

# HUMAN RIGHTS MONITOR

QUARTERLY

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 ISHR | INTERNATIONAL SERVICE  
FOR HUMAN RIGHTS

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

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

#### OUR VISION

Our vision is a world where the UN and regional human rights systems effectively promote and protect the human rights of all and where everyone defending human rights enjoys protection of their rights.

#### OUR MISSION

Our mission is to support the engagement of human rights defenders with the UN and regional human rights systems. In turn, ISHR also aims to make these systems more effective, more accessible to human rights defenders, and more responsive to their concerns.

The *Human Rights Monitor Quarterly* was launched by the International Service for Human Rights in April 2010. It presents a global picture of developments in the international and regional human rights systems. The publication also highlights events, meetings and opportunities for engagement by non-governmental organisations and national human rights institutions in the upcoming quarter and beyond. Downloadable online editions of the *Quarterly* are available [www.ishr.ch/quartely](http://www.ishr.ch/quartely)

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# EDITORIAL

PHIL LYNCH, DIRECTOR, ISHR P. 3

# PHIL LYNCH

Director, ISHR



I am honoured to introduce this special “Vienna + 20” edition of the Human Rights Monitor Quarterly, reflecting on the Vienna Declaration and Programme of Action, its achievements to date and the challenges that remain.

Twenty years ago the global community declared that the “promotion and protection of human rights is a matter of priority for the international community” and must be “the first responsibility of governments”.

The Second World Conference on Human Rights was said to afford a “unique opportunity” to review the “international human rights system and machinery” and to thereby “enhance and promote a fuller observance of those rights”.

In the lead up to that Conference, the International Service for Human Rights produced a special edition of the Human Rights Monitor. It was designed to ensure that conference participants – both government and NGO representatives – “seize the day to take a truly meaningful step toward improving the protection of every human right, for individuals, groups and peoples”.

Two decades on from the adoption of the Vienna Declaration and Programme of Action, this special edition of the Human Rights Monitor Quarterly offers a timely reflection on the steps that were taken...and the steps that still remain. It brings together insights from some of the world’s leading human rights experts and advocates, many of whom attended the conference some twenty years ago.

It is “easy to be cynical” about grandiose declarations, as ISHR Board member Chris Sidoti writes in his piece. Despite this, he says, it seems clear that the Vienna Conference contributed to a number of “significant developments in human rights law and practice”. Perhaps most famously, these developments include the establishment of the post of UN High Commissioner for Human Rights, as Mary Robinson, former President of Ireland and of the International Commission of Jurists, reflects in her article.

The Vienna Conference also helped to strengthen domestic mechanisms for the promotion of protection of human rights. The conference precipitated the establishment of many national human rights institutions, as Chair of the Afghanistan Independent Human Rights Commission Sima Samar writes in her piece, and led to the elaboration of National Human Rights Action Plans, as former diplomat Bill Barker explains in his. Having worked for most of my professional career with grassroots and national NGOs, I have seen the modest but important role that both NHRIs and NHRAPs can play in contributing to the domestic implementation of international human rights obligations.

As well as contributing to a strengthening of international and domestic human rights machinery, the Vienna Declaration and Programme of Action also contributed to the normative development of human rights; affirming the universality and indivisibility of human rights, the crucial interdependence of human rights and development, and the equal and inalienable rights of women and girls.

As a number of the contributors reflect, however, we must remain constantly alert to ensure adherence to these norms. My own experience working as a human rights lawyer and advocate for over 15 years has taught me that we human rights defenders may have history on our side, but progress in the achievement of human rights is never inevitable and the



prevention of regress requires, to borrow Thomas Jefferson's words, our eternal vigilance.

In this vein, forthcoming sessions of the Human Rights Council will present an opportunity for, but also a test of, the international community's commitment to the VDPA norms.

Consistent with the rights to equality and non-discrimination, first set out in the UDHR but strongly reaffirmed in the VDPA, it is crucial that the Council and all Member States explicitly acknowledge and take legislative and other action to prohibit all forms of discrimination on the grounds of sexual orientation or gender identity, as leading LGBT rights advocate John Fisher reflects in his piece.

Consistent with the principles of universality and indivisibility, the Council and all Member States should also take action to ensure that human rights – particularly women's rights and LGBT rights – are not restricted in the name of protecting so-called "traditional values". The notion of "traditional values" is completely illegitimate so far as it is invoked to restrict the enjoyment of rights guaranteed under international human rights law or standards, or to criminalise or impede activities in defense of them.

The Council's consideration of country situations such as those in Syria and Sri Lanka will similarly test whether the Vienna Declaration really did "change the perception of the rule concerning non-interference in the internal affairs of states", as Vienna Conference participant and former Amnesty International delegate Andrew Clapham argues in his piece. Will the assertion that the "promotion and protection of human rights is a matter of priority for the international community" remain rhetoric or become reality?

For almost three decades, ISHR has played a leading role – together with partners such as Amnesty International, Human Rights Watch and the ICJ – in ensuring that the voices and interests of human rights defenders are heard and represented at the UN. The Vienna Conference twenty years ago was no exception. As the 1993 special edition of the Human Rights Monitor records, "hundreds of NGOs" played a "significant" role both in the lead up to and during the course of the Vienna Conference. This is reflected in Article 38 of the Vienna Declaration itself, which explicitly recognises the "important role of non-governmental organizations in the promotion of all human rights and in humanitarian activities at national, regional and international levels." ISHR's current work to enhance the effectiveness and accessibility of the UN human rights treaty body system – including by making it more accessible to human rights defenders and more effective in protecting human rights on the ground – continues this tradition. So to our work to ensure that processes for NGO accreditation at the UN are fair and transparent.

Despite the recognition some twenty years ago of the legitimate and crucial role of NGOs in protecting human rights

– and the further provision in Article 38 that NGOs "involved in the field of human rights should enjoy the rights and freedoms recognized in the Universal Declaration of Human Rights, and the protection of the national law", the piece by pan-African human rights defender Sheila Keetharuth somberly reminds us that "many human rights defenders across the globe pay a heavy price, sometimes with their lives, for doing their work." ISHR's longstanding focus on supporting human rights defenders and on strengthening laws and mechanisms to prevent and redress reprisals reflects and responds to this sober reality.

As this 2013 special edition of the Human Rights Monitor Quarterly reveals, the Vienna Declaration and Programme of Action unarguably made a positive contribution both to the normative recognition and the institutional protection of human rights. As it also reveals, however, ISHR's mission to strengthen systems which protect human rights and to support people who defend human rights has never been more salient or important.

I am really excited to be joining the ISHR team and look forward to working with you – our many friends, partners and supporters – to make the promise of the Vienna Declaration a reality.

*Phil Lynch* took up the post of Director of the International Service for Human Rights in January 2013. He previously worked as Director of the Human Rights Law Centre in Australia (2006-2012) and the Manager of the Homeless Persons' Legal Clinic (2001-2005). You can follow him on Twitter: @PhilALynch. ■

# THEMATIC FOCUS

VIENNA DECLARATION AND PROGRAMME OF ACTION

P. 6



# VIENNA DECLARATION AND PROGRAMME OF ACTION + 20

**20** years ago the global community unanimously reaffirmed its commitment to human rights through the adoption of the Vienna Declaration and Programme of Action.

Building on the Universal Declaration of Human Rights, the VDPa recognized that the promotion and protection of human rights must be a matter of the highest priority for both states and the international community. It envisaged a strengthening of human rights norms and institutions at the national and international levels, and recognized the critical role that human rights defenders have to play in the realization of fundamental rights and freedoms.

Twenty years on, these two pillars – strengthening human rights systems and supporting human rights defenders – remain at the core of ISHR’s mission. In this special VDPa + 20 edition of the Human Rights Monitor, we’ve asked 20 human rights defenders, advocates and experts to reflect on the impact of the VDPa and the implementation challenges that remain.

**Bill Barker** - former Australian diplomat, and now independent human rights consultant, who played a leading role in developing and conceptualizing National Human Rights Action Plans

**Charlotte Bunch** - Founding Director and Senior Scholar of the Centre for Women’s Global Leadership, Rutgers University

**Andrew Clapham** - Professor of Public International Law at the Graduate Institute of International and Development Studies, Geneva and Director of the Geneva Academy of International Humanitarian Law and Human Rights

**Heather Collister** - Human Rights Officer with the International Service for Human Rights and an expert on LGBT rights

**John Fisher** – ARC International’s representative in Geneva, Switzerland, to facilitate NGO engagement with UN human rights mechanisms

**Professor Michael O’Flaherty** - Chief Commissioner of the Northern Ireland Human Rights Commission, Director of the Irish Centre for Human Rights at the National University of Ireland, Galway, and a Member of the United Nations Human Rights Committee from 2004 to 2012.

**Michael Ineichen** – Manager with the International Service for Human Rights and an expert on UN human rights mechanisms and systems

**Sheila B. Keetharuth** - the UN Special Rapporteur on the situation of human rights in Eritrea, and former Executive

**Morten Kjaerum** - Director of the European Union Agency for Fundamental Rights (FRA), former Director of the Danish Institute for Human Rights, and former Member of the United Nations Committee on the Elimination of Racial Discrimination

**Ian Martin** - Special Representative and Head of the United Nations Support Mission in Libya (UNSMIL) from September 2011 to August 2012, and former Secretary-General of Amnesty International

**Vitit Muntarbhorn** - Professor at the Faculty of Law, Chulalongkorn University, Bangkok, former UN Special Rapporteur and former Board member of the International Service for Human Rights

**Lucia Nader** - Executive Director of Conectas Human Rights, a leading human rights NGO focused on the realization of human rights in the Global South

**Eleanor Openshaw** – Human Rights Officer with the International Service for Human Rights and an expert on women human rights defenders

**Dmitrina Petrova** - founding executive director of The Equal Rights Trust and former member of the Bulgarian Parliament

**Mary Robinson** – former President of Ireland, former UN High Commissioner for Human Rights, President of Mary Robinson Foundation- Climate Justice and Chancellor of the University of Dublin.

**Sir Nigel Rodley**, KBE - Professor of Law at the University of Essex, Member of the United Nations Human Rights Committee, and former UN Special Rapporteur on Torture

**Sima Samar** - Chair of the Afghanistan Independent Human Rights Commission, and former Minister of Women's Affairs in Afghanistan

**Chris Sidoti** - international human rights consultant, Board Member of the International Service for Human Rights, and former head of the Australian Human Rights Commission

**Arnold Tsunga** - Director of the Africa Regional Programme of the International Commission of Jurists

**Clement Voule** - Manager with the International Service for Human Rights and an expert on African human rights systems and defenders



BILL BARKER

Amid the tension and politics of the Vienna World Conference, there was also a willingness on the part of many states to encourage practical measures that would lead to genuine improvements in human rights observance. One such initiative was Australia's push to get countries to commit to some positive action within their jurisdictions through the mechanism of a 'national human rights action plan'.

The concept recognized that no country has a perfect human rights record and that each country must start from its own actual political, cultural, historical and legal circumstances. The idea was that, instead of defensively resisting change, governments should be able to say, 'Yes, there are things we need to do. It may take some time to solve all problems but the important thing is to make a start.'

Since 1993, some 35 countries have either adopted or worked on national action plans. Some have produced successor plans that aimed to build on earlier efforts. They include countries large and small, developed and developing, from all parts of the world. They include Brazil, South Africa, the Philippines, Ecuador, Indonesia, Kenya, Sweden, China and New Zealand. Australia has just released its third plan.

Human rights action plans have probably promoted modest progress in many of the countries concerned, though it is unlikely that plans have, of themselves, produced major changes. They have undoubtedly promoted awareness of human rights, including among government officials who previously may not have taken rights into consideration. In some cases, they have invigorated civil society. Inevitably, there has also been an element of public relations in many of the plans, though this is not always a bad thing. It is likely that countries will continue to develop action plans, among other measures aimed at practical implementation of human rights standards.



CHARLOTTE BUNCH

The Vienna World Conference on Human Rights was the tipping point in the recognition of women's rights as human rights. Before Vienna, feminists who sought this recognition were often dismissed as annoying or ridiculed when we sought human rights support for abuses like domestic violence, gang rape, or forced pregnancy.

In the two years leading up to Vienna, women campaigned in the global South and North to show why gender based abuses were the equivalent of other human rights issues and sought to demonstrate this through a variety of regional and global actions, including lobbying at regional preparatory meetings. Hearings were held where women testified to such abuses in their lives and how they fit the human rights paradigm. This culminated in the day long Vienna Tribunal on Women's Human Rights which many government delegates as well as human rights activists credit with opening their eyes to the importance of women's rights abuses. The VDPA affirmed women's rights as full universal rights and opened the door for major work to integrate women and gender based abuses into human rights theory and practice.

In the two years after Vienna, the UN General Assembly adopted the Declaration Against Violence Against Women and the Human Rights Commission appointed its first Special Rapporteur on Violence Against Women, its causes and consequences which have led to the development on a rich field on human rights standards regarding VAW.

Over the past 20 years, the office of the High Commissioner for Human Rights and its mechanisms and human rights organizations have made considerable efforts to integrate gender perspectives into many other human rights issues. Ground was broken with the establishment of the International Criminal Court when the Women's Caucus got gender based persecution and a gender quota for judges included in the founding statute. Many advances in human rights over the last two decades

reflect growing gender awareness in areas like sexual violence in conflict, maternal mortality, and sexual orientation and gender identity.

While Vienna was a vital step forward in recognizing women's rights as human rights, many challenges remain in taking this awareness to effective action against such violations. Few governments pay more than lip service to these obligations. The political will and resources needed are sorely lacking. Impunity for violence against women still rages. Action on socio-economic aspects of sex discrimination languishes as does realization of most socio-economic rights. Backlash against women's claims to sexual and reproductive rights still blocks the realization of women's rights. Attacks on women's human rights defenders have increased as women are taken more seriously as agents of social change.



ANDREW CLAPHAM

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For many of us at the Vienna Conference the experience was famously articulated by Susan Marks as something between a nightmare and a noble dream. Twenty years on some of the issues that kept us up all night have faded from significance. But other issues have had an enduring influence and shape our present work. For example, the Declaration included universal recognition of the right of all states and organizations to raise issues related to the behaviour of any state. This has changed the perception of the rule concerning non-interference in the internal affairs of states. I have built in this development into my teaching and writing. The relevant sentences read 'The promotion and protection of all human rights and fundamental freedoms must be considered as a priority objective of the United Nations in accordance with its purposes and principles, in particular the purpose of international cooperation. In the framework of these purposes and principles, the promotion and protection of all human rights is a legitimate concern of the international community.'



HEATHER COLLISTER

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The growing visibility of the NGO movement in recent decades has been accompanied by an increase in attacks aimed at deterring NGOs from exposing human rights violations. Often those attacks are condoned or even orchestrated by States.

The failure of States to protect in these instances undermines the call in the VDPA which urges that NGOs 'involved in the field of human rights should enjoy the rights and freedoms recognised in the Universal Declaration of Human Rights, and the protection of the national law'.

ISHR is particularly concerned at the increasing level of attacks that defenders face when they engage with UN or regional human rights systems. These attacks have included media smear campaigns and death threats often from government officials. The reaction from the human rights systems has been weak, and States have not been held accountable to their obligation to protect. This failure from the human rights systems undermines the very standards they seek to promote.

The call for protection in the VDPA must be seen as not only a call on States but also on the human rights systems, to step in and ensure that States are fully assuming their responsibility to protect, and that human rights defenders are able to fully and freely cooperate with the UN and regional human rights systems.

Nevertheless, the world has changed as women's rights are taken more seriously as human rights and more women all over the world today are standing up for their rights. The Vienna conference and VDPA played a key role in advancing this human rights revolution.



JOHN FISHER

Vienna, 1993. As a young human rights defender, taking the floor at a UN meeting for the first time, I underestimated how controversial sexual orientation and gender identity issues would be. As soon as I said the words “lesbian” and “gay”, the room erupted in chaos, journalists crowded to take photos, and delegates swarmed the speakers’ desk.

One face stands out from the crowd. A nervous middle-aged man took my hand and, with tears in his eyes, said: “Thank you. That’s the first time I’ve heard those words spoken aloud at the UN”. Then, with an anxious look over his shoulder, he was gone. From a brief glance, I could see that he was wearing a government badge.

Twenty years later, much has changed. The Human Rights Council recently adopted the first-ever resolution on sexual orientation and gender identity, mandating a report from the High Commissioner, and a plenary panel discussion. Secretary-General Ban Ki-moon recently declared:

“It is an outrage that so many countries continue to criminalize people simply for loving another human being of the same sex. These laws must go.”

Still, there remain States who would twist the words of the VDPA to give them the exact opposite meaning than intended. Instead of the “universality” of human rights, these States speak of “universally recognised” human rights, seeking to exclude those they do not recognise. They invoke the principle of non-discrimination, then explain why it does not apply to LGBT people. Appeals to “traditional values” are increasing, substituting cultural relativism for universal standards.

The 20<sup>th</sup> Anniversary of the VDPA is rightly a celebration of this historic instrument. We must also take the occasion to reject revisionist interpretations designed to restrict the equal application of human rights to all.



MICHAEL O’FLAHERTY

The VDPA, in its implementation, marked a key moment in the history of the human rights movement. Take the story of national human rights institution (NHRIs)s. They were not invented at Vienna but they did receive a transformative injection of authority and status that, in turn triggered an astonishing growth worldwide. The VDPA, in its own words reaffirmed, “the important and constructive role played by national institutions for the promotion and protection of human rights, in particular in their advisory capacity to the competent authorities, their role in remedying human rights violations, in the dissemination of human rights information, and education in human rights”. It was on the basis of these words that the UN High Commissioner for Human Rights, with strong support of the Australian and other governments, identified the establishment of NHRIs as a top UN priority. Mary Robinson and subsequent High Commissioners then oversaw the delivery of support for the setting up of NHRIs across the regions, including in such post-conflict situations as Northern Ireland, Afghanistan, Sierra Leone and Timor Leste. Relying on the words of the VDPA, the UN always insisted that the new bodies be compliant with the Paris Principles. Thus was set the trajectory whereby NHRIs today constitute one of the most important actors for the promotion and protection of human rights at the national level.



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**MICHAEL INEICHEN**

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The distance travelled since Vienna shows that a combination of visionary leadership and incremental change pays off. Pursuing that path, progress that is unthinkable today may well be accepted as the bedrock of international human rights protection 20 years down the line. The World Conference on human rights and the VPDA has laid many of the foundations of today's international human rights framework, in both an institutional and a substantive way. It brought the acceptance that no State could hide behind the otherwise sacrosanct principle of non-interference to shield itself from scrutiny of its human rights violations and challenges, and that on the contrary the promotion and protection of human rights is a legitimate concern of all actors in the international community. On a substantive level, the recognition of the universality, indivisibility and interdependence of all human rights set out a key aspiration by the international community at that time.

In Vienna, expecting that every country should send a high-level delegation to Geneva and respond to questions in the previously strictly domestic area of human rights would have been qualified as visionary at best but more likely as a severe form of delusion. Twenty years down the line we all take the universal periodic review (UPR) for granted, and instead express outrage at an exceptional case of non-cooperation. Despite its short existence, the UPR has developed into one of the premier avenues for human rights defenders to hold their governments to account, and for States to review their peer's human rights record from a more or less critical perspective. As such, it is the institutional embodiment of the VDPA's affirmation that universal human rights do not stop at frontiers, and every society can progress towards better enjoyment of human rights for all.

However, we must not stop at the relative advance presented by the UPR, but need to demand far more results from the institutions we have built together. For a start, the Human Rights Council must start to seriously address human rights violations in a more effective way, and make meaningful recommendations to address them – as it is mandated to do.



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**SHEILA B. KEETHARUTH**

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The Vienna Declaration and Plan of Action (VDPA) are milestones in united efforts to give human rights and fundamental freedoms their due place in today's world. They represent a reference point in my work, providing grounding for arguments to advance human rights in practice, more particularly the rights of children, indigenous people and women.

1993 is a landmark year – with the acceptance that the human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights. Consequently, while researching, reporting and carrying out advocacy on violence against women in Africa, they proved to be a useful tool, as one could recall that they supported the creation of a new mechanism, that of the Special Rapporteur on VAW at the global level.

Additionally, coming from the NGO background, paragraph 38 of the VDPA contains a crucial recognition regarding the role that NGOs play “in the promotion of all human rights and in humanitarian activities at national, regional and international levels”. Since then, while NGOs have been able to slowly carve their rightful place, it is still of concern that many human rights defenders across the globe pay a heavy price, sometimes with their lives, for doing their work. This is unacceptable in light of the VDPA, for these documents provide valuable inspiration, while setting out concrete steps to be taken for the protection and promotion of human rights and fundamental freedoms.



MORTEN KJAERUM

When we all met in Vienna for the United Nations World Conference on Human Rights in the summer of 1993, there was a high level of curiosity exploring the new international agenda after the end of the Cold War. Among the many delegates was a small group of representatives of national human rights institutions. This little group of national human rights institutions representatives symbolises what the Vienna conference was about: bringing human rights from the law books and international politics to the every day life of people.

The Vienna Conference represents a milestone in the struggle to mainstream human rights into the legislative processes, the work of courts, and the actions taken by the police and other officials. The national human rights institutions are key instruments in this process. In 1993, there were less than 10 such institutions worldwide; today, there are more than 100. And in a sense, the European Union Agency for Fundamental Rights (FRA) is to the EU what the national human rights institutions are to the countries.

We have come a long way as regards the human rights accountability at the national level; the next challenge is to build a similar understanding of accountability at the local or regional levels. This is where people live and where human rights first and foremost shall be respected, protected and fulfilled.



IAN MARTIN

Those of us who made the creation of the High Commissioner for Human Rights our central objective for the World Conference on Human Rights did so out of an analysis of the weakness of the United Nations human rights system: "Facing up to the failures", as Amnesty International put it. With the support of two Secretaries-General, successive High Commissioners have done much to take human rights towards the centrality which the Charter demands. The greatest advance has been the extent to which OHCHR has taken human rights protection beyond the committee rooms of Geneva and into the field, sometimes within and sometimes separately from peace operations. But the Report of the Internal Panel on United Nations Action in Sri Lanka presents the UN system with another moment when failures at all levels, including most lamentably of the Human Rights Council, must be faced up to. In the years ahead, Member States must be willing to mandate and fund effective human rights presences in the field, OHCHR must be ready to deploy them professionally, and the entire UN system must recognize that human rights protection is a shared responsibility.



VITIT MUNTARBHORN

The Vienna World Conference on Human Rights and its Action Programme: A Qualified Success ?

I attended the World Conference (at the time I was UN Special Rapporteur on the Sale of Children) and witnessed the adoption of the consensus document in the form of the Vienna Declaration and Programme of Action. That document created many ripples which are still felt today. First, at the conceptual level, the document acknowledged that while the world can bear in mind regional and national "particularities", it is the duty of States to promote and protect human rights and



freedoms. In other words, if there is a conflict between those particularities and the universality of human rights, it is the latter which must prevail. Vienna also interlinked between human rights, democracy and development.

Second, the document opened the door to new human rights institutions and mechanisms. The possibility of establishing the post of UN High Commissioner for Human Rights was agreed upon at Vienna. This would be accompanied by the setting up of an office to take over from the previous UN centre for human rights. The document also opted for new human rights mandates such as UN Special Rapporteur on violence against women. It went further by advocating the need for regional and national human rights institutions. The latter has inspired the setting up of many national human rights commissions in the Asia-Pacific region.

Third, the Vienna Programme of Action concretised substantively human rights on several fronts. Most famously perhaps, the notion that “women’s rights are human rights”. It raised the profile of child rights, the rights of persons belonging to minorities, the rights of persons with disabilities, freedom from torture, the concerns of other groups, self determination, and the importance of human rights education.

Yet, Vienna was not an unqualified success. The term “indigenous peoples” was rejected, and the wording in the text has an “S” missing from it, alias “indigenous people”. This was due to the fact that some states did not wish to use the term “indigenous peoples” to avoid possible linkage with the rights of peoples to self-determination. Conservative states introduced a qualification to freedom of expression by subjecting it to national law. NGOs were prevented from effectively accessing the governmental conference, even though they had their parallel meeting nearby.

The lesson from Vienna is also that whatever Programme or treaties we have at the international level, the crunch is the implementation of human rights comprehensively at the national level. Given that we have to deal with power and its nexus with human rights, it is imperative to build checks and balances to prevent abuse of power and promote accountability, as well as broad public participation in the realization of human rights. Worldwide, eternal vigilance is thus the key.



LUCIA NADER

Twenty years after the adoption of the VDPA, it is crucial to rethink its value and its importance in the current new global order. If, in 1993, the aim of the VDPA was mainly to stress and reinforce the universality and interdependence of rights, today our objective is also to build a truly universal movement to fully implement those rights. In a multipolar world, with the (re) emergence of new powers and players in the international field, we have in our hands an unprecedented opportunity in this regard. In order to respect and promote human rights, traditional powers should be more open to new approaches to the enforcement of rights and emerging powers need to show a true commitment in protecting those same rights nationally and internationally. This will only be possible with the consolidation of an equally truly global, effective and diverse civil society human rights movement. A movement where stronger organizations would be working worldwide, with a multiplicity of strategies but towards the same goal: dignity and freedom for all. A movement where strategies are thought beyond borders and concrete actions are taken on the ground with a cosmopolitan perspective.



ELEANOR OPENSHAW

The VDPA contributed to the formal recognition of NGOs as key players in the promotion of human rights at international, regional and national levels. Over the last twenty years space for NGOs to engage in human rights mechanisms has opened up considerably. The UPR-compilation of civil society reports as one of the formal sources of documentation in a state process

speaks to this. NGO video statements were shown for the first time in 2012 during Human Rights Council sessions as a means to bring voices otherwise unlikely to be heard directly, into the discussion.

To ensure access to those that advocate on the full range of human rights, processes to enable NGO engagement need to be shielded from political bias or interference. State questioning of the legitimacy of NGO participation in different human rights mechanisms continues to occur. Recent steps to exclude NGOs from high-level meetings if a State expressed an objection to their participation show a worrying trend. Simple discrimination has also informed whether NGOs are allowed full access to a mechanism – as the example of the African Commission’s denial of observer status to a coalition working on rights associated with sexual orientation and gender identity shows. Limiting participation in this way can exclude the very people who need the support of the mechanism the most.

The VDPA underlined the importance of dialogue and cooperation between governments and NGOs. The processes of monitoring, reporting and crafting recommendations within the human rights mechanisms is a key opportunity for such dialogue to take place. Increasing and safeguarding NGOs’ access to human rights mechanisms will enable them to contribute to that dialogue as part of their role in pressing for the respect of human rights.



DMITRINA PETROVA

The Equal Rights Trust (ERT) promotes equality in the holistic spirit of the Vienna Declaration, which represented a major attempt to unify the field of human rights and to integrate human rights with other public goods. The Vienna Declaration asserted the principles of universality, indivisibility and interdependency of all human rights. We take these principles seriously, intertwining equality in all human rights issues. Our approach is expressed in the 2008 Declaration of Principles on Equality.

In respect to equality, the key element of progress in the last 20 years is the trend towards overcoming the fragmentation in the protection from discrimination. However, this is work in progress: the field of equality is still a patchwork, with many gaps and inconsistencies. The holistic approach of the Vienna Declaration is not sufficiently articulated and operationalised and is poorly understood within the human rights movement. This has generated much tautological or circular nonsense in attempting to describe the interrelatedness of rights.

Currently, while the rights to equality and non-discrimination are recognised as central and cross-cutting, they are scattered throughout the system of treaties, declarations and authoritative interpretations. Within the international human rights architecture, there is a need to upgrade the framework to reflect the rich concept of full and comprehensive substantive equality of participation enshrined in the Vienna Declaration; adopt better legal definitions of discrimination; fill the gaps and harmonise the levels of protection; and better integrate equality principles in the work on all human rights. In November 2011 the Council of Europe endorsed the Declaration of Principles on Equality. The same should happen at the UN Human Rights Council, stimulating UN member states to follow these principles in adopting domestic legislation and policies.



MARY ROBINSON

There are two aspects I would like to highlight. The first is the VDPA’s emphasis on human rights as indivisible, interdependent and interrelated. This helped me greatly during my time as UN High Commissioner for Human Rights in countering the notion that human rights were a Western construct, and in reinforcing the importance of economic, social and cultural rights.

The second, not surprisingly, is the VDPA recommendation to the UN General Assembly that it establish the post of High Commissioner for Human Rights, which that body duly did in Resolution 48/121. I had the honour to serve as the second High Commissioner, starting my term on 12th September 1997. In July of that year a new UN reform package had been agreed, which, among other things, merged the pre-existing UN Human Rights Centre and Office of High Commissioner of Human Rights (OHCHR) under the High Commissioner, and positioned OHCHR as a member of the four newly established executive committees on peacekeeping, humanitarian affairs, development, and economic and social issues, to ensure that human rights were 'mainstreamed' throughout the UN System. These changes enabled OHCHR, from a very weak base, to become the thought leader on protection and promotion of human rights which it is today.



NIGEL RODLEY

I was privileged to attend the Vienna Conference in my capacity as UN Commission on Human Rights Special Rapporteur on the question of torture. It provided the first opportunity for the Commission's 'special procedures' to meet as a group. That meeting was background to the Declaration and Programme of Action's (DPA) call for the strengthening of the 'system' of special procedures, including through periodic meetings. This, in turn, led in 1994 to the first of what would be annual meetings and effectively institutionalized the system.

Various provisions address the universality of human rights and fundamental freedoms, the most lapidary of which simply states: 'The universality of these rights and freedoms is beyond question.' This (for the UN) untypically pithy sentence has not yet put paid to claims that human rights are regionally and culturally specific, but it remains an important statement for those seeking to rebut that spurious and corrosive claim.

Several DPA paragraphs express concern about impunity of human rights violators as an obstacle to the enjoyment of human rights. The DPA, adopted exactly one calendar month after the Security Council established the International Criminal Tribunal for the Former Yugoslavia, may well have been a step in a process that brought the millennial development in 1998 of the Rome Statute of the International Criminal Court.



SIMA SAMAR

This year, we all celebrate the 20<sup>th</sup> anniversary of the Vienna Declaration and Plan of Action, while progresses have been made in promotion and protection of human rights and democracy in different parts of the world. When the plan was being adopted, during and after the conference in Vienna, the people of Afghanistan were suffering from most cruel human rights violation under the Taliban and international terrorist groups.

Since 2002, in Afghanistan some achievements in promotion and protection of human rights have been made. A strong legal frame work and national mechanism including the establishment of the Afghanistan Independent Human Rights Commission for monitoring, promotion and protection of human rights are the examples achievements in a conflict country. Some other achievements are the ratification of or acceding to important international human rights instruments such as CEDAW, CRPD and ICC.

In contrast, there are enormous remaining challenges. To be free from fear, enjoy the basic human rights, equality and living in full dignity, Afghan people especially women has to continue their struggle. In this regard, I would like to call upon the international community to continue their support to Afghanistan's people in order to achieve peace with justice and live with dignity.



CHRIS SIDOTI

The Vienna World Conference was a human rights market place where for the first time every human rights concern was articulated and heard, a unique gathering of all sectors, groups and interests, governments, international and national bureaucrats and people. It was easy to be enthralled and easy to be cynical. Great fun ... but what good could possibly come out of it?

The cynicism was easy. The conference took place at three distinct levels, with a minimum of interaction among them. The top level (literally, because it was physically above everything else in the convention centre) was the VIP level where presidents and prime ministers, ministers and senior UN officials made pious statements about their commitment to human rights. Beneath it, literally in the bowels of the convention centre, was the drafting committee where diplomats and a few expert others worked away around the clock, in incessant session during the second week of the conference, to negotiate and agree on the Vienna Declaration and Programme of Action. Then all around these rooms was the market place where NGOs and others advocated and argued.

In spite of it all the Vienna Conference produced the VDPA which, 20 years later, can be seen as the landmark achievement that it was not seen as at the time. For me four specific components are critical developments in human rights law and practice.

First, the VDPA put an end to any legitimate argument about the relationship between human rights and cultural or traditional values, declaring "All human rights are universal, indivisible and interdependent and interrelated". Argument persists, of course, as we see each year in the Human Rights Council, but it is no longer legitimate.

Second, the VDPA provided the basis for the new position of High Commissioner for Human Rights. This position has transformed the UN's attitude towards human rights and led to the recognition of human rights as one of the three pillars of the UN.

Third, the VDPA endorsed strong, independent national human rights institutions in every State. In the 20 years since the Vienna Conference, the number of NHRIs has increased more than fivefold.

Fourth, the VDPA endorsed national human rights action plans as mechanisms for each State to set its own human rights priorities and adopt its own mechanisms and programs for the implementation of international human rights obligations. The practice since then has been mixed but NHRAPs continue to hold promise for better promotion and protection of human rights, especially when reinforced through the Human Rights Council's Universal Periodic Review process.



ARNOLD TSUNGA

I grew up during a time when Zimbabwe and others, notably Namibia and South Africa were still colonies. The African continent was in a mode of fighting for the right to self-determination for all African countries. It was a compelling, self-evident and noble fight. Self-determination in itself was viewed to incorporate the possibility of greater enjoyment of all other human rights. The ideology of the struggle for independence incorporated notions of the right of everyone to enjoyment of fundamental human rights and freedoms including the full participation in the civic and political affairs of the country notwithstanding race, creed, religion, sex or tribe. The independence struggle was also meant to free marginalised groups from the yoke of economic and social repression and restoring their right to land ownership in their communities.

In 1980 we were euphoric when we got our independence. We took democracy and human rights for granted. I went into private legal practice to make money. However the euphoria of independence turned into a nasty dream with a serious spike in

systematic human rights violations at a national scale from the year 2000. Earlier violations had taken place in Matabeleland with absolute impunity. The trigger for human rights violations at a national scale was the fear by President Mugabe and his people to lose political power. After 14 years of practice I started representing victims of political repression. Lawyers like myself who were representing people with causes unpopular to the regime began to be identified with our clients' causes. We became targeted for persecution. I was abducted and tortured in 2002 for representing the opposition. Instead of breaking me, I decided to devote my full energy and professional skills to protecting and promoting human rights. This has been the most fulfilling professional experience for me, representing over thousands of victims of violations and networking with hundreds of human rights defenders globally.

The lesson learnt is that we need to avoid well-recorded and documented historical pitfalls of the euphoria and excitement of independence quickly giving way to internal repression by your own people. Many post independent African states know that oppression by a foreigner is oppression and is painful. It is abominable. Far too many Africans know also that oppression by a fellow African (brother and sister) is not just oppression. It is betrayal and oppression in one. It is much more painful and much more abominable. Let us not take human rights for granted. Let us enforce the VDPA. It is urgent.



CLEMENT VOULE

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The VDPA recognises the important role that regional mechanisms can play in promoting and protecting the universality of human rights and encourages their development. Yet a decade later the controversy surrounding the adoption of the ASEAN human rights declaration highlights the problem posed by regional arrangements that legitimize regional particularities at the detriment of international standards. The ASEAN declaration was widely criticized by defenders, including the UN High Commissioner for Human Rights, for conditioning the protection of human rights to notions of public morality, national and regional specificities. The provisions of the VDPA in this respect are as relevant today as they were at the time of their adoption.

In order to remain true to the VDPA, the universal application of human rights must continue to be the cornerstone of cooperation between the UN and regional systems. The UN has an important role to play safeguarding international standards and regional mechanisms must abide by them.

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# GENERAL ASSEMBLY THIRD COMMITTEE

Third Committee holds the course on the death penalty, and makes historic gains on SOGI rights



Aotearoa

A hurricane that shut down UN headquarters for three days exacerbated an already packed Third Committee agenda at the 67<sup>th</sup> session of the General Assembly, as did UN developments outside the Third Committee such as the Human Rights Council elections<sup>1</sup> and the Palestinian bid for non-member observer status.<sup>2</sup> The Third Committee conducted its work in October and November 2012, during which time it held interactive dialogues<sup>3</sup> with a record 60 special procedure mandate holders, UN high-level officials, treaty body chairpersons,<sup>4</sup> and other experts. This led a number of States and civil society representatives to lament the lack of adequate time allotted to each and the consequent lack of substance in the exchanges between experts and States. Regrettably many opportunities for dialogue were also lost due to the hurricane, including the dialogue with the Special Rapporteur on Human Rights Defenders, whose report focused on the use of legislation to regulate the activities of human rights defenders.

The session saw the re-hashing of a number of, by now, predictable debates between States, including on religion, sexual orientation and gender identity (SOGI), sexual and reproductive health and rights, traditional values, and the death penalty. Fragile gains were consolidated and setbacks avoided, however, significant achievements were minimal.

Lesbian, gay, bisexual and transgender (LGBT) rights deeply divided States in the Committee's resolution on 'Extrajudicial, summary or arbitrary executions'.<sup>5</sup> However, the language in question was successfully extended from 'sexual orientation' to also include 'gender identity', and survived a challenge in the Third Committee with greater State support than in previous years. In addition, language on sexual and reproductive health and rights was included in resolutions on 'Violence against women'<sup>6</sup> and 'Supporting efforts to ending obstetric fistula',<sup>7</sup> despite attempts to strike it.

The Third Committee also considered the human rights component of the UN's proposed strategic framework for the period 2014-2015<sup>8</sup> (Programme 20) this session. Fortunately expected moves by some States<sup>9</sup> to use the negotiating process to press for more oversight of the Office of the High Commissioner for Human Rights (OHCHR) by the Human Rights Council did not materialise.

Against the backdrop of the ongoing treaty body strengthening process,<sup>10</sup> States granted requests for additional funding from three Committees, but postponed the funding in two cases until the next regular budget cycle in 2014-2015.

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1 See <http://bit.ly/VksNLJ>.

2 See <http://bit.ly/S6ozL9>.

3 See <http://bit.ly/PLyTqm>.

4 The Committee rectified the long-standing issue of the lack of uniformity in reporting by treaty body chairpersons, inviting all chairpersons to present reports and engage in interactive dialogues at this session.

5 See <http://bit.ly/TOHHqx>.

6 See <http://bit.ly/XIAQgl>.

7 See <http://bit.ly/Vkt6WY>.

8 The strategic framework is the principal policy directive of the UN, which serves as the basis for programme planning, budgeting, monitoring and evaluation, effective in 2014-2015.

9 China, Cuba, Russia, among others.

10 Information on the treaty body strengthening process is available on ISHR's website at <http://bit.ly/RU1TqP> and on OHCHR's website at <http://bit.ly/RAFqAc>



In another welcome development, the worldwide trend towards the abolition of capital punishment was reconfirmed by an increased number of States voting in favour of a resolution calling for a moratorium on the death penalty.

Country resolutions saw interesting developments this session. This year marked the first time ever that the Third Committee adopted the resolution on the Democratic People's Republic of Korea (DPRK) without a vote, and the first time since 2006 that the Committee adopted the Myanmar resolution by consensus.

Two (Iran and Syria) of the four country resolutions continued to be voted, though each vote was won by a relatively large margin.<sup>11</sup> Voting shifted considerably on the resolution on Iran, which had fewer 'yes' votes than last year. Meanwhile, support for the resolution on Syria increased slightly, with more 'yes' votes compared to last year.

Religion was a prominent theme of discussion, influenced by the recent uproar and protests over the video 'The innocence of Muslims'. In addition, several Special Rapporteurs presented reports to the Third Committee touching on the issue of freedom of religion and religious intolerance.<sup>12</sup> In the end, States managed to preserve the hard-won consensus from last year, resisting attempts to return to divisive language on 'defamation of religions'.

A disturbing development relating to the rules around NGO participation in General Assembly processes occurred outside of Third Committee. In December, the General Assembly's Second Committee (Economic and Financial Committee)<sup>13</sup> adopted a resolution setting out the modalities for the 2013 High Level Dialogue on Migration and Development (HLD), which included provisions aimed at limiting civil society participation in the HLD. The 'no-objection' procedure - where States can anonymously object to an NGO without giving the rejected organization a reason for the denial or a chance to contest the decision - was included in the modalities despite concerns expressed about the issue by human rights defenders<sup>14</sup> and some States.<sup>15</sup> States' use of the no-objection procedure to arbitrarily and unfairly restrict civil society access has become prevalent in a range of meetings at UN headquarters

in recent years,<sup>16</sup> and is a practice that is seriously threatening the relevancy, accountability and legitimacy of global governance processes at the UN.

## THEMATIC DEVELOPMENTS

### Reference to sexual orientation and gender identity survives attempted deletion in extrajudicial executions resolution

This year's resolution on extrajudicial executions<sup>17</sup> (tabled by Sweden on behalf of Nordic States) added 'gender identity' to the list of vulnerable groups that States were specifically urged to protect from extrajudicial killings. Two attacks on the SOGI language were waged in negotiations. Some States<sup>18</sup> proposed deleting the entire list of vulnerable groups, to be replaced with generic language referring to all of them. Others<sup>19</sup> proposed to simply delete the SOGI language, suggesting some States opposed to the inclusion of SOGI do not favour a deletion of the paragraph since they are attached to the other language they have fought to include over the years, e.g. 'persons living under foreign occupation'. In the end, the United Arab Emirates (UAE) on behalf of the Organization of Islamic Cooperation (OIC) tabled an amendment to simply delete the SOGI language, which was overwhelmingly defeated.<sup>20</sup>

### Hard fought consensus prevails on violence against women resolution

As expected, negotiations on the violence against women resolution<sup>21</sup> were difficult again at this session, against the backdrop of debate on traditional values at the Human Rights Council (the Council).<sup>22</sup> A number of contentious issues were discussed during 20 informal Third Committee meetings, with language on sexual and reproductive health and rights, and custom, tradition and religion among the most intensely debated. While some States<sup>23</sup> vehemently opposed including language on these issues, others, mainly from the Western European and Others Group (WEOG), saw value in doing so.

New language on sexual and reproductive health, and reproductive rights was retained in the end. The compromise to

11 The margin of 'yes' to 'no' votes was 123 for Syria and 54 for Iran.

12 The Special Rapporteur on freedom of religion focused on conversion; the Special Rapporteur on freedom of expression focused on hate speech and incitement to hatred, including blasphemy laws and defamation of religions; and the Special Rapporteur on racism focused on the use of the Internet to disseminate racist ideas and incite hatred.

13 Information on the Second Committee is available at the UN website at <http://www.un.org/en/ga/second/index.shtml>

14 See <http://bit.ly/WQGOdu>.

15 As a result of disagreement about the provisions on NGO participation, the resolution was voted upon (the vote was called by the EU). It was adopted by a vote of 110 for, 2 against, 46 abstaining. Canada and the US voted against. The EU, along with Mexico, Japan, Korea and Cyprus abstained.

16 The 'no-objection' procedure was included in a resolution setting out modalities for a 2013 high-level meeting of the General Assembly on the realization of the MDGs for persons with disabilities (66<sup>th</sup> session of Third Committee). The procedure was also used to manage NGO participation in the General Assembly's treaty body strengthening process in 2012 (more information is available on ISHR's website at <http://bit.ly/RU1TqP>).

17 See <http://bit.ly/TOHHqx>.

18 Holy See, Swaziland, Namibia, and Zimbabwe.

19 Russia and Syria.

20 The vote count was 44:86:31 (for:against:abstentions).

21 See <http://bit.ly/XIAQgl>.

22 See <http://bit.ly/QGor5> for more information.

23 Egypt (on behalf of the Arab Group), Holy See, Iran, Pakistan, and the Russian Federation.

achieve this was the addition of a reference to the Programme of Action of the International Conference on Population and Development (ICPD), which, amongst other things, says abortion should not be promoted as family planning. Notably, Chile withdrew its co-sponsorship of the resolution this year, due to the language on sexual and reproductive health and reproductive rights. Similar language was also included in this year's Third Committee text on 'Supporting efforts to end obstetric fistula'.<sup>24</sup>

Efforts by the co-sponsors (France and the Netherlands) to further expand language on custom, tradition, and customary practices were not successful. In particular, Russia reiterated its concerns with the term 'harmful customary practices', noting a clear distinction between customs, traditions and religions on the one hand and prejudices and harmful practices on the other. The resolution retained a call for States to not invoke custom, tradition, or religious considerations to avoid obligations to eliminate violence against women.<sup>25</sup> However, a further paragraph under discussion, which called on States to take measures to modify social and cultural patterns, was dropped from the text in the end.

Overall, the Third Committee's negotiation on the resolution on violence against women was constructive. It is to be hoped that a similar atmosphere will prevail at the 57<sup>th</sup> session of the Commission on the Status of Women (CSW)<sup>26</sup> in March 2013, which will consider 'Elimination and prevention of all forms of violence against women and girls' as its priority theme.

### General Assembly adopts new resolution on female genital mutilation

Momentum towards a General Assembly resolution addressing female genital mutilation (FGM) built over the past year. In 2012, the Commission on the Status of Women (CSW) and the Economic and Social Council (ECOSOC) adopted African-group led decisions and resolutions recommending that the General Assembly take up the issue.<sup>27</sup>

The General Assembly resolution (tabled by Burkina Faso and Benin), which was passed by consensus, calls for a global ban on FGM and requests the Secretary-General to submit a report on the practice in two years, including action-oriented recommendations for eliminating the practice.

The resolution also urges States to pursue education and training on the issue that incorporates a social perspective and is based on human rights and gender-equality principles. Despite FGM being recognized internationally as violating women's and children's human rights, the resolution

falls short of categorising the practice as such. This outcome occurred despite pressure from WEOG States and human rights defenders to include such a reference.

Surprisingly, discussions on historically sensitive issues were relatively uncontroversial. The resolution refers to sexual and reproductive health and not the more divisive 'reproductive rights'. In addition, though previous UN resolutions have referred inconsistently to FGM as a harmful 'traditional' practice, the language on traditions was not included in the initial draft.<sup>28</sup> Furthermore, UN agencies contributing to the negotiations were clear that the notion of FGM as a 'traditional' practice was not helpful to their work and if anything, counterproductive as they try to focus on positive aspects of traditions.

### Global momentum for abolition of death penalty continues

The General Assembly adopted its fourth resolution on the moratorium on the use of the death penalty, reaffirming the UN's growing commitment towards the abolition of the death penalty. The text was adopted by vote, with a slightly larger margin than in 2010.<sup>29</sup>

New language at this session included additional safeguards for the application of the death penalty, including on offences committed by persons below eighteen years of age and for pregnant women. Agreed language that called for States to make available information on the death penalty was expanded; the text now asks States to provide specific numbers for executions, persons on death row, and persons sentenced to death. The inclusion of a contested provision expressing 'deep concern' about the continued application of the death penalty also contributed to a strengthening of the text compared to previous years.<sup>30</sup> Despite these positive developments, new language on extradition of persons to countries where they would face the death penalty and on restricting capital punishment of persons with 'intellectual' disabilities was dropped.

The passage of the resolution was tense, though less acrimonious than in previous years. States desiring to retain the death penalty argued throughout the negotiations that there was no international consensus on abolition, that the

24 Operative paragraph (OP) 3.

25 From the 2008 and 2010 resolutions.

26 See <http://bit.ly/UKhpLQ>

27 See E/2012/27 E/CN.6/2012/16 at <http://bit.ly/JmeyTq>.

28 See <http://bit.ly/TZkUdu> for more information on the traditional values debate at the UN.

29 The vote count was 111:41:34 (for:against:abstentions). The Central African Republic (absent in 2010) voted 'yes' this year, as did South Sudan (which did not exist in 2010). (In Third Committee the vote was 110:39:36). The resolution is a biannual one, last seen in 2010 at the 65<sup>th</sup> session. In 2010, the resolution was adopted by a vote of 109:41:35 (in the plenary of the General Assembly). The vote in 2008 was 106:46:34.

30 This provision was removed by cosponsors in 2010, but featured in the 2007 resolution. China, Singapore, India, Vietnam, Brunei, Laos, and Egypt argued that it does not reflect the divergent views of member States.

death penalty was not prohibited under international law, and that its application was a matter for individual States to decide.<sup>31</sup> Some States<sup>32</sup> proposed unfriendly amendments along these lines in the Third Committee to dilute the text but these proposals were defeated.<sup>33</sup>

Both the Special Rapporteur on torture<sup>34</sup> and the Special Rapporteur on extrajudicial executions<sup>35</sup> also took up the issue of the death penalty in their reports to the General Assembly. These reports were welcomed by abolitionist States.<sup>36</sup> But their opponents in the discussion<sup>37</sup> argued the death penalty was beyond the scope of the Special Rapporteurs' mandates, and repeated familiar lines about the lack of international consensus around the issue.

Ultimately, the General Assembly's separate resolution on torture did not pick up on the issue of the death penalty. However, its resolution on extrajudicial executions included a preambular provision referring to capital punishment<sup>38</sup> and a paragraph referencing the Special Rapporteur's report, including his recommendation that States respect all safeguards and restrictions, including limiting such forms of punishment to the most serious crimes. An amendment<sup>39</sup> was raised to delete the preambular paragraph but was rejected by the Third Committee.<sup>40</sup> Of the States that abstained from voting on the resolution, many voiced concern over the inclusion of language on capital punishment.<sup>41</sup>

### Third Committee grapples with potential revival of defamation of religions

It was unclear this year whether States would find consensus on two texts related to religious intolerance following the release of an anti-islamic viral video prior to the session. An overriding concern for human rights defenders was that the OIC might bring back a 'defamation of religion' text, or try to insert language on 'defamation' in resolutions related to racism or religious freedom. This concern was magnified when

some heads of OIC States<sup>42</sup> called for limits on freedom of expression during their statements at the General Assembly's general debate, citing incitement to hatred, and when an initial draft of the OIC-led resolution on combating religious intolerance was littered with 'defamation' language.<sup>43</sup>

Despite these developments, the OIC remained committed to the cooperative approach that prevailed at the Human Rights Council in March 2011 and General Assembly in 2011.<sup>44</sup> At this session, the General Assembly adopted another consensus resolution on combating intolerance and incitement to violence against persons based on their religious beliefs<sup>45</sup> that omitted specific references to defamation of religion or blasphemy.

However, the consensus was fragile. Attempts by Egypt and Pakistan throughout informal negotiations led to battles over potentially regressive language, and the resolution retained only a partial reference<sup>46</sup> to freedom of expression from Article 19 of the *International Covenant on Civil and Political Rights*.<sup>47</sup> Despite its refusal to back down on some language, the OIC agreed to drop contentious references to 'peace and security' after the US argued that they could imply engagement by the Security Council.

As in previous years, the General Assembly adopted a European Union-sponsored resolution on freedom of religion and belief without a vote.<sup>48</sup> However, maintaining consensus came at a price; in exchange for the OIC dropping defamation language from its own resolution, the EU also had to make multiple concessions, including giving up new language on protection of religious minorities, and on the right to conversion.

31 Singapore, Indonesia, Bangladesh, Japan, Botswana, China, and Egypt.

32 Egypt, Singapore, Antigua and Barbuda, Trinidad and Tobago, and Botswana.

33 The amendments attempted to either remove new language from the resolution (the call for States to provide specific death penalty statistics), reaffirm State sovereignty, or assert a State's right to choose its own legal justice system.

34 A/67/279 available at <http://bit.ly/VEkmKs>.

35 A/67/275 available at <http://bit.ly/VkVS9S>.

36 Including Liechtenstein, Norway, Switzerland, and EU States.

37 Including Singapore, Vietnam, and China.

38 Preambular provision 8 concerns instances where capital punishment is not carried out in conformity with international law.

39 Raised by Singapore on behalf of Botswana, Brunei Darussalam, China, Iran, Lao People's Democratic Republic, Malaysia, Uganda, and Vietnam

40 78 against, 50 in favour, with 38 abstentions.

41 Singapore, Egypt, Grenada, India, Jamaica, Japan, USA, China, and Brunei.

42 Including Egypt <http://bit.ly/Qb5eDV>, and Pakistan <http://bit.ly/Qb6yGK>

43 In particular, Iran wanted multiple references to defamation of religion included in the first draft.

44 A breakthrough occurred in the March 2011 session of the Human Rights Council when the OIC decided not to run its polarizing resolution on the defamation of religions. Instead the Council adopted by consensus an OIC-sponsored text (A/HRC/RES/16/18) on combating intolerance and incitement to violence against persons based on their religion or belief, which had no references to the defamation of religion. The 66<sup>th</sup> session of the General Assembly maintained positive gains made by the Human Rights Council and moved towards a consensus text on religious intolerance (A/66/167). The defamation of religions concept, which was introduced at the UN over a decade ago, was widely criticized by NGOs and a growing number of States in recent years. The OIC sought a normative approach to protect religions, which is inconsistent with international human rights law that protects individuals.

45 See <http://bit.ly/Uhcqne>.

46 It cited only the duties and responsibilities section.

47 Preambular paragraph 5.

48 The resolution text is available at <http://bit.ly/UIPafB>. The EU changed the name of the resolution this year from 'elimination of all forms of intolerance and of discrimination based on religion or belief' to 'freedom of religion and belief'. It was changed to better reflect the emphasis on the protection of the individual. It is also consistent with HRC resolutions by the EU on the same issue.

The right to convert was the focus of a report to the General Assembly by the Special Rapporteur on freedom of religion and belief,<sup>49</sup> and the EU had hoped to give the issue some prominence in the resolution. In the end, although the OIC obstructed a specific reference to the right to conversion, States agreed to generally support the Special Rapporteur's work in this area, by 'welcoming' his report.

As anticipated, the controversy over religion-related language also spilled into negotiations on the Durban Declaration and Programme of Action resolution<sup>50</sup> (tabled by Algeria on behalf of the Group of 77<sup>51</sup> and China).<sup>52</sup> Many States<sup>53</sup> wanted several new references to religious discrimination<sup>54</sup> removed, arguing the resolution should only focus on racism. Despite these discussions, the General Assembly adopted the resolution with 126 votes in favour, 6 against, and 47 abstentions, a vote tally similar to the previous year.<sup>55</sup>

## COUNTRY RESOLUTIONS

This session saw some fairly significant developments in the country resolutions. The Third Committee again took up four country-specific resolutions on human rights: Myanmar, Iran, the Democratic People's Republic of Korea (DPRK) and, Syria.<sup>56</sup> However, in a marked departure from previous years, the Third Committee adopted two of the four resolutions by consensus: Myanmar and the DPRK. This marks the first time since 2006 that the Third Committee adopted a country-specific resolution by consensus.

Agreement on the Myanmar resolution was expected, and the result of intense negotiations between the sponsors of the text (EU) and the country concerned. The resolution continues to call for reforms but also acknowledges positive steps taken by the State in the last year. The text also addresses the ongoing violence against the Rohingya minority in Rakhine State. This jeopardised the fragile consensus, as some OIC States (including Qatar and Iran) threatened to call a vote due to insufficient language addressing the

Rohingya issue. While human rights defenders were pushing for stronger wording,<sup>57</sup> many see the resolution as having proven its worth as an important tool for engaging with the Government of Myanmar, to encourage further reforms and improve the human rights situation in the country. Whether this will be the last such resolution, as stated by the representative of Myanmar at the adoption, remains to be seen. Notably, the usual language of the resolution referring to the continued consideration of the issue at the next session of the General Assembly has been replaced by a more vague formulation to 'remain seized of the matter'. Amongst other things, halting further resolutions on Myanmar would put at stake the mandate of the Secretary-General's Special Advisor on Myanmar— a post that is renewed each year through the resolution. The resolution also refers implicitly to the renewal of the mandate of the Special Rapporteur on the situation of human rights in Myanmar, to be debated at the March 2013 session of the Human Rights Council.

Although the Human Rights Council adopted a DPRK text by consensus for the first time earlier this year, agreement on the DPRK resolution at the Third Committee was unexpected. Some view this as a positive development, presuming that the DPRK did not call for a vote for fear of an embarrassing defeat in the face of a trend of increasing support for the resolution; votes in favour increased from 88 States in 2005 to 123 in 2011. Others are concerned that the DPRK's disassociation from the consensus after the adoption is simply indicative of a new form of rejection by the State of the resolution.

Though there were no significant changes to the text, this was the first time that the DPRK resolution was adopted by consensus since it was first introduced in 2005. The resolution on Myanmar was first adopted in 1991 and was passed by consensus until 2006 when the Human Rights Council was created. At that time, many States regarded the Human Rights Council as the proper venue for country specific resolutions. The move to consensus on these two resolutions in 2012 suggests States may be moving beyond the debate on whether it is appropriate for the General Assembly to consider country specific resolutions. Other indications of this could also be the spate of General Assembly resolutions in 2011 and 2012 on Syria, evidence of the General Assembly's relevance in addressing country specific human rights situations. The absence of no-action motions on resolutions could also suggest the General Assembly's role in considering country resolutions is less and less in question.<sup>58</sup>

Despite these developments, two (Iran and Syria) of the four country resolutions continued to be voted, though each vote was won by a relatively large margin.<sup>59</sup> The resolution

49 A/67/303 available at <http://bit.ly/VyCqWZ>

50 See <http://bit.ly/Uhcqne>.

51 The Group of 77 is a coalition of developing nations created to promote its members' collective economic interests, to enhance its joint negotiating capacity in the United Nations, and to promote South-South cooperation for development. There were 77 founding members of the organization, but the organization has since expanded to 132 member countries.

52 This followed a similar move by Egypt and the OIC at the Human Rights Council in September 2012. See <http://bit.ly/WkLVby> for more information.

53 EU, Norway, Switzerland, Mexico, and Japan.

54 Operative paragraphs 12,41 and 50.

55 All EU countries abstained, with the exception of Czech Republic, which voted against. Australia, Canada, Israel, Marshall Islands, and United States also abstained. The 2011 vote in the General Assembly was 138:6:46 (for: against: abstentions).

56 Resolution on Myanmar available at <http://bit.ly/UWyeOX>, Iran at <http://bit.ly/VmwUXR>, DPRK at <http://bit.ly/132XZED>, and Syria at <http://bit.ly/Z1KIYc>.

57 Particularly on freedom of expression, association and assembly; the situation of prisoners; and the National Human Rights Commission.

58 Human rights defenders have for a long time decried the use of no-action motions, which prevent the continuation of a debate and allow States to avoid taking a position on politically sensitive issues.

59 The margin of 'yes' to 'no' votes was 123 for Syria and 54 for Iran.



on Iran was passed by 86 'yes' votes, 32 'no' votes and 65 abstentions.<sup>60</sup> The resolution on Syria passed with 135 'yes' votes, 12 'no' votes and 36 abstentions.<sup>61</sup>

The resolution on Syria was led by Morocco, Qatar and Saudi Arabia, with strong regional co-sponsorship.<sup>62</sup> As has been the case with previous General Assembly resolutions on Syria, no Arab country voted against it. However, in contrast to last year's Third Committee resolution, Russia and China moved from abstentions to opposition votes.

The General Assembly has adopted a number of resolutions on Syria since the last Third Committee, with the number of 'yes' votes staying fairly constant (132 in December 2011, 133 in August 2012, with a small spike to 138 in February 2012, and 132 in the Third Committee in 2012.) The 135 votes in favour in the plenary of the General Assembly at this session therefore represent a small increase since the last resolution in August 2012. Several States who voted for the resolution expressed unease about the resolution's one-sidedness insofar as it inadequately condemns human rights violations by the opposition.<sup>63</sup>

The resolution on Syria in the Third Committee has been an interesting case study for country resolutions, as many States allegedly opposed in principle to country resolutions at the Third Committee have voted for or abstained from the resolution.<sup>64</sup> It remains to be seen whether this indicates a sustainable shift in positions on country resolutions generally or if Syria remains exceptional.

The number of votes in favour of the resolution on Iran (86) did not change from those at the Third Committee in 2011, but unfortunately decreased compared to the General Assembly plenary (89) last year. However, the vote counts reflect a large number of shifts in position. In terms of backsliding, changes of note include: the shifting back from abstentions to opposition by Egypt, Cambodia, and Kuwait; and from support to abstention by the Central African Republic, Tunisia, Tanzania, the Gambia, Tanzania, and Saint Lucia. There is some speculation that the backsliding is due, at least in part, to the fact that Iran is now chairing the non-aligned movement (NAM), an organisation that maintains a principled position against country specific resolutions at the General Assembly. More positive developments include

60 The vote in the Third Committee was 83 for, 31 against, with 68 abstentions.

61 <http://bit.ly/Uk55Bj>. The vote in the Third Committee was 132 for, 12 against, with 35 abstentions.

62 By Bahrain, Jordan, Kuwait, Egypt, Libya, Morocco, Qatar, Saudi Arabia, Tunisia, Yemen, and the United Arab Emirates.

63 Switzerland, Liechtenstein, Brazil, and Jamaica. As a result of the resolution's perceived one-sidedness, Nigeria moved from supporting the text to abstaining, and Ecuador continued to vote against the resolution.

64 Egypt, Malaysia, Oman, and Sudan voted in favour of the resolution and Kyrgyzstan and Vietnam. Algeria and Myanmar were absent from the vote.

the shift from abstention to 'yes' votes by Serbia, Guatemala, Paraguay, Saint Kitts and Nevis, and Bahrain; and from 'no' to abstention by Algeria, and from 'no' to being absent by Myanmar.

## INSTITUTIONAL DEVELOPMENTS

### Treaty body resources

Three treaty bodies made requests for, and were granted, additional funding this year: the Committee on the Rights of Persons with Disabilities,<sup>65</sup> the Committee Against Torture, and the Committee on the Rights of the Child.<sup>66</sup>

The Committee Against Torture<sup>67</sup> again received an additional week per session in 2013 and 2014, for a total of four additional weeks.<sup>68</sup> This will allow the Committee to reduce its backlog of pending reports, consider additional individual communications and proceed with its optional reporting procedure.

The Committee on the Rights of Persons with Disabilities was granted two pre-session weeks plus two additional regular session weeks bringing the total number of weeks to five,<sup>69</sup> however the implementation of the decision was delayed for a year so it could be funded through the ordinary 2014-15 budget cycle. Disability rights advocates are concerned that budget for additional weeks unfairly include the additional costs necessary to accommodate committee members with disabilities. They argue these should not be confused with the regular costs of the Committee and should be funded separately.

The Committee on the Rights of the Child was also granted the additional meeting time it requested,<sup>70</sup> but the necessary funds were also rolled into the regular budget for 2014-2015, delaying action on the request.<sup>71</sup>

Though consensus was achieved on all three requests, they were not well received by some of the traditionally fiscally conservative States. The United States disassociated from the consensus on all three resolutions, while the UK singled out

65 See <http://bit.ly/TAG5Fu>.

66 See <http://bit.ly/RwgIKD>.

67 This resolution was run by Denmark.

68 See <http://bit.ly/ZZvJEe>. The Committee Against Torture was previously granted an additional week per session in 2010, for 2011 and 2012.

69 See <http://bit.ly/UmxokT>. The resolution was run by New Zealand, Mexico and Sweden.

70 See <http://bit.ly/Wq3yGR>. The resolution was run by Slovenia and Costa Rica. The request was to work in two chambers at one pre-session working group meeting in 2013 and at one regular session to be held in 2014.

71 At issue with the Committee's request was the fact that the budget division at the UN had included the cost of 10 common core documents in the budget implication document (see <http://bit.ly/UEJ8zi>), while the Committee is not the only one that would benefit from those documents.

the Committee on the Rights of the Child's request for disassociation. While Japan did not disassociate from consensus, it made statements after each adoption expressing its concern about the budgetary implications.

### Smooth negotiations on OHCHR strategic framework

The human rights component of the UN's proposed strategic framework for the period 2014-2015 (Programme 20) was taken up by the Third Committee this year.<sup>72</sup> In previous years, several States<sup>73</sup> have used the process to press for more oversight of the Office of the High Commissioner for Human Rights (OHCHR) by the Human Rights Council, while others have vigorously defended the High Commissioner and her Office's independence. Though it was anticipated that Programme 20 negotiations might centre on this divisive issue, fortunately no standoff occurred.<sup>74</sup> Positively, a number of attempts by Russia, Cuba, and China to significantly weaken language relating to OHCHR's role and mandate were roundly rejected by OHCHR and supportive States.<sup>75</sup> One such defeated attempt was a Russian proposal to remove all references to OHCHR's cooperation with civil society or NGOs.

However, some minor changes were made to the text relating to OHCHR's engagement with member States, OHCHR's relationship with civil society, the treaty-body strengthening process, and legislative mandates.<sup>76</sup> Despite consensus on these fairly predictable changes, the resolution containing Programme 20 was adopted by vote, because Israel, the US and Australia disagreed with the text's emphasis on the Durban Declaration and Programme for Action (DDPA).<sup>77</sup> ■

72 The Committee for Programme and Coordination (CPC) of the General Assembly reviewed the Strategic Framework in June 2012. However, negotiations in the CPC broke down, and consideration of the report was deferred to the GA's Third Committee. A summary of some of the developments that led to this breakdown is available in ISHR's reporting, at <http://bit.ly/V8V6yZ> (see p.11).

73 China, Cuba, Russia, among others.

74 Egypt and Mexico co-facilitated the negotiations.

75 EU, Australia, US, Switzerland, *Liechtenstein*, and Norway.

76 These changes included adding limiting language throughout the text such as 'where appropriate', 'as mutually agreed', or 'consistent with mandates' (these were proposals by Cuba and the Russian Federation). Similarly, 'countries from all regions' was inserted where relevant to ensure that OHCHR engages with all countries, not just developing ones (a modification proposed by Cuba). Several modifications in the treaty body section included deleting the word 'substantive' relating to OHCHR's support to the treaty bodies and their experts. An item on 'more streamlined and harmonized reporting procedures' was also removed in this section so as not to prejudge the outcome of the intergovernmental treaty body strengthening process (driven by the Russian Federation). In the legislative mandates section, a random selection of Human Rights Council presidential statements was added to the list of mandates. This was despite opposition by the African Group and the EU that such statements do not have the same weight as resolutions.

77 161 countries voted in favour of the resolution, 3 voted against (US, Israel, and Canada) and 7 abstained.

# UNIVERSAL PERIODIC REVIEW



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The 14<sup>th</sup> session of the Universal Periodic Review (UPR), the second session of the second cycle, was held at Palais des Nations in Geneva from 22 October to 5 November. A total of 14 States were reviewed: the Czech Republic, Argentina, Gabon, Ghana, Ukraine, Guatemala, Benin, Republic of Korea, Switzerland, Pakistan, Zambia, Japan, Peru, and Sri Lanka.

This article presents relevant figures in relation to the effectiveness of the review session. The article also provides an overview of the session by highlighting the level of cooperation of States under review, the quality of recommendations provided throughout the session, and some of the procedural issues encountered.

## INSIDE THE FIGURES

During the 14<sup>th</sup> session, there were a total of 1880 recommendations made to the 14 participating States during the interactive dialogues. The average number of recommendations to each State under Review was 134, a substantial increase from the first cycle review of these States held in 2008, which averaged about 36 per State. About 803 (43%) of these recommendations enjoyed the full support of the State under review, compared to a total of 396 recommendations (21%) rejected. In many cases the reason given for the rejection was a lack of compatibility with the legislation of the respective State. The remaining 681(36%) recommendations were left pending for further consideration and States will have to provide a response no later than the 22<sup>nd</sup> second session of the Human Rights Council taking place in March 2013.<sup>1</sup>

Overall, the figures show willingness from States to cooperate with the system, since a high number of accepted recommendations indicates a commitment to implement, which would lead to substantial changes in human rights situations. At a side event held by the NGO UPR-info during the 14<sup>th</sup> session, there was positive feedback about the implementation of recommendations from the first cycle. In its report 'On the Road to Implementation',<sup>2</sup> UPR-info shows that approximately 40% of the recommendations from the first cycle have been partially or fully implemented at the midterm point of the State's review cycle.<sup>3</sup> This illustrates that progress that has been achieved since the first cycle and creates an expectation by human rights defenders that this progress should be built on during this second cycle.

## QUALITY OF RECOMMENDATIONS

One of the main concerns for the second cycle of the UPR is to ensure that there is extensive follow-up to past recommendations, while also shedding light on new human rights violations occurring in the States under review. However, during the 14<sup>th</sup> session of the UPR, many reviewing States did not adequately engage with these dual objective. While it is important to repeat recommendations that have not been implemented by the State under review, it is also important that recommendations reflect the current situation in a country. For example, during the review of Sri Lanka, there were a total of 43 recommendations from the first reviews repeated out of the total of 230. Regarding current issues in the country, only a few Latin American and European States focused on the reforms that need to be implemented after the end of Sri Lanka's civil war,

1 Five States opted to defer all their responses to recommendations: Japan, Pakistan, Ukraine, Czech Republic, and Argentina.

2 <http://bit.ly/Uk55Bj>.

3 A small percentage of recommendations rejected were also implemented.



which ended a year after the State's first cycle review. This demonstrates a failure to ensure that recommendations accurately reflect the ongoing situation in a country. In fact, in general States were quick to commend the progress made by Sri Lanka on certain issues such as its ability to eradicate the 'scourge of terrorism', but less so in condemning the lack of action on other prominent issues such as the crimes committed during its civil war.

Another important aspect in the quality of recommendations is to assure that States under review are given objective measures that properly apply to its conditions and capacity of implementation. Rather than formulating generic prescriptions that don't take into account national contexts, States should make an effort to identify the root of specific issues and provide relevant recommendations to address them. During the 14<sup>th</sup> session, the recommendations given to Zambia showed awareness of the present situation and reforms occurring in the country, such as the drafting of a new constitution. States were also efficient at identifying the economic capacities of Zambia and many recommendations were derived from the need to implement capacity building and provide funding, in order for the State to meet the expectations of the international community's human rights expectations. This approach is particularly important when reviewing States who are willing to collaborate with the system but lack the institutional structure to properly improve respect for human rights in their country.

Regarding the content of the recommendations throughout the session, many States referred to the necessity of ratifying specific treaties such as the second optional protocol to the *International Covenant on Civil and Political Rights* on the abolition of the death penalty and the *Convention on the Protection of the Rights of all Migrant Workers*. These are specific requests that require precise action and measurable implementation efforts, allowing for clear identification of progress. However, there were other recommendations that lacked specificity and contain vague terms such as 'enhancing measures to eradicate poverty'.<sup>4</sup> This ambiguity allows States under review to evade their responsibility and implement minimal changes to simply avoid criticism in future reviews.

The following is a table with some the most frequently made recurrent recommendations during the 14<sup>th</sup> session of the UPR:

Recurrent Recommendations	States Recommendations was issued to
Abolish the death penalty	Guatemala, Japan, Ghana, Republic of Korea, Peru
Establish a preventive mechanism for torture	Peru, Benin, Ukraine, Gabon
Create enabling environment for human rights defenders/exercise of freedom of expression	Sri Lanka, Peru, Guatemala, Pakistan,
Decriminalise same-sex relationships	Benin, Ghana, Zambia, Gabon,
Ratify the Convention on the Protection of the Rights of All Migrant Workers	Sri Lanka, Ukraine, Japan, Republic of Korea, Czech Republic, Switzerland
Prevent violations against women	Argentina, Peru, Guatemala, Ghana, Republic of Korea, Zambia, Gabon
Prevent child trafficking and child labour	Argentina, Peru, Guatemala, Ghana, Republic of Korea, Zambia, Gabon
Promote participation of women in political life	Guatemala, Zambia, Republic of Korea, Ghana, Czech Republic, Switzerland

## COOPERATION BY STATES UNDER REVIEW

The effectiveness of the review process depends on the level of cooperation by States to accept and implement recommendations. Without such collaboration, the UPR could not serve its purpose of fostering tangible improvements in protecting human rights. Therefore, it is necessary for States to be willing to engage in constructive debate throughout the review and to be objective in their responses. Peru's review was an exemplary demonstration of how the process lends itself as a forum for sharing best practices and receiving advice that specifically addresses human rights concerns occurring in the State under review. Throughout the interactive dialogue with Peru, the State clearly demonstrated the progress made since its first cycle review and acknowledged the areas in which advances have been truncated due to lack of institutional structure. Peru

<sup>4</sup> Recommendation made on the review of Guatemala.

methodically addressed all the advance questions and concerns raised during the interactive dialogue by calling on the relevant Government representatives in the delegation to speak on their areas of expertise.<sup>5</sup> Peru concluded its review by inviting all Special Rapporteurs to visit the State and see the progress it has achieved.

Some States, however, lacked objectivity in the presentation of their report and in the responses provided during the interactive dialogue. Some reports were detached from human rights issues of major concern occurring in the respective State and presented a contradictory picture to that exposed by current and first review cycle recommendations. For instance, this was the case for Japan's review, which was marked by defensive and dismissive language. Japan's stance was particularly criticised on the death penalty. Even though States reiterated recommendations to abolish the death penalty and to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, Japan stood by its position that abolition is simply inappropriate in the country.

This behaviour reflects the lack of accountability within the UPR process in addressing States who are indifferent to certain recommendations that are of major concern globally. There are no consequences beyond the short-term embarrassment of having a deficient human rights record discussed internationally. It is relatively easy for States to reject recommendations, thus avoiding any accountability in those areas. The tendency of reviewing States to simply re-recommend the same issues during the following review cycle, with no demonstrated willingness to increase the focus on previously rejected recommendations, may over time erode the effectiveness of the UPR process.

## PROCEDURAL ISSUES

During the adoption of the report of Sri Lanka, some States raised the fact that modifications had taken place in the substance of recommendations made to Sri Lanka during the interactive dialogue.<sup>6</sup> The UK, the US and France voiced their disagreement with this practice and criticised the lack of transparency it brought to the UPR process. In Sri Lanka's defence, several States including Cuba, China, and Russia raised the importance of sovereignty and the need to prevent turning the UPR into a mechanism for confrontation that puts the State under review in a place where they are unable to accept recommendations. Sri Lanka also took the floor to affirm that it had consulted all the States who provided

the recommendations and agreed all of the modifications with them. It also emphasised its flexibility in accepting 110 of the 230 recommendations it had received. According to UPR-Info, Sri Lanka was not the first State to negotiate the wording of the recommendations with the aim of watering down their strength. In sessions 13 and 14 of the UPR, the States who have modified the language in recommendations include Brazil, Bahrain, Ecuador, Finland, Guatemala, India, Indonesia, Morocco, Peru, Philippines, and Poland. Most States decide to accept this practice in order to accommodate the State under review and the changes always appear in the footnotes of the working group reports.<sup>7</sup>

Some States also resorted to techniques such as utilising most of their available time to present their report thus avoiding having to clarify any of the issues that States raised during the review. Five States made use of most of their time to present their report and did not provide specific responses to questions and issues raised in the interactive dialogue.<sup>8</sup>

The individual time allocated for States to make recommendations proved to be too short in some of the reviews. This was particularly the case Sri Lanka's, which had a total of 98 participating States, resulting in very short speaking times of 72 seconds. The ability for States to submit advance questions, if used more systematically and predictably, may go a long way in addressing this issue and facilitate an interactive dialogue that scrutinises progress in the State under review. However, the number of advance questions submitted for reviews remains limited and often provided by the same group of States.<sup>9</sup> More use of and attention to advance questions by both the State under review and reviewing States would allow delegations to better prepare their responses and interventions and create a more informed and deeper interactive dialogue during the oral review.

## CONCLUSION

The 14<sup>th</sup> session marked the second review under the new procedures for the second cycle. Although clear steps were taken to improve the procedural process, there remain challenges to the system. Key is the reliance on the cooperation of States, which in some cases results in the State under review being given great leeway to engage with the review on its own terms, such as in negotiating recommendations.

Although it could be argued that the cooperative basis of the UPR is one of its strengths, and encourages participation, it is also the greatest weak spot of the process. If States exploit that aspect of the process too far the mechanism could be irreparably damaged. ■

5 Argentina, Japan, Switzerland, Pakistan also use members of their delegation to answer questions.

6 Sri Lanka made eight amendments. They change references to implement or report on implementation of the recommendations from the Lessons Learnt and Reconciliation Committee (LLRC) to instead reference the Action Plan created to implement the recommendations from that Committee. That Action Plan rejects the central call from the LLRC to carry out independent investigations.

7 See UPR-trax #35 available at <http://bit.ly/Yngunm>.

8 Guatemala, Benin, Pakistan and Sri Lanka all used the majority of their time to present their report.

9 Spain, Canada, Denmark, Sweden, United Kingdom, Netherlands.

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# HUMAN RIGHTS COMMITTEE

Constructive session for the reviews of Philippines, Turkey, Germany, Bosnia and Herzegovina, and Portugal.



It was a generally productive 106<sup>th</sup> session for the Human Rights Committee, held from 15 October to 2 November 2012 in Geneva. State engagement was often constructive and frank, and information supplied by non-State actors, such as human rights defenders, was given due recognition by the Committee.

The Committee considered the reports of the Philippines, Turkey, Germany, Bosnia and Herzegovina, and Portugal.<sup>1</sup> Ivory Coast was to be reviewed in the absence of a report on 26 October 2012. However, after the Government undertook to submit its report by March 2013, the review was postponed, most likely until 2014.

The Committee also met with national human rights institutions (NHRIs) and non-governmental organisations (NGOs) and held sessions on its working methods. It considered 27 individual communications, and adopted Lists of Issues on Albania, Belize, China – Hong Kong,<sup>2</sup> Finland, and Ukraine, and a List of Issues Prior to Reporting on Australia. In public sessions, it conducted a meeting with the Committee on the Elimination on the Discrimination against Women and its first half-day general discussion on a new General Comment on the right to liberty and security of person (Article 9).

## COMMITTEE INTERACTION WITH STATES AND CIVIL SOCIETY

The UN High Commissioner for Human Rights, Ms Navanethem Pillay, opened the 106<sup>th</sup> session of the Committee, requesting its continued support for the treaty body strengthening process and acknowledging, what she described as, a ‘bleak economic outlook’ for the UN treaty body system.<sup>3</sup> The opening also highlighted some tension between the Committee and the Office of the High Commissioner for Human Rights (OHCHR) – exemplified in Committee members’ discontent at the decision to move the Committee sessions from New York to Geneva. Ms Pillay also emphasised the importance of bringing the work of the Committee closer to the ‘lives of individuals and the deliberations of States’. The Committee clearly shared these concerns, opening many of its sessions to the public.

The Committee also demonstrated the value it places on contributions by non-State stakeholders, including NHRIs and NGOs, for example, in the adoption of a paper on the ‘relationship of the Human Rights Committee with National Human Rights Institutions’;<sup>4</sup> and in the drafting process for the General Comment on the right to liberty and security of person.<sup>5</sup> Prepared by Mr O’Flaherty, the NHRI paper seeks to bolster the Committee’s relationship with NHRIs, and mirrors a similar paper on the Committee’s relationship with NGOs, which was adopted at the March 2012 session.<sup>6</sup>

In order to prepare the draft General Comment on liberty and security of person, the Committee solicited written submissions from NGOs, and during the discussion, ten NGOs made presentations. Mr Gerald Neuman, Rapporteur for the draft General

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1 State reports, lists of issues and written replies, delegation lists and statements, and civil society submissions can be found at <http://bit.ly/WqEBL2>.

2 China has not yet ratified the Covenant.

3 Ms Navi Pillay in her opening address at the 106<sup>th</sup> session, available at <http://bit.ly/ShQ1Wc>.

4 Available at <http://bit.ly/WqDoDF>.

5 These rights are enshrined in Article 9 of the Covenant.

6 Available at <http://bit.ly/WqDaw4>.

Comment, will prepare the first draft. A revised version will be open for any interested party for further comments.<sup>7</sup>

In line with standard practice, the Committee also held NHRI and NGO briefings prior to the consideration of each State's report. The presence of NGOs varied between briefings for each State. Whereas 12 civil society organisations submitted reports and attended the briefing and review sessions on the Philippines, no Portuguese NHRI or NGO attended Portugal's review. Committee member Krister Thelin suggested the absence of Portuguese civil society could be explained by the State's relatively high compliance with the Convention. Nonetheless, the State delegation of Portugal was disappointed no NGOs were present and insisted that ethnic, minority, and women's NGOs were involved in preparing the national report. Similarly, the head of the Philippines' delegation, Ms Leila M De Lima, Secretary of the Department of Justice, affirmed the State had held consultations with civil society.

While the delegations of Turkey, and Bosnia and Herzegovina claimed effective consultation had taken place with civil society, this was disputed by many NGOs. For instance, NGOs from Bosnia and Herzegovina claimed the State's consultation process had discriminated among members of civil society, as only two NGOs in a large NGO coalition had been invited to discussions with the Government.<sup>8</sup>

The Committee referred to NGO-supplied information on several occasions throughout the session. For example, the lack of implementation of Turkish legislation, on access to lawyers and guarantees to legal representation, was raised after it had been included in a report by Amnesty International. Amnesty International's report on conscientious objectors, and NGO information that honour killings are on the rise, were also cited by Committee members during Turkey's review.

## STATE ENGAGEMENT WITH THE COMMITTEE

All delegations were composed of high-level ministers and government officials. The Committee took particular note of the Philippines' delegation, numbering 26 well-qualified members from diverse departments. In contrast, the Portuguese delegation comprised only five representatives, however the Committee remarked on how well-prepared the delegation was.

States' historical and political contexts framed numerous debates. For example, the peace agreement signed only a few hours before the review of the Philippines, known as the 'Framework Agreement on the Bangsamoro', between the Government and the Moro Islamic Liberation Front,

was commended by the chair of the Committee, Ms Zonke Majodina. The delegation claimed human rights protection would define the future character of the Philippines, and international law, anti-corruption, and the rule of law would lie at its foundation. The vestiges of the war in Bosnia and Herzegovina were also central to that State's review, shaping many of the problems identified by the Committee.

Previous experience in appearing before the Committee influenced the effectiveness of State discussions with the Committee, and members' expectations and assessments of delegations. The delegation of Turkey, having only submitted its initial report, appeared to be overwhelmed by its first experience before the Committee. Although vocal on its country's progress since the 1990s and its commitment to cooperating with international mechanisms, the delegation seemed unprepared and unable to respond to detailed questions. The head of the delegation responded to many questions, but sometimes inadequately, and only after consulting his legal representative for several minutes. A more constructive approach would have been to let the legal representative respond directly.

In direct contrast, on the occasion of its sixth report, the German delegation was well prepared. Nonetheless, Committee member Mr Thelin noted a higher standard of compliance with the *International Covenant on Civil and Political Rights* (the Covenant) is expected of Germany, due to its long experience with implementing the Covenant and reporting to the Committee. The Committee was most impressed by the fourth periodic report and dialogue of Portugal. Sir Nigel Rodley described the position of Portugal as 'exemplary' and held it up as a model of best practice. The Committee set the deadline for the submission of Portugal's next report to be in six years, longer than the usual four or five years.

Although most State reports were submitted late, Committee members were generally understanding of the delay and appreciated the quality of the reports. Mr Neuman described Portugal's report as 'extremely informative'. Despite sections in Germany's report that were said to be uninformative or selective, it was recognised as a well-structured model for periodic reports. Gaps were identified in some of Turkey's responses, in what was otherwise acknowledged to be a high-quality report.

## AREAS OF PROGRESS AND CONCERN

Whereas the delegations of the Philippines, Germany, and Portugal all seemed well prepared, the Committee was more critical of the engagement by Turkey, and Bosnia and Herzegovina. The Turkish delegation responded to issues selectively, meaning Committee members had to re-question the delegation on several occasions. This included on the issues of abuse of gay men within the military and the compatibility of Turkey's anti-terrorism legislation with

<sup>7</sup> See the CCPR Centre's overview of the 106<sup>th</sup> session: <http://bit.ly/WqDo6y>.

<sup>8</sup> See the CCPR's overview of the review of Bosnia and Herzegovina at <http://bit.ly/ShOY8W>.

the Covenant. In contrast, the delegation of Bosnia and Herzegovina gave frank, although at times sparse, responses. The delegation readily admitted there is a lack of freedom of expression and association for journalists and human rights defenders, and little State 'appetite' for pursuing justice for hate crimes. Mr O'Flaherty said these responses 'sounded like [those of] an NGO', not a State. Mr Thelin juxtaposed these frank responses with, what he described as, 'political inertia' to combat the issues raised.

There were also many cases of States providing insufficient responses to questions. For example, the Philippines' delegation did not provide any statistics to support its assertion that torture is not prevalent in the country. Moreover, abortion was not referred to in either the Philippines' report or its written replies. Similarly, Turkey did not refer to its reservation to and declarations on the Covenant in its report. There were also cases of States clearly disagreeing with Committee claims. For example, in response to Ms Motoc's statement that the protection of minorities in Bosnia and Herzegovina appeared to be lacking, the delegation said there has been great progress in promotion of Roma rights and programmes, and capacity building of Roma NGOs.

However, delegations were at times willing to admit to issues. The delegation of the Philippines conceded prejudices against lesbian, gay, bisexual and transgender (LGBT) people are persistent, despite the Supreme Court's landmark *Ang Ladlad* ruling, which was welcomed by the Committee.<sup>9</sup> It also acknowledged the extremely high number of teenage pregnancies in the Philippines requires attention, outlining efforts undertaken on reproductive health. Germany professed a willingness to reconsider its reservation to Article 15 of the Covenant,<sup>10</sup> and agreed to make changes to the definition of torture in the Criminal Code, as proposed by the Committee.

Positive developments were noted by the Committee, such as the Philippines' enactment of several laws since its previous examination in 2003, including the Anti Trafficking Law, Anti-Violence Against Women and their Children Act, the Magna Carta of Women, and the law abolishing the death penalty. The Committee Chair recognised Turkey's judicial reform package, including the abolition of the death penalty and the alignment of domestic laws with its international obligations. Examples of more specific instances of progress included Bosnia and Herzegovina's improved model to

combat trafficking, and Portugal's inclusion of sexual orientation as a prohibited ground of discrimination.

However, the Committee also identified numerous areas of concern. In the review of the Philippines, impunity for extrajudicial killings and enforced disappearances, the impact of Sharia law on women, highly restrictive reproductive rights and access to contraception, the criminalisation of abortion, discrimination against LGBT people, and prison overcrowding, were all noted. For Turkey, the number of laws existing in draft form, and a lack of information on their implementation, the State's refusal to recognise conscientious objection to military service, or to include sexual orientation and gender identity as a prohibited ground of discrimination, were also raised. Gender equality and minority and racial discrimination remained issues in both Germany and Bosnia and Herzegovina, as did the duration of pre-trial detention in Portugal, and the lack of a maximum preventative detention period in Germany.

## CONCLUSION

As the High Commissioner said in her opening remarks at the session, the increase in the number of UN treaty bodies has caused a 'mushrooming of differing working methods and practices [...] threatening the accessibility of the system to individuals and States alike'. Throughout the 106<sup>th</sup> session, the Committee displayed some awareness of its position as one part of the overall UN human rights system, an understanding not always demonstrated by all treaty bodies.

However, while Mr O'Flaherty affirmed treaty bodies should go in the same direction, without striving for homogenisation, other members displayed scepticism about the treaty body strengthening process. Ms Christine Chanet emphasised the differences between treaties and between methods of work, while Ms Motoc argued the contrasting nature of treaty bodies explains why harmonisation has not worked.

Across its meetings with the Committee on the Elimination of Discrimination against Women and the Committee against Torture, on methods of work, and during its own discussions on the same, the Committee was enthusiastic to share knowledge and a hope that it would serve as a model for other treaty bodies. This included recognition of the need for the Committee to share its practices in engaging positively with NGOs and other stakeholders, particularly with a view to the ongoing treaty body strengthening process. ■

<sup>9</sup> In April 2010, the Supreme Court found that *Ang Ladlad*, an LGBT organisation, could be registered as a party-list organisation for elections. For more information, see <http://bit.ly/WqDQ40>. The decision can be found at <http://bit.ly/WqDPHg>.

<sup>10</sup> Article 15 provides that a person may only be held guilty of a criminal offence for an act or omission that was constituted a criminal offence at the time it was committed. Similarly, no higher penalty shall be imposed than the penalty applicable at the time the act or omission was committed.



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# COMMITTEE AGAINST TORTURE

## Committee creates rapporteur on reprisals



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In an effort to better protect civil society and human rights defenders from harm, the Committee against Torture (the Committee) at its 49<sup>th</sup> session created a rapporteur on reprisals.<sup>1</sup> It is yet to appoint a member to the role. After the Subcommittee on the Prevention of Torture, the Committee against Torture is the second treaty body to create a specific mechanism to respond to the increasingly-recognised problem of reprisals against those who cooperate or seek to cooperate with the UN and its mechanisms.<sup>2</sup>

The Committee's advances on reprisals occur at a moment of greater concern within the broader UN human rights system about the harassment, intimidation or reprisal of those who cooperate with its human rights mechanisms. The Human Rights Council's first ever panel discussion on reprisals held in September<sup>3</sup> saw unanimous rejection of the practice of reprisals, by participating States and panelists, including the Chair of the Committee against Torture. The swift establishment of a rapporteur on reprisals, somewhat following the High Commissioner's recommendations of treaty body 'focal points' on reprisals in her report on the treaty body strengthening process,<sup>4</sup> further indicates that efforts towards a more systemic response by the UN system to the protection needs of human rights defenders are gaining momentum.

In terms of State reviews, a frank interaction between States and Committee members is essential to guarantee a comprehensive and effective review of national implementation of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (the Convention).<sup>5</sup> Some States engaged openly with the Committee during the session, which was held in Geneva from 29 October to 23 November 2012. However, many failed to fully cooperate due to their inability or unwillingness to provide sufficient information. Committee members also sometimes failed in their duties, by not holding all States to the same standards, and by being permissive of the delayed submission of State reports.

The Committee considered the reports of Peru, Mexico, Norway, Qatar, Senegal, Tajikistan, Gabon, the Russian Federation and Togo.<sup>6</sup> It also held private briefings with non-governmental organisations (NGOs) prior to each State review and several closed sessions on working methods, communications and the adoption of concluding observations. Furthermore, the Committee adopted its third General Comment, on redress and compensation for victims of torture (Article 14).<sup>7</sup> Its meeting with the Subcommittee on Prevention of Torture and its session on follow-up to articles 19 and 22 were both public, revealing the Committee's willingness to share its working methods with relevant treaty bodies and its procedures on follow-up.

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1 See <http://bit.ly/SiiQ4Z>.

2 In February 2012, the Subcommittee established a working group on the issue of reprisals with a view to formulating a strategy to prevent and combat the issue.

3 Read ISHR's news piece 'Landmark panel on reprisals at the Human Rights Council' at <http://bit.ly/Var1PX>.

4 See <http://bit.ly/WJCfrl>.

5 See <http://bit.ly/VaqD4a>.

6 All States reports, as well as their lists of issues and written replies, delegation lists and statements, and civil society submissions can be found at <http://bit.ly/VaqGgc>.

7 General Comment No 3 of the Committee can be found at <http://bit.ly/VaqIom>. Article 14 of the Convention provides for redress and compensation for victims of torture.

## VARIED ENGAGEMENT BY STATES UNDER REVIEW

The Committee's consistent commendation on the quality of the State discussions masked the varying capacity and willingness of State delegations to engage with it. Many States engaged openly with the Committee, illustrating elements of their histories and current political situations that present obstacles to implementing the Convention. For example, the delegation of Togo acknowledged its Criminal Code only exists in draft form, and explicitly recognised the shortcomings in its torture legislation. The delegation acknowledged the seriousness of the conflict that had rendered Togo's legal system so fragile, and stated its commitment to passing the necessary torture legislation. Ms Essadia Belmir, Committee Vice-Chairperson, commended the delegation for the frank dialogue.

In contrast to this open engagement, many States evaded their obligation to provide sufficient responses in their reports and during the dialogues. Without sufficient State information, the Committee's capacity to effectively assess implementation of the Convention is significantly diminished.

When States did not engage effectively with the Committee, it was due to both the omission of information, meaning issues were insufficiently addressed, and deliberate efforts to manipulate facts and the progression of the dialogue. The report submitted by Mexico failed to tackle certain issues. Mr Abdoulaye Gaye, Co-Rapporteur for the report of Mexico, said the report contained many information gaps regarding disappearances of women. These deficiencies are more surprising given it was the combined 5<sup>th</sup> and 6<sup>th</sup> periodic report of Mexico, and the State had sent such a high-level delegation, comprising 34 representatives.

Conversely, the delegation of the Russian Federation gave detailed responses and expressly affirmed its commitment to the Convention. Nonetheless, it was reluctant to admit it has problems related to torture, and inconsistencies existed within its report and dialogue. For example, the delegation revealed a discrepancy in the State's position regarding the protection of human rights defenders. Whereas the report said human rights defenders did not merit special protection, a 2001 decision of the Russian Constitutional Court made reference to the vulnerability and protection needs of defenders, and cited the UN Declaration on human rights defenders. Despite these inconsistencies, Committee Vice-Chairperson Xuexian Wang described the dialogue with the Russian Federation in his concluding remarks as constructive and fruitful, which may indicate the Committee is not always as critical as it should be.

## COMMITTEE CRITIQUE INCONSISTENT

Throughout the session, Committee members critically engaged with delegations by pointing out the lack of detail

in State reports and responses. Special Rapporteurs for the States under review referred frequently to articles of the Convention, to highlight shortcomings and seek clarification on issues of concern. For example, in the review of Gabon, Mr Satyabhoosun Gupt Domah, Committee Co-Rapporteur, pointed out that Gabon's training on torture is insufficient as it is only provided to law enforcement officials and not civil, military and public officials, as required by Article 10 of the Convention. The Committee later expanded on the topic by enquiring about the levels of participation and effectiveness of the trainings. This shows the importance of the Committee's attention to detail, which compels States to further strengthen their legislation against torture.

There were also instances in which the Committee effectively questioned States on improvements made since their last interaction with the Committee. During the dialogue with Norway, Committee members were sceptical about advancements on the issue of solitary confinement, even though Norway had been commended in 2007 for abolishing solitary confinement in its legislation.<sup>8</sup> The Committee referred to a specific case<sup>9</sup> and concluded that certain practices of long-term detention were de-facto solitary confinement. This example shows the importance on following up on past reviews, even if the legislation of the respective State is said to comply with the Committee's recommendation. By doing so, the Committee assures that States remain firm in their previous commitments.

However, the Committee members were more permissive with regards to procedural concerns, such as reporting delays. Delayed reports are not a new phenomenon, but the Committee has not yet established an effective method to combat the problem. During the 49<sup>th</sup> session, Senegal, Gabon and Qatar submitted reports with a delay of 16, 11 and 3 years respectively. Although the Committee expressed concern with the delays, there was no real sense of urgency in addressing the issue. The Committee does have the option of scheduling reviews in the absence of reports, which often incites the concerned State to speed up the submission of its report, and may limit the excessive delays currently observed. However, it does not do so as systematically as other treaty bodies, such as the Human Rights Committee, do.

There was some lack of consistency in the Committee's questioning of States. For instance, during the reviews of the Russian Federation and Qatar, the Committee refrained from addressing the abolition of the death penalty, despite the fact that both States have yet to ratify the *Second Optional Protocol to the International Covenant on Civil and Political Rights*.<sup>10</sup> Conversely, when examining the cases of Tajikistan and Gabon, the Committee persistently asked

8 Report on Norway's 2007 review by the Committee against Torture can be found at <http://bit.ly/VaqOwh>.

9 A man had been put in solitary confinement for 110 days and this had only been interrupted due to his needing to be hospitalised.

10 See <http://bit.ly/VaqQ7q>.



and recommended that both countries amend legislation in order to abolish the death penalty.<sup>11</sup> Although it is important Committee members review States based on their individual progress, they should also make sure to limit such discrepancies between the reviews of each State.

Lack of congruency between the reviews and concluding observations presents another concern of the 49<sup>th</sup> session. Some of the concluding observations raised by the Committee addressed issues that were not explicitly discussed during the reviews. This could present a challenge to the implementation of recommendations, as the discussion leading to concluding observations can provide useful context for their implementation.

## EFFECTIVE ENGAGEMENT WITH NGOS

Across its consideration of State reports, the Committee displayed a high regard for NGO information and a concern for the protection of NGOs combating torture. The structure of the Committee's sessions is particularly amenable to soliciting information from NGOs. As in past sessions, the Committee held formal private briefings with NGOs for one hour prior to each State review. The majority of Committee members took this opportunity to interact with the NGOs. Due to the detailed discussion and debate, many of the briefings ran over time. Such devotion of time to NGOs is an effective element of the Committee's working methods, and provides it with a solid factual base on which to question States.

However, the briefings are not without their problems. During the 49<sup>th</sup> session, the NGO presence was so large for Mexico and the Russian Federation that the Committee experienced logistical difficulties in conducting the NGO meeting. In contrast to the considerable contribution from civil society for the reviews of the Russian Federation, Mexico, and Peru, very few NGOs attended the sessions on Gabon, Norway and Senegal. No more than three made submissions to the Committee for each State, and the submissions were often limited in content, outlining only one issue.<sup>12</sup> Consequently, no comprehensive NGO reporting was made available to the Committee in relation to these States, diminishing members' ability to effectively assess and question the States' delegations.

Nonetheless, the Committee did rely on the information it received from civil society to raise as issues during the State reviews. For example, NGO information was used to refute the Russian Federation's claim it had brought legal certainty to the definition of torture, despite having been asked to revise its definition numerous times. Furthermore, Ms Felice Gaer, Committee Rapporteur for the report of the Russian

Federation, raised NGO concerns over the independence of public oversight committees in Russia. The use of this information thus clearly increased the quality and reliability of members' interaction with States.

Committee concern was also apparent for the inclusion of NGOs in the implementation of recommendations, and for the protection of NGO workers so they can work effectively to combat torture within States. In its concluding observations on the Russian Federation, the Committee expressed a serious concern about amendments to the Criminal Code threatening human rights defenders and persons providing information to the Committee and other treaty bodies. The Committee was also concerned about serious acts of reprisals against human rights defenders and the failure of the State to effectively investigate these acts. In this way, the Committee addressed the space for NGOs to combat torture and sought to assure their protection. ■

11 The Committee recommended for Tajikistan to transform its death penalty Moratorium into abolition; For Gabon, the Committee asked to a progress draft law to a de facto abolition of the death penalty.

12 See <http://bit.ly/VaqGgc> for all civil society submissions for each State reviewed during the 49<sup>th</sup> session.

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# COMMITTEE ON ENFORCED DISAPPEARANCES

Committee prepares to receive first State reports



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Described as a ‘turning point’ by its Chair, Mr Emmanuel Decaux, the third session of the Committee on Enforced Disappearances (the Committee) moved from a previous focus on working methods and rules of procedure to being in a position where it can now look ahead at the application of these tools. The Committee met in Geneva from 29 October to 9 November 2012, and the deadline for submission of the first State reports to the Committee was December 2012.

Taking account of this important shift in the work of the Committee, Mr Decaux stressed the need to strengthen the Committee’s interaction with different stakeholders, including other treaty bodies, the Working Group on Enforced or Involuntary Disappearances (WGEID), national human rights institutions (NHRIs), and civil society. Since its inception, the Committee has put an emphasis on the crucial role these stakeholders will play in enabling it to carry out its mandate. This session was no exception, and the Committee held meetings with all these groups. However, a gap seems to be emerging between the Committee’s expressed eagerness to work with stakeholders, and its efforts and ability to build the capacity of stakeholders to fill those roles, in particular that of ‘grassroots’ NGOs.

The session also saw discussion with States and NGOs about how the Committee plans to handle its consideration of the first reports from States. Uruguay will be the first State considered by the Committee, and its report is available on the Committee’s website.<sup>1</sup>

## THE COMMITTEE’S WORK WITH STAKEHOLDERS

The role of NGOs and NHRIs was particularly stressed at this session. During a meeting held with NHRIs, Committee members identified several areas where they envisaged fruitful cooperation. NHRIs could, for example, encourage States to ratify the *Convention on Enforced Disappearances* (the Convention), provide information to the Committee about the situation in a State that has ratified the Convention, and assist in the implementation of recommendations by taking on the role of coordinating different bodies within a State.

The Chair said the Committee itself has limited resources to commit to these areas, which is why it is relying on stakeholders.<sup>2</sup> It had, however, organised workshops on ratification of the Convention and adoption of legislation for francophone countries, in cooperation with the Organisation Internationale de la Francophonie.

NGOs were also called on to assist the Committee, particularly in the area of assisting victims and their relatives to bring forward requests for urgent action or submit individual communications to the Committee. The central role the Committee envisages for NGOs was brought out through a comment from Committee member Mr Rainer Huhle, that NGOs should consider themselves ‘responsible’ for such cases. NGOs were requested to provide victims with practical assistance and advice in the submission of the report, but also to maintain the ‘information chain’ between the victim and the Committee, including by translating materials from the victim and from the Committee. Mr Huhle also noted that cases could collapse if NGOs

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<sup>1</sup> See <http://bit.ly/GKR6cP>.

<sup>2</sup> Comment made during a meeting between NGOs and the Committee, 5 November 2012

lost contact with a victim, making it clear that the Committee sees NGOs as filling a crucial mediating role.

However, if NGOs are to carry out this role effectively, they must be aware of the Convention and its provisions. A huge lack of awareness amongst grassroots NGOs about the Convention and the Committee was raised as a concern by NGOs during the session.<sup>3</sup> As Thailand also pointed out in the meeting between States and the Committee, human rights practitioners on the ground had particular difficulty understanding the difference between the *Declaration on the Protection of all Persons from Enforced Disappearance*, which the WGEID is entrusted with monitoring,<sup>4</sup> and the Convention.

Citing the lack of knowledge about the Convention amongst many NGOs, Committee members called on better informed civil society organisations to educate their peers in this regard. However, while the Committee has constantly stressed the importance of the contribution of stakeholders, and in particular civil society, it has actually excluded civil society from some key areas of its work. This has made it difficult for NGOs to understand the Committee's methods of work.

For example, at the opening session of the Committee in November 2011, the International Coalition Against Enforced Disappearances (ICAED),<sup>5</sup> called on the Committee to ensure an open and participatory process for drafting its methods of work and rules of procedure. However, the Committee has held all those discussions in closed sessions.

The trend continued at this session, with the Committee holding three thematic discussions in closed meetings.<sup>6</sup> A discussion with Sir Nigel Rodley, representing the Human Rights Committee, was closed to the public. Even more surprising, given the understandable confusion amongst stakeholders about the relationship between the Committee and the Working Group on Enforced and Involuntary Disappearances (WGEID), the Committee's meeting with the WGEID was held in closed session. Not only does this prevent civil society from gaining the knowledge it needs to assist the Committee effectively, but it also keeps stakeholders at arms' length from

the Committee's work, even while it asserts that it relies on civil society to assist it in its work. If the Committee wants to make good on this claim, it must ensure stakeholders can contribute and participate in all relevant areas, as opposed to only those where the Committee lacks resources or capacity.

However, the Committee did meet with NGOs outside of its formal programme for the session. For example, members Mr Huhle and Mr Luciano Hazan convened a workshop with NGOs on methods for reporting cases to the Committee, including requests for urgent action and individual communications. The workshop revealed great interest amongst civil society in the Committee's work, but a lack of awareness, even amongst generally well-informed organisations, about working methods, particularly those methods that are unique to this Committee.<sup>7</sup>

## PREPARING TO RECEIVE THE FIRST REPORTS FROM STATES

The deadline for the submission of the first 21 reports from States<sup>8</sup> that have ratified the Convention was in December 2012. The report of Uruguay is now available on the Committee's website and will be considered by the Committee at its next session, to be held in Geneva from 8 to 19 April 2013. Information from NGOs and other stakeholders about the situation in Uruguay as it relates to the Convention should be submitted by 16 February in electronic form, and by 29 March in hardcopy.<sup>9</sup>

Members encouraged NGOs and representatives of victims to submit information on the situations of the countries under consideration, and stressed that the Committee was ready to take on board any information it received.

As part of the Committee's preparations for receiving its first State reports, the meeting with States focused on its Guidelines for State Reporting. Unlike other treaty bodies, the Committee does not require all States to report to it regularly. An initial report is required in all cases, but after that point additional reports will only be required from those of whom the Committee makes a specific request. In the case of

3 Meeting held between NGOs and the Committee, 5 November 2012, statement by Geneva for Human Rights.

4 The Declaration was adopted by the General Assembly in 1992. The WGEID was created in 1980 by the Commission on Human Rights and was given the mandate of assisting relatives of disappeared persons to ascertain the fate and whereabouts of their disappeared family members. The WGEID receives reports from relatives of victims and from human rights organisations and transmits cases complying with its criteria to concerned governments. When the Declaration was adopted, the WGEID was also charged with monitoring States' compliance with the Declaration.

5 ICAED consists of 40 member organisations, from Africa, Eurasia, Latin America, Asia, and the United States.

6 Discussions were held on the responsibility of States and the role of non-State actors, on trafficking and enforced disappearance, and on the principle of non-refoulement, expulsion, and extradition under Article 16 of the Convention.

7 Alongside country visits (Article 33), individual communications (Article 31), and inter-State communications (Article 32), the Committee also has two working methods that are unique to it. Article 30 of the Convention enables relatives of the disappeared person or a representative to submit a request that a person should be 'sought and found' as a 'matter of urgency'. Article 34 permits the Committee to bring to the attention of the General Assembly information of widespread or systematic practice of enforced disappearances in a territory under the jurisdiction of a State that has ratified the Convention.

8 Albania, Argentina, Bolivia, Brazil, Burkina Faso, Chile, Cuba, Ecuador, France, Germany, Honduras, Iraq, Japan, Kazakhstan, Mali, Mexico, Nigeria, Paraguay, Senegal, Spain, and Uruguay.

9 For more information, see <http://bit.ly/W3DP71>.

this additional report, the Committee may indicate the areas on which the State party has to focus its attention.<sup>10</sup>

Argentina wanted to know how the Committee planned to avoid long delays between the submission of a State report and its consideration by the Committee, particularly, whether the Committee was concerned about the impact resource constraints could have on timely translation of documents. The Chair set out the Committee's goal of having reports translated and published on its website within ten weeks of being received. Although the Chair had expressed concern about the impact of resources constraints on areas such as the Committee's ability to work to encourage States to ratify the Convention, he did not raise it as a possible limiting factor in the context of timely translation.

The Chair also stated his determination to ensure the Committee examined the situations in countries even where the State had not submitted its report on time. He added that three to four year delays in reporting, as often seen with other treaty bodies, are unacceptable and the Committee would be making all possible efforts to assist States that are late in reporting. To accommodate timely consideration of State reports, the Committee noted it would need to either add a week onto each of its current two-week sessions, or add a third two-week session per year. For this request to be considered it must be submitted to the General Assembly. However, the Committee did not do so in its 2012 report to the General Assembly, and did not specify at this session whether it intends to do so as part of its 2013 report.

## CONCLUSION

The Committee has shown itself to be fully aware of the need to build effective working relationships with stakeholders, especially as it moves into the next phase of its work. However, while it has demonstrated commendable readiness to work with NGOs and NHRIs, its failure to include them in much of its work has resulted in a missed opportunity to develop genuine partnerships.

The beginning of the consideration of State reports marks another opportunity to reach out in the spirit of establishing such partnerships, in particular to 'grassroots' NGOs working in the country under review. Resource constraints limit the Committee's ability to build the capacity of civil society. However, it could explore ways of addressing those limitations, such as by setting up a voluntary fund, as suggested by NGOs, to which States could opt to donate, thus creating a pool of financial resources available for States in need of assistance to implement the Convention. ■

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10 Along the lines of the List of Issues Prior to Reporting procedure, under which a treaty body develops a list of questions for the State, the answers to which form the State's report. As is the case with other treaty bodies, this procedure is not available for a State's first report to the Committee.



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# COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

A defence of religious and cultural traditions seen in reviews of Mauritania, Equatorial Guinea, Ecuador and Tanzania



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**G**ender equality and sexual violence, disability, and the treatment of indigenous peoples and minorities were amongst the key themes discussed at the 49<sup>th</sup> Session of the Committee on Economic, Social and Cultural Rights (the Committee). The States under review between 12 – 30 November 2012 were Iceland, Bulgaria, Mauritania, Equatorial Guinea, Tanzania, Ecuador and the Republic of the Congo.

Some obstructive and defensive attitudes were seen from a number of States regarding religion and equality. Additionally, Equatorial Guinea and the Congo failed to submit reports, leading to dissatisfaction amongst the Committee members over State compliance with the process. While reticence to comply with universalist notions of equality is not a new phenomenon, it was noted by Committee members that the responses of Mauritania and Equatorial Guinea to questions of women's equality, religious freedom and the rights of persons with disabilities were particularly vehement.

However, a number of NGOs made submissions regarding States' human rights records, and in many cases these submissions informed open and valuable discussion with States.

## NGO SUBMISSIONS

The International Disability Alliance (IDA) submitted reports on every country under review, and was the only non-governmental organisation (NGO) to give submissions on the two non-reporting States, Congo and Equatorial Guinea. Amnesty International, the Centre for Reproductive Rights, Minority Rights Group International, and Anti-Slavery International also submitted information.

While all submissions called for States to better implement all aspects of the Conventions, a number of issues were clearly of particular concern. Submissions on Tanzania and Ecuador highlighted the need to address sexual violence against women and girls, the provision of sexual and reproductive health education and services, and the full involvement of indigenous peoples in development decisions affecting their property and rights. Amnesty International's submission also underlined Ecuador's repression of the right to peaceful protest by its indigenous population.

The intervention by the Centre for Reproductive Rights, the only oral intervention made at the meeting that the Committee held with NGOs at the opening of the session, focused on the damaging phenomenon of forced pregnancy tests in schools. The NGO alleged that girls found to be pregnant were then expelled from school, harming their educational and career opportunities.

Unsurprisingly, reports on Mauritania focused on the country's ingrained cultural practice of slavery. It was noted that slavery impacts upon a wide range of other ECSR rights – it denies education, health and sanitation, adequate food, cultural and social participation, makes women and girls vulnerable to sexual abuse, and forces young girls into marriages.

NGO submissions for Iceland and Bulgaria focused largely on the States' provision of services for persons with disabilities and those suffering from mental health difficulties. The report for Bulgaria also emphasised problems with discrimination against the Roma communities and their children with regards to social security, housing, and education.

## STATE ENGAGEMENT

The session was notable for the extreme non-compliance of two States: the Republic of Congo, and Equatorial Guinea. Due to the Republic of Congo's failure to submit a report, they did not engage in dialogue with the Committee.

Equatorial Guinea's delegation appeared for the review despite having submitted no report, but the Committee was dissatisfied with the results of the dialogue. The Chairman of the Committee, Mr Ariranga Govindasamy Pillay, noted that the State's review was 22 years late. The delegation was evasive when the Committee asked questions regarding polygamy and corruption, and denied the existence of forced labour, as well as the validity of UNESCO reports on literacy rates in the country.

The rich oil fields of Equatorial Guinea and the boost to GDP the resources create stand in stark contrast with the poverty of the population, who subsist on less than \$1 a day.<sup>1</sup> Ms Rocío Barahona Riera and Mr Chandrachekhar Dasgupta questioned the Ambassador on the State's failure to address this discrepancy; the Ambassador, however, expressed disbelief that the poverty was as extreme as suggested, and stated that funds were being spent on necessary infrastructure.

Recommendations that the State ratify the Optional Protocol to the Convention, allowing individuals to submit complaints to the Committee, were met with hostility. Mr Phillippe Texier was highly critical of this reticence, and questioned the State's commitment to either the treaty or to human rights more generally.

Mauritania's review also demonstrated a wide divergence between the efforts of the Committee to engage in a constructive dialogue, and the delegation's willingness to critically reflect on its human rights record. While Mauritania appeared open and willing to communicate, the delegation evaded many questions pertaining to the rights of women and sexual violence on the grounds of the prevalence of Islam in the country's cultural and political priorities.

While slavery was abolished in Mauritania in 1981,<sup>2</sup> the practice persists; and despite well-documented allegations from

NGOs such as Anti-Slavery International,<sup>3</sup> the Mauritanian delegation bluntly denied the existence of slaves in the country, with the Ambassador insisting that the issue had been 'politicised out of all proportion'. Mr Pillay requested Mauritania a number of times to delineate State policies on progressive measures being taken to eradicate the practice, but the delegation continued to evade the topic on the grounds of 'political sensitivity.'

Ecuador and Tanzania both submitted their reports late and were asked to rectify this in the future. However, both States were commended on very positive steps made with regards to economic, social and cultural rights, particularly in the fields of education and the Millennium Development Goals.

Continuing discrimination against the Roma people constituted the core of the Committee's questions for the Bulgarian delegation. This discrimination impacts upon all aspects of the enjoyment of economic, social and cultural rights for Roma and their children: education, health care, social services and housing allocation. The delegation emphasised that the government has been working under tight budgetary restrictions in the current financial crisis.

## THEMES

### Persons with Disabilities

The Committee focused on the intersection of economic, social, and cultural rights, and the rights of persons with disabilities. All the States under review have ratified the Convention on the Rights of Persons with Disabilities (CRPD), and the Committee was concerned that not enough was being done to align domestic legislation with the terms of CRPD, resulting in the continued economic, social, and cultural ostracisation of persons with disabilities.

The Committee's inquiries focused on measures being taken to secure the rights of persons with disabilities in three economic, social and cultural areas:

- Education for children with disabilities
- Employment
- Participation in cultural life

Mauritania's answers were typically obstructive; the delegate stated that as only 4% of the population are classified as having disabilities, service provision for the group was not a priority.

However, Bulgaria and Ecuador were able to provide details of positive steps being made. Bulgaria described the State's initiation of a quota policy for employers, while Ecuador's measures included free provision of artificial limbs, and the

1 *Equatorial Guinea: Resource Cursed*. Human Rights Watch. <http://www.hrw.org/news/2009/08/28/equatorial-guinea-resource-cursed>

2 *Slavery still shackles Mauritania, 31 years after its abolition*. The Guardian <http://www.guardian.co.uk/world/2012/aug/14/slavery-still-shackles-mauritania>

3 [http://www2.ohchr.org/english/bodies/cescr/docs/ngos/MRG\\_Mauritania\\_CESCR49.pdf](http://www2.ohchr.org/english/bodies/cescr/docs/ngos/MRG_Mauritania_CESCR49.pdf)

creation of a nationwide awareness-raising programme to end the stigmatisation of persons with disabilities. Iceland's response was less specific, citing only generally that vulnerable groups had been protected during austerity by higher taxation of high-income citizens. Nonetheless, Iceland was able to announce its recent ratification of the CRPD, which was seen as a very positive step.

Equatorial Guinea was unable to provide any evidence as to its policies regarding its disabled citizens. When questioned on measures taken to include disabled children in education, the delegation was evasive and merely stated that education was improving for persons with disabilities as provided for within the State budget.

### Minorities and discrimination

The subject of educational, political and social discrimination against national and indigenous minorities was of particular concern to the Committee, particularly with regards to the indigenous peoples of Tanzania and Ecuador. The Mauritanian slave group known as the Haratine<sup>4</sup> also face extreme social ostracisation, as do the Roma of Bulgaria.

Ecuador was heavily criticised by the Committee for its suppression of indigenous protests. Ecuador's State report described its policies towards the indigenous peoples in a positive light, stating that Ecuador 'recognises indigenous jurisdiction as an ancestral right of indigenous peoples and nations and grants them freedom and sovereignty in decision-making, provided that any such decisions uphold human rights'.<sup>5</sup> However, Mr Kedzia of the Committee was concerned that this claim to full-decision making rights was 'too good to be true', given the continued protests of these communities over the appropriation of their lands for development and industrial projects, over which they had little or no control, and no participation in the decision making process.<sup>6</sup> The delegation claimed more was being done to increase inclusion in decision-making, cultural involvement and information for indigenous groups, but admitted that these policies were still in development.

Tanzania faced similar criticism over its treatment of ethnic minorities. Large-scale development projects have seen tribal and hunter-gatherer communities removed from their land, without due sensitivity to their cultural needs. The delegation, however, denied the Committee's claims that this constituted discrimination against indigenous groups,

positing instead that in Tanzania, all peoples are indigenous, and thus no discrimination occurs against such a group. It was claimed that there are no illegal evictions of hunter-gatherer communities from their ancestral land; only persons living on land illegally in the first place can be removed, and all are given adequate compensation.

Bulgaria described efforts to improve integration of Roma communities through the National Council on Ethnic Integration. This Council privileges equal access to education for Roma children: policies included free school buses for Roma communities, as well as various in-school social inclusion programmes for children up to 7 years of age.

### Women's equality and empowerment

The rights of women were frequently mentioned in the NGO submissions, and the Committee appeared to take note of the prevalence of the issue in questioning States' policies. The 'feminisation of poverty' was also a concern, particularly in the face of the current financial crisis.<sup>7</sup>

Iceland's record on gender equality in education was commended; however, a number of Committee members were adamant that more must be done to close the gender wage gap, and the review focused largely on improving gender equality. While the country's citizens enjoy a high standard of living, there is still a significant discrepancy between the wages of men and women. The delegation admitted the prevalence of the wage gap; women's responsibility in the home remains higher than that of men, preventing women from progressing as fast or as far as their male counterparts in the workplace. The delegation articulated the State's intention to establish a national action plan on gender equality in this issue.

Single mothers in Bulgaria experience detrimental stigmatisation as do children born out of wedlock, in terms of access to education, employment, and housing. The delegation responded with assurances that the State was running awareness-raising campaigns on this issue.

Sexual violence was also a prominent problem in the States under review. Ecuador in particular was questioned on the prevalence of rape and sexual abuse of women and girls, which is far above the Latin American average.<sup>8</sup> Sexual abuse of students by teachers was a worrying trend; Committee members were unsatisfied with Ecuador's assurances of better reporting mechanisms for these victims; victims are encouraged to report to authority figures, yet it is often the authority figures themselves who are perpetrators of abuses.

4 *Slavery in Mauritania*. Anti-Slavery [http://www.antislavery.org/english/slavery\\_today/descent\\_based\\_slavery/slavery\\_in\\_mauritania.aspx](http://www.antislavery.org/english/slavery_today/descent_based_slavery/slavery_in_mauritania.aspx)

5 Ecuador: 3<sup>rd</sup> Periodic Report: p.10, Para. 13. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/431/55/PDF/G1143155.pdf?OpenElement>

6 'So that no-one can demand anything' *Criminalising the right to protest in Ecuador?* Amnesty International. [http://www2.ohchr.org/english/bodies/cescr/docs/ngos/AI\\_Ecuador49.pdf](http://www2.ohchr.org/english/bodies/cescr/docs/ngos/AI_Ecuador49.pdf)

7 *Gender Perspectives*. United Nations Department of Economic and Social Affairs <http://www.un.org/esa/desa/financialcrisis/gender.html>

8 Global rape Statistics: UN statistics on Rape. [http://www.wikigender.org/index.php/Global\\_Rape\\_Statistics](http://www.wikigender.org/index.php/Global_Rape_Statistics)



Other kinds of other harmful gender-based practices, including female genital mutilation (FGM) and forced and polygamous marriage, were brought to the attention of the delegations of both Equatorial Guinea and Mauritania. In Equatorial Guinea, polygamy is widely practised – criticism from the Committee on this subject elicited the response from the delegation that changing the law would be impossible due to the overwhelming support for it amongst the women of the country.

Mauritania has made significant efforts towards the elimination of FGM, including criminalisation and the issuing of a fatwa. However, when questioned on their discriminatory social security, education and inheritance policies, the delegation again showed itself unwilling to comply with the terms of the Covenant. The Ambassador made a startling pronouncement on the subject of women's equality, stating plainly that Qur'anic law points to the 'natural authority' of men, and as such, cannot be questioned or challenged. Mr Texier expressed shock at this statement, and questioned why Mauritania has ratified the instrument if it was hesitant to comply with such a significant aspect of the Convention's obligations.

The Mauritanian Ambassador also stated that religion can be the only 'true lens' through which to see human rights, and denied the incidence of sexual violence in the country owing to its 'pure' Islamic heritage. Mr Abdel Moniem of Egypt emphasised that 'we can't close our eyes to the universality of rights', and urged the State to 'strike a balance between religion and rights'.

The Tanzanian delegation denied knowledge of enforced pregnancy tests for teenage girls; they stated that numbers of girls in education are actually climbing, rather than falling, although it was admitted that sexual health remains a taboo topic in Tanzania and sexual education therefore must be established at an appropriate pace. It was also announced that the Village Land Act enables women to inherit land on an equal footing with men.<sup>9</sup>

## CONCLUSION

States who received a large number of NGO submissions, such as Iceland and Bulgaria, were generally more human rights compliant and open to recommendations, with more civil society engagement in the human rights situation on the ground. There seemed to be a correlation between the number of NGO submissions – and therefore the space for civil society to work – and the willingness of the State under review to actively engage in the dialogue with the Committee.

Given the failure of the Congo and Equatorial Guinea, it was felt that the dialogues between NGOs, Committee and State were not as fruitful as they might otherwise have been, and the Committee expressed dissatisfaction with such non-compliance with the terms of the Covenant. The Committee reminded States that ratification of the Convention was voluntary, and should therefore represent a genuine expression of the State's commitment to human rights. As a result higher standards of compliance are expected from States.

It was clear that the Committee at times struggled to extract important or precise answers from State regarding sensitive or controversial issues. Despite reiterations of requests for information, Mauritania and Equatorial Guinea remained defensive regarding a number of issues and were unwilling to compromise. ■

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<sup>9</sup> *Strengthening Women's Access to Land: the Tanzanian experience of the Sustainable Rangeland Management Project*. F. Carpano Land Tenure Consultant, April 2010 [http://www.ifad.org/english/land/women\\_land/WomenAndLand\\_Tanzania\\_Report\\_Eng.pdf](http://www.ifad.org/english/land/women_land/WomenAndLand_Tanzania_Report_Eng.pdf)

# REGIONAL DEVELOPMENTS

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

P. 44

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# AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

As the African Commission marks its 25<sup>th</sup> anniversary, civil society asks how best to support and engage with the mechanism



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The African Commission on Human and Peoples' Rights (the African Commission) dedicated the first week of its biannual ordinary session to marking its 25<sup>th</sup> anniversary. A series of panel discussions focused on different aspects of the Commission's work, noting achievements and re-stating the challenges it faces. These sessions provided an important space for reflection and recommendations, but limited time for direct engagement on specific human rights issues of the day, particularly by civil society participants. During the session and preceding NGO Forum, questions were asked about how NGOs could best organise themselves and most usefully engage with the Commission to help maximise its impact in promoting and protecting human rights.

The sessions dedicated to the African Commission's anniversary focused on the relationships between the mechanism and its stakeholders, including States, other African Union bodies, the Secretariat, and civil society. Amongst the noted achievements of the Commission was said to be ensuring that 'human rights are a constitutive objective of the States.'<sup>1</sup> The Executive Director of the Network of African National Human Rights Institutions (NANHRI) said the increase in the number of national human rights institutions (NHRIs) in the continent could be attributed to an African Commission's recommendation for the same. However, during the sessions and the activity reporting by Commissioners, many challenges faced by the mechanism were also highlighted.

## CHALLENGES FACED BY THE AFRICAN COMMISSION

The performance of the Commission is reliant on the efficacy of the Secretariat, and the Secretariat is dependent on the resources made available to it. In their activity reports, Commissioners pointed to insufficient staffing (in particular legal officers) and a lack of resources to fund mandate holders' activities. The Chair noted that she receives no support to carry out her work, instead using private office staff to assist her. The Chair of the Working Group on Economic, Social and Cultural Rights said the search for resources 'is becoming wearisome and undermines our dignity as African officials.'

The relatively few communications received by the mechanism was highlighted, with civil society's lack of familiarity with the Charter, the Commission's jurisprudence and the process for submitting communications cited as the key reasons. An NGO representative suggested a more fundamental reason, noting that the lack of implementation of decisions dissuaded people from considering the African Commission as a route likely to result in change at the national level or in personal circumstances. Zimbabwe echoed this, noting that the lack of effective enforcement mechanisms – as with some other regional and international human rights mechanisms – rendered the Commission's communications procedure 'a fruitless exercise'. The delegate suggested the Working Group on Communications needed to find a way to enforce decisions. The Commission's Chairperson noted this was a refreshing intervention coming from a State representative, and said the Commission would

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1 Chidi Odinkalu, Open Society Justice Initiative.

welcome suggestions to improve the effectiveness of the procedure. She added that when a State puts in writing that it is not obliged to implement the decisions of the Commission this is a 'gross undermining of the mandate'.<sup>2</sup>

To increase implementation, Commissioners were urged to report in their six-monthly activity reports on follow-up actions taken, in accordance with their own rules of procedure.<sup>3</sup> The Commission resolved to expand the mandate of the Working Group on Communications, beyond its formerly largely advisory role, to one of carrying out concrete activities related to the follow up of decisions.<sup>4</sup> The Commission was also encouraged to lobby the African Union more directly on questions of human rights. In addition, it was noted that the lack of ratification of key instruments continued to produce obstacles to advancing human rights. It was suggested by South Africa, for example, that ahead of the 20<sup>th</sup> anniversary of the Maputo Protocol in 2013, the Special Rapporteur on the Rights of Women should encourage a study on levels of ratification and implementation of the Protocol. It was said funds should be dedicated to debunking myths around the Protocol, including on Article 14, regarding which several States uphold reservations.

Many of the challenges identified were similar to those recognised during discussions to mark the 30<sup>th</sup> anniversary of the African Charter (during the Commission's 50<sup>th</sup> ordinary session). It is unclear if recommendations made then were recorded or acted upon by relevant stakeholders. The final communiqué from the 52<sup>nd</sup> ordinary session is limited in scope and does not contain a record of all recommendations made during the discussion sessions.

## THE ROLE OF NGOS AND NHRIS

The importance of the role played by NGOs in the functioning of African human rights mechanisms, confirmed in several regional instruments, was frequently cited by panelists. However, the means by which they might support and influence the Commission in the future needs to be reassessed. During the NGO Forum, which is an important civil society meeting always held immediately prior to the Commission's session, frustrations around the purpose and functioning of the Forum were expressed. Questions about the role of the NGO Forum in relation to the Commission have been voiced for some time, and without clear resolve shown by the NGO

Steering Committee to channel and address these.<sup>5</sup> The frustration amongst NGOs became even more evident, when a sizeable group of participants decided to hold separate meetings alongside the planned NGO Forum sessions.

The question of the purpose and functioning of the NGO Forum continued to be discussed during panel discussions at the African Commission's session on the relationship between the mechanism and NGOs. One panelist recommended NGOs consider whether resolutions and recommendations provided to the Commission are valuable.<sup>6</sup> It was suggested that NGOs need to decide how best to organise themselves before the African Commission and the wider African human rights system. Furthermore, the need for the NGO Forum to be more selective in the issues it brings to the attention of the Commission was emphasised.

Whilst African NHRIs were represented through the NANHRI, few were represented by individual delegates. The NANHRI called for more systematic engagement between NHRIs and the African Commission, in line with the Commission's resolution on granting observer status to African NHRIs created in conformity with the international norms and standards.<sup>7</sup> The suggestion was made that NHRIs should hold a forum, similar to that of NGOs, prior to the Commission's ordinary sessions.

## BARRIERS TO THE COMMISSION'S EFFECTIVENESS

Access to relevant information is key to facilitating the role of civil society in supporting and critically engaging with the African Commission. However, the opportunity for NGOs to play a more constructive role at the Commission, such as by advocating for follow up of the Commission's decisions and recommendations, is still undermined by the inaccessibility of key documentation. Concluding recommendations made to States are often unavailable on the Commission's website, even where they are said to be published.<sup>8</sup>

Some State and civil society representatives criticised the fact that documents were not made available in good time on the website, thus limiting their engagement in discussion. Algeria highlighted a bias towards English speakers, noting there were no working documents for Arabic speakers. The delegation said the current need 'to beg' for documents was 'inacceptable'. Whilst the new African Commission website and the Case Law Analyser provide more information than was previously available, the website information

2 This was an implied reference to a recent communication by Botswana.

3 See Rule 112, 'Follow up on the recommendations of the Commission', *Rules of Procedure of the African Commission on Human and Peoples' Rights*, at <http://bit.ly/VFKtj3>.

4 Resolution on the Expansion of the Working Group on Communications and Modifying its Composition, available at <http://bit.ly/UYyksc>.

5 The NGO Forum Steering Committee is made up of representatives from all the sub-regional human rights networks across the continent, and a representative of the 'diaspora'. For more reflections on the purpose and effectiveness of the NGO Forum, see ISHR's *Report of the NGO Forum and the 48<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights*: <http://bit.ly/fLJcII>.

6 Musa Gassama, Office of the High Commissioner for Human Rights.

7 See <http://bit.ly/Xhe8Q9>.

8 This includes the recent recommendations made to Côte d'Ivoire.

is often incomplete.<sup>9</sup> This doesn't assist the Commission or partners in holding States to account, nor does it assist the Commission's own efforts around access to information.<sup>10</sup>

## OTHER HIGHLIGHTS

Emphasis was placed on the African Commission working more closely with other organs and bodies within the African human rights system and beyond. The closer collaboration between UN Special Procedures and the African Commission, articulated in the January 2012 Addis Ababa roadmap, has led to a joint Human Rights Council – Commission Working Group, and other joint activities between mandate holders of the two institutions.<sup>11</sup> However, little direct reference was made at the session to the newly approved Human Rights Strategy for Africa.<sup>12</sup> During one of the panel discussions at the NGO Forum, several contributors said the role of NGOs in the Human Rights Strategy was not sufficiently articulated, and few had had a role in its elaboration.

Commissioners took a firm line with State representatives in regard to their engagement with the Commission. As a 'child' of the African Union, it was said that in order for the African Commission to play the role it had been assigned States must comply with its decisions and recommendations.<sup>13</sup> However, Commissioners also promoted the idea of progress starting as a conversation between parties to define steps to advance human rights. The Special Rapporteur on women, for example, said it was better for States to ratify the Maputo Protocol with reservations rather than not to ratify at all.

In its first review, Côte d'Ivoire told the Commission it was keen to provide the mechanism with information so the Commission could provide the State with the most helpful recommendations. The delegation highlighted recent reforms in the country, including strengthening of the national human rights institution.<sup>14</sup> The Commissioners' questioning was detailed, and the Chair of the Commission welcomed the State's acknowledgement of the many challenges it faces with respect to human rights. As NGOs are unable to intervene following State reports, and without the usual agenda item on the 'Human Rights Situation in Africa' (item 4), which

was supplanted by some of the celebratory sessions, NGO statements on Côte d'Ivoire were limited.

However, during the NGO Forum, a dedicated panel discussion was held on the human rights situation in Côte d'Ivoire. This panel was attended by Côte d'Ivoire human rights defenders and Commissioners of the African Commission. The NGO Forum endorsed the recommendations presented by human rights defenders, which were submitted to the African Commission. Many of these concerns were raised during the Commission's review of Côte d'Ivoire.

This African Commission's session saw several 'firsts', such as holding the meeting in Côte d'Ivoire, which was the first time an ordinary session has been held outside of The Gambia in four years.<sup>15</sup> Liberia attended for the first time, promising it would be ready to report at the next session.<sup>16</sup> The NHRI of Malawi, also attending for the first time, said it was encouraging Malawi to submit its first report, and this had been promised by the State for the 53<sup>rd</sup> session.

In her activity report, the Commission's Special Rapporteur on Human Rights Defenders noted she continues to receive information on reprisals. Commissioners expressed concern about cases of intimidation reported to have taken place at the session itself. It is hoped the Commission will build on its resolve to demand appropriate State responses to reprisals, for example, as demonstrated in its 50<sup>th</sup> session resolution creating specific reporting mechanisms.<sup>17</sup>

## 25 YEARS OF DEVELOPMENT

The development of the African Commission's subsidiary mechanisms was described through the Commissioners' individual activity reports, where the history of their mandates and activities was outlined. The Special Rapporteur on Freedom of Expression and Access to Information noted how the barebones of Article 9 of the *African Charter on Human and Peoples' Rights*<sup>18</sup> has been fleshed out in the development of the Commission's *Declaration on Principles of Freedom of Expression*.<sup>19</sup> Over the years, mandate holders have worked to make Article 9 and the Declaration better known by activists. Together with the Special Rapporteur's engagement with States, these tools provide greater strength to the African

9 The African Human Rights Case law Analyser provides access to decisions of the African Commission, in English and French. See <http://caselaw.ihrda.org>.

10 See below on the work of the Special Rapporteur on Freedom of Expression and Access to Information.

11 For example, through the issuance of joint press releases and undertaking of joint fact finding missions to countries.

12 See <http://bit.ly/Vb4wfh>.

13 The African Commission was established under the African Union's predecessor, the Organisation of African Unity.

14 Côte d'Ivoire adopted a law in December 2012 creating a new national human rights institution in compliance with the Paris Principles. At the time of writing, the commissioners of the institution were in the process of being appointed. Five of them will come from civil society organisations.

15 The African Commission last met for an ordinary session outside of The Gambia during its 44<sup>th</sup> session, held in Nigeria in 2008.

16 According to the African Commission's Final Communiqué, 27 State parties attended the session. See <http://bit.ly/XxZw1u>.

17 Resolution on Human Rights Defenders in Africa at the 50<sup>th</sup> session of the African Commission.

18 Article 9 says: 1. Every individual shall have the right to receive information. 2. Every individual shall have the right to express and disseminate his opinions within the law.

19 Declaration on Principles of Freedom of Expression in Africa: <http://bit.ly/WM4fKo>.

human rights system.<sup>20</sup> The Rapporteur said she saw the value in bringing several initiatives – including the campaign to raise awareness of Article 9 and the Declaration – together under the auspices of her Rapporteurship. In terms of concrete outputs, the Special Rapporteur and partners have been working on a draft model law on Access to Information in Africa. It was reported that in the time this project has been progressing, the number of countries with such laws has doubled to ten.

The Special Rapporteur on Human Rights Defenders announced her upcoming report will be on the situation of women human rights defenders in Africa. This was later confirmed in one of the seven resolutions passed by the Commission.<sup>21</sup> In line with the Special Rapporteur's expressed strategy to work with human rights defenders' networks, she has created an advisory group to work with her on the report. The group comprises of women human rights defenders who are members of sub-regional human rights networks and/or of the Women Human Rights Defenders International Coalition.<sup>22</sup> ■

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20 Professor Viljoen, Director of Centre for Human Rights, University of Pretoria, during a side event on 'Launch of the activities of the 10 year anniversary of the Declaration of the Principles of Freedom of Expression in Africa, and the Pan- African Campaign for the Decriminalisation of Expression.'

21 Resolution at the 52<sup>nd</sup> session of the African Commission: *Resolution on the need for a Study on the Situation of Women Human Rights Defenders in Africa*. For the Commission's resolutions at this session, see [www.achpr.org/sessions/52<sup>nd</sup>](http://www.achpr.org/sessions/52nd).

22 Women Human Rights Defenders International Coalition : [www.defendingwomen-defendingrights.org](http://www.defendingwomen-defendingrights.org).

# UPCOMING EVENTS

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# QUICK REFERENCE GUIDE

NGO engagement opportunities by country  
February 2013 - July 2013

The table below is a quick reference guide to countries that feature within the 'Opportunities for NGO Engagement' section of this publication (pages 51 to 55). Only those countries featured in one or more of the upcoming meetings are listed in the table.

## ACRONYMS

- CERD: Committee on the Elimination of Racial Discrimination (p. 51)  
 CEDAW: Committee on the Elimination of Discrimination against Women (p. 51)  
 CCPR: Committee on Civil and Political Rights  
 CED: Committee on Enforced Disappearances (p. 36)  
 CRPD: Committee on the Rights of Persons with Disabilities (p. 52)  
 CMW: Committee on Migrant Workers  
 UPR: Universal Periodic Review  
 CESCR: Committee on Economic, Social and Cultural Rights (p. 39)  
 CAT: Committee against Torture (p. 33)  
 SP visits: Special procedures' visits

	CERD	CEDAW	CCPR	CED	CRPD	CMW	UPR	CESCR	CAT	SP visits
Afghanistan		X								
Albania			X							
Algeria	X									
Angola		X	X							
Australia					X					
Austria		X			X			X		
Azerbaijan						X	X	X		
Bangladesh							X			
Belize			X							
Belarus								X		
Belgium								X		
Bolivia			X			X			X	
Bosnia and Herzegovina		X						X		
Brazil										X
Burkina Faso							X			
Cape Verde							X			
Cameroon							X			
Chile										X
China								X		
China-Macao			X							
China-Hong Kong			X							
Colombia						X	X			
Cuba		X					X			
Cyprus		X								
Czech Republic			X							
Denmark								X		
Djibouti			X				X	X		

UPCOMING EVENTS

	CERD	CEDAW	CCPR	CED	CRPD	CMW	UPR	CESCR	CAT	SP visits
DRC		X								
Dominican Republic	X	X								
Egypt								X		
El Salvador					X					
Finland			X							
Gabon								X		
Germany							X			
Ghana										
Greece		X								
Guatemala									X	
Hungary		X								
India										X
Indonesia			X							
Iran								X		
Jamaica								X		
Japan								X	X	
Kenya									X	
Kyrgyz Republic	X									X
Madagascar										X
Macedonia		X								
Mauritania			X						X	
Mauritius	X									
Mozambique			X							
Netherlands									X	
New Zealand	X									
Norway								X		
Pakistan		X								
Paraguay			X		X					
Peru			X							
Russian Federation	X						X			
Rwanda								X		
Serbia		X								
Slovakia	X									
Solomon Islands		X								
Tajikistan			X							
Thailand										X
Togo								X		
Turkmenistan							X			
Tuvalu							X			
Ukraine			X							
United Kingdom		X								
Uruguay				X						
USA			X							
Uzbekistan							X	X		

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# OPPORTUNITIES FOR NGO ENGAGEMENT

February – July 2013

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## COUNTRY EXAMINATIONS AND REVIEWS

For more detailed and up-to-date information, please consult the relevant treaty body pages at <http://bit.ly/feFwjo> or the UPR website at <http://bit.ly/ea8LRG>. For an overview of the UN treaty body system and its functions, you can download a free copy of ISHR's Simple Guide to the UN Treaty Bodies at <http://bit.ly/dB7B73>.

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### COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

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#### What's coming up?

From 11 February to 1 March, the Committee on the Elimination of Racial Discrimination will hold its 82<sup>nd</sup> session. It will examine the reports of Algeria, the Dominican Republic, Kyrgyzstan, Mauritius, New Zealand, the Russian Federation, and Slovakia.

#### What can you do?

If you want to submit information on any of the states under review, you should send submissions to the Secretariat electronically to [cerd@ohchr.org](mailto:cerd@ohchr.org) by 31 January. This should include 20 hard copies sent by post to CERD Secretariat, 8 -14 Avenue de la Paix, CH 1211 Geneva 10, Switzerland. More information on NGO participation can be found at <http://bit.ly/QMtD0L>.

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### COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

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#### What's coming up?

The Committee on the Elimination of Discrimination against Women will hold its 54<sup>th</sup> session from 11 February to 1 March in Geneva. It will examine the reports of Angola, Austria, Cyprus, Greece, Hungary, Pakistan, the Solomon Islands, and the Former Yugoslav Republic of Macedonia. In July, at the 55<sup>th</sup> session, the Committee will review Afghanistan, Bosnia and Herzegovina, Cape Verde, Cuba, the Democratic Republic of the Congo, Dominican Republic, Serbia, and the United Kingdom.

#### What can you do?

If you are working on discrimination against women in any of the States under review, you can submit information to the Committee in Microsoft Word or pdf format to [cedaw@ohchr.org](mailto:cedaw@ohchr.org). The deadline for all submissions for the 54<sup>th</sup> session to reach the Secretariat is 28 January. For more information on submissions see <http://bit.ly/UKVUtc>. At the time of writing, the date of submission for the 55<sup>th</sup> session has not yet been released; NGOs should visit <http://bit.ly/UnyAB7> for more details. In general, submission deadlines fall around two weeks prior to the Committee meeting.

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### HUMAN RIGHTS COMMITTEE

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#### What's coming up?

The Human Rights Committee will hold its 107<sup>th</sup> session from 11 to 28 March in Geneva. It will examine the reports of Angola, Belize (in the absence of a report), China-Macao, China-Hong Kong, Paraguay, and Peru. Lists of issues will be prepared on Bolivia, Djibouti, Czech Republic, Indonesia, Mauritania, Mozambique, Tajikistan, and the United States. The 108<sup>th</sup> session will be held from 8 to 26 July. The States under review will be Albania, the Czech Republic, Finland, Indonesia, Tajikistan, and Ukraine.

#### What can you do?

The deadline for submissions on the countries to be examined at the 107<sup>th</sup> session is 15 February. Further information on submissions and deadlines can be found at <http://bit.ly/UsW6MH>. Submission deadlines for the 108<sup>th</sup> session have not yet been released. Please see <http://bit.ly/VkZQBo> for further details at a later date.

**COMMITTEE ON ENFORCED DISAPPEARANCES**

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**What's coming up?**

The Committee on Enforced Disappearances will hold its 4<sup>th</sup> session from 8 to 19 April in Geneva. It will examine the report of Uruguay.

**What can you do?**

If you would like to submit information to the Committee, the deadline for submission is 16 February in electronic form and 29 March in hard copy. Further information can be found at <http://bit.ly/VeO0IL>.

**COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES**

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**What's coming up?**

The Committee on the Rights of Persons with Disabilities will hold its 9<sup>th</sup> session from 15 to 19 April in Geneva. It will examine the report of Paraguay in public session, and will adopt the reports of Australia, Austria and El Salvador in private.

**What can you do?**

If you work for the rights of persons with disabilities in any of these States, you may submit information for consideration to the Committee. The deadline for both national human rights institutions and NGOs is 15 March. For accessibility purposes the information should be electronically submitted to the Committee secretariat in both PDF and Word 97/2003 formats, by email to: [crpd@ohchr.org](mailto:crpd@ohchr.org). Further information on submissions and deadlines can be found at <http://bit.ly/10w2vxc>.

**COMMITTEE ON MIGRANT WORKERS**

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**What's coming up?**

The Committee on Migrant Workers will hold its 18<sup>th</sup> session from 15 to 26 April in Geneva. It will examine the reports of Azerbaijan, Colombia and Bolivia.

**What can you do?**

If you work for the rights of migrants and their families, and would like to submit information to the Committee, the deadline for submissions is the April 1, and should be submitted to [cmw@ohchr.org](mailto:cmw@ohchr.org). More information on how to submit reports can be found at <http://bit.ly/UN2CMY>.

**UNIVERSAL PERIODIC REVIEW**

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**What's coming up?**

The Universal Periodic Review (UPR) will hold its 16<sup>th</sup> session from 22 April to 3 May; the countries under review will be Turkmenistan, Burkina Faso, Cape Verde, Colombia, Uzbekistan, Tuvalu, Germany, Djibouti, Bangladesh, the Russian Federation, Azerbaijan, Cameroon, and Cuba. A timetable can be found at <http://bit.ly/Vlbaoy>.

**What can you do?**

A list of upcoming examinations and deadlines for the 16<sup>th</sup> session can be found at <http://bit.ly/cmalyM>. Note: the deadline for 'other stakeholders' to submit written contributions for the 17<sup>th</sup> Session is early March. Submissions should be sent to [upr-submissions@ohchr.org](mailto:upr-submissions@ohchr.org). A timeline for NGO participation in the UPR can be found at <http://bit.ly/x5KUYL>.

**COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

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**What's coming up?**

The Committee on Economic, Social and Cultural Rights will hold its 50<sup>th</sup> session from 29 April to 17 May. It will examine the reports of Azerbaijan, Denmark, Iran, Jamaica, Japan, Rwanda, and Togo. The pre-sessional working group, meeting from 20 to 24 May, will prepare the list of questions for Austria, Belarus, Belgium, Bosnia and Herzegovina, China, Djibouti, Egypt, Gabon, Norway and Uzbekistan, which will be reviewed at later sessions.

### What can you do?

If you work for economic, social and cultural rights in any of these States, you may participate in parts of both the 48<sup>th</sup> session and the pre-sessional working groups following it. Submissions for these sessions should be sent to [cescr@ohchr.org](mailto:cescr@ohchr.org) and in hard copy by 15 March. Further information on submissions can be found at <http://bit.ly/105Dtnn>.

## COMMITTEE AGAINST TORTURE

### What's coming up?

The Committee Against Torture will hold its 50<sup>th</sup> session from 6 to 31 May in Geneva. It will examine the reports of Bolivia, Estonia, Guatemala, Japan, Kenya, Mauritania, the Netherlands, and the United Kingdom.

### What can you do?

If you work on the issue of torture in any of these States and would like to submit information, this should be done by 22 February. Further information regarding the submission of information can be found at <http://bit.ly/Y767nR>.

## COMMITTEE ON THE RIGHTS OF THE CHILD

### What's coming up?

The Committee on the Rights of the Child will hold its 63<sup>rd</sup> session from 27 May to 14 June in Geneva.

### What can you do?

The countries to be reviewed have not yet been scheduled. Please continue to check <http://bit.ly/10z1vZb> for more information.

## MEETINGS

## HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE

### What's coming up?

The Human Rights Council Advisory Committee will hold its 10<sup>th</sup> session from 18 to 22 February in Geneva.

### What can you do?

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

## HUMAN RIGHTS COUNCIL

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### What's coming up?

The Human Rights Council will hold its 22<sup>nd</sup> session from 25 February to 22 March. The 23<sup>rd</sup> session will be held from 27 May to 14 June. A draft programme of work is available at <http://bit.ly/Untw2R>, but be aware that timings of meetings may change closer to the session. More information will be made available in due course, at <http://bit.ly/VkOb5A>.

### What can you do?

If you work with an ECOSOC accredited NGO you may attend all sessions of the Council. You may also submit written statements and request rooms to organise parallel events. You may register to deliver oral statements under all agenda items. Oral statements may be delivered in person or by recorded video message. The deadline for submitting written statements and requesting a room for a side event is 11 February. Registration to make an oral statement, whether in person or via video-message, opens on 22 February at 2pm. More information about NGO participation and links to relevant forms can be found at <http://bit.ly/HwOGj6>.

## COMMISSION ON THE STATUS OF WOMEN

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### What's coming up?

The Commission on the Status of Women will hold its 57<sup>th</sup> session from 4 to 15 March in New York. The key themes under discussion will be the elimination of violence against women and girls; the shared responsibility between men and women in the context of caregiving for those suffering from HIV/AIDS; and gender equality issues in the post-2015 development framework.

### What can you do?

The deadline for written statement submission has already passed. More information on NGO participation can be found at <http://bit.ly/UnLnTT>.

## PERMANENT FORUM ON INDIGENOUS ISSUES

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### What's coming up?

The UN Permanent Forum on Indigenous Issues will hold its 12th session from 20 to 31 May in New York. The Forum is an advisory body to the Economic and Social Council, with a mandate to discuss indigenous issues related to economic and social development, culture, education, health and human rights. This year's meeting will focus on reviewing the progress of the Forum and indigenous peoples.

### What can you do?

Details for NGO participation have not yet been released. Please see <http://bit.ly/W5XJ2C> to find updates on information submission and registration for attendance.

## ECOSOC accreditation

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



## SPECIAL PROCEDURES' VISITS

- The Special Rapporteur on water and sanitation, Ms Catarina de Albuquerque, will visit Thailand from 31 January to 8 February, and Brazil from 10 to 18 July. See: <http://bit.ly/11x8Qrh>
- The Special Rapporteur on the sale of children, Mr Najat Maalla M'jid, will visit the Kyrgyz Republic from 15 to 26 April, and Madagascar from 15 to 26 July. See: <http://bit.ly/Y7wt9f>
- The Special Rapporteur on violence against women, Ms. Rashida Manjoo, will visit India from 22 April to 1 May. See: <http://bit.ly/vanSjR>
- The Special Rapporteur on counter-terrorism, Mr Ben Emerson, will visit Chile from 15 to 31 July (proposed). See: <http://bit.ly/V70apY>

To find out how you can support the visits, please contact the respective mandate-holder at their email, found in the directory, here: <http://bit.ly/12tRe00>

## REGIONAL MEETINGS

### INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

#### What's coming up?

The Inter-American Commission on Human Rights (IACHR) will hold its 147<sup>th</sup> Period of Sessions from 7 to 22 March 2013 in Washington, D.C. While the session is closed to the public, hearings will take place alongside the session. Any NGO or individual may request a hearing - the majority of which are public and are webcast.

#### What can you do?

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

### AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

#### What's coming up?

The African Commission will hold its 53<sup>rd</sup> ordinary session from 9 to 23 April 2013. A three-day NGO Forum to discuss issues of concern and prepare recommendations for the Commission will take place prior to the session.

#### What can you do?

All NGOs with observer status with the African Commission are invited to attend the Commission's 53<sup>rd</sup> session, at their own cost. NGOs without observer status may also attend but do not have speaking rights. More information about registering to attend will be made in due course at [www.achpr.org/sessions](http://www.achpr.org/sessions).

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

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# USEFUL LINKS

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## UN BODIES

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Office of the High Commissioner for Human Rights: [www.ohchr.org](http://www.ohchr.org)

Human Rights Council: [www2.ohchr.org/english/bodies/hrcouncil](http://www2.ohchr.org/english/bodies/hrcouncil)

General Assembly: [www.un.org/ga](http://www.un.org/ga)

Human Rights Committee: [www2.ohchr.org/english/bodies/hrc](http://www2.ohchr.org/english/bodies/hrc)

Committee on Economic, Social and Cultural Rights: [www2.ohchr.org/english/bodies/cescr](http://www2.ohchr.org/english/bodies/cescr)

Committee on the Elimination of Racial Discrimination: [www2.ohchr.org/english/bodies/cerd](http://www2.ohchr.org/english/bodies/cerd)

Committee on the Elimination of Discrimination against Women: [www2.ohchr.org/english/bodies/cedaw](http://www2.ohchr.org/english/bodies/cedaw)

Committee against Torture: [www2.ohchr.org/english/bodies/cat](http://www2.ohchr.org/english/bodies/cat)

Committee on the Rights of the Child: [www2.ohchr.org/english/bodies/crc](http://www2.ohchr.org/english/bodies/crc)

Committee on Migrant Workers: [www2.ohchr.org/english/bodies/cmwr](http://www2.ohchr.org/english/bodies/cmwr)

Committee on the Rights of Persons with Disabilities: [www.ohchr.org/EN/HRBodies/crpd](http://www.ohchr.org/EN/HRBodies/crpd)

Committee on Enforced Disappearances: [www.ohchr.org/EN/HRBodies/ced](http://www.ohchr.org/EN/HRBodies/ced)

Special Rapporteur on the situation of human rights defenders: [www.ohchr.org/EN/Issues/SRHRDefenders](http://www.ohchr.org/EN/Issues/SRHRDefenders)

Universal Periodic Review: [www.ohchr.org/en/hrbodies/upr](http://www.ohchr.org/en/hrbodies/upr)

Secretariat of the ECOSOC NGO Committee: [www.csonet.org](http://www.csonet.org)

## REGIONAL ORGANISATIONS

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African Commission on Human and Peoples' Rights: [www.achpr.org](http://www.achpr.org)

Asia Pacific Forum of National Human Rights Institutions: [www.asiapacificforum.net](http://www.asiapacificforum.net)

ASEAN Intergovernmental Commission on Human Rights: [www.aseansec.org/22769.htm](http://www.aseansec.org/22769.htm)

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

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

Inter-American Commission on Human Rights: [www.oas.org/en/iachr](http://www.oas.org/en/iachr)



ISHR EVENTS:

TRAINING FOR DEFENDERS  
IN WEST AFRICAW

20 – 28 February

REGIONAL MEETINGS:

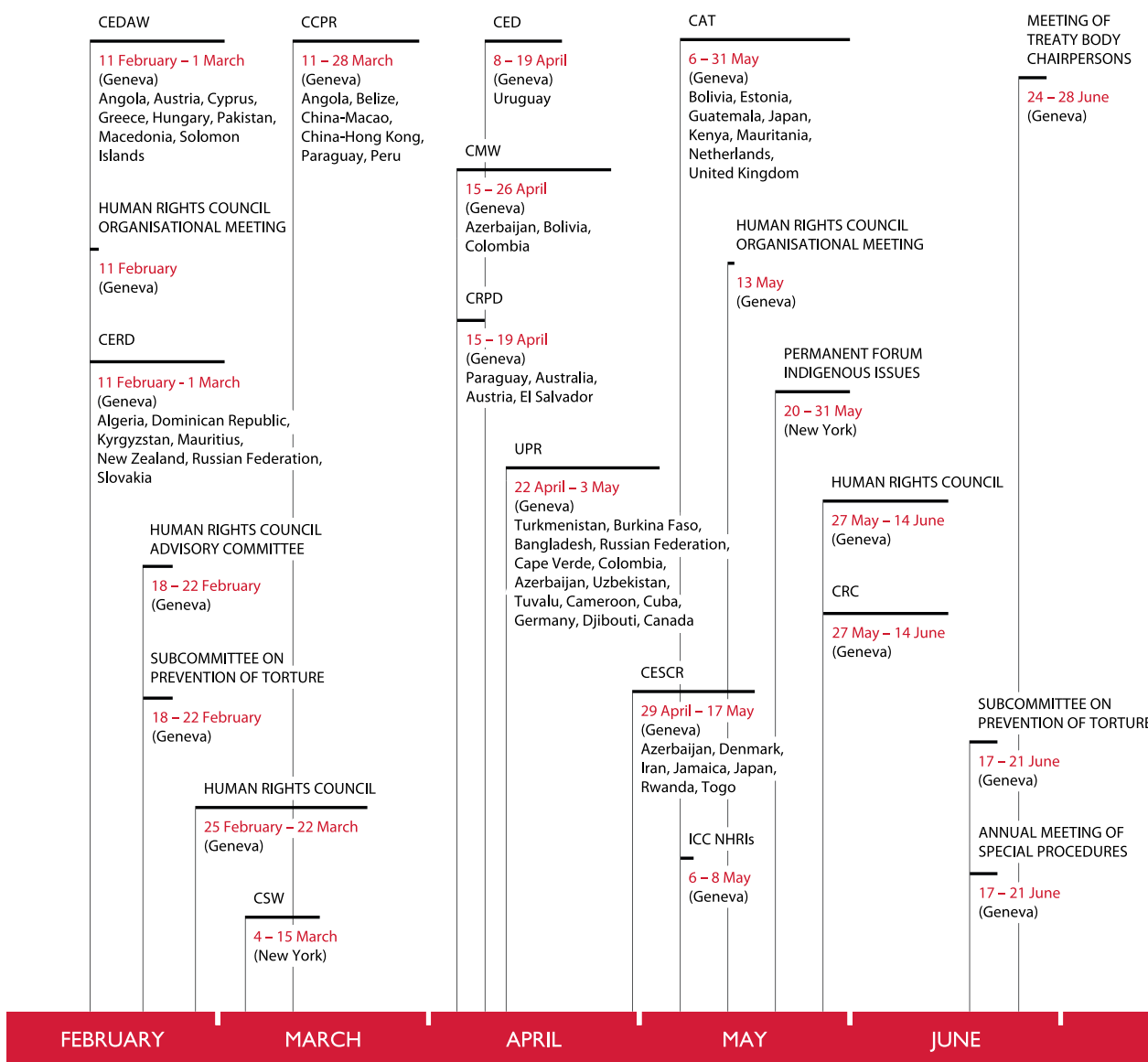
INTER-AMERICAN COMMISSION  
ON HUMAN RIGHTS

7 – 22 March  
(Washington, DC)

AFRICAN COMMISSION ON  
HUMAN AND PEOPLES' RIGHTS

9 – 23 April  
(Venue TBC)

UN MEETINGS:



UPCOMING EVENTS FEBRUARY – JUNE 2013