

# COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

## DAILY UPDATE HUMAN RIGHTS COUNCIL, 9<sup>TH</sup> SESSION 15 SEPTEMBER 2008

Overview .....	1
Review of mandates .....	1
African descent.....	1
Cambodia .....	2
General debate on Item 3 .....	3
Parallel events .....	5
Turkmenistan.....	5
Organisational matters.....	5

### Overview

The Council's morning session was devoted to a confidential session of the complaint procedure. Since the procedure is confidential, it is not known which country situations were considered. During the day, an NGO parallel event analysed the situation of human rights in Turkmenistan.

The Council then moved on to review the last two special procedures mandates it has set out to 'review, rationalise and improve' in the context of the Council's institution-building process. It held brief interactive dialogues on the future of the mandates of the Working Group of experts on people of African descent and of the Special Representative of the Secretary-General on human rights in Cambodia. The review of the latter again showed the reluctance of many States in the Council to resort to country-specific mandates. A number of States, particularly from the Asian region, congratulated the Government of Cambodia for the free and democratic elections held earlier in 2008, which were criticised by other States and NGOs. Japan, the main-sponsor of the resolution renewing the mandate, hoped the Council would renew the mandate with the consent of the Cambodian Government.

### Review of mandates

#### African descent

South Africa (on behalf of the African Group) as the main sponsor of the mandate on the Working Group of experts on people of African descent introduced the mandate, saying it had been created in 2002 as a follow-up mechanism to the 2001 World Conference against Racism held in Durban. It pointed out that the Working Group was of continued relevance, and called for a renewal of the mandate for a further three years. This would allow it to continue to consider the situation of people of African descent and that of African

emigrants. The current chairperson of the Working Group, Mr Joe Frans, was not present; Ms Sima Samar, the Special Rapporteur on the situation of human rights in the Sudan, read his statement on his behalf. A short interactive dialogue followed. All delegations that took the floor supported the extension of the mandate.<sup>1</sup> A number of them called for increased funding for the Working Group.<sup>2</sup> France (on behalf of the EU) pointed out that although the Working Group was mandated to undertake country visits, it had only visited Belgium. It called on the Working Group to visit a broader range of countries, since discrimination against people of African descent happens in all regions of the world. Brazil called on the Working Group to keep the currently high level of NGO interaction in its work.

## **Cambodia**

Japan as the original sponsor of this mandate spoke first on the renewal of the mandate of the Special Representative of the Secretary-General on human rights in Cambodia. It acknowledged that Cambodia has made significant progress in the past year with regard to human rights violations. Japan assured the Council that Cambodia was on the path to achieving democracy, and insisted that the Khmer rouge tribunals enhance the rule of law and independence of the judiciary, which it saw as ‘a clear break from a culture of impunity’. However, Japan also explained that there are still human rights issues that need addressing in Cambodia, one of the most prominent being the fair distribution of land. Japan concluded by maintaining that the mandate is an essential tool for ensuring democracy and human rights challenges in Cambodia. Overall, the complimentary tone of the intervention was notable.

Sima Samar, the Special Rapporteur for the situation in Sudan read a statement on behalf of Yash Ghai, the current Special Representative of the Secretary-General on human rights in Cambodia who was not able to attend the session. The statement clearly showed that there is still much room for improvement in the human rights situation in Cambodia. In stark contrast to the Japanese comments, the elections of 2008 were used as an example of serious democratic deficiencies, and Mr Ghai expressed strong doubt about their legitimacy. He urged the Council to extend the mandate on Cambodia, and requested the support of the international community to support a continued UN presence in Cambodia. The statement also clearly reflected the very difficult and tense relations between the Cambodian authorities and the Special Representative. Mr Ghai informed the Council of his resignation as Special Representative, and hoped that a future mandate holder would benefit from better cooperation of the Government. It seems probable that his resignation is a direct consequence of the lack of cooperation by the Government.

Cambodia as the concerned country presented its view of the human rights situation, and declared that the successful elections were a good reflection of Cambodia’s movement towards democracy. It stressed the emergence of a new ‘political landscape’ but acknowledged the need for technical assistance.

The interactive dialogue on the mandate brought to the fore the different perceptions within the Council in relation to country work. The most striking example of this was the widely varying judgments on the elections held in Cambodia earlier in 2008. While France (on behalf of the EU) stressed that the political elections of 2008 fell short of international democratic standards, Malaysia and Korea were both ‘encouraged’ by the peaceful elections held earlier this year.<sup>3</sup> France (on behalf of the European Union) commended the work done by the Special Representative and claimed that Cambodia is a good example of a country which can make the transition from civil war to achieving democracy. However, France stressed there are still many problems to be addressed such as freedom of expression and impunity.<sup>4</sup> Malaysia, Indonesia and Korea were all optimistic about the progress made by Cambodia in economic, cultural and political fields. Switzerland

---

<sup>1</sup> France (on behalf of the EU), Ghana, Brazil, China, Pakistan (on behalf of the OIC), Algeria.

<sup>2</sup> Pakistan (on behalf of the OIC), Algeria.

<sup>3</sup> Vietnam and Sri Lanka also supported the view that Cambodia has made significant progress in these areas.

<sup>4</sup> Canada supported the view expressed by the European Union on the situation in Cambodia.

congratulated Cambodia on the ratification of the *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*.

Many States expressed support for the renewal of the mandate.<sup>5</sup> Currently, the mandate is entitled ‘Special Representative of the Secretary-General’, while most other titles have been changed in the course of the review.<sup>6</sup> Only Australia commented on the title of the mandate, which is an indication that the title will be changed. So far, there have only been private consultations on the mandate, therefore no draft is available. However, at the time of writing open-ended informal consultations on the draft were taking place and will be covered in the *Daily Update* of 16 September 2008.

Several NGOs expressed their opinions on the situation in Cambodia, painting a much more sober picture than many of the congratulatory statements heard from States. The recurring thread seemed to be the lack of independence in the country’s judiciary, which in turn leads to the propagation of serious human rights violations. Amnesty International and Human Rights Watch spoke about the increasing number of people imprisoned without charge. The Asian Legal Resource Centre urged the Council to include a monitoring mechanism in the resolution, since Cambodia has failed to honour its international obligations. Several NGOs mentioned the widespread use of forced evictions.<sup>7</sup> Reacting to the personal attacks of the Government of Cambodia on Mr Yash Ghai, the Asian Legal Resource Centre called on the Council to ‘demand greater respect, and real cooperation from the Cambodian authorities’.

### General debate on Item 3

During the general debate on Item 3, promotion and protection of all human rights, the Council considered a number of reports by the High Commissioner for Human Rights (the High Commissioner) and the Secretary-General, as well as the report by the Working Group on the Right to Development.<sup>8</sup> The Deputy High Commissioner, Ms Kyung-wha Kang, presented these reports under Item 3, as well as reports under Items 8 and 9 to be considered later in the session.<sup>9</sup>

As it is practice for general debates, States commented on a wide range of issues, including leprosy,<sup>10</sup> violence against and sexual exploitation of children,<sup>11</sup> the right to self-determination,<sup>12</sup> freedom of expression,<sup>13</sup> violence against women,<sup>14</sup> and poverty.<sup>15</sup> Most attention was paid to issues of migration, and to the report of the Working Group on the right to development.

---

<sup>5</sup> France (on behalf of the EU), Switzerland, Australia, New Zealand.

<sup>6</sup> See for instance ISHR’s overview of the 8<sup>th</sup> session, available at [www.ishr.ch](http://www.ishr.ch).

<sup>7</sup> COHRE, Asian Legal Resource Centre, FIDH.

<sup>8</sup> The report by the Working Group was presented the previous week; see ISHR’s *Daily Update* of 12 September 2008, available at [www.ishr.ch](http://www.ishr.ch).

<sup>9</sup> She presented the following reports. Item 3: Report of the High Commissioner on the rights of indigenous peoples (A/HRC/9/11), the report of the Secretary-General on the rights of persons belonging to national or ethnic, religious and linguistic minorities (A/HRC/9/8), the report of OHCHR on the conscientious objection to military service (A/HRC/9/24), report of the High Commissioner on trafficking in persons, especially women and children (information note A/HRC/9/24 detailing that the full report will be presented to the 10<sup>th</sup> session), report of the Secretary-General on the impact of unilateral coercive measures on the enjoyment of human rights (A/HRC/9/2).

Item 8: report on the World Programme for Human Rights Education (A/HRC/9/4), information note on the postponement to the 10<sup>th</sup> session of the report on integrating the human rights of women throughout the UN system (A/HRC/9/6).

Item 9: report on the implementation of the recommendations made by the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action (A/HRC/9/5), report by OHCHR on defamation of religion (A/HRC/9/7) and a study on the same topic (A/HRC/9/25).

<sup>10</sup> Japan.

<sup>11</sup> France (on behalf of the EU), Japan.

<sup>12</sup> Pakistan, Algeria.

<sup>13</sup> France.

France (on behalf of the EU) opened the debate on the issue of **migration** by justifying the EU's 'common standards and procedures for the return of illegal immigrants', also known as the 'return directive', as being founded on solidarity, mutual trust and shared responsibilities'. The following comments, mainly by Latin American States, were less appreciative of EU-policy on this issue. Chile, on behalf of the Latin American and Caribbean Group (GRULAC), expressed the region's 'deep concern' and called on the Council, OHCHR, treaty bodies and special procedures to 'closely monitor the implementation of the return directives' to avoid abuses of migrant's human rights. Bolivia called for the EU to review the 'return directive'.<sup>16</sup>

Many States commented on the report of the **Working Group on the right to development** (the Working Group) presented to the Council the previous week. Egypt (on behalf of the African Group), Pakistan, on behalf of the Organisation of the Islamic Conference (OIC), and Cuba, on behalf of the Non-Aligned Movement (NAM), set the tone for the following interventions. While generally appreciative of the work of the Working Group, they were relatively critical of the criteria developed by the High Level Task Force on the right to development.<sup>17</sup> The High Level Task Force has developed a set of criteria to evaluate the implementation of Millennium Development Goals.<sup>18</sup> Egypt (on behalf of the African Group) described the criteria as only 'potentially useful' and all three groups were of the view that the criteria focused overly on the national rather than the international dimension. In particular, it was felt that the criteria should take into account the impact of the international trading system and monetary and financial regimes on the right to development. Egypt (on behalf of the African Group) pointed out that it views the further development of the criteria constrained by a number of elements, in particular by the premise that 'the right to development does not entail mainstreaming human rights into development, but making development a right in itself.' Brazil, on behalf of the MERCOSUR, offered to contribute to the further development of the criteria through consultations with the High Level Task Force.

France (on behalf of the EU) drew specific attention to the principle of **non-discrimination, including on grounds of sexual orientation**. It pointed out that discrimination violates human rights, particularly the right to privacy, security, religion and conscience, and opinion and expression.

Of note was New Zealand's reference to **maternal mortality**, following up to a thematic panel discussion on this topic held during the Council's 8<sup>th</sup> session in June 2008. It recalled that several specialised agencies of the UN are working to combat maternal mortality, but that the Council has a distinct role to play in this regard. In particular, it affirmed that maternal mortality violates a range of basic human rights, and it called on the Council to ensure that more accurate data on maternal mortality is collected and that accurate reporting is included in treaty body and UPR reports. It will be interesting to see if this comment marks a further step in the development of an effective collaboration of various UN organs towards the common goal of combating maternal mortality.

The general debate did not finish and will continue on 16 September 2008.

---

<sup>14</sup> France.

<sup>15</sup> France.

<sup>16</sup> Ecuador also commented on this issue.

<sup>17</sup> The high-level task force was established by the Commission on Human Rights, in its resolution 2004/7, and the Economic and Social Council, by its decision 2004/249 to assist the Working Group in fulfilling its mandate.

<sup>18</sup> MDG 8 is 'to develop a global partnership for development'. See <http://www.un.org/millenniumgoals/global.shtml>. In its resolution 2005/4, the Commission requested the task force to examine MDG 8 and to suggest criteria for its periodic evaluation with the aim of improving the effectiveness of global partnerships with regard to the realisation of the right to development.

## Parallel events

### **Turkmenistan**

During the day Human Rights Watch organised a side event on the human rights situation in Turkmenistan. The event highlighted the efforts by the country's President to improve the image of Turkmenistan abroad. However, serious concerns were expressed about continuing violations of freedom of religion, freedom of expression, freedom of movement, and the right to property. The speakers suggested that the examination of Turkmenistan under the UPR in December 2008 would be insufficient to address these concerns and urged the Council to be seized of the situation. They also highlighted the need for independent human rights monitoring.

## Organisational matters

A large range of informal consultations are planned over the coming days. The tabling deadline for States to submit resolutions was set to Thursday, 18 September 2008 at 10 a.m.

## **COUNCIL MONITOR STAFF**

**Paul Dziatkowiec**, Human Rights Officer  
**Eléonore Dziurzynski**, Communications Officer  
**Michael Ineichen**, Human Rights Officer  
**Yuri Saito**, Fellow  
**Gareth Sweeney**, Deputy Manager  
**Katrine Thomassen**, Manager International Programme

## **Contributors**

**David Björnhage**, Intern  
**Lauren Gecuk**, Intern  
**Birte Mackeprang**, Intern  
**Marita Swain**, Intern  
**Rebecca Whelan**, Intern

## **ABOUT THE PUBLICATION**

The Council Monitor forms part of the Human Rights Monitor Series produced by ISHR. It provides you with information about all the key developments at the Human Rights Council, including Daily Updates during the session of the Council, an Overview of the session, briefings and updates on the major issues of concern in the transition from the Commission on Human Rights to the Council and other key reports. It is currently an online publication that can be found at [www.ishr.ch](http://www.ishr.ch).

## **SUBSCRIPTION**

If you wish to receive the Council Monitor Daily Updates by e-mail during the Council session, please e-mail [information@ishr.ch](mailto:information@ishr.ch) with 'subscribe' in the subject line. Your e-mail address and personal information will not be shared or sold to any third parties. We may from time to time send you a notification about other publications in the Human Rights Monitor Series that you may be interested in downloading or subscribing to.

## **COPYRIGHT, DISTRIBUTION AND USE**

Copyright © 2008 International Service for Human Rights. Material from this publication may be reproduced for training, teaching or other non-commercial purposes as long as ISHR is fully acknowledged. You can also distribute this publication and link to it from your website as long as ISHR is fully acknowledged as the source. No part of this publication may be reproduced for any commercial purpose without the prior express permission of the copyright holders. ISHR accepts no responsibility for any inaccuracies arising from or connected to unapproved or unofficial translations of its publications or parts thereof.

## **DISCLAIMER**

While every effort has been made to ensure the accuracy and reliability of the information contained in this publication, ISHR does not guarantee, and accepts no legal liability whatsoever arising from any possible mistakes in the information reported on, or any use of this publication. We are however happy to correct any errors you may come across so please notify [information@ishr.ch](mailto:information@ishr.ch).