

COUNCIL MONITOR

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DAILY UPDATE HUMAN RIGHTS COUNCIL, 7TH SESSION 27 MARCH 2008

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Overview

The President of the Human Rights Council (the Council) opened the day's session by commencing the adoption of conclusions and decisions by the Council. The atmosphere at the morning session was notably tense and reflected the long and often contentious discussions that had taken place during the course of the session. Egypt challenging the authority of the President regarding his interpretation of the rules of procedure for taking action on decisions of the Council was one such unfortunate example.

The morning session did, however, see the adoption of several resolutions by consensus, including the enhancement of international cooperation in the field of human rights, the renewal of the mandate of the Independent Expert on minority issues and Special Rapporteur the promotion and protection of human rights and fundamental freedoms while countering terrorism. On the other hand, resolutions such as the Cuban initiative regarding the geographical composition of the staff of the Office of the High Commissioner for Human Rights (OHCHR) reflected one of the major underlying battles of the 7th session and in this case the attempt by some States to increase control over OHCHR. The resolution was adopted by a vote.

The afternoon session began with the adoption by consensus of the resolution to renew the mandate of the special procedure on the situation of human rights defenders, with the notable concession that the title was changed from 'Special Representative of the Secretary-General' to 'Special Rapporteur' in order to meet certain States' expectations as part of the rationalisation of the system of special procedures. The renewal of the mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea (DPRK) was also notable in exposing the African Group's supposed opposition to country-specific mandates, in that only Egypt voted against the resolution while other African States simply abstained. The afternoon, however, also witnessed the discontinuation of the mandate of the Independent Expert on the Democratic Republic of the Congo (DRC). Other notable resolutions included the situation of human rights in the Sudan (adopted by consensus), Israeli settlements in the occupied Palestinian territory (OPT) (adopted with only Canada in opposition), and the renewal of the mandate of the Working Group on enforced or involuntary disappearances (by consensus).

Conclusions and decisions adopted by the Council

President Costea began the morning session by reiterating the now familiar modalities and standard procedures for taking action on resolutions by the Council, regarding the speaking times for member and observer States and procedures for general comments and explanations before and after votes. He also indicated that the Council would be taking action on proposals that would be subject to amendments, and that in the past there were frequent ‘exchanges’ on what practices to follow in this regard. He said that statements had been made on the application of Rules 129 and Rule 130¹ of the General Assembly’s rules of procedure. President Costea called on the Council to refrain from engaging in these discussions once more and to ‘privilege reaching consensus’, emphasising that all efforts should be made to reach this goal. He then proposed that when votes are requested on separate paragraphs of a resolution, or when amendments have been tabled, the Council should proceed with the adoption of the text as a whole or of the amended text in the ‘usual manner’. This meant that after States have made their explanations of vote before the vote, the President would ask if there is a request for a vote on the text as a whole or on the amended text, but if there is no such *specific request for a vote*, it would be considered that the whole text or the amended text was adopted without a vote.

Egypt took the floor immediately to say that ‘procedures are made to be followed and not to be interpreted’, and practices followed at the former Commission on Human Rights (the Commission) should not be replicated at the Council. Egypt said that it ‘totally disagreed’ with the President’s interpretation of the rules of procedure, and appealed to the Council to look closely at Rule 130 and apply it accordingly. It further stated that rules could not be left open to the interpretation of the President, especially when the Presidency lasted for only one year. He added that the opinion of the Office of Legal Affairs should be sought on this issue to not create a ‘wrong’ precedent. Egypt then proceeded to say that it would challenge any ruling the President made during the course of the session in this regard, and that according to Rule 113, this meant that the President’s ruling should be put to a vote immediately.

The President obliged by calling for a vote, and the Council voted in favour (26 States) of the President’s interpretation,² with 14 States voting against his ruling,³ and four States abstaining.⁴ The President’s interpretation was thus adopted.

¹ General Assembly rules of procedure, Rule 129 states: ‘A representative may move that parts of a proposal or of an amendment should be voted on separately. If objection is made to the request for division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to two speakers in favour and two speakers against. If the motion for division is carried, those parts of the proposal or of the amendment which are approved shall then be put to the vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.’ Rule 130 states: ‘When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the committee shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of the proposal.’

² Bosnia and Herzegovina, Brazil, Canada, France, Gabon, Germany, Ghana, Guatemala, India, Italy, Japan, Mauritius, Mexico, Netherlands, Nicaragua, Nigeria, Peru, Republic of Korea, Romania, Russian Federation, Slovenia, Switzerland, Ukraine, United Kingdom (UK), Uruguay.

³ Angola, Bangladesh, China, Djibouti, Egypt, Indonesia, Malaysia, Pakistan, Philippines, Qatar, Saudi Arabia, South Africa, Sri Lanka, Zambia.

⁴ Cameroon, Madagascar, Mali, Senegal. Notably, Azerbaijan, Bolivia, Cuba and Jordan were absent from the room.

The President also confirmed that the resolution on efforts by OHCHR for universal ratification of the *International Convention on the Elimination of All Forms of Racial Discrimination* had been withdrawn.⁵

Decisions adopted by consensus

Enhancement of international cooperation in the field of human rights

Cuba introduced on behalf of the Non-Aligned Movement (NAM) the draft resolution on enhancement of international cooperation in the field of human rights, of which it was the main sponsor.⁶ Cuba affirmed that strengthening international cooperation was essential to achieve the goal of the United Nations (UN) to ensure the effective protection and promotion of human rights. The promotion of human rights, stated Cuba, should be based on cooperation and genuine dialogue, and the ‘capacity’ of States to fulfil their obligations. Cuba explained that the main purpose of this resolution was updating the original resolution. The resolution called on States to establish an international order based on justice, equality, respect for cultural diversity, and human dignity, and reject the doctrines of racism and intolerance. It went on to state that the enhancement of international cooperation would make an effective contribution to the protection of human rights, and expressed its hope that the draft resolution would be adopted by consensus.

The resolution was then adopted without a vote.

Mandate of the Independent Expert on minority issues

Austria, as the main sponsor, introduced the draft resolution⁷ on the extension of the mandate of the Independent Expert on minority issues for three years, and opened by stating that the mandate has contributed significantly to addressing issues affecting minorities since its establishment in 2005. Austria stated that the mandate had served as an important focal point for raising awareness about how minorities could be more included and integrated into their societies. It added that the current resolution built on the past achievements of the mandate and the ability of the Council to address issues affecting minorities in the future.

The resolution was adopted without a vote.

Promotion and protection of human rights and fundamental freedoms while countering terrorism

Mexico, as the main sponsor, introduced the resolution on the promotion and protection of human rights while countering terrorism.⁸ It stated that the current draft reflected global developments of the past three years in this regard, and also the challenges faced by the Special Rapporteur on the promotion and protection of human rights while countering terrorism. Mexico also added that the resolution included concrete actions for advancing this issue and an appeal to States not to use terrorist profiles based on racial, ethnic or religious stereotypes. It reiterated its call to all States to respect the absolute prohibition on torture, and Mexico called on all States to have adequate safeguards in national legislation to this effect.

In a general comment, the Russian Federation stated that the current text reflected the overall legal framework for protection of human rights while countering terrorism and that it was very balanced. It noted that one key part of the resolution was the condemnation of terrorism in all its manifestations and that national steps to

⁵ A/HRC/7/L.40, 5 February 2008.

⁶ A/HRC/7/L.5, 19 March 2008.

⁷ A/HRC/7/L.17, 20 March 2008.

⁸ A/HRC/7/L.20, 20 March 2008.

combat terrorism should be in accordance with international obligations. At the same time, the Russian Federation agreed that States should take all the technical, financial, and legal measures necessary, taking into account domestic situations. It added that continued cooperation with the High Commissioner for Human Rights (the High Commissioner) as well as the Special Rapporteur and other relevant mechanisms of the Security Council should be conducted in an open manner, taking into account the opinions and positions of Council members.

The resolution was then adopted without a vote.

Mandate of the Special Rapporteur on the situation of human rights defenders

Norway introduced the resolution⁹ as the main sponsor by listing elements of the text, including that it recalls the *Declaration on Human Rights Defenders*, emphasises the important role of civil society in promoting and protecting human rights, and appreciates the work of the outgoing (then titled) Special Representative of the Secretary-General on Human Rights Defenders. It then quickly moved to present oral revisions to the text, which amounted to a change in the title of the mandate holder from ‘Special Representative of the Secretary-General’ to ‘Special Rapporteur’, so that operative paragraph 2 ‘decides to extend the special procedure on the situation of human rights defenders as a Special Rapporteur for a period of three years’. The title was subsequently amended elsewhere in the text. Norway hoped that after ‘intense negotiations’ this final draft could be adopted by consensus.

The Russian Federation opened the general debate by recognising the importance and relevance of the mandate and welcomed the fact that it now had a ‘clear legal basis’. The Russian Federation was supported by India, Bangladesh, Pakistan, Egypt, and China in thanking Norway for its ‘principled and constructive approach’, which facilitated a consensual outcome. Pakistan referred to this approach as an example that should be followed by others. There was no request for a vote on the text as orally revised and the resolution was adopted by consensus.

Human rights of persons with disabilities

New Zealand and Mexico, two of the co-sponsors of this draft resolution,¹⁰ made introductory statements on it. New Zealand drew attention to the ‘paradigm shift’ that had been brought about by the adoption of the *Convention on the Rights of Persons with Disabilities (CRPD)*,¹¹ namely the recognition of persons with disabilities as rights holders. It explained that the current draft resolution draws on the normative standards in the CRPD and on the work of the Commission on Human Rights in this area. New Zealand expressed its hope that this resolution will be a strong foundation for the Council to mainstream the rights of persons with disabilities in its work. It also urged governments to address the rights of these persons in their reports to treaty bodies, and paid tribute to the unique and important role that civil society plays in this area. Mexico reiterated many of the points raised by New Zealand. It asserted that this draft resolution complements the CRPD and that it is forward-looking and action-oriented. A minor technical amendment was made to the text.

Human rights and arbitrary deprivation of nationality

The Russian Federation introduced the resolution on arbitrary deprivation of nationality as one of two member States of the Council to sponsor the resolution.¹² The outcome was a result of consultations with

⁹ A/HRC/7/L.23, 25 March 2008

¹⁰ A/HRC/L.25, 25 March 2008.

¹¹ A/RES/61/106, 13 December 2006. For more information, please see www.un.org/disabilities.

¹² A/HRC/7/L.27, 25 March 2008. The other member co-sponsor was Cuba

delegations, the Office of the UN High Commissioner for Refugees (UNHCHR) and a number of NGOs, and aimed to set out the main norms in international human rights law related to arbitrary deprivation of nationality in one document. It was based on previous resolutions of 2005 (at the Commission on Human Rights) and 2006, which raised concern over the need for effective legal mechanisms to ensure the right to citizenship, and it appealed to governments, treaty bodies, UNHCHR and the Secretary-General to gather and use information related to the issue.

There were no additional comments and the resolution was adopted by consensus.

Enforced or involuntary disappearances

France introduced the resolution on enforced or involuntary disappearances as traditional sponsor of the resolution.¹³ It stated that the core objectives of the resolution was to renew the mandate of the Working Group on enforced or involuntary disappearances, which was indispensable given the gravity and persistence of the problem of disappearances. France then explained the general competencies of the Working Group, including the promotion of communication between families of disappeared persons and the governments concerned, and called on all States to cooperate with the Working Group and to promote and give full effect to the *Declaration on the Protection of All Persons from Enforced Disappearance*. France characterised the long process on work disappearances as culminating with the entry into force of the *Convention for the Protection of All Persons from Enforced Disappearance*.

There were no additional comments and the resolution was adopted by consensus.

Mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography

Uruguay introduced the draft resolution¹⁴ on behalf of the Group of Latin American and Caribbean Countries (GRULAC) and all the co-sponsors. Uruguay expressed its regret that the issues covered by the Special Rapporteur are on the rise. It underlined that this draft resolution is the outcome of broad consultations, that it is based on earlier texts on the mandate, and that new elements have been incorporated to enhance the mechanism. Uruguay made a number of minor oral amendments to the text to better reflect the current practice of the Special Rapporteur. Uruguay concluded its statement by describing the mandate as a ‘forum for interchange and broad participation’ and a ‘catalyst for solutions,’ which ‘still has a major role to play in combating these appalling practices’.

The right to food

Cuba introduced the resolution on the right to food¹⁵ as an issue of great importance to the international community and declared that the adoption of this resolution would serve as a reaffirmation of the same. The text provides that hunger is an affront to human dignity. It recognises that the promises of the 1996 World Food Summit are not being kept and calls on all relevant institutions to halve the number of those living in hunger in the world. It also draws attention to national efforts to address rises in food prices, particularly in Africa, and encourages the incoming Special Rapporteur to take account of improved efforts in recent years.

The United Kingdom (UK) then took the floor to voice its ‘considerable concerns’ with operative paragraph 12 of the resolution, which ‘stresses [the Council’s] commitments to promoting and protecting...the rights of indigenous peoples in accordance with international human rights obligations’. The UK expressly stated that

¹³ A/HRC/7/L.30, 25 March 2008

¹⁴ A/HRC/7/L.35, 25 March 2008.

¹⁵ A/HRC/7/L.6/Rev.1, 25 March 2008

it ‘does not recognise the concept of collective human rights in international law, with the exception of the right to self-determination’, and referred to its interpretative statement of the *Declaration of the Rights of Indigenous Peoples* that they recognise indigenous individual rights, but not the idea that certain groups may benefit from rights not available to others. Nonetheless, it stated, it could support the resolution as a whole while recording its objection to operative paragraph 12.

No other member States sought to take the floor, and the resolution was subsequently adopted by consensus.

Situation of human rights in the Sudan

Egypt took the floor on behalf of the African Group to introduce the draft resolution on the situation of human rights in the Sudan, which it saw as being reflective of a spirit of cooperation and dialogue between the Council and the Government of the Sudan, and building on previous resolutions.¹⁶ The resolution, it noted, welcomes the Sudan’s cooperation with the Special Rapporteur on the Sudan and acknowledges efforts made by the Government in the promotion and protection of human rights. It also expresses deep concern at the violations taking place in ‘some parts of Darfur’ and calls upon all factions to commit themselves to the political process, while recognising the primary responsibility of the State. It also calls upon the Government of the Sudan to intensify its implementation of the recommendations of the Group of Experts on Darfur and calls upon the Government to bring all perpetrators of violations to justice. The African Group concluded that it was optimistic with developments in the country and while ‘much has been done so far, much still needs to be done’.

Slovenia, on behalf of the European Union (EU), also stated that it had joined the consensus and thanked the African Group for their efforts. It continued that the Council needed to express its concern regarding the human rights situation in the Sudan, and believed that the resolution does so through highlighting the seriousness of ongoing violations and recognising the primary responsibility of the State to protect civilians. It therefore reiterated the call for the Sudan to implement the recommendations of the Group of Experts on Darfur in accordance with the timeframe and indicators provided. The EU then listed its specific concerns regarding the situation in the Sudan and particularly Darfur, including armed attacks, destruction of villages, mass displacement, and continued violence, in particular gender-based violence. It called upon the Government to take all possible steps to improve the situation, including through cooperating fully with the International Criminal Court.¹⁷

Canada, on the other hand, felt that the resolution ‘fell short’ of what was required and that ‘the people of Sudan deserve better’. It stated that the text did not reflect the gravity of the situation, did not address issues of impunity, and did not reference relevant Security Council Resolutions, particularly *Resolution 1593*. Nor did it acknowledge the recent hybrid report of the African Union-UN mission and OHCHR, which detailed the ‘alarming upsurge in violence and human rights abuses in Darfur. Canada nonetheless was willing to join the consensus.

The UK did take note of the joint report and most recent violations and called upon the Sudan to cooperate with the Special Rapporteur in allowing her to visit all places that she requests. It reiterated the gratitude of Slovenia (on behalf of the EU) that the resolution had come from the African Group.

Finally, the Sudan spoke as a concerned country. It stated that the spirit of reaching consensus was a fundamental principle upon which the Council was based, and that it was satisfied that the resolution acknowledged efforts made by the Government of the Sudan, while calling on the international community to provide technical assistance in order that it can fulfil its obligations in bringing peace. On this point, it

¹⁶ A/HRC/7/L.38, 25 March 2008

¹⁷ Later supported by the UK.

reminded the Council that African Union/United Nations Hybrid operation in Darfur was still waiting for funding from donor countries so that it could purchase helicopters. It thanked the African Group, the Non-Aligned Movement, and the interest of the EU.

There was no call for vote and the resolution was adopted by consensus.

Right of the Palestinian people to self-determination

Pakistan introduced this draft resolution¹⁸ on behalf of the Organization of the Islamic Conference (OIC) and the Group of Arab States. It acclaimed the right to self-determination as the indispensable foundation of all other human rights. It then summarised the content of the draft resolution, commenting that it ‘contains nothing but stated facts recognised, acknowledged and cherished’ by the entire international community. Pakistan urged all States to work constructively for peace in the region. It made an oral amendment to describe the envisioned Palestinian State as ‘sovereign, independent, contiguous and viable’.

Next, Israel was given the floor as a concerned country. It acknowledged the right to self-determination when extended to all parties, and lamented the fact that the draft resolution only recognised this right for the Palestinians. It also objected to the one-sided criticism of Israeli policies and the ignoring of Israeli concerns.

Palestine, another concerned country, pointed out the dichotomy between the overwhelming international concern for the suffering of the Palestinian people and the extraordinary support extended to Israel in spite of its occupation. It expressed its hope that the promise of the establishment of an independent, sovereign, and contiguous Palestinian State by the end of this year will be fulfilled, and thanked the delegations that drafted and supported the resolution on the table.

Slovenia (on behalf of the EU), in an explanation of the vote before vote, expressed its support for the right to self-determination of the Palestinian people. It reaffirmed its view that all regional and international partners should support the efforts towards achieving lasting peace in the region, and called upon the parties involved to meet their roadmap obligations.

Technical cooperation and advisory services in the Democratic Republic of the Congo

Egypt introduced the resolution on technical cooperation in the DRC on behalf of the African Group by stating that there has been significant political progress since the 2006 elections, which are recognised in the draft resolution.¹⁹ It was the view of the African Group that the mandate of the Independent Expert on the human rights situation in the DRC ‘does not offer clear prospects for improving the human rights situation on the ground, and has not been of benefit to the DRC’, and that the new proposal of the resolution would better assist the DRC. The resolution provides that a list of various special procedures²⁰ ‘make recommendations, within their respective mandates, on how best to technically assist the DRC in addressing the situation of human rights’, and that these special procedures report to the Council no later than March 2009 in this regard.²¹

¹⁸ A/HRC/7/L.3, 18 March 2008.

¹⁹ A/HRC/7/L.13, 25 March 2008

²⁰ Special Rapporteur on violence against women, Special Representative of the Secretary-General on internally displaced persons, Special Rapporteur on the independence of judges and lawyers, Special Rapporteur on the right to health, Special Representative of the Secretary-General on human rights defenders, Special Representative of the Secretary-General on transnational corporations, and the Special Representative of the Secretary-General on children and armed conflict. See A/HRC/7/L.38, para. 2.

²¹ The original resolution had requested that the mandate holders report by September 2009, but this was orally amended by Egypt.

Egypt concluded that the DRC had expressly requested the discontinuation of the mandate of the Independent Expert and that ‘in line with its position of principle concerning country mandates, the African Group fully supports the decision of the Government of the DRC’. Egypt did not choose to explain why this ‘position of principle concerning country mandates’ did not extend to the mandate on the DPRK, however.

Slovenia (on behalf of the EU) stated that it was joining the consensus but was disappointed to see the mandate of the Independent Expert go, as it felt that it could best assure comprehensive follow-up. It listed its various concerns regarding ongoing human rights violations in the country, stating that much needed to be done and that it looked forward to further addressing the issue at the Council. It concluded by reemphasising the primary responsibility of the Government of the DRC. Canada and Switzerland also expressed disappointment at the non-renewal of the mandate. While Canada felt this move was premature in light of the situation in the country, and regretted that the Council was not in a position to do more, Switzerland considered that a more complete examination could have been provided by the Independent Expert, which could then be addressed by ‘sectoral thematic mandates’. However, it stated that it was pleased that the DRC had not closed the door to other thematic procedures.

The DRC, speaking as a concerned country, saw the resolution as the ‘fruit of intensive negotiations’ and expressed its satisfaction with references to the elections and progress made. It proceeded to list its recent achievements in relation to the improvement of security and the protection of economic, social and cultural rights, and claimed that an objective evaluation had concluded that the Independent Expert could not guarantee improvements on the ground. The delegate concluded that they hoped that the various special procedures could help them in implementing their efforts, and that the DRC would remain engaged with the international human rights system through the UPR, treaty body reporting, and the visits of special procedures.

There were no additional comments or requests for a vote and the resolution was adopted by consensus.

Decisions adopted by vote

Composition of the staff of OHCHR

Cuba, as the main sponsor of this resolution, introduced the draft resolution on the equitable geographical distribution of the staff of OHCHR.²² It stated that in adopting this text the Council would reaffirm the importance of rectifying the geographical imbalance in the regional representation of staff of the OHCHR. This resolution recognised the will of the High Commissioner to take additional measures to achieve this balance, and also encouraged the General Assembly to study the possibility of taking additional measures to achieve adequate reflection of diverse national, regional, cultural, historical, political, economic, and legal systems in the staff of OHCHR, keeping in mind follow-up and implementation of General Assembly *Resolution 61/159* regarding the composition of staff of OHCHR. Cuba also made an oral amendment to the text to alter ‘welcomes the statement made by the High Commissioner’ to ‘take note with interest’ the statement of the High Commissioner.

The President then opened the floor for general comments on the draft resolution, and Sri Lanka was first to take the floor. It stated that it urged the ‘spirit’ behind this initiative to be recognised by all delegations and expressed its support for the resolution. Sri Lanka claimed that this resolution was not directed against OHCHR, but aimed at strengthening its credibility and enhancing its independence. It also said that OHCHR should be a ‘lighthouse of human rights’ and not ‘opaque and indecipherable like Kafka’s castle’, which is why Sri Lanka supported any efforts to make the Office more ‘authentically representative and broad-based.

²² A/HRC/7/L.8, 19 March 2008 and A/HRC/7/L.8.Rev1, 26 March 2008.

It ended by saying that OHCHR should not be independent of some States and dependent on others, and that accurate geographical representation would enable OHCHR to discharge its duties more effectively.

In an explanation of a vote before the vote, Slovenia (on behalf of the EU) took the floor to state that the General Assembly was the only competent organ to address the financial and human resources of OHCHR and that Articles 100 and 101 of the *Charter of the United Nations* already stipulates that the basis for employment of staff of OHCHR should be to secure competence and integrity, and as wide a geographical basis as possible. Slovenia welcomed the High Commissioner's personal commitment to address this issue. It then recalled that it was up to the Fifth Committee of the General Assembly to assess budgetary requirements and to address issues pertaining to rules of procedure affecting OHCHR. Finally, Slovenia noted that while the co-sponsors of this resolution recognised the work of the High Commissioner, this did not change the general tone of the draft, and for this reason it would call for a vote and vote against the resolution.

Canada followed in the same vein, and stated that it supported a more centralised approach to human resources management rather than the 'piecemeal' approach of the resolution, and that budgetary matters should be addressed by organs that have the jurisdiction and the expertise in those areas, such as the General Assembly's Fifth Committee. It asserted that the Cuban draft also duplicated efforts already underway to address the geographical balance of OHCHR.²³ It ended by saying that its opposition to this resolution was not because of the issue at hand, which had also been highlighted by the High Commissioner herself, but because the distinct responsibilities of different organs and committees of the UN should be respected. Canada stated that it would vote against the resolution.

Switzerland then took the floor to state that the current resolution did not do justice to the efforts of the High Commissioner to address the issue of the composition of the Office or recognise the future plans of OHCHR to tackle this issue, and was negative in tone despite improvements that had occurred. Switzerland was of the view that the Council risked micromanaging OHCHR and that it would therefore abstain from voting on this resolution.

The resolution was voted upon, with 34 in favour, ten against, and three abstentions.²⁴ It was therefore adopted.

The Republic of Korea took the floor in an explanation of vote after the vote, to state that the resolution could be interpreted as interfering with the work of OHCHR and have a negative impact on the Office, and that it had therefore abstained from casting its vote.

Mandate of the Independent Expert on the effects of foreign debt and other related obligations of States on the full enjoyment of all human rights

Cuba, as the main sponsor of this resolution,²⁵ reiterated the importance of the issues covered by the mandate of the Independent Expert. It stated that the resolution called for a redefinition of the mandate in order to allow the mandate-holder to pay particular attention to issues such as the impact of international financial obligations of States on the full enjoyment of human rights and in particular, economic, social and cultural rights.

²³ Human Resources Management, A/Res/61/244, 30 January 2007, which requested a report by the Secretary General in consultation with the High Commissioner containing proposals to correct the geographical balance, contained in A/61/A23.

²⁴ States who voted against the resolution were Bosnia and Herzegovina, Canada, France, Germany, Italy, the Netherlands, Romania, Slovenia, Ukraine and the UK. States who abstained were Japan, Republic of Korea and Switzerland.

²⁵ A/HRC/7/L.9, 19 March 2008.

In the explanation of vote before the vote, Slovenia (on behalf of EU) said that it was not against discussing the issues covered by the resolution but stressed that they would be better dealt with in a more expert forum other than the Human Rights Council. It also underlined the risk of duplication with the work of other more specialised agencies focussing on trade and development. Slovenia therefore called for a vote on the resolution and declared that it would vote against the resolution. Sri Lanka, on the contrary, expressed its support for the resolution, saying that the Council must analyse human rights in a holistic manner, including by discussing the roots and the context in which violations of human rights take place. This resolution, in its view, was attempting to bridge the divide between economic, social and cultural rights and civil and political rights, as well as between the North and the South.

The resolution was adopted by 34 votes in favour, 13 against and no abstentions.²⁶

Mandate of the Independent Expert on human rights and international solidarity

Cuba, as the main co-sponsor of the draft resolution²⁷, reminded that the former Commission for Human Rights and the Council had adopted many resolutions on international solidarity. The draft resolution called for the renewal of the mandate for three years, and Cuba expressed its hope that the draft resolution would receive the majority support.

Slovenia called for a vote on the draft resolution. Sri Lanka then took the floor to state that it would vote in favour of the resolution because it would link the principles of equality and fraternity together with the goal of liberty, and secondly, because it supported the ‘globalisation of solidarity’.

The resolution was then adopted by vote with 34 votes in favour, 13 against, and no abstentions.²⁸

The role of good governance in the promotion and protection of human rights

Poland, on behalf of the 60 co-sponsors, began the introduction of this draft resolution²⁹ by highlighting the considerable support that it enjoys from States of all regions. It described good governance as a multi-faceted, broad, and universal concept whose promotion is strongly linked to the improvement of the situation of human rights. Poland then spoke specifically about corruption and its detrimental impact on the right to equality before the law, and orally amended the draft resolution to include a request to OHCHR to prepare a publication on anti-corruption. It also stressed the importance of sharing of best practice.

In an explanation of vote before vote, Cuba strongly objected to the reference in the draft to the Community of Democracies, describing it as an organisation imposed by the United States of America (the US) to ‘demonise and isolate’ certain States. Therefore, although it did not have any significant objections to the rest of the draft resolution, Cuba called for a ‘package vote’ on the two preambular paragraphs that mention the Community of Democracies. It also requested a vote on the entire resolution if these references are to be maintained.³⁰ It warned that the adoption of this draft resolution in its current state will create a ‘harmful precedence’ for the Council. Similarly, the Russian Federation asserted that human rights and global governance should be tackled constructively, and thus a resolution such as this one should be ‘non-

²⁶ States who voted against this resolution were Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, the Netherlands, the Republic of Korea, Romania, Slovenia, Switzerland, Ukraine, and the UK.

²⁷ A/HRC/7/L.12, 19 March 2008.

²⁸ States who voted against this resolution were Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, the Netherlands, Republic of Korea, Romania, Slovenia, Switzerland, Ukraine, and the UK.

²⁹ A/HRC/7/L.29, 25 March 2008.

³⁰ Supported by the Russian Federation, Sri Lanka.

confrontational and acceptable to all'. It therefore objected to the positive appraisal of the conclusions of the conferences of the Community of Democracies, which it saw as condescending, discriminatory, and politicised. Sri Lanka associated itself with the statement made by the Russian Federation.

India, also in an explanation of vote before vote, supported the applicability of the concept of good governance at all levels. Nevertheless, it pointed out that good governance practices necessarily vary depending on specific societies. It also emphasised that international organisations must also practice good governance. Sri Lanka associated itself with the statement made by India.

The proposal for the deletion of the aforementioned preambular paragraphs was rejected, with 5 votes in favour, 27 against, and 13 abstentions.³¹ The draft resolution was subsequently voted upon and adopted, with 41 votes in favour, none against, and six abstentions.

Situation of human rights in the Democratic People's Republic of Korea

This draft resolution³² was introduced by Slovenia on behalf of the EU, Japan, and other co-sponsors. It expressed its deep concern about the systematic, grave, and widespread violations of human rights in the Democratic People's Republic of Korea.³³ It noted the Government's persistent refusal to cooperate with UN mechanisms, including the Special Rapporteur on the situation of human rights in the DPRK. Slovenia described the tabled draft resolution as a concrete follow-up to the review, rationalisation and improvement of the mandate, which is aimed at extending the mandate for one year in accordance with the relevant resolutions. It also informed the Council that it had conducted open-ended consultations on the draft and that the country concerned had been kept updated. Slovenia ended its statement by expressing its hope that this resolution will lead to the improvement of the humanitarian and human rights situation in the DPRK. An amendment was made to a perambulatory paragraph to reiterate the applicability to the mandate of the relevant resolutions of the Council.

Japan, in a general comment, advocated that the situation in the DPRK remains serious enough for the Council to follow. It expressed its appreciation for the work of the Special Rapporteur.³⁴ Japan stressed that the aim of this draft resolution is not to single out and denounce the DPRK, but rather a procedural one to extend the mandate of the Special Rapporteur and to allow the Council to follow the situation in the country. In a similar vein, Canada maintained that engagement with the DPRK offers the best prospect for promoting an improvement in the situation of human rights there. Thus, it urged that the international community preserve, not diminish, the tools for engaging the Government in the field of human rights.

Next, the DPRK took the floor as the concerned country. It 'categorically and entirely' rejected the draft resolution, which it strongly criticised as reflecting 'ill-minded political purposes' and being 'full of distortions and fabrications'. The DPRK pointed out that the 'confrontational' draft resolution runs counter to the founding ideals of the Council,³⁵ and warned that the adoption of this draft resolution may block cooperation between it and the Council. The DPRK declared that it will further develop its socialist system, which continues to fulfil and guarantee human rights.

In an explanation of vote before vote, Cuba repeated its reservations at the maintenance of certain country mandates 'established on a pattern of confrontational and punitive approaches'. It pointed to the Universal

³¹ The five States that voted in favour of this were China, Cuba, Nicaragua, Russian Federation, Sri Lanka.

³² A/HRC/7/L.28, 25 March 2008.

³³ Echoed by Japan, Canada.

³⁴ Echoed by Canada.

³⁵ Echoed by Cuba, China, Russian Federation.

Periodic Review (UPR) as a more appropriate mechanism for considering the human rights situation in the DPRK.³⁶ Cuba did not deny the necessity of resolving human rights issues in the DPRK, but requested a vote on the draft resolution to ‘vote against imposition and confrontation’.

Also speaking before the vote, Indonesia recalled that the majority of country-specific mandates which were established against the will of the government concerned have been unable to engage the government.³⁷ It implicitly labelled the mandate of the Special Rapporteur as being politicised, and urged the Council to initiate genuine dialogue with the DPRK instead. It thus indicated that it would vote against the draft resolution. Indonesia identified abductions as being incompatible with any serious efforts to promote and protect human rights.

The resolution was adopted by 22 votes in favour, seven against, and 18 abstentions.³⁸

***Israeli settlements in Occupied Palestinian Territory,
including East Jerusalem, and in the occupied Syrian
Golan***

Pakistan introduced the draft resolution on behalf of the OIC by expressing its concern that the situation in the region was worsening and that the resolution expresses grave concern at the continuing construction of the wall inside the OPT as contrary to international law.³⁹ It stated that the resolution recalled both parties’ obligations under the roadmap to a permanent two-State solution to the conflict, and urged the full implementation of the *Access and Movement Agreement* of 15 November 2005. It also demanded that Israel implement the recommendations of the High Commissioner following her visit to the OPT. One oral revision was made to preambular paragraph 8, where the word ‘grave’ was replaced by ‘very serious’ in describing the violations of international humanitarian law through Israeli settlement activities.

Israel first spoke as a concerned country by querying why it was that it was commended for its efforts in coming to an agreement and then criticised for it. It stated that Israel and the Palestinian Authority had already agreed that the settlements would be addressed at the final stage of the two-State solution and that the present resolution contradicts these developments and seeks only to blacken Israel’s name. It stated that it was ‘tired of hearing the same old demands’ and that it was ‘absurd’ that the resolution did not reflect positive developments that have occurred, as well as the activities of Hamas in recent times.

Palestine referred to the settlements as a structural regime of confiscated land, subsidised homes and ‘aggressive armed colonial settlers fomenting hatred of non-Jews’. It claimed that the purpose of the colonies was ‘no longer disguised’ and that the peace process was a ‘disguise for piecemeal Israeli devouring of the West Bank, including Jerusalem’. It commended the outcome of the Annapolis Conference and stated that what was needed now was firm action to stop all colonial activities. Syria added that what started in 1967 was a systematic and well planned aggression which has left half a million persons displaced and is a ‘flagrant violation of the Fourth Geneva Convention and the First Additional Protocol’.

Slovenia (on behalf of the EU) briefly took the floor to state that any settlements in the OPT were illegal under international law and that ‘settlement construction is an obstacle to peace’. It was concerned about recent activities, which contradicted the clear agreement of the roadmap that all settlement activity would cease. On that basis they declared that they would vote in favour of the resolution.

³⁶ Echoed by the Philippines, China.

³⁷ Echoed by the Philippines.

³⁸ The seven States that voted against this resolution were China, Cuba, Egypt, Indonesia, Malaysia, Nicaragua, Russian Federation.

³⁹ A/HRC/7/L.4, 25 March 2008

Canada then took the floor to state that settlements were ‘contrary to international law’ and, while Israel has a right to defend its citizens, it opposed the barrier which aggravated conditions prejudiced the outcome of a comprehensive settlement. Nonetheless, it felt that the resolution did not present an accurate assessment of the situation and did not refer to Palestinian obligations. Canada was also of the view that ‘this resolution does not contribute to the search towards a peaceful and fair solution to the conflict.’ On this basis, they called for a vote and declared that they would vote against.

The recorded vote was 46 in favour, 1 against, and no abstentions.⁴⁰

Combating defamation of religions

Pakistan (on behalf of the OIC), the sponsor, briefly summarised the content of the draft resolution.⁴¹ It specifically pointed out that this draft resolution does not intend to limit or circumscribe the right to freedom of expression; it only creates a legal framework for the exercising of this right. Pakistan (on behalf of OIC) furthermore expected that this resolution will prompt the international committee to acknowledge the ‘disturbing phenomenon’ of defamation of religions and its effects.

Next, Saudi Arabia took the floor for a general comment. It noted that Islam is often targeted under the pretext of freedom of expression, and lamented such ‘false translations and interpretations’ of this freedom. It pointed out that international instruments place obligations on individuals in exercising the right to freedom of expression. Saudi Arabia called for tolerance between cultures and religions, a goal which can only be achieved through dialogue and by affirming respect for all. It also called on the international community, civil and official organs, and the media to respect Muslims and the teachings of Islam. Saudi Arabia expressed its belief that the draft resolution on the table reaffirms the importance of this respect.

In an explanation of vote before vote, Slovenia (on behalf of the EU) asserted its firm belief in tolerance, freedom of expression, and freedom of religion or belief. It also echoed Saudi Arabia in calling for dialogue rooted in mutual respect, but at the same time acknowledged the substantial obstacles that exist. However, Slovenia (on behalf of the EU) pointed out that the concept of defamation of religions is inconsistent with the human rights approach. International law protects the freedom of religion or belief, not religions or beliefs as such. Slovenia (on behalf of the EU) also voiced its concern that the approach taken in the draft resolution is inherently one-sided, focussing excessively on Islam.⁴² It regretted that suggestions made during consultations had not resulted in any significant textual or conceptual changes, and expressed its intention to vote against the resolution. In a similar vein, India observed that the draft resolution does not appropriately address the complex phenomenon of defamation of religions, as it approaches it from a narrow perspective and a narrow framework of racism. It highlighted freedom of expression and freedom of religion or belief as the two central issues, and regretted the fact that no role has been foreseen for either of the Special Rapporteurs on these issues.

This draft resolution was adopted, with 21 votes in favour, ten against, and 14 abstentions.

Other issues

Upon closing, the President informed the Council that it would resume at 11:00 a.m. the following morning, and would begin again at Item 3. He also informed the Council that he would soon be meeting with the first 32 States to be reviewed during the first two sessions of the UPR.

⁴⁰ Canada.

⁴¹ A/HRC/7/L.15, 20 March 2008.

⁴² Echoed by India.

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