

HUMAN RIGHTS MONITOR

QUARTERLY

- p. 1 HUMAN RIGHTS COUNCIL
Renewed energy at the 19th session
- p. 7 HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE
Controversial first draft of traditional values study
- p. 22 UNIVERSAL PERIODIC REVIEW
Lessons from the UPR's first cycle
- p. 32 UPCOMING OPPORTUNITIES
Meetings to look out for and how to prepare

 ISHR | INTERNATIONAL SERVICE
FOR HUMAN RIGHTS

ISSUE 2 | 2012



Renewed energy marked the Human Rights Council's 19th session, particularly in the Council's response to country situations. Perhaps the most significant initiative was the adoption of a resolution on Sri Lanka, urging the Government to implement the recommendations from its Lessons Learnt and Reconciliation Commission, and to ensure accountability for all Sri Lankans. The Council's reinvigorated approach was also evident in a strong resolution passed on Syria, the second of two at the session, calling for international accountability for potential crimes against humanity. Regrettably, in contrast, a weak resolution was passed on Libya. The Libya-led resolution failed to take a strong position, for example, it did not create a monitoring mechanism in the country.

A milestone panel discussion on sexual orientation and gender identity constituted one of the most positive thematic developments, despite a walkout by States from the Organisation of Islamic Cooperation, who refused to engage with this issue. Other thematic developments included human rights in the context of peaceful protest, and freedom of religion and belief. The issue of reprisals was an area of particular concern as there were a number of cases of intimidation against those participating in the Human Rights Council, notably against human rights defenders from Sri Lanka.

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

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

OUR VISION

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

OUR MISSION

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

The *Human Rights Monitor Quarterly* was launched by the International Service for Human Rights in April 2010. It presents a global picture of developments in the international and regional human rights systems. The publication also highlights events, meetings and opportunities for engagement by non-governmental organisations and national human rights institutions in the upcoming quarter and beyond. The *Human Rights Monitor Quarterly* is issued four times a year, in late January, April, July and October.

Downloadable online editions of the *Quarterly* are available at www.ishr.ch/quarterly.

EDITORS

Michael Ineichen, Olivia Starrenburg.

LAYOUT AND DESIGN

Sarah Song, Geneva.

We are happy to correct any errors you may come across, so please notify us: information@ishr.ch

CONTRIBUTORS AND EDITORIAL SUPPORT

Eleanor Openshaw, Emma Hunter, Heather Collister, Isabelle Waring, Joanna Stokes, Madeleine Sinclair, Michelle Evans, Natasha Chokhani, Robyn Boosey, Rosa Edejer, Zselyke Csaky.

CLOSING OF THIS EDITION




10 May 2012.

For more information about our work, or any of the issues covered in this edition, please visit our website: www.ishr.ch or contact us: information@ishr.ch

Special thanks to our guest contributor, Roisin Fegan of the NGO Group for the Convention on the Rights of the Child.

COPYRIGHT AND DISTRIBUTION

Copyright © 2012
International Service for Human Rights.

 www.facebook.com/ishr.geneva
 www.twitter.com/ISHRglobal
 www.youtube.com/ISHRHumanRights

ACKNOWLEDGEMENTS

The International Service for Human Rights (ISHR) would like to thank Irish Aid and the Ministry of Foreign Affairs of the Netherlands for their support to this project. The contents are the sole responsibility of the authors and cannot be regarded as reflecting the views of the project sponsors.

Material from this publication may be reproduced for training, teaching or other non-commercial purposes as long as ISHR is fully acknowledged. You can also distribute this publication and link to it from your website as long as ISHR is fully acknowledged as the source. No part of this publication may be reproduced for any commercial purpose without the prior express permission of the copyright holders.

GENEVA OFFICE

Rue de Varembe 1, 5th floor
P.O. Box 16
CH-1211 Geneva 20 CIC
Switzerland

DISCLAIMER

While every effort has been made to ensure the accuracy and reliability of the information contained in this publication, ISHR does not guarantee, and accepts no legal liability whatsoever arising from any possible mistakes in the information reported on or any use of this publication.

NEW YORK OFFICE

777 UN Plaza, 8th floor
New York
NY 10017
USA

 **Irish Aid**
Department of Foreign Affairs
An Roinn Gnóthaí Eachtracha



Ministry of Foreign Affairs of the
Netherlands

CONTENTS

INTERNATIONAL DEVELOPMENTS

HUMAN RIGHTS COUNCIL	P. 1
HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE	P. 7
COMMITTEE ON THE RIGHTS OF THE CHILD	P. 10
COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN	P. 13
HUMAN RIGHTS COMMITTEE	P. 16
COMMITTEE ON ENFORCED DISAPPEARANCES	P. 19

THEMATIC FOCUS

UNIVERSAL PERIODIC REVIEW	P. 22
---------------------------	-------

REGIONAL DEVELOPMENTS

HUMAN RIGHTS DEFENDERS IN THE AMERICAS	P. 27
--	-------

UPCOMING EVENTS

QUICK REFERENCE GUIDE	P. 30
OPPORTUNITIES FOR NGO ENGAGEMENT	P. 32
USEFUL LINKS	P. 38
UPCOMING EVENTS MAY – SEPTEMBER 2012	P. 39

INTERNATIONAL DEVELOPMENTS

HUMAN RIGHTS COUNCIL	P. 1
HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE	P. 7
COMMITTEE ON THE RIGHTS OF THE CHILD	P.10
COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN	P. 13
HUMAN RIGHTS COMMITTEE	P.16
COMMITTEE ON ENFORCED DISAPPEARANCES	P.19

HUMAN RIGHTS COUNCIL

Renewed energy at the Council's 19th session



Photo: UN photo/Violaine Martin

Members of the Organisation of Islamic Cooperation walk out of a panel discussion on sexual orientation and gender identity.

Renewed energy marked the Human Rights Council's 19th session, 27 February to 23 March 2012, particularly in the Council's response to country situations. This was especially welcomed following the disappointments of the Council's 18th session, when a re-emergence of old dynamics had raised fears that the Council's increased engagement in country situations, seen in relation to the Arab Spring, had been short-lived. However, the renewed vigour at the latest session may represent a more sustained shift in the Council's approach.

THEMATIC DEVELOPMENTS

The session saw the long-anticipated and first-ever United Nations panel discussion on **sexual orientation and gender identity**. The panel had been mandated by a South Africa-led resolution at the June 2011 session. It discussed a report prepared by the High Commissioner for Human Rights, also commissioned by the resolution, on violence and discrimination on the basis of sexual orientation and gender identity.

It was unfortunate that almost all States from the Organisation of Islamic Cooperation (OIC) chose not to engage in the debate, staging a walkout as the panel began. This lack of engagement has been the OIC's position on the resolution since negotiation of the text at the June 2011 session, through to its implementation to date. Aside from some relatively minor negative interventions from Egypt early on in the resolution negotiations, the OIC did not participate in discussions. Then, immediately prior to the start of the 19th session, the OIC sent a letter to the President of the Council protesting against the panel. It stated its position that culture and religion must be taken into account when implementing human rights standards.¹

Many States emphasised during the discussion that if the goal is to facilitate understanding between States on both sides of the debate, dialogue is the only way forward. The OIC's position was therefore particularly disappointing. The decision to withdraw from the discussion entirely may reflect the OIC's consideration that it is no longer in a position to prevent this issue from advancing at the international level, and that non-engagement may be the best strategy to undermine the legitimacy of the discussions. In particular, engaging in discussion would potentially weaken its position: that these issues fall outside the remit of the *Universal Declaration of Human Rights* and therefore outside the mandate of the Council. It was therefore heartening to see that some OIC States chose to remain for the debate, including Burkina Faso. No further action was taken on the issue of sexual orientation and gender identity at this session, but further developments are expected at the June session.

Reprisals and intimidation against those cooperating with the UN human rights system gained increased prominence during the session. On several occasions, the President of the Council, the High Commissioner for Human Rights and a number of States expressed concern about reprisals and called for an end to this practice. The continuing occurrence of reprisals

¹ In its letter, Pakistan (on behalf of the OIC) made reference to the *Vienna Declaration and Programme of Action (VDPA)*, which it interprets selectively. The relevant part of the VDPA in fact reads: 'All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.' (OP5, <http://bit.ly/IGDNNZ>).

was put into sharp focus by events surrounding a resolution on Sri Lanka. Several human rights defenders present in Geneva faced intimidation and threats against themselves and their families, from members of the Sri Lankan delegation. The intimidation in Geneva was coupled with a vicious campaign in State-controlled Sri Lankan media, against what it described as ‘traitors’ in Geneva. An outburst from a Sri Lankan minister, in which he threatened to ‘break the limbs’ of human rights defenders, indicates just how daunting and dangerous the situation is for these groups and individuals.

The incidents in Geneva were reported to the President of the Council and Ambassador of Uruguay, Ms Laura Dupuy Lasserre, who made a statement on the matter. She said ‘aggressive and insulting language’ and ‘intimidation of representatives’ would not be tolerated, and called on the Council to take seriously its responsibilities ‘to ensure that those who wish to participate in our debates and share their experience can do so without fear of reprisals’. The statement reiterated the fundamental role of civil society in the work of the Council.

It is notable that the issue of reprisals, both through these serious incidents but also in other contexts, is gaining more recognition at the Council as a pressing issue that requires action. State interest is widening; delegations ranging from Botswana to Norway have raised the issue during Council proceedings, including in the **interactive dialogues with the Special Rapporteur on human rights defenders** and the Special Rapporteur on Iran, and general debates on the Universal Periodic Review and country situations. For example, during the interactive dialogue with the Special Rapporteur on human rights defenders, Botswana firmly stated that the responsibility to investigate and prosecute acts of reprisal against human rights defenders rests with governments. It added that placing the rights of human rights defenders in a non-binding international instrument, that is, the *Declaration on Human Rights Defenders*, may not be sufficient.²

Ms Margaret Sekaggya, the Special Rapporteur on the situation of human rights defenders, presented her report to the Council. The report focused on human rights defenders considered to be at particular risk, including journalists, students, and defenders of land rights. The issue of national legislation was a prominent topic of discussion, with many States saying human rights defenders must comply with national laws. This issue has been raised repeatedly during previous dialogues with the Special Rapporteur, both in

the Human Rights Council and the General Assembly.³ The Special Rapporteur clarified that while defenders should abide by national legislation, there is also an obligation for States to ensure legislation is in compliance with international human rights law.

A similar issue arose in the context of the resolution on ‘promoting and protecting human rights in the context of **peaceful protests**’.⁴ Operative Paragraph 5 of this resolution originally called on States to ‘create and ensure an environment where protests may be conducted in a peaceful and lawful manner by enacting legislation respecting international human rights law’. Since no agreement was found on balancing the reference to lawfulness and the national legislation with the obligation for States to uphold international law in dealing with peaceful protest, the paragraph was dropped. This reflects the Council’s unwillingness or inability to pronounce itself clearly on the fact that national legislation often contradicts international law, and thus is often used to criminalise the legitimate activities of human rights defenders.

The resolution further mandates the Office of the High Commissioner for Human Rights (OHCHR), with the assistance of relevant special procedures,⁵ to prepare a thematic report on ‘effective measures and best practices to ensure the promotion and protection of human rights in the context of peaceful protest’.⁶ OHCHR is explicitly encouraged to seek the views of civil society. It is hoped the report will address the above-mentioned dilemma. While originally this report was to include a specific study on the national implementation of legal obligations under international human rights law, this aspect was removed from the final version of the text.

Finally, the issue of **defamation of religions**, which Pakistan had replaced with a resolution on combating intolerance against persons based on religion or belief at the March 2011 session, remained off the agenda at this session. Pakistan tabled another resolution on combating intolerance, while Denmark, on behalf of the EU, tabled a resolution on freedom of religion or belief. Both texts were adopted by consensus. Although Pakistan has never given any definite assurances

2 Botswana shows signs of becoming a more positive voice at the Council. In the context of the urgent debate on Syria, Botswana made a strong statement criticising Russia and China for blocking action by the Security Council, and calling for referral of the situation to the International Criminal Court.

3 The General Assembly began adopting resolutions on human rights defenders in 1998 with the adoption of the Declaration on Human Rights Defenders. Though the Declaration included a reference to the requirement that human rights defenders should operate within the framework of national legislation, it was not until 2005 that a similar reference was made in the resolution. This was due to threats by Cuba that it would call a vote on the resolution if the reference was not included. States opposed to civil society engagement seek to include such references in order to limit the rights of defenders to those prescribed by domestic law, which are often not in line with international human rights law.

4 See A/HRC/19/L.17 here: <http://bit.ly/HrsfjK>.

5 Including the rapporteurs on freedom of assembly and association, freedom of expression, and human rights defenders.

6 To be presented in March 2013.

that the issue of 'defamation of religions' will not be revived, its most recent resolution, following the generally positive debate on religious tolerance at the Council's 17th session,⁷ suggests the issue may finally be off the table.

COUNTRY DEVELOPMENTS

The Council's response to country situations at this session saw a combination of significant breakthroughs and disappointing responses.

The major achievement was a resolution on **Sri Lanka**. At its September 2011 session, the Council had squandered an opportunity to respond to the situation in the country, when the Secretary-General transmitted the report of his 'Panel of Experts' to the President of the Council. This had been the best opening in some time for the Council to take action, and its failure to do so seemed to make it even more unlikely that it would respond in the future. However, the inter-sessional period saw the release of the report of the Lessons Learnt and Reconciliation Commission (LLRC),⁸ and another opportunity for action.

The US took the opportunity to table a moderate resolution urging the Government of Sri Lanka to implement the recommendations from the LLRC and ensure accountability for all Sri Lankans. Despite the moderation, Sri Lanka expressed fierce opposition to the initiative and stated its intention to not engage in deliberations on the resolution. The US chose to forge ahead regardless, and the resolution was passed with 24 votes in favour, 15 against, and 8 abstentions.

Western States, along with most of the Group of Latin America and Caribbean Countries (GRULAC) (excluding Ecuador and Cuba) and several African States, including Benin, Cameroon, and Nigeria, voted in favour of the resolution. India's vote, however, was the most remarkable. It broke away from most of its fellow Asian States and voted in favour. This is a significant change for a State that, until now, had been an uncritical ally of Sri Lanka. However, India made it clear that it still held to its position that Sri Lanka's sovereignty should be fully respected, and the role of the international community should be to support Sri Lanka's own efforts. The price for India joining the 'yes' vote was that advice and technical assistance from OHCHR and relevant special procedure mandate holders would only be provided in 'consultation with and with the concurrence of the Government of Sri Lanka', without calling on the Government to accept that help. The High Commissioner for Human Rights will present a report on the provision of such assistance at the Council's 22nd session, in March 2013.

7 'Human Rights Council: panel discussion on promotion of tolerance sees less divisive debate', <http://bit.ly/rcVcgP>. This debate was held on the basis of the previous resolution on intolerance and religion.

8 Report of the Commission of Inquiry on Lessons Learnt and Reconciliation, <http://bit.ly/uA1dOi>.

The Council's renewed energy on country situations was highlighted early on in the session by an urgent debate on **Syria**. However, the resolution adopted at the conclusion of that debate⁹ was relatively weak. It did not respond to calls made by several States for stronger language on accountability, in particular, for referral of the situation to the International Criminal Court.¹⁰

The direction of the resolution was an apparent effort to gain greater support from China, Cuba, and the Russian Federation, by altering the focus to the humanitarian situation in the country. During the debate, both the Russian Federation and China expressed concern at the escalating situation and called for humanitarian access to the country. The Russian Federation in particular welcomed Syria's cooperation with the International Committee of the Red Cross, and the UN's decision to send the Under Secretary-General for Humanitarian Affairs, Ms Valerie Amos, to the country. Nevertheless, both States, together with Cuba, voted against the resolution.¹¹

However, the session later saw the adoption of the Council's strongest resolution to date on the situation in Syria,¹² following the report of the Commission of Inquiry. The resolution calls for international accountability for potential crimes against humanity, and references the High Commissioner's call for the Security Council to refer the situation to the International Criminal Court. The resolution also extends the mandate of the Commission of Inquiry for a further six months.¹³

Syria's engagement with the Council continued to be obstructive. The delegation withdrew from the urgent debate, and during the interactive dialogue with the Commission of Inquiry reiterated its well-known position, that the crisis in the country is due not to peaceful demonstrators, but external parties that are arming opponents and waging war through the media. The State dismissed the report of the Commission of Inquiry as based on 'biased information' and 'hearsay', and stated its expectation that the mandate not be renewed. The representative added that the State would take all necessary steps to 'defend its people' and territorial integrity, and would reject any attempt to foil those efforts.

9 See A/HRC/19/L.1 here: <http://bit.ly/HrsfjK>.

10 Requested by Austria, Botswana, the Netherlands, and Slovakia, among others.

11 There were 37 votes in favour, 3 votes against and 3 abstentions. Four States were absent at the time of voting.

12 See A/HRC/19/L.38/Rev.1 here: <http://bit.ly/HrsfjK>.

13 This vote passed with 40 in favour, 3 against and 3 abstentions (India, which voted yes, later corrected its vote to an abstention). The additional 'yes' votes came from three States that had been absent during the first vote (Angola, Burkina Faso, and Kyrgyzstan).

Security Council authorises deployment of military observers to Syria

On 21 March 2012, the Security Council issued a non-binding presidential statement¹⁴ endorsing a mediation plan to halt the crisis in Syria. The six-point plan, which was developed by the Joint Special Envoy for the United Nations and the Arab League (Joint Special Envoy), former Secretary-General Kofi Annan, addresses both the opposition and Syrian government, and calls for an end to the violence with a UN-supervised ceasefire 'to protect civilians and stabilize the country'. The plan also calls for secure humanitarian access; the launch of an inclusive, Syrian-led political transition to a democratic, plural political system; the release of the detained; the right to demonstrate; and access for the media.

On 23 March, Germany hosted an 'Arria formula'¹⁵ meeting of Security Council members with the Commission of Inquiry (CoI) on Syria, a fact-finding mission mandated by the Human Rights Council. This closed briefing was the first time a Human Rights Council special procedure had met with the Security Council. The CoI engaged in a discussion with members regarding their findings, including how the CoI findings were established given that its members have not been granted access to Syria.

The Security Council adopted another presidential statement¹⁶ on 5 April, which supported a 10 April military pullback by Syrian forces, a deadline negotiated by the Joint Special Envoy. The statement also requested the Secretary-General to draw up options for a UN 'supervision mechanism.'

On 14 April the Security Council unanimously adopted *Resolution 2042*,¹⁷ which authorised the deployment of a team of 30 unarmed military observers to begin to report on the implementation of the ceasefire. The Security Council also called on the Syrian government to ensure the UN monitors enjoy unimpeded freedom of movement, and allows them to freely communicate with individuals throughout Syria without retaliation against any person as a result of interaction with the mission. On 18 April, the Secretary-General proposed that the Security Council establish a UN supervision mission in Syria, comprising up to 300 military observers supported by a civilian component, including human rights personnel. On 20 April, the Security Council unanimously adopted *Resolution 2043*¹⁸ calling for the formation of the 'United Nations Supervision

Mission in Syria (UNSMIS),' in line with the Secretary-General's proposal. The mission is authorised to monitor a cessation of armed violence 'in all its forms by all parties' as well as the full implementation of the Joint Special Envoy's six-point proposal.

Both presidential statements and resolutions followed a prolonged period during which Security Council members were unable to agree on how to address the 13-month uprising in Syria.¹⁹ The Russian Federation and China had vetoed previous Security Council resolutions that sought to end the Syrian government's assault and violence on the Syrian people, citing concerns about Western governments using the mandate to justify outside interference (October 2011 and February 2012). The unanimously approved presidential statements and resolutions signalled a positive shift in the international community's commitment to stop the government crackdown and to push for a peaceful end to the crisis. It was matched by equally firm expressions of concern at the Human Rights Council in Geneva.

Despite finding some common ground, Security Council members still disagree on how best to move the process forward. In *Resolution 2042*, the US and EU pushed for emphasis on the Syrian government's role in the ceasefire commitments, whereas the Russian Federation insisted on also including the opposition's responsibilities. The Russian Federation also proposed weak language in regard to the conditions required for the observers to work effectively. The resolution 'calls upon' rather than 'requires' the government to provide freedom of movement and access. In *Resolution 2043*, the Russian Federation fiercely resisted a US and European push to include language threatening sanctions if the Syrian government does not comply with the Security Council's demands. Instead, the Security Council only expressed its intention to assess the implementation of the resolution and 'to consider further steps as appropriate.'

There were disappointing signs that other States that had passed through the upheavals of the Arab Spring with minimal confrontation at the international level, had not significantly changed their stance in Geneva. For example, **Libya** presented a weak resolution in follow-up to the report of the Commission of Inquiry on its human rights situation.

Recently it has become more common within the Council for countries to take the lead on resolutions concerning their own situations. While it is obviously preferable to follow a process of cooperation and consensus, such an approach should not be favoured to the extent that the Council loses its strong, critical voice.

14 S/PRST/2012/6 available at <http://bit.ly/GMVB8p>.

15 The Arria Formula is an informal arrangement that allows the Council greater flexibility to be briefed about international peace and security issues.

16 S/PRST/2012/10 available at <http://bit.ly/HBvWSl>.

17 See <http://bit.ly/HUt6Vg>.

18 See <http://bit.ly/Jyrodg>.

19 The Security Council previously issued a presidential statement on 3 August 2011 and a press statement on 1 March 2012.

The process by which the resolution on Libya was adopted illustrates this point. The resolution was presented by Libya with the support of the EU. During the adoption, the Russian Federation and Uganda presented a series of amendments. Among other points raised, they called for the High Commissioner to be given a mandate to report on the human rights situation in the country, and for more specific attention to certain human rights violations. With Libya rejecting these amendments, and threatening to withdraw the resolution should the amendments be accepted, many EU States and the US decided to also oppose strengthening the resolution. The result was a weak resolution that does not acknowledge the serious and ongoing violations in the country as contained in the findings of the Commission of Inquiry. The resolution also lacks a robust mechanism to ensure follow-up by the Council.²⁰ Although the resolution was adopted by consensus and with the cooperation of the State concerned, the absence of strong and effective action points ultimately makes the Council complicit in Libya's unwillingness to seriously tackle the human rights violations being committed.

Yemen, another country that is taking the lead on its own country resolution, tabled a somewhat stronger draft, which requests the High Commissioner to report to the Council on the human rights situation in the country. However, as this is the minimum kind of response that should be expected, it points to the weakness of the resolution rather than to any merit on Yemen's part. It too was adopted by consensus.

Another country related development was a joint statement on **Eritrea**, presented by Somalia and endorsed by 44 States at the time of delivery.²¹ The statement expresses concern at the situation in Eritrea, and invites the High Commissioner to brief the Council on the situation in the country at its 20th session. This is an important development that may pave the way for a resolution. It is unclear if and in what form the High Commissioner will respond to the invitation, given that in other cases she has proven reluctant to brief the Council in depth, in the absence of a clear mandate.

The report of the Special Rapporteur on the situation of human rights in Iran, the first since the creation of the mandate at the 16th session of the Council, elicited a sharp response from Iran. Given that Iran had not given permission for the mandate holder, Mr Ahmed Shaheed, to enter the country, it was ironic that it criticised his report for not reflecting the true situation of human rights there. The delegation dismissed the report as 'biased, politicised, and selective', and as based on poorly sourced information and

allegations. It went so far as to call the report a 'compilation of lies'. While the mandate of the Special Rapporteur was renewed,²² the interactive dialogue illustrated just how difficult the mandate holder will find it to engage in any meaningful way with Iran.

The mandates on **Myanmar** and the **Democratic People's Republic of Korea** were also renewed, both by consensus; it was the first time the latter mandate has enjoyed the full support of the Council.²³ While criticism of country specific resolutions and debates at the Council continued (the general debate under Item 4 saw many statements to that effect) it is notable that 17 out of the 41 texts tabled at this session were country focused.

INSTITUTIONAL DEVELOPMENTS

In what would have been a damaging development in terms of NGO access to the UN human rights system, China attempted to insert language in a resolution on the **Forum on Minority Issues**. China hoped to limit NGO participation to those NGOs 'who respect sovereignty, territorial integrity and independence of States'. The proposed amendment was ultimately rejected.²⁴ However, this open attempt to undermine NGO participation may mark the beginning of a more aggressive strategy by China to silence criticism, and is in line with a more active position taken by the State over the past few sessions.

This session marked the tentative beginning of **remote participation** by some stakeholders in the Council's work. At its conclusion, the Council adopted a President's statement that included proposals for the remote participation of NGOs and national human rights institutions (NHRIs) in the Council's work. This followed on from the review of the work and functioning of the Council last year, through which a taskforce was created to evaluate the use of information technology, access for persons with disabilities, and secretariat services of the Council.

Although the President's statement was adopted at the end of the session, a decision had already been taken to trial the recommendations on remote participation of NHRIs during the March session. NHRIs were able to participate through pre-recorded video-messages in panel discussions, Universal Periodic Review (UPR) adoptions, and interactive dialogues with special procedures. The first NHRI to address the Council by video was the Office of the Provedor for Human Rights and Justice, from Timor Leste, during the

20 Concerned NGOs circulated a letter to States that voted 'no' on the amendments (Benin, Czech Republic, Djibouti, Hungary, Italy, Jordan, Kuwait, Malaysia, Maldives, Mauritania, Poland, Qatar, Romania, Saudi Arabia, and the US) acknowledging the political context of the vote, but calling on States to set politics aside for the sake of the Council's credibility.

21 The 44 States included several African States: Benin, Djibouti, Mauritius, Nigeria, and Somalia.

22 By a vote of 22 in favour, 5 against, and 20 abstentions.

23 At the renewal of the mandate in 2011, China, Cuba and Russia voted against, while Angola, Bangladesh, Cameroon, Ecuador, Malaysia, Mauritania, Nigeria, Pakistan, Qatar, Senegal, and Uganda abstained. Of these States, only Pakistan is no longer a Council member.

24 By a vote of 18 in favour, 15 against, and 12 abstentions.

interactive dialogue with the Working Group on Enforced or Involuntary Disappearances. The NHRIs of Georgia and South Africa also delivered video messages.

During the session several panel sponsors also experimented with new formats for panel discussions. A discussion on **freedom of expression on the internet**, for example, was moderated by Mr Riz Kahn of Al-Jazeera. Mr Kahn's handling of the debate ensured a more interactive discussion, as State comments were immediately handed over to a panellist for a response. There were, however, limitations to this format, not least the time constraints. As the three-hour slot progressed, State interventions were prioritised over panellists' responses, with those on the podium ultimately being limited to a few brief remarks in closing. Not all States welcomed the new format; there were criticisms from Cuba, China, and the Russian Federation. Amongst other concerns, they said it was not consistent with the Council's rules of procedure for anyone other than the President to give the floor to speakers.

Five new mandate holders were appointed during the session.²⁵ Mr Pablo de Greiff was appointed to the post of Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; Mr Paulo Pinheiro, current Chairperson of the Commission of Inquiry on Syria, was appointed to the position of Special Rapporteur on the situation of human rights in Syria. The work of the Special Rapporteur on Syria will commence once the mandate of the Commission of Inquiry concludes, which is scheduled for the end of September 2012. Also filled were the posts of Independent Expert on the promotion of a democratic and equitable international order, and the Independent Expert on the situation of human rights in the Sudan.²⁶ A new member was appointed to the Expert Mechanism on the rights of indigenous peoples.²⁷ Finally, Ms Cecilia Rachel Quisumbing was appointed as a new member of the Advisory Committee.²⁸

The Council adopted the final set of **UPR** country reports, thus concluding the first cycle of the UPR. During the general debate on the mechanism, many States welcomed the fact that all States had been reviewed, with only three failing to submit a national report. Discussions focussed on how to ensure follow up of UPR recommendations during the second cycle. In this vein, several States shared their midterm progress reports with the Council. Morocco also called for increased donations to the Voluntary Fund for Technical Cooperation in the Field of Human Rights set up by OHCHR.²⁹ The Czech Republic made the critical point

that *all* recommendations should be followed-up by reviewing States in the second cycle, including recommendations rejected by the State.

Finally, the Council continues to struggle with the burden of an ever-increasing workload. This session saw 55 meetings held over the course of 20 days. This required the Council to meet mostly for full (rather than part) days, including through the usual two-hour lunch break. The schedule comprised of the adoption of the UPR reports of 18 countries, interactive dialogues with 14 special procedures, and nine panel debates, including a full-day panel on children's rights. There were 41 resolutions, a record number. The Secretariat succeeded in managing the heavy workload while also accommodating meetings that ran over time.³⁰ However, as there is no sign of States moderating the number of resolutions tabled, the Council's workload is likely to increase. Since the Council is already operating at almost full capacity, before long it will be impossible to fit everything within the time allocated.

NEXT STEPS

The Human Rights Council will hold its 20th session from 18 June to 6 July. Among the highlights of that session will be the first report of the Special Rapporteur on freedom of association and assembly, a panel discussion on Women Human Rights Defenders, and a possible follow-up action to the panel on sexual orientation and gender identity. A draft programme will be available here: <http://bit.ly/HBVX2h>. ■

25 President's list of special procedures, <http://bit.ly/HGKKOK>.

26 Mr Alfred de Zayas and Mr Mashood Baderin respectively.

27 Mr Danfred Titus.

28 Ms Cecilia Rachel Quisumbing was elected following the demise of Ms Purification Quisumbing in December 2011, both nationals of the Philippines.

29 The fund currently contains around \$1.4 million, consisting of donations from seven States, and of which a third is donated by Morocco.

30 However, this problem caused disruption to several side events when planned speakers, including special rapporteurs, were unable to participate as a result of being delayed in the plenary session.

HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE

Controversial first draft of study on traditional values and human rights



Photo: Wendy Tanner

The controversial draft of a study on the traditional values of humankind has been considered by the Human Rights Council Advisory Committee (the Committee) at its 8th session. The study has attracted particular attention due to concern that the concept of traditional values, if not carefully handled, could undermine the universality of human rights.

The meeting was held in Geneva from 20 – 24 February 2012. Draft reports on the following topics were also considered: the right of people to peace; international cooperation in the field of human rights; the human rights of the urban poor; the advancement of the rights of peasants; severe malnutrition and childhood diseases; and human rights and international solidarity. The Committee also considered a concept note for a study on rural women and the right to food.

The draft study on traditional values comes from Human Rights Council resolution 16/3,¹ which mandated the Committee 'to prepare a study on how a better understanding and appreciation of traditional values of dignity, freedom and responsibility can contribute to the promotion and protection of human rights.'² That resolution was presented by the Russian Federation.³

A DIVISIVE FIRST DRAFT

The first draft of the study was prepared and presented by Mr Vladimir Kartashkin, the Russian member of the Committee. Mr Kartashkin acknowledged critical comments on the report received prior to its presentation. However, he noted too that he had tried his best to address a subject that had divided the Council, in a way that took different views into account. Indeed, the resolution mandating the study had been adopted with 23 votes in favour and 22 against. At the same time, he said, the Committee could not go beyond the scope of the explicit mandate given to it, despite the positions taken up by a range of States. During initial Advisory Committee discussions on traditional values in August 2011, several States expressed concern that the Advisory Committee was not tasked to study *if* traditional values promote human rights, but only *how*. He argued the Committee must work with the concept of traditional values and with the values listed in the resolution, of freedom, dignity, and responsibility.

Mr Kartashkin presented his opinion that the 'universalisation of human rights' refers to a process, which must take place gradually. He cautioned against rushing the implementation of norms of international human rights, and called for applying these norms 'over time', with a 'respectful attitude to local cultures, customs and ways of life'. The Committee's mandate, he felt, was to explore how dignity, freedom and responsibility could contribute to this process.

Committee member Mr Wolfgang Heinz (Germany) said he was 'alarmed' by the draft study and could understand the concerns expressed by human rights experts.⁴ He felt the study did not respond to the mandate given to the Committee. Many

1 Adopted at the 16th session of the Council, March 2011.

2 A/HRC/RES/16/3, para. 6, available at: <http://bit.ly/gQtWFV>.

3 For more background on this resolution and the controversy surrounding it, see 'Human Rights Council Advisory Committee', *Human Rights Monitor Quarterly*, Issue 4, 2011, p.7, <http://bit.ly/y9aHvf>.

4 Mr Heinz listed a number of the concerns that were included in the written statement submitted by the Canadian HIV/AIDS Legal Network, A/HRC/AC/8/NGO/4, <http://bit.ly/HaYGIa>.

members reiterated points they had made at the 7th session of the Committee, that the mandate of the study is to look at how traditional values could be used in the *implementation* of human rights standards.

Mr Kartashkin disregarded these comments, since he had chosen not to take this approach. In particular, it was noteworthy that Committee member Ms Mona Zulficar (Egypt) said the drafting group had held a meeting earlier in the day, at which the consensus position had been that the report should focus on the role of traditional values in the implementation of human rights standards. This may also indicate that Mr Kartashkin himself had not attempted to solicit input from members of the drafting group. The opaque way in which Mr Kartashkin produced the draft was further highlighted by the fact that even the Russian Federation, which had been very supportive of Mr Kartashkin's comments at the previous session, expressed reservations about the approach taken in the report.

Mr Kartashkin's response was that he had always seen the production of the draft as an initial step, with other members and stakeholders getting involved during the discussion in the Committee. However, given the short time frame available to the Advisory Committee, with only two sessions to finalise the study, and the usual working method of inter-session consultations employed for other topics, Mr Kartashkin's solo approach surprised many.⁵

Mr Heinz also commented on the methodology used in preparing the study, noting that he would have expected it to engage with relevant academic literature and UN reports, such as reports by the special procedures. He expressed profound concern about the report, saying many points were unclear. He criticised its lack of analysis, and the inclusion of many 'dogmatic statements and conclusions' without arguments to back them up. Mr Heinz observed, for example, that the report makes several statements to the effect that all international human rights agreements must be based on the traditional values of humankind, without giving any argument to support these statements.

In fact, the draft itself says in paragraph 6 that there is as yet no accepted definition of the term 'traditional values of humankind', which undermines the idea that international human rights agreements ought to be based on such values. Several other speakers pointed out this fundamental problem, including Mr Shigeki Sakamoto (Japan), and the delegations of Mexico and Ireland.

5 For instance, to elaborate the *Declaration on Human Rights Education and Training*, the Advisory Committee issued questionnaires to States and civil society to seek their input, and went through a number of drafting stages in a transparent way.

UNIVERSALITY OF HUMAN RIGHTS

The draft study's affirmation that traditional values trump human rights attracted a great deal of attention during the discussion. It states in its Paragraph 75f that: 'all international human rights agreements, whether universal or regional, must be based on, and not contradict, the traditional values of humankind. If this is not the case, they cannot be considered valid.'

Several Committee members and observers commented on this paragraph. The EU said the way in which the study appears to subordinate international law to traditional values was the most problematic aspect. Switzerland too criticised the draft study as undermining the very basis of human rights in this paragraph. The delegation affirmed that there was never any justification for subordinating international treaties to traditional values, even if, according to the *Vienna Declaration and Programme of Action*, States should keep national and regional particularities in mind when fulfilling their human rights duties. Mr Sakamoto queried when traditional values had become a peremptory norm of international law.

Mr Heinz commented that if every tradition is allowed to examine how human rights standards fit within its values, then the utility of international human rights law as a universal moral standard is undermined. Ms Zulficar said efforts to agree on international human rights aimed to identify the standards that constitute dignified treatment of individuals across all cultures. Claiming that the test of those standards is their consistency with differing sets of traditional values would reverse and undermine that whole process. Mexico also cautioned against diminishing the status of international human rights standards.

In his concluding remarks, Mr Kartashkin recognised there were problems with paragraph 75 and agreed it needed rewording. While he expressed his gratitude to the EU for raising the issue, he professed surprise that so many other speakers had also chosen to focus their remarks on that paragraph, stating that criticism should be positive.

RESPONSIBILITY

Amongst other controversial views aired by Mr Kartashkin was his argument that a person's human rights could be denied if he or she commits a crime. He said individuals are obliged to not act contrary to the law, and described his view, also contained in the report, that responsibility is a form of obligation, and a stimulus for acting as a moral individual.

Many speakers criticised this position. Mr Sakamoto stated that in international law the promotion of human rights is not conditional upon people's responsible behaviour, a position with which the EU and Mexico concurred. In responding to this point, Mr Kartashkin said 'some NGOs would like to see

human rights as something unlimited'. He pointed out that the *International Covenant on Civil and Political Rights* (ICCPR) allows certain restrictions on the exercise of some rights on the basis of public morals. He reiterated his point on responsibility, that human behaviour must be responsible, in that if a person commits a crime, he or she must be held responsible for it. Human rights are not entirely unlimited, he stated, they are connected with duties, with values and with the responsible conduct of individuals. He added that if people persisted in seeing no connection between human rights and duties, and human rights were turned into an absolute, then 'human society would be thrown into anarchy'.

Article 12(3) of the ICCPR, to which Mr Kartashkin referred, says restrictions may be placed on the exercise of human rights in order to protect 'national security, public order, [...] public health or morals, or the rights and freedoms of others'.⁶ These legitimate restrictions must be clearly outlined in law and be necessary in a democratic society for the purposes outlined above. They must also be proportional to the purpose to be achieved, and must be consistent with the other rights mentioned in the ICCPR.⁷ These legitimate restrictions mean human rights are not absolute. However, this does not imply they are conditional upon 'responsible' behaviour. To require 'responsible' behaviour as a condition for enjoying human rights would go far beyond the kinds of limitations that could legitimately be imposed to prevent the 'anarchy' feared by Mr Kartashkin. The starting point must always be that human rights are universal.

NEGATIVE IMPLICATIONS OF TRADITIONAL VALUES AND THE FAMILY

Other Committee members and observers picked up on the potentially negative implications of traditional values, which they felt had not been sufficiently guarded against in the draft study. The EU stated that the report was not clear on the distinction between *tradition* and *traditional values*. It noted that the report did not clearly communicate that there could be negative traditional values. The EU also said the study assumed a wholly positive influence of 'the family', and failed to acknowledge that families can often be sources of human rights violations. It pointed members to the reports of the Special Rapporteur on violence against women, which repeatedly considered the connection between traditional values and domestic violence. UNAIDS intervened to give the particular example of how traditional values have been used to justify violence or discrimination against people on the basis of their sexual orientation or gender identity.

The Russian Federation, however, wanted the study to focus only on positive values. It went further and claimed that the concept of 'negative values' was paradoxical, like 'hot

ice' or 'illegal legality'. It also pointed out that, whereas Mr Kartashkin had said traditions could be either negative or positive, when it comes to the promotion and protection of human rights, its own view was that tradition, in itself, is neutral.

NGO PARTICIPATION

Several NGOs attended the discussion of the report on traditional values and made oral interventions. Many Committee members welcomed the contributions made by NGOs and picked up and reiterated the points made by civil society.

However, others were less receptive. Mr Kartashkin, for example, said he found NGOs to be overly harsh in their criticisms, so much so that it led him to doubt some aspects of their assessments. He added that if NGOs were to be believed, the report was 'an absolute disaster', whereas in his view it was a simple matter of rewording to make certain aspects less ambiguous. Mr Kartashkin was particularly critical of a written submission from the Canadian HIV/AIDS Legal Network, outlining key concerns with the report, which he claimed distorted the facts of the study.⁸ Ms Halima Warzazi, a long-standing Moroccan member of the Committee, stated that in her experience NGOs did not always present the facts accurately, and therefore their information needed to be 'considered with care'.

NEXT STEPS

The Committee agreed the report needed to be redrafted. It adopted a recommendation that the Council should take note of the comments and suggestions made on the draft study, and should request the drafting group to submit the revised preliminary study to the Committee at its 9th session (6 to 10 August 2012).⁹

The Chair concluded by saying that he encouraged all members of the drafting group to engage actively in the next stages of the process and to take into account the concerns expressed by stakeholders. Several members, including Ms Chinsung Chung (Republic of Korea), and Mr Shiqiu Chen (China), said it was not feasible for the Committee to submit the revised version to the Council by September, as requested under the mandate given by the Council. They suggested the deadline be postponed. The Committee will consider this suggestion at its next session once it reviews the revised draft. ■

⁶ ICCPR, Article 12 (3), at <http://bit.ly/glbli>.

⁷ See also Human Rights Committee General Comment 27, CCPR/C/21/Rev.1/Add/9, paras 11 – 18, <http://bit.ly/9aBjlc>.

⁸ A/HRC/AC/8/NGO/4, <http://bit.ly/HaYGIA>.

⁹ Adopted text 8/6: <http://bit.ly/KSwwcl>.

COMMITTEE ON THE RIGHTS OF THE CHILD

Effective interpretation of the Convention and optional protocols in challenging contexts



Photo: Alex E. Proimos

A General Comment on the right to health is currently being drafted by the Committee on the Rights of the Child.

Azerbaijan, Cook Islands, Democratic Republic of the Congo (DRC), Madagascar, Myanmar, Thailand and Togo,¹ were reviewed at the 59th session of the Committee on the Rights of the Child (the Committee), from 16 January to 3 February 2012. The Committee also received the initial report of Tuvalu. This means only two States – Nauru and Tonga – remain to submit initial reports.²

A variety of challenging contexts for the protection of children's rights were presented:³ small, isolated environments, such as in the Cook Islands; political transformations, such as in Madagascar and Myanmar; and situations of conflict, such as in DRC.

At a pre-session meeting the Committee and NGO and UN agency representatives prepared for the State reviews that will take place at the 61st session (September and October 2012). The invitation to NGOs was based on written submissions made by national child rights NGOs and coalitions from most of the countries due for review.⁴ Participants engaged well and provided reliable, evidence-based information about the challenges facing children in the countries concerned, namely Albania, Austria, Bosnia and Herzegovina, Canada, Guinea-Bissau, Namibia and the Philippines. The only country not reported on at the meeting by an NGO was Liberia. However, the child rights NGOs in that country are engaging well in the reporting process.

LIVE WEBCASTING OF COMMITTEE MEETINGS

While State reviews by the Committee are public meetings, only a few NGO and UN representatives are able to attend the meetings in Geneva. These remain inaccessible to many national NGOs, children and other stakeholders. A coalition of NGOs, including the NGO Group for the Convention on the Rights of the Child (NGO Group) and the International Service for Human Rights, has now come together to support the work of the treaty bodies through live webcasting.

At the 59th session of the Committee, the NGO Group webcast the reviews of all States. Feedback from NGO partners, UN agencies and national human rights institutions was positive. The webcast is said to have been used to raise awareness about the reporting process and to initiate dialogue with States on future policies and planning.⁵ The NGO Group will webcast the Committee's 60th session in May and June, which will feature the reviews of Algeria, Australia, Cyprus, Greece, Nepal, Turkey and Vietnam.⁶

1 Azerbaijan under the Convention on the Rights of the Child (the Convention), Optional Protocol on children in armed conflict (OPAC), and Optional Protocol on the sale of children; Cook Islands, Madagascar, and Myanmar under the Convention; Democratic Republic of the Congo under the OPAC; Thailand under the Convention and OPAC, and OPSC; and Togo under the Convention and OPSC.

2 For a full list of the States that have submitted reports and are pending review visit <http://bit.ly/HCZr46>.

3 The NGO Group for the Convention on the Rights of the Child produces detailed country reports, which are available at <http://bit.ly/wMoDTL>.

4 The NGO reports submitted to the Committee can be found in the Alternative Report Database at <http://bit.ly/we0f92>.

5 Archived videos are available at www.treatybodywebcast.org.

6 Algeria, Cyprus, Turkey, and Vietnam under the Convention; Nepal under the OPSC; Australia and Greece under the Convention, OPAC, and OPSC.

Committee access to current information

The Committee is working on a backlog of State party reports of up to two years. State reports are therefore out-of-date by the time they are reviewed, and do not reflect political, economic and legal changes that may have occurred. The Committee needs to be informed of the current situation for children in a country at the time of the State's review, to make recommendations that accurately address the realities. The Committee's Lists of Issues and States' written replies provide such an opportunity for States to update the Committee about developments since submission of the original report.

To ensure that Committee members can access all required information, in 2011 it introduced a six-month time frame between the pre-session meeting and the State review. This is to allow for the State under review to transmit detailed written replies to the List of Issues. The time frame for civil society to submit reports has also been adapted: instead of six months after the submission of the State report, NGO submissions should now be made two-and-a-half months before the pre-session.

ADDRESSING UNIVERSAL BIRTH REGISTRATION

Universal Birth Registration was one of a range of child rights issues addressed by the Committee in State dialogues.⁷ This is not a new issue for the Committee, but the implementation of comprehensive birth registration systems has not been systematically addressed with all States, including States facing challenges in this regard. The Committee discussed national birth registration with all States under review at the 59th session, except the Cook Islands.

NGOs, UN agencies and other stakeholders are providing information to the Committee about the challenges faced by children in accessing rights linked to birth registration and the provision of birth certificates. The Committee is increasingly drawing the attention of States to these concerns. In the case of Togo, the Committee noted that the lack of a birth certificate prevented children from obtaining travel documents. Children were also denied the opportunity to sit national end-of-year primary school exams without presenting a birth certificate.

States did not contest the far-reaching impact of a well-administered birth registration system. The dialogue centred on States' concerns about how to more effectively implement such systems, particularly so as to reach children in remote

areas and families in situations of socio-economic marginalisation. The issue of how to successfully record the details of all children under 18 years old who have not yet been registered was also raised.

Information submitted to the Committee by other stakeholders, particularly NGOs and UN agencies, proposed ways for States to take a holistic approach to effectively implement birth registration systems. These recommendations have deepened the Committee's understanding of how the issue can be addressed at the national level, which has positively influenced the concluding observations and recommendations.

The dialogue during the review of Myanmar reflected the idea that a birth certificate can empower a child to claim his or her rights, and prevent violations, such as early recruitment into armed forces. In the concluding observations of Azerbaijan and Myanmar, the Committee noted that birth registration alone is not sufficient; a birth certificate must also be issued. The Committee recommended that birth registration should be both free and compulsory; that registration officials should be well trained and sensitised to the importance of the process; and that bureaucratic hurdles should be lifted, such as by abolishing fees and improving the organisation of public records. In the case of Madagascar, the Committee recommended that mobile registration units could be established to reach remote areas. It was recommended that Thailand and Togo conduct awareness-raising campaigns about the need for birth registration.⁸

GENERAL COMMENTS AS AN IMPLEMENTATION TOOL

The Committee is currently working on five general comments: on the best interests of the child; child rights and business; the right to play; the right to health; and harmful practices. General comments guide States on how specific articles of the Convention should be interpreted and implemented, whether for evolving issues such as business and child rights, or long-established concepts that have often been misunderstood.

While there is no standard drafting process, partners with relevant expertise are consulted. Opportunities for engagement in preparation of the current general comments are as follows:

Best interests of the child (Article 3(1)) will be an influential document for States and other stakeholders in judicial, administrative and other settings. As such, it is important it be clear to avoid further misuse of the term, and to contribute to the fulfilment of those child rights that rely on its

⁷ Other issues are detailed in the NGO Group's country reports, at <http://bit.ly/wMoDTL>.

⁸ Concluding Observations and other official documents are available at <http://bit.ly/pYKtg4>.

correct interpretation and implementation. The Committee working group is currently putting together a first draft consideration at the Committee's June session. Given the technical nature of the General Comment, a limited consultation with external partners will be held.

The outline of the General Comment on **child rights and business** has a broad scope, covering articles of the Convention and both its optional protocols. Initial consultations on the outline were held in Buenos Aires and New Delhi in March and April 2012 respectively. An online consultation was also conducted up to 30 April. The Committee working group, along with civil society partners, will hold further regional consultations in the near future.⁹

The General Comment on the **right to play** (Article 31) is currently being prepared. For this initiative the Committee has been supported by the International Play Association. A 'zero draft' of the General Comment is being developed and will be discussed with the Committee in June 2012. It is expected that a more extensive consultation with stakeholders will be held at the September 2012 session.

The **right to health** is addressed in a cross-cutting manner in the Convention (basic health and welfare: articles 18, 23, 24, 26 and 27). The Committee is drafting the General Comment to guide States on how to better meet their obligations in ensuring access to health for all children. An online consultation finished in December 2011, and feedback is being considered in the preparation of the first draft. There will be no further consultations on the text itself. However, the possible development of an implementation tool, such as a handbook, will be discussed after the General Comment's adoption.

Finally, the Committee is collaborating with the Committee on the Elimination of Discrimination against Women to produce a joint General Comment on **harmful practices**. The Committee's working group held a civil society consultation in July-August 2011, at which time 40 submissions were received and taken into account in the drafting process.¹⁰ Committees will work together in June and September this year to finalise the draft.

⁹ Further information about consultations will be available on the Committee's website.

¹⁰ The submissions on harmful practices can be found at <http://bit.ly/jC94Gz>.

Candidates for election to the committee

On 18 December 2012, States will vote at the General Assembly in New York to elect nine new members, or re-elect current members, to the Committee. The new term will start in March 2013.

The following committee members are finishing their term at the end of February 2013: Ms Hadeel Al-Asmar (Syrian Arab Republic); Mr Peter Gurán (Slovakia); Mr Sanphasit Koompraphant (Thailand); Ms Yanghee Lee (Republic of Korea); Ms Marta Mauras (Chile); Ms Pilar Nores (Peru); Mr Awich Pollar (Uganda); Ms Kamla Varmah (Mauritius); Mr Jean Zermatten (Switzerland).

While there are no specific criteria for the selection of candidates, Article 43(2) of the Convention says Committee members should be of 'high moral standing and recognised competence in the field covered by this Convention'. States Parties are encouraged to identify relevant candidates through national selection processes. It is important that States nominate independent and impartial candidates who have a demonstrated commitment to children's rights, complemented by relevant professional experience. An awareness and sensitivity to cultural differences, and fluency in one of the working languages of the Committee – English, French and Spanish – are also crucial.

Contact the NGO Group Director, Ms Lisa Myers, myers@childrightsnet.org, to share information or to find out more about the presentation of candidates for election to the Committee.

20 STATES SIGN NEW OPTIONAL PROTOCOL

As of 28 February 2012, the new optional protocol on a communications procedure is open for ratification. Twenty States have already demonstrated their political commitment to protecting children's rights by signing. Any State party to the Convention and/or the OPSC and/or the OPAC can now sign and ratify the third optional protocol. Ten States need to ratify the Protocol before it can enter into force.

To find out more about the international NGO coalition that will lead a ratification campaign, contact Ms Anita Goh goh@childrightsnet.org. ■

Article by Roisin Fegan, NGO Group for the Convention on the Rights of the Child.

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Challenges and progress in Algeria, Brazil, Congo, Grenada, Jordan, Norway, and Zimbabwe



Photo: UN/Milton Grant

Algeria, Brazil, Congo, Grenada, Jordan, Norway, and Zimbabwe were examined by the Committee on the Elimination of Discrimination against Women (the Committee) at its 51st session. The meeting was held in Geneva from 13 February to 2 March 2012. The Committee confronted challenges to women's representation in political office and temporary special measures; gender violence; stereotypes and gender roles; and women's economic status and the gender pay gap.

STATE ENGAGEMENT

The number of women present in State delegations is of particular relevance in this Committee's reviews. It can reflect a State's commitment to gender equality, and the level of female representation in public office. Only one of the States under review did not have a delegation that involved several women; Grenada was represented by one male ambassador. However, the delegate apologised for this, explaining that the intended female delegate was unable to secure a visa in time. The Committee asked why it was not informed of these difficulties earlier, and expressed disappointment at the lack of representation. However, the delegate engaged well with the Committee, resulting in a positive session overall.

In contrast, Brazil was represented by a 32-person strong delegation, all but four of whom were women. This was by far the largest delegation. However, other large delegations from Algeria, Norway, and Zimbabwe followed the same pattern, all comprising a majority of women. While this demonstrates a commitment to women's representation in high offices and gender equality issues in general, the lack of male representation also indicates a failure to broaden the discussion on promoting gender equality to the whole of society. It reflects a similar situation in the Committee, in which all but one of the 23 members are women. A more balanced gender representation on the Committee would communicate to States that men must be equally involved in discussions on gender equality.

Engagement by these larger delegations varied, with Norway in particular receiving praise from members for its 'professional and informative presentation'. The Republic of Congo delegates were attentive and engaged well, however many of their responses focused on personal accounts, lacking genuine factual input. In Algeria's review there was frustration on both sides. Members repeatedly sought answers on Algeria's reservations to the Convention on the Elimination of Discrimination against Women (the Convention), and on Sharia law without satisfaction. Meanwhile, the delegation was unhappy with time constraints that limited its responses.

MAIN THEMES

Improving representation of women in political office

The problem of unequal representation of women in political office was present in most States under review. Brazil's delegation was subject to less questioning on the issue, but did seek to draw attention to the State's recent election of a female president.

The Republic of Congo was the target of a strong line of questioning on women's participation, which was reinforced by references to recommendations and observations from other bodies. For example, the Committee noted the country has failed

to meet the prescribed quotas set by the African Union, and the United Nations Development Programme has recognised a lack of adequate legislation in this area.

Committee member Ms Patricia Schulz highlighted the importance of prioritising equality in political participation, and of using electoral laws on temporary special measures (such as quotas for seats for women) as ‘a tool to break through the webs of tradition’. The delegation’s response was disappointing, with vague answers on the likelihood of adoption of the country’s new electoral law. This demonstrated the low priority given to real change for gender equality in the political sphere, and placed the Republic of Congo among the worst of the countries reviewed on this issue.

In contrast, Grenada ended the session by showing willingness to consider temporary special measures to improve the representation of women, having expressed hesitancy during the review. Its delegate had stated that the Government sees challenging the ideas behind inequality as more effective than attempting to force change through legislation. However, the Committee stressed that equal political representation is essential to ensure gender equality is on the political agenda. The delegate then agreed to relay this information to his Government for possible inclusion to the national gender equality action plan.

In Jordan and Algeria, the political representation of women was strikingly low at the time of reporting, with only 7 of 130 seats in the Algerian Parliament occupied by women. Both States have implemented quotas and electoral laws to improve these numbers, with Jordan stating its aim to achieve 30 percent female representation in elections. However, Committee member Ms Maria de Jesus Pires said steps taken so far were insufficient.

Gender violence

Despite being one of the leading countries on gender equality, acknowledged by both the delegation and Committee members, Norway’s review revealed a prevalence of domestic violence in the country. The delegation noted that in Norway the media often refers to domestic violence as a ‘family tragedy’, instead of the ‘brutal crime’ it really is. The delegation said the problem’s eradication is a priority for the Government. However, the Committee was concerned that despite the State’s excellent gender equality record, it has one of the highest rates of femicide due to women being killed by their intimate partners. Several members, including Ms Ruth Halperin-Kaddari and Ms Dubravka Simonovic, accused the State of ‘gender blindness’ on this issue. They pointed to the head delegate’s use of the term ‘partner homicide’ instead of ‘femicide’ in his presentation. The Committee also criticised this ‘gender blindness’ regarding the State’s new pension laws and gender neutral migrant policy, which were said to indirectly discriminate against women.

The delegation acknowledged that the high number of women being killed showed Norway was not yet a gender equal society. The delegation noticeably did not change its terminology. The conclusion was that more data was needed to assess the problem of domestic violence, in particular the murder of women by their partners.

The Republic of Congo faced criticism on its response to gender violence, specifically rape and female genital mutilation (FGM). The issue of impunity for acts of sexual violence committed during the war was raised. Committee member Ms Pramila Patten said she saw no steps being taken to stop violence against women. This was further exemplified by the delegation’s response, which was somewhat non-committal. It acknowledged reporting issues, since women often chose to stay silent due to shame, but described few concrete measures to tackle this. When explaining the slow progress, delegates repeatedly referred to discussion of sexual violence as ‘taboo’ in the Republic of Congo. However, the Committee did not accept this excuse and emphasised the responsibility of the Government to remove such ‘taboos’. Member Ms Naela Mohamed Gabr also emphasised the urgency of taking action with non-governmental organisations (NGOs) and civil society on FGM, and the need to enact legislation to end the practice.

Gender violence, specifically domestic violence, was also a focus of Brazil’s review but in a much more positive way. The State’s recent enactment of the comprehensive ‘Maria da Penha’ law¹ on domestic violence was praised by many Committee members. Although there were some concerns about its implementation by judges who do not view it as constitutional, it was generally seen by Committee members as an important step in protecting women victims of domestic violence, and ensuring punishment of perpetrators.

Stereotypes and gender roles

The close relationship between traditional customs and practices, patriarchal religious values, and gender stereotypes, and their contribution to continued discrimination against women in law and practice was discussed in several reviews. Even in Norway, the issue of media stereotypes perpetuating discrimination was a concern.

Zimbabwe’s delegation affirmed its commitment to address the way in which women are treated under customary law and traditional practices, in response to the Committee’s concerns at reports of witch hunts and virginity testing in some communities. However, the delegation was hesitant in agreeing to tackle the problem of *Lobola* (bride price), saying it still needs to establish why the practice could be considered negative. While it emphasised plans for legislative and

¹ This law was enacted in 2006, and increases the punishment for perpetrators of domestic violence. It also includes provisions for preventative measures, social measures to improve the lives of victims, and specific provisions for domestic workers.

constitutional changes to tackle gender stereotypes, it did not appear to take seriously the damaging effect of some traditional practices, despite the Committee's insistence.

In Brazil's review, the Committee commented on the lack of information on stereotyping in the State report. This suggests the issue is not being taken seriously by the State.

Gender roles and patriarchal religious values were discussed in both Algeria and Jordan's reviews, due to the apparent prioritising of Sharia law over Convention rights. Both countries maintain reservations to the Convention on this basis. The Committee requested withdrawal of these reservations in both cases, to no avail. When questioning Jordan on marriage inequalities, Committee member Ms Ayse Feride Acar said many of the contradictions between the State's laws and the Convention were based on 'age-old patriarchal ideas'. In Algeria's review, the delegation cautioned that action in this area could be viewed as 'attacking Islam'. This demonstrated the entrenched nature of these values, and the reluctance of the Government to lead change. Ms Halperin-Kaddari criticised this position, pointing out that other countries in the region have a less discriminatory interpretation of Sharia law. She went as far as to say that as long as the legal framework is religious, the system is discriminatory.

Economic status and the gender pay gap

The Republic of Congo's response on the issue of the economic status of women and the gender pay gap was the most disappointing. The delegation denied the existence of wage differences between sexes, as a result of which it had no intention of moving beyond the status quo.

In Zimbabwe's review, the delegation said the economic empowerment of women was a goal in government policy. However, the Committee expressed doubts about progress in the economic status of rural women, and their lack of access to loans. The related issue of prostitution, with women often forced into this by economic circumstances, was also raised. However, the delegation said there were no plans to change the law in this area or to provide rehabilitation programmes for prostitutes.

Algeria was questioned on implementation of laws on equal pay for equal work, after the Committee noted failures to report such information to the International Labour Organization. The delegation said this legislation does exist. However, the wider issue of economic status again revealed discrimination rooted in the country's interpretation of Sharia law. The Committee focused in particular on discriminatory inheritance laws, to which delegation responses were evasive. The difficulty of harmonising Sharia with the Convention was again used as an explanation. The delegation also said a woman's share of the inheritance is hers alone to spend, while giving no assurance that this is ever an equal share.

In Norway's review, the discussion focussed more on the economic opportunities for women who are in involuntary part-time work, or who earn less due to time off for child rearing, or who are working under temporary contracts. Mr Niklas Bruun recommended the Finnish system of prioritising part-time employees for full-time posts when they become available. The delegation appeared open to suggestions on this, admitting the issue needs to be placed higher on the agenda.

NGO PARTICIPATION

NGOs made an obvious contribution to the Committee reviews, and members referred to such sources several times during the session. This was particularly evident in the review of the Republic of Congo. Despite the few NGO submissions for the State, Committee member Ms Zohra Rasekh said she had had to rely on NGOs to provide statistics on maternal mortality, as the State itself had failed to provide up-to-date information. This shows the importance of alternative sources of information.

State responses to NGO involvement differed; from Norway, which had funded many NGOs to attend the session, and Brazil, which commended the 'rigorous and skilful work' of its NGOs; to the opposite extreme, Zimbabwe, which sought to undermine the accuracy of one NGO's information.

In Algeria's review, there was concern from the Committee on new NGO funding laws that restrict external funding, and the limiting effect this could have on women's organisations. The delegation explained the law is to ensure 'transparency' of civil society funding. However, it appears to allow a worrying amount of restriction and control by authorities.

WORKING METHODS AND IMPLEMENTATION

Some practical issues during the session showed room for improvement in how the Committee operates. Algeria complained it was not given enough time to respond during the review. However, this problem was due more to the delegation's failure to directly answer the Committee's questions, which resulted in many follow-up questions.

A more legitimate concern was expressed by Grenada about the capacity of small countries to attend sessions in Geneva. The delegation pointed out that Grenada does not have a Swiss embassy, so for government officials to gain a visa they must travel to Venezuela. Although the Committee said it should have been informed of these problems in advance, the delegate's suggestions on improved technical assistance for small, island or resource-constrained States, and the possibility of webcasting to allow remote participation of some members of the delegation, warrant consideration. ■

HUMAN RIGHTS COMMITTEE

Dominican Republic, Yemen, Turkmenistan, Guatemala, and Cape Verde under review



Photo: UN/JC McIlwaine

Members of the Human Rights Committee present the conclusions of the 104th session.

The Dominican Republic, Yemen, Turkmenistan, and Guatemala were examined by the Human Rights Committee (the Committee) at its 104th session, held in New York from 12 to 30 March 2012. As decided during its October 2011 session, the Committee broke from its previous practice, and reviewed Cape Verde in the absence of a report in an open rather than a closed session.¹ Some of the themes addressed in these reviews included sexual orientation and gender identity, women's rights, freedom of expression and association, and law enforcement.

ENGAGEMENT BY STATES UNDER REVIEW

Most of the delegations were small, (Cape Verde, Yemen, Turkmenistan, and Guatemala with one, two, three and eight delegates respectively), with the exception of the Dominican Republic with 23 delegates.

Despite being almost 15 years late, the Committee interpreted the submission of Turkmenistan's initial report as a sign of its willingness to engage with the international community on human rights issues. The delegation seemed open to addressing most of the issues raised, although it often simply denied allegations or referred to a 'misunderstanding' of the facts. The Committee requested that Turkmenistan report back in one year on the following issues of particular concern: torture, law enforcement, detention, the judiciary, and on freedom of expression and association.

The Committee was generally pleased with the Dominican Republic's cooperation and humility in acknowledging problems. However, it was dissatisfied with the tardiness of the country's responses to the List of Issues, which could not be translated in time. This undoubtedly affected the calibre of the dialogue. The Committee asked the delegation to report back within one year on the following issues of particular concern: refugees, discrimination against migrants of Haitian origin, and violence against women.

The Committee praised the delegation of Yemen's willingness to engage in a dialogue, noting the difficulties of the ongoing political transition. The Committee asked Yemen to report back in one year on several areas of concern, including women's rights, the security sector, detention, treatment of asylum seekers, and freedom of movement, association and expression.

The delegation of Guatemala engaged positively with the Committee, despite submitting its report four years late. However, Chair Mr Krister Thelin noted his 'surprise' that the delegation included a member of the Committee on the Elimination of Racial Discrimination, since committee members are meant to operate independently of States.² The Committee praised Guatemala's legislative efforts to improve compliance with the Covenant, but was concerned about threats and attacks against human rights defenders, as well as issues surrounding reparations and the ongoing transitional justice processes. While acknowledging the challenges Guatemala faces as a post-conflict country, the Committee requested that it report back in one year on these issues.

1 See www.ccprcentre.org for video interviews with Committee members summarising the main outcomes of the session.

2 The Guatemalan delegation was headed by Mr José Francisco Cali Tzay, a current member of the Committee on the Elimination of Racial Discrimination. More information available at <http://bit.ly/IMQ3zX>.

The Permanent Representative of Cape Verde to the United Nations engaged in a positive dialogue to the extent possible without a written report. However, despite a cooperative tone, the representative was unable to answer the majority of the Committee's questions. Members encouraged Cape Verde to submit its 17-year-late report in the near future.

NGO PARTICIPATION

As in past sessions, NGOs briefed the Committee in formal thirty-minute sessions and informal hour-long meetings hosted by the Center for Civil and Political Rights.³ Despite limited time for interaction, NGO information clearly played a key role in shaping Committee members' questions and drawing attention to specific human rights issues.

The Committee adopted a paper on its relationship with NGOs.⁴ The paper discusses the role of NGOs in the implementation of the Covenant in the reporting process, the preparation and adoption of general comments, and by increasing the Covenant's visibility. The Committee also decided to produce a paper on the Committee's relationship with national human rights institutions.

THEMES IN FOCUS

Sexual orientation and gender identity

The Committee expressed concern about the criminalisation of homosexuality in Turkmenistan and Yemen. The delegation from Turkmenistan denied that criminalisation is discriminatory, arguing no international treaty obliged it to 'legalise homosexuality'. The delegation from Yemen, where the 'crime' of homosexuality is punishable by death, argued that the provision falls under Islamic law but no one has been prosecuted under it. The Committee urged both governments to repeal legislation that provides for, or could result in, prosecution and punishment of people because of their sexual orientation. The Committee reminded Turkmenistan that Article 26 of the International Covenant on Civil and Political Rights (the Covenant) is interpreted to prohibit discrimination on the basis of sexual orientation and gender identity (SOGI).

Based on reports from NGOs, the Committee asked the delegation from Guatemala what it was doing to combat violence against lesbian, gay, bisexual or transgender (LGBT) persons. The Committee tasked the Government with indicating clearly and officially that it does not tolerate any form of social stigma, harassment, discrimination or violence based on SOGI.

The Committee asked the Dominican Republic's delegation whether crimes were prosecuted under a provision that bans discrimination based on SOGI. The delegation explained that cultural barriers and some discrimination still exist. The

Committee pressed further, asking what practical steps the Government has taken to protect against violence and discrimination, including public awareness campaigns. The delegation explained there exists no specific legislation and no 'affirmative action' is in place for LGBT persons.

Women's rights

The Committee enquired about Turkmenistan's efforts to protect women from domestic violence and trafficking. It also raised concerns that the labour code perpetuates stereotypes of women as the sole caregivers of their children. The delegation responded somewhat defensively, refuting claims of unequal childcare distribution, claiming that the labour code is in line with international standards. It denied that trafficking affects minority ethnic groups disproportionately, and argued that the absence of statistics on domestic violence is not an indication of a lack of attention to the problem.

The Committee praised the Dominican Republic's progress on women's rights, while echoing NGO concerns about domestic violence and the lack of participation of women in government. The delegation presented a national plan on violence against women, and public awareness campaigns, prosecutions and relevant amendments to the criminal code. The Committee reminded the delegation that its absolute ban on abortion, which ignores cases of rape and incest, and high rates of maternal mortality from illegal abortions, is in violation of the Covenant.

Reiterating concerns voiced by several NGOs, the Committee expressed grave concern regarding the treatment of women in Yemen under personal status laws, including polygamy, marital rape, forced marriages, as well as divorce and dowry laws. The delegation denied the existence of forced marriage, explained that polygamy is permitted under Islamic law, and acknowledged the lack of complaints of marital rape may be due to the nature of the issue. The Committee was particularly disturbed that no minimum marriage age exists, which the delegation said was a divisive issue but remains a priority. The Committee asked about honour killings, domestic violence, illiteracy, and the participation of women in politics, law enforcement, the judiciary and the prosecution.

The Committee also addressed women's rights in Cape Verde, notably political participation and stereotypes. The representative said many women are less inclined toward a political career, partly due to slow-to-change mindsets, but that the Government was actively working on this.

Freedom of expression and association

The Committee expressed concern about threats and attacks against human rights defenders in Guatemala. Committee member Mr Fabián Omar Salvioli criticised the delegation's responses during the dialogue, saying these resembled the

³ www.ccprcentre.org.

⁴ This paper was not yet available at the time of print. Check back to <http://bit.ly/wmJtm9>.

answers already provided in writing, which explained laws and policies but not practices.

Turkmenistan's delegation questioned the credibility of NGO reports. However, Mr Thelin did not appreciate this argument, responding that the best way for the State to avoid allegations it deems false is to let NGOs into the country.⁵ The State said it was ready to cooperate with international organisations but only 'on an equal footing', in a constructive manner, and with both parties respecting each other's 'expectations and standards'. The delegation denied censoring the Internet and harassing media correspondents. However, it assured the Committee that draft legislation is under way to replace soviet era laws on freedom of expression. The Committee also criticised repressive association laws and the monitoring of activists' movement in the country.

The Committee was concerned about freedom of expression in Yemen, including the excessive use of force in repressing protests and the existence of a special court for journalists. The delegation agreed that, despite some improvement, the new Government should reform policies and journalists should be assured liberties as stipulated under the Constitution. In response to concerns raised during the NGO briefings, the Committee also enquired about restrictions on freedom of association, which the delegation tried to refute. The Committee urged the Government to remove restrictions to freedom of movement, particularly for NGOs and international observers, which the State argued were in place for their security.

Law enforcement

In Guatemala's review, the Committee was concerned about the increasing militarisation of the State, delegation of police authority, and lack of accountability of police forces. The delegation admitted insufficient attention was paid to reforming the police force for budgetary reasons, but said an overhaul was ongoing. Guatemala's liberal use of states of emergency, joint police-army patrols, and violations by large private security companies were also of concern.

While recognising the security challenges in Yemen, the Committee stressed that stability must be maintained with a firm respect for human rights, right to life and prevention of torture. The delegation acknowledged violations by security forces, saying a lack of knowledge of human rights needs to be addressed through training and reform. In the meantime, some alleged perpetrators are already being investigated under the draft transitional justice law.

The Committee echoed NGO concerns about the police in the Dominican Republic, including of brutality, abuse of power and impunity. It stressed the need for an independent

body to investigate police violence, noting low police salaries could be contributing to the problem. The Committee also pointed to the high number of extrajudicial executions by police and criticised a law that releases the State from the responsibility to pay reparations to victims' families. Despite the low conviction rate reported by the State,⁶ the delegation said those carrying out extrajudicial executions would be removed from the police force and prosecuted.

OTHER DEVELOPMENTS

The Committee adopted its annual report to the General Assembly,⁷ in which it included a request for additional resources to deal with a backlog of communications received under the First Optional Protocol to the Covenant.⁸ The Committee also adopted its annual report on follow-up to individual communications.⁹ This reflects a new approach agreed to in the Committee's July and October 2011 sessions, to label each case as either closed, suspended or ongoing. As an important innovation, the follow-up report also contains an assessment of the level of implementation, which is qualified as either satisfactory or non-satisfactory.

Committee members agreed that Article 9 of the Covenant, which recognises the rights to liberty and security of the person, would be the subject of the next General Comment. The Committee also adopted a position paper on the treaty body strengthening process,¹⁰ which outlines the Committee's assessment of outcome documents that have emerged from the process so far.¹¹ In addition, the Committee discussed preparations for a joint meeting with the Committee on the Elimination of Discrimination against Women, scheduled for October 2012 in Geneva, including possible focuses on abortion or treaty body strengthening.

The Committee decided it would create a new role to supervise the flow of individual communications. The first task of this role would be to draft criteria by which cases can be prioritised. The Committee also decided to extend the maximum periodicity of reporting from five to six years.¹² Given the need for further discussion of working methods and the lack of resources to hold additional meetings, the Committee decided it will hold an informal session on working methods, which will be hosted by a State party. ■

6 A 10 percent conviction rate in cases of extrajudicial execution committed by police between 2005 and 2011.

7 CCPR/C/104/R.4.

8 The First Optional Protocol allows individuals to complain to the 18-member Committee about violations of rights protected by the ICCPR.

9 CCPR/C/104/R.4/Add.6.

10 You can view the position paper at <http://goo.gl/eZouK>.

11 See <http://bit.ly/HpwA6y> for a recent ISHR news story on the treaty body strengthening process.

12 The Committee decides in its concluding observations for each country whether the next report is due in three, four or five years. The Committee decided this session to extend periodicity to a possible six years.

5 It was pointed out that Human Rights Watch has not been allowed to enter the country since 1999 and the last organisation to visit Turkmenistan was Doctors Without Borders in 2009.

COMMITTEE ON ENFORCED DISAPPEARANCES

Institutional groundwork clears the way for substance



Photo: Emmanuel Frezzotti

Victims of enforced disappearance during the military dictatorship in Argentina (1976-1983).

The Committee on Enforced Disappearances (the Committee) adopted its rules of procedure and working methods, during its second session. These institutional milestones clear the way for the Committee to commence more substantive work. While the consideration of State reports will not start until at least 2013, the next session of the Committee in October may look at model laws against enforced disappearances. The Committee will also hold public thematic discussions on the responsibility of States and non-State actors, and human trafficking. Private discussions on the principles of *non-refoulement*, expulsion, extradition will also be held.

The second session took place in Geneva from 26 to 30 March 2012.¹ Most of the Committee's work was conducted in private, with the exception of the opening and closing sessions, and three consecutive public meetings: with States (both parties to the Convention and those interested in it);² United Nations bodies, intergovernmental organisations and national human rights institutions (NHRIs); and non-governmental organisations (NGOs) and other civil society stakeholders.

NGO ENGAGEMENT

The Chairperson, Mr Emmanuel Decaux, emphasised the Committee's intention to work closely with NGOs, and the need for NGOs to support the Committee's mandate. He said their role is crucial in raising awareness of the *International Convention for the Protection of All Persons from Enforced Disappearance* (the Convention) and making its complex legal language more accessible. This requires that NGOs have a good understanding of the Convention and the Committee's mandate. However, as observed during the inaugural session, NGOs seemed confused about the Committee's functions and mandate. In this context, it would have been helpful if NGOs could have observed the sessions where working methods and rules of procedure were developed. It is also regrettable that the thematic discussions held, on non-State actors, and women and children under the Convention, were not public. Mr Decaux justified the private sessions as preferable while the Committee is still exploring ideas and developing its knowledge. However, he assured that public sessions will be held once that phase has passed.

The meeting with NGOs was poorly attended, with only around ten representatives present compared to the last session's 50. Four organisations raised concerns, including about the low number of ratifications. They requested clarifications on the Committee's working methods, in regard to country visits, model laws, concluding observations, and individual complaints.

RELATIONSHIP BETWEEN THE WORKING GROUP AND THE COMMITTEE

The relationship between the Working Group on Enforced and Involuntary Disappearances (the Working Group) and the Committee was raised in both the meeting with States and the meeting with UN bodies, intergovernmental agencies, and NHRIs. The representative of France said the Working Group and the Committee were distinct, with the Working Group focusing mainly on the humanitarian aspect of enforced disappearances. The Working Group also has various oversight duties regarding the implementation of the United Nations General Assembly's *Declaration of Enforced Disappearances*.³ It acts

1 The report of the session is available through OHCHR at <http://bit.ly/IQLOUS>.

2 Figures as of 13 April, 2012: 91 signatories and 32 parties. For a complete list see <http://bit.ly/dfpdbZ>.

3 *Declaration on the Protection of all Persons from Enforced Disappearance (A/RES/47/133)*. See <http://bit.ly/IXnQ7g>.

in an advisory capacity to governments that request assistance. The mandate of the Committee, on the other hand, is legal and directly linked to enforcing the Convention. The Chairperson of the Working Group, Mr Osman El Haije echoed this position, when addressing the meeting of UN bodies, intergovernmental agencies, and NHRIs. The representative from Morocco agreed that there was a distinction in principle, yet requested information from the Committee on how the two bodies will work together, to clarify that there will be no overlap in practice.

Mr Decaux offered additional information about how stronger links between the two entities would help them work in a coordinated fashion. To give an example, he noted the upcoming meeting organised by the Working Group on the situation of women in relation to enforced disappearances, and said the Committee would participate. He also referred to the decision made by the Committee and the Working Group to simultaneously present their reports to the General Assembly in New York. The two bodies also intend to use similar definitions to ensure reliable and systematic interpretation.

WORKING METHODS AND RULES OF PROCEDURE

Mr Decaux clarified the Committee's three main priorities:

- To react to urgent appeals and deal with communications in an effective way with the hope of protecting victims and their relatives;
- To respond to States Parties' reports in a rapid and innovative way;
- To do everything in its power to implement the provisions of Article 33, including country visits if necessary.

Following the adoption of the Committee's rules of procedure, more details are available on how a number of the Convention's key provisions will operate. This includes the urgent action procedure in Article 304 and the mechanism under Article 345 to address widespread or systematic enforced disappearances.

Under Article 30, relatives, the legal representatives of a disappeared person, or any other person with a legitimate interest may submit an urgent request that a 'person should be sought and found'. The Committee may then request the concerned State to provide information on the person sought and transmit recommendations to the State. Article 34 permits the Committee to bring to the attention of the UN General Assembly information of widespread or systematic practice of enforced disappearances in a territory under a State party's jurisdiction. Rules of procedure on other mechanisms provided by the Convention, i.e. country visits (Art.

33),⁶ inter-state communications (Art. 30),⁷ and individual communications (Art. 31)⁸ were also established.

The Committee's effort to prevent reprisals against those who communicate with it, or individuals concerned with disappearances, is reflected firmly in the rules of procedure. For instance, when individuals give information or participate in hearings or meetings during country visits, the Committee can request the State to ensure individuals are protected. When the Committee receives information that the State has been implicated in reprisals, it may request the State to adopt urgent protective measures and provide the Committee with written explanations.⁹

The issue of strengthening the treaty body system was also discussed during the session. The High Commissioner for Human Rights, Ms Navi Pillay, broached this topic during her statement at the opening meeting. In reply, the Committee stated at its closing session that it has endorsed the outcome document of the second meeting of experts on the treaty body strengthening process (known as the 'Dublin II Outcome Document').¹⁰

NEXT STEPS

Now that the Committee's revised rules of procedure and its methods of work have been formally adopted, it can focus on the monitoring and implementation aspects of its mandate. In regard to its ratification strategy, Mr Decaux mentioned the important role of the High Commissioner for Human Rights and her field missions, and special procedure country mandates. He also raised the need to involve NHRIs and NGOs, urging the Committee to ensure all stakeholders are fully involved in the implementation of the Convention. He touched upon the need to reach out to the public, to raise awareness of the Committee's activities and the protection provided by the Convention. Finally, he stressed the need to develop distinct methodologies in order to clarify the division of labour between the Committee and the Working Group.

The Committee plans to hold a day of general discussion on the topic of '**State responsibilities and the role of non-State actors**'. Other issues, including human trafficking and the application of the principle of *non-refoulement*,¹¹ may also feature in future thematic discussions. Mr Decaux announced the Committee will prepare general comments on the provisions of the Convention.¹² The Committee's third session will be held in Geneva from 29 October to 9 November 2012.¹³ ■

4 Rules 55-62 of the Committee's Rules of Procedure (CED/C/1/R.1/Rev.1). See at <http://bit.ly/J6dh4N>.

5 Rules 98-101.

6 Rules 86-97.

7 Rules 79-85.

8 Rules 63-78.

9 Rules 93 (4) and 97.

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

11 Article 16 of the Convention. See: <http://bit.ly/bURQ9Y>.

12 Pursuant to Article 54 of the Rules of the Procedure.

13 See the report of the second session for a draft programme of work, available at <http://bit.ly/IQLOUS>.

THEMATIC FOCUS

UNIVERSAL PERIODIC REVIEW P. 22

UNIVERSAL PERIODIC REVIEW

Examining the opportunities following the first cycle



The 'first cycle' of the Universal Periodic Review (UPR) ended in 2012 after all States had been reviewed for the first time. As a relatively new process, the UPR is still subject to scrutiny and development as it approaches its second cycle, which will start in May.

The UPR was created by the General Assembly in 2006, through *Resolution 60/251*, which set out the intention that the UPR be a cooperative mechanism, based on an interactive dialogue, and ensuring the equal treatment of all States. The same resolution created the Human Rights Council (the Council), tasking it with establishing the modalities of the UPR.

This article assesses data collected during the UPR's first cycle.¹ The patterns and trends identified suggest areas for improvement in the next cycle. They also indicate where NGOs should target advocacy to achieve higher quality reviews and recommendations, and ultimately, better implementation of human rights standards on the ground.

NUMBER OF RECOMMENDATIONS

There were 193 States reviewed during the 12 sessions of the first UPR cycle. Approximately 20,000 recommendations were made.² The number at each review ranged from 280 recommendations made to the US, to just 12 for Ecuador. The variations can be partly explained by politics; the countries receiving the most recommendations were the US, Iran, Sudan, and Myanmar.³ Their reviews were all high profile or controversial. However, this is also because the number of recommendations received per State increased dramatically over time, from around 20 in the first session, to 136 in the last. The rising trend was most steep up until the 7th session, at which point the number of recommendations plateaued at around 126 per State. For example, Ecuador, with its record low number of recommendations, was reviewed at the first session, when the average number of recommendations received was just 27.

The disproportionately low number of recommendations received by some States means the second cycle must be about more than just a follow-up to accepted and rejected recommendations. It should also include a fresh review of the overall human rights situation in each country, with an eye to identifying further areas where human rights protection falls short.

There are also concerns that a high number of recommendations could be counterproductive for the UPR, particularly in States that lack implementation capacity. A more targeted review may be more effective towards achieving change. While the increase in recommendations did reach a plateau during the first cycle, adding half an hour to each of the reviews in the next cycle may lead to another spike in recommendations.

Resolution 5/1 recognises the potential problem of too many recommendations and says 'the UPR process should not be overly burdensome'. States have also acknowledged this issue. At the March 2012 session of the Council, 39 States committed to

1 The data on which this article is based is largely taken from that collected by UPR-Info. See www.upr-info.org. The data is collected up until the 11th session at this stage, and the figures presented in this article are therefore intended to be no more than a rough guide to some trends and patterns.

2 18889 recommendations were made in the first 11 sessions. The figure of 20000 is an approximation of what the total is after the 12th session.

3 Iran received 212 recommendations, Sudan 204, and Myanmar 197.

making only two recommendations per State under review.⁴ Such a commitment would have allowed 70 States to speak in the 140 minutes allotted of the session, and would have kept the number of recommendations at roughly the point at which the first cycle ended. However, many States did not make that commitment, including Canada, Norway, France, and Mexico. What is perhaps more significant is that the 39 States that did make the commitment also agreed to always give high quality recommendations, i.e. those that are 'precise, practical, constructive, forward looking, and implementable'.⁵

Of all the recommendations, 41 percent were made by States of the Western European and Others Groups (WEOG). This is a huge proportion given that WEOG is one of the smaller regional groups. This may reflect the increased capacity of WEOG States to prepare for the UPR process and the fact that NGOs have targeted these States more in their lobbying for recommendations to be made. This could be due to a perception that these States are more likely to take up NGOs' issues. However, the disproportionate number of recommendations coming from WEOG States gives an uneven slant to the process.

The Organisation of Islamic Cooperation (OIC), which is twice the size of WEOG, made just 23 percent of all recommendations. The three States that gave the most recommendations overall were Canada, Norway, and France. Canada was significantly in the lead, almost 200 recommendations ahead of Norway. Completing the 'top five' list were two States from the Latin American and Caribbean Group (GRULAC), Mexico and Brazil.

If a lack of capacity to engage is a problem for non-WEOG States, then this must be addressed. An objective review of countries, which is one of the founding principles of the UPR, requires that all States be able to participate on an equal footing. Around 40 States made no recommendations at all, possibly symptomatic of not having a presence in Geneva or apathy towards the system. Those that at least attempted to participate, by making only one recommendation each, were Malta, Monaco, El Salvador, Swaziland, and Iceland. These are all small States with either limited resources or capacity. The African Group, consisting of many States with limited representation in Geneva, made just 12 percent of all recommendations.

REPETITION OF RECOMMENDATIONS

The huge increase in the number of recommendations given did not necessarily correspond to an equal increase in the number of distinct recommendations received by a State under review. This is because there was a corresponding increase in the repetition of recommendations. For example, during the first session, the UK received 35 recommendations.

However, taking into account repetition this amounted to only 28 discrete recommendations. Amongst the 280 recommendations made to the US, there was a considerable amount of duplication, including 26 to ratify CEDAW and 15 to introduce a moratorium on the death penalty.

While the focus of recommendations could be said to reflect the concerns of the international community, it does not necessarily reflect the real human rights situations of people on the ground. One possible way to address this in the next cycle would be to bring in expert input to the process or to improve the use of NGO information. For example, reviewing States could attempt to include relevant country experts in their delegations.

One cause of repetition is that States have already finalised their statements by the time the UPR Working Group meets. It would be useful if States were able to retain a degree of flexibility in order to adapt these during the proceedings if they see the recommendations they had planned have already been presented. The inclusion of experts in the delegation could make adaptation of statements in the course of the review more feasible.

QUALITY OF RECOMMENDATIONS

The nature of recommendations made during the course of the first cycle varied widely. While some pinpointed specific and concrete measures that a State under review could take, others were more general. For example, Australia made the very general recommendation to Afghanistan, to 'strengthen its efforts to ensure access to education - and to health care - for all its citizens, including those with disabilities, regardless of ethnicity, religion, tribal affiliation or economic status'. This recommendation suggests a goal to be achieved, but does not specify what actions should be taken. This allows Afghanistan to interpret the recommendation as it wishes, thus making assessment of its implementation impossible. This contrasts with specific recommendations, such as that made by Argentina to Albania during the 6th session to 'prohibit by law the practice of corporal punishment of children as a disciplinary method'. In this case the required action is concrete and if Albania does not enact such a law, it will be evident that the recommendation has not been implemented.

The strength of specific recommendations compared to general ones was reflected in the responses of States under review. States tend to more easily accept those recommendations perceived to require the least commitment on their part, so while just 55 percent of specific recommendations were accepted by States, 82 percent of general recommendations were accepted. Recommendations that called for minimal action of a generic nature were accepted at a rate of 97 percent, while those which called for 'continuing action' (usually an endorsement of what the State has been doing to date) were accepted at a rate of 95 percent.

⁴ During the general debate under item 6. See <http://bit.ly/HAV78G>.

⁵ See <http://bit.ly/HAV78G>. This matter is addressed further later in this article.

A fifth category of recommendations, those that call for States to 'consider' taking certain actions, is not as soft as it seems. In fact, it has a relatively lower acceptance rate of 60 percent. This shows that some States are unwilling to even consider certain courses of action. For example, 72 percent of recommendations urging States to 'consider' action in relation to sexual orientation and gender identity were rejected. Most of those recommendations related to decriminalisation of consensual homosexual conduct.

While the large number of general recommendations is somewhat disappointing, it is encouraging that the proportion of specific recommendations made increased over the course of the cycle, from around 26 percent at the first session, rising to 41 percent at the 11th. In addition, the number of recommendations calling for continuing action decreased over the course of the cycle, from 17 percent to 11.

The proportion of general recommendations stayed relatively consistent, at 40 percent for the first session, and 37 percent for the 11th. Reducing this category would seem to be the best way to seek improvements in the quality of recommendations made. In this regard, the aforementioned commitment by 39 States to give high quality recommendations is important.⁶ Since the proportion of general recommendations made is quite high in all regional groupings, this commitment could have a significant impact.

Civil society should also ensure that the recommendations it makes in submissions to the UPR process are specific. It could be useful for NGOs to target their specific recommendations to particular States or groups that are currently not making a large number of such recommendations.

Of course, specific recommendations count for little if they are then rejected by States. The quality of the outcome of a review also depends on recommendations being implementable. However, as may be expected, specific recommendations were rejected at the highest rate (25 percent), followed by 'considering action' recommendations (22 percent).⁷ Only one 'minimal' action recommendation was rejected: a recommendation from Turkey to Myanmar to seek UN technical assistance with a view to reforming the judiciary system, establishing judicial remedies, and alleviating poverty.

The lobbying opportunities to encourage States to accept specific recommendations are relatively limited if a State provides all its responses to those recommendations at the Working Group itself. However, over the course of the review,

more and more States seem to be choosing to leave their decisions pending on all recommendations until the following session of the Council. This opens up an opportunity for civil society actors to lobby back in their home countries and in Geneva for specific recommendations to be accepted.

Recommendations by NGOs

With regard to the better use of NGO information in the review, *Resolution 5/1* places equal emphasis on the three basic documents that form the basis of the review: the report by the State under review, a short report by the Office of the High Commissioner for Human Rights (OHCHR), and a summary of stakeholder submissions. However, currently only the State report is presented during the UPR session. It would therefore be helpful if both the stakeholder summary and the OHCHR compilation could also be presented orally during the session. The time for such a presentation is not currently provided for in the review, thus the State under review would have to voluntarily yield some of its time to OHCHR for presentation of these reports. This presentation would provide an additional source of information for delegations that have not had time to read the stakeholders' report.

It could also be helpful if NGOs identified recurring recommendations from the previous cycle and chose different recommendations to put to States. Furthermore, putting forward fewer recommendations may reduce the ability of States to pick and choose which recommendations they will put to the State under review.

Finally, as the process moves into the second cycle, it is important real progress is made in the way the review operates; the second cycle should not simply repeat recommendations from the first cycle. To move beyond the repetition of certain issues civil society should make new recommendations that open up areas that were less well examined in the previous review.

RESPONSE TO RECOMMENDATIONS

Resolution 5/1 says 'recommendations that enjoy the support of the State concerned will be identified as such. Other recommendations, together with the comments of the State concerned thereon, will be noted'. In practice this should mean that recommendations are divided into those that are supported by the State under review and those that are not, with any comments included. For example, the outcome report on Mali, adopted at the UPR's second session, noted that the State could not support the recommendation to put an end to all slavery-related practices, on grounds that slavery does not exist in the country.⁸

6 That is, recommendations that are 'precise, practical, constructive, forward looking, and implementable'. See: <http://bit.ly/Jb5HR8>.

7 Responses to recommendations are divided into four categories in the data: accepted, rejected, general response, no response. General response and no response include responses such as 'already implemented', and could be considered to constitute a rejection, given that the position is effectively a denial that further action needs to be undertaken.

8 Outcome report of Mali, see <http://bit.ly/IEJ9wr>.

However, after the first two sessions, it became increasingly common for States to offer comments on recommendations without also specifying whether they supported the recommendations or not. This creates ambiguity when it comes to the follow-up as it is often unclear whether the State has committed to action, or whether the State should be pushed to accept the recommendation in the next cycle. As a result, these recommendations might be ignored in follow-up discussions to focus on recommendations where the response is clear. If general or no responses are seen as a way to avoid scrutiny on certain issues, it is likely States will take advantage of this. It is therefore important for civil society to highlight recommendations with unclear responses. It should also attempt to spell out their meaning and otherwise push for clarity; aiming to have them raised again in the coming cycle.

In comparison to WEOG States, OIC States were more likely to give no response or a general response to recommendations categorised as 'specific'. They did so in 21 percent of cases, whereas WEOG States did so for 14 percent. The vague responses by OIC States were reflected in the lower rate of outright rejections. OIC States rejected 26 percent of the specific recommendations, while WEOG States rejected 37 percent.⁹

From the point of view of producing a concrete outcome document, the WEOG's more direct approach may be more helpful than the OIC approach. This is something civil society could work on in the case of any pending recommendations prior to the adoption of the outcome report at the subsequent session of the Council. It could be worthwhile revisiting the outcome documents of WEOG States to identify recommendations that could be put to the States concerned again.

Another major obstacle is that many States choose to 'accept' recommendations with the qualification that the said recommendations are 'already implemented' or 'being implemented'. This qualification was used in early sessions to explain why certain recommendations had been rejected, as in the case of Mali noted earlier. However, at the third session the outcome report of Uzbekistan was the first to include a new section for recommendations considered as already implemented or in the process of being implemented.¹⁰ This effectively created a third possible response, which States gradually began to take advantage of. In the third and fourth sessions just one State used this category (Uzbekistan and China respectively). But at the 12th session it was used by Iceland, Lithuania, Republic of Moldova, Syrian Arab Republic, Togo, Tajikistan, Timor Leste, Trinidad and Tobago, and Venezuela.¹¹

If recommendations have been accepted by a State under review, the second cycle is to assess implementation. However, if a State claims that the recommendation is already implemented, it suggests nothing more needs to be done. This makes it difficult for other States to reopen the recommendation without questioning the sincerity with which the State under review engaged with the first cycle. In many cases, it is clear these recommendations are not in fact 'already implemented'. For example, Syria, considered that 26 of the 179 recommendations made to it had already been implemented, including a recommendation to fully respect freedom of association and expression. It also considered that 15 recommendations made to it were 'in the process of implementation', including recommendations to investigate attacks on peaceful protestors.¹²

It is unfortunate that this response has gained increasing acceptance throughout the first cycle, and is being used more often. Given the diverse countries using this response at the 11th session it seems to be a cross-regional trend.

CONCLUSION

Despite some shortcomings, the UPR's first cycle has shown the potential of the process to mobilise civil society at the national level. In many instances, it has reinvigorated interest in using the UN human rights system as an avenue to pressure governments to respect and protect human rights obligations. It has motivated human rights defenders to interact more with other human rights mechanisms, such as the treaty bodies and the special procedures.

As the UPR enters its second cycle, many lessons can be drawn from the first. The experience shows that at least civil society has been effective in sharing newfound understanding during the first cycle, as strategies on how to present information and lobby reviewing States are improved. At the same time, new ways of approaching the UPR process have been deployed, such as centralised briefings by NGOs for reviewing States in Geneva.

While the second cycle will be an important test of the UPR's ability to effect real human rights improvement on the ground, there is still considerable room for innovation. As in the first cycle, human rights defenders are likely to be important contributors to the process of refining this already valuable tool. ■

⁹ The acceptance rates in both cases are 49 percent by WEOG and 54 percent by OIC.

¹⁰ Outcome report of UPR of Uzbekistan, <http://bit.ly/J7j3ja>.

¹¹ The phrasing of this category was adapted to specify that the recommendations enjoy the support of the State under review, because they are considered implemented or in the course of implementation.

¹² At the review, UK, Norway, Poland, US, and Japan said they considered the recommendations they had made should not be placed in the 'already implemented' category, in particular those relating to peaceful assembly. The State's response to these interventions was simply to 'take note' of the points raised.

REGIONAL DEVELOPMENTS

HUMAN RIGHTS DEFENDERS IN THE AMERICAS P. 27

HUMAN RIGHTS DEFENDERS IN THE AMERICAS

Inter-American Commission on Human Rights launches second report on human rights defenders



Photo: OEA – OAS

The Inter-American Commission's Rapporteur on the Rights of Human Rights Defenders, Mr José de Jesús Orozco, was hosted by ISHR in Geneva to present the new report.

At the 19th session of the Human Rights Council, the Inter-American Commission on Human Rights (IACHR) launched its *Second Report on the Situation of Human Rights Defenders in the Americas*,¹ following its first report in 2006. The latest report contains updated information on the situation of human rights defenders and applicable international law. Whilst acknowledging some States' efforts to improve the situation of defenders in the region, it notes that in many cases the risk for defenders have increased, with more 'sophisticated' attempts employed by State and non-state actors to hamper and obstruct their work. The report goes on to provide arguments as to why it is in States' interests to protect human rights defenders, as well as examples of practical measures a State can take to put an effective protection strategy in place. The importance of implementation of recommendations and judgments at the national level are also reiterated.

The report highlights the range of obstacles faced by human rights defenders, especially exposed groups of defenders; the independence and impartiality of operators of justice; the current levels of protection of human rights defenders; and recommendations. Several **systems of implementation**² are identified for the recommendations, seeking to provide States with no excuses regarding the protection of human rights defenders.

NEED TO CHANGE ATTITUDES TO INCREASE PROTECTION OF DEFENDERS

The IACHR notes that a key part of the protection of defenders is the need to change both State and public attitudes towards them, the value of the work they do and the role they play in society. This is elaborated in point 474 of the report; '... one of the essentials in a global program of the protection for human rights defenders is fostering a culture of human rights.'³ Political will is of critical importance, the report says: where protection programmes are established by law – ensuring procedures are secure and transparent – their effectiveness is increased. Protection programmes should also be part of a national human rights plan, adopted as priority policy by all institutional decision-making entities at central and local levels.

The Commission argues that fostering a culture of human rights is not only a form of prevention and protection, but it is self-disciplinary. If people are educated and understand the work of human rights defenders, then the knock on effects include, cost-cutting, improved social interaction and, of course, reduced violations.

The IACHR is the principal, autonomous body of the Organization of American States (OAS). It derives its mandate, to promote respect for human rights in the region and act as a consultative body to the OAS, from the OAS Charter and the American Convention on Human Rights. The Commission is composed of seven independent members, who are elected in an individual capacity by the OAS General Assembly and who do not represent their countries of origin or residence.

1 To download the report, visit <http://bit.ly/Ad0nH9>.

2 IACHR, *Second Report on the Situation of Human Rights Defenders in the Americas*, p. 197.

3 *Ibid*, p. 208.

STATE RESPONSE AND RESPONSIBILITY

The report provides some arguments as to why it is in States' interests to protect human rights defenders, including that working to prevent violations is less of a financial burden than dealing with them after the event.

Prevention strategies range from the political commitment of States (through the law, effectiveness of authorities, and sufficient resource allocation), to the risk assessment of an individual human rights defender's situation. The report notes in particular that: 'It is vital that the protection measures implemented enable the human rights defender to carry on with his or her work'.⁴ It is therefore essential that States introduce a tailored, human rights defender-specific system of protection.

Inappropriate state responses: Argentina, Ecuador, El Salvador, and Venezuela have defenders' protection mechanisms linked to programmes to protect victims, witnesses and other individuals participating in criminal cases. This response is considered inadequate because human rights defenders can face threats and attack for many reasons other than criminal cases. The need to file a complaint to get into the programme can also create delays, in effect making the process cumbersome when speed is critical.

Positive signs: 'In general terms, the States within the region have adapted their internal structure to comply with the protection requests from the Inter-American Commission and the Inter-American Court, although the lack of effective and diligent implementation by the States remains a critical concern'.⁵

However, a problem that has arisen from a recommendation given in the first report is that States have policies to promote the general notion of human rights, but very few specifically target the promotion of the work of human rights defenders themselves. The Commission provides specific calls to States in the report, including that they must provide the budgetary and logistical resources needed to ensure the program is effective.

The recommendations in the 2011 report speak to the articles of the *UN Declaration on Human Rights Defenders*, and also recall the recommendations contained in the IACHR's 2006 report. The principal recommendation is to implement 'a global policy of protection for human rights defenders', which requires the State to 1/ Promote the work of human rights defenders and acknowledge their role in democratic societies, 2/ Protect human rights defenders to prevent any attack upon their lives and personal integrity, 3/ Clear away obstacles and adopt measures to ensure the free and full practice of defending and promoting human rights.

⁴ Ibid, p. 225.

⁵ Ibid, p. 197.

When a State provides security to human rights defenders in danger, but does nothing to investigate the source of threats against them, this fails to meet the standard of a 'global protection policy', indicates the IACHR. Instituting an investigation into threats without providing any security to affected defenders whilst the investigation is underway is equally insufficient.

The report cites some examples where States have taken steps forward: the Bolivian State recognises the *UN Declaration on Human Rights Defenders* as part of its domestic legal system; the Chilean national human rights institution is cited as having prepared a brochure for the general public, responding to the need for better understanding of the role played by human rights defenders.

At-risk groups of human rights defenders

Groups of particularly 'exposed' human rights defenders were outlined in the IACHR's first report. This list was expanded in the second report, with the following groups of human rights defenders being given additional attention:

Defenders of the right to a healthy environment. This group is mentioned in response to the right expressed in the Protocol of San Salvador related to the right 'to live in a healthy environment and to have access to basic public services'.

Defenders of lesbian, gay, trans, bisexual, and intersex (LGBTI) persons. IACHR describes this group of human rights defenders as playing a fundamental role in terms of 'public oversight to ensure compliance with the States' obligations vis-à-vis the rights to privacy, equality and non-discrimination; and in the process of putting together a global agenda of human rights that includes respect (and guarantees) for the rights of lesbian, gay, trans, bisexual and intersex persons'. The recently created LGBTI Unit at the IACHR indicates its acknowledgement of the need for an additional focus to uphold the rights of LGBTI people, including their right to defend rights.

Defenders of migrant workers and their families. This group attracts attention in the report because of 'the disturbing situation' facing those working to defend and assist migrant workers of various nationalities in transit through Mexico on their way to the United States.'

The three rapporteurs working on the issue of human rights defenders, from the UN, and the Inter-American and African regional systems, recently issued a joint press statement. The statement denounces reprisals against individuals working on human rights. See <http://bit.ly/AtVOjA>. ■

UPCOMING EVENTS

QUICK REFERENCE	P. 30
OPPORTUNITIES FOR NGO ENGAGEMENT	P. 32
Country examinations and reviews	P. 32
Meetings	P. 34
Special procedures' visits	P. 36
Working groups	P. 36
USEFUL LINKS	P. 38
UPCOMING EVENTS MAY - SEPTEMBER 2012	P. 39

QUICK REFERENCE GUIDE

NGO engagement opportunities by country

May – September 2012

The table below is a quick reference guide to countries that feature within the 'Opportunities for NGO Engagement' section of this publication (pages 32-37). Only those countries featured in one or more of the upcoming meetings are listed in the table.

ACRONYMS

CRC:	Committee on the Rights of the Child (p. 32)
CAT:	Committee against Torture (p. 32)
UPR:	Universal Periodic Review (p. 32)
CEDAW:	Committee on the Elimination of Discrimination against Women (p. 33)
HRC:	Human Rights Committee (p. 33)
CERD:	Committee on the Elimination of Racial Discrimination (p. 34)
CMW:	Committee on Migrant Workers (p. 34)
SP Visits:	Special procedures' visits (p. 36). Please note that at the time of writing only limited information was available regarding special procedures' visits.

	CRC	CEDAW	CERD	HRC	CAT	UPR	SP visits
Afghanistan				x			
Albania	x				x		
Algeria	x					x	
Angola		x		x			
Armenia				x	x		
Australia	x						
Austria	x	x	x				
Bahamas		x					
Bahrain						x	x
Belize			x				
Bosnia-Herzegovina	x						
Brazil						x	
Bulgaria		x					
Canada	x				x		
China-Macao				x			
Croatia				x			
Cuba					x		
Cyprus	x	x					
Czech Republic					x		
Dominican Republic			x				
Ecuador			x			x	
El Salvador							x
Fiji			x				
Finland			x			x	
Gabon					x		
Germany				x			
Greece	x	x			x		

	CRC	CEDAW	CERD	HRC	CAT	UPR	SP visits
Guatemala							×
Guinea-Bissau	×						
Guyana		×					
Haiti				×			
Hungary		×					
Iceland				×			
India						×	
Indonesia		×				×	
Iran							
Israel				×			
Jamaica		×					
Kenya				×			
Liberia	×						
Liechtenstein			×				
Lithuania				×			
Macedonia		×					
Maldives				×			
Mexico		×			×		
Morocco						×	
Namibia	×						
Nepal	×						
Netherlands						×	
New Zealand		×		×			
Norway					×		
Pakistan		×					
Peru				×	×		
Philippines	×					×	
Poland						×	
Qatar					×		
Republic of Korea			×				
Russian Federation					×		
Rwanda					×		
San Marino				×			
Senegal			×		×		
Solomon Islands		×					
South Africa						×	
Syria					×		
Tajikistan			×		×		
Thailand			×				
Togo					×		
Tunisia						×	
Turkey	×						
United Kingdom						×	×
Vietnam	×						

OPPORTUNITIES FOR NGO ENGAGEMENT

May – September 2012

COUNTRY EXAMINATIONS AND REVIEWS

For more detailed and up-to-date information, please consult the relevant treaty body pages at <http://bit.ly/feFwjo> or the UPR website at <http://bit.ly/ea8LRG>. An annual calendar of treaty body examinations is available at <http://bit.ly/zAIQfR>. A calendar of meetings in New York is available at <http://bit.ly/GHh7O8>.

COMMITTEE AGAINST TORTURE

What's coming up?

The Committee against Torture will hold its 48th session from 7 May to 1 June in Geneva. It will examine the reports of Albania, Armenia, Canada, Cuba, the Czech Republic, Greece, Rwanda, and the Syrian Arab Republic. The 49th session will be held in Geneva from 29 October to 23 November. At that session, the Committee will examine the reports of Gabon, Mexico, Norway, Peru, Qatar, Russian Federation, Senegal, Tajikistan, and Togo.

What can you do?

If you are working on the issue of torture in one of these States, you can submit information to the Committee at any time, but preferably six weeks before the session. The deadline for submission of information to the 48th session has passed. For the 49th session, the deadline for the submission of information is 12 October. Information should be sent in electronic Microsoft Word format to registry@ohchr.org, jnataf@ohchr.org, and bcorvalan@ohchr.org, and will be posted on the Internet. For more information visit <http://bit.ly/bJOQCE>.

UNIVERSAL PERIODIC REVIEW

What's coming up?

The Universal Periodic Review (UPR) will hold its 13th session from 21 May to 4 June 2012 in Geneva. This will be the first session of the second cycle of the UPR. The countries under review are Bahrain, Ecuador, Tunisia, Morocco, Indonesia, Finland, the United Kingdom, India, Brazil, the Philippines, Algeria, Poland, the Netherlands, and South Africa.

What can you do?

The deadline for submissions on the countries to be examined at the 13th session has now passed. Guidelines for submissions to future sessions can be found at <http://bit.ly/d07u3s>. A timeline for NGO participation can be found here: <http://bit.ly/x5kUYL>. Submissions should be sent to uprsubmissions@ohchr.org following the above-mentioned guidelines. They should be submitted at least five months before the relevant session of the UPR. Further information on submissions and deadlines can be found at <http://bit.ly/cmalyM>.

COMMITTEE ON THE RIGHTS OF THE CHILD

What's coming up?

The Committee on the Rights of the Child will hold its 60th session from 29 May to 15 June in Geneva. It will examine the reports of Algeria, Australia, Cyprus, Greece, Turkey, and Vietnam. It will also examine Australia, Greece, and Nepal under the Optional Protocol on the sale of children, and Australia and Greece under the Optional Protocol on children in armed conflict.

The 61st session, from 17 September to 5 October in Geneva, will examine the reports of Albania, Austria, Bosnia-Herzegovina, Canada, Guinea-Bissau, Liberia, and Namibia. It will also examine Albania, Canada, and the Philippines under the Optional Protocol on the sale of children, and Albania under the Optional Protocol on children in armed conflict.

What can you do?

If you would like to submit information for upcoming examinations, you can contact the NGO group on the Convention for the Rights of the Child for advice: www.childrightsnet.org. Information on NGO participation can be found in 'A Guide for Non-Governmental Organisations Reporting to the Committee on the Rights of the Child', which is available at <http://bit.ly/gNbare>.

HUMAN RIGHTS COMMITTEE

What's coming up?

The Human Rights Committee will hold its 105th session from 9 to 27 July in Geneva. It will examine the reports of Armenia, Iceland, Kenya, Lithuania, and the Maldives. Country Report Task Forces will consider and adopt lists of issues on Angola, China-Macao, Germany, Haiti, and Peru, based on the State party reports and NGO submissions. In addition the Task Forces will consider and adopt lists of issues prior to reporting on Afghanistan, Croatia, Israel, New Zealand, and San Marino.

What can you do?

If you are working on issues related to civil and political rights in any of these countries you can submit information to the Committee for its examination, to assist it in drafting the lists of issues. Please send information to ccpr@ohchr.org. Information on NGO participation can be found in *NGO Guidelines on the Reporting Process of the UN Human Rights Committee*, which is available at <http://bit.ly/o5M1xy>. If you would like to submit information for upcoming examinations, you can contact the Centre for Civil and Political Rights on info@ccprcentre.org.

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

What's coming up?

The Committee on the Elimination of Discrimination against Women will hold its 52nd session from 9 to 27 July in New York. It will examine the reports of the Bahamas, Bulgaria, Guyana, Indonesia, Jamaica, Mexico, New Zealand, and Samoa. For more information see <http://bit.ly/J0nsBQ>.

The Committee's pre-session working group will meet from 30 July to 3 August to prepare for the 54th session of the Committee, taking place in Geneva in September. The following countries will be examined at the session: Angola, Austria, Cyprus, Greece, Hungary, Pakistan, Solomon Islands, and the Former Yugoslav Republic of Macedonia. For the latest information see the Committee's webpage: <http://bit.ly/pa2rQX>.

What can you do?

If you are working on discrimination against women in any of the countries under review, you can submit information to the Committee in Microsoft Word and pdf format at cedaw@ohchr.org, indicating whether the materials may be published on the Committee's website. Hardcopies of each submission must be sent to NGO Documents for CEDAW Meeting c/o Mrs Gaynel Curry, OHCHR, One United Nations Plaza, Room 511, New York, NY 10017. All submissions for the 52nd session should arrive at least two weeks prior to the review, i.e. by Monday 25 June. All submissions for the pre-session working group are subject to the same procedure and time limit.

The Committee has set aside time during its sessions for NGOs to provide oral information in respect of countries being considered during the 52nd session. These meetings will be held on 9 July for countries considered the first week, and 16 July for countries considered during the second week in the North Lawn Building. These meetings will be public. NGOs are requested to send a PDF of their presentation (no more than 10 minutes long) to cedaw@ohchr.org. They are also asked to bring 35 written copies of their statement to the meetings for the purposes of interpretation.

More detailed information on NGO participation is available at <http://bit.ly/dayPAF>. Alternatively, International Women's Rights Action Watch (IWRAP) Asia Pacific can help NGOs submit reports to the Committee. Please contact IWRAP Asia Pacific on iwraw-ap@iwraw-ap.org or iwraw_ap@yahoo.com.

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

What's coming up?

The Committee on the Elimination of Racial Discrimination will hold its 81st session from 6 to 31 August in Geneva. It will examine the reports of Austria, Belize, the Dominican Republic, Ecuador, Fiji, Finland, Liechtenstein, the Republic of Korea, Senegal, Tajikistan, and Thailand.

What can you do?

If you are working on issues related to racial discrimination in any of the above countries, you can submit information to the Committee through the Secretariat. Visit <http://bit.ly/Jockye> for up-to-date information on making a submission.

COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES

What's coming up?

The Committee on the Rights of Persons with Disabilities will hold its 8th session from 17 to 28 September in Geneva. At the time of writing, the list of countries to be examined was not yet available. This will be published in the future on the Committee's webpage: <http://bit.ly/tQ00LX>.

What can you do?

If you are working on the rights of persons with disabilities in any of the countries under review, you can submit information to the Committee. Information about doing so will be made available on <http://bit.ly/tQ00LX>.

COMMITTEE ON MIGRANT WORKERS

What's coming up?

The Committee on Migrant Workers will hold its 17th session from 10 September to 14 September in Geneva. At the time of writing, the list of countries to be examined was not yet available. This will be published in the future on the Committee's webpage: <http://bit.ly/HBVLQK>.

What can you do?

If you are working on the rights of migrant workers in any of the countries under review, you can submit information to the Committee. Information about doing so will be made available on: <http://bit.ly/HBVLQK>.

MEETINGS

THE COMMITTEE ON NON-GOVERNMENTAL ORGANISATIONS

What's coming up?

The resumed session of the Committee on NGOs will take place from 21 to 30 May, during which NGO applications for Economic and Social Council (ECOSOC) accreditation that have been deferred from earlier sessions will be considered by the Committee. In addition, it will also review quadrennial reports of NGOs in general or special consultative status, before the report of the session is adopted on 8 June. The Committee's recommendations will be sent to the Economic and Social Council for its approval in July.

What can you do?

If your NGO has submitted an application or a quadrennial report before the Committee then you can register to attend using the following link: <http://bit.ly/GDcq8U>. Reports of previous sessions of the Committee, as well as press coverage of the Committee issued on the days when it is in session, are available at: <http://csonet.org>.

MEETING OF SPECIAL RAPPORTEURS/REPRESENTATIVES/INDEPENDENT EXPERTS AND CHAIRPERSONS OF WORKING GROUPS OF THE HUMAN RIGHTS COUNCIL

What's coming up?

A Meeting of Special Rapporteurs/Representatives/Independent Experts and Chairpersons of Working Groups of the Human Rights Council's 19th session will be held from 11 to 15 June in Geneva.

HUMAN RIGHTS COUNCIL

What's coming up?

The Human Rights Council will hold its 20th session from 18 June to 6 July in Geneva, and its 21st session from 10 to 28 September. The programme of work for these sessions will be available at <http://bit.ly/HBVX2h>.

What can you do?

If you work with an ECOSOC accredited NGO you may attend all sessions of the Council. You may also submit written statements and request rooms to organise parallel events. You may register to deliver oral statements under all agenda items. More information about the Council and NGO participation is available at <http://bit.ly/4ru1vs> and at www.ishr.ch/council.

UN TREATY BODY CHAIRPERSONS' MEETING

What's coming up?

The UN Office of the High Commissioner for Human Rights (OHCHR) will hold the 24th meeting of the human rights treaty body chairpersons in Addis Ababa from the 25 to 28 June.

Treaty body chairpersons will meet with representatives of the African Commission on Human and Peoples' Rights, the African Court on Human and Peoples' Rights, the African Committee of Experts on the Rights and Welfare of the Child, the Court of Justice of the Economic Community of Western African States, and the East African Court of Justice for Human Rights, and their secretariats. The chairpersons will also meet with African Union stakeholders including donor agencies, United Nations entities and civil society.

What can you do?

If you are working on human rights in Africa with a non-governmental organisation or a national human rights institution, you are invited to attend. To confirm your participation or find out more, contact Ms Kebrework Ashenafi (kashenfai@uneca.org), Ms Kongit Girma (kgirma@uneca.org), Mr Dawit Kahsay (dkahsay@uneca.org), or by fax +251 115516078.

EXPERT MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLES

The Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) will hold its 5th session from 9 to 13 July in Geneva. The Expert Mechanism provides the Human Rights Council with thematic advice, in the form of studies and research, on the rights of Indigenous peoples as directed by the Council. The Expert Mechanism may also suggest proposals to the Council for its consideration and approval. Further information can be found at <http://bit.ly/rJdLB>.

THE WORKING GROUP ON DISCRIMINATION AGAINST WOMEN IN LAW AND PRACTICE

What's coming up?

The Working Group on Discrimination against Women in Law and Practice will hold its 4th session from 23 to 27 July in New York. The Working Group's focus is to identify, promote and exchange views, in consultation with States and other actors, on good practices related to the elimination of laws that discriminate against women.

What you can do

Further information on the mandate of the Working Group can be found at <http://bit.ly/FQAAeR>. Information relevant to the mandate of the Working Group is welcomed and can be sent at wgdiscriminationwomen@ohchr.org.

HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE

What's coming up?

The Human Rights Council Advisory Committee will hold its 9th session from 6 to 10 August in Geneva. Further information will be made available on <http://bit.ly/HBW8Lg>.

What you can do?

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

WEBCASTS OF THE TREATY BODY MEETINGS

If you are unable to attend relevant treaty body meetings, you may be pleased to hear you can now watch these sessions live online. A group of Geneva-based NGOs, including ISHR, has coordinated to make this possible. The webcasts can be viewed online at www.treatybodywebcast.org.

SPECIAL PROCEDURES' VISITS

- The Special Rapporteur on **Indigenous People**, Mr James Anaya, will visit **El Salvador** from 13 to 16 August. See: <http://goo.gl/IYRvu>
- The Special Rapporteur on the **right to health**, Mr Anand Grover, will visit **Tajikistan** from 24 May to 1 June. See: <http://goo.gl/NJEg2>
- The Special Rapporteur on **torture**, Mr Juan Méndez, will visit **Bahrain** in July (dates to be confirmed), and **Morocco** from 15 to 22 September. See: <http://goo.gl/8J14H>
- The Special Rapporteur on the **sale of children, child prostitution and child pornography**, Ms Najat Maalla M'jid, will visit **Guatemala** from 20 to 29 August, and **Honduras** from 30 August to 7 September. See: <http://goo.gl/P07SX>
- The Working Group on **African descent** will visit the **United Kingdom** from 1 to 5 October. See: <http://goo.gl/0pasD>

WORKING GROUPS

WORKING GROUP ON AGEING

What's coming up?

The Third Working Group on Ageing will hold its 3rd session from 21 to 24 August. The Working Group on Ageing was established by the General Assembly in 2010 to consider the existing international framework of the human rights of older persons and identify possible gaps and how to best address them, including the feasibility of further instruments and measures.

What can you do?

All those NGOs enjoying ECOSOC accreditation will be granted accreditation to the Open-ended Working Group on Ageing, and should pre-register for online for each session. All other NGOs must apply for accreditation in order to participate in the sessions of the Open-ended Working Group.

For the steps outlining the accreditation process, visit <http://bit.ly/y604pg>.

GENERAL ASSEMBLY AND THIRD COMMITTEE

What's coming up?

The General Assembly will hold its 67th session from 17 September to 21 December. The Third Committee of the General Assembly will consider human rights reports, including resolutions on the death penalty, torture, counter-terrorism and human rights, and women's rights.

What can you do?

Any NGO with ECOSOC accreditation may attend the General Assembly and/or the Third Committee as an observer provided they attain an appropriate ground pass. For more information on applying for and obtaining a ground pass consult the website here: <http://bit.ly/xbPqKe>.

ECOSOC accreditation

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

USEFUL LINKS

UN BODIES

Office of the High Commissioner for Human Rights: www.ohchr.org

Human Rights Council: www2.ohchr.org/english/bodies/hrcouncil

General Assembly: www.un.org/ga

Human Rights Committee: www2.ohchr.org/english/bodies/hrc

Committee on Economic, Social and Cultural Rights: www2.ohchr.org/english/bodies/cescr

Committee on the Elimination of Racial Discrimination: www2.ohchr.org/english/bodies/cerd

Committee on the Elimination of Discrimination against Women: www2.ohchr.org/english/bodies/cedaw

Committee against Torture: www2.ohchr.org/english/bodies/cat

Committee on the Rights of the Child: www2.ohchr.org/english/bodies/crc

Committee on Migrant Workers: www2.ohchr.org/english/bodies/cmwr

Committee on the Rights of Persons with Disabilities: www.ohchr.org/EN/HRBodies/crpd

Committee on Enforced Disappearances: www.ohchr.org/EN/HRBodies/ced

Special Rapporteur on the situation of human rights defenders: www.ohchr.org/EN/Issues/SRHRDefenders

Universal Periodic Review: www.ohchr.org/en/hrbodies/upr

Secretariat of the ECOSOC NGO Committee: www.csonet.org

REGIONAL ORGANISATIONS

African Commission on Human and Peoples' Rights: www.achpr.org

Asia Pacific Forum of National Human Rights Institutions: www.asiapacificforum.net

ASEAN Intergovernmental Commission on Human Rights: www.asean.org/22769.htm

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

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

Inter-American Commission on Human Rights: www.cidh.org

CONTRIBUTORS TO THIS ISSUE

NGO Group on the Convention for the Rights of the Child: www.childrightsnet.org

ISHR TRAININGS:

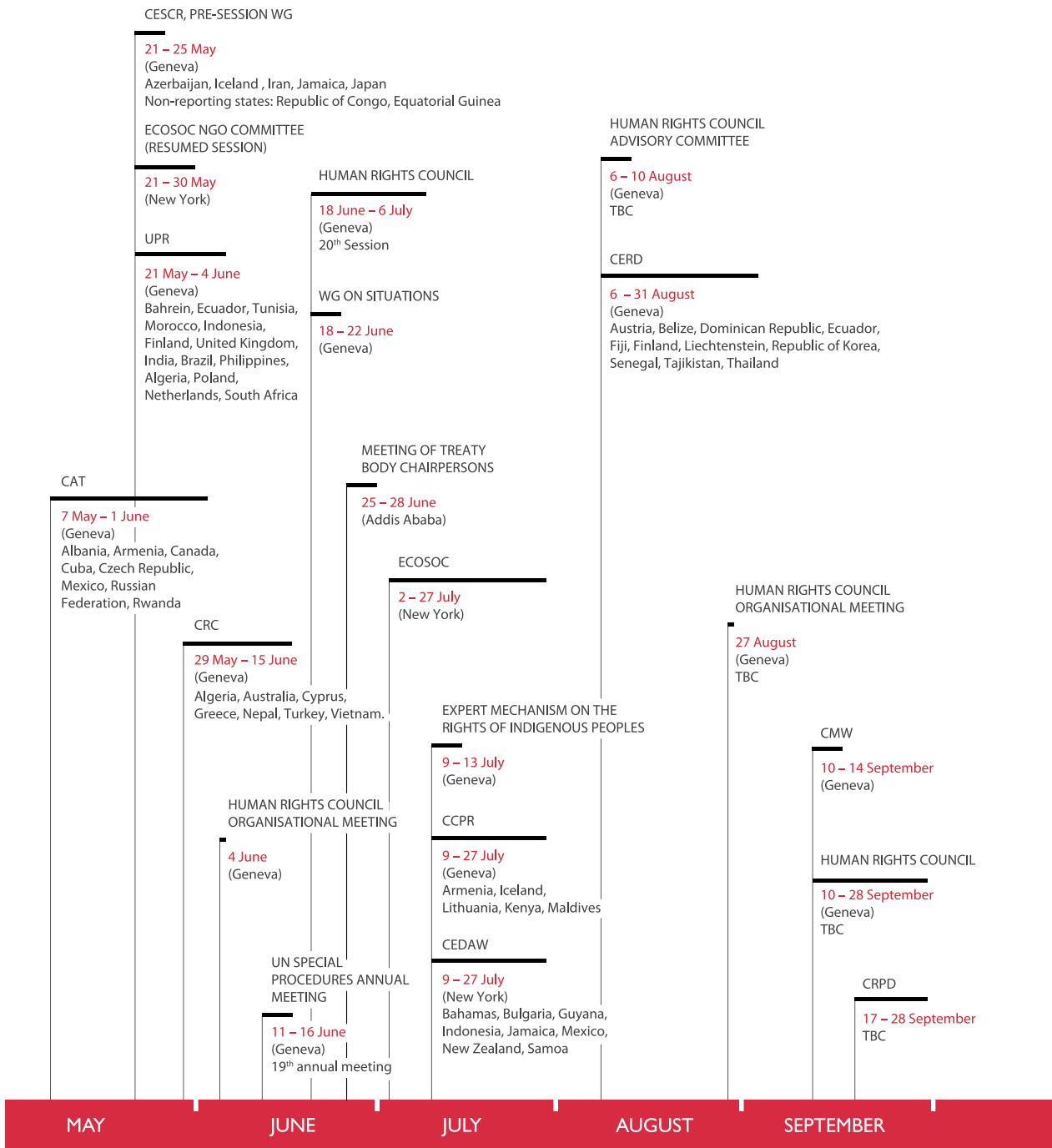
MANO RIVER TRAINING
ON UPR FOLLOW-UP

9 – 13 July

ADVANCED GENEVA TRAINING
AND ADVOCACY PROGRAMME

10 – 21 September

UN MEETINGS:



UPCOMING EVENTS MAY – SEPTEMBER 2012