

# COUNCIL MONITOR

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## Overview

During its last day of the first week, the Human Rights Council (the Council) moved swiftly through its agenda. This means that the Council is back on schedule, with its second week entirely dedicated to the adoption of outcome documents of the first two sessions of the Working Group on the universal periodic review (UPR).

- The Special Rapporteur on the **right to food** gave a brief update on follow-up to the 7<sup>th</sup> special session of the Council.<sup>1</sup> More comprehensive follow-up to the special session was pushed back to September 2008.
- This was followed by the review, rationalisation and improvement (RRI) of mandates of the Special Rapporteur on **trafficking** and the Special Rapporteur on **education**.
- The Council then proceeded to a **special event dedicated to the entry into force of the *Convention on the Rights of Persons with Disabilities***.
- Brazil instigated a **special event on the draft UN guidelines for the appropriate use and conditions of alternative care for children**, which drew broad support from States on the elaboration of the guidelines and their adoption at the next Council session.
- The Council also opened Item 4, human rights situations that required the Council's attention, with the **follow-up to the 5<sup>th</sup> special session (on Burma/Myanmar)**. States were divided in their analysis of the recent referendum on a new Constitution, which was held despite the humanitarian disaster caused by cyclone Nargis.
- Still under Item 4, the Council held a general debate, in which a large number of country specific situations were raised, including the Democratic Republic of Congo (DRC), Iran, Sri Lanka, Sudan, Zimbabwe, Burma/Myanmar, Belarus, the Democratic People's Republic of Korea (DPRK), and Kenya. A number of States asserted that the UPR was no substitute for Item 4.
- A series of informal consultations on draft resolutions were held. This *Daily Update* briefly covers those on the mandates on education and on business and human rights.

Follow-up to the special session on the world  
food crisis

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<sup>1</sup> The 7<sup>th</sup> special session was held on 22 May 2008 on the 'the negative impact on the realization of the right to food of the worsening of the world food crisis, caused *inter alia* by the soaring food prices'. For an overview of this special session, please see ISHR's report, available at [www.ishr.ch/hrm/council/cmreports/specialsessions/7\\_special\\_session.pdf](http://www.ishr.ch/hrm/council/cmreports/specialsessions/7_special_session.pdf).

In compliance with the resolution passed at the Council's 7<sup>th</sup> special session, the Special Rapporteur on the right to food, Mr Olivier de Schutter, and the High Commissioner for Human Rights, Ms Louise Arbour, attended the High-Level Conference on World Food Security: The Challenges of Climate Change and Bioenergy of the Food and Agriculture Organisation (FAO) which took place in Rome this week.

Mr de Schutter began his statement by reiterating the value of incorporating a human rights dimension to the response of the UN to the world food crisis. He expressed his regret that despite this, neither the Final Declaration of the High-Level Conference nor the Comprehensive Framework for Action prepared by the High-Level Task Force contained meaningful references to the right to food. Mr de Schutter reported that there had been unanimous agreement on the need to boost agricultural production, and expressed his intention to closely monitor the initiatives taken. He however noted that the participation of civil society in the debate in the debate about how to boost that production was insufficient.

Mr de Schutter promised to provide a more comprehensive update on follow-up in his report to the 9<sup>th</sup> session of the Council. He notified States that he would circulate a draft set of recommendations on 1 August 2008 and hoped to receive their reactions within three weeks thereof. On that basis, he will prepare a final draft in time for the 9<sup>th</sup> session, which will allow for an in-depth discussion.

#### Review, rationalisation and improvement of special procedures mandates

Following established practice, the original main sponsor of the resolution creating the mandate under review introduces each mandate. This is followed by the views of the current mandate holder, States and NGOs on the achievements and the future focus of the mandate.

#### **Special Rapporteur on trafficking in persons, especially in women and children**

Germany and the Philippines, the main sponsors of the resolution to renew the mandate of the Special Rapporteur on trafficking in persons, especially in women and children, jointly condemned the trafficking in persons as a grave violation of human rights. They stressed the need to identify and address the root causes of trafficking, and urged all States to adopt national initiatives to combat this activity.

As the Special Rapporteur was unable to attend the session, Ms Soussan Raadi-Azarakhchi, Director of the Special Procedures Division at the Office of the High Commissioner for Human Rights (OHCHR), spoke on the recent activities of the mandate holder. The Special Rapporteur, appointed for a three-year term,<sup>2</sup> has submitted three annual reports,<sup>3</sup> made joint communications to governments,<sup>4</sup> and carried out country visits.<sup>5</sup>

The States that took the floor were unanimous in their denunciation of trafficking in persons and expressed their support for the renewal of the mandate,<sup>6</sup> and a number of suggestions were made for strengthening it. Sri Lanka and Turkey highlighted the need for a victim-centred approach, while Belarus stressed the importance of cooperation between the mandate holder and States, as well as between States. The latter also pointed to the need to eliminate the demand for services of trafficking victims. Spain specifically emphasised the need to

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<sup>2</sup> Under Decision 2004/110 adopted without vote at the 60<sup>th</sup> Session of the Commission on Human Rights (19 April 2004).

<sup>3</sup> These have been on the content and scope of the mandate (December 2004), the relationship between trafficking and commercial sexual exploitation (February 2006), and forced marriages in the context of trafficking in persons (January 2007).

<sup>4</sup> Most communications were made jointly with the Special Rapporteur on violence against women and the Special Rapporteur on the sale of children, child prostitution and child pornography

<sup>5</sup> Bosnia and Herzegovina and Lebanon in 2005, and Bahrain, Oman and Qatar in 2006.

<sup>6</sup> Germany, Philippines, Slovenia (on behalf of the European Union), Sri Lanka, Turkey, Belarus, Spain.

protect children. Some States also took the opportunity to inform the Council of national initiatives to combat trafficking.<sup>7</sup> Two NGOs had asked for the floor, but neither was present when the floor was offered to them.<sup>8</sup>

Germany, speaking also on behalf of the Philippines, closed the discussion inviting States to participate in the informal consultations that it has organised on the resolution to renew this mandate. Both countries expressed their hope that the resolution will be adopted by consensus.

### **Special Rapporteur on the right to education**

Portugal, the main sponsor of its renewal, introduced the mandate of the Special Rapporteur on the right to education. It highlighted the extensive work done by the current mandate holder, Mr Vernor Muñoz Villalobos. At the same time, it quoted various statistics on education (or lack thereof) to demonstrate the remaining work to be done in this field, and strongly recommended the renewal of the mandate for another three years.

Due to scheduling conflicts, Mr Muñoz Villalobos was unable to attend the session, and Mr Tomas Ojea Quintana, the Special Rapporteur on the situation of human rights in Myanmar, read a statement on his behalf. In this statement, Mr Muñoz underlined the contribution to the conceptual development of the right to education made by the previous mandate holder, and explained that based on this, he had focused his work on the analysis of processes of exclusion and discrimination impeding the realisation of the right to development. Mr Muñoz briefly outlined the content of his 2006 and 2007 reports,<sup>9</sup> and announced that he intends to focus his next report on persons deprived of liberty, specifically migrants, minorities, and exploited children. Finally, Mr Muñoz also spoke of his country visits<sup>10</sup> and noted outstanding invitations.<sup>11</sup> He described his approach as ‘constructive, comprehensive and cooperative’ with a focus on equality, non-discrimination and respect for diversity.

Following this statement, States made comments related to education in the context of the elimination of discrimination against vulnerable groups.<sup>12</sup> Cuba placed great importance on this matter by stressing the urgent need to rectify unequal patterns of income. Each State voiced its hope that the mandate will be extended, while Cuba and Pakistan expressed the need for its improvement. Slovenia (on behalf of the EU) concurred on this point, reminding the Council that hundreds of millions of people still do not have access to education. Furthermore, Turkey described education as key to the enjoyment of other rights and a prerequisite for an adequate standard of living.

### Special event dedicated to the entry into force of the Convention on the Rights of Persons with Disabilities

At the end of the morning, the Council held a special event to celebrate the entry into force of the *Convention on the Rights of Persons with Disabilities* (CRPD) and its Optional Protocol on 3 May 2008. This initiative was organised by the delegations of New Zealand and Mexico. The meeting began with a statement by the High Commissioner for Human Rights, Ms Louise Arbour. This was followed by statements by four

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<sup>7</sup> Sri Lanka, Turkey, Spain.

<sup>8</sup> Asian Forum for Human Rights and Development, *Mouvement pour l’abolition de la prostitution et de la pornographie et de toutes formes de violences sexuelles et de discriminations sexistes* (MAPP).

<sup>9</sup> The focus of the 2006 report was gender equality, and that of the 2007 report was persons with disabilities.

<sup>10</sup> Germany, Botswana, Morocco, Malaysia, Bosnia and Herzegovina.

<sup>11</sup> Guatemala, Paraguay.

<sup>12</sup> Chile (on behalf of the Group of Latin American and Caribbean States), Slovenia (on behalf of the EU), Pakistan (on behalf of the Organisation of the Islamic Conference), Cuba.

panellists and a video-message, after which designated States from each regional group<sup>13</sup> and two NGOs spoke.<sup>14</sup>

Before giving the floor to the speakers, the President of the Council made a short introductory remark. He commented that, since the adoption of the CRPD by the General Assembly in 2006, all interested parties had worked tirelessly for its entry into force. He pointed out that not only was this the first comprehensive human rights treaty with a very strong development dimension, it also had been negotiated and entered into force ‘in record time’. These were comments that were reiterated throughout the proceedings by panellists and States alike. The President also underscored that the CRPD does not establish new rights, but rather ensures that the rights of disabled persons will be respected in all fields. He ended his statement by highlighting the significance of the CRPD in the promotion and protection of human rights.

Ms Arbour stressed that a major gap had been closed by the entry into force of the CRPD, as it moved attitudes towards disabilities from a charity or medical approach to a human rights approach centred on participation. She pointed out that the Convention envisages a fully active role for persons with disabilities and accords them legal capacity on an equal basis with others. Furthermore, she stressed that the Council is ‘perfectly positioned’ to advance the goals of the Convention and its vision of affirmative change. She urged the Council to foster universal ratification of the Convention, an ‘achievable goal’. Ms Arbour ended her statement by describing the CRPD as ‘a roadmap for all to correct the unacceptable situation [currently faced by disabled persons]’.

Each of the four panellists focused on a different dimension of the rights of disabled persons. The first speaker, Ms Theresia Degener<sup>15</sup> spoke specifically of women with disabilities. She noted that the Convention had taken a ‘twin track’ to the issue of gender and disability.<sup>16</sup> She commended the Convention for acknowledging the multi-dimensional discrimination against women, but at the same time, cautioned that ‘the difficult work [of implementation] begins now’. Next, Mr Louis Fernando Astorga Gatjens<sup>17</sup> spoke of the ‘dual, complex divide’ faced by disabled persons in terms of access to information and services. He drew attention to the passive discrimination faced by those with motor and sensory disabilities, and urged urgent actions and policies aimed at reducing the digital divide. Mr Astorga remarked, ‘without accessibility, there cannot be full rights for disabled persons’. Ms Charlotte McClain-Nhlapo<sup>18</sup> explained how poverty and disability create a vicious circle, and the consequent need to involve disabled persons in development programmes. She also made a number of suggestions for action, including the mainstreaming of a disability perspective in the future work of the Council, poverty-reduction, and collection of reliable statistics. The final panellist, Mr Lex Grandia<sup>19</sup> listed ‘the visions and dreams [of persons with disabilities] of how the Convention will create an inclusive world’. He stressed that persons with disabilities are persons with capacities, and implored, ‘nothing about us without us’.

After the panel, a video-message from the Vice-President of Ecuador<sup>20</sup> was shown. His intervention focused largely on the measures under way in his country to implement the CRPD. He explained that the single goal of the ‘Ecuador without Barriers’ programme is the defence of persons with disabilities through the

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<sup>13</sup> The following States made statements: New Zealand, Mexico, Egypt, China, Russian Federation, Slovenia (on behalf of the EU), South Africa, India, Spain.

<sup>14</sup> Landmine Survivors El Salvador, Inclusion International.

<sup>15</sup> Professor of Law, Administration and Organization at the Protestant University of Applied Sciences in Bochum, Germany.

<sup>16</sup> There are references to women throughout the Convention, and at the same time, there is a single, stand alone article (Article 6) on non-discrimination.

<sup>17</sup> Executive Director of the Inter-American Institute on Disability and Inclusive Development.

<sup>18</sup> Disability Advisor of the World Bank to East and South Asia and the Pacific Region.

<sup>19</sup> President of the World Federation of the DeafBlind and Chair of the International Disability Alliance.

<sup>20</sup> He is also the Head of the National Council for Disabilities

realisation of rights, aid, cities, and awareness without barriers. He concluded by declaring that ‘this is what makes our world so marvellous, it’s diversity’.

New Zealand and Mexico noted that the Convention builds on the active role of the Human Rights Council and is entirely consistent with the paradigm shift from social to human rights. The Russian Federation noted that the Convention highlights the inseparable link between social development, security, and human rights. Spain noted that the Convention codifies international law and enjoys additional legitimacy due to the role played by civil society. Many States described the steps being taken nationally to ratify and implement the Convention.<sup>21</sup> There were additional statements made by two NGOs.<sup>22</sup> These supported earlier observations that the Convention moves the treatment of persons with disabilities from a social issue to a human rights issue, and that the Convention introduces a ‘fundamental shift in thinking’.

In closing the celebration, the President singled out the common element running through all the statements – the desire to speed up the process of signing and ratifying the CRPD ‘so that it really turns into a universal document’.

### Special Event on the draft UN guidelines for the appropriate use and conditions of alternative care for children

Brazil instigated the special event in line with resolution A/HRC/7/L.34 adopted at the seventh session of the Council, which had encouraged the advancement of the draft guidelines, and called for their further consideration at the eighth session. The dialogue involved four invited panelists (from the Brazilian Government, the Committee on the Rights of the Child, the UN Children’s Fund, and civil society), NGOs, and three States from each regional group.

The expert panelists outlined the drafting history of the guidelines, which had been conceived through an initiative of the Committee on the Rights of the Child to promote international debate on the issue of children deprived of parental care. The UN Children’s Fund, in conjunction with the International Social Service, relevant experts, and other stakeholders, had formulated an initial draft. Brazil then took a lead role in mobilising other governments, and in August 2006 hosted the first intergovernmental meeting, bringing together 42 countries to analyse the preliminary document. The Committee on the Rights of the Child was closely involved in the drafting process, which had been broad and inclusive, engaging States, civil society, experts, young people, and other interested stakeholders. The panelists noted that the guidelines could serve as a practical decision-making tool for Governments and other organisations, many of which were already using them as such.

The guidelines reaffirmed the family as the most favourable environment for a child’s development; the strictly exceptional nature of alternative care; the importance of familial reintegration wherever possible; and the need for clear legal authorisation to remove children from their families. They intended to enhance the implementation of the *Convention on the Rights of the Child* (CRC) and other relevant international law pertaining to the well-being of children (which, many speakers observed, provided only partial and limited guidance on ensuring adequate care). Speakers highlighted the obligation of States to ensure suitable alternative care (for example foster care, adoption, or institutionalisation), and noted the effects on family unity of disease, conflict, natural disasters, poverty, and other factors. The panelists stressed that inappropriate alternative care made it difficult for children to adapt to adulthood, creating an increased risk of socially

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<sup>21</sup> Mexico, Egypt, China, Russian Federation, South Africa, India, Spain.

<sup>22</sup> Landmine Survivors, El Salvador, Inclusion International.

undesirable consequences, including involvement in crime. It was important to consult and fully inform children about decisions affecting planning for their future.

Of particular note during the interactive dialogue was the broad support expressed for the elaboration of the guidelines. China noted that it was still studying the draft, while Azerbaijan stressed that the guidelines were not supposed to replace the CRC, nor to develop new norms, but merely to improve the implementation of the CRC.

Many States suggested that the guidelines would serve to fill a gap in the protection mechanisms for children, by making the implementation of the CRC clearer. Most States paid particular respect to Brazil for its leading role in promoting the guidelines. Egypt noted that it had translated the guidelines into Arabic and transmitted it to the Arab League for consideration. Several States encouraged the adoption of the guidelines at the Council's ninth session, and subsequently in the UN General Assembly.

More substantively, Italy, the Philippines, and Malaysia stressed the importance of allowing children to be cared for by their parents, unless their placement in alternative care proved absolutely necessary. The Russian Federation and Morocco outlined some of the domestic measures they had taken in this regard. The Philippines considered that appropriate reintegration measures for children returning to their families were of critical importance. Uruguay suggested that defining minimum conditions for alternative care was a priority, and cited the UN Secretary-General's 2007 report '*A World Fit for Children*', in which he had stressed that children without parental care were more likely to be subjected to various forms of abuse.

Brazil announced its intention to present a draft resolution on the guidelines to the Council's ninth session in September, following further consultations.

Item 4 – human rights situations that require the Council's attention

#### **Follow-up to the special session on Burma/Myanmar**

The Council opened Item 4 of its agenda, human rights situations that require the Council's attention, with its follow up to the special session on Burma/Myanmar held in October 2007. Mr Tomás Ojea Quintana, was appointed at the 7<sup>th</sup> session of the Council as the new Special Rapporteur on the situation of human rights in Myanmar. He presented an initial report to the Council on developments in the aftermath of the peaceful demonstrations in fall 2007, despite the short time lapsed since the session in March, and despite the lack of response from the Government of Myanmar to his request for a visit.<sup>23</sup> Mr Quintana said the report was therefore 'based on information received from reliable sources', and highlighted a series of human rights concerns. While expressing condolences to the victims of cyclone Nargis, he called attention to the referendum on the adoption of the draft Constitution and the lack of international observers, regretted the extension of the house arrest of opposition leader Ms Aung San Suu Kyi, and reported on the recent alleged disappearance of a famous comedian in Burma/Myanmar.

The Government of Myanmar, as it had done on previous occasions, rejected the Special Rapporteur's report on the basis that it 'lacked impartiality', and failed to respect the territorial integrity and sovereignty of Burma/Myanmar. Responding to the criticism of the recent referendum, the Government claimed that it had been 'fair and transparent' and that part of the diplomatic corps present in Burma/Myanmar had observed it. Similarly, the Government justified the detention of Ms Suu Kyi as necessary to protect the State against subversion. The categorical rejection of criticism was best illustrated when the Ambassador claimed that there are 'no political prisoners' in Burma/Myanmar.

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<sup>23</sup> A/HRC/8/12.

During the following interactive dialogue, the approach to the current situation in Burma/Myanmar was very diverse. Some States seemed to see the natural disaster that had hit the country as a factor for the international community to be less demanding of the Government. Others identified the Government's response to the disaster as confirming its lack of political will to improve the human rights situation. Most States highlighted the dire humanitarian situation, particularly in the aftermath of cyclone Nargis. However, whereas some States contented themselves with expressing condolences to the victims of the cyclone and underlining their efforts at providing relief,<sup>24</sup> other speakers recalled that in addition to the humanitarian situation, the state of human rights in Burma/Myanmar is still far from satisfactory.<sup>25</sup> Particularly the extension of Ms Suu Kyi's house arrest was noted as a signal of continued repression.<sup>26</sup>

Many States deplored the decision of the Government of Myanmar to insist on holding the referendum, despite the humanitarian crisis.<sup>27</sup> Switzerland added that the referendum had violated a number of human rights, and was not in keeping with international standards. Other delegations were of the view that holding the referendum despite the adverse circumstances in the aftermath of the cyclone was proof of the Government's willingness to implement its '7-step road map to democracy'.<sup>28</sup>

The position of Asian States again seemed to be an important measure of the 'temperature' in the Council in response to the situation in Burma/Myanmar. While most Asian States called on the Government to continue a dialogue with the international community, only Singapore deplored that 'the status-quo has not changed' in Myanmar, and that this was 'unacceptable'. It also recalled the strong position the Association of Southeast Asian Nations (ASEAN) had voiced in December 2007. Singapore also seemed to take an intermediate position in other respects. While it did acknowledge the referendum as a 'small step forward' it expressed its disappointment at the recent extension of Ms Suu Kyi's detention, and 'shared the frustration' about the uncooperative response of the Government of Myanmar to cyclone Nargis. However, with a view to discussions taking place in the UN Security Council, Singapore rejected any invocation of the 'responsibility to protect' in the situation as 'irresponsible', because it 'confirms the mistrust of the Government of Myanmar'.

In his final remarks, the Special Rapporteur recalled that there are obligations on all States to promote the enjoyment of human rights for their citizens, also in the context of a difficult humanitarian situation. He urged the Government of Myanmar to cooperate with the international community in the implementation of its 'road-map to democracy' and to ensure that the process cannot be criticised for a lack of democratic freedoms and human rights. During the general debate on Item 4 later that afternoon, the situation of Burma/Myanmar was raised again by a number of EU States. However, the discussion did little more than confirm that the situation continues to be a cause for concern.

#### **General debate under Item 4**

A large number of human rights situations of concern were raised, including those in the Democratic Republic of Congo (DRC), Iran, Sri Lanka, Sudan, Zimbabwe and Burma/Myanmar.<sup>29</sup> Belarus, the

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<sup>24</sup> India, Philippines, China, Sri Lanka.

<sup>25</sup> Slovenia (on behalf of the EU), Germany, Sweden, Canada, New Zealand, Singapore, Switzerland, FIDH, Human Rights Watch, Asian Legal Resource Center, Amnesty International.

<sup>26</sup> Slovenia (on behalf of the EU), Germany, Japan, Canada, Republic of Korea, New Zealand, Ireland, Singapore, Switzerland, FIDH, Human Rights Watch, Amnesty International.

<sup>27</sup> Germany, Japan, Canada, Ireland, Switzerland. A number of NGOs also regretted the circumstances of holding the referendum.

<sup>28</sup> Philippines, Malaysia, China, Singapore, Sri Lanka, Indonesia.

<sup>29</sup> The situation of human rights in Burma/Myanmar was covered extensively in the follow-up to the 5<sup>th</sup> special session, see above.

Democratic People's Republic of Korea (DPRK), Kenya, Nepal and Somalia also received some attention. States repeatedly asserted that the UPR was no substitute for Item 4.<sup>30</sup>

Many States<sup>31</sup> commended the **DRC**'s efforts to cooperate with the UN, citing positive developments such as the gradual improvement of peace and security throughout the country<sup>32</sup> and the recent arrest of a third warlord.<sup>33</sup> However, States asserted that sexual and gender-based violence 'must be tackled urgently',<sup>34</sup> and called on the Congolese authorities to put an end to impunity.<sup>35</sup> Slovenia (on behalf of the EU) urged the DRC to 're-establish functioning mechanisms in its judiciary.' Canada regretted that the mandate of the Independent Expert on the DRC had been prematurely abolished.

**Iran** was criticised for religious<sup>36</sup> and gender discrimination,<sup>37</sup> and the conditions surrounding its use of capital punishment.<sup>38</sup> States were especially troubled by the recent arrest of seven Baha'i leaders.<sup>39</sup> The United Kingdom noted generally the growing use of capital punishment in Iran, while Canada pointed out that Iran leads the world in juvenile executions. Iceland urged Iran not to go forward with reported plans to apply the death penalty for conversion of religion.

States repeatedly called on **Sri Lanka** to accept and re-engage with OHCHR monitoring<sup>40</sup> and increase cooperation with other UN mechanisms.<sup>41</sup> Of specific concern to the speakers were frequent attacks on civilians,<sup>42</sup> including disappearances<sup>43</sup> and killings,<sup>44</sup> as well as restrictions on freedom of movement.<sup>45</sup> Human rights defenders and journalists were particularly at risk, States said.<sup>46</sup> States also noted with concern the recruitment of child soldiers.<sup>47</sup> France lamented 'insufficient political will to investigate the situation.'

Many speakers urged the **Sudan** to halt the continuing violence in Darfur and other parts of the country<sup>48</sup> and intensely criticised the Government for its failure to live up to international law and the expectations of the international community.<sup>49</sup> Slovenia<sup>50</sup> condemned the Government for its disregard of Security Council *Resolution 1593*, and several States called on the Sudan to cooperate with the International Criminal Court.<sup>51</sup>

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<sup>30</sup> Netherlands, France, United Kingdom.

<sup>31</sup> Slovenia on behalf of the European Union and Croatia, Macedonia, Albania, Bosnia and Herzegovina, Montenegro, Iceland, Liechtenstein; Netherlands; France; Canada, United Kingdom.

<sup>32</sup> Netherlands.

<sup>33</sup> France.

<sup>34</sup> United Kingdom. France and Canada also expressed concern over sexual and gender-based violence.

<sup>35</sup> Netherlands, United Kingdom.

<sup>36</sup> Slovenia (on behalf of the EU and other States), France, Canada, United Kingdom, Australia, Ireland. The Baha'i International Community also condemned Iran for religious persecution.

<sup>37</sup> France, United Kingdom.

<sup>38</sup> Canada, United Kingdom, Iceland.

<sup>39</sup> Slovenia (on behalf of the EU and other States), France, Canada, United Kingdom, Australia.

<sup>40</sup> Slovenia (on behalf of the EU and other States), Netherlands, France, Canada, Switzerland.

<sup>41</sup> Slovenia (on behalf of the EU and other States), Switzerland.

<sup>42</sup> Netherlands, Canada.

<sup>43</sup> Switzerland, Japan.

<sup>44</sup> Japan.

<sup>45</sup> Canada.

<sup>46</sup> Switzerland, Ireland.

<sup>47</sup> Netherlands, Canada.

<sup>48</sup> Slovenia (on behalf of the EU and other States), Netherlands, France, Canada, United Kingdom, Switzerland, Australia, Ireland, Iceland, New Zealand.

<sup>49</sup> Slovenia (on behalf of the EU and other States), Netherlands, France, United Kingdom, Canada.

<sup>50</sup> Speaking on behalf of the EU and other States.

<sup>51</sup> New Zealand, Ireland.

States cited impunity as a chief concern.<sup>52</sup> Other concerns included gender-based violence<sup>53</sup> and a lack of freedom of expression.<sup>54</sup>

Almost all States that took the floor denounced the state-sponsored campaign of violence against civilians and opposition members in **Zimbabwe** in the lead-up to the presidential run-off elections later this month.<sup>55</sup> France expressed concern over the arrest of opposition leader Morgan Tsvangirai, while a number of States deplored the Government's recent decision to suspend the activities of humanitarian NGOs.<sup>56</sup> The suspension of NGOs could worsen the plight of millions of Zimbabweans who depend on these organisations for food and other necessities.<sup>57</sup> The detention last week of American and British diplomats was a further area of concern,<sup>58</sup> which the United Kingdom called 'an example of the breakdown of respect for fundamental rights that Zimbabweans suffer from everyday.' States called on the Council to maintain a close watch on Zimbabwe as its citizens go to the polls later this month. Notably, Germany devoted its entire comment to the human rights situation in Zimbabwe, although it acknowledged the gravity of violations in other parts of the world.

Several States expressed disappointment over continuing human rights violations in **Belarus**,<sup>59</sup> such as harsh sentences for political activists.<sup>60</sup> Canada and the United Kingdom noted positive developments, however, including the acceptance of monitors for upcoming elections<sup>61</sup> and the release of some political prisoners.<sup>62</sup> Canada also called the Council's attention to the situation in the **DPRK**, insisting that despite the inclusion of the word 'democratic' in the country's name, 'there is nothing democratic about that country.' Slovenia and Ireland echoed Canada's sentiment, pointing to the Government's repression of freedom of thought and consciousness<sup>63</sup> and its failure to cooperate with the special procedures.<sup>64</sup> Some delegations commended **Kenya** for maintaining peace since adopting a post-election agreement between clashing factions, brokered by Kofi Annan earlier this year.<sup>65</sup> **Nepal** also received praise for holding a constitutional assembly last week.<sup>66</sup> The Netherlands and the United Kingdom expressed concern over the deterioration of the human rights situation in **Somalia**,<sup>67</sup> while Sweden called the loss of life, religious restrictions, and interference with Internet providers by the Government of **China** in Tibet 'deplorable'.<sup>68</sup> NGOs drew attention to the U.S. Central Intelligence Agency's **secret detention programmes**, the situation of detainees held at **Guantanamo Bay**,<sup>69</sup> **Colombia's** reaction to its internal armed conflict,<sup>70</sup> **Pakistan's** failure to reinstate its deposed judiciary, and the continuing state of emergency in **Bangladesh**.<sup>71</sup>

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<sup>52</sup> France, Canada, Australia.

<sup>53</sup> Canada.

<sup>54</sup> Netherlands.

<sup>55</sup> Slovenia (on behalf of the EU and other States), Netherlands, France, Canada, United Kingdom, Switzerland, Australia, Ireland, Iceland, New Zealand, Japan, Germany. It is notable, however, that Japan expressed itself less harshly than the others. Amnesty International and Human Rights Watch also expressed concern over Zimbabwe.

<sup>56</sup> France, Canada, Australia.

<sup>57</sup> Australia and Germany drew attention to the lack of food security among Zimbabwe's citizens.

<sup>58</sup> France, United Kingdom.

<sup>59</sup> Slovenia, Canada, United Kingdom.

<sup>60</sup> Canada.

<sup>61</sup> United Kingdom.

<sup>62</sup> Canada.

<sup>63</sup> Ireland.

<sup>64</sup> Slovenia (on behalf of the EU and other States), Ireland.

<sup>65</sup> Slovenia (on behalf of the EU and other States), United Kingdom, New Zealand.

<sup>66</sup> Japan.

<sup>67</sup> Human Rights Watch also expressed concern over the situation in Somalia.

<sup>68</sup> The United Kingdom briefly mentioned the situation in Tibet, but did not elaborate due to time constraints. Amnesty International and Human Rights Watch also focused on Tibet.

<sup>69</sup> Amnesty International.

Apart from Bolivia and China, only States from the Western European and Others Group (WEOG) spoke during the general debate. In addition, the scope of both the Bolivian and the Chinese statement was narrower than other statements: Bolivia drew attention to recent attacks against **Bolivian indigenous leaders** by non-state actors, imploring international organisations to ‘speak out in condemnation of these acts.’ China criticised what it called the Council’s ‘double standards,’ and insisted that the situation in **Tibet** was ‘not a human rights issue,’ but rather a matter of Chinese ‘sovereignty and internal affairs.’

However, using **rights of reply**, many of the States that had been commented on made occasionally substantive statements. Iran, instead of using its right of reply in the intended procedural way, criticised other States for their policies, particularly regarding racism, social exclusion against minorities, police brutality and defamation of religions. It seems odd that these concerns, as far as they are legitimate, are not voiced during a normal Item 4 statement. Among the notable passages in the rights of reply was also Sri Lanka’s announcement that ‘although [it holds] the High Commissioner in high esteem, the same cannot be said for OHCHR’. Bangladesh’s took offense at a statement by the Asian Legal Resource Centre, and called for a ‘code of conduct for NGOs’.

It appears that Item 4 is increasingly made to look subject to political manoeuvres. However, this was less due to the fact that some States chose to raise situations of concern to them, but more because others quite obviously boycotted the general debate. It seems that the intentional effect of such an approach is to let the item appear lopsidedly political in nature.

## Open-ended informal consultations

### **Business and human rights**

Norway convened informal consultations on behalf of the cross-regional sponsors Argentina, Nigeria, India and the Russian Federation on the resolution on the renewal of the mandate of the Special Representative of the Secretary-General on human rights and the responsibilities of transnational corporations and other business enterprises. The circulated draft resolution was unchanged from the previous consultation, with Norway stipulating that it would attribute proposed changes in a new text only following this meeting.

The main proposals for change in the text included adding explicit references in the preambular paragraphs to the responsibility of transnational corporations (TNCs), which Egypt (on behalf of the African Group) stated was now beyond question and was the ‘raison d’être of the resolution’. The United Kingdom (speaking on its own behalf only) countered that as the preambular paragraphs already refer to the fact that TNCs can contribute to the promotion of human rights, it would create an imbalance by overemphasising their role. South Africa also sought additional language on the ‘overwhelming forces of globalisation...impacting negatively on the economies of developing countries’. When pushed by Mexico and Pakistan on the source of such language, South Africa referred to the 2005 resolution of the Commission on Human Rights on globalisation and human rights.

Moving to the operative paragraphs, South Africa and Pakistan challenged the decision to extend the mandate for two years, claiming that three years would be more consistent with the ongoing process of rationalisation of the system of special procedures.<sup>72</sup> India contended that they had fully consulted with the present Special Representative and he was of the view that two years would be adequate for the fulfilment of the reviewed mandate, after which the sponsors could evaluate how to proceed. Egypt, however, contended that the tasks of

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<sup>70</sup> Colombian Commission of Jurists.

<sup>71</sup> Asian Legal Resource Centre.

<sup>72</sup> Other mandates are usually renewed for three years.

the mandate needed to be strengthened so that the Special Representative would proceed to contributing to an ‘enforceable normative framework’, a position that is not favoured by the UK, amongst others, at this stage. Other substantive inputs included reference to giving specific attention to children (Mexico) and ‘other vulnerable groups’ (UK) and to add that the Special Representative consult with human rights defenders in fulfilling his work.

Norway will hold further informal consultations on Tuesday 10 June 2008 at 11 am.

### **Education**

In the afternoon, Portugal held open-ended informal consultations on the draft resolution on the right to education. It read through the draft expeditiously as participating States only made few suggestions.

Canada voiced a desire to focus more on gender disparities and proposed some editorial suggestions. Egypt reiterated complaints voiced during the plenary session, namely that the report of the Special Rapporteur on the right to education is only available in Spanish. It asked Portugal to consider the difficulty of making suggestions on a report available only in Arabic. Egypt, with the support of South Africa, then suggested the inclusion of an operative paragraph urging States to ‘provide developing countries, particularly LDCs [least developed countries], with the necessary financial and technical resources to enable them to give full effect to the right to education’. Portugal said it had already taken this concern into account, but would consider the proposal further.

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