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Overview

The Human Rights Council (the Council) spent the entire day on interactive dialogues with special procedures mandate holders. The interactive dialogues followed the usual modalities. The mandate holders first introduce their reports, which is followed by comments from the States concerned and other members and observers of the Council, including national human rights institutions (NHRIs), and non-governmental organisations (NGOs). Replies by the mandate holders finish the consideration of the reports.

The following special procedures presented their reports during the day:

- Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (continued).

- Special Rapporteur on the right to food (continued).
- Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (continued).
- Special Representative of the Secretary-General on human rights defenders.
- Special Rapporteur on violence against women, its causes and consequences.
- Independent Expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights, particularly economic, social, and cultural rights
- Special Rapporteur on adequate housing as a component of the right to an adequate standard of living
- Independent Expert on minority issues.

The first three dialogues in the above list were carried over from the previous day, as the list of speakers had not been exhausted.¹ The other three interactive dialogues have not finished, as again there is still a list of speakers of around 20 States. The delay in the programme of work and the high number of speakers for many interactive dialogues with special procedures mandate holders has resulted in these dialogues continuing the following day. It is highly regrettable when this delay means that the mandate holders are not present for the conclusion of the dialogue and are unable to respond to questions and comments raised.

Item 3 – Promotion and protection of all human rights

Continued - Special Rapporteur on the right to health

Interactive dialogue

The Council continued its interactive dialogue with Mr Paul Hunt. Regarding international cooperation in relation to the right to health, New Zealand agreed with the Special Rapporteur² that greater cooperation was needed between UN agencies. Morocco stipulated that mainstreaming the issue of health was vital and that international cooperation was pivotal the realisation of this right.³

New Zealand thanked the special rapporteur for the indicators for an analytical framework in establishing an effective health care system. The United Nations Population Fund (UNFPA) drew attention to the fact that health care systems were vital for the enjoyment of other rights.⁴ It also stated that access to health care had a gender bias that needed to be redressed. Switzerland stated that it was in favour of systematic approach based on the six elements that are aimed at enhancing healthcare systems, provided by the World Health Organisation (WHO). Thailand and Morocco raised the issue of the responsibilities of developed countries to share information and increase resources to aid developing countries in their struggle to ensure the highest attainable standard of health through establishing effective health care systems.

With respect to the *Draft Human Rights Guidelines For Pharmaceutical Companies* (the guidelines), Israel and Switzerland asked what manner of consultations were held with pharmaceutical companies in the drafting process. Furthermore, Israel asked Mr Hunt what challenges he foresaw in reaching consensus regarding the guidelines. Switzerland asked about the status of the guidelines, stating that it was ready to assist in the fine-

¹ For an overview of the presentation of their reports and the first part of the interactive dialogue, please refer to *Daily Update* of 11 March 2008, available at www.ishr.ch.

² Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

³ Supported by Thailand.

⁴ Supported by Thailand.

tuning of this document. Japan claimed that there was currently no international consensus on the right to health, and that it was therefore inappropriate to restrict pharmaceutical companies on this basis.

With regards to maternal mortality, Slovenia, on behalf of the European Union (EU), asked how an effective health care system could address the issue of maternal mortality. Morocco claimed to have reduced maternal mortality rates and Peru stated that it looked forward to a thematic panel to be held on this issue. The UNFPA said that reproductive rights were adequately dealt with in the report⁵ but that there was an urgent need to increase funding in this area.

Concerning domestic initiatives, both Thailand and Morocco spoke of the need for a public-private partnership with regards to funding for realising the right to health. The National Human Rights Commission of Uganda, who recently enjoyed a visit from the special rapporteur, spoke of their progress towards implementing a rights-based approach to health.⁶

Slovenia (on behalf of the EU) asked how Mr Hunt recommended addressing discrimination in cultural practices relating to health care and asked Mr Hunt for suggestions for engaging with health care professionals.

Israel invited the Special Rapporteur to carry out a country visit. Angola claimed that it had not received communications sent by the Special Rapporteur, as he had perhaps not used the 'appropriate' diplomatic channels.

Reply of the Special Rapporteur on the right to health

Mr Hunt took the opportunity to clarify some issues relating to the guidelines. He stated that the guidelines were discussed at the General Assembly's Third Committee in 2007. Furthermore, States and companies alike were given opportunities to comment on the guidelines, in particular at an open public meeting hosted by Brazil. He stipulated that pharmaceutical companies have a huge impact on access to medicines, which is often, but not always, positive. He expressed his hope that the guidelines were to enhance access to medicines for all, including the poor.

- He again congratulated Sweden on its pioneering role in promoting the right to health. However, he also stressed that contrary to Sweden's view expressed on the previous day, States have more than a 'moral and political obligation' to ensuring the right to health and have a duty to take steps to ensure an equitable international system.⁷
- He thanked Israel for their late invitation for a country visit and asked whether the invitation extended to the Gaza strip.
- He highlighted the need for health care workers to be aware of the connection between health objectives and human rights. He also confirmed that there was a discriminatory trend in the impact of certain cultural traditions on health and that this needed to be addressed.
- With regard to maternal mortality, he specified that there was a clear relationship between the reduction of maternal mortality rates and an effective health care system. He underscored that this was not just an area of concern for developing countries and highlighted the fact that in developed countries maternal mortality rates disproportionately affected ethnic minorities, indigenous women

⁵ A/HRC/7/11, 31 January 2008 (annual report), Add. 1, 4 March 2008 (communications to and from governments), Add. 2, 5 March 2008 (mission report to Uganda), Add. 3, 4 March 2007 (preliminary note on the missions to Ecuador and Colombia), Add. 4, 29 February 2008 (preliminary note on the mission to India). ISHR has prepared unofficial summaries of the reports by special procedures ('Reports in short'), available at http://www.ishr.ch/hrm/council/reports_in_short.

⁶ Mentioning that they have established a health unit responsible for monitoring neglected diseases with both health and human rights professionals to implement a human rights based approach to health.

⁷ He referred to the *Charter of the United Nations*, stating that it has been reinforced by multiple other instruments.

and those living in poverty. He reiterated that a functioning health care system would benefit all and that he hoped the Council would rise to face the challenge of maternal mortality.

Continued - Special Rapporteur on the right to food

Interactive dialogue

Many speakers commended the work of Mr Ziegler, and in particular his independence and impartiality in discharging his mandate.⁸ Several speakers also wished Mr Ziegler well in his possible new role as a member of the Human Rights Council Advisory Committee.⁹ Speakers primarily focussed their comments on the key themes highlighted in Mr Ziegler's presentation of his annual report the previous afternoon.

Several speakers pointed to the serious issue of malnutrition,¹⁰ particularly as a leading cause of child mortality. The right to food for vulnerable groups like women and indigenous peoples was also raised.¹¹ Slovenia (on behalf of the EU) asked Mr Ziegler if he could share with the Council what concrete steps could be taken to address discrimination against disadvantaged groups, such as women and indigenous peoples. Many States commented on Mr Ziegler's visit to Cuba, and speakers also noted that this was an indication of Cuba's willingness to cooperate with the United Nations human rights mechanisms.¹² Numerous speakers also noted the effects of the economic embargo of the United States of America (the US) on Cuba,¹³ and commended Cuba's progress towards the realisation of the right to food despite this embargo. A few speakers also raised the issue of unequal distribution of food between developing and developed countries, in the light of the view that world food production is sufficient to feed the entire global population.¹⁴ Access to food was highlighted as a key obstacle in realising the right to food.¹⁵

A second key issue was the problem of food pricing, a point raised by Bangladesh and others.¹⁶ Luxembourg commented that when considering the increase in prices of food, a fair price should benefit both producers and consumers. Nigeria noted that the report of Mr Ziegler suggested that the use of bio-fuels¹⁷ also contributed to the increase in the price of food.

Several speakers also addressed the role of international financial institutions such as the World Trade Organisation (WTO) and the International Monetary Fund (IMF) in the context of agricultural trade and structural adjustment programmes.¹⁸ The African Union also stated that international financial institutions and their trade policies were responsible for hunger in Africa. The seriousness of hunger in African countries¹⁹ and the effect of food subsidies in Africa²⁰ were also raised by some speakers.

⁸ Nicaragua, Iran, Venezuela, Zimbabwe, Syria, Angola.

⁹ Mr Ziegler is a candidate for the Advisory Committee. The Advisory Committee will be elected on 26 March 2008. Nicaragua, Peru, Zimbabwe.

¹⁰ Luxembourg, Bangladesh, Malaysia.

¹¹ Slovenia (on behalf of the EU), Venezuela.

¹² Zimbabwe, Vietnam, Syria, Sudan.

¹³ Nicaragua, Russian Federation, Venezuela, Syria, Sudan, Belarus, Federation of Cuban Women.

¹⁴ Nicaragua, Angola.

¹⁵ Bangladesh, Angola.

¹⁶ Bangladesh, Venezuela, Nigeria.

¹⁷ Both Nigeria and Food First Information and Action Network (FIAN) also raised the point of bio-fuels and supported the 5-year moratorium on their use, as advocated by Mr Ziegler in his report.

¹⁸ Mr Ziegler had raised this in his presentation the day before. Peru, African Union commented on this issue.

¹⁹ African Union, Nigeria, Angola

²⁰ Luxembourg.

On a related note, several speakers addressed the role of transnational corporations (TNCs), the implications of their activities on the right to food and the need to hold them accountable.²¹ The Russian Federation stated that the right to food is dependent on the increased control by TNCs over vast sectors of the economy and individual States due to the absence of monitoring mechanisms. Even though transnational corporations are ‘formally’ considered to be non-State entities, Russia stated that they are registered in specific countries, citizens of particular States work in the corporations, and that they should therefore fall under the jurisdiction of their home countries. The Russian Federation then asked Mr Ziegler what responsibility States have for activities being carried out by these entities in international locations.

Belgium commended the initiative of an optional protocol to the *International Covenant on Economic, Social and Cultural Rights* (OP-CESCR)²² and asked how Mr Ziegler’s mandate could contribute to the justiciability of the right to food in the future. South Africa stated that it was committed to the justiciability of economic, social and cultural rights and to their progressive realisation.

Norway asked what recommendations Mr Ziegler would make to the next mandate holder regarding the UN Food and Agriculture Organization’s recently adopted *Voluntary Guidelines on the Right to Food*.

Reply of the Special Rapporteur on the right to food

Mr Ziegler first addressed the point raised by Pakistan (on behalf of the OIC), the Russian Federation and China, regarding transnational corporations and human rights. He stated that today’s transnational corporations demonstrated the power of non-State actors in violating human rights. He noted that there are currently two texts that address this issue, the Guidelines for Multinational Enterprises developed by the Organisation for Economic Cooperation and Development (OECD) and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy of the International Labour Organisation. He was of the view that the Council had not sufficiently focussed on this problem, despite having a Special Representative of the Secretary General on human rights and transnational corporations and other business enterprises. He expressed his view that the voluntary codes of conduct for business enterprises were ‘totally inadequate’. Mr Ziegler continued that there was need for a special rapporteur to monitor the activities of transnational corporations and that there was also a need to monitor activities of non-State actors in general.

Mr Ziegler also addressed the concern expressed by many African countries regarding the increase in hunger in the region, and stated that they should resist liberalisation tendencies and the imposition of duties on African countries. He alleged that the WTO was ‘blackmailing’ African, Caribbean and Pacific (ACP) States,²³ and that they should not negotiate with the WTO. He also reminded that at the last international trade conference in Hong Kong it had been agreed that export subsidies by industrialised countries would be prohibited. Despite this agreement they had continued and Mr Ziegler stressed that this was destroying the agriculture of developing countries. He ended by saying that African States should follow the example of China and India in resisting WTO policies, but that States like the US and Australia should act while respecting economic, social and cultural rights.

²¹ Russian Federation, Venezuela.

²² Belgium, Food First Information and Action Network (FIAN)

²³ ‘ACP countries’ refers to African, Caribbean and Pacific countries, which are signatories to the *Lomé Convention*.

Continued - Special Rapporteur on freedom of opinion and expression

Interactive dialogue

As during the first part of the interactive dialogue with the Special Rapporteur,²⁴ several delegations commented on the relationship between freedom of expression and freedom of religion. Many States echoed the statement made yesterday by Pakistan (on behalf of OIC) and stressed that freedom of expression is not an absolute right and should not be exercised to incite to religious hatred.²⁵ They questioned the Special Rapporteur's conclusion that current treaties adequately address this issue and called on the Council to initiate a dialogue on the matter. Malaysia warned that defamation of religion and incitement to hatred pose a serious threat to human rights efforts and to peace, stability and cooperation among nations. Several delegations also reiterated concern at increased incidents of Islamophobia in many European countries.²⁶

Belgium stated its view that protecting individuals against discrimination and hatred is compatible with freedom of expression and sought the Special Rapporteur's support on this matter. It also expressed concern at the attempt by a group of States to include defamation of religion into a mandate that is focused on freedom of opinion and expression. New Zealand referred to initiatives of interfaith dialogue held in the Asia Pacific region as a possible way to address misunderstandings between people of different cultures and religions. With reference to the Special Rapporteur's annual report, New Zealand added that media professionals should be aware of cultural sensitivities.²⁷

The issue of criminalisation of defamation, also raised in the report, was referred to by Slovenia (on behalf of the EU) and Belgium. Slovenia asked the Special Rapporteur what, in his view, the Council and the treaty bodies could do to counter the trend towards the use of criminal laws against defamation.

The issue of media regulation received particular attention by many delegations. Several delegations raised the issue of direct and indirect forms of censorship and restrictions on media and media personnel, including through licensing regimes.²⁸ Slovenia (on behalf of the EU) asked Mr Ligabo what international organisations could do to foster a more tolerant environment for journalists. It also asked whether the use of licensing as a form of censorship had been addressed in its communications. Canada followed up by asking what measures the Special Rapporteur would recommend the Council to take in this regard. Germany expressed concern at the recent adoption by a number of Arab States of a much-criticised document containing principles for organising TV and radio broadcasting, which could be used by governments to clamp down on media outlets and journalists.

The situation in a few specific countries was also raised during the discussion. Australia expressed concern at the situation in Fiji and Sri Lanka. Amnesty International referred to its recent report on Sri Lanka and called for the country to accept the requests for visits by Mr Ligabo and the Working Group on enforced disappearances. Slovenia (on behalf of the EU) asked if any progress had been made in relation to a country visit to Zimbabwe. The Maldives announced that the Special Rapporteur will visit the country in April 2008 and listed a number of measures that the Government has taken to build a strong, independent and responsible media. The NGO *Mouvement contre le racisme et l'amitié entre les peuples* referred to the situation in Western Sahara.

²⁴ Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

²⁵ Morocco, Iran, Belarus, Bangladesh, Malaysia.

²⁶ Morocco, Iran, Belarus.

²⁷ This call was echoed by the International Humanist and Ethical Union, which also urged States to resist any attempt to restrict freedom of expression beyond what current international law permits.

²⁸ Slovenia, Germany, Canada.

Other issues raised included Switzerland's request to the Special Rapporteur for more detailed information on communications on a country-by-country basis, and for more specific information on indicators to monitor the implementation of the right to freedom of expression. Norway referred to Mr Ligabo's recommendation that governments review their national legislation and asked whether he was aware of any government initiating such reforms. Reporters without Borders asked Mr Ligabo what advice he would give to his successor.

Reply of the Special Rapporteur on freedom of expression

Mr Ligabo expressed gratitude for the support expressed by many delegations and addressed a few of the issues raised during the dialogue.

In relation to the statement made by Ukraine the previous day, he stated that his focus on racist attacks was motivated by the resulting restriction on freedom of expression of racial minorities in the country. He therefore hoped that the Government would consider implementing all recommendations contained in the report.

With regard to the relationship between freedom of expression and freedom of religion, Mr Ligabo agreed with the view that freedom of expression is not an absolute right and must be exercised with responsibility. He reiterated his view that this issue is adequately addressed in current international law.

On the issue of Internet governance, the Special Rapporteur stressed that many countries have adopted regulations and reiterated his call for international initiatives on this issue. Finally, on the two issues of criminalisation of defamation and the Danish cartoons, issues raised by Belarus, he referred to his report and its annexes.

Special Representative of the Secretary-General on human rights defenders

Ms Hina Jilani, Special Representative of the Secretary-General on human rights defenders, presented her annual report and mission reports to Indonesia, Serbia, including Kosovo, and a report on the follow-up visit to the Former Yugoslav Republic of Macedonia.²⁹ In her oral presentation, Ms Jilani emphasised that the focus of her report on follow-up is intended to provide an analytical framework and methodological tool for her successor and other actors working on the protection of human rights defenders.³⁰ She drew attention to a set of indicators developed in her report.

Since she will finish her mandate soon, Ms Jilani gave an overview of the development of her mandate over the past seven years since she took up office. She described the role of the communications procedure as an important protection mechanism for human rights defenders but also as a tool to identify thematic and geographic trends affecting the situation of human rights defenders. She also recalled the role of all stakeholders in the implementation of her recommendations. The Special Representative emphasised that the universal periodic review (UPR) is an opportunity for the Council to monitor the situation of human rights defenders. She said that the effective functioning of the UPR as an effective monitoring mechanism was a

²⁹ A/HRC/7/28 (annual report on follow-up), Add.1 (Communications to and from governments), Add.2 (mission to Indonesia, Add.3 (mission to Serbia, including Kosovo), Add.4 (mission to The Former Yugoslav Republic of Macedonia). ISHR has prepared unofficial summaries of the reports by special procedures ('Reports in short'), available at http://www.ishr.ch/hrm/council/reports_in_short.

³⁰ Oral statements made at the Council can be accessed on the OHCHR extranet at <http://portal.ohchr.org> (fill out the form on www.ohchr.org/english/bodies/hrcouncil/form.htm to receive user name and password). Ms Jilani will finish her term when the Secretary-General appoints a new mandate holder.

responsibility and a challenge for governments and human rights defenders. Accordingly, she suggested that the situation of human rights defenders be a fundamental component of the assessment of the human rights situation in every State under review. In addition, Ms Jilani drew attention to the importance of regional mechanisms for the protection of human rights defenders, and highlighted that the mandate had contributed to developments in this area.

In relation to her visit to **Indonesia** (June 2007), Ms Jilani acknowledged positive steps taken by the Government. However, she stressed that many human rights defenders continue to experience constraints in their activities, in particular on account of activities of the police, the military and other security and intelligence agencies, as well as non-State actors such as religious extremist groups. The Special Representative especially mentioned the particular vulnerability of defenders working on women's rights, lesbians, gays, bisexual and transsexual persons (LGBT), indigenous peoples, persons with HIV/AIDS and church workers.

The visit to **Serbia**, undertaken in September 2007, revealed to the Special Representative the existence of 'a vibrant community of human rights defenders'. Despite this, the Special Representative expressed concern about the hostile attitude of the media and the Parliament towards some defenders working on transitional justice and minority rights. In particular in **Kosovo**, she reported to have found a climate that discourages expressions of criticism, dissent and resistance. In that context, she stressed the importance of creating space for human rights defenders to voice sentiments and genuine grievances. She mentioned that failure to do this would reflect negatively on the United Nations Mission in Kosovo (UNMIK) and other international partners.

Ms Jilani briefly commented on two follow-up missions she had carried out to the Former Yugoslav Republic of **Macedonia** (Macedonia) and to **Guatemala**.³¹ Regarding Macedonia, she noted an increased capacity and professionalism of human rights defenders in the country. She explained that the report on Guatemala was under preparation, and would be submitted at a later stage. The Special Representative concluded her statement by expressing her conviction that the mandate has accomplished to be regarded by human rights defenders as an accessible means for their recognition and protection.

Interactive dialogue

Indonesia as a concerned country gave strong support to the mandate of the Special Representative and the special procedures as whole. It called on all members of the Council to welcome special procedures and ensure that they could carry out their work 'in all parts of the world'. Indonesia clearly appreciated the visit, and valued her significant contribution to the Government's efforts to improve the protection of human rights defenders. It pledged to cooperate with Ms Jilani on implementing her recommendations.

Serbia, as another concerned country, said the report accurately reflected the Government's efforts in creating a favourable environment for human rights defenders. Like Indonesia, Serbia used the interactive dialogue with Ms Jilani to affirm the importance of the system of special procedures as a whole, and reiterated its standing invitation to all special procedures. Serbia voiced some criticism regarding the Special Representative's description of the situation of human rights in Kosovo, claiming it did not do justice to the general situation of the non-Albanian communities in 'the Province of Kosovo and Metohija'.

Macedonia appreciated the visit by Ms Jilani, and acknowledged her contribution to raising the awareness of the international community about the situation of human rights defenders. It felt that the work of civil society organisations and individual defenders serve as a measure of the progress in the implementation of

³¹ She had visited the Former Yugoslav Republic of Macedonia in 2003 and then again in September 2007, and Guatemala in June 2002 and February 2008 respectively.

international human rights law. On a slightly critical note, Macedonia called on civil society to ‘make use of the established conditions for their activities in the existing legal framework’.

Most States and NGOs that intervened in the interactive dialogue appreciated the report of Ms Jilani and her work.³² Norway³³ stressed that through her constructive cooperation with governments and her close interaction with civil society at all levels Ms Jilani had ‘set a standard for future mandate holders’.

- Norway asked the Special Representative how the Council could best enable stakeholders to work towards the implementation of the Declaration.
- Germany appreciated the focus on particularly vulnerable groups working on issues such as women’s rights, indigenous peoples rights, and the rights of minorities and LGBT persons.³⁴
- A number of States supported inclusion of a specific focus on human rights defenders in the UPR.³⁵ Some States and NGOs asked the Special Representative how the indicators could be used in practice.³⁶ Brazil announced that it had used the situation of human rights defenders in the preparation of its report for the UPR.
- Thailand looked forward to the visit by the successor of Ms Jilani in May 2008, and promised to enter into a constructive dialogue with the Special Representative.

The Special Representative’s annual report develops a set of ‘indicators’, which could serve to assess State compliance with the *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect internationally Recognized Human Rights and Fundamental Freedom* (the Declaration).³⁷ Although the Special Representative did not elaborate on the indicators in her oral presentation, a number of States commented on this.

- A number of States welcomed the indicators the Special Representative has developed in her report.³⁸ Norway welcomed the focus on the indicators, as it would allow the Council to engage all States in the implementation of the Declaration.
- Pakistan (on behalf of the OIC) enquired how the indicators could be given clear legal value.
- Others were critical of the use of indicators.³⁹ Egypt said it was concerned about the lack of clarity in the development of these indicators, and suggested that the relevant international bodies should approve them.⁴⁰ In addition, Egypt claimed that indicators are not suited to assess the reality of a situation.

Some States criticised the Special Representative for the way she had been carrying out her mandate, in particular in relation to the definition of human rights defenders and in relation to the groups addressed.⁴¹

³² Norway, Brazil, Slovenia (on behalf of the EU), Germany, Australia, Lichtenstein, Ireland, Switzerland, Canada, Guatemala, United States of America (US), Thailand, Colombia, Human Rights First, World Organisation against Torture (OMCT) and International Federation of Human Rights Leagues (FIDH), International Service for Human Rights,

³³ Norway is the co-sponsor leading the negotiations on the draft resolution aiming at the renewal of the mandate of the Special Representative of the Secretary-General on human rights defenders in the context of the review, rationalisation and improvement the Council is undertaking in implementing its institution-building package of 18 June 2007. The review is currently scheduled for 13 March during the lunch segment, but risks to be delayed due to the general delay the 7th session has accumulated in its first 10 days.

³⁴ Supported by the OMCT and FIDH.

³⁵ Germany, US, Brazil, Norway,

³⁶ Germany, Forum Asia.

³⁷ Commonly known as Declaration on Human Rights Defenders. General Assembly *Resolution 53/144 (A/RES/53/144)*, 8 March 1999.

³⁸ States commenting positively on this initiative included Norway, Canada,

³⁹ Egypt, Bangladesh.

⁴⁰ Palestine (on behalf of the Arab group) said that these indicators should be endorsed by the Council before they could be implemented.

⁴¹ Russian Federation, Egypt, Bangladesh.

- The Russian Federation alleged that the Special Representative had arbitrarily interpreted the concept of human rights defenders, thereby exceeding her mandate to further the implementation of the Declaration.⁴²
- Bangladesh said that ‘there is an inherent bias in the concept of human rights defenders that gives rise to the notion that States are the violators’.⁴³
- Egypt took offence of the Special Representative’s attention to LGBT activists as a particularly vulnerable group of persons. The representative said the report of the Special Representative should not refer to such ‘strange acronyms’ without clarifying their meaning.
- Some of the more critical States also addressed the issue of ‘accountability’,⁴⁴ with the Russian Federation claiming that the work of the Special Representative has not addressed the ‘abuse’ of the label of human rights defender.

Some States and NGOs highlighted particular country situations, asking the Special Representative for more information on the situation of human rights defenders in these places.⁴⁵ A number of NGOs commented on the visit by the Special Representative to Indonesia, saying that the situation of human rights defenders in the country remains very ‘precarious’.⁴⁶

Replies by the Special Representative

Ms Jilani thanked all the speakers for their comments and questions.

Regarding the interpretation of the definition of human rights defenders, she stated that she saw little scope for arbitrary interpretations by any new mandate holder. Ms Jilani underlined that the Declaration clearly describes the activities that allows a person or organisation to be considered a human rights defender.

She stated that the indicators she had developed were, in her view, clear and coherent and follow the thematic analysis she has developed. She explained that the indicators were intended to complement the analysis and not replace it. She further stated that the indicators are directly relevant to the Declaration as they are linked to the critical factors for assessing implementation of the Declaration.

On the criteria for identifying more vulnerable groups of human rights defenders, Ms Jilani explained that these included promoting the rights of people who are marginalized, whether the legal frameworks for rights that they seek to promote are weak.

She recognised that the status of human rights defender can be abused. However, she assured the Council that she had tried to obviate that risk by ensuring vigilance and diligence in applying the criteria in the Declaration, by using multiple sources of information and verifying them as much as possible. She noted that when the information received justifies attention and when there is reason to express concern she has done so with full awareness that the primary obligation is towards the mandate.

She underlined that the principle of accountability applies to all, both governments and human rights defenders. She reiterated that accuracy, transparency and objectivity are the basis for the work of human

⁴² The Russian Federation recalled that in the 2006 report, human rights defenders were said to ‘include all peaceful supporters of democracy’, which, according to the delegation, includes all of humanity.

⁴³ Bangladesh made this remark when commenting on communications about alleged violations sent to States by the Special Representative to allow States the opportunity to clarify the situation.

⁴⁴ Bangladesh said human rights defenders needed to be made accountable for their actions.

⁴⁵ Iran (raised by Germany, US), Zimbabwe (raised by Australia, US), Burma/Myanmar (raised by Canada, US, Forum Asia), Syria (raised by the US), Cuba (raised by the US), Philippines (raised by Forum Asia), Thailand (raised by Forum Asia),

⁴⁶ Human Rights First, Indonesian NGO Forum, Forum Asia.

rights defenders. She noted that the processes for accountability of human rights defenders may not be the same as those for the State's responsibility. She emphasised that measures of accountability must not infringe on the independence or autonomy of human rights defenders or involve intimidation or harassment.

Regarding the UPR, the Special Representative stated that input from the special procedures should be an important contribution to the review process. She expressed the hope that the indicators contained in her reports would be used in the UPR process. She highlighted the importance of examining the enjoyment of the rights to freedom of association, and assembly and access to information.

As time for her replies ran out, Ms Jilani stated that she hoped she could respond to the remaining questions in writing.

Special Rapporteur on violence against women

Ms Yakin Ertürk, the Special Rapporteur on violence against women, its causes and consequences, presented her annual report.⁴⁷ In her oral presentation, she highlighted the development of a set of indicators regarding violence against women. These indicators facilitate more meaningful data collection, and help create more responsive public policies and programmes to combat such violence. While in the past most data related to 'intimate partner violence', the Special Rapporteur suggested three additional types of indicators: 'grave violence', 'femicide' (murder of women), and 'social tolerance' (factors that promote or constrain violence against women).

The Special Rapporteur presented the missions to Algeria (21-31 January 2007), Ghana (7-14 July 2007), and Democratic Republic of Congo (16-27 July 2007). Regarding the mission to **Algeria**, she affirmed that despite considerable progress towards gender equality, women lack equal access to the labour market and decision-making positions. Other areas of great concern are feminised poverty and marginalisation. Regarding her mission to Ghana she denounced female genital mutilation, the practices of ritual servitude (*trokosi*), and early child marriage. She called on the Government of **Ghana** to enact legislation to strengthen women's protection. During the mission to the **Democratic Republic of Congo (DRC)**, the Special Rapporteur focused on sexual violence as a defining feature of the armed conflicts in the country and urged the international community to step up the efforts towards ending impunity and protecting victims in the DRC.

The Special Rapporteur closed her statement by announcing recent and upcoming missions. She visited Saudi Arabia between 4 and 13 February 2008 and expects to submit a report on this mission to the Council during its next session. Ms Ertürk also noted a visit to Tajikistan, currently scheduled for May 2008, and invitation requests extended to Jordan, Kyrgyzstan, Turkmenistan, Uzbekistan, and Moldova.

Interactive dialogue

Algeria as concerned country drew the attention of the Council to several issues included in the report, including personal status, nationality, gender mainstreaming, violence against women, education, and prevention of violence. Algeria concluded its statement presenting the measures of rehabilitation adopted by the Government for victims of terrorism, especially women and children.

Ghana expressed its commitment to the protection of women's rights. Acknowledging the difficult circumstances under which the Special Rapporteur had to write her report, it argued that some of the analysis she made and the conclusion she drew did not show sufficient understanding of Ghana and its traditions. The

⁴⁷ A/HRC/7/6, (annual report), Add. 1 (Communications to and from governments), Add. 2 (Mission to Algeria), Add. 3 (Mission to Ghana), Add. 4. (Mission to DRC), Add. 5 (The next step: Developint Transnational Indicators on Violence Against Women). ISHR has prepared unofficial summaries of the reports by special procedures ('Reports in short'), available at http://www.ishr.ch/hrm/council/reports_in_short.

delegation pointed out that women have equal status with men in Ghana, and that they enjoy an increasing decision-making power both at home and in public life. Finally, Ghana reiterated its commitment to ensure the full enjoyment by women of their rights and hoped that in the next report the Special Rapporteur would take into consideration the reality of the country based on more reliable information.

The Democratic Republic of Congo (DRC) shared the Special Rapporteur's concerns in relation to the grave problem of sexual violence against women. It welcomed the visit of the Special Rapporteur as opportunity to investigate the problem and to consider the efforts undertaken by the Government to address the violation of women's rights. The delegation commented on several other issues included in the report, including the fight against impunity, assistance to victims, the judiciary system, and the status of women. The DRC called upon the Council to undertake further investigation into the sexual abuse perpetrated by UN peacekeepers.

Many States appreciated the report on violence against women.⁴⁸ They in particular applauded the adoption of indicators as useful tools for data collection, country assessment and, most importantly, for designing responses to violence against women.⁴⁹

- New Zealand expressed concern about the lack of disaggregated data on women victims of violence and asked the Special Rapporteur on the steps to be taken in order to ensure that statistics target different groups of women, including women with disabilities, migrant workers and indigenous women.
- Liechtenstein considered the elaboration of indicators on violence against women at the international level to be a very valuable project, which would raise awareness and mobilise further action on this issue. Slovenia (on behalf of the EU) questioned the Special Rapporteur on her plans to use the list of indicators in her own work and asked what could be done to facilitate the implementation of indicators by States and by the UN and its agencies.⁵⁰ Switzerland queried what the main obstacles to the implementation and use of indicators were. It further asked what the impact of a database on violence against women would be. Israel asked about the social tolerance indicator and stated that it would appreciate receiving more details on the practical steps that could be taken to measure this. The Republic of Korea asked about the Special Rapporteur's follow up plans regarding the indicators.

Several States opposed the concept of indicators. Pakistan (on behalf of the OIC) welcomed the indicators included in the report but noted that the limited technical capacity in developing countries could hamper the collection of reliable data.⁵¹ Saudi Arabia stressed the need to take into consideration the social structure of the country when collecting data and information. Egypt felt that even though indicators could be helpful tools, but the methodology used by the Special Rapporteur for their development was unfortunately unclear.

Pakistan (on behalf of the OIC) argued that the General Assembly, rather than the Council should address the issue of violence against women.

The United Nations Population Fund (UNFPA) supported the Special Rapporteur position in the importance of cultural considerations in the prevention and response to violence.

A number of States addressed particular country situations of concern to them. The Netherlands expressed its concern about the persistent violence committed against women in areas such as Southern Iraq and the DRC, and asked the Special Rapporteur to elaborate on what the Council and member States can do to improve data collection on violence against women to accelerate the fight against all such forms of violence. Australia

⁴⁸ Pakistan, Russian Federation, Norway, Brazil, Slovenia, Saudi Arabia, Egypt, Netherlands, Israel, Zambia.

⁴⁹ Russian Federation, UNFPA, Norway, Slovenia, Netherlands, Australia, Liechtenstein, Maldives, Joint Nordic Statement, Switzerland, Sweden, Turkey, Republic of Korea.

⁵⁰ Germany, Netherlands

⁵¹ Indonesia, Saudi Arabia, Palestine, Bangladesh

expressed its concern on the cases of violence against women in the Sudan and the DRC.⁵² UN Watch expressed concern about the situation in Iran. Sweden highlighted the need to give more attention to prevention of violence against women as suggested in the report on the visit to the DRC. It specifically asked what are the most important measures to be taken by the DRC and the international community to address violence against women and deal systematically with impunity. The International Federation of Human Rights Leagues also commented on the visit to the DRC and expressed concern at widespread impunity for sexual violence.

Several States announced the reform of domestic legislation and other measures to combat violence against women and to promote the protection of women's rights.⁵³ They reaffirmed their commitment to actively cooperate with the Council and to dully implement the international instruments for the protection of women.

Reply of the Special Rapporteur on violence against women

Ms Erturk congratulated Algeria for lifting its reservation to an article of the Convention on the Elimination of all forms of Discrimination against Women and thanked it for the follow-up visit. She stated that she agreed with Algeria and Ghana that the visits conducted were very short. She noted that she had visited extensive areas of the countries and had sought to consult a diverse range of actors. She explained that she had mainly addressed violence committed by non-State actors in Ghana. She further stated that she agreed with the concerns expressed by the DRC regarding abuses committed by peacekeepers.

She also thanked Moldova for the invitation extended to her.

Ms Erturk commented on her report on indicators noting that governments were consulted. The report had been written in response to Commission on Human Rights and the General Assembly had acknowledged this work as well. She underlined that indicators cannot be considered a substitute for qualitative research, including testimonies. She explained that the report was intended as a proposal to start a debate and she was pleased that the comments made showed that this goal had been reached.

Independent Expert on economic reform

Mr Bernard Andrew Nyamwaya Mudho, the Independent Expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights, particularly economic, social, and cultural rights (the Independent Expert), presented his annual report and a mission report to Burkina Faso.⁵⁴ In his oral presentation, he highlighted the progress he has made in drafting general guidelines on economic reform and debt management policies that respect human rights.⁵⁵ The guidelines were prepared in consultation with the World Bank and the International Monetary Fund (IMF), and argue that future international loans should explicitly account for the impact of foreign debt on a borrowing State's capacity to fulfil its human rights obligations. Mr Mudho clarified, that States that receive loans do not bear responsibilities for human rights alone; rather, creditors and borrowers must share this obligation. The two parties should also regularly review lending conditions during the course of each loan to assure optimal human rights protections. Ultimately, the Independent Expert hoped, the international community will adopt common lending principles, especially regarding unsustainable debt situations, such as a 'debt sustainability analysis framework.' Mr Mudho also

⁵² Belgium

⁵³ Indonesia, Saudi Arabia, Morocco, Egypt, Nigeria, Mauritania, Israel, Zambia, Jordan.

⁵⁴ A/HRC/7/9, 1 February 2008 (annual report), Add. 1, 11 February 2008 (mission report to Burkina Faso). ISHR has prepared unofficial summaries of the reports by special procedures ('Reports in short'), available at http://www.ishr.ch/hrm/council/reports_in_short.

⁵⁵ Oral statements made at the Council can be accessed on the OHCHR extranet at <http://portal.ohchr.org> (fill out the form on www.ohchr.org/english/bodies/hrcouncil/form.htm to receive user name and password).

asked that when developing loan structures, creditors link debt service to the pace of the borrowers' economic growth and social development, and provide more technical assistance.

The draft guidelines also call for economic policies to include human rights impact assessments in several thematic areas, including microeconomic stabilisation, trade liberalisation, social sector reform, privatisation, and governance. Mr Mudho warned, however, that while microeconomic stability generally leads to lower rates of poverty, measures used to accomplish such stability could also easily undermine human rights. The Independent Expert asked that new trade policies account for their impact on human rights and labour standards compared to potential State revenue. They should include adequate aid packages to strengthen domestic competitiveness, and consider the use of fees and subsidies when implementing social sector reforms. Mr Mudho stressed that government activities must be open and transparent, particularly while developing structural adjustment programmes (SAPs)⁵⁶ and human rights impact assessments.

Mr Mudho then turned to report on his mission to Burkina Faso carried out in April 2007. He applauded the State's progressive legal framework and institutions, which reflect its clear commitment to addressing human rights. The Independent Expert asked, however, that the State increase the openness and transparency of its decision making process. To this end, Mr Mudho suggested that Burkina Faso build the capacity of its civil society and encourage its increased participation in developing a human rights strategy.

The Independent Expert ended his statement by noting recommendations on the future of his mandate found in his report, which he hoped will be useful.⁵⁷ In closing, Mr Mudho regretted that in his six years, he has only been able to visit six countries,⁵⁸ and received nothing in response to any of the follow up requests he issued.

Interactive dialogue

Burkina Faso, the only concerned country, expressed appreciation for Mr Mudho's report, and assured the Council that the State will spare no effort to implement his recommendations. The delegation did, however, dispute the Independent Expert's claim that its judiciary lacks appropriate training or capacity to implement international norms. Burkina Faso reported that international human rights texts are widely published in the country, and are 'systematically' distributed to judges. In addition, the Ministry of Justice conducts regular and ongoing trainings for its judges. The State closed its statement by noting that many of its ministries play an advisory role to Burkina Faso's National Human Rights Commission.

Relatively few speakers intervened on the issue of economic reform during the session, and the majority of them did so on behalf of groups of states.⁵⁹ The major topic discussed was the capacity of international financial institutions, such as the International Monetary Fund and the World Bank, to develop financial policies that are sensitive to human rights. While Pakistan (on behalf of the OIC) asked that these institutions reform their policies, Slovenia (on behalf of the EU) asked the Independent Expert elaborate on how he thinks

⁵⁶ The World Bank and IMF introduced structural adjustment programmes to assure that loans given to developing countries were spent in accordance with the overall goals of the loan. The SAPs usually involve 'conditionality' criteria regarding government spending and other policy making guidelines that countries have to meet to be awarded new loans or lower interest rates on existing loans.

⁵⁷ In his report, the Independent Expert suggested that the mandate be reviewed to focus on economic management, and comprehensive public financial management in particular. The main task would be to balance the protection of human rights with the fulfillment of repayment obligations.

⁵⁸ The Independent Expert listed the following countries in his statement: Bolivia, Burkina Faso, Mozambique, Uganda, and Turkistan.

⁵⁹ Pakistan on behalf of the Organisation of the Islamic Conference (OIC), Egypt on behalf of the African Union, and Slovenia on behalf of the European Union (EU).

these institutions can develop practices that better protect human rights. In his closing remarks, Mr Mudho clarified that he is asking that those institutions apply human rights principles when formulating their policies.

Pakistan (on behalf of the OIC) also specifically mentioned the need to create ‘non-disabling’ repayment options for borrowers so that they can avoid the difficult choice between human rights and economic expansion. Both Pakistan and Bangladesh asked States to increase official development assistance to help them achieve the Millennium Goals (MDGs).⁶⁰ The African Union similarly thanked Mr Mudho for his focus on the nexus between the MDGs and human rights, as well as his discussion of debt sustainability and human rights impact assessments. However, the African Union’s statement was critical of SAPs, which it claimed sparked a ‘brain drain’ in countries where such programmes were introduced. Cuba went further, claiming that some SAPs as such are violations of human rights.

The other major topic of discussion was the future of the Independent Expert’s mandate.⁶¹ Pakistan suggested that the Independent Expert collaborate closely with the Working Group on the Right to Development. Moving forward, the African Union recommended that Mr Mudho work with various international and regional organisations, especially agencies in Africa, to further elaborate his draft guidelines.⁶² Bangladesh urged the Council to seriously reflect upon the Independent Expert’s suggestions about the future of the mandate.

The NGO Europe Third World Centre was fairly critical of Mr Mudho’s report, identifying two major problems. First, that the Independent Expert never questioned whether the debt stemming from the loans was legitimate at all, and second, that he asks for minimum standards of economic, social, and cultural rights to guide international lending, but never defines what those ‘minimum standards’ are exactly.

Special Rapporteur on adequate housing

Mr Miloon Kothari, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, presented his annual report and mission reports to the Council.⁶³ The thematic report focuses on obstacles to the implementation of the right to adequate housing and draws attention to issues that require further consideration to achieve the realisation of this right. The Special Rapporteur began his opening statement by stating that the creation of the mandate had permitted better exposure of economic, social and cultural rights and had made the indivisibility between all human rights all the more obvious.⁶⁴ He was pleased to report that the right to adequate housing is now increasingly recognised by courts and States as a ‘distinct and fully justiciable human right’.

In his oral presentation, Mr Kothari particularly highlighted the need for protection measures, such as the combination of a humanitarian and a human rights approach to confront the difficult housing situation of millions of people worldwide. He also underlined the importance of recognising the right to adequate housing through legislation, policy, and budgetary commitment. He asserted that this recognition must be followed up

⁶⁰ States and leading development institutions adopted the eight Millennium Development Goals to help narrow the gap between developed and developing countries. Bangladesh noted that increased ODAs would particularly help establish a global partnership for development, the eight MDG.

⁶¹ The mandate of the Independent Expert will be reviewed at the 7th session. The review is currently scheduled for 14 March 2007

⁶² Organisations mentioned included South Centre, United Nations Centre on Trade and Development (UNCTAD), Economic Commission of Africa (ECA).

⁶³ A/HRC/7/16, 13 February 2008 (annual report), Add. 1, 4 March 2008 (Communications to and from governments), Add. 2, 7 February 2008 (mission report to Spain), Add. 3, 29 February 2008 (mission report to South Africa), Add. 4, 28 February 2008 (mission report to Canada). ISHR has prepared unofficial summaries of the reports by special procedures (‘Reports in short’), available at http://www.ishr.ch/hrm/council/reports_in_short.

⁶⁴ Oral statements made at the Council can be accessed on the OHCHR extranet at <http://portal.ohchr.org> (fill out the form on www.ohchr.org/english/bodies/hrcouncil/form.htm to receive user name and password).

by the implementation of this right through concrete measures. He further underlined that it is a prerequisite that courts refer to international law and not just domestic law. He regretted that many lawyers and officials have little human rights knowledge and suggested that there was a need for human rights education. The Special Rapporteur further reminded the Council of the fact that although the realisation of the right to adequate housing encounters numerous challenges, solutions are within reach if political will, ‘including the political willingness to convert commitments to reality’, is demonstrated by States.

Mr Kothari also strongly advocated for the adoption of the optional protocol to the *International Covenant on Economic, Social and Cultural Rights* and stated that it would clarify misunderstanding regarding the justiciability of economic, social and cultural rights.

On his visit to **Spain**, the Special Rapporteur stressed that the justiciability of the right to adequate housing must be implemented into national, regional and local judicial and policy systems. Despite several steps taken by the Government to tackle the issues, he remained concerned about the situation of migrant workers as well as housing affordability and its impact on those who are more vulnerable to discrimination.

With regard to the mission to **South Africa**, Mr Kothari commended the country for its legislative achievements, but observed that people continue to live in unacceptable housing conditions in many informal settlements. In addition, he noted that housing and support for particular groups of people, such as women from indigenous communities, migrant women and women with HIV/AIDS, is critically lacking.

The Special Rapporteur explained that he had released a preliminary note following his country mission to **Canada** and regretted that the full report was not available yet. He recommended that Canada revert back to policies that in the past had allowed the country to achieve ‘remarkable housing successes’ and also intensify its efforts with respect to the ‘grave housing conditions’ faced by numerous indigenous peoples.

Mr Kothari further recommended the next mandate holder to continue the work on women and housing, and consider extending this work to other groups, such as children and others identified in *Resolution 6/27*.⁶⁵ He asked for additional support and resources be given to the mandate in order to ‘fulfil the immense task necessitated by the continued prevalence of the global housing and land rights crisis’.

Interactive dialogue

Spain as a country concerned commented that the recommendations of the Special Rapporteur coincided with the aims of the Government. Spain thanked the Special Rapporteur for his efforts and recognised his in-depth study of the housing situation in Spain. It thanked Mr Kothari for recognising to some extent the efforts undertaken by the competent authorities. However, it regretted that the report, which was presented 16 months after the visit, did not fully cover the various initiatives taken since 2006 by the Ministry of Housing and other administrative bodies in areas such as the control of real estate speculation and financing. Spain stated a number of measures undertaken to realise the right to adequate housing, which included the adoption of a land law combating corruption, speculation and favouring sustainability; the promotion of a special prosecutor and the creation of special civil guard units to combat offences related to territorial planning and environment; the establishment of preventive plans to combat tax frauds and mobbing; and the increase of financial aid to youth, elderly people, and people with disabilities. It added that there was a federal housing plan to benefit low and middle income families.

South Africa appreciated Mr Kothari’s visit, and reaffirmed its commitment to the realisation of the right to adequate housing to the extent of its available resources. As a demonstration of its commitment, South Africa pointed to a number of measures undertaken, which included: the increase in the housing budget; housing

⁶⁵ A/HRC/6/L.41, 12 December 2007.

programmes focused on indigents, peoples with disabilities and people living with HIV, senior citizens, and single parents; subsidies and affordable rental policies for low income families; and a constitutional and legislative framework against illegal evictions. Addressing the situation of homeless people, South Africa noted that the Special Rapporteur had not taken into consideration the significant land distribution undertaken and the comprehensive plan for sustainable human settlement development which included access to housing, electricity, water, sanitation, community centres, educational and sports facilities. Furthermore, South Africa mentioned its Free Basic Water Policy covering 86% of the population and the Integrated Electrification Programme. Finally, it welcomed the Special Rapporteur's '*Basic Principles and Guidelines on development-based Evictions and Displacements*'. It stated that it would submit a comprehensive response to the report and give consideration to the recommendations.

Canada also spoke as a concerned country and thanked the Special Rapporteur for his valuable work and recognised the important role he had played in focussing on the particular situation of women and children. It added that it had supported the renewal of the mandate and was a strong supporter of the special procedures. Regarding Mr Kothari's visit, Canada stated that all efforts had been taken to cooperate with him and that he was exposed to the complexities of addressing these issue within a federal State. It reaffirmed its commitment to realise the right to adequate housing and stated that concrete steps were undertaken through legislative innovations, policies and programmes. Canada expressed its disappointment with the Special Rapporteur's decision to submit a preliminary note rather than the detailed analysis and substantive research of a final report. It stated that the recommendations in the preliminary note failed to reflect the housing achievements in Canada, which included high public investment in housing, and access to housing for the vast majority of Canadians. Finally, Canada said it looked forward to the release of the final report reflecting the Canadian housing successes.

Palestine, on behalf of the Arab group, congratulated the Special Rapporteur for his efforts towards the realisation of the right to adequate housing and insisted on the need for further and common efforts to mobilise opinion and technical cooperation. Palestine addressed measures undertaken by Israel violating the right to adequate housing of the Palestinian people. These actions included land confiscation, the building of the separation wall, and building of settlements settlement in contravention of the *Geneva Conventions*.

Slovenia (on behalf of the EU) thanked Mr Kothari for his tireless work and comprehensive final report. Referring to the Special Rapporteur's recommendation on the need to strengthen monitoring mechanisms, it questioned whether he had started to develop indicators for monitoring and for the development of national policies. It wanted to know what he proposed in terms of further work on these indicators and asked his view on the role OHCHR and UN Habitat could play in that respect. Regarding the cooperation with UN Habitat, Slovenia asked the Special Rapporteur which other areas of the mandate could benefit from the cooperation. It also wanted to know if he thought that the compilation of best practices, in particular with regard to women, children and minorities, could be helpful to provide States and local communities with fresh ideas.

Germany stated that it was together with Finland one of the main sponsors of the resolution on adequate housing. Regarding the '*Basic Principles and Guidelines on development-based Evictions and Displacements*', it requested further information on the Special Raporteur's practical experience with these guidelines, in particular during his recent country visits.

Independent Expert on minority issues

Ms Gay McDougall, the Independent Expert on minority issues presented her annual report to the Council.⁶⁶ In her oral presentation,⁶⁷ she expressed her concern that minorities are being left behind in the struggle to bring individuals and communities out of poverty due to discrimination and exclusion. She noted that the report focuses on the discriminatory denial or deprivation of citizenship to minorities and the consequences of this practice. Ms McDougall explained that disfavoured minority groups are often the targets of State actions that deny or deprive them of their rights of citizenship, which can result in a situation of statelessness. She recognised that States can determine their own citizenship laws, but highlighted their obligation under international law not to deny or deprive individuals of citizenship on the basis of gender, race, colour, descent, or national or ethnic origin. She underlined that international law prohibits discriminatory denial of citizenship as a means of exclusion of persons belonging to minorities. Ms McDougall stressed that the consequences of these actions have a negative impact on the living conditions of those affected and on their level of integration in society.

She informed the Council of some of her recent activities, and highlighted the expert consultation she convened to consider this issue, and the questionnaire that she had sent to all UN members requesting information on citizenship and minorities. She also thanked several UN agencies, governments and civil society for their collaboration with the Independent Expert.

Regarding her visit to France (19 to 28 September 2007), Ms McDougall concluded that there is serious discrimination towards minorities, which manifests itself in areas like allocation of housing, access to employment, quality of education, and inadequate levels of political participation. She welcomed some positive anti-discrimination initiatives taken by the Government. However, she noted that the State has a positive obligation to create favourable conditions for the exercise of the rights of minorities, as the negative obligation not to discriminate is insufficient to secure equality. She especially recommended the country to make penalties for acts of racial discrimination sufficiently severe to deter further violations. Finally, she noted the fact that France has historically considered minority rights and recognition of minority groups as incompatible with the French Constitution, and stressed that their acknowledgment should not be considered a threat to society.

Interactive dialogue

France, as a concerned country, stated that it had a number of clarifications and comments that it would like to have reflected. It made reference to several inaccuracies and regretted certain comments in the report. Among others, it clarified the voluntary nature of the DNA tests mentioned, the use of other languages apart from French in schools, and the non-existence of any specific law on the construction of places of worship.

Slovenia (on behalf of the EU) addressed the Independent Expert to enquire about her plans to hold consultations similar to those she held with the Organisation of American States with other regional mechanisms, and the role of national human rights institutions in these. It further welcomed the Special Rapporteur's collaboration with the treaty monitoring bodies, and in particular with the Committee on the Elimination of Racial Discrimination and enquired if he had any plans for collaboration with the Human Rights Committee in relation to article 27 of the *International Covenant on Civil and Political Rights*. It also asked about examples of good practices with regard to minority protection in the prevention of conflicts.

⁶⁶ A/HRC/7/23, 28 February 2008 (annual report), Add. 1, 27 February 2008 (Communications sent to Governments), Add. 2, 4 March 2008 (mission report to France), Add. 3 (Mission to the Dominican Republic). ISHR has prepared unofficial summaries of the reports by special procedures ('Reports in short'), available at http://www.ishr.ch/hrm/council/reports_in_short.

⁶⁷ Oral statements made at the Council can be accessed on the OHCHR extranet at <http://portal.ohchr.org> (fill out the form on www.ohchr.org/english/bodies/hrcouncil/form.htm to receive user name and password).

Many States were unable to take the floor and will do so on 13 March 2008.

Informal consultations

Mandate of the Special Representative of the Secretary-General on human rights defenders

Norway convened brief informal consultations on its draft resolution to renew the mandate of the Special Representative of the Secretary-General on human rights defenders. The discussion focused mainly on one operative paragraph in the draft resolution on regarding country visits and follow-up to and implementation of recommendations. Some States argued that the Council should only encourage governments to *consider* responding favourably to requests for country visits.⁶⁸ Others argued that more a more progressive approach was appropriate and that the Council should call on governments to respond to such requests.⁶⁹

Some States also argued that States should only ‘give serious consideration’ to follow-up as there was no duty on States to implement the recommendations from special procedures. Others argued that the formulation did not imply such a duty and supported urging governments to ‘enter into a dialogue’ with the Special Representative regarding follow-up.⁷⁰

Norway announced that further informal consultations are planned for Friday 14 March and for the following week.

Rights of reply

At the end of each segment, the Council heard rights of replies.

In relation to the interactive dialogue with the Special Rapporteur on freedom of opinion and expression, Sri Lanka responded strongly to the statement by Amnesty International regarding alleged threats to media freedom and media persons in the country, primarily pointing to the fact that they had not acknowledged any of the positive steps taken by the government to promote freedom of expression. Ukraine took the floor to respond to the Special Rapporteur on freedom of expression, Mr Ligabo, to say that the ‘accusations’ of racist violence by neo-Nazi organisations in Ukraine were ‘completely unsubstantiated and untrue’. He asked for Mr Ligabo to substantiate his claims and questioned whether this fell within his mandate.

Zimbabwe replied to statements made by Slovenia (on behalf of the EU), Australia and the US referring to Zimbabwe. It stated that these countries had used the interactive dialogues as a ‘platform for launching unwarranted attacks’ against Zimbabwe. It claimed that these attacks were undertaken on behalf of ‘the regime in London’, the former colonial power that ‘dreamed of again having lands in Zimbabwe’. Zimbabwe then made reference to the statement made the previous day by Mr Manfred Nowak, the Special Rapporteur on torture, refuting having given an interview to a local newspaper in Zimbabwe. It claimed that the newspaper article was linked to efforts by Western governments to influence the election process. It stated that Australia could not judge its electoral process and pleaded for non-interference in its domestic affairs. It further argued that the US could not talk about human rights abuses anywhere in the world in light of its own

⁶⁸ Russian Federation, Algeria, Indonesia, Egypt, India.

⁶⁹ New Zealand, UK, Switzerland, Belgium.

⁷⁰ New Zealand, Ireland (on behalf of the EU), UK, Switzerland, Liechtenstein.

record, including Abu Ghraib, Guantanamo and ‘water boarding of human rights defenders’. Finally, it stated that the EU was trying to prejudge the elections in Zimbabwe and to justify its economic sanctions.

Syria noted that the US had finally decided to take part in the Council after boycotting the special session on the situation in the occupied Palestinian territories (OPT). It further said that the US had used the discussion on human rights defenders for its own purposes. It underlined that the US was in no position to express concerns about the human rights situation in other countries with its own record on Abu Ghraib and Guantanamo.

Iran replied to what it called ‘false accusations’ by the US regarding Iran. It stated that Iran is fully committed to its international human rights obligations and that it spares no efforts to protect the rights of all. It stated that no one had been detained in Iran for being a journalist or human rights activist. Finally, it noted that the US violates the rights of own citizens, including by phone tapping, inspection of private emails and allowing new torture techniques.

Other issues

The President announced that the interactive dialogues with the Special Rapporteur on housing and the Independent Expert on minority issues would continue the following day. This would be followed by a general debate on Item 3, where the Deputy High Commissioner for Human Rights would introduce reports prepared by the Office of the High Commissioner under this item.

The Council will then consider Item 4. The President informed that the interactive dialogue with the Special Rapporteur on the Sudan would be postponed to the morning of Monday, 17 March. The Council agreed, at the suggestion of the President, to combine the interactive dialogue with the Special Rapporteur on Myanmar with the consideration of follow up to the 5th special session on the same topic. The Council will also consider the report of the Special Rapporteur on the Democratic People’s Republic of Korea (DPRK).

The President also informed that a slight change had been made to the programme of work. The general debate on items 8 and 9 will take place during the last week of the session instead of on 18 and 19 March as originally planned. As a result the time available for decision-making would be reduced to two days (27 and 28 March). The President noted that this also meant that more time would be available for negotiating and encouraged all delegations to make efforts to ensure that all resolutions and decisions could be adopted on the ‘widest consensual basis’.

The Secretary of the Council, Mr Eric Tistoune, confirmed that a number of documents discussed the previous day had been placed on the Internet. He further stated that, following a request by Algeria, a table with the date of submission and date of circulation of all reports had been prepared by the Secretariat and would be posted on extranet.⁷¹ He noted that this document would be prepared systematically in the future.

Finally, the President confirmed that regarding the elections to the Human Rights Council Advisory Committee, elections would only take place for those regions where more candidates than the number of seats available had been presented. Consequently, where a so-called ‘clean slate’ had been put forward by a regional group, there would not be an election, unless requested by a member State.

⁷¹ The OHCHR extranet can be accessed (fill out the form on the page to receive the user name and password) at www.ohchr.org/english/bodies/hrcouncil/form.htm.

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