies without system-wide reforms

Two separate resolutions regarding the Committee Against Torture (CAT) and the Committee on the Elimination of Racial Discrimination (CERD) were presented by Denmark and Slovenia respectively.⁶⁵ Both requested increased resources to enable the Committees to hold additional meetings, on a temporary basis, to eliminate backlogs in State party reports and communications.⁶⁶ In addition, the resolution on torture requested adequate staff and facilities be provided to the CAT, the Sub-Committee on the Prevention of Torture and the Special Rapporteur on torture to ensure they could fulfil their mandates.⁶⁷

The resource requests were not well received by many States, particularly Japan, the Russian Federation and the UK. Drawing on the findings of a report by OHCHR on the issue,⁶⁸ the UK and the Russian Federation successfully pushed for the resolutions on CAT and CERD to call on the Secretary-General to report to the next General Assembly on 'concrete and tailored proposals' for treaty body reform. This report should propose how to improve the effectiveness of the treaty bodies, identify efficiencies in their working, and suggest how they can better manage their workloads. ■

59 Norway (on behalf of Iceland, Liechtenstein, New Zealand, and Switzerland), Canada, Costa Rica, and Mexico.

60 The report concluded Israel violated international humanitarian law and human rights law and that its blockade of Gaza was illegal. More information is available at <http://bit.ly/f9n7mg>.

61 Latin American States were split. Argentina, Brazil, Uruguay, and Mexico abstained, whereas Bolivia, Chile, Colombia, and Peru voted in favour. Last year, the report of the Human Rights Council was adopted by consensus.

62 Under the current arrangements, the Council's annual reporting cycle is from 1 July to 30 June. This means resolutions with budget implications from the Council's September session are not considered by the GA until the following year. The GA has agreed on an ad hoc basis to bring forward its consideration of the report of the September session, but each year this procedural issue leads to uncertainty.

63 The review of the status of the Council, which is mandated in GA resolution 60/251, began on 1 December 2010, when the co-facilitators held the first informal meeting to discuss the possible scope of the process.

64 See <http://bit.ly/enhqD5>. The non-paper discusses governance issues related to the review of Council status, including the reporting line of the Council to the GA, the Council's reporting cycle, and the Council report's format.

65 Although it was not a matter for the GA, delegates were also aware of a budget request for additional meeting time from the Committee on Economic, Social and Cultural Rights. ECOSOC deferred this request to 2011 when the Chairperson of the Committee is invited to address the Council to speak to the request.

66 CAT requested an additional week of meetings be added to each of its two sessions in 2011 and 2012 (a total of four extra weeks). CERD made a similar request, but States reduced it to apply only to 2012.

67 OP37 of A/C.3/65/L.26/Rev.1.

68 A/65/317. It recommended a comprehensive study on the resource requirements of the treaty bodies be undertaken, with particular emphasis on meeting time, staffing levels, conference facilities and documentation.

UNIVERSAL PERIODIC REVIEW

Varying degrees of participation in reviews of 16 States



Photo: US Mission Geneva

The US delegation was led by Esther Brimmer, Assistant Secretary of State for International Organization Affairs

The Working Group on the universal periodic review (UPR) held its 9th session from 1 to 12 November 2010. Sixteen States were reviewed: Andorra, Bulgaria, Croatia, Honduras, Jamaica, Lebanon, Liberia, Libya, Malawi, the Maldives, Marshall Islands, Mauritania, Micronesia, Mongolia, Panama, and the United States of America (US).

The review of the US was a particular highlight, generating intense State, civil society and media interest. The 9th session, although mostly free of controversy, nevertheless exposed some tensions. Lebanon's review was overshadowed by arguments with Israel, while the US review involved politically-charged recommendations from numerous States. These included calls by China that the US end restrictions on internet access, and requests by Cuba that the US lift its economic blockade on the island State.¹ However, the reconciliatory approach emphasised between Serbia and Croatia during Croatia's review demonstrated the UPR can also stimulate diplomatic rapprochement.

ENGAGEMENT BY STATES UNDER REVIEW

The US brought the largest delegation with 35 representatives, while Micronesia brought only two. The majority of States reviewed were represented by high-level delegates, with multiple Foreign Ministers and even a Vice-President attending reviews.² It was regrettable that despite many large delegations with diverse expertise, it was often only the head of delegation that responded to comments and questions.

States being reviewed commonly took the floor three times, once to introduce the national report, and twice to respond to questions. There were some exceptions. Lebanon's delegation spoke five times, although once was to interrupt Israel's recommendations. However, the UPR process remains not as much of an 'interactive dialogue' as intended. When States raised contentious questions, the State under review frequently avoided a thorough response, or ignored the question entirely. Lebanon, for example, avoided responding to questions regarding failures to submit its periodic report to the Committee against Torture, due since 2001.

STATES PARTICIPATING IN THE WORKING GROUP SESSIONS

The level of State participation in reviews remains high with 643 State interventions made during the session. An impressive 115 States took part in at least one of the reviews. The large majority of States (85 percent) spoke more than once,³ with a quarter participating in over half the reviews.⁴ Four States intervened in every single review.⁵

Western States were the most active in the UPR process. Furthermore, States from the same region as the State under review were more likely to participate. For example, during the reviews of Lebanon and Libya, participation by States belonging to the Organisation of the Islamic Conference (OIC) was significantly higher than usual, and during Jamaica's review, participation

¹ Other States to issue politically-charged comments included Venezuela, Iran, Nicaragua, Bolivia and the Democratic People's Republic of Korea.

² Foreign Ministers from Andorra, Bulgaria, Lebanon, Liberia, Maldives, Marshall Islands, Micronesia, and Mongolia. The Honduran delegation was headed by the State's Vice President, while Malawi sent the country's Attorney General.

³ 98 of 115 States spoke more than once.

⁴ 29 of 115 States spoke in eight or more of the 16 reviews.

⁵ Canada, France, Mexico, and the UK.

from Caribbean States was at its highest. Engagement also varied heavily based on the profile of the State under review. It was no surprise that during the review of the US many States on the speakers' list were unable to speak due to high demand – 80 States had signed up to participate, but only 56 were able to speak. By contrast, a lack of strong interest in the reviews of Andorra, the Marshall Islands, and Micronesia, caused these reviews to end one hour short of the allocated three hours. Long speakers' lists often implied attempts at filibustering, as seen with Lebanon and Libya. However, the review of the US saw the majority of States making valid criticisms rather than 'friendly' States simply filling the time with favourable comments.

The main areas of concern raised by States varied according to the State under review. These ranged from concerns about disabled persons (Bulgaria), freedom of expression (Honduras and Panama), and human rights issues related to sexual orientation (Jamaica and Malawi), to women's rights (Liberia), torture (Libya), and freedom of religion (Maldives). However, common themes were also raised across a number of reviews, such as several European States⁶ consistently raising the death penalty with States that had not banned capital punishment. Discrimination based on sexual orientation was a reoccurring theme raised by Australia, Sweden and the Netherlands. Requests that States accede to more human rights treaties, or do better in implementing treaties already signed, were also common throughout the process. Those most frequently referenced were CEDAW, ICCPR, CESC and CAT.⁷

The number of States submitting written questions in advance remains low. Although 134 submissions were made in total, they were provided by a limited group. Only 15 States used this opportunity during the session, and most of those that did were European.⁸

NGO ENGAGEMENT IN THE UPR PROCESS

The session saw wide disparities in the level of engagement by NGOs, with the US attracting a record 103 submissions, while small countries, such as Andorra and Micronesia, received just four.⁹ International NGOs were the largest contributors to the stakeholder compilation, although some countries received an impressive number of submissions from national NGOs, notably the US, Croatia, Lebanon, and

Jamaica. There was a worrying absence of local stakeholder information in the case of Libya and Mauritania. Submissions from national human rights institutions (NHRIs) only came from Croatia, the Maldives and Mongolia.

The 9th session saw a new record in terms of NGO side events, with 15 taking place for the US alone, and one for Lebanon, Honduras and Panama, respectively. With more than 70 NGO representatives from the US coming to Geneva to attend the review, they were able to host meetings on a wide range of human rights issues in the country, including indigenous rights, corporate accountability, and racial discrimination.

OUTCOMES AND RECOMMENDATIONS

The number of recommendations ranged from 228 (USA) to 38 (Marshall Islands), with the average number of recommendations at 116.¹⁰ This large disparity reflects the varying degrees of State participation in the process, with islands and small States receiving significantly fewer recommendations during sessions to date.¹¹ Overall, Western States continued to make the majority of recommendations¹², followed by members of the OIC.¹³ The trend towards increased participation of States belonging to the same regional group as the State under review was also seen in the number of recommendations. For example, the reviews of Panama, Andorra, Libya, and Mauritania, saw States from the relevant region making the majority of recommendations.¹⁴

The responses by States under review to recommendations continued to be marked by huge variation. Bulgaria, the Maldives, Marshall Islands, Micronesia, and the US left all recommendations pending until the Council adoption of the outcome in March 2011. The rate of rejected recommendations was highest for Malawi and Lebanon.¹⁵ No State under review accepted all recommendations made to it, although Croatia, Honduras and Mongolia distinguished themselves by accepting the majority of recommendations and rejecting none.¹⁶ The practice by some States under review, of considering many recommendations as 'already implemented'

⁶ For example United Kingdom, Germany, France, and Switzerland.

⁷ States to whom these treaties were referenced: CEDAW: Jamaica, Lebanon, Liberia, Libya, Maldives, Marshall Islands, Mauritania, Micronesia, and Mongolia; ICCPR: Liberia, Libya, Malawi, Maldives, Marshall Islands, Micronesia, and Mongolia; CESC: Andorra, Liberia, Marshall Islands, Mongolia, Panama, and US. CAT: Jamaica, Lebanon, Libya, Mauritania, and Panama.

⁸ Bolivia, Czech Republic, Denmark, Germany, Ireland, Japan, Latvia, Mexico, Monaco, Netherlands, Norway, Russian Federation, Slovenia, Sweden, Switzerland, and the UK.

⁹ The number of stakeholder submissions varied as follows: 0-5: Andorra, Micronesia; 6-10: Jamaica, Liberia, Libya, Malawi, Maldives, Marshall Islands, and Mauritania; 11-15: Bulgaria, Croatia, Mongolia, and Panama; 16-25: Honduras and Lebanon; 100 or more: US.

¹⁰ States under review that received above the average number of recommendations were: Malawi (127), Mongolia (129), Maldives (126), Honduras (129), USA (228), Croatia (128), Jamaica (121), Lebanon (123), and Mauritania (139).

¹¹ Panama (92), Andorra (55), Marshall Islands (38), and Micronesia (73) received a significantly smaller number of recommendations.

¹² Approximately 36 percent of recommendations made came from Western States.

¹³ Members of the OIC provided 22 percent of recommendations made. Out of a total of 1854 recommendations, WEOG (Western European and Others Group) made 665; OIC (Organisation of Islamic Conference) made 408; GRULAC (Latin American and Caribbean States) made 376; EEG (Eastern European Group) made 219; and other (African Group, Asian Group, Holy See, USA, excluding States overlapping with OIC) made 187.

¹⁴ This trend came close to being realised in the case of Liberia and Honduras.

¹⁵ Malawi rejected 39 of 127, and Lebanon 40 of 123 recommendations.

¹⁶ Mongolia accepted 118 of 129 recommendations, Honduras accepted 117 of a 129 recommendations, and Croatia accepted 94 of 116 recommendations.

or 'in the process of implementation'¹⁷, continued in the 9th session. However, the validity of these claims was sometimes uncertain. For example, Honduras used this response to recommendations addressing severe restrictions on freedom of expression and the killings of journalists during and after the coup d'état of 28 June 2009. Although the State claims to have investigated and prosecuted violence against journalists by security forces, other delegations said widespread impunity in this regard still exists, as do cases of disciplinary proceedings against and dismissal of judges who are critical of the State.

Excuses for not accepting recommendations were common. Small States, such as Micronesia, Marshall Islands and Andorra, cited lack of resources as a reason for not becoming party to certain international human rights treaties. Other popular explanations related to cultural relativism and the untenable argument that domestic law takes precedence over international obligations, in clear disregard of obligations under the Vienna Convention on the Law of Treaties.¹⁸ Mauritania, for example, referred to Sharia law to legitimise criminalising homosexuality. Liberia and Mauritania attributed their reservations to CEDAW to Sharia law and defended harmful traditional practices, such as female genital mutilation (FGM), as deeply entrenched values. Andorra refused to change its strict abortion policy, since the right to life is enshrined in its constitution. Other interesting examples included Lebanon's rejection of all three recommendations made by Israel, on the grounds these were made by 'occupants of Lebanese territory' and 'infringed on Lebanese sovereignty', and were therefore illegitimate. Jamaica admitted being unable to implement CAT and other international instruments was the reason for not ratifying them.

CONCLUSION

Recommendations are the cornerstone of the UPR process, setting the bar for the State under review's human rights progress in the years to come. Studies have pointed to the trend¹⁹ of regional allies predominantly making recommendations that require a low level of commitment by the State under review. For example, in the case of Libya 67 percent²⁰ of limited-action recommendations made to it were by OIC States, whilst Western States made the majority of more specific recommendations.²¹ Out of the recommendations actually accepted

by Libya, only 11 percent were specific, while the remaining recommendations accepted were significantly more general, with few specific action points.²² This trend presents a real risk to the UPR's relevance and effectiveness. Whilst general recommendations make it easy for the State under review to accept a large number of recommendations, they are unlikely to have a significant impact on the ground.

Review of the UPR

The functioning of the UPR is currently being assessed as part of the review of the Human Rights Council. Consensus is emerging that the length of the review should be increased by one hour, allowing an extra 20 or 30 States to speak; but there is disagreement as to whether a four- or five-year cycle should be followed, and whether the second cycle should immediately follow the first.

Views are converging on having a separate section for NHRIs in the stakeholder report. However, there is opposition to the Office of the High Commissioner for Human Rights presenting the summary report of stakeholder submissions and the compilation document. No agreement has been reached as to whether technology should be used to facilitate stakeholder participation.

Suggestions to improve the utility of recommendations have received a mixed response, with limited support for a legal expert to ensure conformity with international human rights law. Although there is agreement that States should provide clear positions on recommendations, there is opposition to a proposal that this should form an addendum to the final report.

Mandatory midterm reports and consultations with civil society on follow-up are not widely supported, but States agree that both should be encouraged. However, proposals that States should develop implementation plans for accepted recommendations, or to receive financial or technical assistance, have not received support.

Further information on the review of will be made available at www.ishr.ch. ■

17 Panama considers 33 recommendations made to it as already having been implemented or are in the process of implementation; Honduras 112, Croatia 86, Jamaica 35, Lebanon 28, and Mauritania 24.

18 Andorra, Bulgaria, Jamaica, Lebanon, Liberia, Libya, Maldives, Mauritania, and Mongolia.

19 Backed by a study by Prof. Edward R. McMahon from the University of Vermont in collaboration with UPR Info, who developed a scale that categorises UPR recommendations according to the action contained in them. For further information, see www.upr-info.org/IMG/pdf/Action_Category.pdf.

20 Limited-action recommendations: calling on the State under review to request technical assistance, share information, or to continue an effort. In the case of Libya, limited-action recommendations were received as follows: OIC 24; other 6; GRULAC 3; EEG 2; WEOG 1.

21 Sources of the 47 specific-action recommendations given to Libya were as follows: WEOG 23; OIC 6; GRULAC 6; EEG 5; other (African group, Asian group, USA, Holy See) 8.

22 54.5 percent contain limited action and 27.3 percent containing general action.

COMMITTEE ON THE RIGHTS OF THE CHILD

Focus on the Sale of Children, Child Prostitution and Child Pornography; and on Involvement of Children in Armed Conflict



Photo: Anne Norman

The 55th session of the Committee on the Rights of the Child (the Committee) was the last of three sessions in two chambers to help reduce the backlog in reports. From 13 September to 1 October 2010, the Committee examined 18 State party reports from the following States: Angola (CRC), Bosnia and Herzegovina (OPSC and OPAC), Burundi (CRC), Guatemala (CRC), Montenegro (CRC, OPSC and OPAC), Nicaragua (CRC, OPSC and OPAC), Sierra Leone (OPSC and OPAC), Spain (CRC), Sri Lanka (CRC and OPAC) and Sudan (CRC and OPAC).

Having resumed its work in one chamber for the 56th pre-sessional working group (4 to 8 October 2010), the Committee conducted a preliminary review of 10 reports in the presence of NGOs and/or UNICEF and other UN agencies. The reports included Afghanistan (CRC), Bahrain (CRC), Belarus (CRC, OPSC and OPAC), Cuba (CRC), Denmark (CRC), Lao PDR (CRC), New Zealand (CRC), and Singapore (CRC).

Given the backlog of reports pending examination, the State party reports are often out-of-date by the time they are reviewed by the Committee. The list of issues and the States' written replies therefore provide an essential up-date for the Committee. However, due to delays in translation, the information is not always available for the Committee in time for the session. In an attempt to address these delays, the Committee has begun bringing two countries, which submit their documents in languages other than English, forward for each pre-session. For instance, Bahrain and Cuba were brought forward for the 56th pre-session, but will only be examined in the 57th session in June 2011.

Other significant developments which have taken place since the end of the session include the elections of Committee members, as well as the first round of negotiations of a draft Optional Protocol for a communications procedure under the CRC.

NGO PARTICIPATION IN THE SESSION AND PRE-SESSION

The 55th session saw a high turnout of national NGOs, with representatives from Bosnia and Herzegovina, Burundi, Guatemala, Montenegro, Nicaragua, Sierra Leone, Spain, Sri Lanka, and Sudan observing the meeting.

Thanks to the existence of active child rights coalitions and NGOs in most States Parties, the Committee usually sees high participation of NGOs during the pre-session. However, the 56th pre-session saw an unusually low participation of NGOs to discuss the implementation of the CRC and/or its Optional Protocols. There were only national and/or international NGOs present for Afghanistan, Belarus, Denmark, New Zealand, and Singapore. Meanwhile, no NGOs were present to discuss Bahrain, Cuba or Lao PDR, as NGOs either preferred not to engage in the reporting process or there were no independent national NGOs present in the country.

COMPOSITION AND PERFORMANCE OF STATE DELEGATIONS

With the exception of Sierra Leone and Burundi, which sent two- and four-person delegations respectively, State delegations were medium to large in size. In the case of Sierra Leone, only one representative, who was ill-equipped to answer questions, was present in the morning. He was joined by a minister in the afternoon, who, while able to answer a number of questions,

could not cover the necessary details in the OPSC and OPAC. Meanwhile, Montenegro was reporting for the first time since its independence, which was noticeable in its reaction to the many questions early on in the session. The State had brought its own interpreters, which might have also hampered the dialogue.

Many delegations included ministers (Angola, Burundi, Montenegro, Nicaragua, Sierra Leone and Sudan), who in some cases were the main representatives to respond to the questions (e.g. Burundi and Sierra Leone). In some cases, the ministers appeared to be the most knowledgeable members of the delegation. In others it appeared ministers may have been responding to most questions for political reasons (e.g. Burundi and Nicaragua). In the case of Sri Lanka, the head of the delegation was a consultant. While she was knowledgeable about child rights, the Committee questioned the commitment of the Government to child rights, given the head of the delegation was not an employee of the State. The absence of certain key State actors was visible in the delegations of Spain (ministry of economy not represented), Burundi (ministries of education and labour), Sudan (ministries of health, education and social welfare), and Sri Lanka (ministries of education, health and defence). Virtually no States sent representatives from their ministries of defence to discuss the OPAC, with the exception of Montenegro. The absence was especially noticeable for countries that had emerged from conflict where child soldiers had been used (Sri Lanka and Sierra Leone) and ones where there was an ongoing conflict (Sudan).

In view of the referendum in January 2011, it is noteworthy that a representative from South Sudan arrived on the second day of the session. She presented the current situation in South Sudan as though it was a different country from that presented by the Khartoum government. The written replies from Sudan had included a section in Arabic (from the North) and a section in English (from the South).

THEMES

Ten of the 18 reports examined during the 55th session covered the OPSC or OPAC. This section will therefore focus on themes relevant to the two Protocols. Comprehensive country reports on all States under review can be found on www.childrightsnet.org.

Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography

One of the main issues related to the OPSC in the States under review was that the definitions of the crimes covered by the treaty were not incorporated into their penal law and could therefore not be invoked by national courts (Bosnia and Herzegovina, Montenegro, Nicaragua, and Sierra Leone). In some cases this was linked to confusion between the term 'sale' and 'trafficking'.

In addition to the existing legislation not fully complying with the OPSC, this problem also had an impact on data collection, with none of the States under review having data on all the different forms of sale. In some cases, the States appeared to be unaware of cases of sale or trafficking, as NGOs, not the State, provided services to child victims (e.g. Montenegro and Sierra Leone).

Other key issues discussed were birth registration (Bosnia and Herzegovina and Sierra Leone), media law and the confidentiality of child victims (Sierra Leone), the rehabilitation of victims and efforts to avoid revictimisation. In order to avoid revictimisation, the Nicaraguan delegation explained its legislation did not use the term 'pornography' when referring to children (which the Committee questioned). The delegation also noted that the local culture did not recognise many of the 'activities' covered by the OPSC as crimes, so these offences were unlikely to be reported.

Optional Protocol on the Involvement of Children in Armed Conflict

The discussions around OPAC were particularly sensitive for some of the countries under review, as they had either been affected by armed conflict in the recent past (Bosnia and Herzegovina, Sierra Leone and Sri Lanka) or had ongoing conflict (Sudan). Furthermore, child soldiers had been used in certain countries (Sierra Leone, Sri Lanka and Sudan). One of the main issues in all countries under review was that the OPAC was often unknown to the military and the general population.

According to the OPAC, children under 18 years of age cannot be forcibly recruited by the armed forces or by non-state armed groups (although they can be voluntarily recruited by the armed forces). In Sierra Leone, Sudan and Montenegro, existing legislation did not cover the crime of non-state actors recruiting children. In Sierra Leone and Montenegro, the delegations explained that there were no non-state armed groups and children could not be recruited into the armed forces. The issue of birth registration was also brought up, as children were more likely to be recruited in countries where birth registration was limited (e.g. Sierra Leone and Sudan). Another issue in some countries was military schools, where military personnel appeared to be involved in teaching children (e.g. Sierra Leone and Sudan).

The Committee focused on the reintegration and rehabilitation of former child soldiers (Bosnia and Herzegovina, Sierra Leone, Sri Lanka and Sudan) and the measures taken to avoid the prosecution of these children (Sri Lanka and Sudan). The safeguards in place for former child soldiers were discussed at length in relation to Sri Lanka and Sudan. They included the protection of witnesses, verifying the age of detainees to help ensure children were not imprisoned with adults, and whether the age of recruitment or surrender was taken into account in prosecution. In relation to Sri Lanka and Sudan, the Committee was particularly concerned about the prosecution of children who were involved in armed conflicts (focusing on a recent

case in Sudan), and the lack of data on children in camps, rehabilitated or returned to their homes. There was also concern at the apparent impunity of people who had recruited children (only two cases had been brought forward in Sri Lanka). Both in Sudan and Sri Lanka, the Committee had particular concerns about former child soldiers being re-recruited.

FIRST ROUND OF DISCUSSIONS ON THE DRAFT OPTIONAL PROTOCOL TO THE CRC

From 6 to 10 December 2010, the Open-ended Working Group (Working Group) on an Optional Protocol (OP) to the CRC establishing a communications procedure met in Geneva. The meeting took place at the same time as the 'Bangkok Retreat', organised by Thailand in the context of the review of the Human Rights Council (the Council). Despite this, more than 50 delegations from all regions held lively discussions about the legal provisions of the OP. The Chair and the Vice-Chair of the Committee on the Rights of the Child, Ms Yanghee Lee and Mr Jean Zermatten, as well as an international child rights expert, Mr Peter Newell, were also present to provide expert advice about the provisions of the future instrument. The NGO Group for the CRC (including several of its member organisations), the International Commission of Jurists, the European Disability Forum and UNICEF also intervened throughout the discussions.

While consensus was reached on the most technical and standard provisions, more important issues remain open for negotiation during the second part of the Working Group's second session (10 to 16 February 2011). The latter is expected to be the final round of negotiations before a draft OP is presented to the Council in June for adoption.

One of the most debated issues was the possibility for Ombudspersons, national human rights institutions and NGOs to submit collective communications, which would not identify individual victims. Experts and NGOs were in favour of collective communications, as they would bring to the attention of the Committee situations that could be difficult, if not impossible, to address through individual communications. Other important issues at stake included the representation of children, the scope of the new procedure, confidentiality and protection of users, interim measures, friendly settlements, accessibility for children, deadlines for States parties responses and dissemination of information on the procedure.

For a summary of the Working Group proceedings, please see: <http://bit.ly/eqmNKx>

For more information about the negotiation process, please contact Ms Anita Goh, Advocacy Officer of the NGO Group for the CRC, at goh@childrightsnet.org

Election results for nine members of the Committee on the Rights of the Child

On 21 December 2010, 180 of the 193 States Parties to the Convention on the Rights of the Child (CRC) attended their 13th Meeting at the UN in New York to elect nine members of the Committee on the Rights of the Child.

Five members of the Committee ran for re-election, namely Mr Kamel Filali (Algeria) and Mr Hatem Kotrane (Tunisia) for a third term, as well as Ms Agnes Akosua Aidoo (Ghana), Ms Maria Herczog (Hungary) and Mr Dainius Puras (Lithuania) for a second term.

Prior to the electoral process, Burkina Faso, Dominican Republic, Georgia and the United Arab Emirates withdrew their candidates, which resulted in a list of 20 candidates eligible for election.

Although NGOs cannot directly nominate or elect members of the Committee, NGOs in certain countries lobbied their governments to nominate a candidate that meets key criteria, including demonstrated expertise in human/child rights, independence and impartiality, the ability to devote sufficient time to the work of the Committee, a variety of professional backgrounds, experience working with civil society, awareness and sensitivity to cultural differences, and fluency in one of the Committee's working languages.

All nine members were elected during the first round of secret balloting, having received the required majority of 91 votes and the highest number of votes. Three of the five incumbent members of the Committee were re-elected. The results were:

Mr Gehad Madi, Egypt (new member) 118 votes
Ms Aseil Al-Shehail, Saudi Arabia (new member) 111 votes
Ms Kirsten Sandberg, Norway (new member) 110
Ms Aidoo, Ghana (current member) 102 votes
Mr Bernard Gastaud, Monaco (new member) 100 votes
Ms Herczog, Hungary (current member) 98 votes
Mr Kotrane, Tunisia (current member) 97 votes
Ms Hiranthi Wijemanne, Sri Lanka (new member) 97 votes
Mr Jorge Cardona Llorens, Spain (new member) 95 votes

The new regional breakdown of the 18 members, based on the UN regional groups, is five members from Africa, four from Western European and Others Group (WEOG), five from Asia, two from Latin America and Caribbean States (GRULAC), and two from Eastern Europe.

The new members will officially start their mandate on 1 March 2011, but they will only meet for the first time during their 57th session in May.

For more information on the expertise of the new Committee members, please refer to their CVs on <http://bit.ly/h1ozqC>. ■

COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES

Tentative steps as the Committee prepares review of first State report



Photo: André Thiel

From 4 to 8 October 2010, the Committee on the Rights of Persons with Disabilities (the Committee) met for its 4th session in Geneva. The session marked the beginning of the Committee's substantive work related to the examination of State reports. It undertook a preliminary consideration of the Tunisian State report and adopted its first List of Issues. The Committee's agenda also included a Day of General Discussion devoted to the theme of accessibility.

INCREASED COMMITTEE MEMBERSHIP

Prior to the 4th session of the Committee session, in September 2010, the Conference of States Parties took place in New York. In accordance with Article 34(2) of the CRPD, upon the 80th ratification¹ elections were held to expand the Committee from 12 to 18 members. Of the 18 members of the Committee, 15 have disabilities, and eight are women. The following current members were re-elected: Mr Ronald McCallum (Australia), Mr Edah Wangechi Maina (Kenya), Mr Lotfi Ben Lallahom (Tunisia), and Mr German Xavier Torres Correa (Ecuador).

Newly elected members who have taken up their function as of January 2011 are: Ms Theresia Degener (Germany), Mr Hyung Shik Kim (Republic of Korea), Mr Carlos Rios Espinosa (Mexico), Mr Gabor Gombos (Hungary), Mr Damjan Tatic (Serbia), Mr Stig Langvad (Denmark), Ms Silvia Judith Quang Chang (Guatemala), and Ms Fatiha Hadj Salah (Algeria).

While there were more closed sessions than open ones during the week, the Committee's opening session was predominantly devoted to hearing from non-governmental organisations (NGOs), including the International Disability Alliance (IDA), and other interested parties. IDA urged the Committee to continue engaging and consulting with disabled persons organisations (DPOs) in all aspects of its work. In particular, IDA referred to the disappointing decision made by the Committee not to hold a private session with DPOs and NGOs on the Tunisian report prior to commencing work on drafting and adopting the List of Issues to send to the Tunisian Government. Others, including Human Rights Watch, Blue Law and UNICEF, echoed the expression of regret.

To complicate matters, the Tunisian State report, submitted in June 2010 in Arabic, had only been made available in French one week before the commencement of the session and was not yet available in English. Several Committee members who are not fluent in Arabic or French were put at a significant disadvantage in considering the report and contributing to the compilation of a pertinent List of Issues.

In order to fill the gap presented by the lack of a private session with NGOs and DPOs, and the difficulty imposed by language, IDA held a side event early in the week. Committee members, NGOs, national human rights institutions and UN entities were invited to attend. The purpose of the side event was to discuss the Tunisian report and highlight areas of concern, which the Committee could focus on in its preliminary written exchange with the Tunisian Government.

¹ France was the 80th State to ratify the CRPD on 2 February 2010.

During the event, IDA presented its analysis of the Tunisian report, which underlined areas of concern and elements of State practice that are not in line with the CRPD. Questions for inclusion in the List of Issues were also proposed. Committee members posed questions, and other NGOs and UN entities participated in the debate. The discussion largely centred on the lack of participation by Tunisian DPOs and NGOs in the process. Many Committee members wished to see information submitted by national DPOs and NGOs to obtain a clearer understanding of the local situation. To achieve this, NGOs requested private sessions to brief the Committee be held systematically and in a predictable manner, to allow NGOs and DPOs to plan their participation. It was also requested that State reports be available in at least English and French, well in advance of the session, as is the practice of other treaty bodies.

The List of Issues on Tunisia was adopted at the end of the session and the response of the Tunisian Government is expected by mid-January 2011.

It should be noted that while there is a Tunisian member of the Committee, Mr Lotfi Ben Lallahom, according to Rule 43(1) of the Committee's Rules of Procedure, 'a member shall not participate in any part of the consideration of a report submitted by a State party if she or he is a national of the State party concerned.' Mr Lotfi Ben Lallahom was present at IDA's side event and took the floor at the end of the discussion to thank IDA for organising the discussion. He confirmed that Tunisia welcomes the examination by the Committee in an effort to further policies for persons with disabilities in Tunisia.

DAY OF GENERAL DISCUSSION ON ACCESSIBILITY

The Committee's Day of General Discussion in 2010 was devoted to accessibility. Accessibility is both a general principle and a stand-alone provision in the CRPD. As a general principle, it infuses each provision of the CRPD to ensure the rights inscribed therein are made accessible in practice. As a stand-alone provision, Article 9 recognises an accessible environment is instrumental to the realisation of rights of persons with disabilities, to independent living and full participation in all areas of life. It also requires States Parties to take appropriate measures to ensure access to the physical environment, transportation, information, communications and services. The discussions were split into three sessions focusing on the physical environment, information and communication, and best practices in the promotion of accessibility respectively.

There was much debate on how to implement accessibility in practice. This led to a series of questions, including how to measure accessibility, how to monitor it, to what extent accessibility is qualified by the requirement of 'progressive realisation', how to build capacity within government and the private sector, how to ensure the gender component is integrated, and how to ensure accessibility for children with disabilities.

Another challenge recognised in discussions throughout the day concerned the fact that 80 percent of the world's population of persons with disabilities live in developing countries. This highlighted the necessity to adopt low cost and cost effective options to implement accessibility. Article 32 of the CRPD on international cooperation was repeatedly referred to as providing a means to ensure development and technical assistance leading to improvements in accessibility. Committee members called on the World Bank and other funding and development agencies to play a key role in making accessibility a reality through their projects.

The discussions concluded with the agreed understanding that accessibility is the cornerstone of implementation of the rights of persons with disabilities. As a way forward, the Committee welcomed and took note of several ideas exchanged during the day to better assist States Parties, such as the development of a tool to monitor accessibility, the creation of a guidebook, and the compilation of good practices to be shared amongst States Parties and other actors. It is expected the Committee, with the support of OHCHR, will take the first steps to realise these endeavours.

Decisions and future sessions

The Committee closed its 4th session on 8 October 2010. The last meeting was public and served to announce the decisions taken by the Committee that week.

Participation modalities for NGOs including briefings

The Committee agreed to set aside time early in each session for NGOs to make comments or statements, and encouraged NGOs to hold side events or briefings on States under examination. The Committee also decided to submit a request in its report to the General Assembly in 2011 to obtain funding for pre-sessional working groups, and to prolong sessions from one week per session to two weeks, still held biannually. If the requests are accepted, the Committee will have more time to hold private meetings with DPOs and NGOs prior to adopting the List of Issues, and while preparing its constructive dialogues with State delegations during the examination.

Working methods

The Committee provided insight into how it will review States. Tunisia will be reviewed in the Committee's 5th session, in three meetings of three hours each, over a period of two days. The introduction of reports by the State delegation will be limited to 20 to 30 minutes, to be followed by the country rapporteur's presentation. Questions from other Committee members will be presented according to clusters. Such a structure ensures there will be more time and opportunity devoted to the dialogue between the Committee members and the State delegation, to come to a better understanding of the situation of persons with disabilities in the country and the state of implementation of the CRPD. The names of country rapporteurs will be made public, which is positively received

by civil society. It will facilitate organisations to target the relevant Committee member when communicating with the Committee. Circumstances permitting, the Committee said it will deal with State reports in chronological order.

Specific information on upcoming sessions

The dates for the 5th and 6th session of the CRPD Committee were announced; they will take place respectively from 11 to 15 April and from 19 to 23 September.

Ms Amna al-Suwaidi of Qatar was appointed as country rapporteur for Tunisia, while Mr Germán Xavier Torres Correa of Ecuador was appointed as country rapporteur for Spain. The Committee announced its decision to draft a List of Issues on Spain during its 5th session, and to hold a dialogue with Spain during its 6th session. It was decided the Committee will invite the General Assembly's Special Rapporteur on disability to its 5th session.²

² The mandate of the Special Rapporteur on disability was not established by and does not fall within the supervision of the Human Rights Council, but was created by the *UN Standard Rules for the Equalisation of Opportunities of Persons with Disabilities*, adopted by the General Assembly in 1993. The Special Rapporteur reports yearly to the Commission for Social Development of the Economic and Social Council. Mr Shuaib Chalken of South Africa has been Special Rapporteur on disability since 2009.

The Committee announced the decision taken by the Conference of States Parties in September 2010 that the 4th Conference of States Parties will be held from 7 to 9 September. While no elections are foreseen, the Conference of States Parties to the CRPD addresses substantive issues and is an opportunity to engage UN entities regarding implementation of the Convention. Unlike other treaties, Article 40 of the CRPD includes the innovation for the Conference of States Parties 'to consider any matter with regard to the implementation of the present Convention'.

Finally, the Committee announced Professor Ronald McCallum and Ms al-Suwaidi would join the Working Group on Article 12 on 'equal recognition before the law'. The article, often referred to as the 'heart of the Convention', guarantees that persons with disabilities can exercise their legal capacity on an equal basis with others. Following the Day of General Discussion of the Committee's 2nd session in 2009, the group is drafting a General Comment on this provision.

Information on the IDA

The International Disability Alliance (IDA) is the network of global and regional organisations of persons with disabilities (DPOs) currently comprising eight global and four regional DPOs. With member organisations around the world, IDA represents the estimated 650 million people worldwide living with a disability, the largest and most frequently overlooked minority group. IDA promotes the effective implementation of the Convention on the Rights of Persons with Disabilities, as well as compliance with the CRPD within the whole UN system, including in the work of other treaty bodies.

For more information on IDA and its activities: www.internationaldisabilityalliance.org

Facts about the Committee (current as of January 2011)

Number of members:	18 members as of January 2011
Treaties it covers:	Convention on the Rights of Persons with Disabilities; Optional Protocol to the Convention on the Rights of Persons with Disabilities
Ratifications:	97* (CRPD), 60 (Optional Protocol)
Signatories:	147 (CRPD), 90 (Optional Protocol)
States Reports received from:	Argentina, Australia, Austria, China, Hungary, Paraguay, Peru, Spain, and Tunisia
Timetable for consideration of State Reports:	5 th session – Tunisia 6 th session – Spain

* The European Union officially ratified the CRPD on 23 December 2010; it is the first time an intergovernmental body has become a party to an international human rights treaty.

For more information on how to engage with the CRPD Committee, please contact Victoria Lee, IDA Secretariat: vlee@ida-secretariat.org ■

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Special protection needed for disabled, lesbian, migrant, and older women: Burkina Faso, Czech Republic, Malta, Uganda, and Tunisia



Photo: UN/Eskinder Debebe

The Committee on the Elimination of Discrimination Against Women (the Committee) held its 47th session in Geneva from 4 to 22 October 2010. The Committee considered the reports of five State parties to the Convention on the Elimination of All Forms of Discrimination Against Women (the Convention): Burkina Faso, Czech Republic, Malta, Uganda, and Tunisia. The Committee also reviewed the exceptional report of India on the 2002 Gujarat massacres.¹ The review of Bahamas that had been scheduled was postponed.²

State delegations varied in size, from Malta with five representatives to Burkina Faso and the Czech Republic with 13 each. All delegations had more women than men. States appeared open in their engagement with the Committee but provided information of variable quality. Malta, Tunisia and Uganda attempted to deny their responsibility regarding access to abortion, violence against women, and the rights of lesbian, bisexual, and transgender individuals.

NEW GENERAL RECOMMENDATIONS

The Committee adopted two new general recommendations, which will provide guidance to States in implementing the Convention. General Recommendation 27 on older women calls on States to ensure the full enjoyment of human rights by women in all stages of their lives.³ It emphasises that older women often fall victim to multi-dimensional discrimination, and outlines the specific obligations of States in areas such as violence, work and health.

General Recommendation 28, on the Core Obligations of States Parties under Article 2 of the Convention, clarifies that protection from discrimination under the Convention encompasses not only grounds explicitly mentioned but also other grounds such as age, class, race and ethnicity.⁴ In particular, its acknowledgement of sexual orientation and gender identity as grounds on which it is prohibited to discriminate, is important and a sign of growing international recognition. Recently, the Committee on Economic, Social and Cultural Rights (CESCR) acknowledged this in its General Comment 20.⁵ Nevertheless, sexual orientation and gender identity remain very sensitive issues, especially in intergovernmental UN bodies.⁶ It remains to be seen how the General Assembly will react to the Committee's work, when the Committee presents its annual report in late 2011.

¹ See ISHR's *Human Rights Monitor Quarterly* Issue 3, P. 22. Available at <http://www.ishr.ch/quarterly>.

² This was decided at very short notice, only four days before the sessions. The review of Algeria originally scheduled for January 2011 was also postponed but a new date was not announced.

³ CEDAW/C/2010/47/GC.1, available at <http://bit.ly/dF9zds>. The rights of the elderly were also discussed in the Human Rights Council Advisory Committee, which caused some controversy because there was no explicit request by the Human Rights Council to do so. See also <http://bit.ly/fqILgI>.

⁴ CEDAW/C/2010/47/GC.2, available at <http://bit.ly/f4j4pE>. CEDAW Art. 2 calls on States to 'condemn discrimination against women in all its forms' and to pursue 'a policy of eliminating discrimination'.

⁵ E/C.12/GC/20, available at <http://bit.ly/hOEACx>.

⁶ An attempt to reference General Comment 20 in a General Assembly resolution on the international covenants (A/C.3/64/L.22) failed and led to a vote for the first time in over 40 years. See also p 5-6 at <http://bit.ly/fVWWMc>.

Furthermore, the Committee decided to commence development of a new general recommendation on women in armed conflict and post conflict situations, and a joint general recommendation with the Committee on the Rights of the Child on harmful traditional practices. This is in line with efforts to intensify coordination among treaty bodies.⁷

NGO AND NHRI PARTICIPATION

The Committee received no information from national human rights institutions (NHRIs) for this session. However, non-governmental organisations (NGOs) submitted between three and eight reports for each State examination,⁸ and several NGO representatives briefed the Committee. In accordance with the Committee's practice, these briefings took place on the Monday of the week of the relevant review. Committee members were receptive to information provided by NGOs using it frequently when reviewing States. This included issues raised by NGOs regarding maternal mortality, property rights, marriage and divorce law, trafficking, and restrictions placed on civil society.

THEMES

Violence against women

Violence against women was a recurring theme throughout the reviews.⁹ All concluding observations referenced this issue and recommended States enact legislation on domestic violence,¹⁰ prosecute perpetrators and assist victims,¹¹ and raise awareness of women's rights in accordance with the Convention.¹²

The Committee was disturbed by the lack of legislation to protect women from violence in Burkina Faso, Tunisia and Uganda. In the case of Tunisia perpetrators of rape may escape punishment if they marry the victim. The delegation said the Government is willing to adopt legislation to prevent rapists from escaping prosecution.

In Uganda, violence against women and girls is the most common crime. The Committee was particularly concerned about impunity for rape because of a pattern of police case files being 'lost', and the delay in adoption of a bill criminalising marital rape. However, Uganda also received praise for its domestic violence act, and family and child protection units.¹³

Protection of particularly vulnerable women

A recurring theme was the obligation of States to protect the rights of particularly vulnerable groups of women.¹⁴ The Committee systematically enquired about the rights of disabled, ethnic minority, and older women, as well as women targeted because of their sexual orientation and gender identity. This was especially evident during the review of Uganda, where women are reported to be victims of serious human rights abuses.¹⁵ The Committee also followed up on NGO information about widespread exclusion of women in Malta due to their sexual orientation, but only received evasive responses from the State.

The marginalisation of ethnic minority women was especially an issue in the Czech Republic, where Roma women are subject to multiple forms of discrimination. The Committee was concerned that current legislation does not adequately address this problem with a view to achieving substantive equality.

The Committee was also alarmed by discrimination against older and disabled women in Burkina Faso and Uganda, who are often excluded from society. Consequently, they are disproportionately affected by poverty, violence, and other human rights violations, and their needs are not adequately reflected in Government policies. The situation of older women in rural areas was also of concern with regard to Tunisia, and the Committee requested further information to be included in the next State report.

Health

All States reviewed face difficulties in regard to women's right to health, particularly in the areas of access to abortion,¹⁶ maternal mortality,¹⁷ HIV/AIDS,¹⁸ mental health,¹⁹ and reproductive health.²⁰ Malta was severely criticised, by Ms Zohra Rasekh and Ms Magalys Arocha Dominguez, for its extremely restrictive stance on abortion.²¹ Committee members stated that high numbers of illegal abortions occur as a result. It asked when the Government of Malta will review its position on the matter. The Committee called on the Government to remove reservations to Article 16 of the Convention, which the Committee said is inconsistent with its practice.²²

address family and children issues.

7 In 2009, treaty body members issued the Dublin Statement on the Process of Strengthening the United Nations Human Rights Treaty Body System, available at <http://bit.ly/g7TEqx>. In November 2010 several NGOs proposed, as part of a comprehensive response to the Dublin Statement, that harmonisation could be improved by adopting joint general comments. See also <http://bit.ly/FFt87>.

8 Burkina Faso seven; Czech Republic six; Malta three; Tunisia four; and Uganda eight.

9 See ISHR's *Human Rights Monitor Quarterly* Issue 3, P. 22. Available at <http://www.ishr.ch/quarterly>.

10 Burkina Faso, Tunisia and Uganda.

11 Czech Republic and Malta.

12 Uganda.

13 These units are available to women and girls at all police stations, to

14 General Recommendation No. 28, para 31, recognises that certain groups of women are particularly vulnerable to discrimination, including 'women deprived of their liberty, refugees, asylum-seeking and migrant women, stateless women, lesbian women, disabled women, women victims of trafficking, widows and elderly women.'

15 See also 'CEDAW: Uganda denies human rights violations faced by LGBT and disabled women', available at <http://bit.ly/eijwED>.

16 Uganda and Malta.

17 Burkina Faso, Malta and Uganda.

18 Uganda, Tunisia and Burkina Faso.

19 Tunisia and Uganda.

20 Czech Republic.

21 Abortion is illegal in Malta, even when there is a risk to the mother's health. Ms Rasekh said this prohibition is something she expects from her own country, Afghanistan, but not a European country.

22 Additionally, the Committee's concluding observations called for Malta

The Czech Republic was criticised for the three-year time limit for victims to claim compensation for forced sterilisation. The Committee insisted compensation and reparation should be given to all victims.

In relation to HIV/AIDS, Burkina Faso made the curious remark that this was becoming a women's health problem because 'women do not know how to negotiate when it comes to intercourse with men'. The Committee recommended in its concluding observations that the State carry out more awareness-raising campaigns to combat the growing HIV/AIDS infection rates.²³

Discriminatory laws

Uganda, Malta and Tunisia all faced criticism over discriminatory laws. The Committee was critical of Uganda's inheritance and marriage laws that currently give priority for inheritance to the eldest child. Additionally, despite recent changes to the marriage law, polygamy is still allowed and is discriminatory as it applies differently to different people depending on their type of marriage.²⁴ Tunisia was also criticised for its discriminatory property and inheritance laws. Despite some reform, these laws continue to disadvantage women, who are only legally entitled to an inheritance if there are no male heirs.²⁵

Committee has mixed reaction to new Working Group

The Human Rights Council recently established a working group of five independent experts on discrimination against women in law and practice.²⁶ The decision was noted with mixed feelings by the Committee. The Chairperson raised concerns this would lead to duplication, undermine the credibility of the Committee, and consume the Secretariat's resources at the expense of the treaty bodies.

These issues were raised during the resolution's negotiations but States seemed to agree the Working Group would complement rather than duplicate the Committee's work.

Traditional values

The adverse impact of traditional values on the enjoyment of human rights by women was another cross-cutting issue of the session.²⁷ This is particularly interesting in light of discussions in the Council, where the Russian Federation initiated a controversial initiative to examine the positive contributions

of traditional values to human rights.²⁸ In the Committee, members consistently addressed certain traditional values as an impediment to the enjoyment of a wide range of human rights within all States under review, regardless of their cultural or religious specificities.²⁹

OTHER DEVELOPMENTS

During the review of the exceptional report on India, Ms Rasekh suggested the Committee visit the country. The Committee deemed the Government had failed to fulfil its obligations under the Convention, and was unrelenting in its calls for just reparation and rehabilitation of victims and an end to impunity. Additionally, the Committee was not impressed with the delegation's attempts to downplay the massacre by calling it a 'sporadic incidence of violence'. It is therefore surprising the Committee's request for a country visit was not followed up in the concluding observations.³⁰

CEDAW members – varying degrees of engagement

Among the most active Committee members are Mr Cornelis Flinterman, one of only two male members, and Ms Ferdous Ara Begum, Ms Nicole Ameline, Ms Pramila Patten, and Ms Dorcas Coker-Appiah. Ms Rasekh made fewer but pointed interventions and was not afraid to tackle contentious issues. While some Committee members covered a wide range of topics, others had specific areas of interest. Ms Saisuree Chutikul focused almost exclusively on trafficking; Ms Coker-Appiah on sexual violence; Ms Meriem Belmihoub-Zerdani on participation of women in the political sphere; and Mr Flinterman on definitions of discrimination in legislation and issues related to sexual orientation and gender identity. Ms Ruth Halperin-Kaddari, Ms Begum, and Mr Flinterman were most receptive to NGO information and asked most questions during NGO briefings. Finally, Mr Flinterman, Ms Chutikul, and Ms Patten all referenced outcomes from the UPR process, and other treaty bodies, namely the Human Rights Committee, CESCR and the Committee on the Rights of the Child (CRC). ■

to remove its reservations to Articles 11, 13 and 15.

23 CEDAW/C/BFA/CO/6.

24 There are four types of marriage in Uganda: customary, church and civil, Muslim and Hindu.

25 The Committee suggested Tunisia remove its reservations to the Convention, particularly to Article 16 regarding equal rights within marriage and the family.

26 A/HRC/RES/15/23. See also ISHR news piece at <http://bit.ly/i7FK9m>.

27 See also 45th and 46th sessions of CEDAW in *Human Rights Monitor Quarterly*, Issues 1 and 3, 2010, available at <http://www.ishr.ch/quarterly/previous-editions>.

28 See ISHR news piece at <http://bit.ly/fkEbjr>.

29 This included the under-representation of women in public and political spheres (Czech Republic and Malta), discriminating inheritance and family laws (Tunisia, Uganda and Burkina Faso), female genital mutilation (Burkina Faso), and reluctance to report incidents of violence (Malta, Uganda and Burkina Faso).

30 CEDAW/C/IND/CO/SP.1.

HUMAN RIGHTS COMMITTEE

Reviews of Belgium, El Salvador, Hungary, Jordan, and Poland



The Committee addressed El Salvador's ineffective recognition of its indigenous peoples

The Human Rights Committee (the Committee) held its 100th session in Geneva from 11 to 29 October 2010, during which it reviewed reports from five countries: Belgium, El Salvador, Hungary, Jordan, and Poland¹. Key themes of the session included the legal status of the *International Covenant on Civil and Political Rights* (the Covenant), discrimination against minority groups, and detention and ill treatment by law enforcement officials.

ENGAGEMENT BY STATES UNDER REVIEW

State delegations demonstrated a general willingness to cooperate with the Committee. El Salvador's delegation² was frank and forthcoming in the dialogue with the Committee but, when more difficult issues were raised, sometimes pointed to the previous administration, in power during the period covered by the report³, as an excuse for lack of progress. The Committee expressed regret that El Salvador had not provided its written replies to the list of issues in time for translation.

Jordan was praised for providing its responses early enough for Committee members to examine them. However, Committee members were critical during the examination of Jordan, asking detailed questions and referring to recommendations made by other UN human rights mechanisms.⁴ All Committee members followed up on their questions, seeming dissatisfied with the quality of responses provided by Jordan's delegation and pressing for more straightforward answers.⁵ The examination suffered due to poor time management by the Committee's chairperson and long-winded responses by the delegation. Jordan's delegation was primarily composed of representatives from the permanent mission in Geneva. Consequently, the examination of implementation of the second half of the articles of the Covenant was skimmed over. Only three of the 11 members of Jordan's delegation were women, which was particularly regrettable as women's issues dominated much of the review.

The Polish and Belgian delegations stood out for being organised, well prepared, and highly competent. The Polish delegation provided a presentation with thorough and direct replies to questions. The Committee praised Poland's detailed written replies and the large and diverse delegation's ability to provide additional information during its dialogue with the Committee.

The Belgian delegation was also large, with 16 representatives from diverse areas of the Government. The representatives' engagement with the Committee was cooperative and constructive. However, the delegation lacked time to respond to all questions during the second round, due to the Committee's focus in the first part on issues such as detention and racism.

The Hungarian delegation of ten individuals demonstrated a willingness to cooperate effectively with the Committee. However, Hungary was criticised for its incomplete written responses to the list of issues, which the Committee called 'unusual

1 All relevant documents for the session are available at <http://bit.ly/dkHHTB>.

2 El Salvador's delegation consisted of six members including the Ambassador to the UN in Geneva, representatives from the Ministry of Foreign Affairs and the General Inspectorate of the National Civil Police, and the Deputy Director of the penitentiary system.

3 El Salvador's 6th periodic report covered the period from 2002 to 2007.

4 The Committee referred to recommendations from the UPR process, the Committee on the Elimination of Discrimination against Women, Committee against Torture, Committee on the Elimination of Racial Discrimination, and the Committee on the Rights of the Child. These references included statements by the mechanisms in which Jordan was criticised for its human rights conditions.

5 The dialogue was also marked by a confrontational discussion on Islam and Sharia law, as it pertains to polygamy and women's rights, between Mr Amor and the delegation.

and unfortunate.⁶ Although the delegation's oral responses were considered 'helpful' and 'straightforward' by the Committee, they were also long-winded, resulting in no time for the delegation to respond to the Committee's second set of questions on issues such as human trafficking, hate crimes and asylum laws.

NGO PARTICIPATION IN THE 100TH SESSION

NGO engagement at the session started off slowly, with only two NGO reports presented to the Committee during the closed formal briefing.⁷ There was no meaningful interaction with the Committee as members did not ask any questions. However, the informal lunchtime NGO briefings, held just before the consideration of each State, were fruitful and the Centre for Civil and Political Rights was instrumental in ensuring this. All meetings were attended by several Committee members, with as many as seven members attending the briefing on Jordan. At the briefings, Committee members listened to short presentations by NGOs, followed up with questions, and engaged in valuable dialogue with NGO representatives. The briefings provided a relaxed and informal atmosphere for NGOs to speak freely and for members to receive additional information a short time before addressing the State delegation.⁸

The results of these meetings were extremely positive for NGOs. Committee members were enthusiastic about the information they received, directly incorporating it into their questions for State delegations.⁹ During the review of State reports, such as that of Jordan, Committee members often referred to NGO reports and materials, using statistics and specific examples to support questions and criticism.

THEMES

Legal status of the Covenant

In its concluding observations, the Committee called on all five States to fully comply with the provisions of the Covenant. In the review of Jordan and El Salvador, the Committee cited cultural factors as impediments to the full implementation of the Covenant and urged the States to revise their legislation in this regard, including Sharia law in Jordan. At Belgium's review, the State referred to the Covenant as a 'pillar' of human rights protection in the country but was not willing

to withdraw its reservations to the Covenant,¹⁰ arguing reservations were in accordance with its federal constitution. Hungary announced it was in the process of redrafting its constitution and said it would incorporate relevant international human rights provisions, including from the Covenant. However, the Committee pointed to a number of other areas where Hungary falls short of complying with the Covenant, such as the absence of legislation to regulate hate speech and its anti-terrorism legislation. Although Poland said the Covenant has primacy over domestic laws and is used in courts, Committee members pointed to a number of areas where the State has failed to implement the Covenant in practice, notably equal treatment regardless of sexual orientation.

Abortion and violence against women

The Committee was alarmed by the practice in Jordan of placing women at risk of violence, in involuntary 'protective' custody.¹¹ However, it welcomed the fact that 'heat of passion' is no longer a mitigating circumstance in cases of 'honour killings'.¹² Poland said reducing domestic violence was a Government priority, and the Committee welcomed the adoption of new laws and programmes on domestic violence.¹³ However, the Committee remained concerned about high rates of discontinued criminal proceedings.¹⁴

With Poland having one of the most restrictive anti-abortion laws in Europe, it came under intense scrutiny by the Committee, which noted the practice of illegal abortion is thriving in the country.¹⁵ El Salvador's equally rigid position on abortion invited particular criticism from Committee members, not least due to the heavy prison sentences the crime carries. Mr Fabián Omar Salvioli, in particular, reproached the State for violating international human rights standards with its policies on abortion. The Committee urged the State to reform its legislation, to allow for exceptions in cases of therapeutic abortion and pregnancy due to rape or incest.

Discrimination against minority groups

The Committee addressed El Salvador's ineffective recognition of its indigenous peoples. The delegation admitted previous

⁶ These comments were made by Mr O'Flaherty.

⁷ A representative of Citizen Working Group on the Decriminalization of Therapeutic, Eugenetic and Ethical Abortion, Madre, IPAS, and Women's Link Worldwide discussed criminalisation of abortion and the devastating effect it has on women in El Salvador. Additionally, the Centre on Housing Rights and Evictions presented a report on Roma people in Bulgaria.

⁸ Discussions were held in Spanish for El Salvador and Arabic for Jordan, facilitating the informal and comfortable atmosphere. NGO members also provided unofficial translations for Committee members not fluent in those languages.

⁹ For example, Mr Salvioli, Mr Amor and Mr El-Haiba used information from the NGO briefing on El Salvador during the dialogue with the State.

¹⁰ Belgium's reservations to the Covenant include Article 10, paragraphs 2 (a) and 3 with respect to prison conditions; Article 14 paragraphs 1 and 5 with respect to judicial processes; Article 19 with respect to freedom of expression; Article 21 with respect to freedom of assembly; and Article 22 with respect to freedom of association.

¹¹ Under the provisions of the Law on Crime Prevention.

¹² An amendment of the Criminal Code in 2010 ensures perpetrators of honour killings can no longer benefit from mitigating circumstances.

¹³ New laws on domestic violence were promulgated in 2005 and the Government introduced a national programme to prevent domestic violence in 2006.

¹⁴ There is a growing tendency among State prosecutors to either refuse to instigate, or to discontinue criminal proceedings, as the Code of Criminal Proceedings allows for this in cases where the 'act does not possess the qualities of a prohibited act (...) or when it causes minimal social harm'.

¹⁵ According to the Federation for Women and Family Planning, an estimated 150,000 women have clandestine abortions every year in Poland.

census methodologies had resulted in 'statistical genocide', and shared plans to expand indigenous rights through the creation of the First National Congress of Indigenous Peoples.¹⁶ During its review of Jordan, the Committee expressed concern regarding the requirement that individuals indicate their religion on State identification cards, and that persons belonging to the Baha'i community could not identify as such and were forced to identify as Muslims. The delegation claimed the practice of identifying one's religion was a point of pride for all religious and ethnic minorities.

The Committee called on Hungary and Poland to tackle the longstanding and widespread discrimination against the Roma minority, as well as rising anti-Semitism. The Committee welcomed Hungary's adoption of the 'Decade of Roma Inclusion' initiative, promoting social integration of the Roma people. However, it pointed to the lack of monitoring systems and reliable statistics¹⁷ recording racially motivated crimes, as well as ineffective legislative prohibitions¹⁸ to combat racial discrimination. The increased incidence of anti-Semitic, Islamophobic and racist acts was similarly alarming in Belgium. The Committee acknowledged that, while the relevant legislation is in place, it has been insufficient in addressing the situation, which appears to be worse than in other European countries.

Detention and ill-treatment by law enforcement officials

Belgium came under intense scrutiny regarding excessive use of force by police officers and the misuse of the administrative

detention law, which was the dominant source of complaints by NGOs. Preventative arrests and the use of tasers as a pre-emptive measure prompted much discussion. The increasingly widespread practice of detaining asylum seekers and undocumented migrants was one of the principal areas of criticism put to Hungary and Poland. The Committee also cited reports of overcrowding and poor conditions in detention facilities in Belgium, Hungary and Poland. All States concerned assured the Committee plans were underway to increase prison capacities.

Regarding Jordan, the Committee discussed the absence of independent complaint mechanisms for cases of torture and the low number of prosecutions of such cases. The delegation attempted to address the Committee's concerns, with figures on the prosecution of officials suspected of ill treatment, and said prison visits are undertaken regularly by the Public Prosecutor. In its review of El Salvador, the Committee referred to unimplemented recommendations made by other treaty bodies, mainly the Committee against Torture, the Committee on the Rights of the Child, and through the universal periodic review. The delegation provided information on policies intended to strengthen training programmes and tighten oversight of the activities of police and armed forces, aimed at preventing violations of the Covenant.

OTHER DEVELOPMENTS

The Committee completed its first reading of the draft General Comment No. 34 on Article 19 of the Covenant, which protects the right to freedom of opinion and expression.¹⁹ The Committee will consider comments on the draft at its second reading, scheduled to take place during the Committee's next session, from 7 to 25 March 2011 in New York.²⁰ NGOs and other interested parties may submit comments on the draft to the Committee by 30 January 2011 at ccpr@ohchr.org.

16 The Congress will serve as a mechanism for indigenous people to present and propose a unified agenda to the State regarding issues such as their culture and independence, and encouraging further dialogue between indigenous peoples and the State.

17 One of the experts was unsatisfied with the State's explanation that data on racist violence wasn't aggregated for reasons of privacy protection, saying 'the balance has swayed too much towards privacy at the expense of human rights'.

18 The Committee noted with concern that the Commissioner on Human Rights did not deal with breaches of Roma rights, as they came under civil and political rights. It also noted the lack of references to Roma rights in the constitution.

19 For more information, see <http://bit.ly/fwsxjU>.

20 The draft General Comment is available at <http://bit.ly/cJiard>.

Facts about the Committee

Number of members:	18
Sessions:	Three times a year for sessions of three weeks' duration (normally in March in New York and in July and November in Geneva). The Working Group on Communications meets one week prior to the Plenary.
Treaties it covers:	International Covenant on Civil and Political Rights (Signatories: 72. Parties: 167); Optional Protocol to the International Covenant on Civil and Political Rights (Signatories: 35. Parties: 113); Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Signatories: 35. Parties: 73).
General Comments:	33. General Comment 34 on freedom of expression is currently being drafted (see http://bit.ly/iaqJeL).
NGO participation:	NGOs can be involved through consultations regarding preparation of State reports, and through submission of NGO reports in relation to adoption of the List of Issues and the actual examination. Involvement is also permitted during the general days of discussion, and in the follow up procedure. For more information, refer to http://bit.ly/dB7B73 and http://bit.ly/gEMdPs . ■

COMMITTEE AGAINST TORTURE

Reviews of Bosnia and Herzegovina, Cambodia, Ecuador, Ethiopia, Mongolia, and Turkey



Photo: Maistora

The Committee against Torture (the Committee) held its 45th session in Geneva from 1 to 19 November 2010. During the session the compliance of six¹ State parties with the *Convention against Torture, and other cruel, inhuman or degrading treatment or punishment* (the Convention) was considered: Bosnia and Herzegovina, Cambodia, Ecuador, Ethiopia, Mongolia, and Turkey. The Committee also adopted lists of issues prior to reporting for 36 State parties,² in accordance with the Committee's new optional reporting procedure, as well as a standard list of issues for the May 2011 session.

Generally, the States examined expressed appreciation for the opportunity to engage in a frank and constructive dialogue with the Committee. However, the delegation of Turkey criticised the Committee's working methods and new reporting procedure.³ The Committee regretted the reports of Cambodia, Ethiopia and Mongolia lacked statistical and practical information on the implementation of the Convention and that they were submitted with significant delay.

While the delegations of Cambodia, Ethiopia and Turkey were composed entirely of men, Ecuador had the highest representation of women (six out of nine) and Bosnia and Herzegovina had the largest delegation (ten members).⁴

NGO AND NHRI PARTICIPATION

The Committee received numerous reports from non-governmental organisations (NGOs). On both Ethiopia and Turkey eight reports were submitted, while Ecuador had the least with four reports.⁵ Only one national human rights institution (NHRI) from Bosnia and Herzegovina submitted a report, and none presented before the Committee.

As is general practice, several civil society briefings were held during the session and the number of NGOs that participated varied from one to three for each State under review. Numerous issues were taken up by the Committee as a result of information provided by NGOs. These included witness protection and reparations; a lack of awareness among judges about the Convention, refugee protection and lack of legal aid; low penalties for torture leading to impunity; lack of access to monitor places of detention; treatment of lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals; and the death penalty.⁶

A new and positive development at this session was that the Committee invited the International Rehabilitation Council for Torture Victims (IRCT), an NGO, to conduct a thematic briefing on the Istanbul Protocol, an internationally recognised tool for legal and health professionals to document torture.

1 The decision to review six instead of seven States per session was made during the Committee's 44th session, to resolve concerns about time constraints.

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

3 Turkey complained it was not informed in advance of the questions the Committee intended to discuss and that the delegation only had a night to prepare responses to the Committee's oral questions.

4 The delegations also varied in their composition. For both Ecuador, and Bosnia and Herzegovina the delegations were high level and included representatives of ministries with specific knowledge of the issues covered. Both Cambodia and Ethiopia sent delegations composed predominately of representatives of the Ministry of Foreign Affairs and the permanent mission in Geneva, who did not have the required knowledge to engage effectively with the Committee.

5 All of the reports are available at <http://bit.ly/aAL6nj>. Interestingly, the majority of these reports came from international NGOs. Only Mongolia had two reports from national NGOs, with the rest of the States reviewed having just one.

6 Bosnia and Herzegovina, Cambodia, Ecuador, Ethiopia, and Mongolia, respectively.

OTHER DEVELOPMENTS

During the 45th session four State reports were examined according to the new reporting procedure – under which the periodic State report is replaced by the State's written replies to an advance list of questions.⁷ The new reporting procedure places a heavy burden on the Committee, which will hopefully be slightly alleviated with the recent approval of an extra week of meetings per session.⁸

Having reviewed a total of 101 State reports at the end of this session it was interesting to hear Ms Gaer, Rapporteur for follow up, outline the top recommendations made by the Committee and state her belief that the follow up procedure had been successful. Her research showed the top three recommendations to States are to ensure prompt effective and impartial investigations, to prosecute or sanction perpetrators of torture or ill-treatment, and finally, to provide legal safeguards for persons in custody. Disappointingly, due to staff changes in the Office of the High Commissioner for Human Rights there had been no follow up to the Committee's views on past individual communications.

THEMES

Legal framework

The lack of a definition of torture, or a definition inconsistent with the Convention was discussed with each State. All concluding observations, with the exception of those on Turkey, recommended the State harmonise its definition with Article 1 of the Convention. Another issue addressed with many States was the use of very lenient sentences for torture. In relation to Mongolia, the Committee said a few months or up to two years imprisonment was not commensurate with the crime's gravity. Of concern regarding Turkey, was the statute of limitation of 15 years for the crime of torture, which the Committee did not accept.

Broader legal issues were also discussed, including problems related to anti-terror laws in Ethiopia and Turkey. Ethiopia was criticised for introducing a law that restricts the amount of foreign donations NGOs may receive to just ten percent of their annual budget. This restriction considerably hampers the ability of NGOs to work effectively and independently.

Detention

Detention conditions was a recurring issue with every State. Overcrowding in places of detention was noted by the Committee as presenting a threat to the safety, physical and psychological integrity, and health of detainees. In order to reduce prison overcrowding it was recommended that Cambodia, Turkey, Ethiopia, and Ecuador use alternative

non-custodial forms of punishment. In the examinations of Turkey, Mongolia, and Bosnia and Herzegovina the use of solitary confinement for prisoners was a concern. Mr Xuexian Wang⁹ said solitary confinement can only be used as a measure of last resort, for as short a time as possible and under strict supervision.

Access to legal safeguards and monitoring of places of detention

Failure to afford all detainees with all fundamental legal safeguards from the outset of their detention was a common issue across most States reviewed.¹⁰ States were called on to provide detainees with the possibility of lodging complaints, through an independent and effective law enforcement complaint mechanism empowered to receive and investigate allegations of torture and ill-treatment by police and other law enforcement officials.¹¹ Cambodia has ratified the Optional Protocol to the Convention (OPCAT). Accordingly, the State has established a National Preventive Mechanism (NPM), which the Committee recommended be brought in line with OPCAT. Turkey has signed but not ratified OPCAT. The Committee's recommendation that Turkey formally allow access to places of detention for civil society actors could have been more specific. Although Ethiopia has not signed OPCAT, the Committee recommended the State establish an equivalent monitoring mechanism.

Asylum seekers and refugees

Issues regarding status of asylum seekers and refugees,¹² extradition and deportation¹³, and human trafficking¹⁴ were discussed throughout the session. Of particular interest was whether asylum seekers and refugees who had been denied refoulement protection could appeal the decision¹⁵ and whether States took into account a history of torture in the State to which an individual was being returned.¹⁶ The deportation of 20 Uighurs from Cambodia to China just two days after Cambodian authorities, not UNHCR which is usual practice, signed a sub-decree terminating their refugee status, received particular attention. The Committee also enquired

⁷ Bosnia and Herzegovina, Cambodia, Turkey and Ecuador. For an explanation of the new reporting procedure see <http://bit.ly/i3Ww60>.

⁸ Extra meeting time has been approved for 2011 and 2012, when sessions will be increased from three to four weeks.

⁹ Although Mr Wang appeared strong on this issue he was silent more often than not during the session and typically left the hard questions up to his fellow Committee members. There are two members on the Committee who are current representatives of their governments, Mr Gallegos Chiriboga and Mr Wang, which on a Committee of only ten people is a concerning trend.

¹⁰ Cambodia, Ethiopia, Ecuador, Mongolia, and Turkey. Such safeguards comprise: a) the rights of detainees to be informed of the reasons for their arrest, including of any charges against them; b) to have prompt access to a lawyer and, when needed, to legal aid and to an independent medical examination; c) to notify a relative; d) to be brought promptly before a judge; and e) to have the lawfulness of their detention reviewed by a court, in accordance with international standards.

¹¹ Bosnia and Herzegovina, Cambodia, and Mongolia.

¹² Turkey and Ecuador.

¹³ Ecuador, Mongolia and Ethiopia.

¹⁴ Cambodia, and Bosnia and Herzegovina.

¹⁵ Mongolia, Turkey, Bosnia and Herzegovina, and Ecuador.

¹⁶ Cambodia, Bosnia and Herzegovina, and Ethiopia.

into Cambodia's post extradition monitoring and what protections are in place for asylum seekers and refugees.

Impunity

Ending impunity is essential in combating torture and ill-treatment. The Committee focused on the quality of investigations but also more specifically on lack of witness protection, restrictions on legal aid and, in the case of Cambodia, a new NGO law.¹⁷ On a related issue, the Committee strongly criticised the use of counter charges such as 'defaming the police' or 'insulting Turkishness' to dissuade victims from pursuing torture cases in Turkey. The Committee suggested to Ecuador that the country review its methodology for collecting the number of torture cases, as the discrepancies between State and NGO information were significant. Turkey was urged to apply the appropriate provision in the penal code when sentencing perpetrators of torture to address a continuing culture of impunity.¹⁸

Reparation

The lack of effective and adequate means for victims of torture and ill-treatment to obtain justice in Mongolia was a concern, and the Committee recommended the State enact comprehensive legislation that includes torture as a basis for compensation.

The reviews of Ecuador, Ethiopia and Turkey highlighted the lack of information and statistical data on reparations and social rehabilitation services provided to victims, as required by Article 14 of the Convention. In light of this, the Committee requested information on redress and compensation measures ordered by the courts and provided to victims of torture or their families.¹⁹ Of concern in Cambodia was the inconsistency of the Internal Rules of the Extraordinary Chambers in the Courts²⁰ with Article 14 of the Convention, which only provide for moral and collective reparation, precluding individual financial compensation.

In Bosnia and Herzegovina the Committee was concerned at the slow process of adopting the draft law on the rights of victims of torture and the absence of an adequate definition in law of the rights of civilian war victims.

Vulnerable groups

Throughout the session particular attention was given to the rights of persons with disabilities and the problem of violence against women and children, including domestic violence. Concern was expressed that Mongolia and Ethiopia had not yet criminalised marital rape and sexual harassment, and that women who were victims of sexual violence did not have access to redress and immediate protection.

Of particular concern was the growing numbers of reported rapes of women and girls,²¹ and the high number of children reported as being in detention due to the lack of alternatives to imprisonment.²² In particular, Turkey was questioned regarding the treatment of juveniles arrested under anti-terror legislation in reference to a report by Human Rights Watch.²³

CONCLUSION

While the Committee covered a broad range of important issues during the session, it is worth highlighting some of these due to their emerging importance in the work of the Committee. The Committee's attention to the situation of vulnerable groups creates overlaps with other treaty bodies, causing States to challenge the mandate of the Committee to address the issues. Another increasingly important issue was the use of various 'legal' means of reprisals and harassment of NGOs and persons bringing accusations of torture. The use of counter charges to dissuade persons from reporting torture and the adoption of laws preventing the independent functioning of NGOs are particularly worrying trends. In November 2010 several NGOs proposed, as part of a comprehensive response to the Dublin Statement, that harmonisation of the work of overlapping treaty bodies could be improved by adopting joint general comments.²⁴ Furthermore, protection of victims and persons working with torture cases seems to be high on the agenda of the Committee, as evidenced by recent concluding observations on Yemen and Ecuador.²⁵ ■

17 This new law appears to threaten the protection of human rights defenders from reprisals.

18 Allegations of torture are often tried under Article 256 or 86 regarding excessive use of force or intentional injury, instead of under Articles 94 or 95 which specifically reference torture. As a result the sentences for perpetrators are not commensurate to the gravity of the crime.

19 Ethiopia. This information should include the number of requests made and of those granted and the amounts ordered and actually provided in each case.

20 The Extraordinary Chambers in the Courts of Cambodia, commonly known as "Khmer Rouge Tribunal", is a national court established following an agreement between the Royal Government of Cambodia and the United Nations to try senior members of the Khmer Rouge for serious violations of Cambodia penal law, international humanitarian law and custom, and violations of international conventions recognised by Cambodia, committed between 17 April 1975 and 6 January 1979.

21 Cambodia and Ethiopia.

22 Turkey and Cambodia: other issues raised by the Committee were detention facilities available for persons with disabilities (Ethiopia), the rights enjoyed by disabled persons and indigenous peoples (Cambodia, and Bosnia and Herzegovina), and violence against vulnerable groups, such as lesbian, gay, bisexual, and transgender, and intersex (LGBTI) persons, those with HIV/AIDS and/or mental disabilities (Mongolia).

23 Report available at <http://bit.ly/fgGtml>.

24 See <http://bit.ly/ffFt87>

25 CAT/C/YEM/CO/2/Rev.1 §32 and CAT/C/ECU/CO/4-6 §12.

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Reports of Dominican Republic, the Netherlands, Uruguay, Sri Lanka, and Switzerland reviewed



Photo: Dennis Hurd

Tea plantation workers in Sri Lanka

The Committee on Economic, Social and Cultural Rights (the Committee) held its 45th session in Geneva from 1 to 19 November 2010. The Committee reviewed reports from the Dominican Republic, the Netherlands, Uruguay, Sri Lanka, and Switzerland.¹

Significant themes of the session included the legal status of the *International Covenant on Economic, Social and Cultural Rights* (the Covenant), the principle of non-discrimination, the right to work, and the right to a decent standard of living.

ENGAGEMENT BY STATE PARTIES

Each State report was examined by the Committee over three meetings of three hours. The Committee members, most of whom were active throughout the dialogues, raised questions regarding the implementation of the Covenant and followed up on unanswered questions. There appeared to be an allocation of themes, whereby each member focused on a section of the Covenant, i.e. health, social security, education, and culture.

The review of Uruguay was frank and constructive, thanks to the openness of the delegation² in providing answers and acknowledging existing problems. The Committee was appreciative of the State's written replies to the list of issues as well as the information provided prior to the dialogue. Regarding the Dominican Republic, Mr Jaime Marchan Romero regretted the 11-year delay in the submission of the report, and the late submission of the written replies to the list of issues, which was not translated from Spanish in time for the review. The members' active participation in the discussion, along with the multi-faceted and updated information provided by the delegation,³ resulted in a dynamic exchange.

The Committee praised the comprehensive information contained in the report of Switzerland⁴ as well as the detailed written replies to its list of issues. It also commended the delegation⁵ for having provided direct oral responses. Nevertheless, the Committee was concerned about the extent to which its previous concluding observations (from 1998) had been implemented. The Committee also stressed that the federal Government is the State party and not the cantons. Many questions were raised by the experts, who said this was mainly due to 'higher expectations from Switzerland as the home-base of the UN human rights system'. The active participation of the Committee members, coupled with the delegation's diverse areas of expertise, resulted in an open and interesting dialogue.

The review of Sri Lanka was tense, due to the defensive stance taken by the high-level and male-dominated delegation,⁶ the limited information available in the State report (submitted with a 15-year delay) and the selective responses to the list of issues.⁷

1 All documents related to the session are available at <http://bit.ly/9EDIG0>.

2 The Uruguay delegation was small and male-dominated (one woman, four men).

3 List of delegates for the Dominican Republic, available at: <http://bit.ly/i3bCNR>.

4 Several Committee members said Switzerland's report is 'among the best reports submitted so far'.

5 List of delegates for Switzerland, available at: <http://bit.ly/g3z1AY>.

6 List of delegates for Sri Lanka, available at: <http://bit.ly/fWLUXM>.

7 Only half of the list of issues was answered. Mr Eibe Riedel, the Rapporteur on Sri Lanka, expressed disappointment regarding the incomprehensive State report, and requested a treaty-specific report in the future. Mr Jaime Marchan Romero called upon the State to consult with civil society organisations for the next periodic report.

Many questions were raised, with several issues including sexual and reproductive health being followed up repeatedly due to the inadequate responses provided by the delegation. On the final day, the delegation proposed it could submit its next periodic report within a shorter period than the normal four years.

The Netherlands had the largest delegation (30 members), consisting of four heads of delegation, and representatives from constituent countries: the Netherlands, and the newly independent Aruba, Curaçao, and Saint Marten. The Committee appreciated the succinct oral responses provided during the review, but regretted the report's inadequacy in coverage and the late submission of Aruba's report. The well-organised participation of a delegation with diverse expertise in the dialogue, and the experts' direct questions, led to a dynamic, substantive and interactive dialogue.

NGO PARTICIPATION

The Committee held an open meeting with NGOs on the first day of the session. Two NGOs from the Netherlands, and four NGOs from Switzerland were present. The Netherlands' NGO representatives and the Committee members engaged in an active dialogue. The meeting was well organised, but the absence of NGOs from Uruguay and the Dominican Republic was noted as unfortunate. Committee members were also active during the NGO lunchtime briefing on Sri Lanka, asking many questions.

NGOs also submitted reports concerning specific countries: three NGO reports for the Netherlands, five for Switzerland, two for Uruguay, two for the Dominican Republic, and three for Sri Lanka.⁸ NGOs organised an informal lunchtime briefing with Committee members to discuss their reports, and ten of the 18 members attended.

MAIN THEMES

Legal status of the Covenant

In its concluding observations, the Committee urged all five States examined to fully incorporate the Covenant into their domestic legal systems to ensure the equal enjoyment of economic, social, and cultural rights by all individuals and groups. The Committee expressed frustration at Switzerland's somewhat ambivalent commitment to the Covenant, which was seen to be 'second-class' compared to the *International Covenant on Civil and Political Rights*, and as merely setting out 'social aims' rather than justiciable obligations.

Other relevant issues raised by the experts included lack of clarity regarding the status of the Covenant in the domestic legal system (Uruguay); and limited knowledge of the Covenant's provisions in the State, some of which are justiciable before the courts but rarely invoked (Dominican Republic and Sri Lanka). The Committee repeatedly mentioned the overall lack of detailed disaggregated data, inter alia, by age, sex, urban/rural

population, and socio-economic background in the reports, which hampered its ability to evaluate implementation.

Principle of non-discrimination

Throughout State reviews, the Committee highlighted issues relating to vulnerable groups, namely children, people with disabilities, minorities, migrant workers, refugees, asylum seekers, and internally displaced persons (IDPs). During the review of Uruguay, the socio-economic marginalisation of people of African descent, discrimination based on sexual orientation, and de facto discrimination against children born out of wedlock were raised. The Committee also noted the lack of access to employment for people with disabilities.

Other areas of concern included de facto discrimination⁹ against Haitians and Dominicans of Haitian descent, particularly those living and working in bateyes¹⁰ in the Dominican Republic; discrimination against migrants, undocumented persons, and people with disabilities; health, education, and employment; and rising xenophobia in Switzerland and the Netherlands. The upcoming 'popular vote' in Switzerland¹¹ on the expulsion of foreign criminals was questioned. The length of detention for asylum-seekers and unaccompanied minors in the Netherlands, and the lack of access of undocumented migrants to shelter, healthcare and education were also raised. Widespread attacks against human rights defenders in Sri Lanka, along with the socio-economic marginalisation of Vedda¹² and tea plantation workers, and stigmatisation of people with disabilities were questioned by the Committee.

Issues relating to women's rights, namely domestic violence, sexual harassment at work, and enduring discrimination in different areas were highlighted in each State review. The Committee expressed serious concern regarding: persistence of patriarchal tradition, Sharia law allowing early marriage for girls as young as 12, and tolerance of harmful cultural practice such as marital rape under the pretext of 'cultural sensitivity' in Sri Lanka; stringent Swiss laws that make it difficult for migrant women to leave abusive marriages and the continued practice of forced marriage; forced pregnancy tests in free trade zones as a pre-condition for employment in the Dominican Republic; the prohibition of re-marriage within 300 days of the dissolution of marriage and 'public decency' laws in Uruguay; and 'honour crimes' and an alarming rate of domestic violence in the Netherlands.¹³ Finally, the Committee criticised intersectional discrimination against women, particularly in the case of migrant workers (Switzerland and the

8 List of NGOs who submitted reports available at: <http://bit.ly/euer5v>.

9 The delegation repeatedly denied the existence of any discriminatory policy.

10 The delegation responded that the experts' image of the conditions in bateyes (sugar industry) is out of date.

11 On 28 November 2010, 53 percent of Swiss voters supported this initiative.

12 Indigenous people of Sri Lanka.

13 Referring to the Dutch NGO coalition's statistics, which show a third of women in the country suffer from domestic violence. The delegation said the figure reflects the fact that verbal abuse is considered domestic violence.

Netherlands) and ethnic minorities (Uruguay, Dominican Republic and Sri Lanka).

Right to work

The influx of migrant workers, their rights, and the working conditions of undocumented migrants, were raised with the Dominican Republic, the Netherlands and Switzerland. The Netherlands said it does not have a specific policy towards migrant workers as they are treated as citizens, but admitted this did not apply to undocumented migrants. Forced labour by children and Haitian workers in the Dominican Republic was also discussed. The State delegation rejected the existence of forced labour by Haitian workers. In the case of labour forced on children, the delegation provided a cultural justification, claiming what is perceived as 'child labour' by some, is part of parents' endeavor to educate their children.

The issue of informal workers, including women providing childcare and cleaning services, was raised by Committee members, who said informal workers do not have the same rights as other workers in the Dominican Republic and the Netherlands. Additional concern was expressed for the extremely high unemployment amongst women and youth in the Dominican Republic, Uruguay and Sri Lanka.

Right to a decent standard of living

The issues raised concerning the implementation of the right to a decent standard of living varied hugely between States examined. For Uruguay and the Dominican Republic, the problem of extreme poverty resulting in high rates of homelessness, and a lack of basic facilities and sanitation, was raised. The experts also commented on the post-conflict situation in Sri Lanka and unfavorable conditions in the IDP resettlements (in terms of sanitation and basic housing). In response the delegation attempted to highlight the improvements made so far.

Switzerland was criticised for the different minimum wages across cantons, with eight percent of families in the country

with three or more children living below the national poverty line. In addition to highlighting inequitable income distribution in the Dominican Republic, the Committee said the minimum wage was inadequate. The delegation responded by acknowledging the problems within the complicated minimum wage calculation system. The Committee also requested additional statistics on homeless children in Uruguay.

The poor conditions in which asylum seekers are held in Switzerland, while their asylum applications are considered, was raised. Mr Zdzislaw Kedzia requested more disaggregated data on asylum seekers in the Netherlands, as none were provided in the State's report or presentation.

OTHER DEVELOPMENTS

The Committee held a 'Day of General Discussion' on the right to sexual and reproductive health in preparation for the formulation of a general comment on the topic.¹⁴ Diverse viewpoints were expressed by the experts, State representatives, NGOs, and other participants during the panel debates, particularly concerning the sensitive topic of legalisation of abortion and the Covenant's application to this issue.

Moreover, coinciding with World Toilet Day (19 November), the Committee issued a statement on the right to sanitation,¹⁵ referring to sanitation as a 'largely neglected topic'. The statement was strongly supported by Ms Catharina de Albuquerque, the UN's Independent Expert on water and sanitation.¹⁶ During its pre-sessional working group, the Committee adopted the lists of issues for Cameroon, Estonia, Germany, Israel, and Turkmenistan. ■

14 Ms Rocío Barahona-Riera, one of the Committee members, is the Rapporteur for the formulation of the new general comment. For more information see <http://bit.ly/fwGXU9>.

15 The 'Statement on the Right to Sanitation', available at <http://bit.ly/fk19GO>.

16 For more information about the Independent Expert, see <http://bit.ly/ahPOpj>.

Facts about the Committee

Number of members:	18
Sessions:	Two sessions per year (usually held during May and November in Geneva)
Treaties it covers:	International Covenant on Economic, Social and Cultural Rights (Signatories: 69. Parties: 160); Optional Protocol to the Covenant (Signatories: 35. Parties: three).
General Comments:	21 (see http://bit.ly/gPjHzj)
NGO participation:	NGOs are involved in an open meeting on the first day of the session, and can submit their own reports in relation to the adoption of the List of Issues and the actual examination. Involvement is also permitted during the general days of discussion, and in the follow up procedure. NGOs may also participate in an open meeting held during the 'Pre-sessional Working Group', which adopts the list of issues for States considered at the following session.

THEMATIC FOCUS

MILLENNIUM DEVELOPMENT GOALS SUMMIT P. 30

MILLENNIUM DEVELOPMENT GOALS SUMMIT

An opportunity lost to align development goals with human rights standards?



Photo: UN/Kibae Park

The 2010 General Assembly high-level segment was devoted to assessing progress towards the realisation of the Millennium Development Goals (MDGs).¹ Member States unanimously agreed to these eight goals in 2000 when world leaders came together at UN headquarters to adopt the UN Millennium Declaration. With only five years remaining before the 2015 deadline for achievement of the MDGs, the high-level segment (or MDG Summit) was intended as a way of taking stock, identifying gaps, and agreeing on concrete strategies for action. The Secretary-General's report, *Keeping the Promise*, called for a new pact to accelerate progress, and provided a basis for negotiation amongst States.² Negotiations, which provided limited opportunities for NGO input, began in June 2010 and were finalised by States in early September. The Outcome Document was formally adopted by the General Assembly on the final day of the MDG Summit (22 September 2010).

There were several early signs the Outcome Document from the Summit would disappoint human rights defenders. For example, human rights organisations were critical of the minimal and very general references to human rights in the first draft (called the 'zero draft') of the document that was released in June.³ The concerns were shared by the High Commissioner for Human Rights, who made critical remarks at a public roundtable event in New York on 1 July 2010. According to her analysis of the negotiations, it was evident States were treating human rights as 'a complicating factor, rather than the guiding principles for the international community's actions'. She reminded States that a human rights-based approach 'demands a long overdue alignment of the MDGs with human rights standards'. She suggested the principles of non-discrimination, meaningful participation and accountability, should 'permeate and inform each and every MDG'.

NGO INPUT AND RECOMMENDATIONS

NGO input into the MDG review process was through informal channels, and their messages were filtered and consolidated by the UN Secretariat. The main entry point to influence the negotiations was NGO participation at the 'informal interactive hearings' at UN Headquarters on 15-16 June 2010.⁴ However, the ability to make statements during the hearings was restricted to 46 invited representatives of NGOs in consultative status with the Economic and Social Council (ECOSOC), other civil society organisations, and the private sector. Many of the 500 plus NGOs and civil society organisations who were present as observers were disappointed by the poor attendance of Member States at the hearings. They interpreted this as an indication of States' low level of interest in the messages from civil society.

The President of the General Assembly produced a summary of the NGO hearings to 'assist Member States' in their preparations of the Summit.⁵ It emphasised the view among NGOs that human rights are at the core of the MDGs. NGOs made a number of recommendations to the General Assembly, which were reflected in the President's summary, including that States should:

- 1 The MDGs focus on reducing extreme poverty, improving health and education, and environmental sustainability, to improve the lives of the world's poorest populations. More information is available at www.un.org/millenniumgoals/.
- 2 The report was released in March 2010, and is available at <http://bit.ly/f4TsX6>.
- 3 The 'zero-draft' is available at <http://bit.ly/hTILzH>.
- 4 In addition, the UN's Non-Governmental Liaison Service (NGLS) organised a global online civil society consultation in advance of the hearings. More than 160 organisations took part in these consultations. NGLS prepared a compilation report of these contributions entitled *Toward a Global MDG Breakthrough Plan*, which was condensed into an executive summary that was distributed to all Member States as a Conference Room Paper during the hearings. More information is available at <http://bit.ly/hWmbxy>.
- 5 The President's summary of the informal hearings is available at <http://bit.ly/hWmbxy>.

- Strengthen the role of existing national and international human rights accountability mechanisms so they can monitor and hear complaints on human rights violations. Governments should report on their MDG performance to such bodies and comply with their decisions
- Ratify the optional protocols to human rights treaties, especially the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of Discrimination against Women
- Report on national and international implementation of the MDGs in their reports to the universal periodic review (UPR) process and the UN human rights treaty bodies
- Guarantee the full and effective participation of civil society organisations in the design, planning, implementation and monitoring of all MDG-related programmes and policies
- In the immediate future, undertake a gender and social exclusion-based audit of the MDGs in full cooperation with civil society

The MDG Summit was held at UN Headquarters in New York from 20 to 22 September 2010. Due to attendance by Heads of State and Government, security was extremely tight. NGO access to the Summit was limited to a handful of representatives who were officially invited to participate in the six informal roundtable discussions.⁶ There was no NGO participation in the General Assembly plenary discussions that were held concurrently with the roundtables. On the final day of the Summit, the General Assembly adopted the Outcome Document, *Keeping the Promise: United to Achieve the Millennium Development Goals*.⁷ The Summit also provided an opportunity for UN Secretary-General Ban Ki-moon to launch the Global Strategy for Women's and Children's Health, a worldwide effort by Heads of State and Government, the private sector, foundations, international organisations, civil society, and research organisations to accelerate progress on women's and children's health.⁸

NGO REACTIONS TO THE SUMMIT OUTCOME DOCUMENT

Overall, NGOs have expressed disappointment about the MDG Outcome Document. Most regard the MDG Summit as a critical opportunity lost, as it failed to firmly anchor the MDGs in the international human rights framework. According to Amnesty International, 'States spent precious time in negotiations fighting over whether human rights obligations they signed up to 40 years ago should even be referenced' in the Outcome Document.⁹ Even where there is direct reference to the international legal framework, such as the human rights to food, education and health,¹⁰ States commit to achieving a

range of improvements, rather than to taking concrete steps that would ensure a human rights-based approach to their national and international development activities.

One of the most common criticisms of the Outcome Document is its lack of concrete commitments to specific actions States will take to achieve the MDGs. Some have labelled it an 'inaction agenda'.¹¹ For example, although there is a general recognition of the need for all States to improve their collection of disaggregated data to monitor progress towards the MDGs,¹² much of the responsibility for work in this area has been shifted to the UN's Global Pulse Initiative.¹³ Also missing from the Outcome Document is guidance to States about the specific groups and kinds of vulnerabilities that should be targeted in their data collection processes. In contrast, the UN treaty bodies have repeatedly recommended to States that the collection and analysis of disaggregated data is a core element of their legal obligation to measure progress and report on their compliance with the international treaties they have ratified.

The strongest references to human rights in the Outcome Document are in the section dealing with gender equality and women's empowerment. Paragraph 72 is the only instance in the Outcome Document where States explicitly referred to relevant international human rights treaties, namely the Convention on the Elimination of Discrimination Against Women and the Convention on the Rights of the Child. Other positive language in respect of women's human rights is the commitment by States to strengthen national laws, policies and programmes designed to prevent violence against women, and to 'ensure that women have access to justice and protection'. Importantly, the Outcome Document also refers to States' obligation to end impunity for violence against women and girls by ensuring these crimes are investigated, prosecuted and punished.

Nonetheless, there are critical omissions from the Outcome Document in relation to women's human rights. For example, there is no mention of the need for States to develop and implement national action plans to end violence against women. This is a concerning omission, especially given the importance of such action plans in the Secretary-General's global campaign to eliminate violence against women.¹⁴ Further, in the process leading up to the MDG Summit, it was widely acknowledged by States and NGOs alike that the international community urgently needed to act to reduce the root causes of maternal mortality. Yet the Outcome Document fails to acknowledge unsafe abortion and the criminalisation of abortion as being among the leading causes of maternal

6 A summary of the discussions at each of the roundtables is available at <http://bit.ly/9TAyY8> (P. 10-11).

7 The Outcome Document is available at <http://bit.ly/9FiL6u>.

8 See www.un.org/sg/globalstrategy.

9 Amnesty Secretary-General Salil Shetty, quoted in NGLS e-Round-up — *Keeping the Promise: Outcome of the 2010 MDG Summit*, P. 4, available at <http://bit.ly/9TAyY8>.

10 See Operative Paragraph (OP) 70(u), OP71(a), OP75(a) respectively.

11 Amnesty International.

12 OP68.

13 This initiative was only established in 2009 to provide 'actionable information for decision makers working to protect the world's poorest and most vulnerable populations'. It remains to be seen whether it will produce 'actionable data for rapid impact and vulnerability assessment', and whether States will use this information to advance the human rights of the most marginalised.

14 Information about the UNiTE to End Violence against Women campaign is available at <http://bit.ly/b3hvr1>.

deaths, something States need to address as a matter of urgency to meet MDG Goal 5.

Another group whose vulnerability and distinct human rights are featured in the Outcome Document is indigenous peoples.¹⁵ However, the language used falls well short of what indigenous peoples were advocating in the process leading up to the Summit. They had proposed language drawn directly from the UN Declaration on the Rights of Indigenous Peoples (the Declaration).¹⁶ A critical omission in this respect is the Outcome Document's failure to affirm the right of indigenous peoples to exercise their 'free, prior and informed consent' in relation to development projects and policies that will affect their lands and territories.

Although there is general acknowledgement in the Outcome Document of the need for States to 'increase efforts to reduce inequality and eliminate social exclusion and discrimination',¹⁷ there is only a passing mention of their particular obligations in relation to disabled people.¹⁸ Many other vulnerable groups, including minorities and migrants, are completely absent from the Outcome Document.

It is concerning that the Outcome Document does not acknowledge human rights defenders as a particular group within civil society that is vulnerable to reprisals. Although it recognises the role of civil society, including NGOs and the private sector amongst others, in achieving the MDGs, States' obligation to protect human rights defenders and their activities is not mentioned. Nor are the fundamental human rights relevant to effective and meaningful participation by all parts of civil society, such as freedom of assembly, association, and expression. Instead, civil society is merely assured of 'inclusion' by States in national development efforts,¹⁹ without elaborating on what level or forms of inclusion are required.

NGOs were also disappointed the Outcome Document assigned the bulk of responsibility for follow-up on the MDGs to a subsidiary body of the General Assembly, ECOSOC.²⁰

15 OP55 affirms that 'States should, in accordance with international law, ...ensure respect for all human rights and fundamental freedoms of indigenous people, on the basis of equality and non-discrimination and recognising the value and diversity of their distinctive identities, cultures and social organisation'.

16 The Outcome Document does not refer to 'indigenous peoples' in the plural, which would recognise that indigenous rights are both individual and collective in nature. This recognition was something indigenous peoples successfully battled to incorporate in the Declaration, which they negotiated over a twenty year period with Member States.

17 OP23(f).

18 OP28.

19 OP17.

20 The specific ECOSOC meetings that will undertake this follow-up are the Annual Ministerial Review (AMR) and the Development Cooperation Forum (DCF). The AMR has been tasked with assessing progress made towards the MDGs since it was established in 2007. Its overall objective is to help speed-up implementation by bringing States, UN agencies, civil society, the private sector and academia together to discuss innovative policies in implementing internationally agreed development goals, including the MDGs. The

Although this body has a mandate to 'encourage universal respect for human rights and fundamental freedoms' and is one of the few UN entities to allow broad-based participation, including by civil society, it is best known as a forum for dialogue. Its work to date to improve the realisation of the MDGs has shown it to be an effective forum for sharing information about best practices and policy innovation, rather than measuring States' performance against their international human rights obligations. The General Assembly will reassess progress on the MDGs in 2013, and the Secretary-General will report annually on progress in implementation up to 2015. However, there is no overarching accountability mechanism to ensure enforcement of international human rights obligations in MDG efforts at either the national or international level.

LOOKING FORWARD

NGOs have emphasised the failures of the Summit need not doom the achievement of the MDGs.²¹ They have called on individual States to ensure their development assistance, trade policies, and debt processes are consistent with human rights standards. Other avenues to hold States accountable for their MDG commitments and related human rights obligations should include the UPR process at the Human Rights Council, and the UN treaty body system.

At the national level, NGOs have suggested States take responsibility for reviewing domestic MDG efforts and ensuring they are implementing existing human rights obligations. In most cases, they need to undertake inclusive consultations with all segments of society, including the poor and disadvantaged, to develop and implement national MDG action plans. These should include national targets for progress and provide all segments of society with the opportunity to monitor and evaluate the plans.

In his closing remarks to the Summit the Secretary-General reminded States of their responsibilities beyond 2015.²² In particular, he referred to States' commitment in the Outcome Document to initiate a 'post-2015 framework for the development work of the UN.' This indicates States and NGOs will have another opportunity to realign international development goals with human rights, should States fail to do this on an individual basis in the course of the next five years. However, such a failure would come at a great cost to the world's poorest and most vulnerable. ■

DCF convenes biennially, and part of its mandate is to 'make recommendations on practical measures and policy options to ...promote development cooperation for the realization of the internationally agreed development goals, including the MDGs.' It has convened in 2008 and 2010, and will meet next in 2012.

21 See Amnesty International statement, 'Moving forward after the MDG Summit', UN Palais des Nations, 4 October 2010, available at <http://bit.ly/dVhbks>.

22 Available at <http://bit.ly/aJ3fqD>.

REGIONAL DEVELOPMENTS

AFRICAN COMMISSION 48TH ORDINARY SESSION P. 34

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

Denial of observer status for NGO a stark example of challenges faced by women human rights defenders



Photo: Luke and Kate Bosman

The 48th Ordinary Session of the African Commission on Human and Peoples' Rights (ACHPR) was held in Banjul, The Gambia from 10 to 24 November 2010. During the session, the ACHPR's decision to deny observer status to the Coalition of African Lesbians (CAL) raised critical questions regarding the regional human rights mechanism's relationship to civil society, and how well it is fulfilling its protection mandate.

The controversial decision is inconsistent with the increased focus being given to the particular challenges faced by women human rights defenders (WHRDs), including those committed to advancing women's human rights and sexual rights. The importance of improving visibility for the challenges experienced by WHRDs has been effectively responded to in key regional human rights defenders' gatherings, and was the rationale for an Inter-regional Consultation with WHRDs held prior to the ACHPR. Furthermore, the ACHPR's own practice confirms sexual orientation and gender identity as a human rights issue consistent with the scope of the African Charter on Human and Peoples' Rights (the African Charter). Given this context, the ACHPR's decision to deny observer status to an NGO working to further the human rights of lesbians across the African continent, was all the more troubling.

COLLABORATION BETWEEN NGOS AND THE ACHPR

The NGO Forum, established two decades ago and regularly held in the days before the Ordinary Sessions of the ACHPR, has been a means of developing and consolidating regular communication between human rights defenders and the ACHPR. The developing relationship has been evident in the increasing participation of ACHPR Commissioners at NGO Forum sessions, in the numbers of NGOs attending the ACHPR sessions and, significantly, in the number of NGOs requesting and being granted observer status.

The ACHPR relies on information from civil society actors to fulfill its mandate of promoting and protecting human rights, and ensuring the protection of rights under conditions outlined in the present African Charter.¹ The ACHPR's stated aim of strengthening 'co-operation and partnership with NGOs working in the field of human rights' is achieved in part through granting observer status.² This is a long established practice, with the total number of 'observer' NGOs reaching 418 at the close of the 48th session.

Observer status provides NGO with opportunities to engage with the Commission in several ways. All observers are invited to attend opening and closing sessions of the ACHPR. They also have access to many Commission documents. Observers can attempt to influence the focus of the Commission by requesting issues of particular interest to them be included in the ACHPR's provisional agenda. They may make statements during the Ordinary Sessions, and are provided with the opportunity to respond to questions directed to them by participants. Observers may also be invited to be present at closed sessions dealing

1 African Charter on Human and Peoples' Rights, Article 45 on the Mandate of the Commission at <http://bit.ly/hm5nMy>.

2 Resolution on the Criteria for Granting and Enjoying Observer Status to Non-governmental Organisations Working in the Field of Human Rights with the African Commission on Human and Peoples' Rights (established by the ACHPR in 1999). See <http://bit.ly/hm5nMy>.

with issues of particular interest to them. Those with observer status therefore have an enhanced opportunity to urge the ACHPR to consider human rights issues of concern to them.

Access to regional human rights systems can be particularly important for human rights defenders from national contexts where freedom of expression, association and assembly are curtailed. The recognition of a human rights cause is a significant factor in granting observer status. Recognition is also directly connected to protection of activists defending particular human rights, and protection of the population more broadly.³ Such acknowledgement can be of particular importance to those, such as WHRDs, who are vulnerable to attack due to their gender or the focus of their work.

THE IMPORTANCE OF THE WORK OF WHRDs

Providing space for analysis of the specific challenges faced by women human rights defenders, and a means to address them, was the objective of an Inter-Regional Consultation on WHRDs held immediately before the NGO Forum. The consultation was co-organised by ISHR and close partners, and brought together WHRDs from across Africa, as well as Asia and Latin America⁴. Participants shared that many of the challenges they face are rooted in a lack of recognition of the legitimacy of their human rights causes, as well as discrimination, prejudice and stigmatisation at the hands of State and non-state actors.⁵ They noted difficulties they faced in accessing key diplomatic and human rights circles, and getting their human rights causes heard. In light of regional and international standards that have repeatedly recognised women's essential role in development and in the promotion of peace and security, participants emphasised the importance of putting women's full and active participation in society at the heart of African policy concerns.

The timing of the consultation was aimed at providing momentum and shape to discussions amongst human rights defenders and with the ACHPR. The NGO Forum's readiness to focus on the challenges faced by WHRDs and LGBTI activists in particular, has been shown in resolutions over recent years focusing on the rights of LGBTI people.⁶ In its statement to the ACHPR, the NGO Forum raised denial of observer status to CAL as one of its first concerns, particularly in the context of ongoing violations against LGBTI people in many parts of the continent.⁷

The ACHPR did not identify WHRDs as a subject of a particular resolution, but reference to the importance of safeguarding the work of these defenders was brought up by Commissioners, particularly those who attended the WHRDs' consultation. At the ACHPR meeting, the Special Rapporteur on human rights defenders noted he had attended a seminar on WHRDs, the conclusions of which he hoped would inform the development of his upcoming report on WHRDs.⁸ It is hoped this focus will be continued by his successor in the mandate, Commissioner Lucy Asuagbor. The experience of WHRDs is also a key concern at the international level, with the UN Special Rapporteur on human rights defenders choosing to focus her report for the 16th session of the Human Rights Council on this subject.

CONCERNS EXPRESSED BY NGOS ABOUT DENIAL OF OBSERVER STATUS

Some 18 NGOs expressed concern about the denial of observer status to CAL in their statements to the ACHPR, an unprecedented demonstration of collective concern by NGOs in this forum. The irony of denying observer status to CAL in the same year the ACHPR was commemorating 30 years of the African Charter and the start of the African Decade of Women was not lost on many NGO participants.

NGOs' statements highlighted the principles of non-discrimination and equality established internationally and regionally, including in the African Charter, and upheld the ACHPR's own jurisprudence. Others pointed to the ACHPR's track record, both in questioning States regarding violations of sexual orientation and gender identity, and in hearing statements from 'mainstream' human rights organisations on such abuses. NGOs said this indicated the ACHPR is fully aware of sexual orientation and gender identity as a human rights issue and consistent with the scope of the African Charter. Some pointed to the inconsistency in the ACHPR position, given their much welcomed recent step of establishing a Working Group on HIV/AIDs⁹. The Working Group will integrate a gender perspective into its work and provide specific attention to persons from 'vulnerable groups', including women and men having sex with men.

The justification for refusal by the ACHPR, that 'the activities of the said organisation do not promote and protect any of the rights enshrined in the African Charter', was robustly challenged by NGO speakers.¹⁰ NGOs repeatedly expressed

3 See HRC Resolution on HRDs HRC/RES/13/13 paragraph 4, for example. Visit <http://bit.ly/fdKBoP>.

4 Inter-Regional Consultation hosted by African Centre for Democracy and Human Rights Studies, Conectas Direitos Humanos, International Service for Human Rights, the East and Horn of Africa Human Rights Defenders Network, the West Africa Human Rights Defenders Network and the Women Human Rights Defenders International Coalition.

5 See The Women's Declaration from the Consultative Workshop on Women Human Rights Defenders in Africa, held from 4 – 6 November 2010 in Banjul, The Gambia.

6 TRES/004/11/2010.

7 Statement on Behalf of Participants of the Forum of NGOs at

the Official Opening of the 48th Ordinary Session of the African Commission on Human and Peoples' Rights.

8 See 'Rapport d'Activités de la Rapporteuse Spéciale sur les Défenseurs des Droits de l'Homme en Afrique' ACHPR/48/OS/103.

9 Working Group on the Protection of Persons Living with HIV and Those at Risk, Vulnerable to and Affected by HIV in Africa.

10 For requirements of organisations applying for observer status with the African Commission see, Resolution on the Criteria for Granting and Enjoying Observer Status to Non-governmental Organisations Working in the Field of Human Rights with the African Commission on Human and Peoples' Rights (established by the ACHPR 1999) <http://bit.ly/9VausB>.

concern the ACHPR would be seen as retrogressive and lacking in independence, and that the decision 'may be seen as a failure of the ACHPR to be constant and unequivocal in affirming the indivisibility, interdependence and universality of human rights'.¹¹ Fears were expressed the decision was a betrayal of one of the principle pillars of the ACHPR's mandate, 'to protect and promote human rights', and would set a worrying precedent. Furthermore, it was argued the ACHPR's ability to hold States to account for violations would be undermined, when the ACHPR acts apparently arbitrarily.

WHRDS: HIGHLIGHTING ISSUES OF EXCLUSION

WHRDs said exclusion, or risk of exclusion from family or community circles, including religious communities, can be used as a threat against women who take a stand for human rights. These threats were frequently couched in arguments supposedly based on custom, tradition or religious teaching. It was therefore alarming to hear the intervention of the Head of the State delegation of Zimbabwe basing his approval of the denial of observer status on an interpretation of religious text. He described the ACHPR's decision as 'consonant with our customs and culture as Africans', and made references to religious texts that he considered substantiated the decision. In his intervention on the topic, he made no reference to human rights.

THE ACHPR AND PROTECTION OF HRDS

The protection of human rights defenders whilst engaging with the ACHPR was one of the other themes of joint NGO concern, expressed in a statement under item 6b. During their 'right to reply', some States effectively targeted various NGOs without challenge from the Chair. This was seen as an attack on legitimate NGO space, and a failure by the Chair to follow protocols to safeguard NGO participation. Concerns were expressed that such targeting increased the risk of reprisals against NGOs when they returned to their home countries. The ACHPR's role of protection must start with the proceedings at the sessions of the ACHPR.

CONCLUSION

Ongoing documentation and analysis of the violations and abuses experienced by WHRDs continues to be vital to make known their experiences, and define effective means to promote their human rights causes without hindrance. It was recommended that the ACHPR, and in particular the Special Rapporteur on women, carry out research looking at violence against lesbians and bisexual women. Following the experience of the International Gay and Lesbian Human Rights Commission, who were finally granted consultative status by ECOSOC after an experience of repeated deferral,¹² it is hoped

the ACHPR will reconsider its decision and grant observer status to CAL before the 49th Ordinary Session in April 2011.

Statements made during the 48th Ordinary Session of the ACHPR highlighted the importance NGOs place on having an accessible and credible regional human rights mechanism. NGOs play a key part in defending and promoting the ACHPR and the African Charter, and this collaborative and critical role must be encouraged and facilitated.

NGO engagement with the ACHPR

NGOs wanting to engage with the ACHPR can apply for Observer Status to the Secretariat of the Commission. All organisations applying for Observer Status shall:

- Have objectives and activities in consonance with the fundamental principles and objectives enunciated in the Organisation of African Unity Charter and in the African Charter on Human and Peoples' Rights
- Be organisations working in the field of human rights
- Declare their financial resources

NGO applications for Observer Status should include:

- A written application addressed to the Secretariat stating its intentions, at least three months prior to the Ordinary Session of the ACHPR that will decide on the application, in order to give the Secretariat sufficient time in which to process the application
- Its statutes, proof of its legal existence, a list of its members, its constituent organs, its sources of funding, its last financial statement, as well as a statement on its activities
- The statement of activities should cover the past and present activities of the organisation, its plan of action and any other information that may help to determine the identity of the organisation, its purpose and objectives, as well as its field of activities
- No application for Observer Status will be put forward for examination by the ACHPR without having been previously processed by the Secretariat
- The ACHPR's Bureau will designate a rapporteur to examine the dossiers. The ACHPR's decision will be notified without delay to the applicant NGO

For more information visit www.achpr.org/english/_info/observer_en.html ■

¹¹ See <http://bit.ly/eCfi3D> for an ISHR statement to the 48th Session of the ACHPR under item 4.

¹² Characterised as 'a simple act of discrimination' by some State representatives: UK position, supported by other States. *ibid*

UPCOMING EVENTS

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OPPORTUNITIES FOR NGO ENGAGEMENT

February – June 2011

COUNTRY EXAMINATIONS AND REVIEWS

For more detailed and up to date information, please consult the relevant treaty body pages at <http://bit.ly/d07u3s> or the UPR page at <http://bit.ly/ea8LRG>.

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

What's coming up?

The Committee on the Elimination of Racial Discrimination will hold its 78th session from 14 February to 11 March. It will examine the reports of Armenia, Bolivia, Cuba, Ireland, Lithuania, Moldova, Norway, Rwanda, Serbia, Spain, and Uruguay. For more information see <http://bit.ly/iaVCHI>.

The 79th session will examine the reports of Albania, Czech Republic, Georgia, Kuwait, Maldives, Malta, Mexico, Paraguay, Ukraine, the United Kingdom and Yemen.

What can you do?

If you are working on racial discrimination in any of the countries under review, you can submit information to Committee at any time, but preferably two months prior to the relevant session. You may submit the information to the Committee's Secretary, Ms Gabriella Habtom at ghabtom@ohchr.org.

COMMITTEE ON MIGRANT WORKERS

What's coming up?

The Committee on Migrant Workers will hold its 14th session from 4 to 8 April in Geneva. It will examine the report of Mexico and will adopt the lists of issues for Argentina, Chile and Guatemala.

What can you do?

If you are working on the rights of migrant workers in any of the countries under review, you can submit information to Committee's Secretary, Ms Noemy Barrita-Chagoya at nbaritta-chagoya@ohchr.org. For more information visit <http://bit.ly/e0zJEb>.

COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES

What's coming up?

The 5th session of the Committee on the Rights of Persons with Disabilities will take place from 11 to 14 April. It will review Tunisia, and adopt the list of issues for the review of Spain scheduled for the 6th session (19 to 23 September). For more information see <http://bit.ly/homq6D>.

What can you do?

If you are working on the rights of persons with disabilities in any of the countries under review, you can submit information to the Committee's Secretary, Ms Safak Pavey at spavey@ohchr.org.

COMMITTEE ON THE RIGHTS OF THE CHILD

What's coming up?

The Committee on the Rights of the Child will hold its 57th session from 30 May to 17 June in Geneva. It will examine the reports of Bahrain, Cambodia, Costa Rica, Cuba, Czech Republic, Egypt, Finland, and Iceland. It will also review Egypt under the Optional Protocol on Children in Armed Conflict and under the Optional Protocol on the Sale of Children.

What can you do?

If you would like to submit information for upcoming examinations, you can contact the NGO group on the CRC for advice: www.childrightsnet.org. Information on NGO participation can be found in 'A Guide For Non-Governmental Organizations Reporting to the Committee on The Rights of the Child', which is available at: <http://bit.ly/bN1dR3>.

UNIVERSAL PERIODIC REVIEW

What's coming up?

The UPR will hold its 11th session from 2 to 13 May. The countries under review are: Belgium, Denmark, Palau, Somalia, Seychelles, Solomon Islands, Latvia, Sierra Leone, Singapore, Suriname, Greece, Samoa, Saint Vincent and the Grenadines, Sudan, Hungary, and Papua New Guinea.

It will also hold its 12th session from 3 to 14 October. All interested stakeholders may submit information, which will serve as the basis for the interactive dialogue in October. The 12th session will be the final session of the first cycle. It is unclear when the 2nd cycle will begin, as the functioning of the UPR is currently being reviewed by the Human Rights Council.

What can you do?

If you would like to submit information on any of the countries to be examined in October, please follow the guidelines found at <http://bit.ly/d07u3s>.

The deadlines for submissions are as follows: 14 March for submissions on Swaziland, Togo, Uganda, United Republic of Tanzania, Zimbabwe, Syrian Arab Republic, Tajikistan, Thailand; and 21 March for submissions on Timor Leste, Trinidad and Tobago, Bolivarian Republic of Venezuela, Antigua and Barbuda, Iceland, Ireland, Lithuania, Moldova, and Haiti. For more information see <http://bit.ly/h2sHEi>. Your submission should be sent to uprsubmissions@ohchr.org following the above mentioned guidelines.

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

What's coming up?

The Committee on Economic, Social and Cultural Rights will hold its 46th session from 2 to 20 May in Geneva. It will examine the reports of Germany, Republic of Moldova, Russian Federation, Turkey, and Yemen.

At its pre-sessional working group, from 23 to 27 May, the Committee will prepare the list of questions for Argentina, New Zealand, Peru, Slovakia, and Spain, which will be reviewed at a later session.

What can you do?

NGOs may participate in parts of both the 46th session and the pre-sessional working group following it. See <http://bit.ly/hkv5nJ> for more information.

Organisations wishing to submit information to the Committee with respect to the States listed above should do so electronically to cescr@ohchr.org by 14 March. Please note that submissions will be treated as public documents unless specifically marked as 'confidential'. See <http://bit.ly/f8PxPt> for more information.

COMMITTEE AGAINST TORTURE

What's coming up?

The Committee against Torture will hold its 46th session from 9 May to 3 June in Geneva. It will consider the reports of Finland, Ghana, Ireland, Kuwait, Mauritius, Monaco, Slovenia, and Turkmenistan. At the same session, it will adopt lists of issues for Bulgaria, Germany, Morocco, Sri Lanka, and Tunisia, which will be reviewed at the 47th session.

The Committee will hold its 47th session from 31 October to 25 November. In addition to the States mentioned above, the Committee will review Greece, Paraguay, Djibouti, and Madagascar. For more information see <http://bit.ly/eknkCG>.

What can you do?

If you are working on the issue of torture, you can submit information to the Committee at any time, but preferably six weeks before the session. The following deadlines apply:

- Information on the States reviewed at the 46th session: 21 April.
- Information for inclusion in the lists of issues to be adopted at the 46th session: 9 February.
- Information on States reviewed at the 47th session: 14 October.

Information should be sent in electronic Microsoft Word format to registry@ohchr.org, jnataf@ohchr.org and bcorvalan@ohchr.org, and will be posted on the Internet.

MEETINGS

HUMAN RIGHTS COUNCIL

What's coming up?

The Council will hold its 16th session from 28 February to 25 March. The Council will hold its 17th session from 30 May to 17 June.

What can you do?

If you work with an ECOSOC accredited NGO you may attend all sessions of the Human Rights Council (the Council). You may also submit written statements and request rooms to organise parallel events (deadline 14 February for both). You may also register to deliver oral statements at the Council under all agenda items. The speakers' list for oral statements opens at 8 a.m. Geneva time on 28 February. More information about the Council and NGO participation is available at <http://bit.ly/dSkbHC> and at www.ishr.ch/council.

REVIEW OF THE HUMAN RIGHTS COUNCIL

What's coming up?

The Open-ended Working Group on the review of the work and functioning of the Human Rights Council will hold its 2nd session in three parts. The first part will be held on 7 February, the second part on 17 and 18 February, and the third part on 23 and 24 February. In the lead-up, between and after the formal Working Group session, there is likely to be a continuation of the informal process currently underway. The President intends to present a final document for adoption to the March session of the Council.

What can you do?

If you work with an ECOSOC accredited NGO, you may attend and participate in all sessions of the Working Group. You may also contact ISHR for more information at review@ishr.ch.

WORKING GROUP ON AN OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD

The Working Group will hold its third session from 10 to 11 and 14 to 16 February. See <http://bit.ly/gb56Ze> for more information.

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> or join the OHCHR Civil Society Section mailing list at <http://conta.cc/c4paEC>. At the time of writing, information about the following forthcoming visits was available:

- The Special Rapporteur on the human rights of migrants, Mr Jorge A. Bustamante, will visit Greece from 28 February to 8 March. See <http://bit.ly/dnncRo>.
- The Independent Expert in the field of cultural rights, Ms Farida Shaheed, will visit Austria from 4 to 15 April. See <http://bit.ly/bH2k2X>.
- The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Ms Raquel Rolnik will visit Argentina from 13 to 22 April. See <http://bit.ly/hQVylk>.
- The Working Group of Experts on People of African Descent will visit Canada from 16 to 20 May. See <http://bit.ly/98kQg7>.

ELECTIONS AND APPOINTMENTS

APPOINTMENT OF SPECIAL PROCEDURES MANDATE HOLDERS

What's coming up?

At the March session of the Human Rights Council (28 February to 25 March) the President of the Council will appoint new mandate holders to the following mandates, both of which were newly established at the Council's 15th session in September 2010:

- Five members to the Working Group on discrimination against women in law and in practice.
- Special Rapporteur on the rights to freedom of peaceful assembly and of association.

The Consultative Group will present a list of recommended candidates to the President at least one month before the beginning of the March session. Interested candidates may fill in the form at <http://bit.ly/9plH33> to be placed on the public roster. The recommendations of the Consultative Group will be made available on the HRC Extranet at <http://bit.ly/9yRU8X> (Username: hrc extranet, Password: 1session).

See the full list of vacancies for mandates to be filled at the June and September sessions at <http://bit.ly/amdMtw>. ■

ISHR ACTIVITIES:

ISHR ADVANCED GENEVA TRAINING COURSE

6 – 18 March
(Geneva)
www.ishr.ch/trainings

NGO FORUM @ AFRICAN COMMISSION

25-27 April

REGIONAL MEETINGS:

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

28 April – 12 May

UN MEETINGS:

WORKING GROUP ON THE REVIEW OF HUMAN RIGHTS COUNCIL (2nd session, part one)

7 February

CERD

14 February – 11 March
(Geneva)
Armenia, Bolivia, Cuba, Ireland, Moldova, Norway, Rwanda, Serbia, Spain, Uruguay, and Yemen

HUMAN RIGHTS COUNCIL ORGANISATIONAL MEETING

14 February

WORKING GROUP FOR AN OPTIONAL PROTOCOL TO CRC

14 – 18 February

(Geneva)

WORKING GROUP ON THE REVIEW OF HUMAN RIGHTS COUNCIL (2nd session, part two)

17 – 18 February

WORKING GROUP ON THE REVIEW OF THE HUMAN RIGHTS COUNCIL (2nd session, part three)

23 - 24 February

HUMAN RIGHTS COUNCIL

28 February – 25 March

(Geneva)

HUMAN RIGHTS COMMITTEE

14 March – 1 April

(New York)

Mongolia, Serbia, Seychelles, Slovakia, Togo
Task Force: Dominican Republic, Iran, Malawi, Norway, Yemen

INTERNATIONAL COORDINATING COMMITTEE OF NATIONAL HUMAN RIGHTS INSTITUTIONS

21 – 25 March

(Geneva)

UPR 12 DEADLINE

21 March

Submissions for Timor Leste, Trinidad and Tobago, Bolivarian Republic of Venezuela, Antigua and Barbuda, Iceland, Ireland, Lithuania and Moldova.

UPR 12 DEADLINE

14 March

Submissions on Swaziland, Togo, Uganda, United Republic of Tanzania, Zimbabwe, Syria, Tajikistan, Thailand

CRPD

11 – 15 April

(Geneva)

Tunisia

CESCR

2 – 20 May

(Geneva)

Germany, Republic of Moldova, Russian Federation, Turkey and Yemen

UPR

2 – 12 May

(Geneva)

CAT

9 May – 3 June

(Geneva)

Ghana, Ireland, Kuwait, Monaco, Slovenia, Turkmenistan

HUMAN RIGHTS COUNCIL ORGANISATIONAL MEETING

16 May

CESCR PRE-SESSIONAL WG

23 – 27 May

Argentina, New Zealand, Peru, Slovakia and Spain

CRC

30 May – 16 June

(Geneva)

Bahrain, Cambodia, Costa Rica, Cuba, Czech Republic, Egypt, Finland, Iceland
OPSC : Egypt
OPAC : Egypt

HUMAN RIGHTS COUNCIL

30 May – 17 June

(Geneva)

FEBRUARY

MARCH

APRIL

MAY

JUNE

UPCOMING EVENTS FEBRUARY – JUNE 2011