

COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

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Overview

The President of the Council, Ambassador Doru Romulus Costea of Romania, reconvened the plenary session of the Human Rights Council (the Council) to take action on a number of draft resolutions and decisions.¹

The President announced that a request for a special session entitled ‘the human rights situation in Myanmar’ had been sent by 17 members of the Council and 36 observer States. He informed that an open-ended informative consultation would be held on Monday, 1 October 2007 at 3pm in room XVIII of the Palais des Nations to discuss the conduct of the special session. The special session will take place on Tuesday, 2 October 2007.

Conclusions and decisions adopted by the Council

The Council had before it 31 draft decisions and resolutions to take action on. Egypt (on behalf of the African Group) expressed its concern at the limited time left to take action on such a large number of decisions, and stated that it would like, as a priority, to consider two procedural resolutions (under Item 9 on racism) and the draft resolution on the establishment of a voluntary fund for the universal periodic review (UPR). The

¹ All draft decisions and resolutions can be found on the OHCHR extranet. The OHCHR extranet can be accessed (fill out the form on the page to receive the user name and password) at www.ohchr.org/english/bodies/hrcouncil/form.htm.

President replied that the Council would have to work hard to manage time according to the agreed programme of work in order to maintain predictability and not set a precedent for frequent changes.

Decisions adopted without a vote

The following decisions were adopted without a vote:

- Mandate of the Special Rapporteur on the situation of human rights in the Sudan;²
- Human rights situation in Haiti;³
- Arbitrary detention;⁴
- Advisory services and technical assistance in Burundi;⁵
- Human rights and indigenous peoples: mandate of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples;⁶
- Promotion of the enjoyment of the cultural rights of everyone and respect for cultural diversity;⁷
- Human rights and equitable access to safe drinking water and sanitation;⁸
- Prevention of genocide;⁹
- Draft President's statement on the 20th anniversary of the entry into force of the UN *Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT);¹⁰
- Development of public information activities in the field of human rights, including the World Public Information Campaigns on Human Rights;¹¹
- United Nations *Declaration on Human Rights Education and Training*;¹²
- Protection of cultural heritage as an important component for the promotion and protection of cultural rights;¹³
- The Social Forum;¹⁴
- Special Rapporteur on contemporary forms of slavery;¹⁵
- The Forum on minority issues;¹⁶

² A/HRC/6/L.20. This was a procedural decision sponsored by Egypt (on behalf of the African Group) to defer consideration of the renewal of the mandate of the Special Rapporteur on the Sudan until the Council's December 2007 session.

³ A/HRC/6/L.28. This was a Presidential statement to renew the mandate of the Special Rapporteur on the human rights situation in Haiti.

⁴ A/HRC/6/L.30. This resolution, sponsored by France, was to renew the mandate of the Working Group on arbitrary detention for three years, and was adopted with oral revisions.

⁵ A/HRC/6/L.29/Rev.1. This resolution, sponsored by Burundi, extended the mandate of the Special Rapporteur on Burundi for one year, and was adopted with oral revisions.

⁶ A/HRC/6/L.26. This resolution was cosponsored by Guatemala and Mexico, and called for the renewal of the mandate of the Special Rapporteur for three years. It was adopted by consensus with oral revisions.

⁷ A/HRC/6/L.3/Rev.1. This resolution was sponsored by Cuba, and was adopted with oral revisions.

⁸ A/HRC/6/L.13/Rev.1. This resolution was sponsored by Spain and Germany.

⁹ A/HRC/6/L.14. This decision was sponsored by Armenia.

¹⁰ A/HRC/6/L.22. President's statement.

¹¹ A/HRC/6/L.25. This resolution was sponsored by Italy.

¹² A/HRC/6/L.31. This resolution was sponsored by Morocco and Switzerland.

¹³ A/HRC/6/L.33. This resolution was sponsored by Armenia and adopted with oral revisions.

¹⁴ A/HRC/6/L.17/Rev.1. This resolution was sponsored by Cuba.

¹⁵ A/HRC/6/L.23/Rev.1. This resolution, sponsored by the United Kingdom (UK), proposed to establish a Special Rapporteur to replace the Working Group of the former Sub-Commission on the Promotion and Protection of Human Rights (the Sub-Commission), and was adopted with oral revisions.

¹⁶ A/HRC/6/L.34. This resolution, sponsored by Austria, was adopted by consensus with oral amendments made by the cosponsor, and called for the creation of a forum for minority issues to replace the Working Group on Minorities under the former Sub-Commission. The forum would facilitate participation by States, non-governmental organisations (NGOs) and all other stakeholders.

- Informal meeting to discuss the most appropriate mechanisms to continue the work of the Working Group on indigenous populations;¹⁷
- Establishment of funds for the universal periodic review mechanism of the Human Rights Council;¹⁸
- Human rights situation in Palestine and other occupied Arab territories: Follow-up to Human Rights Council *Resolutions S-1/1* and *S-3/1*;¹⁹
- Regional arrangements for the promotion and protection of human rights;²⁰
- Report of the Preparatory Committee (to the Durban Review Conference);²¹
- World Programme for Human Rights Education.²²
- Regional Cooperation for the Promotion and Protection of Human Rights in the Asia-Pacific.²³

There was some discussion on several of the draft resolutions even though they were adopted without a vote.

Regarding the decision on the **enjoyment of the cultural rights of everyone and respect for cultural diversity**,²⁴ Japan dissociated itself from the consensus in an explanation of vote after the vote, stating that the Council was not the appropriate forum to discuss this issue. It was also of the opinion that this decision should not overlap with the activities of UNESCO on similar issues. Slovenia also took the floor in a general comment to state that it thought that reference to the Tehran Declaration of the Non-Aligned Movement (NAM), was unacceptable in a Council resolution and was not binding on non-members of the NAM. Slovenia also welcomed deletion of references to ‘cultural diversity’ in the operative paragraphs of the text, as it felt that this could undermine the universality of human rights. Additionally, it expressed its concern at the creation of a thematic Independent Expert in the field of cultural rights, as envisioned in the text. However, as Slovenia appreciated the efforts of the sponsors to take into consideration some of its suggestions, it stated that it would join consensus.

Regarding the **mandate of the Special Rapporteur on indigenous peoples**,²⁵ Guatemala stated that the mandate not only increased the level of human rights protection by addressing the spectrum of economic, social, cultural, civil and political rights, but that the mandate was also unique and coherent within the system of special procedures. Guatemala presented oral revisions, the most significant of which was the addition of the words ‘as appropriate’ to operative paragraph 1(g). The purpose of this revision was to limit the Special Rapporteur’s mandate to promote the *Declaration on the Rights of Indigenous Peoples*, thereby taking into consideration the concern of countries that did not support the Declaration when it was adopted.²⁶

Regarding the resolution on the **protection of cultural heritage**,²⁷ both Slovenia (on behalf of the EU members of the Council) and Azerbaijan took the floor in a general comment before the vote to state that while they would not oppose the consensus, they disagreed with various parts of the resolution. They stated

¹⁷ A/HRC/6/L.35. This resolution, sponsored by Bolivia, was presented as an initiative to consider possible options for the replacement of the Working Group, and was adopted by consensus with oral amendments.

¹⁸ A/HRC/6/L.12/Rev.1. This resolution, sponsored by Egypt (on behalf of the African Group) called for the creation of a voluntary trust fund to assist the participation of countries, particularly developing countries, in the UPR process, and also a fund for supporting technical assistance programmes as part of the outcome of the UPR process.

¹⁹ A/HRC/6/L.2. This resolution was sponsored by Palestine and presented by Pakistan (on behalf of the Organization of the Islamic Conference (OIC)).

²⁰ A/HRC/6/L.18, presented by Belgium.

²¹ PC.1/8 from A/CONF.211/PC.1/L.3.

²² A/HRC/6/L.16 (which superseded A/HRC/2/L.30 deferred from the 2nd session of the Council), presented by Costa Rica.

²³ A/HRC/6/L.21, sponsored by Indonesia.

²⁴ A/HRC/6/L.3/Rev.1.

²⁵ A/HRC/6/L.26.

²⁶ Ukraine and Canada both raised this point under a general comment before the decision was adopted by consensus.

²⁷ A/HRC/6/L.33.

that this approach was based on the understanding that this issue would not be raised again at future sessions of the Council. Slovenia also stated that the linkage between cultural heritage and human rights was not clear from the resolution and that it was an example of the ‘proliferation of initiatives’ that did not contribute to the protection of human rights. Azerbaijan added that the draft resolution contributed to the ‘counter-productive politicisation’ of the work of the Council. Egypt also took the floor under ‘general comments’, to state that it did not agree with the understanding of the EU that the resolution would not be submitted again in the future, as it was of the firm opinion that it was the prerogative of any delegation to submit a resolution, and the prerogative of the members of the Council to decide whether or not to adopt it.

On the draft resolution creating the **Special Rapporteur on contemporary forms of slavery**,²⁸ presented by the United Kingdom (UK), Egypt took the floor in an explanation of vote before the vote to state that even though the text contained a reference to forced prostitution, the draft fell short of Egypt’s expectations as it did not capture the full range of issues that the Special Rapporteur was expected to address. It stated that it would accept the consensus now but would return to the issue in future sessions.

While the resolution on the **human rights situation in Palestine and other occupied Arab territories**²⁹ was adopted without a vote, Canada took the floor in a general comment after the vote to dissociate itself from the consensus. It stated that it would have supported the resolution if the text had been more even-handed, but that as drafted it did not accurately reflect the situation on the ground.

In a general comment after the consideration of all draft resolutions considered under Item 5, Slovenia took the floor on behalf of the EU members of the Council to comment on the reference to the **Code of Conduct** in resolutions on mandates as part of the review, rationalisation and improvement of special procedures. Slovenia stated that Egypt’s suggestion to include references to the Code of Conduct in such resolutions in order to make it legally binding was unnecessary as the Code was already binding in itself. Egypt took the floor to clarify that it had made this suggestion to have reference to the Code of Conduct in resolutions for its own sake, not to make it legally binding, which it agreed it already was.

Decisions adopted by a vote

Human rights and unilateral coercive measures³⁰

Canada called for a vote on the draft resolution on human rights and unilateral coercive measures submitted by Cuba on behalf of the Non-Aligned Movement. Canada explained that the text failed to distinguish between acceptable, such as economic embargoes, and unacceptable unilateral coercive measures.

The resolution was passed with 34 votes in favour, 11 against, and two abstentions.³¹

Religious and cultural rights in the Occupied Palestinian Territory including East Jerusalem³²

The resolution on the religious and cultural rights in the occupied Palestinian Territories was put to a vote by Slovenia (on behalf of the members of the Council) stating that the text was ‘unbalanced and excessive’ as it was not an accurate reflection of the situation on the ground. It also stated that while it attached the highest

²⁸ A/HRC/6/L.23/Rev.1.

²⁹ A/HRC/6/L.2.

³⁰ A/HRC/6/L.7. This decision was sponsored by Cuba (on behalf of NAM), and was adopted with oral revisions.

³¹ The voting records are available on the OHCHR extranet.

³² A/HRC/6/L.4. This resolution was sponsored by Palestine and presented by Pakistan (on behalf of OIC and the Arab Group who are members of the Council). The resolution superseded A/HRC/4/L.3, which had been deferred from the 4th session.

importance to freedom of religion and to the right to manifest religion in public, it could not accept the draft presented by Pakistan (on behalf of the OIC and the Arab Group members of the Council). Canada took the floor to state its opposition to the draft resolution.

The resolution was adopted by 31 in favour, one against, and 15 abstentions.

Elaboration of International Complementary Standards to the International Convention on the Elimination of All forms of Racial Discrimination³³

Egypt (on behalf of the African Group) introduced the draft resolution. It explained that the resolution followed on from Council *Decision 3/103*. The resolution requests the Ad Hoc Committee on complementary standards to hold its first session from 11 to 22 February 2008. It also noted that the mandate of the Five Eminent Experts had not been fulfilled in accordance with the requirements in *Decision 3/103*. Egypt also made an oral revision to preambular paragraph 8, emphasising the need to find the necessary political will to address comprehensively various forms of racism, racial discrimination and related intolerance.

In a general comment, Pakistan (on behalf of the OIC States members of the Council), noted its strong support for the resolution. It expressed concern at the misuse of the right to freedom of expression to incite racial and religious hatred and intolerance. It underlined the need for new international standards in the form of a new convention or an additional protocol to the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD) to address incitement to racial and religious hatred, religious intolerance and defamation of religions. It proposed that the Office of the High Commissioner for Human Rights (OHCHR) should work with the Council to fill the ‘juridical vacuum’ in relation to defamation of religions.

In an explanation of vote before the vote, Slovenia (on behalf of the EU members of the Council) stated that it was fully committed to the fight against racism, racial discrimination and related intolerance. It stated that complementary standards could be considered to address current challenges but that the process for their development should be ‘comprehensive and consensual’. Furthermore, it underlined that such standards should ‘address real needs’ in the fight against racism and bring a ‘real added-value’. Slovenia also stated that it could not support the draft resolution since it was selective in referring to relevant international standards and arbitrarily outlined the content of possible future norms. Furthermore, according to Slovenia, the draft resolution created a hierarchy between groups of victims of racism and racial discrimination. Finally, it regretted that the draft resolution assessed the work of the Five Experts on complementary standards before their report had been discussed. It called for a vote on the draft resolution.

The resolution was adopted by 32 in favour, ten against, and four abstentions.

From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance³⁴

The draft was introduced by Egypt (on behalf of the African Group). Egypt pointed out that all States had ‘fallen behind in the necessary implementation of their commitments made at the Durban Conference in 2001’. The resolution was aimed at the ‘recognition of past injuries’ and intended to ‘realign the work and name of the Anti-Discrimination Unit’ of OHCHR. The unit should from now on be called ‘Anti-Racial Discrimination Unit’, and exclusively focus on racism, racial discrimination and related intolerance. Small editorial changes to the draft were also announced.

³³ A/HRC/6/L.8/Rev.1.

³⁴ A/HRC/6/L.9/Rev.1.

Slovenia (on behalf of the EU members of the Council) asked for a vote on the draft. It explained that the EU regretted that the draft raised the impression that racism was a phenomenon concentrated in only some regions of the world and created a hierarchy between different expressions of racism and xenophobia. According to Slovenia, victims of racism should be treated equally everywhere. In addition, Slovenia also strongly opposed the attempt to interfere with the authority of the High Commissioner for Human Rights by micromanaging the functioning of OHCHR units and changing their titles.

Draft L.9/Rev.1 was adopted with 28 votes in favour, 13 against, and five abstentions.

Preparations for the Durban Review Conference³⁵

Egypt (on behalf of the African Group) introduced the draft resolution. The text regrets that relevant NGOs and victims did not take part in the first session of the Preparatory Committee. It introduces two oral revisions to the text.

Pakistan (on behalf of the OIC members of the Council) welcomed the constructive engagement of all States in the preparatory process. It underlined that the President of the Preparatory Committee should report to the General Assembly since it was the 'highest political body' of the UN with a larger membership.

Slovenia (on behalf of the EU member of the Council) stated that an agreement had been reached last year at the General Assembly with members of the G77 on the process for the Durban Review Conference within the framework of the General Assembly. It stated that the draft resolution re-classified the 'type of outcome' of the Review Conference and as a result did not reflect the spirit of compromise shared by participants in the Preparatory Committee. It also noted that NGOs had contributed to the dialogue on the objectives of the Review Conference. It believed that States should support the full and unhindered access of NGOs to the Preparatory Committee. Finally, Slovenia noted with regret that the draft resolution had been submitted at a late stage and that the co-sponsors had not taken into consideration paragraph 117 of the institution-building text regarding the working culture of the Council.³⁶ It then called for a vote on the draft resolution.

The resolution was adopted by 33 in favour, ten against, and three abstentions.

In an explanation of vote after the vote, India stated that it supported the resolution on the understanding that the issue of the outcome of the Durban Review Conference would be addressed in the substantive sessions of the Preparatory Committee in 2008.

Deferred decisions

The President informed that the consideration of a number of draft resolutions had been deferred.

The President explained that the draft resolution on the **elimination of all forms of intolerance and discrimination based on religion or belief**³⁷ would be deferred, as further negotiations were required on the issue.

³⁵ A/HRC/6/L.27.

³⁶ This paragraph provides, among others, that there is a need for early notification of proposals and early submission of draft resolutions.

³⁷ A/HRC/6/L.5.

He also informed the Council that the draft resolution on **technical cooperation and advisory services in the Democratic Republic of the Congo (DRC)**³⁸ would be deferred to the 7th session of the Council³⁹ at the request of the main co-sponsors of the resolution.

The draft resolution on the creation of a **working group to elaborate a set of human rights voluntary goals**⁴⁰ to be launched at the celebration of the 60th anniversary of the Universal Declaration on Human Rights (UDHR) was postponed to the resumed 6th session in December 2007.⁴¹

The Council also deferred consideration of the draft resolution **on integrating the human rights of women and a gender perspective throughout the UN system**⁴² until its December 2007 session.

General comments

At the conclusion of the decision making, the President invited non-members of the Council to make general comments.

Finland commented on the resolution on human rights and indigenous peoples⁴³ stating their gratitude to the flexibility of the co-sponsors. It stated that it would have preferred an even stronger reference in support of the mandate of the Special Rapporteur but that consensus on each issue was an important objective. Denmark also welcomed the renewal of the mandate on indigenous peoples and stated that it would have preferred a stronger mandate for the Special Rapporteur to promote the *Declaration on the Rights of Indigenous Peoples*.

Thailand commented on the President's statement regarding the 20th anniversary of the entry into force of the *Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*.⁴⁴ It informed the Council that the Government of Thailand had agreed to accession to CAT on 10 August 2007 and that it would submit the instrument of accession on 10 October 2007. This would be the 6th international human rights instrument to which Thailand becomes party.

Chile commented on the adoption of the three resolutions dealing with racism, racial discrimination and related intolerance and the Durban Review Conference.⁴⁵ The Ambassador of Chile stated that he deeply regretted that these resolutions were not adopted by consensus. He explained that in the last four years, as chairman of the Working Group on the effective implementation of the Durban Declaration and Programme of Action, he had done everything in his power to ensure that such resolutions could always be adopted by consensus. He stated that this 'was not a day of glory for the Council'. He underlined that the task of combating racism and other forms of discrimination is a joint one, incumbent on all members of the Council and each and every one of us. He ended by saying that he would like to place on record how disappointed he was.

³⁸ A/HRC/6/L.19.

³⁹ The 7th session is scheduled to take place from 3 to 28 March 2008.

⁴⁰ A/HRC/6/L.36.

⁴¹ The 6th session is scheduled to take place from 10 to 14 December 2007.

⁴² A/HRC/6/L.32.

⁴³ A/HRC/6/L.26.

⁴⁴ A/HRC/6/L.22.

⁴⁵ Elaboration of International Complementary Standards to the International Convention on the Elimination of All forms of Racial Discrimination (A/HRC/6/L.8); From Rhetoric to Reality: A global call for concrete action against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/HRC/6/L.9); Preparations for the Durban Review Conference (A/HRC/6/L.27)

Closing of the session

The Friends World Committee for Consultation (Quakers) in a joint statement⁴⁶ addressed the Council, providing an overview of the first part of the 6th session from a non-governmental perspective. The NGOs welcomed the increased level of substance during this session of the Council, and pointed out that the institution-building tasks had been completed and the new agenda and programme of work put into operation. A number of specific achievements of the 6th session were highlighted:

- The innovation and substance of the gender panel;
- The completion of the review of some special procedures mandates, which was particularly important since it allowed the special procedures mandate holders to look ahead with confidence and plan their work after a long period of uncertainty;
- The first new special procedure had been created;
- The practices of NGO participation observed at previous sessions had been continued;
- The decisions taken regarding the UPR would enable the review process to start;
- The high level of consensus and cooperation shown during the 6th session was evident in the decisions adopted without a vote.

Despite these positive comments, the NGOs regretted the high level of uncertainty associated with the frequent changes to the programme of work. This made it difficult especially for NGOs not permanently located in Geneva to interact with the Council on the issues they wished to. It was suggested that the date and time of interactive dialogues with special procedures mandate holders would be 'set, maintained and well publicised' to allow everyone to better prepare and engage with them.

President Costea reacted to this in his closing remarks. He reiterated that the programme of work was a 'living document' and subject to change due to factors outside the control of the Presidency and the Secretariat. He pointed out that an annual programme of work had been distributed and publicised on the extranet. He noted that at least the sequence of meetings should remain unchanged.

Giving a short overview of the session, he congratulated the Council for the substantial results of the intensive three weeks. The achievements made in the area of institution building and the substantial resolutions passed had, in his view, proven that the Council was committed to its work and ready to respond to the expectations of its members. Noting that the institution building had been almost completed, he stressed that important tasks still lay ahead. These included in particular the setting up of the public list for eligible candidates for special procedures mandate holders, the 'head-hunting' for candidates to the Human Rights Council Advisory Committee, and the necessary preparation for the first session of the UPR. He stressed that everyone should be 'ready to talk to one another and to listen to one another'.

Finally, he repeated the announcement that a special session would be held on Tuesday, 2 October 2007 to respond to the crisis in Myanmar. An informal meeting to prepare the special session would be held on Monday, 1 October 2007 at 3 p.m. in room XVIII of the Palais des Nations.

The President then suspended the 6th session of the Council until 10 December 2007 when the Council will reconvene for one week.

⁴⁶ Joint statement with the International Service for Human Rights (ISHR), Franciscans International, Dominicans for Justice and Peace, and the Baha'i International Community.

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