

# COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

## HUMAN RIGHTS COUNCIL, 4<sup>TH</sup> SESSION OVERVIEW

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## General Comments

The 4<sup>th</sup> session of the Human Rights Council (the Council) was due to take place over a period of four weeks from 12 March to 5 April 2007. However, several weeks before the session was due to begin, the Council

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accepted a proposal from its President, Ambassador Luis de Alba, to shorten the 4<sup>th</sup> session to three weeks so that the Council could sit for a 5<sup>th</sup> session in June in order to finalise the institution-building process and adopt its outcome document before the end of the first year of the Council.<sup>1</sup> In addition, some of the reports due to be presented by the Special Procedures were pushed back to the 5<sup>th</sup> session. As a result of this tightening of the schedule, there were a number of days where the Council had to begin early, end late or sit throughout lunch in order to make up time. A number of informal consultations were also held during lunch hours for discussion of the institution building process.

## Background and overview

The 4<sup>th</sup> session of the Council was the first session of the Council to be held in March/April, when the annual meeting of the former Commission on Human Rights (the Commission) was traditionally held. Therefore, it was decided that this would be the equivalent of the Council's first 'core' session, expected to cover more substantive areas of human rights work than previous sessions. Some of this work was guided by precedent set by the Commission; some of it followed patterns set by the first three sessions of the Council; and some of it constituted new innovations. The session was opened by two items that used to appear on the Commission's agenda: a segment devoted to statements by high-level representatives, and the presentation of the annual report of the High Commissioner for Human Rights. The majority of the rest of the session was taken up with the presentation of reports by the Special Procedures, which also followed the traditional pattern of the Commission's sessions. However, following a practice established at the 2<sup>nd</sup> session of the Council, the presentation of each report was followed by an 'interactive dialogue' with States and NGOs providing their comments on the report. Another innovation to the Council's agenda was the inclusion of several periods devoted to 'related debate' following interactive dialogues with the Special Procedures, providing the opportunity for delegations to comment on issues relevant to the general themes and situations covered by the Special Procedures, but not dealt with in the reports presented at this session. A final innovation can be seen in the form of two 'special events', each devoted to a specific important issue, agreed upon in advance by the Council.

The session also included in-depth follow-up to decisions taken at previous special sessions of the Council, specifically the high-level missions on Darfur and the occupied Palestinian territories. The day devoted to discussing Darfur was one of the most highly anticipated of the session. However, due to controversy over the visit of the high-level mission to the region, the day was taken up with heated debate on the legitimacy of the report rather than the substantive issues relating to the situation in Darfur.

18 June also marks the anticipated deadline for culminating the large part of the Council's institution building process. Although *General Assembly Resolution 60/251* indicated that the process should end one year after the close of the 1<sup>st</sup> session (31 June), it was expected that the process should be concluded before the Council's membership is renewed for the first time, following the 18 June. Therefore, this Council should have included signs of the beginning of the end of this process. However, with the working groups on institution building still a considerable distance from establishing consensus<sup>2</sup> and only one morning and one afternoon of the session formally devoted to addressing institution building, this session was not characterised by considerable progress in this area.

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<sup>1</sup> GA 60/251 requires the institution building process to be completed 'within one year after the holding of its first session'. This means the process must be completed by June. The draft timetables discussed in January and December had indicated that there would be a four week session including three and a half days to four days of high-level discussion, at least two full days of discussion regarding the working groups on institution building and six to eight half days devoted to decision making. However, the final timetable reduced the length of the high-level segment to two and a half days, the discussion on institution-building and the time allocated to decision making. All draft timetables for the session can be accessed on the OHCHR extranet (fill out the form on the page to receive the user name at password) at [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm).

<sup>2</sup> These working groups have been meeting throughout the last year to discuss different aspects of the institution building process. Reports on their work can be found at [www.ishr.ch](http://www.ishr.ch).

## High level segment

The first two and a half days of the Council consisted of speeches from high level dignitaries.<sup>3</sup> On the whole, this was not an interactive process, and statements tended to focus on whichever issues had been prioritised by the presenting State. However, use of the death penalty and the situation in Sudan both emerged as issues of concern, with many delegations calling for a resolution to the conflict in Sudan and abolition of the death penalty around the world. Particularly significant statements included: China's declaration that it was developing a policy which would eventually lead to the abolition of the death penalty, and Sudan's statement that the reports of the high-level mission on the situation in Darfur was illegitimate. Many States also made general statements about the need to resolve the situation in the Occupied Palestinian Territories. In addition to comments on these particular human rights issues, many States took the floor to reiterate their positions on the institution building process.

## Interactive dialogue with the High Commissioner regarding her annual report

At the end of the high level segment, the Council devoted one afternoon to the presentation of the annual report of the UN High Commissioner of Human Rights, Ms. Louise Arbour (the High Commissioner). The majority of the presentation, and the proceeding interactive dialogue between States, other stakeholders and the High Commissioner, concentrated on questions surrounding the ongoing institution-building process and the functioning of the Office of the High Commissioner for Human Rights (OHCHR). In particular, she stressed the importance the Special Procedures and the UPR as part of the system to protect and promote human rights, and she insisted on the involvement of NGOs and NHRIs in the review of the Special Procedures. However, the High Commissioner was also quick to explain that her comments on institution building were not intended to overshadow the work of OHCHR in other important areas, but rather that she was aiming to address issues that were not fully covered in other OHCHR reports due before the Council the next day. Regarding these other areas, she discussed the activities of the OHCHR, starting with the regional bureaus being negotiated, including offices in Central Asia, West Africa, and Northern Africa. She mentioned the new agreement with Bolivia regarding the extension of peacekeeping operations in the country, as well as updates about the operations in Uganda, Guatemala and Nepal. On Nepal, she discussed the Terai region of Nepal as an example of work left to be done, specifically with respect to putting an end to discrimination and assuring the representation of traditional excluded groups. She pointed out, however, that the work in Nepal showed how with cooperation, sufficient resources, support from the international community, and a mandate for sustained engagement, positive change could be made. She requested that Nepal renew the bilateral accord allowing the Office to work in the region.

The following interactive dialogue provided general support for the content of the High Commissioner's annual report and it should be noted that the High Commissioner received a more positive reception than at the 2<sup>nd</sup> session of the Council, where on many occasions the impartiality of the OHCHR was called into question. Cautious welcome was given to improvements in equitable geographic representation among OHCHR staff, an issue that has been raised consistently by certain countries in the past, although there remained a sense that considerably more work needed to be done. Many States also applauded the High Commissioner's emphasis on the right to development while questioning the applicability of addressing the death penalty, on the one hand, while on the other hand many other States affirmed their opposition to the death penalty in all its forms while ignoring any reference to the right to development.

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<sup>3</sup> Details of the issues discussed at these meetings can be found in ISHR's 'Daily Updates' of 12, 13 and 14 of March 2007. These can be accessed [www.ishr.ch/hrm/council/updates](http://www.ishr.ch/hrm/council/updates) .

The High Commissioner was queried on the best means for the Council to address complex situations, from the non-cooperation of the Democratic People's Republic of Korea (DPRK) to the protection of women human rights defenders. Finally, many opinions not directed at the High Commissioner were expressed on future prospects for the institution-building process.

## Presentation of reports by Special Procedures and the High Commissioner for Human Rights

Just as at the 2<sup>nd</sup> session the main agenda item for the Council was consideration of reports of the Special Procedures. Two thirds of the annual reports from mandate holders were assessed at this session, with the rest left pending for consideration at the 5<sup>th</sup> session. The High Commissioner for Human Rights, Ms Louise Arbour, also presented a number of other reports, studies and documents. Following the format established in the 2<sup>nd</sup> session of the Council,<sup>4</sup> a distinction was made in the structure of the presentations and debates between the thematic and country rapporteurs. The thematic rapporteurs presented their reports in groups (usually of three in each three hour meeting), followed by a combined interactive dialogue with all the mandate holders who had presented during that meeting, where concerned States<sup>5</sup> were given the opportunity to speak first, followed by other States, and then NGOs, before finally the Rapporteurs were given a chance to respond. The country-specific mandate holders were scheduled to present individually during the course of an hour in which the interactive dialogue was held with the relevant Special Rapporteur directly after the presentation. It should be noted that during the interactive dialogues on thematic special procedures, NGOs were permitted to comment throughout the debate, but during the interactive dialogues on country specific mandates, they were only permitted to be speak at the end of the meeting. This practice was established at the 2<sup>nd</sup> session, and it continued to have notable negative effects, limiting the usefulness of NGO participation. Firstly, it meant that experts did not have the opportunity to respond or comment to issues raised by NGOs, which gave NGOs less opportunity to influence the debate. Secondly, grouping NGO comments together at the end of the dialogue made it less likely that all State delegations would still be in the room and listening to the statements given.

In addition to the interactive dialogues, there were also three sessions of 'related debate' that took place at intervals throughout the meetings devoted to consideration of the reports of the Special Procedures. These debates included general discussion of the themes raised by the mandate holders who had spoken immediately prior to the debate and gave the opportunity for States and NGOs to draw attention to related issues, such as specific country situations and the status of ratification of relevant conventions.

In addition, the High Commissioner for Human Rights presented various country-specific and thematic reports prepared by the OHCHR.<sup>6</sup>

### Presentation of reports

The thematic mandate holders who presented reports to the Council and participated in the interactive dialogues were:<sup>7</sup>

- The Chairperson of the Working Group on Disappearances;

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<sup>4</sup> Explanation of this can be found in ISHR's 'Overview of the 2<sup>nd</sup> Session'. This can be accessed at [www.ishr.ch/hrm/hrcouncil](http://www.ishr.ch/hrm/hrcouncil).

<sup>5</sup> 'Concerned States' are those that were subject of specific reports, i.e. those countries where a Special Rapporteur had been on a mission and submitted a separate report to the Council.

<sup>6</sup> These reports are available at: [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm).

<sup>7</sup> Reports presented to the Council are available at [www.ohchr.org/english/bodies/hrcouncil/4session/reports.htm](http://www.ohchr.org/english/bodies/hrcouncil/4session/reports.htm), and copies of oral statements can be found on the OHCHR extranet (fill out the form on the page to receive the user name and password) at [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm).

- The Special Rapporteur on minority issues;
- The Special Rapporteur on the human rights of migrants;
- The Special Rapporteur on indigenous persons;
- The Special Rapporteur on internally displaced persons;
- The Special Rapporteur on violence against women, its causes and consequences;
- The Special Rapporteur on the sale of children, child prostitution and child pornography;
- The Chairperson of the Working Group on Mercenaries;
- The Independent Expert on the effects of economic reform policies and foreign debt on the full enjoyment of human rights;
- The Special Rapporteur on the right to education;
- The Special Rapporteur on the promotion and protection of human rights while countering terrorism;
- The Special Rapporteur on torture and cruel, inhuman or degrading treatment or punishment;
- The Special Rapporteur on freedom of religion or belief;
- The Special Rapporteur on the right to freedom of opinion or expression;
- The Chairperson of the Working Group on Arbitrary Detention;
- The Special Rapporteur on extrajudicial, summary or arbitrary executions;
- The Chairperson of the Working Group of Experts on People of African Descent;
- The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance;
- The Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises;
- The Special Rapporteur on the right of everyone to enjoyment of the highest attainable standard of physical and mental health;
- The Special Representative of the Secretary-General on the situation of human rights defenders.

The country-specific mandate holders who presented reports to Council and participated in the interactive dialogue with States and NGOs were:<sup>8</sup>

- The Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967;
- The Special Rapporteur on the situation of human rights in the Democratic People's Republic of North Korea;
- The Special Rapporteur on the situation of human rights in Myanmar;
- The Special Rapporteur on the situation of human rights in Burundi;
- The Independent Expert on technical cooperation and advisory services in Liberia.

The High Commissioner presented various reports prepared by OHCHR. When she presented them, she made an intervention focusing on the situations in Afghanistan, Cambodia, and Colombia, and the themes of discrimination in all its forms, the fight against impunity and the right to development. Other issues covered in the reports included the situation in Nepal and the experience of Palestinian women giving birth at Israeli checkpoints.

For descriptions of the presentations and dialogue on each of these reports, please see the *Council Monitor Daily Updates*.<sup>9</sup>

### Interactive dialogues

As with the 2<sup>nd</sup> session, the grouping of several mandates together for the dialogue allowed States more freedom to comment on the mandate holders more relevant to them, which sometimes meant more attention

<sup>8</sup> These reports are available at <http://www.ohchr.org/english/bodies/hrcouncil/4session/reports.htm>.

<sup>9</sup> Available at [www.ishr.ch](http://www.ishr.ch).

was paid to particular mandate holders, at the expense of others. It was easy for controversial mandates to overshadow others when placed side by side within one meeting. At the last session, States were given two minutes in which to respond to each Rapporteur's report. There were considerable difficulties with time management. At this session, the system was simplified and time allowances shortened, with States allowed a total of five minutes to comment on all the reports being discussed. Despite this, once again, time management of the dialogue proved problematic and Special Rapporteurs often had little time to respond to the comments and questions presented to them. Even when running according to schedule, the Special Rapporteurs were only allocated five minutes to respond to a vast array of questions presented. Consequently, many questions had to be left unanswered. Once again, the problem of substantive outcomes to the dialogues remained. Just as at previous sessions, substantive issues were discussed but there were no clear mechanisms for translating these discussions into decisions. For example, the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, repeated his call to establish a fully fledged international human rights monitoring mission in Sri Lanka. At the 2<sup>nd</sup> session, this call was supported by a number of delegations.<sup>10</sup> However, two sessions later, the Council was no closer to taking action on this issue. Despite these problems, the dialogues continued to provide a valuable opportunity for NGOs to contribute to discussion and a wide range of issues were raised.

There was also an interactive dialogue with the High Commissioner, following her presentation of the reports prepared by OHCHR. In this dialogue, concerned States made short statements on the situation in their country and on their goals, including statements from both Nepal and Israel challenging the accuracy of reports relevant to their situations. Several other States and NGOs also made short comments on these country situations. In addition, both Algeria (on behalf of the African group) and Morocco took the opportunity to encourage the High Commissioner to increase diversity of the staff of OHCHR.

### **Related debate**

The three half days of related debate were one of the most significant innovations of this session. These meetings were interspersed evenly throughout the interactive dialogues and allowed time for delegations to raise issues related to the themes discussed in the preceding interactive dialogues, but that did not relate specifically to the reports of the mandate holders being considered. Both States and NGOs used this time to draw attention to specific country situations. For example, in the related debate concerning enforced disappearances, there was discussion of situations where enforced disappearances had taken place in Sri Lanka, Pakistan, Nepal, Indonesia, the Philippines and Western Sahara. Other delegations used this time to draw attention to treaties. For example, in the related debate following the interactive dialogue with the Special Rapporteur on indigenous persons, many delegations spoke of the importance of the *Declaration on the Rights of Indigenous Peoples* and called upon the General Assembly to adopt it. Some delegations used this time to consider cross-cutting issues surrounding the themes under discussion. For example, in the related dealing with violence against women, one NGO took the opportunity to highlight the links between violence against women, persecution of human rights defenders and discrimination based on sexual orientation.<sup>11</sup> If the related debate segment becomes an established practice in the Council, it may provide real added value to its proceedings by facilitating a flexible and open environment in which issues such as these may be raised.

### **Attacks on mandates and mandate holders**

Just as at previous sessions, a number of States used interactive dialogues to criticise specific mandate holders. Ukraine strongly criticised the report of the Special Rapporteur on the sale of children, child prostitution and child pornography for using 'doubtful methodology and emotional overstatements'. Serbia attacked the Special Rapporteur on internally displaced persons for referring to possible IDPs if the separation of Serbia and Kosovo were decided. Kenya and Tanzania both disputed the analysis of the Special Rapporteur on the human rights of indigenous persons, arguing that all persons of African-origin are indigenous to their

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<sup>10</sup> Including Australia, Canada and Finland (on behalf of the EU).

<sup>11</sup> The Centre for Women's Global Leadership.

countries. The strongest attacks made on mandate holders were those made against the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 and the Special Representative of the Secretary General on Human Rights Defenders. Israel called the report the Special Rapporteur ‘one-sided, selective, and unreservedly biased’. The Russian Federation rejected the Special Representative’s definition of human rights defenders, and stated that her definition results in a loss of confidence in her work. It also alleged that she had been provided with inaccurate and low quality information discrediting her mandate.

Israel also took issue with the mandate governing the report submitted by the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. It reminded the Council that the resolution establishing this mandate was adopted by a vote. Germany (on behalf of the EU) added that although it welcomed the report of the mandate holder, it was concerned about the scope of this mandate. The Democratic Peoples Republic of North Korea also rejected the mandate on the situation of human rights within its borders. The DPRK described the mandate as a political conspiracy by the USA, Japan and the EU. China supported DPRK by strongly opposing this mandate.

Complaints were also made regarding the late release of reports. Both Algeria and the Russian Federation expressed their displeasure that the first addendum to the report of the Special Representative of the Secretary General on Human Rights Defenders had not been released in sufficient time for it to be considered by States before the interactive dialogue. The President of the Council agreed that this was a problem, but noted that the document was available in electronic form the night before the interactive dialogue took place.

Despite these attacks on particular mandate holders and mandates, the Council was not as taken up with the volume of attacks as it was at its 2<sup>nd</sup> session. This may be because reports from the holders of particular controversial mandates were not assessed at this session. For example, the reports of the rapporteurs on Cuba and Belarus are scheduled for the 5<sup>th</sup> session.

#### Follow-up to previous decisions of the Council

Early in the session, the President announced that the consideration of follow-up on the first and second special sessions of the Council, relating to the Occupied Palestinian Territories and Lebanon respectively, were being postponed to a later date. The Council agreed that this was acceptable. As a result, only the following two items were considered at this session.

#### **Report of the high-level mission on the situation of human rights in Darfur**

Professor Jody Williams opened the debate by giving the presentation of the High-level Mission Report (the Report). The opening of the floor for interactive dialogue did not, however, lead to a discussion of the substantive human rights issues in the Sudan. Instead, the debate was split squarely between two camps. The first insisted that the Mission had fulfilled its mandate, despite obvious difficulties, and that it was imperative that the Council act upon its findings in order to alleviate the sufferings of the people of Darfur and to show that the Council is capable of responding to immediate, gross and systematic human rights violations. The second camp insisted that the Mission had not fulfilled the mandate requested of it and that the report could not be discussed as it had no legal status. This followed a series of events that had changed the nature of the Mission. Firstly, the Sudanese Government denied a visa to one member of the Mission on the grounds that he had publicly spoken against the Government of the Sudan, ‘tainting the objectivity of the mission’.<sup>12</sup> This decision related to comments made by Professor Bertrand Ramcharan on possible war crimes in Darfur, speaking in his capacity as the acting United Nations High Commissioner for Human Rights. Following this,

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<sup>12</sup> This was the wording of the Algerian ambassador.

Mr. Makarim Wibisono, Permanent Representative of Indonesia to the Council, resigned from the Mission. In his statement to the Council, Mr. Wibisono did not provide an explanation for this decision to the Council, simply stating that his decision to resign was known to the Council and that he would not use ‘this opportunity to dwell on this matter’. The Sudanese authorities then refused to grant visas to the remaining members of the Mission on the grounds that the Mission did not represent the composition as provided by the resolution of the special session on Darfur. Consequently, three of the five original members of the Mission travelled to Chad to conduct their work, unable to conduct a visit to Darfur.

States opposing the validity of the Mission’s report argued that as the Mission eventually consisted of only three members, it had ceased to constitute the Mission mandated by the Council, and it was no longer geographically representative. Other States argued that the Mission’s report could not be accepted on the grounds that it had not visited Darfur. There were strongly worded exchanges about why the Mission had not visited the Sudan, whether it was of any consequence that there were less than five members by the completion of the Report, and whether it was appropriate to be arguing about such technical issues in the face of incontrovertible evidence of ongoing systematic human rights violations.

What was notable in this split, however, was that the Council was not divided amongst traditional regional blocks. Instead, the African Group was visibly divided on the question. There was no African Group statement delivered by Algeria, who instead spoke on behalf of the League of Arab States. On the other side, a number of sub-Saharan African States vocally refused to accept the argument that the Report was invalid on technical grounds, and instead concentrated their statements on the Council’s responsibility to protect the people of Darfur. This point was summarised by the Ambassador of Zambia when he stated that the people of Darfur do not need discussions on technicalities, ‘they need to live in peace, freedom and human dignity now.’ Also of note was the fact that every State of the European Union (EU) spoke individually in favour of the Report and the need to act on its findings. This marked a departure from customary practices of one or two individual States speaking in addition to the group EU statement.

By the conclusion of the day, the rift between the two camps had not been bridged. It became apparent that a substantial number of States were using technicalities to shield the Government of Sudan. In her concluding statement to the Council on behalf of the Mission, Professor Jody Williams made it clear to the Council that nothing less than its own credibility was at stake.

### **Report of the high-level fact-finding mission to Beit Hanoun**

Christine Chinkin, member of the High-Level Facting-Finding Mission to Beit Hanoun (the Mission)<sup>13</sup>, addressed the Council to update it on developments in the Mission’s work. She referred to a letter of Archbishop Tutu<sup>14</sup>, the leader of the Mission, setting out the events that led to the Mission not being able to carry out its mandate due to Israel’s failure to grant visas. She added that while substantial second-hand information existed, this was not what had been envisaged by *Resolution S-3/1*. She concluded by stating that the information provided nonetheless suggested that Israel’s actions in Beit Hanoun amounted to grave violations of human rights, and that an investigation should still be undertaken with a view to formulating recommendations of the protection of the human rights of individuals in the area.

In response, Israel declared that it was the subject of unprecedented attention from the UN with regard to country visits and that this visit was entirely politicised. It added that *Resolution S-3/1* was part of new anti-Israeli measures taken by the ‘new and improved Council’. Member States generally thanked Ms. Chinkin for her speech, taking note of the difficulties faced by her Mission and regretting that its mandate had not been

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<sup>13</sup> Established under Council Resolution S-3/1, 14 November 2006, available at <http://www.ohchr.org/english/bodies/hrcouncil/docs/spciealsession/A.HRC.S-3.L.1.pdf>.

<sup>14</sup> A/HRC/4/113, 11 December 2006.

carried out. Several States who had argued that the report on Sudan should be disregarded welcomed this Mission's decision not to write a report when only secondary sources were available.<sup>15</sup>

## Special events

This session of the Council included the first panel events undertaken by the Council. These events stemmed from an idea championed by Canada in the Working Group on the Agenda.<sup>16</sup> Unlike the informal or parallel events, which are held outside the plenary, these events were held during the plenary session with members of the Council, many observers, and a high number of NGO representatives present. This provided a forum for focusing on a particular issue within the Council's work. Although no decisions or resolutions came out of these events, both were well received as a positive addition to the Council's work. The fact that this proposal from Canada was put into action at this session demonstrates the real possibilities for introducing positive innovations through the Council's institution-building process.

### **Special event on violence against children<sup>17</sup>**

The President of the Council introduced the event by explaining that he had called for a special event on this theme because the UN Study on Violence against Children<sup>18</sup> (the UN Study) included recommendations made specifically to the Human Rights Council. The panellists were the Deputy High-Commissioner for Human Rights, the Independent Expert for the UN Study on Violence against Children (the Independent Expert), a member of the NGO Advisory Group on Violence against Children and representatives from the WHO, UNICERD, OHCHR and the ILO. The Council was shown a film produced by Save the Children,<sup>19</sup> as well as a recorded message by a member of the Committee on the Rights of the Child. The Independent Expert presented the UN Study and made a statement discussing the study and its recommendations. He also commented that the special event was significant as it showed that the Council was ready to prioritise children in its work.

From interventions made by many delegations, it was clear that the special event was well received by both States and NGOs. A discussion was conducted involving States, NGOs and panellists, addressing numerous issues related to violence against children, including gaps in protection.

### **Special event on the *Convention on the Rights of Persons with Disabilities***

This event fell the week before the *Convention on the Rights of Persons with Disabilities* (the Convention) was due to be opened for ratification in New York. It provided an opportunity for States to be encouraged to ratify the Convention and for States and NGOs alike to become better informed on the Convention and its implications. The panellists were the High Commissioner for Human Rights, the Chairperson of the Ad-hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities, the Special Rapporteur on Disability for the Commission for Social Development, the President of the Thailand Association of the Blind and a representative of the International Disability Caucus. All the panellists made statements, covering issues relating to implementation of the Convention, monitoring and the role of civil society and States in these activities. Following these

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<sup>15</sup> Algeria (on behalf of the Arab group), Cuba and Bangladesh.

<sup>16</sup> Information regarding Canada's proposal can be accessed at [http://www.ishr.ch/hrm/council/wg/rules/wg\\_rules.pdf](http://www.ishr.ch/hrm/council/wg/rules/wg_rules.pdf).

<sup>17</sup> For a full report on this special event, see [www.crin.org/violence/search/closeup.asp?infoID=12832](http://www.crin.org/violence/search/closeup.asp?infoID=12832).

<sup>18</sup> In 2001, General Assembly *Resolution 56/138* requested the Secretary-General to conduct an in-depth study on the question of violence against children, following a recommendation by the Committee on the Rights of the Child. The study can be accessed at <http://www.violencestudy.org/r25>.

<sup>19</sup> This film can be accessed at [Http://savethechildren.net/alliance/index.html](http://savethechildren.net/alliance/index.html).

Statements, many States pledged to sign the Convention.<sup>20</sup> A number of delegations made statements on relevant issues, including the rights of disabled children. Some States gave specific suggestions on how the Council could continue its involvement in the new system of implementation.

## The institution-building process

The discussions of the Working Groups on institution building at this Session consisted of two formal meetings and a series of informal consultations. During the first week of the Session, the Facilitators of the Working Groups presented progress reports in a formal meeting. Informal consultations were then held in parallel to other sessions of the Council in order to advance negotiations. At the end of the Session, there was a formal meeting of the Working Groups, allowing any progress made in the informal consultations to be acknowledged and consolidated.

### Formal sessions on the institution-building process

At the first of the two formal meetings on institution building, all six Facilitators of the Working Groups on institution building presented progress reports to the Council.<sup>21</sup> They summarised the progress of their Working Group, and presented new non-papers intended to reflect the current state of negotiations. After the presentation these reports, an interactive dialogue was held where States and NGOs were permitted to comment on the progress of the Working Groups and the institution building process as a whole. Most delegations used this time to re-state their positions on key issues.

At the second of the two formal meetings, an opportunity was provided for all delegations to comment on any aspects of the institution building process, following the informal consultations that had been held throughout the Council. Once again, delegations reiterated their established positions and concerns.

### Informal consultations

There was one informal session of each of the six Working Groups, except for the Working Groups on the UPR and special procedures, for which there were two informal sessions. The Working Groups functioned in generally the same fashion as they have done throughout their formal sessions, with each of the Working Groups chaired by its usual Facilitator.

There was little significant progress made in these sessions, with delegations generally reiterating well established points. However, several elements of progress should be noted:

The Working Group on expert advice:

- The Russian Federation made a significant challenge to the EU's established proposal of creating a roster of experts. At this session, the Russian delegation asked for an explanation as to the difference between the proposed EU model of a roster of experts and the existing system of Special Procedures. The consequent argument that there would be little difference was supported by China, Pakistan (on behalf of the OIC) and Egypt.

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<sup>20</sup> Spain, Morocco, Mexico, Thailand, Tanzania, the Sudan, Libyan Arab Jamahiriya, Canada, India, Indonesia, Croatia, Finland (on behalf of the Nordic Countries Sweden, Norway, Denmark and Iceland), the Republic of Korea, the Czech Republic, Brazil, Algeria.

<sup>21</sup> The Working Groups on institution building are the Working Group on the Agenda and Annual Programme of Work, the Working Group on Methods of Work and Rules of Procedure, the Working on Review of the 1503 procedure/complaint procedure, the Working Group on Review of the Sub-Commission and setting up the system of expert advice, the Working Group on Review of Special Procedures and the Working Group setting up the Universal Periodic Review Mechanism. Reports on the meetings of these working groups can be accessed at [www.ishr.ch/hrm/hrcouncil](http://www.ishr.ch/hrm/hrcouncil).

- India elaborated a compromise proposal that it had introduced briefly at the end of their last meeting. This proposal was that there should be a ‘standing pool of experts’ elected by a Council through a two-stage process of pre-screening and election. The Council would decide how to assign tasks either individually or collectively. The pool of experts would meet annually for at least two weeks, but only as a means of discussing issues and sharing information and ideas. There would be no need, however, for a collective adoption of individual studies, as is the practice at the Sub-Commission. The EU, Switzerland and the USA expressed an interest in considering this proposal.

The Working Group on the complaint procedure:

- Mexico proposed for the first time that the section on admissibility criteria for communications should include that the communication is not being dealt with by a regional human rights mechanism.
- Some States began to query the use of the term ‘victim oriented’<sup>22</sup> in the document, Bangladesh suggesting that the focus of the procedure should be the overall human rights situation in countries as it could not provide redress for individual victims of human rights violations.

The Working Group on the universal periodic review mechanism:

- Switzerland proposed that instead of the multiple working groups being discussed by most delegations, there should instead be one working group comprised of five members from each regional group. Only the USA expressed any immediate interest in this notion, as they were also the only State to favour a single working group proposal during the last session of the Working Group. However, the USA had originally proposed a working group comprised of all UN member States, administered by a single core group of ten States, who would draft the outcome document.
- The USA produced a proposal for the format of the outcome document, whereby it would include a summary and recommendations, although it added that it may be difficult to have clear conclusions for each country reviewed.

The Working Group on the review of special procedures:

- Cuba stated for the first time that it was willing to extend thematic mandates for another three years and even to extend the terms of mandate holders. This way, a review could be done on a case-by-case basis when the Council renewed the resolutions on each of these thematic mandates. The Facilitator welcomed this proposal and suggested that the Council should begin the process of reviewing thematic mandates from the middle of this year and continue doing so at regular intervals.
- China had previously mentioned the idea that country mandates should need a more ‘substantial’ margin of votes to be established. At this session it pushed this argument more strongly and it appeared as a significant suggestion for the first time.

The Working Group on rules of procedure and methods of work:

- As part of the ongoing debate on whether the Council should be able to meet outside Geneva, Russia proposed the wording that the Council should meet in Geneva ‘unless otherwise decided’. The Facilitator proposed that a clarification that the headquarters should be in Geneva might be a feasible compromise.

Outcomes and follow up

### **Decisions of the 4<sup>th</sup> session**

Two resolutions were adopted by consensus on 23 March 2007:

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<sup>22</sup> Bangladesh, Pakistan, China.

- *Resolution A/HRC/2/L36*<sup>23</sup> was introduced by Switzerland. The purpose of the Resolution was to strengthen the role of the Office of the High Commissioner for Human Rights (OHCHR) in peace-building operations in transitional States.
- *Resolution A/HRC/4/L9* was introduced by Portugal. The purpose of the Resolution was to promote and protect economic, social and cultural rights through the active work of States, the OHCHR, other UN agencies and civil society.

Two resolutions were adopted by consensus on 27 March 2007:

- *Resolution A/HRC/4/L.2* was introduced by Pakistan (on behalf of the OIC). The Resolution called for the implementation of *Councils Resolutions S-1/1* and *S-3/1*, which were the outcomes of the 1<sup>st</sup> Special Session on the Occupied Palestinian Territory. This included the dispatch of the urgent fact-finding missions that failed to take place as visas were not provided. Germany on behalf of the EU noted that although the EU did not originally support these Resolutions, it would support the Resolution calling for their implementation on the grounds that all resolutions of the Council should be implemented.
- *Resolution A/HRC/4/L.6* was introduced by Algeria. The Resolution requested that the coordinating committee of special procedures extend the deadline for submission of comments on the draft manual of special procedures to 18 June 2007, and that the Working Groups on special procedures present the outcomes of their discussions on the code of conduct regulating the work of the special procedures to the 5<sup>th</sup> session of the Council.

Five resolutions were adopted by consensus on 30 March 2007:

- The first and most contentious of these was *A/HRC/2/L.038.Rev.1* on the follow-up to the 4<sup>th</sup> special session on Darfur. The main contribution of the Resolution was ‘to convene a group of special procedures, presided over by the Special Rapporteur on the Sudan to work with the Government of the Sudan, human rights mechanisms and the African Union to ensure effective follow-up, to foster the implementation of resolutions and recommendations on Darfur and ‘to contribute to monitoring the human rights situation on the ground’. The draft adopted was a compromise proposal presented by the President of the Council. This compromise was produced following the circulation of draft resolutions from Algeria (on behalf of the African group) and Germany (on behalf of the EU). The European draft had expressed deep concern regarding a long list of ongoing violations of human rights in Darfur and indicated that a high-level mission should be established comprising of list of special procedures to assess the implementation of existing resolutions on Darfur from the Council, former Commission and other bodies as they relate to the human rights situation in the region. The African draft<sup>24</sup> had a distinctively more positive tone, providing an abbreviated list of violations ongoing in Darfur and ‘welcoming’ the ‘readiness of the Sudan to improve its human rights situation in Darfur’. It recommended a panel be convened, made up of experts of to be designated by the Council at a later date in consultation with the African Union Commission. The final compromise proposal replicated Germany’s text, but removed reference to the Special Rapporteur on contemporary forms of racism as a member of the convened group of special procedures. 16 delegations joined as co-sponsors to the compromise resolution. Several States that had vocally challenged the legitimacy of the High-Level Mission’s report on Darfur took the floor to welcome the Resolution and call on the Sudan to cooperate with it.<sup>25</sup> Algeria (on behalf of the African group) stressed that it co-sponsored the resolution because it ‘deeply cares for the victims’ in Darfur.

<sup>23</sup> Draft and final version of resolutions as well as the voting record is available on the OHCHR extranet which can be accessed at <http://portal.ohchr.org> (fill out the form on [www.ohchr.org/english/bodies/hrcouncil.form.htm](http://www.ohchr.org/english/bodies/hrcouncil.form.htm) to receive the user name and password).

<sup>24</sup> A/HRC/4/L.8/Rev.1\*

<sup>25</sup> Russian Federation and China.

- The second resolution<sup>26</sup> was presented by Cuba (on behalf of NAM), calling for further elaboration on an international convention on the right to development that would set out a roadmap for the implementation of the right to development.
- The third<sup>27</sup> was also proposed by Cuba (on behalf of NAM), and was a short action-oriented decision seeking to collect information on ways and means to promote international cooperation to more effectively promote and protect human rights.
- The fourth<sup>28</sup> was proposed by South Africa, and aimed to begin the ‘rectification’ of the legal status of the Committee on Economic, Social and Cultural rights, by placing it on a par with other treaty monitoring bodies.
- The final resolution adopted by consensus<sup>29</sup> was proposed by Germany (on behalf of the EU), regarding the elimination of forms of intolerance of discrimination based on religion or belief.

Four resolutions were adopted by a vote on 30 March 2007.

- The first of these<sup>30</sup> was proposed by Pakistan (on behalf of the OIC) and adopted the decision of the General Assembly on combating defamation of religions. Germany (on behalf of the EU) called for a vote on this. The resolution was adopted with 24 votes in favour, 14 votes against and 9 abstentions.
- The second<sup>31</sup> was on ‘Human Rights and Unilateral Coercive Measures’, and was proposed by Cuba (on behalf of NAM). It called for all States’ attention on the implications and negatives impacts of unilateral coercive measures. Once again, Germany (on behalf of the EU) called for a vote, and the resolution was adopted with 32 votes in favour, 12 against and one abstention.
- The third<sup>32</sup> resolution was presented by China, on behalf of the Like Minded Group (LMG) and South Africa. It called for the High Commissioner for Human Rights to take further measures to create a Geographic Information Unit, with a view to improving the balance of the staff of the office. The resolution was adopted with 35 votes in favour, 0 against and 12 abstentions.
- The final resolution<sup>33</sup> was also presented by China (on behalf of the LMG and South Africa) on ‘Globalisation and its impacts on the full enjoyment of human rights’. It was adopted with 34 votes in favour, 13 against, and 0 abstentions.

A number of draft resolutions were postponed and will be considered at a later date, as decided by consensus.<sup>34</sup>

## Conclusions

The 4<sup>th</sup> session of the Council was intended to be the first ‘core session’ of the Human Rights Council. Consequently, a higher proportion of meetings were dedicated to substantive human rights issues, in particular the follow up to special sessions and the presentation of reports from Special Procedures. Despite this, the session did not have all the characteristics that might be anticipated in a core session. It was far from comprehensive, and with the presentation of a third of the Special Procedures’ reports postponed to a later date, many issues were not addressed. There was no agenda item allowing outstanding ‘other issues’ to be raised<sup>35</sup>.

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<sup>26</sup> A/HRC/2/L.15

<sup>27</sup> A/HRC/2/L.18

<sup>28</sup> A/HRC/4/L.17

<sup>29</sup> A/HRC/4/L.13

<sup>30</sup> A/HRC/4/L.12

<sup>31</sup> A/HRC/2/L.14

<sup>32</sup> A/HRC/4/L.15

<sup>33</sup> A/HRC/4/L.16

<sup>34</sup> Draft resolutions A/HRC/2/L.019; A/HRC/2/L.030; A/HRC/4/L.003; A/HRC/4/L.004; A/HRC/2/L.033; A/HRC/2/L.037; A/HRC/2/L.038/Rev.1; A/HRC/2/L.042/Rev.1; A/HRC/2/L.043

<sup>35</sup> The agenda item ‘other issues’, which allowed any human rights issue to be raised, was included in the agenda of the 2<sup>nd</sup> Session, but did not appear on the agenda for this Session.

There was also a sense that many issues were being addressed superficially as a formality, as attention and energies among States remained focused on resolving the institution-building process. On only one occasion did the whole Council seem fully engaged with discussion of a substantive issue, on the report of the High-Level Mission on the human rights situation in Darfur. Discussions however showed worrying signs of the kind of bias that previously marred the proceedings of the Commission on Human Rights. With many States appearing to shield the Government of Sudan from criticism, the warning given by the Head of the Mission, Nobel Peace Laureate Jody Williams, struck an ominous chord with a body attempting to escape the faults of its predecessor. She said that the Council's credibility is at stake when it fails to take action in Darfur and if it should 'continue its political wrangling in the hallowed halls of the United Nations' while the 'people of Darfur... are being raped, pillage and burned', it alone would bear responsibility.

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