

HUMAN RIGHTS MONITOR

QUARTERLY



ISHR | INTERNATIONAL SERVICE
FOR HUMAN RIGHTS

ISSUE 3 | 2012

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The 20th session of the United Nations Human Rights Council (the Council) showed promise with several new developments that were highly relevant to human rights defenders (p. 1). These included the presentation of the first report by the UN's expert on freedom of peaceful assembly and association; discussions on freedom of expression, which paid particular attention to the situation of journalists; and an unprecedented panel discussion on the protection of women human rights defenders (p. 22). Another encouraging outcome was the Council's first resolution on human rights on the Internet. The issue of reprisals also gained greater prominence. However, matters of serious concern remain. The session saw intensified efforts by some States to restrict the space for civil society to participate in the Council's meetings, as well as attempts to constrain the special procedures.

Unfortunately, not all country situations were responded to with equal success. The Council failed once again to take action on continuing violations in Bahrain, and the mixed quality of some resolutions and decisions on country situations, such as Mali and Syria, has hindered progress where better responses were needed. However, the creation of two new special procedure mandates for Eritrea and Belarus counted amongst the Council's most important achievements during this session, and continue the trend towards more robust discussion of chronic and emergency human rights situations.

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

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

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 presents a global picture of developments in the international and regional human rights systems. The publication also highlights events, meetings and opportunities for engagement by non-governmental organisations and national human rights institutions in the upcoming quarter and beyond. The *Human Rights Monitor Quarterly* is issued four times a year, in late January, April, July and October.

Downloadable online editions of the *Quarterly* are available at www.ishr.ch/quarterly.

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

ACKNOWLEDGEMENTS

The International Service for Human Rights thanks Irish Aid and the Ministry of Foreign Affairs of the Netherlands for their support to this project. The contents are the sole responsibility of the authors and cannot be regarded as reflecting the views of the project sponsors.



Ministry of Foreign Affairs of the
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COVER IMAGE

The Human Rights Council during its 20th session.
Source: UN Photo/Jean-Marc Ferré.

LAYOUT

adb atelier dominique broillet, Geneva.

CLOSING OF THIS EDITION

25 July 2012.

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HUMAN RIGHTS COUNCIL

Renewed challenges to independent voices amidst progress on country and thematic issues



Photo: UN Photo/Jean-Marc Ferré

The Human Rights Council in session.

The 20th session of the Human Rights Council (the Council) saw a number of significant developments in the Council's response to country situations, but there was an unfortunate manifestation of efforts to limit the space for civil society to participate in and contribute to the Council's work. There were also several thematic discussions of interest to human rights defenders, including on freedom of expression (with a focus on the situation of journalists), freedom of peaceful assembly and association, and a panel discussion on women human rights defenders. Women's rights received a large amount of coverage at this session, which included a full day of discussion, and interactive dialogues with the Special Rapporteur on violence against women and the Working Group on discrimination against women in law and in practice (see the thematic focus article in this issue of the Quarterly).

PROCEDURAL ISSUES

This session saw a surge in attempts to restrict the **space for civil society** to participate in the Council's meetings. This was particularly the case during informal meetings on the side-lines of the plenary where draft resolution texts are discussed; in direct contradiction to the established practice of the Council of allowing member States and observers (State and non-State, including NGOs) to participate in these meetings. General Assembly (GA) Resolution 60/251 specifies that participation of NGOs in the Council's work should be on the basis of 'practices observed by the Commission on Human Rights [...] ensuring the most effective contribution of these entities', while Council Resolution 5/1 says informal consultations should be organised in a 'transparent and inclusive' manner.¹

There is no institutional basis for undermining years of established practice.² To the contrary, to give full effect to the Council's institutional framework, States should rather be making efforts to strengthen the effective participation of civil society in the Council's work, in an inclusive manner.

Along with these negative moves against NGO access, States continue to attempt to **constrain the special procedures**. The Russian Federation, on behalf of a like-minded group of States,³ emphasised the need for special procedures to comply with the code of conduct⁴ and to work in accordance with their mandates, to base their reports on 'objective, reliable information [...] from credible sources', and ensure that 'information provided by the State concerned [...] should be taken into account in preparation of studies and reports'.⁵ The call echoes the criticisms made by the Russian Federation to the High Commissioner about her report on Belarus, which it described as inaccurate, based on 'highly doubtful' sources, and failing to reflect the position of the Government of Belarus on the events in question. This line of criticism is common amongst States seeking to undermine the credibility of reports from special procedures and other independent monitors.

1 A/HRC/RES/5/1 para. 113.

2 Those making the call for NGOs to be prevented from participating referred to the General Assembly rules of procedures, which specifies that 'informal consultations are to be carried out with the widest participation of Member States', but the emphasis on member States does not in any way imply that State and non-State observers cannot participate.

3 Algeria, Bangladesh, Belarus, Brazil, China, Cuba, Ecuador, Egypt, India, Indonesia, Iran, Malaysia, Myanmar, Nicaragua, Pakistan, Philippines, Singapore, South Africa, Sri Lanka, Thailand, Uganda, Venezuela, and Vietnam.

4 Resolution 5/2 and annex.

5 Joint statement on Special Procedures: <http://bit.ly/Lrupxk>.

The session also saw Cuba engage in yet another stand-off with the Office of the High Commissioner for Human Rights (OHCHR) about whether it is the Council or the GA that should be tasked with reviewing **OHCHR's strategic framework**. This followed on from Presidential Statement 15/2 which called for the High Commissioner to present her strategic framework to the Council. OHCHR had understood that this presentation and consultation could be done through a written procedure, but Cuba appears to have concluded that this approach avoided the requirements of the Presidential Statement. Cuba reacted by proposing to call for a formal procedure to review the draft strategic framework in the Council. The situation was in the end defused through a meeting of the High Commissioner with States, and Cuba agreed not to present its proposal for a formal procedure.

Meanwhile in New York, Cuba refused to engage in a substantial review of the strategic framework in the Committee on Programme and Coordination (CPC) until the matter had been resolved in Geneva. As a result, negotiations only began on the penultimate day of the CPC's session. Since both the Russian Federation and Cuba had proposed a number of amendments, States agreed it would not be possible to adopt the report by the end of the session, deferring its consideration to the third quarter of 2012 when it will be taken up by the Third Committee of the GA. The Third Committee will also reportedly be responsible for settling the question of whether the GA or the Council should be tasked with reviewing OHCHR's strategic framework.

Since the March session, NHRIs have been given the opportunity to address the Council through **pre-recorded video statements**, which was also extended to NGOs at this session. Three NGOs took advantage of the new method of interaction. While the procedure still remains in development and will likely be further refined on the basis of lessons learnt, it represents a major step forward in the working methods of the Council.

The new independent expert on the environment, Mr John Knox from the United States (US), was appointed at this session.

THEMATIC ISSUES

The session saw a number of thematic debates of particular relevance to the work of human rights defenders, such as the presentation of the first report to the Council of the Special Rapporteur on **freedom of peaceful assembly and association**, Mr Maina Kiai. The interactive dialogue revealed not only the increasing threats to these rights, but also how sensitive this issue is for many States. This was starkly displayed during the debate on the High Commissioner's update, when Ms Pillay remarked that 'moves to restrict freedom of assembly continue to alarm me, as is the case in the province of Quebec in Canada in the context of students' protests'. Canada reacted strongly to this statement, expressing

disappointment in Ms Pillay for 'misguidedly' commenting on Canada when she could have been talking about 'serious human rights violations' such as in Belarus, Iran, and Sri Lanka.

In his report, Mr Kiai focused on best practice, and examined a range of countries, including Côte d'Ivoire, Iraq, and Cuba. This did not, however, prompt constructive engagement from all, with Cuba expressing dissatisfaction with the 'selective' nature of the small number of negative cases included in the report.⁶ It is unfortunate that these efforts on the part of the Special Rapporteur and the High Commissioner to provide a balanced assessment focusing on all regions have not resulted in more fruitful engagement from States. It is particularly disappointing that a country such as Canada, which often positions itself as a positive player in the Council, was not ready to set a more constructive example of how to engage with the High Commissioner on this issue.

The session continued to see the issue of **reprisals** gain greater prominence amongst an increasingly diverse group of States. During the update by the High Commissioner, Pakistan, speaking on behalf of the OIC, stated its view that governments 'must provide safety and security to those who cooperate with human rights mechanisms'. Peru and Chile also noted that they shared the High Commissioner's concerns on reprisals, with Peru describing such attacks as 'unacceptable'. The US and Austria followed up to the intervention the President made at the 13th session of the UPR on reprisals against Bahraini defenders.⁷ Austria and Hungary also made reference to reprisals suffered by Sri Lankan defenders at the Council's 19th session, with Austria noting the Council's responsibility 'to protect witnesses who address us'.⁸

At its 21st session, the Council will hold a panel discussion on reprisals against those who cooperate or have cooperated with the UN, its representatives, and mechanisms in the field of human rights. This will be an opportunity to move the Council's response forward, and to assess and identify the contributions and roles of different actors in preventing and responding to reprisals.

The reports of the Special Rapporteur on freedom of expression and the Special Rapporteur on extrajudicial executions both took **journalists** as their particular focus. These reports were considered together in a clustered interactive dialogue, providing an excellent opportunity to examine the safety and freedom of journalists under these two thematic headings. In the final week, Austria delivered a joint statement on behalf of 56 States from all regions of the world, expressing the position that ensuring the safety of journalists does not require the development of new standards, but the better

6 Countries described as of 'utmost concern' in the report were Bahrain, Belarus, China, Egypt, the Islamic Republic of Iran, Malawi, Malaysia, Sri Lanka, and the Syrian Arab Republic.

7 See page 6 of this publication for more details.

8 <http://bit.ly/MHPDlr>.

implementation of existing standards. This is a position that several NGOs, including Press Emblem Campaign,⁹ disagree with. Austria is considering following up with a resolution on the safety of journalists at the September session of the Council.

Also of interest was the adoption of a resolution, by consensus, on the promotion, protection, and enjoyment of **human rights on the Internet**. While China and Cuba criticised the text, both States joined the consensus. The resolution was presented by a cross-regional group of States¹⁰ and simply sets out the need to protect human rights online and to continue to consider how this can be done. Although the resolution is framed in terms of all human rights, the text makes particular mention of freedom of expression, referring to Article 19 of the Universal Declaration of Human Rights. There is no mention of online privacy, an issue that is often of concern to human rights defenders.

The Working Group on the issue of **human rights and transnational corporations** and other enterprises presented its first report to the Council, setting out its planned programme of work. The Working Group was created in 2011 following the end of the mandate of the Special Rapporteur on business and human rights, Mr John Ruggie. It is tasked with putting into effect the *Guiding Principles on Business and Human Rights* developed by Mr Ruggie. The interactive dialogue exposed differences of view in relation to the scope and utility of the Guiding Principles, given their non-binding nature and known substantive gaps. While Mr Ruggie himself had made it clear that he saw the principles as a platform from which further progress can be made, the Working Group has been less clear on this point. It is certain that some States would welcome the elevation of the Guiding Principles to the status of the ultimate authority in the area of business and human rights since, as a non-binding document, they are ultimately without normative force. It is incumbent on the Working Group to ensure that it does not contribute to creating a standards vacuum by raising the Guiding Principles to a position they are fundamentally unable to fulfil.

Following on from the panel on **sexual orientation and gender identity** at the March session of the Council, the June session saw States continue to set out their positions. South Africa asserted its lead in a statement presented together with Brazil that reiterated the conclusions of the panel, and called for a 'genuine dialogue' on the subject. However, it faces a difficult task in establishing such a discussion as long as other States continue to maintain their line that talking of human rights in the context of sexual orientation and gender identity falls outside international human rights law and the obligations of States. Egypt reiterated this position in the interactive dialogues with the Special Rapporteurs on peaceful assembly and association and on violence against

women. Saudi Arabia also made a statement on behalf of a number of States during the adoption by consensus of the resolution on violence against women, in which it expressed this same position.¹¹

Finally, a resolution was adopted by consensus on **national human rights institutions** (NHRIs). It focuses on the relationship between NHRIs and the UN, while encouraging States to establish independent NHRIs, and encouraging NHRIs to play an active role in preventing and combating all violations of human rights. There is, however, no explicit recognition of the role NHRIs often play or should play in protecting and supporting human rights defenders who work towards that same end.

One of the action points of the resolution is a recommendation to the GA to explore how it could enable the effective participation of NHRIs in its work. While this recommendation is a remarkable achievement, it will require much work to implement it at the GA level, given the restrictive climate on participation of non-State stakeholders in a range of meetings and processes there. An example would be the difficulty that civil society is facing in attempting to secure participation in the recently established GA inter-governmental process on treaty body strengthening.

This session also included a panel on women human rights defenders, which was held as part of the annual full-day discussion on women's human rights.¹²

COUNTRY SITUATIONS

The Council's response to country situations at this session demonstrated a greater readiness to establish monitoring mechanisms on situations of concern, with notable successes on the situations in Eritrea and Belarus. The resolution establishing the Special Rapporteur on Belarus divided the Council, with the final vote being 22 votes in favour, 5 against and 20 abstentions. This divide did not, as the Belarusian delegation claimed, reflect disagreement about whether or not action was required in response to the situation in the country, but rather indicated differences of opinion about which course of action would be most appropriate. Latin American countries were of the opinion that options other than a special rapporteur should have been explored first, implying that the situation had not reached the level at which appointment of a special rapporteur would be warranted.

This debate reveals an uncertainty in the Council as to what is the best way to respond to situations that are not as immediately alarming as that in Syria, for example, but which

⁹ <http://bit.ly/NO9o1M>

¹⁰ Sweden, US, Tunisia, Turkey, Brazil, and Nigeria.

¹¹ Bahrain, Bangladesh, Brunei-Darussalam, Djibouti, Egypt, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Malaysia, Mali, Mauritania, Morocco, Namibia, Oman, Pakistan, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, Uganda, United Arab Emirates, Yemen. See <http://bit.ly/PIIXEZ>.

¹² See page 22 of this publication for more details.

are **chronic and systematic**. This debate was echoed in a side event held on the role of the Human Rights Council in Nepal,¹³ another country where violations are not seen as serious enough to trigger the Council's 'fifth gear' in terms of creating a special rapporteur or Commission of Inquiry, but where an international response is felt necessary. Another example is the Council's lack of response to the situation in Paraguay, which underwent what was described as 'a concealed coup d'état'¹⁴ while the Council was in session. Paraguay was subsequently suspended from the Southern Common Market/Mercado Común del Sur (MERCOSUR) and the Union of South American Nations/Unión de Naciones Suramericanas (UNASUR) for 'a breach of the democratic order'. Although a coalition of Latin American NGOs attempted to draw the Council's attention to the situation, no action was taken.

One positive step was the pledge made by 18 States, in a **cross-regional joint statement** delivered by the Maldives,¹⁵ to voluntarily commit to being guided by independent voices, such as the UN Secretary-General, the High Commissioner, and special procedures, when assessing whether a situation merits the attention of the Council. A call for a formal 'trigger mechanism' on these lines had been made by NGOs and some States during the review of the Council, but this proposal failed to achieve consensus. It is a positive sign that States have now chosen to take it upon themselves to use independent voices as a guide for initiating country action.

The success in creating a special rapporteur in the case of **Belarus** can be credited to the work of human rights defenders in making the situation in the country visible. Belarusian NGOs, who have been facing a crackdown in their activities since the December 2010 presidential election, had been calling for the creation of this mechanism since last year. Human rights defenders' advocacy for a special rapporteur reflected a feeling that their options at the national level had run out, and that a special rapporteur would be a strong independent entry point into the UN human rights system. The strong response to the calls of Belarusian defenders sends a message that the Council is listening to their concerns.

The appointment of a **Special Rapporteur on Eritrea** was another success for the Council, which, in the resolution adopted, unanimously and strongly condemned the 'widespread and systematic violations of human rights' in the country. While the Russian Federation and China dissociated

themselves from consensus, and Cuba strongly objected, none of these States forced a vote. This is perhaps because the resolution was led by the African Group, and also because of Eritrea's relative political isolation.

The session also saw the Council continue its scrutiny of the situation in **Syria**, with yet another resolution adopted. This resolution does not move beyond that adopted at the last special session on Syria, in particular it does not include a call for referral to the International Criminal Court (ICC). This can be traced at least in part to the US's lead on the resolution. Given that the US has not itself ratified the *Rome Statute* under which the ICC is founded, it cannot in good faith lead a call for other countries to be referred to the ICC. Unfortunately, the European Union (EU), which had in the past led on Syria, did not do so this time. Many of its members subscribed to a joint statement delivered by the Maldives calling for referral to the ICC,¹⁶ and had such a call been put in an EU resolution, it is likely that the US would have been better placed to support it. There were, however, many other EU members that did not join the Maldives statement. It seems failure to agree on the inclusion of such a reference to the ICC led to the EU eventually dropping this resolution, leaving the US to 'rescue' it at the last minute. The final resolution was adopted with 41 votes in favour, with China, Cuba, and the Russian Federation voting against it again.¹⁷

Syria's engagement with the Council echoed its past evasiveness, as the State shrugged off responsibility for the violence and asserted that it would not participate in the interactive dialogue with the High Commissioner, criticising it as a 'politicised meeting'.

On **Bahrain**, the Council failed, yet again, to take any action regarding the ongoing violations, despite continuing calls from human rights defenders. However, this session did see an unprecedented joint statement by 27 countries led by Switzerland.¹⁸ The statement expresses particular concern about the consequences faced by peaceful protestors, and calls on Bahrain 'to fully respect [the protestors'] rights of freedom of expression, peaceful assembly, and especially to ensure the protection of human rights defenders'. It also calls on the Bahraini authorities to cooperate with the Council and its mechanisms and to agree to the establishment of an OHCHR office in Bahrain. This represents an important step in

13 The side event was co-sponsored by the Asian Legal Resource Centre, Advocacy Forum, Human Rights Watch, International Commission of Jurists, and the International Service for Human Rights.

14 Centro Regional de Derechos Humanos y Justicia de Género, oral statement delivered under Item 4: Human rights situations that require the Council's attention, 20th session of the Human Rights Council.

15 Austria, Botswana, Chile, Costa Rica, Côte d'Ivoire, France, Honduras, Mauritius, Norway, Palestine, Peru, Slovenia, Somalia, Switzerland, Ukraine, UK, and Uruguay. See <http://bit.ly/NyJV11>.

16 Austria, Bulgaria, Czech Republic, Denmark, France, Ireland, Poland, Slovakia, and Slovenia. Other supporters of the statement were Botswana, Costa Rica, Croatia, Honduras, Iceland, Liechtenstein, Maldives, Nigeria, Norway, Peru, Republic of Korea, Republic of Moldova, and Switzerland.

17 India, after voting in favour of the last resolution on Syria, from the special session held on 1 June, reverted to its old pattern this time and abstained.

18 Austria, Belgium, Bulgaria, Chile, Costa Rica, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Ireland, Iceland, Italy, Liechtenstein, Luxembourg, Mexico, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and Switzerland. See <http://bit.ly/OFZxJS>.

the efforts of human rights defenders to elicit an appropriate response from the Council.

However, the US and the United Kingdom (UK) did not lend their support to the statement, disagreeing with the intention to deliver it under Item 4 (on situations of concern to the Council). These countries instead made their own statements under Item 8 (on follow-up to the *Vienna Declaration and Programme of Action*) and Item 10 (on technical cooperation); both are seen as less confrontational agenda items. The Republic of Korea also failed to join the statement and instead followed the example of the US and the UK, choosing to deliver a statement under Item 10.

There is a continuing weakness in the quality of some of the Council's resolutions and decisions, such as, for example, the resolution on **Mali**. This resolution was adopted by consensus and calls on OHCHR to monitor human rights developments in the North of the country. The resolution does not, however, condemn violations in Bamako or in the South of the country, despite worrying patterns such as the arrests of journalists. Furthermore, the resolution fails to condemn all violations by all actors, in particular avoiding a focus on State responsibility. At the same time as the Council adopted its resolution on Mali, the Security Council adopted its own resolution on the situation, which does focus on the situation in the country as a whole, and condemns the coup, while calling on the authorities to fully exercise their responsibilities and to ensure the restoration of constitutional order. The Council's own weak attempt to contribute to the international community's response is striking in contrast.

NEXT STEPS

The Council's 21st session will be held from 10 to 28 September. Alongside the panel on reprisals, the session will also hear the first report of the Special Rapporteur on the promotion of truth, justice, reparations and guarantees of non-recurrence, while the Advisory Committee is scheduled to submit its report on traditional values to the Council.¹⁹ ■

¹⁹ The Council's programme of work is available at <http://bit.ly/NGhQS1>.

UNIVERSAL PERIODIC REVIEW

Testing the new procedural rules of the second cycle



Photo: CLUC

The second cycle of the Universal Periodic Review (UPR) started on 21 May 2012 with the 13th session of the UPR working group held in Geneva. Fourteen States were under review: Bahrain, Ecuador, Tunisia, Morocco, Indonesia, Finland, the United Kingdom, India, Brazil, the Philippines, Algeria, Poland, the Netherlands, and South Africa. The session implemented the new procedural rules introduced by resolution A/HRC/RES/16/21.¹ This article provides an overview of the reviews and examines the new modalities to assess whether they improve the quality of the UPR process.

OVERVIEW OF THE SESSION

With the introduction of new procedural modalities many stakeholders, including States and NGOs, were anxious to see how the 13th session would run. The outcome was generally positive. As UPR Info director, Mr Roland Chauville,² observed following the session, it was 'business as usual' with the only unexpected thing being 'that it went so smoothly'. A large part of the success can be attributed to the Human Rights Council's (the Council) President, Ms Laura Dupuy Lasserre, who carried out her role effectively. The working group holds two kinds of sessions, the interactive dialogue and the sessions dedicated to the adoption of reports.

During the interactive dialogues for the reviews of Algeria, Bahrain, Tunisia, and Morocco, developments following the events of the Arab Spring were an underlying theme of discussion. Bahrain in particular was questioned about the repression of protests that have taken place in the country. Algeria, Tunisia and Morocco were praised for advancing reforms that promote civil and political rights, while remaining challenges were also raised.

Although each State under review has its own specific human rights challenges, some reviewing States made identical recommendations to several States under review, as shown in the table below.

Theme of the recommendation	Number of recommendations made by the reviewing country
Enforced disappearances	Spain (9), Argentina (9), France (7)
People with disabilities	Spain (7), Argentina (7)
Rights of women	Norway (9), Iran (6), Malaysia (6), Chile (6), Mexico (6), the Netherlands (6)
Rights of indigenous peoples	Norway (5)
Freedom of expression, assembly	France (5), Canada (4)
Rights related to sexual orientation and gender identity	United States (4), Austria (3), Spain (2), Iceland, Argentina, Belgium, Brazil, Finland

¹ In this resolution the Council adopted the outcome of the review of its work and functioning that it conducted from October 2010 to March 2011.

² ISHR thanks Roland Chauville of UPR-info for some of the insights and statistics in this report.

Considering that some issues are not the most critical in all States under review, it is quite remarkable that, for example, Spain, Argentina, and Norway each made recommendations on the same topic to nine of the 13 States under review. These figures show the strong interest of some States in promoting a certain area of human rights.

The sessions dedicated to the adoption of reports usually proceed smoothly. However, at this session, the adoption of the report on Bahrain was marked by the intervention of the President on the issue of reprisals. It had come to her attention that a media campaign was taking place in Bahrain to identify and threaten civil society members that were participating in the UPR and other UN human rights mechanisms. During the adoption of the report on Bahrain, she reminded the delegation that 'intimidation is inconsistent with democratic participation which inspires this UPR process'. She reaffirmed the State's duty to ensure nobody is persecuted for participating in the work of the Council, and publicly identified the human rights defenders under threat. Immediately following the intervention several States, including Yemen and Belarus, criticised the President for, what they saw as, stepping outside of her mandate.

However, during the Council's 20th session the United States, speaking during the general debate on the UPR, reaffirmed the need to preserve NGO participation in the UPR and all sessions of the Council, and urged all States to take every step necessary to protect human rights defenders from reprisals. Given the Council's public decrying of reprisals,³ and its call on States to prevent such acts, the President's intervention is to be welcomed.

NEW MODALITIES FOR THE SECOND CYCLE

Time and lists of speakers

In decision 17/119 the Council followed up on Resolution A/HRC/RES/16/21 by elaborating on the new procedures for the UPR. It was decided that the duration of the reviews would be extended to three-and-a-half hours for each country, and that each State would have 70 minutes speaking time. The result is that, compared to the first cycle, States under examination have 10 more minutes and examining States have an additional 20 minutes in total.

The same decision established a new procedure for the speakers' list and for the allocation of time to each speaker. The time allocated for member States of the Council is three minutes, with two minutes for observer States. However, if all speakers cannot be accommodated in the three-and-a-half hour session, the speaking time is to be reduced to two minutes for all States. If these measures still do not allow for all registered States' interventions, the speaking time is to be divided equally amongst all delegations. During the 13th

session the norm was for speaking time to be divided equally amongst States on the list, reducing time to less than two minutes for all. Very short speaking times may raise concerns as to the quality of interventions. Fortunately, at this session, States prioritised recommendations and meaningful comments over the usual extensive diplomatic praises. During the general debate on the UPR, Cuba and Morocco acknowledged that the new rules for the speakers' list were an improvement to the mechanism and did not hinder the quality of the interactive dialogue or the number of recommendations. The fact that States now speak in alphabetical order, with the first speaker decided by drawing lots,⁴ also helped to keep the review diverse.⁵

Number and quality of recommendations

Overall, more than 2000 recommendations were made during the 13th session. This number is on a par with the last sessions of the UPR's first cycle. However, it is a significant increase for the States under review at this session as in 2008 the same States received little more than 300 recommendations in total. On average, reviewing States made 2.2 recommendations each.⁶ At the end of the first cycle 39 States⁷ made a commitment related to the effectiveness of the UPR process by consenting to give a 'manageable number of high quality recommendations'. The commitment had two components. First, the States committed to making a maximum of two recommendations per examined country. Second, they agreed to always give 'high quality recommendations', meaning these should be 'precise, practical, constructive, forward looking and implementable'. This commitment was fairly well respected at this session, as only 11 committed States made more than two recommendations in a review.⁸

A reduction in the number of recommendations per State may imply that certain issues are not raised, which could be problematic for a comprehensive review of the human rights situation in a country. A solution could be that States coordinate their interventions in order to provide complementary rather

3 Resolution A/HRC/RES/16/21.

4 Decision 17/119 HRC. IV 8b.

5 At previous sessions it had been noted that the top of the speakers' list was often dominated by States seen to be 'friendly' to the one under review.

6 Conference of NGOs with consultative relationship with the United Nations (CONGO) side event on the UPR, 15 March 2012.

7 Algeria, Andorra, Azerbaijan, Bahrain, Brazil, Botswana, Bulgaria, Cambodia, Colombia, the Republic of Congo, Costa Rica, Cote d'Ivoire, Denmark, Ecuador, Ethiopia, Finland, Honduras, Indonesia, Ireland, Japan, Libya, Maldives, Moldova, Monaco, the Netherlands, Poland, Qatar, Romania, Saudi Arabia, Serbia, Somalia, Sudan, Sweden, Thailand, Timor-Leste, Tunisia, Ukraine, United Arab Emirates, and the United Kingdom.

8 Azerbaijan, Ecuador, Ireland, Japan, Maldives, The Republic of Moldova, the Netherlands, Qatar, Saudi Arabia, Sweden, and Thailand. See UPR info: <http://bit.ly/O6N3OU>.

than repetitive contributions.⁹ Another possibility would be for States and other stakeholders to improve and then exploit the interconnectedness of UN mechanisms by choosing to raise specific issues in forums other than the UPR.

The second commitment echoes NGOs' demands to have more focused, specific and actionable recommendations. NGOs also stressed the importance of having time-bound recommendations to put pressure on governments. The 13th session was unfortunately not rich in practical recommendations. As in the first cycle, although recommendations addressed important issues, they lacked precision, focus and specificity. The quality of recommendations is decisive for follow-up and implementation. As the Republic of Korea later mentioned during the Council's general debate on the UPR, 'recommendations must lead to improvement of human rights situations' on the ground. This objective can only be fulfilled if recommendations are properly followed up.

Follow-up

Council Resolution 16/21 says the second and subsequent cycles of country reviews should focus on, among other things, a country's implementation of accepted recommendations and other human rights developments.

All States reviewed at the 13th session included follow-up in their national reports. Some, like Finland, described for each recommendation what steps had been taken at the national level for implementation. Considering the exponential increase of recommendations made during the first cycle, it is questionable whether States will be able in future sessions to detail follow-up measures undertaken for each recommendation in their national reports. In a statement during the Council's 20th session, the President indicated that the word limit for country reports at subsequent sessions will be increased from 9360 to 10700 words. However, this slight increase does not go far in addressing the problem.¹⁰ It would be more effective for States to address follow-up by clustering recommendations by themes and describing the evolution of their respective human rights situations, as was done by some States at this session (Brazil and Ecuador).

As UPR-info reports, only 16 percent of the recommendations made in 2008 were followed up by reviewing States during the session,¹¹ either by reiterating the same recommendation or by recommending further steps. For instance, if a delegation had recommended the ratification of a convention at a previous session, and the State under review had ratified it

but with reservations, it would be useful for the reviewing State to follow up by recommending the withdrawal of the reservations. There are several possible reasons why such follow-up did not occur. Firstly, new State delegates are not always aware of the recommendations made by their predecessors. Secondly, other delegations believe it is not their role or duty to follow up on recommendations made by other States, despite the clear provision for this in Resolution 16/21.

To improve follow-up it may also be useful to enhance links between the UPR and the implementation of treaty obligations, encouraging treaty bodies to use UPR recommendations and vice versa.

CONCLUSION

One of the lessons of the 13th session is the need to balance follow-up with recommendations on new issues. Strong and systematic follow-up is critical for establishing an effective accountability mechanism and could speed up human rights advances at the national level. However, the follow-up of recommendations by reviewing States was one of the main weaknesses evident at this session. If the UPR is to be effective in the long term in tracking State progress on human rights, States under review must come to expect their actions since the previous cycle, or lack thereof, to be scrutinised by their peers.

At a national level, NGOs play an important role in pushing governments to implement accepted recommendations in a timely manner. NGOs should also use the three to four months between the review and the formal adoption of outcome reports by the Council to lobby States to accept recommendations that have been left pending.¹²

During the Council debate on the UPR, many States including Russia, China, Indonesia, Malaysia, and India expressed concern about the publication of media highlights after each review on the OHCHR website. Some States took it as an attack, saying these highlights were selective, inappropriate, and 'distort the nature and the outcome of the coverage' of the UPR. The Secretariat tried to reassure States by explaining that the highlights were an effort to make up for the lack of available documents for journalists and other stakeholders. It admitted that these releases may at times be a bit 'amateurish', and resolved to hold consultations with concerned delegations to improve the transparency and quality of the service. Inevitably, any summary of a three-and-a-half hour review will not be comprehensive, but since the reviews are webcast, such comprehensive coverage would be unnecessary. These highlights are a useful summary of key points and it would be a shame if they were not to be published in the future.¹³ ■

9 At a side event, one reason given by a State for not coordinating was that they feared that in doing so the mechanism would become one in which recommendations were decided on by regional or political blocks, rather than by individual States, leading to the process becoming overtly politicised.

10 The reason for the word increase was not in fact to give more space for follow-up, but was intended as a response to the increase of time for the reviews.

11 See UPR info: <http://bit.ly/PbWJT1>.

12 Follow-up is significantly facilitated if recommendations are first accepted by the State.

13 ISHR produces its own summaries from the UPR sessions, available at www.ishr.ch/upr.

COMMITTEE AGAINST TORTURE

A call for dialogue: challenges to fostering engagement at the 48th session



Photo: Emilio Kuffer

The prohibition of torture in the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (the Convention) is framed in absolute terms. Discussion during the 48th session of the Committee Against Torture (the Committee), however, did not always reflect the conception of torture as a universal wrong. State parties shirked away from their obligations under the Convention, while the Committee faced procedural difficulties and challenges to its mandate. These currents ran throughout the session, undermining the engagement of States with the Committee and defeating calls for frank and productive dialogue.

The 48th session was held from 7 May to 1 June 2012. The Committee considered efforts taken by Albania, Armenia, Canada, Cuba, Czech Republic, Greece, and Rwanda to implement the provisions of the Convention. A meeting was also held on the current human rights crisis in Syria, but was conducted in the absence of State representatives and without the special report that had been requested from the Syrian permanent mission.

ENGAGEMENT BY STATES

While the delegations of Armenia, the Czech Republic and Greece generally engaged in effective dialogue with the Committee, the reviews of Rwanda, Canada and Cuba were partially undermined by the approach of their delegations. In addition, the actions of the Syrian delegation stood as a challenge to the Committee's authority and credibility.

In light of continuing reports of human rights violations in Syria, the Committee had requested a special report under Article 19.1 of the Convention. Ensuing correspondence between the Syrian permanent mission and the Committee contained, among other things, a rejection of the Committee's authority to request a special report and the claim that the request was contrary to the fundamental rules of diplomatic conduct. Committee member Ms Essadia Belmir noted that the delegation's failure to present itself at the session constituted a challenge to the credibility of the entire UN system. The Committee proceeded to condemn the absence of the Syrian delegation and emphasised the importance of dialogue, even when a delegation considers allegations to be unfounded. Members took information provided by NGOs, UN bodies, and intergovernmental organisations into account to prepare a report on the situation.

States also questioned the Committee's mandate and the credibility of its information sources. The Rwandan delegation set off defensively in its presentation, declaring that allegations of torture were baseless, and that they were circulated by NGOs relying on second-hand information sources. Nevertheless, the Committee pointed to 45 reported cases of serious electrocution and asked the delegation to provide a substantive response to those reports, which the delegation failed to do.

The Canadian delegation raised concerns about the scope of the Committee's mandate, noting that some questions raised by the Committee fell within the mandates of other treaty bodies, such as issues relating to violence against women. The issue of harmonising the agendas of treaty bodies has been raised repeatedly in the context of the treaty body strengthening process, directed towards ensuring coherence, efficiency and effectiveness. However, the damage done by overlapping issues is of far less concern than what might result if treaty bodies are cautious about going beyond the strict bounds of their mandates, as issues may slip through the gaps.

Not all challenges raised by States can be dismissed as attempts to undermine or question the Committee's authority. Rwanda, for example, raised a challenge to the Committee's focus on the need for torture cases to be addressed within a formal legal framework. In the aftermath of the 1994 genocide, Rwanda established the *Gacaca* community court system to deal with the overwhelming number of criminals crowding the nation's prisons. The courts are run according to the tenets of community justice, arriving at 'home grown' solutions derived from Rwandan cultural values. Significantly, the courts are not focused on upholding the rule of law, but on the values of dignity, right to life, traditional justice, truth, and reconciliation.

The Committee was concerned that these hearings amounted to 'trials without lawyers'. The delegation recognised that the *Gacaca* system was less than perfect, but said that realistically, the backlog of charges meant that formal justice mechanisms would take over 100 years to work through the cases. Although the *Gacaca* courts have now finished their work, the arguments for informal mechanisms to address torture raise questions about the foundation of the Committee's insistence on strict sentencing within a formal legal framework for torture cases.

EFFECTIVENESS OF THE COMMITTEE

In dealing with obstructive States, the Committee often found itself hampered by its own methods of work. Reviews are structured to allow all members to ask initial questions, with time provided for the delegation to respond after all questions are exhausted. Although opportunity for follow-up is provided, the format facilitates, to some degree, attempts by States to avoid answering questions, and depends upon members ensuring that they ask follow-up questions.

Committee members' tendency to deliver lengthy speeches, including compound questions covering multiple issues, blunts the force of their points. It creates an easy opportunity for States to avoid the issues they wish to ignore by expanding on favourable ones, especially as, in some cases, issues that were not addressed by the delegation were not raised again by the Committee. Rwanda's delegation, for example, skirted around the issues of child detention, corporal punishment, political prisoners, legal protection for journalists, and compensation for victims of the 1994 genocide, and these issues were not raised again by the Committee during the dialogue. In the concluding observations, however, the Committee did call for the State to explicitly prohibit corporal punishment against children, to investigate reported cases of torture and ill-treatment of political prisoners, and to ensure that journalists and human rights defenders are protected against threats, arrest and detention, including by prosecuting and punishing those responsible for such acts.¹

Providing States with long periods to answer questions also allows delegates to follow tangents and shift the focus of an issue, further undermining dialogue. This tendency manifested itself during the reviews of Cuba, Canada, and Rwanda in particular. The Cuban delegation framed discussion of the country's human rights situation in terms of its turbulent political history and the effect of the United States' policy on the country. This led to blanket denials of reports from the Inter-American Court of Human Rights that prisoners were sometimes subjected to short-term detentions without charge.

The Committee also failed to pin down delegations that did not provide meaningful answers. Canada and Rwanda, for example, dismissed the Committee's concerns by appealing to legislative reform. Canada's delegation met questions about immigration detention by claiming that a draft bill that perfectly upholds the principle of non-refoulement² is being considered by Parliament. However, it did not address the situation as it stands. Rwanda, too, repeatedly referred to the passage of a new Penal Code to allay the Committee's concerns about the definition of torture. While legislative reform is important, appealing to pending change without addressing immediate steps to remedy a situation falls short of meaningfully answering the Committee's questions. However, in its concluding observations the Committee remedied its lack of oral follow-up. The Committee welcomed the fact that the new Rwandan Penal Code contains a definition of torture, but criticised the relatively lenient penalties provided for, and that those penalties do not cover the infliction of 'mental pain or suffering'. In relation to Canada, the Committee expressed concern in its concluding observations that the bill currently being considered allowed for exceptions to the principle of non-refoulement, and called for this to be amended.

A final obstruction to dialogue emerged through the Committee's failure to pursue some lines of questioning and draw out detail. For example, in response to questions about specific torture allegations, the Rwandan delegation declared that 'dignity and torture are incompatible' and that 'Rwanda does not tolerate impunity'. The delegation's failure to expand on, or provide a basis for, such statements suggests it considered them adequate responses, and the Committee allowed these responses to pass. In concluding observations, the Committee commented on the lack of information provided by the delegation on cases in which the Convention has been applied or invoked before the courts. It called on the State to carry out investigations into particular cases of alleged torture.

1 For links to CAT's concluding observations from the 48th session see, <http://bit.ly/1nIX3h>.

2 Non-refoulement is the right to not be returned to a country where there are substantial grounds for believing the person will be subjected to torture.

PROCEDURAL ADVANCES

The Committee faces several procedural challenges that have an impact on its work and functioning. One such issue is the role of the Committee as an early-warning mechanism. In theory, the Committee could play this role by alerting the international community to issues with the potential to deteriorate into human rights crises before any serious violations of the Convention occur. However, in practice limited resources and time mean that little follow-up between country reviews is possible, as was made apparent by the case of Syria. During Syria's last review in 2010, institutions that promote impunity for perpetrators of torture and the absence of legal safeguards were highlighted by the Committee. These elements can be seen to have contributed to the gravity of the current Syrian crisis.

A follow-up procedure was introduced in 2003 to identify concluding observations that could be addressed within a year. At this session, Ms Felice Gaer, the Committee's rapporteur on follow-up to concluding observations, presented her review of the follow-up mechanism. It now incorporates a dual-assessment system to rate both the amount and quality of information provided by States.

Many of the reviews were webcast by a coalition of NGOs. While this move has generally been met with appreciation, some States under review at this session expressed displeasure. In particular, Cuba's delegation said it was concerned about the potential for media manipulation.

The List of Issues Prior to Reporting procedure was commented on favourably by the United Kingdom (UK) and the United States (US). The UK felt the procedure promotes a more efficient use of resources, adding that it would follow this method in the future. The US was of the opinion that the procedure would give more focus to interactive dialogues. Under the new procedure, the Committee does not wait for a national report to be submitted before drawing up a List of Issues for the State to provide further responses to, but proceeds directly to drawing up the list on the basis of which the State submits its report. However, the procedure does not apply to initial reports submitted by States, which must still be submitted prior to the Committee drawing up its List of Issues to ensure the Committee has a comprehensive overview of a country's domestic situation as a starting point. Given that many States are yet to produce an initial report, citing financial reasons for the delay, waiting for States to submit an initial report before the review process can begin may be unrealistic. Low compliance rates highlight the need for States to be provided with technical assistance in developing their reports.

The Committee is currently developing a General Comment to explain and clarify the obligations contained in Article 14 of the Convention. Article 14 protects the rights of torture victims to an enforceable claim to fair and adequate

compensation, including the means for rehabilitation. The draft Comment clarifies the notion of 'victims' contained in the Convention and sets out that the obligations contained in Article 14 have both procedural and substantive dimensions. This means States must ensure that the right of victims to restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition is enshrined in legislation and is actionable.

The Committee's capacity to issue the General Comment has been challenged by some States as going beyond the scope of its mandate, on the grounds that the Committee cannot create new obligations that are not contained in the text of the Convention. However, General Comments do not create new obligations, but only explains those that already exist. Further, it is explicitly within the purview of the Committee's rules of procedure to issue General Comments.³ Mr Claudio Grossman, Committee Chairperson, said the General Comment would bolster the legitimacy of the Committee and improve its processes. Although it was not adopted during this session, it will be considered further and hopefully adopted at the next.

Finally, a major procedural and substantive development took place during the session with the Committee's first oral hearing on an individual case. The claim concerned the extradition of 29 refugees and asylum seekers from Kazakhstan to Uzbekistan, despite a demonstrated risk that they could be subjected to torture upon arrival. The group of Uzbeks had sought freedom from religious persecution in Kazakhstan and most of them had received refugee status. Kazakh authorities relied on an obligation of cooperation⁴ with Uzbekistan to return them and cancel their refugee status, contrary to the Convention.⁵

The oral hearing was requested by Kazakhstan, and Kazakh delegates pleaded their case before the Committee against representatives of the complainants. The Committee heard arguments about the legal content of Kazakhstan's non-refoulement obligation and about the actual state of post-extradition protections in Uzbekistan. The Committee's final decision declared Kazakhstan's actions to be in violation of its international obligations, calling for redress and the immediate return of the victims to Kazakhstan.⁶ Although concerns remain about their safety, the hearing establishes an important precedent in the area of individual complaints. ■

³ Rule 74 of the Committee's Rules of Procedure.

⁴ The Shanghai Cooperation Organization has as member States China, Russia, Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan and imposes regional cooperation obligations on members.

⁵ Article 3.

⁶ <http://bit.ly/OheVjV>.

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Committee aims to improve interaction with civil society



Photo: Rabbit Hole

Maternal and infant health were raised in the review of Ethiopia.

The reviews of Slovakia, Peru, New Zealand, Spain, and Ethiopia by the Committee on Economic, Social and Cultural Rights (the Committee) put the issues of health, forced evictions, and minority rights at the fore. Some Committee members were unhappy with the narrow focus of some reports by non-governmental organisations (NGOs), while others defended the approach of NGOs to provide the Committee with information on their areas of expertise and priority. It was the Committee's 48th session, and was held in Geneva from 30 April to 18 May 2012.

NGO PARTICIPATION

It was clear from the meeting with NGOs, held on the first day of the session, that Committee members value and rely on NGO information regarding the status of implementation of the *Covenant on Economic, Social and Cultural Rights* (the Covenant). The limited number of issues raised at the meeting by NGOs was of concern to Committee members, who feared budgetary constraints could be preventing broader participation and thus restricting the range of issues presented.

Committee members' frustration in this regard was expressed clearly in relation to the issues raised by NGOs on Slovakia's implementation of the Covenant. Some members¹ felt the issues put forward were too heavily focused on sexual and reproductive rights to the detriment of other rights that could have been highlighted and discussed. It was felt this gave a false picture of the issues to be examined under the Covenant, and the focus should be on a much broader range of issues.

However, Committee member Ms Heisoo Shin said it was not fair to criticise the NGOs present for focusing too narrowly on one issue, since the issues selected corresponded to their areas of work and expertise. She raised the challenge for the Committee to attract a more diverse group of NGOs to attend these sessions, and to better study the barriers that prevent them from doing so. Along with the concern that budgetary constraints prevent many NGOs from attending, Ms Shin also suggested that holding two better-timed NGO meetings, as opposed to the one meeting currently held before the State reviews start, may give NGOs more opportunity to attend. For example, some NGOs may find it costly to arrive in Switzerland up to a week in advance of their country's review to attend the NGO briefing. Briefings held more immediately prior to the country reviews could facilitate attendance. The Committee subsequently decided to follow this recommendation, which is expected to enter into effect from next session. However, no decisions from such a discussion have yet been made public.

Throughout the State reviews, information provided by NGOs was cited by Committee members to question and refute that given by delegations. For example, a report by Human Rights Watch² on forced displacement and 'villagisation'³ in Ethiopia was repeatedly quoted to the delegation of Ethiopia to contest its denial of forced evictions in the country. The Committee's use of reports and information such as this one highlights the importance of NGO contributions to the treaty body process. Interestingly, this report was not one of the official submissions made to the Committee.

1 Mr Waleed Sadi (Jordan), Mr Azzouz Kerdoun (Algeria), Mr Philippe Texier (France), and Mr Eibe Riedel (Germany).

2 Human Rights Watch, 'Waiting here for Death: Displacement and 'Villagization' in Ethiopia's Gambella Region', available at <http://bit.ly/LOQ8TT>.

3 'Villagisation' refers to the forcible movement by the Ethiopian Government of indigenous people in the western Gambella region, from their homes to new villages.

The head delegate of Ethiopia disputed reports provided to the Committee by NGOs. He angrily and at length expressed his frustration at being 'lectured by NGOs for years' and conveyed to the Committee that he did not believe the reports on forced evictions were credible. The delegation's attitude to civil society was also reflected in its response to questioning on the law on charities and societies, which regulates the funding of NGOs in Ethiopia, prohibiting them from receiving more than 10 percent of their funds from overseas. The Committee Against Torture, Committee on the Elimination of Racial Discrimination, Committee on the Elimination of Discrimination against Women, and the Human Rights Committee have all recommended Ethiopia amend this law and unfreeze the assets of the NGOs concerned. Ms Shin asked what measures had been taken and whether the recommendations of the various treaty bodies in that regard were being considered by the State. The delegation defended the law saying 10 percent of overseas funding should be adequate, and the law was not meant to restrict practices. It added that its national human rights commission has allocated funds to NGOs that claim they have been adversely affected by the law.

STATE ENGAGEMENT WITH THE COMMITTEE

Delegation sizes ranged from two delegates to 15. Dialogue was on the whole open and constructive. The Committee welcomed the 'frank, positive and constructive engagement' of delegates from New Zealand, Peru, and Slovakia. It was impressed with New Zealand's self-critical report and measures taken to implement recommendations from the previous session.

In contrast, the engagement with Ethiopia was somewhat impeded by several outbursts from its head delegate, Mr Fisseha Yimer Abuye, Special Advisor to the Minister of Foreign Affairs. Mr Abuye appeared exasperated by the Committee's questions, which failed to produce a constructive response from Ethiopia.

It was noted by the Committee that some 15 years had elapsed since the first report of Peru was considered, while in the case of Ethiopia, the combined first, second, and third reports were considered at this session. Committee members expressed their hopes that future interactions would be more regular.

Each delegation had a good mix of representatives from different ministries. The exception was Ethiopia, whose representatives all came from the Ministry of Foreign Affairs (only two came from Ethiopia with the remainder attending from the Permanent Mission in Geneva), about which the Committee expressed its disappointment. Most impressive was the delegation of experts from Spain with 15 members.

There was a noticeable lack of disaggregated statistical data in the reports provided by Spain, Slovakia, Peru, and

Ethiopia. Members repeatedly requested a better breakdown of information in order to fully understand how each country was meeting its commitments under the Covenant. They expressed frustration and disappointment at late written replies to the lists of issues; Spain, Peru (both reports only available in Spanish), and Ethiopia submitted their replies just prior to their respective sessions. Such late submissions can waste session time, since the Committee may need to ask questions for which written replies have only just been received.

THEMES OF DISCUSSION

Access to health

Access to healthcare was given significant attention by the Committee, particularly in relation to the rights of women regarding sexual and reproductive health, reflecting the amount and quality of NGO information presented to the Committee on the issue. It was discussed at length during the country reviews of Peru, Slovakia, and Ethiopia. Concerns about the inaccessibility of modern contraceptives for vulnerable women when they are not available under public health insurance, previously highlighted by NGOs, were raised many times by the Committee. The rising cost of abortion services in Slovakia was also highlighted as a barrier to accessing healthcare, as was the criminalisation of abortion in Peru.

High maternal and infant mortality rates, particularly the disparity between urban and rural areas, were an issue of concern in the review of Ethiopia. The Committee recommended adequately training healthcare workers, increasing the number of skilled healthcare workers, and ensuring an adequate level of medical equipment is available to healthcare centres.

Access to justice in relation to sexual and reproductive rights was raised during the review of Peru. Following forced sterilisations carried out under the National Reproductive Health and Family Planning Program (1996-2000), some families affected are still waiting to receive reparations. The Committee recommended effective investigations be carried out and adequate reparations provided to the families.

Teen pregnancies were of concern to the Committee. The delegation of Peru agreed this is a serious problem in its country, which authorities are making great efforts to address. The Committee recommended that sexual and reproductive health education be provided in schools to help prevent teenage pregnancy and sexually-transmitted diseases.

Forced evictions

Ethiopia's 'villagisation' programme was of particular concern to the Committee. Along with the forcible relocation of thousands of people to areas that lack necessary infrastructure, the Government is not providing adequate compensation.

This subject was the most contentious of all those discussed during the session. The Ethiopian delegation primarily attempted to ignore the issue of forced evictions and, when pushed by Committee members, simply refused to acknowledge any forced evictions had taken place. In its concluding comments, the Committee urged 'the State party to ensure that the relocation of people is done on a voluntary basis, following prior consultation ... and to guarantee that people living in relocation sites are provided with basic services ... and adequate facilities'.

Minority rights

The effects of mining on indigenous communities in Peru also came under scrutiny. Several members asked about the State's provisions for consulting with indigenous peoples before implementing projects that could have an impact on the community. The delegation said a law was passed in August 2011 that requires the Government to consult with indigenous peoples and gain their consent before authorising mining and other projects that could affect the community. However, as Mr Romero noted, the short time frame since adoption made it difficult to assess the impact of this new law. Ms Barahona Riera asked what would happen in a case where the local community refused to agree to a mining project. Mr Sadi added that local communities have no veto rights in practice. The delegation explained that in cases where no agreement is reached, the company involved is called on to mitigate all the adverse effects of the project and ensure the collective rights of the local population are fully guaranteed. The delegation acknowledged there have been problems with illegal mining in the country and the State is 'trying to put a stop' to this.

The Committee remained 'concerned that effective consultation and prior informed consent of indigenous peoples is not systematically sought in decision-making processes' and recommended the State ensure effective consultation is carried out. Members were generally concerned that the negative effects of mining in the country grossly affect communities' enjoyment of their economic, social, and cultural rights.

Concerns were raised about discrimination and the enjoyment of economic, social, and cultural rights of minority groups, such as Roma people in Slovakia, immigrants and Roma in Spain, and Maori and Pacifica people in New Zealand. In particular, there were seen to be problems in equal enjoyment of education, employment, housing and health. The Committee recommended that further measures be implemented to protect minority groups from discrimination.

Sexual orientation and gender identity

Inheritance rights for same-sex couples were discussed in the reviews of both Peru and Slovakia. Unfortunately, no clear answer was given from the Slovakian delegation, while the

delegation of Peru said its legal system does not recognise same-sex marriage, therefore there are no inheritance rights for same-sex couples. The Ethiopian delegation was asked by the Committee if it plans to decriminalise homosexuality. The delegation was of the opinion that it would be 'against the social and cultural beliefs of the general population' to do so, but did not rule out that this position may change in the future. The Committee did not pursue the discussion further. In general, dialogue on this subject was somewhat limited due to the inflexible stance taken by the delegations, and the unwillingness of the Committee to push further.

CONCLUSION

The Committee can be praised for its tenacity in pursuing answers to difficult questions put to delegations, when it was clear in some instances that delegates were keen to side-step and avoid them. Encouragingly, NGO reports that had been submitted were used in the preparation of questions to the delegations.

The 48th session of the Committee was the first where some reviews were webcast live. This received widespread support from NGOs, Committee members, and the delegations. Webcasting is an important step towards making the treaty body sessions available to a wider civil society audience. Initial analysis of viewer data shows that all reviews that were webcast had significant numbers of viewers in the country under review. This should be an important consideration when States discuss the UN High Commissioner for Human Rights' proposals on treaty body strengthening, and decide on resources to allocate to the treaty body system as a whole.⁴

The decision of the Committee to hold two meetings with NGOs closer to the actual reviews of their countries is a positive step. In the High Commissioner's report on the process of treaty body strengthening, such a model is proposed for all treaty bodies. While in the case of this Committee the step clearly represents an improvement, other treaty bodies already have more timely and, in some cases, more protected spaces to interact with civil society. The Committee could consider making civil society meetings private to ensure only civil society attends, thereby reducing the risk of individuals being targeted for intimidation or reprisal afterwards. The practice of other committees, such as the Committee against Torture, may provide important lessons in that regard. ■

4 See the High Commissioner's report at <http://bit.ly/HCHR-TB>.

COMMITTEE ON THE RIGHTS OF THE CHILD

Despite similar challenges, States require tailored responses



Photo: Tam Tran

Australia, Cyprus, Greece, Turkey, Vietnam, and Nepal were the focus of the Committee on the Rights of the Child (the Committee)'s 60th session, held from 29 May to 15 June 2012.¹ As is true for all sessions, it was clear that States face many similar challenges in implementing child rights obligations. Without accepting justifications often used by States citing tradition or cultural relativism, these difficulties do require responses tailored to the context of each country. For example, the rights of ethnic minority and indigenous children featured strongly in the reviews of Australia, Cyprus, Greece, Turkey and Vietnam, yet the Committee's recommendations on how each State should address their respective challenges in this regard varied.

National NGOs from all countries reviewed at the 60th Session attended the public meetings and watched the live stream on the Treaty Body Webcast website.²

The Committee met to work on general comments and plan for the day of general discussion.³ It also issued a press release coinciding with the Human Rights Council special session on the Syrian Arab Republic, subsequent to the massacre in El Houleh.⁴ The Committee 'strongly deplored' the acts of violence, where children were targeted and constituted 49 of the 108 civilians killed. The Committee 'expressed further alarm at reports [...] of violence and killings against the civilian population and the increasing number of civilian victims, particularly children.'⁵ This had a significant impact on the discussions of States during the special session, several of which cited the Committee's words in their statements.

ETHNIC MINORITY AND INDIGENOUS CHILDREN

Non-discrimination is enshrined in Article 2 of the *Convention on the Rights of the Child* (the Convention). It is also held up as one of the four principles that capture the spirit of the Convention and how it should be applied in practice. Articles 17, 29 and 30 of the Convention specifically mention minority and indigenous groups. Respectively, they promote and protect the role of the media in the dissemination of information on children's human rights, including in minority and indigenous languages; the aim of education for the full development of the child in the spirit of understanding and tolerance; and the right of a child to enjoy his or her culture.

Turkey legally recognises only religious minorities and maintains reservations to the above articles, which impacts the rights of all children in the country. With particular regard to ethnic minority children, Article 17(d) obliges the State to ensure the mass media accounts for the linguistic needs of children belonging to minority and indigenous groups. The Committee was concerned that neglecting to implement this article could further isolate different groups of children, including by hindering

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- 1 Algeria, Australia, Cyprus, Greece, Turkey and Vietnam under the *Convention on the Rights of the Child*; Australia, Greece and Turkey under the Optional Protocol on Children in Armed Conflict; and Australia, Greece, Nepal and Turkey under the Optional Protocol on Sale of Children, Child Prostitution and Child Pornography.
 - 2 For more information on live webcasting of the Committee's sessions, including how to access archived videos, visit the NGO Group for the Convention on the Rights of the Child's dedicated webpage: www.childrightsnet.org/NGOGroup/CRC/StatePartyReporting.
 - 3 To find out more about the 2012 Day of General Discussion, visit the OHCHR website: <http://bit.ly/N84MFx>.
 - 4 See <http://bit.ly/PFOjw3> for more information.
 - 5 Press release of the Committee on the Rights of the Child on the situation of children in the Syrian Arab Republic: <http://bit.ly/Ohe42P>.

understanding and perpetuating intolerance. In its concluding observations, the Committee urged the State to consider withdrawing its reservations, 'in order to provide better protection and opportunities to all groups of children, in particular children of Kurdish origin'.⁶ Incidentally, one week after the review, the Turkish media was dominated by the State's announcement that Kurdish children could now be taught in Kurdish at school.⁷ It seems then that the State recognises the value of children being able to receive their education in their mother tongue; however, with the current reservation, this is a right extended to recognised religious minorities, but not to children belonging to ethnic minority groups.

Children belonging to ethnic minorities or indigenous communities struggle to access their rights, setting them apart from their peers belonging to the 'majority' population. In dialogue with the Committee, some States cited geographical and linguistic factors as reasons why children belonging to minority or indigenous communities fell behind in health, education and other areas. Instead of governments taking steps to overcome barriers to reach minority or indigenous children, the reviews before the Committee showed that in many cases, discriminatory laws, policies or practices only reinforce them.

Geography also presented challenges in Vietnam, where the State admittedly struggles to communicate with minority groups living in remote mountainous areas, whether to obtain basic information on the healthy development and wellbeing of children, or to inform them of new laws prohibiting harmful practices such as early marriage. The Committee recommended that Vietnam 'ensure equal access to social services to all groups of children, with a particular focus on children belonging to ethnic minorities and indigenous groups'.⁸

In Australia, the Committee noted that a disproportionate number of children born to aboriginal mothers were not registered at birth, denying them legal personality and severely limiting their access to a range of rights. The delegation explained that, given the location of some aboriginal communities, the State struggles to provide birth registration services. However, as Australia is one of the wealthiest countries in the world, the Committee was confident that such obstacles could be easily overcome if resources and appropriate planning were directed accordingly. The Committee was concerned that the disparities were reinforced by discriminatory laws and practices across States, which require political commitment to non-discrimination in order to be overcome.

6 Committee on the Rights of the Child Concluding Observations to the State of Turkey: CRC/C/TUR/CO/2-3.

7 BBC News article on the introduction of Kurdish as a teaching language in Turkish schools: <http://bbc.in/LilwMy>.

8 Committee on the Rights of the Child Concluding Observations to the State of Vietnam: CRC/C/VNM/CO/3-4.

Timing of NGO report submissions

The Committee is working on a backlog of State party reports of approximately two years. State reports are therefore out-of-date by the time they are reviewed, and do not reflect political, economic and legal changes that may have occurred in the meantime. The Committee needs to be informed of the current situation for children in a country at the time of the State's review, to make recommendations that accurately address the realities. The Committee's Lists of Issues and States' written replies provide such an opportunity for States to update the Committee about developments since submission of the State periodic report.

To ensure that Committee members can access all required information, in 2011 it introduced a six-month time frame between the pre-session meeting and the State review. This is to allow for the State under review to transmit detailed written replies to the List of Issues. The time frame for civil society to submit reports has also been adapted: instead of six months after the submission of the State report, NGO submissions should now be made two-and-a-half months before the pre-session. Check with the NGO Group for the Convention on the Rights of the Child (NGO Group) for NGO report submission deadlines.

THE SELECTION OF INFORMED AND INFLUENTIAL STATE DELEGATIONS

Choosing the right people to make up a State delegation is crucial for the quality of the review. Child rights issues are cross-cutting and require well-structured coordination to ensure a comprehensive and coherent approach to implementation that accounts for all children.

In many instances during the 60th session, delegations were unable to respond to questions due to lack of information available to them. In some cases, this appeared to convey a lack of preparedness, while in others the information did not seem to be available at all. NGOs were worried about follow-up and the overall execution of State policies given the demonstrated lack of knowledge of representatives who should have been experts on the topics. In the case of Australia, the information on aboriginal children simply did not exist. The Committee asked how the State could be aware of the extent of challenges facing aboriginal children in the enjoyment of their rights if national data was not disaggregated by ethnicity. In its concluding observations, the Committee recommended the State 'to strengthen its existing mechanisms of data collection [...] in a way that allows for disaggregation [...] and pay particular attention to ethnicity, sex, disability, socio-economic status and geographic location'.⁹

9 Committee on the Rights of the Child Concluding Observations to the State of Vietnam: CRC/C/VNM/CO/3-4.

In the review of Cyprus, the Committee regretted the absence of the Ministry of Finance, given the importance of adequate resourcing for the enforcement of law and the implementation of policy. For Australia, the Geneva-based Ambassador addressed the majority of the Committee's questions and did not use the full capacity of his delegation. It is useful if the Committee hears from the representatives working in country, in particular ministries who fully understand the challenges in implementation. Furthermore, it can be better to have a representative from capital heading the delegation who can then lead the process of follow-up in the country.

Vietnam and Turkey provided their own translators for their reviews; however, there were several instances where the Committee and the respective delegation struggled to understand each other. While there are clear benefits for the State delegations to listen and speak in their national language, translators may lack specialised knowledge of key human rights concepts and legal terms. During both reviews, the dialogue broke down at certain points simply due to confusion over wording, for example when two terms with different legal significance were used interchangeably.

To fully benefit from the review, States need to select representatives of ministries involved in implementing child-related law and policy and include those with coordination roles and decision-making power who can carry the recommendations of the Committee forward. Where possible, UN agencies, national human rights institutions and national NGOs can encourage States to select such representative delegations to attend the Committee sessions. In the case of federal States, such as Australia, it is equally important for the Committee to understand the delineation of roles across the various levels of administration. In dialogue with the delegation of Australia, the Committee commented that the Convention and its optional protocols had been ratified at the federal State level, noting therefore that at the federal level, there should be a mechanism to ensure that individual states' or territories' policies were in compliance with corresponding legal obligations.

INTEGRATED REPORTS

The OPAC and the OPSC set out that after a State's initial report under one or both of the optional protocols is reviewed, subsequent periodic reports should be integrated into the periodic report of the Convention. Even though Vietnam did not include information on the optional protocols in its State report, the Committee still posed questions to the delegation. At the 61st Session, Austria's integrated report will be reviewed (the Convention, OPAC and OPSC), while at the pre-session, the integrated reports of Slovenia (the Convention, OPAC and OPSC) and Israel (the Convention and OPAC) will be considered. Even in cases where the State report does not include the periodic report on one or both of the protocols, NGOs may still report on the implementation of the

concluding observations issued at the time of the initial review of the protocol(s), as well as on the Convention itself.

Next session

The 61st Session of the Committee, to take place from 17 September to 4 October, will feature the reviews of Albania, Austria, Bosnia and Herzegovina, Canada, Liberia and the Philippines.¹⁰ The pre-session meeting for the 62nd and 63rd sessions, from 8 to 12 October, will include discussions on Armenia, Israel, Lithuania, Monaco, Rwanda, Slovenia and Paraguay.¹¹ For further information on the session and pre-session, contact Roisín Fegan at the NGO Group (fegan@childrightsnet.org).

THIRD OPTIONAL PROTOCOL FOR A COMMUNICATIONS PROCEDURE

With 23 States now signed up to the third optional protocol to the Convention on the Rights of the Child for a communications procedure (OP3CRC), the Committee has been working to draft its rules of procedure. It intends to adopt the rules of procedure during its September 2012 session although the mechanism will not enter into force until 10 States have ratified it. So far, Finland and Germany have publicly noted that national processes for ratification are underway.

Join the Ratify OP3CRC International Coalition!

At the launch of the Coalition on 20 June 2012, the Committee endorsed the ratification campaign for the OP3CRC, which will be led by Coalition members who represent national, regional and international NGOs around the world. This group of NGOs is working together to ensure the communications procedure comes into effect as soon as possible to offer opportunities for redress for children. To join the Coalition, visit the Ratify OP3CRC International Coalition dedicated website (<http://www.ratifyop3crc.org>) and sign up!

¹⁰ To access State reports and lists of issues, visit <http://bit.ly/P1z1QF>.

¹¹ To access State reports and see for which treaties (the Convention, OPAC and OPSC) each State will be reviewed, visit <http://bit.ly/MSxs4u>.

COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES

Committee reviews Peru at its 7th session



Photo: UN Photo/L Solimssen

Children play football at a rehabilitation centre.

From 16 to 20 April 2012, the Committee on the Rights of Persons with Disabilities (the Committee) held its 7th session. It reviewed the report of Peru, adopted lists of issues on Argentina, China and Hungary, and adopted its first views on an individual communication under the Optional Protocol to the *Convention on the Rights of Persons with Disabilities* (the Convention).

The Committee also endorsed the Dublin II outcome document on the treaty body strengthening process, joining several other treaty bodies in their support. The Committee's 8th session will be held from 19 to 28 September 2012, during which Argentina, China and Hungary will be reviewed, and the list of issues on Paraguay will be adopted.¹ It will be preceded by the 5th Conference of States Parties to the Convention, from 12 to 14 September, during which nine members will be elected to the Committee. The Committee will hold a half-day of general discussion on women and girls with disabilities during the 9th session (15 to 19 April 2013).

CONTINUED TIME AND ACCESSIBILITY CHALLENGES

At the opening of the session, Professor McCallum, the Committee Chair, announced that 25 State reports were pending before the Committee, representing a backlog of seven years, while 49 State reports are already overdue. At the end of last year, the General Assembly granted the Committee one extra week of meeting time for the current year, thereby increasing the session time to three weeks in 2012. While the Committee welcomed the extra week this year, members expressed concern about the increasing wait-list of States to be reviewed, and that the time allocated thus far for the Committee to carry out its functions does not correspond to the large number of States that have ratified the Convention.²

Another unexpected obstacle to the sessions is their relative inaccessibility. While efforts have been made to render premises physically accessible and for documentation to be made available in Braille and in electronic formats for members with visual impairments (of whom there are currently six), sessions remain inaccessible for persons who are deaf or hard of hearing (currently no members represent these groups). Due to the absence of sign language interpretation, deaf participants, including representatives of the World Federation of the Deaf and the European Union of the Deaf, were obliged to bring with them interpreters at their own expense.

Captioning was provided at the 7th session and for the review of Peru in both English and Spanish. This was a good practice which should continue unconditionally. Yet UN conference services, responsible for the procurement of services including interpretation and captioning, construed that it was only permitted to provide *either* sign language interpretation *or* captioning and that such services were only to be made available for the public sessions. The International Disability Alliance (IDA) is

¹ The country rapporteurs have been designated as follows: Argentina – Ms Ana Pelaez; China – Mr Hyung Shik Kim; Hungary – Mr Damjan Tatic; and Paraguay – Ms Silvia Quan Chang.

² As of 9 July 2012, there are 116 States Parties to the Convention and 71 to its Optional Protocol. While backlogs in reviews and overdue State reports are a norm across treaty bodies, this Committee is facing a particularly inequitable allocation of time and resources.

advocating for reasonable accommodation in application of the Convention,³ i.e. for a flexible approach to be taken in the provision of services where it does not present an undue or disproportionate burden. A positive development is that the Committee formally decided 'to request UN conference services to make all possible efforts to ensure that international sign interpretation and captioning are used in all public and private meetings of the Committee'.

REVIEW OF PERU

For the first time, the Committee's interactive dialogue was webcast live. In an effort to make the work of UN treaty bodies more accessible and bring it closer to national disabled persons' organisations (DPOs) and non-governmental organisations (NGOs), a group of Geneva-based NGOs, including the International Disability Alliance (IDA) and the International Service for Human Rights, is taking the initiative to webcast the public sessions of all UN treaty bodies.⁴

The review of Peru was the Committee's first with respect to a country from Latin America. The questions of the Committee, led by country rapporteur, Mr Carlos Rios Espinosa, reflected concerns that were specific to the 'multicultural, multi-ethnic and multi-lingual' diversity of Peru. A recurring theme was multiple discrimination on the basis of disability, gender, indigenous origin, and African descent.

Other issues raised included:

- The continued existence of the legal institution of interdiction (guardianship), and persons who have been abandoned in institutions who cannot communicate, who have never been registered and who have been denied a legal identity, all of which contradict equal recognition before the law of persons with disabilities;⁵
- Measures of accessibility and provision of community and health services in rural areas, in particular for women and children with disabilities;⁶
- Violence against women⁷ and children in institutions and in the home, including the forced institutionalisation of persons with psychosocial disabilities and persons with drug or alcohol dependence;⁸
- The lack of inclusive education, given that 80 per cent of persons with disabilities do not receive basic education;⁹
- Forced sterilisation of persons with disabilities and access to sexual and reproductive health services;¹⁰
- Poverty reduction, including through international cooperation;¹¹
- The continued exclusion of persons with disabilities from the right to vote, including persons who are legally incapacitated and persons detained in psychiatric facilities. This remains an issue despite measures taken by the Government in October 2011 to reinstate 20,000 persons with disabilities to the electoral list.¹²

CONCLUDING OBSERVATIONS

The Committee's recommendations highlight the need to address multiple discrimination through collection of disaggregated data, and investment of resources in the development of policies and programmes on indigenous and minority persons with disabilities, particularly women and children living in rural areas and persons of African descent.

Of note is the Committee's first use of a medium-term follow-up measure. It requested the State to report back within two years on the measures taken to implement the following recommendations:

- Equal recognition before the law (Article 12) – to provide identity documents to persons with disabilities including in rural areas and in long term institutional settings;
- Liberty and security of the person (Article 14) – to prohibit in law and practice the deprivation of liberty on the basis of disability, including psychosocial, intellectual or perceived disability; and
- Respect for home and the family (Article 23) – to abolish in law and in practice the forced sterilisation of persons with disabilities.

It is also the first time the Committee issued a recommendation on the issue of torture or cruel, inhuman or degrading treatment or punishment (Article 15), regarding the continuous forcible medication and poor material conditions in psychiatric institutions, where some persons have been institutionalised for more than ten years.

Notably, the Committee placed an unprecedented emphasis on private actors and called on the State to ensure these actors fulfil their role in upholding the rights of persons with disabilities, specifically concerning compliance with accessibility standards; combating negative stereotypes and

³ See Articles 2 and 5(3) of the Convention.

⁴ The archived webcast of the review of Peru can be viewed at <http://bit.ly/McxmIh>.

⁵ Mr Gábor Gombos.

⁶ Mr Rios Espinosa, Mr Damjan Tatic, Mr Mohammed Al Tarawneh, Mr Lallahom, Ms Jia Yang, Mr Stig Langvad, and Ms Maria Soledad Cisternas Reyes.

⁷ Violence against women and girls with disabilities was also the subject of a study by the Office of the High Commissioner for Human Rights. The study is available at <http://bit.ly/N9c64c>.

⁸ Mr Rios Espinosa, Ms Theresia Degener, Mr Gombos, and Ms Ana Pelaez Narvaez.

⁹ Mr Rios Espinosa, Mr Monsur Ahmed Chowdhury, Ms Degener, Mr Langvad, and Ms Cisternas Reyes.

¹⁰ Mr Rios Espinosa, Ms Pelaez Narvaez, Ms Cisternas Reyes, and Mr Langvad.

¹¹ Mr Kim and Mr Langvad.

¹² Mr Rios Espinosa, Ms Degener, Mr Gombos, and Mr Langvad.

conducting awareness-raising in a manner compliant with the Convention; ensuring legal safeguards to eliminate disability-based discrimination by health insurance companies and other private actors; and promoting the employment of persons with disabilities through tax incentives for private companies and employers.

For the first time, the Committee made recommendations related to:

- The elimination of discriminatory requirements in the Act for Foreigners, which prohibits persons with intellectual or psychosocial disabilities from acquiring Peruvian nationality;
- The amendment of the Civil Code to guarantee all persons with disabilities the right to marry;
- The guarantee of the right to liberty to persons with a 'perceived disability', which explicitly includes persons with a drug or alcohol dependence;
- Addressing the negative impact of poverty by mainstreaming disability-inclusive socio-economic development;
- The restoration of voting rights to all people with disabilities, including persons subject to judicial interdiction; reaching out to vulnerable individuals to avoid violations in the future, including through training; guaranteeing the right to vote of persons with disabilities in institutions to ensure their physical access to polling stations with the necessary support required to do so, or to permit alternative options for voting; and
- Stating that the Multisectoral Commission did not fulfil the criteria of the independent national monitoring mechanism under Article 33(2) of the Convention,¹³ the need to specifically designate a mechanism that is in conformity with the Paris Principles, and ensure as a priority the full participation in the monitoring process of persons with disabilities and their representative organisations.

DPO PARTICIPATION VALUED BY THE COMMITTEE

The Committee is committed to ensuring the participation of DPOs in its work. Strong DPO delegations were present at the session from Peru, Argentina, Hong Kong, and Hungary. Although DPO representatives from mainland China were not present, IDA had met with several DPOs and NGOs from mainland China in the lead up to the session and was able to convey their principal concerns. This was supplemented by information provided by Human Rights Watch.¹⁴ Almost all Committee members were present at side events organised by IDA and actively engaged with DPO representatives.

The session confirmed the established practice that during private briefings and side events organised by civil society, Committee members who are nationals of the country being discussed will absent themselves from these proceedings. While this is not required by the rules of procedure, the measure complements the Committee's own internal regulations with respect to State reviews.¹⁵

To read the Concluding Observations on Peru, the List of Issues on Argentina, China and Hungary, and related DPO submissions, visit <http://bit.ly/RMMquM>.

First views on an individual communication

The Committee adopted its first views on an individual communication submitted under the Optional Protocol to the Convention. The case, *HM v Sweden* (communication no 3/2011),¹⁶ concerns a local municipality's refusal to grant a building permit to a woman with a degenerative illness, who could not leave her home without great risk, for installation of a hydrotherapy pool on her property for the purposes of health and rehabilitation. The Committee found that the State failed to provide reasonable accommodation and fulfil its obligations concerning non-discrimination, health and rehabilitation, living independently and being included in the community.¹⁷

Information on IDA

The International Disability Alliance (IDA) is the network of global and regional organisations of persons with disabilities. With member organisations around the world, IDA represents the more than one billion people worldwide living with a disability. For more information visit www.internationaldisabilityalliance.org.

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

¹³ Articles 5(1), 5(3), 19(b), 25 and 26, and in conjunction with Articles 3 (b), (d) and (e), and 4(1) (d), of the Convention.

¹⁴ Submissions made by DPOs and NGOs are available at <http://bit.ly/RMMquM>.

¹⁵ Rules of Procedure of the Committee on the Rights of Persons with Disabilities, CRPD/C/4/2, 13 August 2010, Rule 43 ; Working methods of the Committee on the Rights of Persons with Disabilities, CRPD/C/5/4, 2 September 2011, para 9.

¹⁶ Read the views in full at <http://bit.ly/NU4u1n>. A summary prepared by IDA is available at <http://bit.ly/MULg0L>. Access IDA's factsheet on the Optional Protocol at <http://bit.ly/MQZHDw>.

¹⁷ Articles 5(1), 5(3), 19(b), 25 and 26, and in conjunction with Articles 3 (b), (d) and (e), and 4(1) (d), of the Convention.

THEMATIC FOCUS

WOMEN HUMAN RIGHTS DEFENDERS P. 22

WOMEN HUMAN RIGHTS DEFENDERS

First ever Human Rights Council panel on women defenders explores protection needs



Photo: UN Photo/Albert Gonzalez Farran

Women in North Darfur march in a campaign against gender-based violence.

At a time of both advances and continuing challenges for women human rights defenders within United Nations (UN) human rights mechanisms and processes, the Human Rights Council's (the Council) 20th session saw its first ever panel on the protection needs of women human rights defenders and the efficacy of national level responses. Crucially, the voice of women defenders themselves was given due prominence, reflecting the need for women defenders to be placed at the heart of defining means to their protection. With increasing threats to women defenders from State and non-state actors, acknowledgement of their role and the defence of their rights are key to enabling their work, including their engagement with human rights processes. As the struggle to advance contested rights continues, so do the calls on the Human Rights Council to ensure that women defenders can carry out their legitimate work in defence of all rights, without hindrance.

Panelist Ms Sunila Abeysekera, from the Women Human Rights Defenders International Coalition, defined women human rights defenders as women who engage in the defence of all human rights, as well as those who defend women's rights and rights related to gender and sexuality.¹ They can be targeted for what they do – their activism – and who they are – their identities. She noted that in addition to facing violations experienced by male counterparts, women defenders are exposed to gender-based violence and gender-specific attacks. This definition was echoed by the other panelists: Deputy High Commissioner for Human Rights, Ms Kyung-wha Kang; UN Special Rapporteur on human rights defenders, Ms Margaret Sekaggya; Special Rapporteur on Human Rights Defenders of the Inter-American Commission on Human Rights, Mr José de Jesus Orozco; Mr Nazar Abdelgadir, Geneva Institute for Human Rights.

Understanding the gender-specific protection needs of women defenders was emphasised consistently. '[They] straddle roles as public people, mothers, wives and caregivers' and this influences the protection measures they require and how they can access them.² Effective measures to ensure their security may encompass childcare, for example. Their role as caregivers means leaving home to seek protection can be less viable for women. Taboos around gender-specific violations, such as sexual violence including rape, create a dual stigmatisation which informs women defenders' ability to seek justice and protection. They frequently lack information on existing protection measures, something Mr Orozco noted as the responsibility of States, human rights mechanisms and civil society to address; and there is a need to increase resourcing of protection measures.³

As Ms Abeysekera noted '... if the environment for women defenders is one where equality is not respected, where women's voices are not heard... the best protection mechanisms will fail us'. Social, political and economic change is at the heart of the struggle that many women defenders engage in, and is also crucial for guaranteeing their security. Panelists were united in noting that women defenders work in, what Ms Kyung-wha Kang called, 'the reality of gender inequality'. Patriarchy informs the political, social and economic contexts in which they work, and manifests itself structurally and in practice.⁴ Women are frequently denied full equality before the law and full participation in society and public life, including through legal barriers. These include laws such as legal guardianship by which women are legal minors, and so are denied freedom of movement.⁵ Even where women defenders have 'shed chains that had traditionally stopped them from acting' this active participation

1 Women Human Rights Defenders International Coalition, www.defendingwomen-defendingrights.org.

2 Ms Abeysekera.

3 UN Special Rapporteur on human rights defenders, recalling one of her recommendations to States in her report: A/HRC/16/44.

4 Also see UN Special Rapporteur on human rights defenders, A/HRC/16/44 para 103.

5 Highlighted by Human Rights Watch in its statement.

has then not been recognised in formal political processes, such as elections.⁶ Furthermore, women defenders who work to change their environments are frequently seen as challenging social norms, which increases the risks they face and hinders their work.

States asked how to respond to those who use culture and tradition to justify violations against women defenders.⁷ Ms Sekaggya noted that those who undertake cultural practices that violate human rights should be prosecuted. Education is key to changing attitudes and building social support for women defenders.⁸ Tackling impunity for attacks against women defenders through immediate investigation of violations and appropriate penalties is also key. As Ms Abeysekera noted, 'in environments where the rule of law doesn't prevail and impunity does, seeking legal measures for protection is very difficult'. Panelists underlined the importance of documentation to analyse causes of violations against women defenders, and define appropriate responses.⁹ The representative of the United States noted that a lack of disaggregated data left abuses invisible or unidentified as politically motivated. Mr Orozco said data collection systems that do not incorporate a gender approach undermine reform efforts.

It was emphasised that women defenders themselves, as 'agents and initiators of action', need to be placed at the heart of the documentation of their own experience, and the design of protection measures.¹⁰ However, it was pointed out that visibility gained through activism and engagement can in the short term increase the risk of attacks against individuals, including reprisals. Sri Lanka made a statement on the important role played by women human rights defenders, notable given the recent reprisals against Sri Lankan defenders, including at the Council. However, the Sri Lankan delegate did not mention any steps the State is taking to ensure a safe environment for women defenders to operate.

Protecting and promoting the work of women defenders should be a concern across all Council mechanisms. At this session of the Council, other special procedures mandate holders have highlighted some of the crucial elements required to protect women defenders. The Special Rapporteur on the freedom of opinion and expression noted how attacks against female journalists 'are not reported as a result of powerful cultural and professional stigmas.'¹¹ He called for 'contextual' and 'holistic' approaches to protection,

which 'include material, legal, and political measures of protection, in particular public condemnation of attacks'.¹²

In its first report to the Council, the Working Group on the issue of discrimination against women in law and practice noted that one of its upcoming topics of review is the 'context of political and public life.' The review will incorporate the fact that through participation in public life women are often exposed to violence related to their role as 'agents of change'.¹³

Integrating a gender perspective

The panel on women defenders was held as part of the Council's full day discussion on women's rights. Initiated in 2007, the discussion is but one element of the Council's commitment to integrating a gender perspective and the human rights of women throughout its work, as expressed in Resolution 6/30. This includes in the work of special procedures and treaty bodies. The resolution is consistent with the *Vienna Declaration and Programme of Action*, which confirms the equal status and full participation of women as a priority for States and the UN as a whole.

Integrating a gender perspective involves questioning how different people experience human rights violations differently, and how this affects their ability to claim and defend rights. This should therefore inform responses to those violations. It requires documenting and analysing the gender-specificity of the violations women defenders face. Women defenders' direct engagement with human rights processes and access to UN bodies are key to providing such perspectives, information and analysis. This is why a focused panel discussion on women human rights defenders is an important step.

As the representative of Uruguay expressed, it is the responsibility of governments to ensure the rights of human rights defenders, as well as the rights of all women, to live without violence and discrimination. Women defenders live and work at the intersection of these areas of rights.¹⁴ Mr Abdelgadir highlighted the work of the regional human rights mechanisms that have set up specific protection mechanisms for defenders and others for the elimination of violence against women. He suggested more should be done to explore how these different mechanisms combine and reinforce each other to protect women defenders.

A Council resolution focused on accelerating efforts to eliminate all forms of violence against women included reference

6 Mr Abdelgadir in reference to women defenders in the Middle East.

7 Poland, and Norway on behalf of the Nordic countries.

8 Senegal echoed this suggestion, noting the importance of increased general human rights education.

9 This was noted as a responsibility of States, NHRIs and civil society, by the UN Special Rapporteur on human rights defenders in her report, A/HRC/16/44.

10 Ms Abeysekera.

11 A/HRC/16/44 also refers to female journalists working on human rights issues, identifying them as women human rights defenders.

12 UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/HRC/20/17, para 110.

13 A/HRC/20/28.

14 In her report, A/HRC/16/44, Ms Sekaggya noted how the intersection of multiple forms of discrimination against women needed to be considered in the definition of programmes of protection.

to several required changes. These echoed many of those outlined during the panel on women defenders.¹⁵ They included the need for the removal of barriers to women's access to justice; and the involvement of women and women defenders in defining, implementing, monitoring and evaluating effective responses for those subjected to violence.¹⁶ This and previous resolutions to some degree act as a barometer of the Council's will to understand and acknowledge violations against women and define effective responses.

THE BIGGER PICTURE

Over recent months, whilst there have been some advances in UN human rights bodies in securing sexual and reproductive rights and rights associated with sexuality, these have also remained highly contested. For example, at the same time as the first ever Council panel on sexual orientation and gender identity was being held in March 2012,¹⁷ the Commission on the Status of Women¹⁸ failed to reach consensus on agreed conclusions. This was due to calls to safeguard 'traditional values', a notion frequently at odds with the full enjoyment of rights for women. With several key UN human rights processes related to women's rights reaching crucial points of review and possible negotiation in the next few years, e.g. the Beijing Platform for Action, the International Conference on Population and Development (ICPD) Programme of Action, and the Millenium Development Goals, backlash on these rights can be expected to continue. These reviews were discussed at the Council session, at a State side event on the ICPD Programme of Action, where the critical question of how the Council can help buttress a human rights approach to the debates in these reviews was raised.

The environment for advancing such rights at the Council remains worrisome. Recent Council sessions have seen 'traditional values' and their relationship with human rights on the agenda, with related State and civil society side events focusing on limited interpretations of culture, religion and 'the family' becoming more common.¹⁹ At this Council session, States continued to challenge the inclusion of references to rights associated with sexual orientation and gender identity in special procedures reports.²⁰ Developments within region-

al human rights mechanisms should encourage the Council in creating appropriate responses to uphold all rights. For example, the Inter-American Commission on Human Rights establishment of a Unit on the Rights of Lesbian, Gay, Bisexual, Trans and Intersex Persons, with the possibility of a future rapporteurship, which responds to the Commission's expressed 'need to protect the rights of all individuals and groups historically subjected to discrimination'.²¹

CONCLUSION

NGOs were of one voice in welcoming the panel discussion as an important step towards acknowledging the challenges faced by women human rights defenders. A specific call was made for women defenders to remain an issue on the agenda of the Council's annual full-day discussion on women's rights, since greater understanding of gender-specific protection needs and greater sharing of promising practices are required. The representative of Spain requested that minutes from the panel be circulated to civil society actors that work in developing protection programmes.

Panelists were categorical in stating that creating an enabling environment for women defenders to work in requires addressing structural violence and discrimination. To enable this requires the effective integration of a gender perspective, not only into national security and protection programmes, but within the practices of the UN and human rights systems at regional and national levels.²² Encouraging coherent and consistent focus on the experiences of women, including women human rights defenders, through better linkages and synergies between the Council mechanisms and beyond was called for by several NGOs.²³

Given the current climate for the promotion of women's and sexual rights, challenges will remain great for women defenders working at all levels, including in relation to UN human rights bodies and processes. The Council, as the primary intergovernmental human rights body in a global human rights effort, must work closely with women defenders to advance work at the Council and at national level.²⁴ The role of women defenders in urging the Council to safeguard gains in all human rights areas and to build its toolkit of responses, will remain key. ■

15 The Special Rapporteur on violence against women in her report to the Council emphasised the structural causes of violence against women and the need for 'a holistic approach to understanding and addressing discrimination and violence against women.' A/66/215.

16 A/HRC/20/L.10.

17 UN panel on discriminatory laws and practices and violence against individuals based on their sexual orientation and gender identity.

18 The Commission on the Status of Women is the principal global policy-making body dedicated exclusively to gender equality and advancement of women.

19 A report by the Advisory Committee on 'traditional values' is due to be discussed in August. For more information visit: <http://bit.ly/LeRZIA>

20 Egypt challenged the reference made by the Special Rapporteur on freedom of peaceful assembly and association. Saudi Arabia denied rights associated with sexual orientation and gender identity during the interactive dialogue with Special Rapporteur on violence against women. In the resolution A/HRC/20/L.10, the Special Rapporteur on violence against women's report was noted rather than 'welcomed'.

21 <http://bit.ly/PLUUE5>.

22 On integration of a gender perspective into security and protection programmes, see UN Special rapporteur on human rights defenders' report, A/HRC/16/44 part IV.

23 An specific OHCHR process to strengthen linkages between mechanisms of the Council and with other relevant intergovernmental processes on the issue of violence against women and girls, is requested in resolution A/HRC/20/L.10.

24 A call made by Sexual Rights Initiative and echoed by other NGOs, during the panel on women defenders.

REGIONAL DEVELOPMENTS

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

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AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

Developments at the 51st session

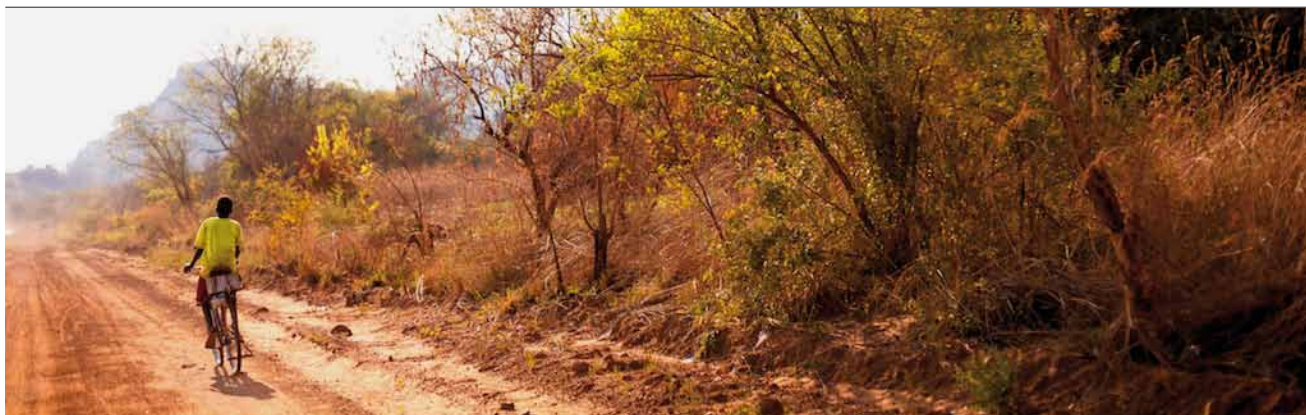


Photo: Arsenie Coseac

Following the NGO forum that took place from 14 to 16 April 2012, the 51st session of the African Commission on Human and Peoples' Rights (the Commission) was held in Banjul, the Gambia from 18 April to 2 May. Both the NGO forum and the Commission session focused their attention on the examinations of Angola and Sudan, and on several developing issues in Africa including women's rights, freedom of assembly and association, and human rights defenders.

This article highlights the main thematic discussions and the Commission's response, including related resolutions. The deliberations around the reviews of Angola and Sudan will be developed in a separate comprehensive report.

WOMEN'S RIGHTS IN AFRICA

New initiative to expound protocol on women's rights

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Protocol), which entered into force in 2005, has been praised for being the first human rights instrument to recognise reproductive rights. It contains the first references to HIV/AIDS in an international treaty, and the first mention of a right to abortion, limited to where a pregnancy is the result of sexual assault, rape, or where it endangers a woman's mental or physical health. It also recognises marital rape as a form of gender-based violence. However, only 28 countries have ratified the Protocol and implementation by States has been very limited due to existing national and customary laws, as well as traditions in contradiction with the Protocol. Budgetary implications are one of the main obstacles preventing States from implementing the Protocol.

At the initiative of the Centre for Human Rights, based in Pretoria, a working group on Article 14 of the Protocol was created.¹ The aim of the group is to unpack the provisions contained in the longest article of the Protocol² to ensure it fulfils its primary mission of protecting women's rights. The working group will produce guidelines on State obligations concerning women's health, reproductive rights and HIV.³

Poor response to violence against women in Sudan

A group of NGOs⁴ organised a panel discussion to highlight the human rights situation in Sudan and South Sudan prior to the Commission's review of Sudan.⁵ NGOs explained that conflicts between Sudanese forces and armed opposition in Southern Kordofan and Blue Nile states have caused severe civilian suffering. Ms Zeinab Mohammad Blandia, a Sudanese women's human rights defender and Muslim peacemaker, deplored the silence of the international community on the degrading

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

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

3 *Article 14 (1) (d) and (e)*.

4 Human Rights Watch, African Centre for Justice and Peace Studies, Darfur Relief and Documentation Centre, International Refugee Rights Initiative, East and Horn of Africa Human Rights Defenders Project and International Federation for Human Rights.

5 <http://bit.ly/M0916y>.

humanitarian situation and grave human rights violations in South Sudan, such as the indiscriminate bombings, and the abduction, rape and other forms of sexual violence against women and children. Mr Osman Hummaida expressed concern about the systematic use of rape as a weapon of war. Southern Sudanese civilians are forced to flee to seek refuge in camps for Internally Displaced Persons (IDPs), which are far from being a safe haven themselves, as sexual assault is commonplace.⁶ Panelists called on the Commission to send a fact-finding mission to investigate allegations of international crimes and the humanitarian catastrophe in South Kordofan and Blue Nile.

The Commission raised these concerns during the public examination of Sudan. However, the Sudanese government denied committing human rights violations in South Sudan, alleging that it is being attacked by the latter. While the Commission adopted a resolution on 'the situation between South Sudan and Sudan',⁷ the resolution is weak and does not mention the alarming situation of sexual violence against women. In addition, the Commission has taken no action to establish a fact-finding mission, as requested by NGOs.

Action needed on sexual violence in Somalia

At an NGO side event entitled 'The human rights situation in Somalia',⁸ and through various statements under Item 4,⁹ NGOs exposed the sexual violence affecting Somali women and girls. The Strategic Initiative for Women in the Horn of Africa (SIHA network) submitted a report to the Commission outlining the violence against women in Sudan, Somalia and Eritrea. The conflict that has raged in Somalia for 22 years has been particularly hard on women who are forced to live as IDPs. 'We have no shelter, no clean water, and now with the rainy season, we will catch diseases,' stated a Somali woman at the side event. She said Somali women, particularly IDPs, face the risk of rape on a daily basis inside and outside Mogadishu. 'They do not know if a man with a gun and uniform walking through the camp at night is a soldier who is there to protect or to rape and abuse.'¹⁰ It was said that women also suffer in the knowledge of the impunity of their perpetrators.

The UN Special Rapporteur on violence against women, Ms Rashida Manjoo visited Somalia from 9 to 16 December 2011 and presented her report during the Human Rights Council's 20th session. It was a missed opportunity that the African Commission's Special Rapporteur on women's rights in Africa did not carry out a joint mission to Somalia.

Through its protection mandate, the Commission should take measures to document and report human rights violations in Somalia, and violence against women in particular, in order to develop appropriate responses and interventions. Although the Commission has adopted several resolutions on Somalia over the past years, it has failed to take any concrete action on the alarming situation of women.

ASSEMBLY AND ASSOCIATION UNDER FIRE

Discussions at the NGO forum and NGO statements at the Commission exposed the dangerous trend of stifling the rights to freedom of assembly and association throughout Africa. Various interventions sounded alarm bells concerning the worrying trend of shrinking space for civil society to associate and assemble freely, either due to laws restricting the work of NGOs or excessive violence against human rights defenders exercising their right to participate in peaceful protests.

The Charities and Societies Proclamation Law passed in 2009 in **Ethiopia** is one of the most prohibitive in the world. It has already had a significant negative impact on Ethiopian NGOs. Many human rights NGOs have been obliged to close due to funding restrictions; some have had to reduce their staff and others have had to change their mandate to comply with the provisions of the law.¹¹

Algeria adopted a new law in January 2012 limiting the work of human rights NGOs and imposing NGO funding restrictions.¹² In addition, the law requires existing NGOs to seek new registration, and permits the Government to discretionally deny registration to NGOs whose mandate is 'contrary to national norms and values, public order, good morals, or current legal measures and regulations'.¹³

In **Swaziland**, the Suppression of Terrorism Act, the Public Order Act, and the Seditious and Subversive Activities Act undermine the freedom of assembly and association by threatening to prosecute peaceful protesters. The Attorney General recently deregistered the Trade Union Congress of Swaziland.

In **Zimbabwe**, the Public and Security Act (POSA), imposes enormous restrictions on the freedom of assembly and has been used abusively by the Government to clamp down NGO gatherings. There have been several cases of prosecution under this law.

Peaceful protests have been met with excessive force from police in Uganda, Malawi, Swaziland, Zimbabwe, and Angola.

6 <http://bit.ly/MibFml>.

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

8 The side event was co-sponsored by East and Horn of Africa Human Rights Defenders Project, the Strategic Initiative for Women in the Horn of Africa, and Amnesty International.

9 Item 4 : Human Rights situation in Africa.

10 Women in the Horn still bending their heads, SIHA report to the 51st session of the ACHPR: <http://bit.ly/Mec0ns>.

11 For more information, see 'Ethiopia: human rights crippled by restrictive law': <http://bit.ly/NdQdy2>.

12 <http://bit.ly/LcOJqR>.

13 <http://bit.ly/LcOJqR>.

NGOs requested the Commission to challenge the legality of the Ethiopian Charities and Societies Proclamation and to conduct a continental assessment of African NGO laws in contradiction with the African Charter and other international instruments.

The immediate response from the Commission was the adoption of various resolutions, including:

- A resolution on Swaziland in which the Commission expresses its concern about 'allegations of the violation of the right to freedom of expression, freedom of assembly, and freedom of association which, if true, may affect the conduct of free, fair and credible elections in 2013'¹⁴
- A resolution on Ethiopia condemning the excessive restrictions placed on human rights work by the Charities and Societies Proclamation and calling upon the Government of Ethiopia to amend the law in accordance with the UN Declaration on Human Rights Defenders.¹⁵

While the Commission has sent a strong message to governments by adopting such resolutions, it is unclear how it will follow up the implementation of these resolutions, which risk remaining dead letter like many other resolutions adopted in the past.

In response to limitations of freedom of association, the Commission appointed a study group a year ago to analyse laws governing freedom of association and practices that violate this right in Africa.¹⁶ The study group met in Lome in May 2012 to adopt an action plan and methods of work. It is expected that the group will present its preliminary report at the Commission's session in October and the final report in 2013. The report will lay a foundation to be used by the Commission to tackle the issue. It will be interesting to see what measures the Commission will take in order to bring about positive change.

LINKING THE UN AND AFRICAN SYSTEMS

The NGO forum took stock of the decisions made at the UN Human Rights Council's 19th session that provided opportunity for further action by the Commission. The Human Rights Institute of South Africa, the West Africa Human Rights Defenders Network, and East and Horn of Africa Human Rights Defenders Project presented the main outcomes of the Council session to the NGO forum participants.

The panelists highlighted the landmark Human Rights Council panel discussion on sexual orientation and gender identity (SOGI) and encouraged the African Commission to use this experience to take measures to protect SOGI activists in Africa.

As a result, the NGO forum put forward a resolution acknowledging the positive outcome of the panel discussion in Geneva, and calling on the Commission to adopt a resolution condemning violence against lesbian, gay, bisexual and transgender (LGBT) persons and acknowledging their rights as enshrined in international law.¹⁷ The proposed resolution caused some tensions among the NGO forum participants, but was fortunately adopted by vote.

Disappointingly, for the fifth time, the Commission failed to adopt a resolution on LGBT persons, despite the good example set by the Human Rights Council.

Given the worsening human rights situation in Eritrea, 44 States presented a joint statement during the 19th session of the Human Rights Council, expressing their concern and inviting the High Commissioner to brief the Council on the human rights situation in Eritrea at its 20th session.

As follow-up to this important development, participants at the NGO forum signed a letter addressed to ministers of foreign affairs in Africa, calling on the African Union to take urgent action regarding the situation in Eritrea and calling on the Human Rights Council members from Africa to support the appointment of a UN Special Rapporteur on Eritrea.¹⁸ The letter also calls on the African Commission to take necessary measures to ensure its decisions are implemented in Eritrea. However, the Commission has not yet taken any action on Eritrea.

It is worth noting that the Government of Eritrea was represented at the session after an absence of more than 10 years. The delegate denied that there were any violations of human rights in Eritrea and alleged that imprisoned journalists had not been arrested because of their work but for having committed criminal offenses.

At its 19th session, the Human Rights Council also received the report from the Commission of Inquiry (COI) on Libya. In paragraph 135 of the report, the COI calls upon the African Commission to establish a mechanism to monitor the implementation of the COI recommendations.¹⁹ As such, the NGO forum submitted a letter to the Commission asking for the implementation of the COI request.²⁰ At the time of writing, the Commission had not yet acted in response to this request. It is hoped that a decision will soon be taken, as it will offer a good example of how the UN and African human rights systems can complement each other. ■

14 <http://bit.ly/L5TcqB>.

15 <http://bit.ly/MfnVYq>.

16 <http://bit.ly/NibKan>.

17 <http://bit.ly/LEAWuz>.

18 <http://bit.ly/MecppV>. A Special Rapporteur on Eritrea was created at the Human Rights Council's 20th session. See page 4 for more details.

19 <http://bit.ly/M09khv>.

20 <http://bit.ly/Nlo7PU>.

UPCOMING EVENTS

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QUICK REFERENCE GUIDE

NGO engagement opportunities by country

August – November 2012

The table below is a quick reference guide to countries that feature within the 'Opportunities for NGO Engagement' section of this publication (pages 32-37). Only those countries featured in one or more of the upcoming meetings are listed in the table.

ACRONYMS

CERD:	Committee on the Elimination of Racial Discrimination (p. 32)
CRPD:	Committee on the Rights of Persons with Disabilities (p. 32)
CMW:	Committee on Migrant Workers (p. 32)
CRC:	Committee on the Rights of the Child (p. 32)
CEDAW:	Committee on the Elimination of Discrimination against Women (p. 33)
HRC:	Human Rights Committee (p.33)
UPR:	Universal Periodic Review (p. 33)
CAT:	Committee against Torture (p. 33)
CESCR:	Committee on Economic, Social and Cultural Rights (p. 34)
SP Visits:	Special procedures' visits (p. 37)

	CERD	CRPD	CMW	CRC	CEDAW	HRC	UPR	CAT	CESCR	SP visits
Albania				X		X			X	
Argentina		X					X			
Austria	X			X						
Belize	X					X				
Benin							X			
Bosnia-Herzegovina			X	X		X				
Bulgaria									X	
Canada				X						X
Central African Republic					X					
Chile					X					
China		X								
China - Hong Kong						X				
Comoros					X					
Czech Republic							X			
Denmark									X	
Dominican Republic	X									
Ecuador	X								X	
Egypt									X	
El Salvador										X
Equatorial Guinea					X					
Fiji	X									
Finland	X					X				
Gabon							X			
Ghana							X			

	CERD	CRPD	CMW	CRC	CEDAW	HRC	UPR	CAT	CESCR	SP visits
Guatemala							X			X
Honduras										X
Hungary		X								X
Iceland									X	
Ireland										X
Côte d'Ivoire						X				
Japan							X			
Kuwait									X	
Liechtenstein	X									
Liberia				X						
Lithuania									X	
Mauritania									X	
Mexico								X		
Morocco										X
Namibia				X						
Norway								X		
Pakistan							X			
Paraguay		X								
Peru							X	X		
Philippines				X		X				
Portugal						X				
Qatar								X		
Republic of Korea	X						X			
Russian Federation								X		
Rwanda			X						X	
Senegal	X							X		
Serbia					X					
Sri Lanka							X			
Switzerland							X			
Tajikistan	X									
Tanzania									X	
Thailand	X									
Togo					X			X	X	
Turkey						X				
Turkmenistan					X					
Ukraine						X	X			
United Kingdom										X
Zambia							X			

OPPORTUNITIES FOR NGO ENGAGEMENT

August – November 2012

COUNTRY EXAMINATIONS AND REVIEWS

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

What's coming up?

The Committee on the Elimination of Racial Discrimination will hold its 81st session from 6 to 31 August in Geneva. It will examine the reports of Austria, Belize, the Dominican Republic, Ecuador, Fiji, Finland, Liechtenstein, the Republic of Korea, Senegal, Tajikistan, and Thailand.

What can you do?

If you are working on issues related to racial discrimination in any of the above countries, you can submit information to the Committee through the Secretariat: cerd@ohchr.org. The deadline for submissions is 30 July.

COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES

What's coming up?

The Committee on the Rights of Persons with Disabilities will hold its 8th session from 17 to 28 September in Geneva. It will examine the reports of Argentina, China, Hungary, and Paraguay.

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 tb-petitions@ohchr.org.

COMMITTEE ON MIGRANT WORKERS

What's coming up?

The Committee on Migrant Workers will hold its 17th session from 10 to 14 September in Geneva. It will examine the reports of Bosnia and Herzegovina, and Rwanda.

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 by e-mail to the Secretary of the Committee at cmw@ohchr.org in Word format, indicating whether or not the information may be published on the Committee's website.

COMMITTEE ON THE RIGHTS OF THE CHILD

What's coming up?

The Committee on the Rights of the Child will hold its 58th official session from 17 September to 5 October in Geneva. It will examine the reports of Albania, Austria, Namibia, Bosnia and Herzegovina, Liberia, and Canada. It will also review Albania under the Optional Protocol on Children in Armed Conflict and Albania, the Philippines, and Canada 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 for the Convention on the Rights of the Child for advice: www.childrightsnet.org. Information on NGO participation can be found in 'A Guide for Non-Governmental Organisations Reporting to the Committee on The Rights of the Child', which is available at <http://bit.ly/gNbare>.

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

What's coming up?

The Committee on the Elimination of Discrimination against Women (CEDAW) will hold its 53rd session from 1 to 19 October in Geneva. It will examine the reports of Chile, Comoros, Equatorial Guinea, Serbia, Togo, Turkmenistan, and the Central African Republic. For more information see <http://bit.ly/ojQe7D>.

What can you do?

If you are working on discrimination against women in any of the countries under review, you can submit information to the Committee in Microsoft Word format to BSmith@ohchr.org, indicating whether the materials may be published on the Committee's website; and also in hard copy to Mrs Gaynel Curry, Gender and Women's Rights Advisor, OHCHR, New York Office, Room DC1-0511, UN New York 10017, USA. All submissions should arrive two weeks prior to the beginning of the session to the secretariat of the Committee.

Details of the Committee's meeting with NGOs was yet to be announced at the time of writing. More detailed information on NGO participation is available at <http://bit.ly/dayPAF>. Alternatively, International Women's Rights Action Watch (IWRAP) Asia Pacific can help NGOs submit reports to CEDAW. Please contact IWRAP Asia Pacific by email to iwraw-ap@iwraw-ap.org or iwraw_ap@yahoo.com.

HUMAN RIGHTS COMMITTEE

What's coming up?

The Human Rights Committee will hold its 106th session from 15 October to 2 November in Geneva. It will examine the reports of Bosnia and Herzegovina, Côte d'Ivoire, Philippines, Portugal, and Turkey. Lists of issues will be prepared on Albania, Belize, China – Hong Kong, Finland, and Ukraine.

What can you do?

If you are working on issues related to civil and political rights in any of these countries you can submit information to the Committee for its examination to assist it in drafting the lists of issues. Please send information to Ms Nathalie Prouvez, nprouvez@ohchr.org. Information on NGO participation can be found in the NGO Guidelines on the Reporting Process of the UN Human Rights Committee, which is available at <http://bit.ly/o5M1xy>. If you would like to submit information for upcoming examinations, you can contact the Centre for Civil and Political Rights by email at info@ccprcentre.org.

UNIVERSAL PERIODIC REVIEW

What's coming up?

The Universal Periodic Review (UPR) will hold its 14th session from 22 October to 5 November in Geneva. The countries under review are the Czech Republic, Argentina, Switzerland, Gabon, Ghana, Pakistan, Zambia, Peru, Guatemala, Japan, Benin, the Republic of Korea, Ukraine, and Sri Lanka.

What can you do?

The deadline for submissions on the countries to be examined at the 14th session has now passed. Guidelines for submissions to future sessions can be found at <http://bit.ly/d07u3s>. Submissions should be sent to uprsubmissions@ohchr.org following the above-mentioned guidelines. A timeline for NGO participation can be found at <http://bit.ly/x5kUYL>. Submissions should be sent at least five months before the relevant session of the UPR. Further information on submissions and deadlines can be found at <http://bit.ly/cmalyM>.

COMMITTEE AGAINST TORTURE

What's coming up?

The Committee against Torture will hold its 49th session from 29 October to 23 November in Geneva. It will consider the reports of Gabon, Mexico, Norway, Peru, Qatar, the Russian Federation, Senegal, Tajikistan, and Togo. 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 written information submitted by NGOs or NHRIs to the Committee for the examination of a State party's report, must be received no later than two weeks before the opening of the session (12 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. For more information please refer to: bit.ly/bJOQCE.

COMMITTEE ON ENFORCED DISAPPEARANCES

What's coming up?

The Committee on Enforced Disappearances will hold its 3rd session from 29 October to 9 November in Geneva.

What can you do?

NGOs who wish to attend the session of the Committee should contact the Committee's Secretariat, at ced@ohchr.org for accreditation and for more information as to the space available for NGO engagement with the Committee in the programme of work. More information will be made available at <http://bit.ly/KCAhlp>. NGOs that want to attend the meeting must confirm their participation in advance, by emailing the Committee Secretariat at ced@ohchr.org (no date yet specified).

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

What's coming up?

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

What can you do?

NGOs may participate in parts of both the 49th session and the pre-sessional working group following it. See <http://bit.ly/hkv5nJ> for more information

UN MEETINGS

HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE

What's coming up?

The Human Rights Council Advisory Committee will hold its 9th session from 6 to 10 August in Geneva.

What you can do?

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

HUMAN RIGHTS COUNCIL

What's coming up?

The Human Rights Council will hold its 21st session from 10 to 28 September. More information will be made available in due course, at <http://bit.ly/HBVX2h>.

What can you do?

If you work with an ECOSOC accredited NGO you may attend all sessions of the Council. You may also submit written statements and request rooms to organise parallel events. You may register to deliver oral statements under all agenda items. More information about the Council and NGO participation is available at <http://bit.ly/4ru1vs> and at www.ishr.ch/council.

NATIONAL HUMAN RIGHTS INSTITUTIONS**What's coming up?**

The 11th International Conference of National Human Rights Institutions will be held in Amman, Jordan from 5 to 7 November. The theme of the conference is 'the Human Rights of Women and Girls, Gender Based Equality and the Role of National Human Rights Institutions'. It will bring together NHRI representatives from Africa, the Americas, Asia Pacific and Europe, and representatives from governments, UN agencies, regional bodies and non-government organisations.

What can you do?

To find out more about this event, visit <http://bit.ly/LukyqA> or contact: Ms Bushra Abu Shahout, The National Centre for Human Rights (Jordan), email: bushra.n@nchr.org.jo or phone: 00962 6 5931256 or 00962-6-5930072.

FORUM ON MINORITY ISSUES**What's coming up?**

The UN Forum on Minority Issues will hold its 4th session on 27 and 28 November. The Forum will seek to formulate concrete thematic recommendations from a broad array of experts. The discussion will aim to provide guidance to governments seeking to guarantee full respect of human rights for women belonging to any national, ethnic, religious, and linguistic minority. The recommendations will be reported to the Human Rights Council in the annual report of the Independent Expert on minority issues. More information will be made available at <http://bit.ly/NgD7PB>.

WORKING GROUPS**WORKING GROUP ON AGEING****What's coming up?**

The Working Group on Ageing will hold its 3rd session from 21 to 24 August. The Working Group was established by the General Assembly in 2010 to consider the existing international framework of the human rights of older persons and identify possible gaps and how to best address them.

What can you do?

NGOs enjoying ECOSOC accreditation will be granted accreditation to the Open-ended Working Group on Ageing, and should pre-register for online for each session. All other NGOs must apply for accreditation in order to participate in the sessions of the Open-ended Working Group. For the steps outlining the accreditation process, visit <http://bit.ly/Lle5DS>.

WORKING GROUP ON DISCRIMINATION AGAINST WOMEN IN LAW AND PRACTICE**What's coming up?**

The Working Group on Discrimination against Women in Law and Practice will hold its 5th session from 1 to 5 October in New York. The Working Group's focus is to identify, promote and exchange views, in consultation with States and other actors, on good practices related to the elimination of laws that discriminate against women.

What you can do?

Further information on the mandate of the Working Group can be found here <http://bit.ly/FQAAeR>. Information relevant for the mandate of the Working Group is welcomed and can be sent to wgdiscriminationwomen@ohchr.org.

INTERGOVERNMENTAL WORKING GROUP ON THE EFFECTIVE IMPLEMENTATION OF THE DURBAN DECLARATION AND PROGRAMME OF ACTION

What's coming up?

The UN Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action will hold its 10th session in Geneva from 8 to 19 October.

What can you do?

More information and reports can be read on <http://bit.ly/d2QyV8>.

WORKING GROUP ON ENFORCED DISAPPEARANCES

What's coming up?

The Working Group on Enforced or Involuntary Disappearances will hold its 98th session in Geneva from 31 October to 9 November. The Working Group meets with NGOs and family members of the disappeared during the first three days of each session, and with representatives of governments to exchange views and information on the issue of enforced disappearances.

What can you do?

The deadline for requesting an appointment to meet with the Working Group is 5 October, by emailing the Secretariat at wgeid@ohchr.org. For more information on how NGOs can engage with the working group see <http://bit.ly/poqfoc>.

WORKING GROUP ON ARBITRARY DETENTION

What's coming up?

The Working Group on Arbitrary Detention will hold its 65th session from 14 to 23 November. No further information was available at the time of writing. More details may be found at a later date here: <http://bit.ly/NYNr2g>.

What can you do?

Communication on individual cases should be sent, if possible accompanied by the model questionnaire prepared for this purpose, to wgad@ohchr.org. More information on communications, as well as on how to request an urgent appeal, can be found at <http://bit.ly/NzloGW>.

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

What's coming up?

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

What can you do?

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

SPECIAL PROCEDURES' VISITS

- The Special Rapporteur on indigenous people, Mr James Anaya, will visit El Salvador from 13 to 16 August. See: <http://goo.gl/IYRvu>
- The Special Rapporteur on the sale of children, child prostitution and child pornography, Ms Najat Maalla M'jid, will visit Guatemala from 20 to 29 August, and Honduras from 30 August to 7 September. See: <http://goo.gl/P07SX>
- The Special Rapporteur on torture, Mr Juan Méndez, will visit Morocco from 15 to 22 September. See: <http://goo.gl/8J14H>
- The Working Group on African descent will visit the United Kingdom from 1 to 5 October. See: <http://goo.gl/0pasD>
- The Special Rapporteur for toxic wastes will visit Hungary from 4 to 12 October. See: <http://goo.gl/nXWRq>
- The Special Rapporteur on migrants will visit Canada from 5 to 15 November. See: <http://goo.gl/u8eXo>
- The Special Rapporteur on human rights defenders will visit Ireland from 19 to 22 November. See: <http://goo.gl/9OCvk>

ECOSOC accreditation

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

REGIONAL MEETINGS

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

What's coming up?

The African Commission will hold its 52nd Ordinary Session from 9 to 22 October in Yamoussoukro, Côte d'Ivoire. Côte d'Ivoire will present its first report to the African Commission at this session.

A three-day meeting of NGOs to discuss issues of concern and prepare recommendations for the Commission will take place prior to the session.

What can you do?

All NGOs with observer status with the African Commission are invited to attend the Commission's 52nd session, at their own cost. NGOs without observer status may also attend but do not have speaking rights. In order to attend, NGOs must fill out the preliminary registration form available at www.achpr.org/sessions/52nd by 10 September.

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

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

What's coming up?

The Inter-American Commission on Human Rights (IACHR) will hold its 146th Period of Sessions from 19 October to 16 November in Washington, D.C. While the session is closed to the public, hearings will take place alongside the session. Any NGO or individual may request a hearing – the majority of which are public and are webcast.

What can you do?

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

USEFUL LINKS

UN BODIES

Office of the High Commissioner for Human Rights: www.ohchr.org

Human Rights Council: www2.ohchr.org/english/bodies/hrcouncil

General Assembly: www.un.org/ga

Human Rights Committee: www2.ohchr.org/english/bodies/hrc

Committee on Economic, Social and Cultural Rights: www2.ohchr.org/english/bodies/cescr

Committee on the Elimination of Racial Discrimination: www2.ohchr.org/english/bodies/cerd

Committee on the Elimination of Discrimination against Women: www2.ohchr.org/english/bodies/cedaw

Committee against Torture: www2.ohchr.org/english/bodies/cat

Committee on the Rights of the Child: www2.ohchr.org/english/bodies/crc

Committee on Migrant Workers: www2.ohchr.org/english/bodies/cmwr

Committee on the Rights of Persons with Disabilities: www.ohchr.org/EN/HRBodies/crpd

Committee on Enforced Disappearances: www.ohchr.org/EN/HRBodies/ced

Special Rapporteur on the situation of human rights defenders: www.ohchr.org/EN/Issues/SRHRDefenders

Universal Periodic Review: www.ohchr.org/en/hrbodies/upr

Secretariat of the ECOSOC NGO Committee: www.csonet.org

REGIONAL ORGANISATIONS

African Commission on Human and Peoples' Rights: www.achpr.org

Asia Pacific Forum of National Human Rights Institutions: www.asiapacificforum.net

ASEAN Intergovernmental Commission on Human Rights: www.asean.org/22769.htm

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

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

Inter-American Commission on Human Rights: www.cidh.org

CONTRIBUTORS TO THIS ISSUE

NGO Group on the Convention for the Rights of the Child: www.childrightsnet.org

International Disability Alliance: www.internationaldisabilityalliance.org

ISHR TRAININGS:

ADVANCED GENEVA TRAINING
AND ADVOCACY PROGRAMME

9 – 21 September
(Geneva)

REGIONAL MEETINGS:

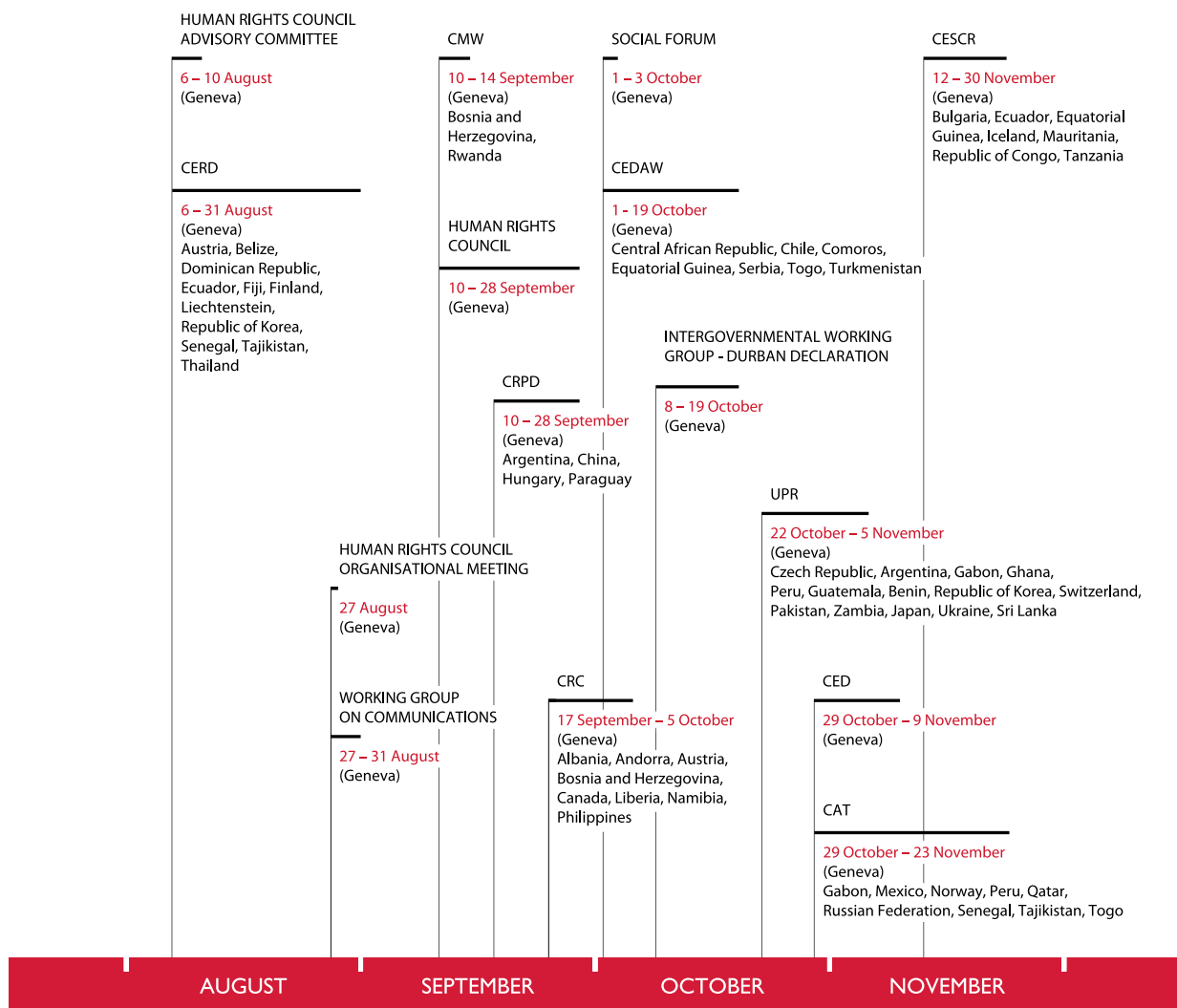
AFRICAN COMMISSION ON
HUMAN AND PEOPLES' RIGHTS

9 – 22 October
(Côte d'Ivoire)

INTER-AMERICAN COMMISSION
ON HUMAN RIGHTS

29 October – 16 November
(Washington, D.C.)

UN MEETINGS:



UPCOMING EVENTS AUGUST – NOVEMBER 2012