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Overview

The Human Rights Council (the Council) spent most of this morning meeting in closed session, discussing the report of the Working Group on Situations as part of the complaint procedure (under Item 5). When it finally met in public session again, the morning meeting was almost over. For that reason, comments on the report of the Secretary-General's Special Adviser on the prevention of genocide, Mr Francis Deng, will be made on 18 March 2008.

The afternoon meeting of the Council was dedicated to the interactive dialogue on the report of the Special Rapporteur on the situation of human rights in the Sudan, with over thirty States and ten NGOs taking the floor to address the contents of the report and to provide opinions on the efforts made, or not made, and outstanding issues of concern to the Council and the international community as a whole. Opinions varied from stating that crimes against humanity and widespread impunity continue to occur in the region, to claims

that the Sudan has done everything in its power to cooperate and that positive developments have been hindered by the slowness of the international community to act.

Following the conclusion of Item 4 on country situations, the Council moved to the review, rationalisation and improvement of the mandate of the Special Rapporteur on the situation of human rights in Burma/Myanmar. Burma/Myanmar, as a concerned State, demanded that the mandate be discontinued so as to move away from the politicised nature of the former Commission on Human Rights (the Commission). The Special Rapporteur, the European Union, as core sponsors of the resolution, and the vast majority of States that intervened favoured the continuation of the mandate as a means to detail the situation within the country, provide a voice to people in Burma/Myanmar, and a means to engage in constructive dialogue with the Government of Burma/Myanmar.

Special Adviser on the Prevention of genocide

Mr Francis Deng, the Special Adviser of the Secretary-General on the Prevention of Genocide, addressed the Council for the first time¹ to present the Secretary-General's report on the UN's efforts toward the prevention of genocide and to discuss the approach he intended to follow as mandate holder.² In his presentation,³ the Special Adviser stipulated that as genocide is 'one of the most heinous crimes human beings can inflict upon fellow human beings', one 'would expect humanity to be united in its condemnation, prevention and punishment'. He further pointed out that the potential for 'identity conflicts' that could escalate to genocide is 'far more widespread' than is generally assumed, and said that he intended to promote awareness raising of genocide as a preventive measure. On a related point, Mr Deng acknowledged that his office needed resources, both human and material, in order to carry out this difficult mandate.⁴

The Special Adviser particularly highlighted that 'constructive engagement' with member States is needed to address the challenge of early warning and prevention, and said that he was committed to an approach that recognises and respects the sovereignty of States.⁵ With respect to situations of concern, Mr Deng considered 'operating discreetly and confidentially' to be the most constructive and appropriate approach, and illustrated this by mentioning the recent mediation in Kenya as a good example. He emphasised, however, that prevention is a continuous process, and that the best way to prevent genocide was to address the root causes of conflict. These are often reflected in structures and policies of marginalisation, exclusion, discrimination, and denial of the enjoyment of human rights.⁶ On a positive note, the Special Adviser was encouraged by the cooperation shown by States, United Nations (UN) agencies and civil society.

¹ Mr Deng assumed his position as Special Adviser in August 2007. In his introductory statement, Mr Deng noted that he is still in the process of establishing his office, having been joined by the staff from the Department of Political Affairs and the Office of the High Commissioner for Human Rights (OHCHR).

² At the time of writing, the annual report was not yet published (A/HRC/7/37).

³ Oral statements made at the Council can be accessed on the OHCHR extranet at <http://portal.ohchr.org> (fill out the form on www.ohchr.org/english/bodies/hrcouncil/form.htm to receive user name and password).

⁴ Mr Deng explained that when it was first established in 2004, the position of Special Adviser was a part-time one, at the level of Assistant Secretary-General. In December 2007, however, the Special Adviser was upgraded to a full-time position at the level of Under Secretary-General.

⁵ The Special Adviser further clarified that he sees 'sovereignty' as a 'concept of State responsibility to protect and assist its citizens and all those under its jurisdiction, to respect their human rights and to seek international support when needed'.

⁶ Mr Deng suggested that 'any efforts to contribute to equality, non-discrimination, the right to education, an effective and functioning judiciary, the right to a wide range of economic, social, cultural, political and civil rights, all contribute to preventing genocide.'

The Special Adviser elucidated on his strategies for genocide prevention, including the following interrelated areas:

- Protection of populations at risk against massive violations of human rights or humanitarian law.
- Accountability for violations.
- Humanitarian relief and access to basic economic, social and cultural rights.
- Initiation and support of steps to address underlying causes of conflict through peace agreements and transitional processes.⁷

Mr Deng concluded his statement by noting the 60th anniversary of the 1948 *Convention on the Prevention and Punishment of the Crime of Genocide*, and felt that the present session of the Council would be an opportunity for ‘taking stock’ of what had been achieved so far and how to strengthen the will and the capacity for preventing genocide and related crimes.

Comments on the report will be made on 18 March 2008.

Item 4 – Human rights situations that require the Council’s attention

Special Rapporteur on the situation of human rights in the Sudan

The Council continued its consideration of Item 4 with the presentation of the annual report of Ms Sima Samar, the Special Rapporteur on the situation of human rights in the Sudan.⁸ In her oral statement,⁹ she also presented the findings of her last visit to the Sudan in February and March 2008.¹⁰ Ms Samar expressed particular concern about the culture of impunity that still prevails in the Sudan and about the Government’s ‘excessive lethal force’ to silence protests against the regime. Fundamental rights, including the freedoms of opinion and expression, and assembly and association, continue to be violated by law enforcement authorities, in clear violation of the Comprehensive Peace Agreement (CPA). The Special Rapporteur urged the Government to accelerate its legislative reform, particularly regarding the *National Security Act* and the *National Human Rights Commission Bill*.

On her visit to Darfur, Ms Samar said that she was disturbed by the ‘critical human rights situation in the region, particularly [by] the ongoing major military offensive in West Darfur’. She further stated that the Government and the rebel groups have ‘failed in their responsibility’ to provide protection to civilians under their control.¹¹ She added that serious violations of international human rights and humanitarian law continue to be committed. Referring to numerous reports on attacks against civilians, in particular in the towns of Abu Suruj, Sirba, Silea and Gereida, the Special Rapporteur called upon the Government to investigate the

⁷ The Special Adviser intends to build on his predecessor’s areas of focus, which are among the areas launched by former Secretary-General Kofi Annan in his Five-Point Plan for the Prevention of Genocide in 2006 (see UN Press Release SG/SM/9245, available at www.un.org/News/Press/docs/2004/sgsm9245.doc.htm).

⁸ A/HRC/7/22, 3 March 2008. ISHR has prepared unofficial summaries of the reports by special procedures (‘Reports in short’), available at http://www.ishr.ch/hrm/council/reports_in_short.

⁹ Oral statements made at the Council can be accessed on the OHCHR extranet at <http://portal.ohchr.org> (fill out the form on www.ohchr.org/english/bodies/hrcouncil/form.htm to receive user name and password).

¹⁰ The geographical focus of the visit was on North, East and West Sudan. In particular, the Special Rapporteur asked to visit the Northern state, Port Sudan and North, West and South Darfur. During her next visit in July 2008 she intends to focus on Southern Sudan and Darfur.

¹¹ The Special Rapporteur received reports of indiscriminate killings, sexual violence, arbitrary arrest and detention, forced displacement, destruction of property, and impunity for such crimes.

incidents, inform the families of the fate of their relatives, and bring the perpetrators of human rights violations to justice. She maintained that the Council should continue to monitor the human rights situation and review the implementation of the recommendations by the Experts Group at its upcoming sessions.¹²

In her presentation, Ms Samar expressed disappointment over the slow deployment of the United Nations African Union Mission in Darfur (UNAMID) troops,¹³ and said that the international community should ‘fulfil their pledges’ to UNAMID so that it has the necessary resources to provide protection to civilians in Darfur. Closing her introductory statement, Ms Samar concluded by underlining the importance of ‘urgent action’ to protect the population of Darfur. She stressed that there could be no military solution to the problem and urged the international community to work together with the Government and people of the Sudan to find a ‘political and sustainable peace’.

Following the presentation of the Special Rapporteur, the Sudan took the floor to respond as the country concerned. While the delegation thanked the Special Rapporteur for her visit, it was quick to dispute several claims made in the report. The Sudan argued that women were not imprisoned for not paying dowries, and moreover, they were not treated as ‘second class citizens.’ Rather, the delegation stated, gender equality is enshrined in the Constitution. The Sudan cited women’s overrepresentation within universities (60% of enrolled students) and the reservation of 25% of seats in the Parliamentary Assembly as evidence that gender discrimination does not exist in the country. The delegation also disputed allegations that it practices torture and challenged the Special Rapporteur to identify specific incidents to substantiate her claim, especially given that she was given unrestricted access to State prisons. The Sudan went on to describe other developments that it claimed reflect progress in human rights protection, including a ‘fast track’ agreement that improved the flow of humanitarian aid into the country, its acceptance of hybrid forces of the UN and African Union (to which it allocated land and awarded custom-free imports of equipment), and upcoming democratic elections. In preparation for the elections, it stated that it was conducting a census, as well as promulgating an *Election Act* and a *Human Rights Commissions Act*, which it argued would ensure the integrity of the electoral process. In closing, the delegation assured the Council that it is making progress in humanitarian and human rights protections.

Interactive dialogue

Slovenia, on behalf of the European Union (EU), regretted that the Government of the Sudan restricted Ms Samar’s visit to certain areas, it thanked the Special Rapporteur for the thoroughness of her report. Slovenia (on behalf of the EU) then posed several questions to the Special Rapporteur, which were echoed by many States during the interactive dialogue. It asked Ms Samar to explain what she believes to be the challenges to human rights in the Sudan, given that the violence in Darfur persists. Slovenia (on behalf of the EU) then turned to more specific themes, asking the Special Rapporteur to suggest ways to improve civilians’ access to humanitarian aid, prosecute perpetrators of violence against women, promote freedom of expression,

¹² The ‘Group of Experts’ on Darfur was appointed pursuant to Human Rights Council *Resolution 4/8* to work with the Government of the Sudan to foster the effective implementation of previous human rights recommendations. It was presided by the Special Rapporteur on the situation of human rights in the Sudan and composed of the Special Representative of the Secretary-General for children and armed conflict, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Representative of the Secretary-General on the situation of human rights defenders, the Representative of the Secretary-General on the human rights of internally displaced persons, the Special Rapporteur on torture, and the Special Rapporteur on violence against women, its causes and consequences. The Special Rapporteur on the human rights situation in the Sudan presented the Experts Group’s final report to the Council in December 2007 (A/HRC/6/19), after which the Council discontinued the mandate of the Experts Group and entrusted the implementations of the recommendations by the Experts Group to the Special Rapporteur.

¹³ UNAMID is a joint African Union and UN peacekeeping mission formally approved by UN Security Council *Resolution 1769* (on 31 July 2007) to bring stability to the war-torn Darfur region of Sudan while peace talks on a final settlement continue.

especially for journalists, and stop the culture of impunity given that the Sudan has yet to coordinate with the International Criminal Court (ICC) to prosecute grave human rights abuses.¹⁴

Many statements addressed the content of the Special Rapporteur's findings, particularly regarding the extent to which human rights protections had continued to deteriorate in the Sudan.¹⁵ Switzerland and the United Kingdom (UK) expressed extreme concern for civilians not only in Darfur, but in the Sudan generally, who are often victims of enforced disappearances or indiscriminate killings. The Netherlands noted several other serious human rights violations, including frequent arbitrary arrest and detention, torture, and severe restrictions on freedom of expression, especially for human rights defenders, journalists and students. These States implored Sudan to end its culture of impunity by bringing violators of human rights to justice. New Zealand asked why, given that much of the violence is attributable to state security forces, the State has not done more to end such impunity. While the UK applauded the Sudan for providing the Special Rapporteur with access to many senior government officials, it regretted that Ms Samar was not allowed to visit areas where allegations of human rights abuse were more frequent. The World Organisation against Torture and Human Rights Watch echoed many of these concerns, listing an array of human rights abuses, and argued that the Sudan was complicit in these activities because it had done nothing to stop them.

The question of violence against women, as addressed by the Special Rapporteur, was also of particular concern to many States.¹⁶ Canada, the Netherlands, and the Republic of Korea stated that women and girls are targeted, especially those that are internally displaced. Belgium asked whether victims have adequate access to medical and legal services, and moreover, what the international community could do to improve such access. These delegations went on to urge the Sudan to end immunity for perpetrators of sexual violence given that the State bears the ultimate responsibility to protect and promote human rights. The United States of America (US) reminded the Council that such violence is not limited to Darfur alone, but is common across the Sudan. Italy simply asked Ms Samar to elaborate on the statement in her report claiming that women are treated as 'second-class citizens' in the Sudan. While Mauritania criticised the Special Rapporteur for what it claimed were falsities in her report, the delegation did note that women's lives would be vastly improved if the international community delivered on its promises of assistance. *Femme Afrique Solidarité* also called on the Council to find a solution to the violence immediately, which it argued would drastically reduce violence against women, and also restore their economic and social rights. Human Rights Watch also suggested that the Sudan adopt a national action plan on women and girls.

Several States intervened during the discussion to urge the Sudan to stop attacks on humanitarian workers and fully cooperate with efforts to distribute humanitarian aid.¹⁷ Canada called upon the Sudan to implement a joint communiqué to help dispense such aid. Japan specifically noted the escalating conflict between the Sudanese Armed Forces and the Justice and Equality Movement, which has obstructed humanitarian work. Furthermore, the US noted that peacekeeping forces are routinely denied access to land or water, as well as flight clearances to complete their missions. In its statement, Indonesia noted that the Sudan's recent signing of the *Status of Forces Agreement* was crucial to resuming humanitarian activities.

¹⁴ Several other countries supported the Special Rapporteur's recommendation that the Sudan fully cooperate with the ICC, including, the Netherlands, Canada, UK, New Zealand. New Zealand went on to ask specifically what the international community could do to facilitate the Sudan's coordination with the Court.

¹⁵ These countries included Italy, Republic of Korea, Switzerland, New Zealand, UK, US, NGOs, including UN Watch and Human Rights Watch echoed these statements.

¹⁶ Countries that spoke on this topic included Belgium, Canada, Republic of Korea, New Zealand, US, UK, Italy, Mauritania. Several NGOs also intervened on this issue, including Human Rights Watch, UN Watch, *Femme Afrique Solidarité*, World Organisation Against Torture.

¹⁷ Canada, Indonesia, Japan, Republic of Korea, Switzerland. The NGO World Federation of Trade Unions also made a statement on this issue.

While the Sudan pointed to upcoming elections, as well as a constitutional referendum, as signs that political freedoms thrived in the State, some States remained sceptical. Switzerland questioned the legitimacy of these events, given the severe restrictions the State has imposed on the rights to freedom of expression and assembly. Switzerland went on to ask the Special Rapporteur what steps must be taken to ensure a truly free and fair election. Indonesia stated that the establishment of a national human rights commission, as required in the Comprehensive Peace Agreement and recommended by Ms Samar,¹⁸ would help ensure free and fair elections in 2009. Japan, which co-sponsored the renewal of the mandate at the 6th session of the Human Rights Council, expressed its continued support for the democratisation of Darfur, as a way to resolve the conflict between the State and its opposition. It hoped that through the 'Darfur-Darfur Dialogue and Consultation,' to which Japan has provided financial support, the Sudanese people would be able to participate in the peace process.

Many States also asked the Sudan to implement the recommendations of the Experts Group,¹⁹ as well as the Comprehensive Peace Agreement.²⁰ However, a sizeable number of other States and groups of States aligned themselves in support of what they saw as efforts made by the Sudan to fully cooperate with the Council and the international community.

Egypt (on behalf of the African Group) expressed its gratitude to the Special Rapporteur but pointed out that the report contained a mere listing of individual events, rather than providing an objective and analytical evaluation of the overall situation in the Sudan. It regretted the absence in the report of the efforts undertaken by the Government of the Sudan to build its national human rights institution and to institute the necessary mechanisms to address violations of human rights and impunity.²¹ It claimed that the realisation of human rights was dependent on the development of the country and its available resources, and that international assistance was therefore of vital importance.²² Egypt also stressed the diverse challenges that the Sudan is facing and appreciated its efforts in the implementation of the Peace Agreement, claiming that rebellious elements represent one of the major obstacles in the protection of human rights.²³ It also welcomed the beginning of the African Union - United Nations hybrid forces in Darfur and the facilities provided by the Government of Sudan.²⁴ Egypt (on behalf of the African Group) called upon the international community to provide the necessary logistical, human and technical support so that it can contribute to the achievement of stability and peace in Darfur. It also urged the international community to exert pressures on all parties in Darfur to join the negotiations and contribute to the Peace Agreement process.²⁵ Finally, it welcomed the commitment of the Sudan to implement the recommendations by the Experts Group.

Pakistan, on behalf of the Organisation of the Islamic Conference (OIC), also appreciated the efforts undertaken by the Sudan and acknowledged the progress in developing a national legislative framework to protect human rights and the efforts to remove obstacles to the implementation of regional and international agreements. Pakistan (on behalf of the OIC) called upon the support and encouragement of the international community in the peace process²⁶ and provided precise recommendations for the Council in its treatment of the Sudan: the need to respect territoriality, integrity and the environmental concerns of the Sudan while

¹⁸ The Special Rapporteur stated that this human rights commission should focus on capacity building and make use of financial and technical support.

¹⁹ Italy, UK, republic of Korea.

²⁰ New Zealand, Indonesia, USA. The NGO World Organisation Against Torture also supported the implementation of these recommendations.

²¹ Algeria, Mauritania, Pakistan (on behalf of the OIC), Kenya, Zimbabwe, Djibouti.

²² African Union, Switzerland, Saudi Arabia, China, Yemen, Mauritania.

²³ African Union, Saudi Arabia. Djibouti and China also expressed concern with the proliferation of illegal weapons in Darfur.

²⁴ African Union, Malaysia, Qatar, Syria, China.

²⁵ New Zealand, Syria, United Arab Emirates, Bahrain, Yemen, Cuba.

²⁶ Yemen, Mauritania, Djibouti, Saudi Arabia, Syria, Zimbabwe, China.

implementing human rights; combating the supply of illegal weapons; conducting objective reports; providing full international assistance; and encouraging Darfur rebels to sign the Peace Agreement.²⁷

Palestine (on behalf of the Arab Group) and the African Union appreciated the cooperative attitude of the Sudan towards the former Commission on Human Rights and with the Council and affirmed that the major challenge that the Sudan has to address was the rebellious movement, which impedes international assistance in Darfur. Indonesia was confident that the Government of the Sudan would continue its cooperation with the Council and the Office of the High Commissioner for Human Rights (OHCHR) in a positive spirit. The African Union encouraged the Sudan to carry on its international cooperation and called upon member States to continue to provide logistical, technical, and financial support to the realisation of human rights protection.²⁸

Algeria welcomed the progress achieved by the Government of the Sudan in improving legislation on human rights and noted that the democratic transition underway in the country was a sign for optimism.²⁹ Algeria claimed that the fragmentation of the opposition groups is seriously undermining the peace process and that the way to save human lives will be by prioritising national reconciliation programmes. Algeria expressed its appreciation for the recent signature by the Government of the Status of Forces Agreement. Indonesia added that the successful implementation of this agreement would be crucial in ensuring the safety and protection of the civilian population.

India highlighted its contribution to the economic and social development of the Sudan. It stressed that economic sanctions would be unproductive and hoped instead that consultations between the Un and the Sudan could be more frequent.

China identified the refusal by certain groups of rebels to join the negotiations as the major obstacle to progress. China called upon the international community to provide humanitarian assistance to support the Government of Sudan in finding a solution in Darfur. It reiterated its commitment and responsibility to helping the Sudan build peace and stability within the country, by financing mediation efforts and humanitarian assistance.

Ms Simar then spoke in response to points raised during the interactive dialogue. She stated that it was important to have constructive dialogue with the Government of the Sudan to improve the situation there. She asserted that technical assistance was needed to build capacity, including in the training of police, and hoped that the creation of the national human rights institution in the North would facilitate such capacity building. She also stressed that the international community had to fulfil its pledges to provide troops on the ground, whose slow movement had disappointed the people in Darfur. It was also essential that UN and African Union troops could take preventive measures to stop attacks in villages, and especially in protecting women from sexual violence.

On the subject of the election, she stated that more awareness through the media, workshops and training, and close monitoring of the election itself, would heighten people's realisation of their political rights. She emphasised again the importance of the establishment of a national human rights commission as a means to monitor the election.

She then informed the Council that, in relation to the implementation of the recommendations of the Experts Group, she had held long discussions with the Government of the Sudan, and it had confirmed that it would

²⁷ The signing of the Peace Agreement was congratulated by Palestine (on behalf of the Arab Group), Qatar, Syria, Saudi Arabia, Cuba, China, United Arab Emirates, Indonesia, Bahrain, Pakistan (on behalf of the OIC), Djibouti.

²⁸ Kenya, Malaysia.

²⁹ Malaysia, Cuba.

publish clear information, complete with indicators on their implementation on 25 May 2008, which she would then present to the Council.

Finally, concerning equal rights for women, she stated that despite legal recognition under the new Constitution of equality, nobody could ignore the reality of the problem. She concluded by thanking the Government of the Sudan for its openness, and asked the Council to continue to engage in order to improve the human rights situation in the country.

Review, rationalisation and improvement of special procedures mandates

The Council continued the review, rationalisation and improvement of all special procedures mandates. Based on the institution-building package contained in *Resolution 5/1* adopted in June 2007, the Council has set out to review each special procedures mandates over the course of its second cycle. The Council started this review at its 6th session in September 2007. So far, it has reviewed 12 mandates, and all of them have been renewed.³⁰ During its 7th session, the Council has been asked to review 14 mandates.³¹

Special Rapporteur on the situation of human rights in Myanmar

The mandate of the Special Rapporteur on the situation of human rights in Myanmar was introduced by Slovenia (on behalf of the EU) as the traditional sponsor of the mandate since 1992.³² It stated that the mandate had proven to be a useful tool in addressing the human rights situation in Burma/Myanmar, but that it had been unfortunate that the Special Rapporteur had been unable to enter the country in recent years. They thanked the Special Rapporteur, Mr Paulo Sergio Pinheiro for his ‘unstinting commitment to improving the situation’ in Burma/Myanmar and shared his concern that the situation in the country was deteriorating, including through the continued imposition of restrictions on freedom of movement, expression, assembly and association, torture, executions, forced labour, recruitment of child soldiers, sexual violence and land confiscation. Slovenia (on behalf of the EU) deplored the non-compliance of Burma/Myanmar with the recommendations of the Special Rapporteur, and stated also that it was ‘appalled’ by the information in his latest report that monks remained under surveillance. It concluded that it would seek suggestions from The Special Rapporteur on enhancing the effectiveness of the mandate, and they thanked him once more for his ‘tireless work’ over the previous eight years.

Mr Pinheiro was then given the floor to share his experiences as Special Rapporteur since 2000. He began by informing the Council that he had visited Burma/Myanmar seven times, but was last granted access in November 2003, and recently only subsequent to the special session on 2 October 2007. He explained that he had sought constructive dialogue with the Government of Burma/Myanmar as well as all other relevant actors. He identified that the mandate had allowed those inside the country to ‘overcome the internal obstacles and to voice their concerns to the United Nations’ and it had helped the international community be aware of the situation. He believed ‘with all modesty’ that the mandate had also played a part in the reform process and the elaboration of the seven-step road map for national reconciliation. There was therefore an absolute need to

³⁰ Four country-specific mandates (on Haiti, Burundi, Liberia and the Sudan) and eight thematic mandates (on food, international solidarity, arbitrary detention, indigenous peoples, internally displaced persons, housing, health and human rights while countering terrorism) were renewed.

³¹ See the latest version of the programme of work, available at www2.ohchr.org/english/bodies/hrcouncil/docs/7session/PoW170308.doc

³² Originally established by Commission on Human Rights *Resolution 1992/58*.

maintain the mandate to ensure the compliance of the road map with international standards. He concluded that the strengthening of human and technical assistance by OHCHR to all special procedures would be an improvement, and considered that without new innovative ways to insure follow-up to recommendations, the Council's success would be minimal. He proposed, by way of example, the establishment of a liaison officer in Burma/Myanmar.

Burma/Myanmar spoke as a concerned country affirming that it had always demonstrated a spirit of cooperation with Mr Pinheiro and had on several occasions allowed him to see the true situation on the ground, but that he continued to publish 'unjustified and unwarranted criticism, and unfounded allegations based on unreliable sources'. It stated that every report delved into internal affairs. It hoped that whereas the former Commission had become to humiliate States, the new universal periodic review (UPR) process of the Council would address States on an equal footing and in so doing the tradition of country mandates could be abolished. In the meantime, the Council should protect Burma/Myanmar from 'any undue pressure from powerful States'.

Interactive dialogue

Pakistan (on behalf of the OIC) opened the interactive dialogue by reiterating Burma/Myanmar's comments that the non-selective approach of the UPR should do away with country mandates. It stated that a new debate was needed regarding Burma/Myanmar, and the UPR was the place to address it. It further urged the international community not to 'politicise this case for extraneous reasons'. China added that past experiences have not shown that country mandates have a positive impact, but rather provoked conflict. Instead, as a neighbour, China sought stabilisation through dialogue, and it wished that the international community would understand the efforts being made by Burma/Myanmar and the difficulties it faces. The Sudan also stated that it appreciated the efforts made by Burma/Myanmar, and that the sovereignty of the State needed to be respected. The Russian Federation, while welcoming Mr Pinheiro's detailed information, warned against overstepping his mandate and increasing, and that he should focus on the positive steps made in the implementation of the roadmap.

All other interventions were made in support of the continuation of the mandate as playing a 'vital role'.³³ Many States drew attention to the grave human rights situation in the country.³⁴ Canada listed the persecution of ethnic minorities, and the violent suppression of freedoms of expression, association and assembly, and declared that the international community should not 'turn its back on the distressing situation in the country'. The delegate of Sweden spoke from personal experience of the massive deforestation he had witnessed in Chin province and the impact that this had on livelihood, as well as the fact that there was no electricity in the capital except for the army barracks. He concluded that the Government acted in contravention of international law and in contempt of the Council, and that the mandate must be renewed for the sake of the people of Burma/Myanmar. The representative of Conectas, who had come from Burma/Myanmar, also listed the acts of violence committed since the protests of September 2007, and called upon the Council not to be blinded by political considerations but to look at the situation for people living in the country and to renew the mandate for the people of Burma/Myanmar.

Switzerland stated that Burma/Myanmar had failed to implement the recommendations of the special session of the Council, while others noted that there was no visible effort to implement any recommendations.³⁵ It stated that the Special Rapporteur was a means of ensuring dialogue, and for that reason renewal of the mandate was essential. The Republic of Korea supported the view of Mr Pinheiro that recent political developments in Burma/Myanmar, including the new draft Constitution, required intensive international

³³ US.

³⁴ Switzerland, Republic of Korea, Canada, Brazil, Sweden, Argentina, US, Forum Asia, Conectas.

³⁵ Argentina and Forum Asia also stated that they could not see any efforts to implement previous resolutions.

monitoring and for this reason the mandate should be continued. Japan supported these developments as concrete steps towards democratisation, but still remained concerned about the human rights situation in the country. Brazil felt that there appeared to be a lack of political will to take steps to improve human rights, and that neighbouring States, as well as the Association of Southeast Asian Nations (ASEAN), were important players. Panama also called upon ASEAN countries to use their good offices.

The Special Rapporteur took the floor to respond to certain points raised. He stated that his mandate was a 'contradictory tool' in that on the one hand it reports publicly on the situation in Burma/Myanmar, but on the other it is important to enter into constructive dialogue on a sound basis. In response to the Russian Federation, he insisted that he had no intention of being politically intrusive, and that everything he had written was within the confines of his mandate. He pointed to the first example of a country mandate established by the Commission on the human rights situation in Chile as being decisive for human rights and democracy in Latin America. He also responded to the comments of Pakistan, stating that he was against selectivity, and argued that country mandates can be used to improve the promotion and protection of human rights, through constructive dialogue, provided that that is what countries want. He concluded that the Council should be glad that there was a roadmap for Burma/Myanmar, but that it should also accept some small recommendations.

Finally, Slovenia (on behalf of the EU) concluded by stating its hope that the future mandate holder will have access to Burma/Myanmar. It stated that the institution-building package of the Council clearly provides for both country mandates and the UPR, and that the latter does not dispense with the former, as the UPR will only provide for a periodic review every four years, whereas country mandates allow for continual monitoring and evaluation where necessary. It finished by thanking Mr Pinheiro for his contributions over eight years as Special Rapporteur on the situation of human rights in Myanmar.

Informal consultations and parallel events

Informal consultations on the mandate of the Special Representative of the Secretary-General on human rights defenders

Informal consultations on the resolution renewing the mandate on human rights defenders continued today. The discussion focussed on four main issues:

- The first was the proposal to request the Special Representative to examine recent trends and concerns in relation to the exercise of the rights of defenders. The proposal had been advanced by Egypt at a previous informal consultation and was intended, as Egypt explained at the time, to respond to their concerns at the questionable conduct of some defenders.³⁶ Several delegations expressed reservations and questioned the purpose behind it and its added value.³⁷ Some suggested compromise language to make the text more balanced, to the effect that the mandate holder would be requested to consider trends and challenges in relation to the full exercise by defenders of their rights.³⁸
- Considerable time was spent on the proposal to request the Special Representative to promote the independence and impartiality of defenders and their agendas from undue influence, including as a result of funding.³⁹ Several States strongly opposed this proposal as an attempt to curtail the activities of human

³⁶ Iran, Algeria, Russian Federation, Bhutan, China and South Africa supported the Egyptian proposal.

³⁷ Ireland, Australia, Belgium, UK, Israel.

³⁸ Liechtenstein, Mexico, Canada.

³⁹ Proposed by Egypt at a previous informal consultation. The proposal was supported by Iran, Algeria, Bhutan, China, South Africa.

rights defenders.⁴⁰ Norway argued that the reference to funding contradicts the provision of the Declaration (article 13) protecting the right to access funding.

- Many delegations took the floor to react to the proposal advanced by Ireland to include a new paragraph requesting the mandate holder to pay attention to the situation of defenders who are at particular risk or less recognised, including those working in areas of conflict. Several States reacted positively,⁴¹ some suggesting that the wording needed to be clearer.⁴² Others opposed the proposal considering it ‘fundamentally flawed’.⁴³
- The last of the main issues discussed was the reference to the integration of a gender perspective and to the situation of women human rights defenders. Despite some divergence of opinions as to the most appropriate language, there was no contention in the room on the substance of the paragraph and its inclusion.

The next informal consultations will take place on Wednesday 19 March, from 11 am to 1 pm, in room XXII. Norway, as main sponsor of the resolution, announced that it will propose a draft compromise text on Wednesday.

Informal consultations on the review of the mandate of the Special Rapporteur on freedom of expression

Canada, as main sponsor of the mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, organised an informal meeting on the resolution renewing the mandate. It presented a draft resolution, which was an attempt to streamline the text and address proposals made at the first meeting. The main points raised were:

- Several States expressed concern that the proposals they had made to bring more balance to the preambular part of the draft resolution had not been adequately reflected. In previous informal consultations they had suggested to include references to the limitations on freedom of expression. Egypt supported by many other States, reaffirmed the need to limit the exercise of freedom of expression if it insulted freedom of religion and belief. The Russian Federation proposed an amendment to the relevant paragraph, based on the *European Convention on Human Rights*, to recognise that the exercise of the right to freedom carried duties and responsibilities and was subject to a number of restrictions.
- Many States stated that the *International Covenant on Civil and Political Rights* was the legal framework that the mandate was based on, and already established limits to the exercise of the right to freedom of opinion and expression.⁴⁴
- Many countries supported Bangladesh’s proposal to delete of the words “encourages all relevant actors to consider the recommendations” from one of the operative paragraphs.⁴⁵ South Africa said it was up to each Government to decide whether or not to welcome the recommendations of the Special Rapporteur. Canada explained that the proposed text did not impose any obligation on States, and the Czech Republic said States should be positive towards the conclusions and recommendations of the Special Rapporteur.
- Several States argued that the wording “to promote the exercise of the right to freedom of opinion and expression” in operative paragraph 3, referred to human rights defenders, an issue covered by the mandate

⁴⁰ Ireland, echoed by Australia, Belgium, US, UK, Israel, Switzerland.

⁴¹ Liechtenstein, Australia, Belgium, UK.

⁴² US, South Africa.

⁴³ Russian Federation, echoed by China and Iran.

⁴⁴ India, Norway, Czech Republic, Canada, US.

⁴⁵ China, Bangladesh, South Africa, Russia, Pakistan, India, Algeria.

of the Special Representative of the Secretary-General on human rights defenders;⁴⁶ Others supported to maintain the original wording.⁴⁷ Canada said that this issue had been agreed since 1993;

- Some States said that the specific reference to cooperation with the Special Rapporteur on violence against women was not balanced.⁴⁸ They argued for a more holistic approach to cooperation among the special procedures.

Civil society involvement in UPR: the example of Indonesia⁴⁹

This parallel event was organised jointly by the Friedrich Ebert Foundation, *Forum Menschenrechte*, Pax Romana, and the Faith Based Network on West Papua. The panel was composed of representatives from the Permanent Mission of Indonesia, the UPR unit of OHCHR, and two Indonesian NGOs.⁵⁰ Presentations by each of the panellists were followed by comments and questions from the floor. The discussions focused on a number of points:

- OHCHR described the UPR process thus far as a success. It particularly highlighted the general compliance by States in submitting national reports and NGOs' efforts to submit joint reports.⁵¹
- OHCHR asserted that it has been very careful in following the general guidelines for the submission of information to the UPR set out by the Council, particularly in structuring its compilations.⁵² This is why there are no divisions based on particular groups or rights.
- OHCHR admitted that a 'margin of interpretation' is inevitable when compiling information. It stressed that it had tried to be fair in proportioning the space given to local, regional, and international NGOs in its compilation.
- It was brought to OHCHR's attention that the section on key national priorities, initiatives and commitments in the compilation of stakeholders' information for Indonesia was left blank 'due to the absence of submissions by stakeholders regarding these particular issues'. However, Human Rights Working Group presented its report, which clearly contained a section outlining such national priorities. It thus asked for the review and republishing of the OHCHR compilation.
- The panellists shared best practices and lessons learnt from Indonesia's experience in preparing the national report. Both the Indonesian Government and NGOs agreed that there had been broad-based national consultations in the preparation of the national report. However, they regretted that time constraints only allowed for a limited regional scope for these consultations.
- The NGOs' experience in preparing their submissions for the OHCHR compilation was also presented. One NGO representative commented on the difficulty of condensing joint submissions to five pages, as requested by OHCHR. To this, OHCHR replied that there are continuing discussions on increasing the page limit for joint NGO submissions to ten pages.
- The importance of the dissemination of information about the UPR, and particularly the role of civil society in this regard, was highlighted by a number of speakers.
- All panellists agreed that the UPR is a unique mechanism, and that the first session will be a learning process for all.

⁴⁶ Russian Federation, China, Bangladesh.

⁴⁷ Israel, Canada, Norway, Czech Republic.

⁴⁸ South Africa, Philippines, Russia, Austria, Czech Republic.

⁴⁹ ISHR normally does not regularly report on parallel events. We are exceptionally covering this event since we believe it important to draw attention to civil society involvement in the UPR process.

⁵⁰ Human Rights Working Group, Office for Justice and Peace of the Catholic Diocese of Jayapura.

⁵¹ The UPR is based on three documents: the State report, an OHCHR compilation of UN information, and an OHCHR compilation of stakeholders' information.

⁵² *General guidelines for the preparation of information under the UPR*, A/HRC/DEC/6/102, available at www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx.

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