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Overview

The morning meeting of the Human Rights Council (the Council) began with the conclusion of the general debate on Item 4 relating to the situation of human rights in specific countries. A vast number of country situations were raised by remaining member States and over 30 non-governmental organisations (NGOs), including the situation of human rights in Burma/Myanmar, Iran, Iraq, Kenya, the Democratic People's Republic of Korea (DPRK), Somalia, Sri Lanka, the Sudan, Tibet, and Zimbabwe.

In the afternoon, the Council continued the review of mandates, which it had started at its 6th session in September 2007. So far, the Council has reviewed 12 mandates, and all of them were renewed.¹ During its 7th session, the Council is asked to review 14 mandates.² On 14 March, the Council reviewed the following mandates:

- Special Rapporteur on violence against women, its causes and consequences;
- Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea;
- Special Rapporteur on the sale of children, child prostitution and child pornography;
- Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression;
- Independent Expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights;
- Special Representative of the Secretary-General on human rights defenders.

Most mandates enjoyed unequivocal support. During the review of the mandate on the sale of children, some States raised concern about potential overlap in the system of special procedures. However, this concern seemed not to be large enough to endanger the renewal of the mandate. As expected, the Council was split over the mandate on the DPRK, as a number of States expressed general opposition to country-specific mandates. However, the opposition seemed not as fierce as during the institution-building process, and it remains to be seen what the Council decides in relation to that mandate.

There was a lot of interest in the review of the Special Rapporteur on freedom of opinion and expression with a large number of States and NGOs taking part in the interactive dialogue. On the other hand only three States and one NGO made comments during the review of the Independent Expert on economic reform policies.

Somewhat surprisingly, there was very little active engagement by States in the review of the mandate of the Special Representative of the Secretary-General on human rights defenders. During the day, informal consultations also took place on the draft resolution to renew the mandate of the Special Representative of the Secretary-General on human rights defenders.

Conclusion of general debate on Item 4 (human rights situations)

The Council opened with the conclusion of the general debate on Item 4, concerning human rights situations that require the Council's attention. Several States issued statements expressing concern at the present instability in **Burma/Myanmar** and increasing human rights violations.³ All of the intervening States implored Burma/Myanmar to fully open its territory to humanitarian aid workers and to begin implementing recommendations from the Special Rapporteur on Myanmar. Ireland expressed concern about limits imposed on freedom of expression, especially given the State's upcoming Constitutional referendum, and Iceland further called on Burma/Myanmar to lift restrictions on other rights, including freedom of movement, association, and assembly. Australia asked that the State release all of its political prisoners, particularly

¹ Four country-specific mandates (those 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. See ISHR's overview of the first part of the 6th session as well as the *Daily Updates* of the resumed 6th session held in December 2007, available at www.ishr.ch.

² See the latest version of the programme of work, available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/7session/PoW170308.doc>.

³ Australia, Iceland, Ireland, Switzerland.

monks arrested during peaceful demonstrations. B’Nai Brith International noted that while it welcomed the special session in 2007, it worried that such events would create complacency about the situation of Burma/Myanmar in the Council. It urged the State to end its arbitrary arrest and torture of peaceful activists and to address the rising numbers of enforced disappearances. The Beckett Fund for Religious Liberty hoped that the State’s limits on freedom of expression did not threaten religious minorities.

Many States and NGOs expressed their concern regarding the situation of human rights in **Sri Lanka**. The Netherlands cited reports of civilian deaths and the increasing number of displaced persons in the country, and asked for the Government of Sri Lanka to cooperate with relevant UN mechanisms. New Zealand warned of the need to be conscious that armed conflict diverts attention away from human rights abuses, often leading to political killings and enforced disappearances, and proposed that the Government of Sri Lanka cooperate with the Office of the High Commissioner for Human Rights (OHCHR) to make the Sri Lanka National Human Rights Commission more independent and effective. Switzerland followed that the Government should accept visits from the Working Group on enforced disappearances and the Special Rapporteur on freedom of expression, among others. Ireland stressed the need to restore humanitarian access within the country, with Belgium adding that more attention needs to be given to the situation in the south of the country, particularly in relation to the disappearances of journalists. Minority Rights Group International, the International Commission of Jurists, Interfaith International, Action Contre le Faim, Asian Legal Resource Centre, and the International Educational Development all drew attention to the violence and impunity taking place in the country and called for action by the UN and other international organisations to address the situation there.

Many speakers addressed the deteriorating human rights situation in **the Sudan**, particularly in Darfur.⁴ All of the nations urged the Sudan to allow humanitarian aid workers into the country, and Iceland, Ireland, and Switzerland asked that the Government do more to stop attacks against these workers. Belgium, Iceland, Ireland, and the Netherlands also expressed particular concern about escalating reports of violence against women in the region, especially sexual violence. Belgium, Ireland, and the Netherlands further asked that the Sudan cooperate with the work of the International Criminal Court and its investigations into human rights atrocities in the country. The Netherlands noted that it intends to send a mission to the State to determine how it can best help end human rights abuses. B’Nai Brith International called the Council’s attention to increasing attacks on civilians, and the Beckett Fund asked the Council not to ignore developments in Southern Sudan, where the use of Shari’a law threatens religious minorities.

The Netherlands echoed the concern of Slovenia, on behalf of the European Union (EU) with respect to the execution of juveniles in **Iran**, while Belgium called for a temporary moratorium on the death penalty. Ireland also raised the abuses of the rights of women, workers, and human rights defenders in the country. Australia added its concern of increased persecution of the Bah’ai minority, as well as students, trade union leaders, and other human rights defenders. Belgium also pointed out that there are allegations that a provision in Iran’s penal code, which defines heresy as a crime, targets the Bah’ai community in particular. The Bah’ai International Community requested the exposure of confidential governmental documents circulated within Iran that expressly provide for discriminatory measures against the Bah’ai, and cited the recent example of the targeting of Bah’ai voluntary workers in Iran as an example of State-sanctioned persecution. B’Nai Brith international called for the Council to follow the General Assembly’s example and expand its mandate concerning Iran.

Iran retaliated during the general debate to claim that the **European Union** is practicing discrimination against racial and religious minorities, and that Islamophobia has increased, especially with regards to employment, education, housing, and political participation. Countries of the EU, according to Iran, are also denying the rights of immigrants and foreigners. It commented on the human rights situations of particular

⁴ Australia, Belgium, Iceland, Ireland, the Netherlands, Switzerland.

States: **France** limits the press and uses force excessively especially against minorities; **Denmark** is encouraging Islamophobia in the press; the **United Kingdom** (UK) is the worst violator of human rights in the EU due to its counterterrorism legislation; **Canada** uses social exclusion policies and is plagued by police brutality and violence against women; and the **United States of America** (US) does not comply with international human rights standards both domestically and internationally.

The situation in **Zimbabwe** was also raised under Item 4. The Netherlands expressed its alarm at the violence inflicted on civil society in the country, and stressed that civil society needs to be allowed to take part in the coming elections free from harm. New Zealand also cautioned against possible violence surrounding the coming elections, while welcoming the mediation provided by the South African Development Community.⁵ The International Commission of Jurists called for international monitoring for the coming elections.

A couple of States and NGOs also addressed the current situation in **Kenya**. The Netherlands expressed its support for the fact that Kenya was assisting the High Commissioner for Human Rights' (the High Commissioner) fact-finding mission in the region, while Australia also noted its support of the agreement struck among the country's political leaders. The International Commission of Jurists called upon the Council to make sure that this agreement is fully implemented, while Franciscans International and Pax Romana stressed the importance of ensuring accountability for violations already committed.

Australia stated that the Government of the **DPRK** is violating its people's right to freedom of expression and opinion, while practicing torture and public executions for political reasons. The Becket Fund for Religious Liberty expressed concern that the DPRK regards persons of religion as 'hostile to the regime' and sends them to prisons and labour camps. They argued that contact with foreign missionaries is also considered treason in the country.

The International Fellowship for Reconciliation, in a joint statement,⁶ delivered a statement in response to **China's** policy of 'merciless repression of even the slightest sign of political dissent' in **Tibet** and the recent protests by monks in the Drepung and Sera monasteries. It claimed that the immediate impact of the Golmud-Lhasa railroad was a 'second invasion', resulting in the exclusion of Tibetans from economic development. It concluded that, as the world focuses its attention on the Beijing Olympics, the Council should condemn the use of force against peacefully demonstrating Tibetans. China exercised its right of reply by stating that Tibet was an inseparable part of China and that it would uphold the rights of all territories of China while never accepting attempts at separatism.

Several other NGOs expressed concern about worsening human rights situations in other countries. Human Rights Watch took the opportunity to state that the Council had failed to adequately respond to the worsening situation in **Somalia** over the past 15 months, where up to 60% of residents in Mogadishu have been displaced, and yet the international community appears reluctant to take steps. It called for a resolution condemning the serious violations, and the consideration of the establishment of an independent commission of inquiry to investigate crimes since 2007. The International Commission of Jurists stated that the situation in **Pakistan** remained an issue of serious concern, and that the Government of Pakistan needed to repeal the amendments to the Constitution and the laws passed during the state of emergency. It also welcomed the prospect of peace in **Uganda** and called for the repeal of laws that 'may defeat the imperative of justice and accountability'.

The Asian Legal Resource Centre (ALRC) reported that since **Bangladesh** declared a state of emergency in January 2007, nearly all human rights have been suspended, and any allegations of corruption are screened

⁵ Also mentioned by Ireland and Australia.

⁶ Society for Threatened Peoples, Mouvement contre le Racisme et pour l'Amitié entre les Peuples, Liberation, International Educational Development, International Movement Against all Form of Discrimination and Racism, Forum-Asia, Worldview International Foundation, International NGO Forum on Indonesian Development, Interfaith International.

through Special Judges' Courts, whose impartiality is suspect. Given that the State has arrested up to 250,000 people since imposing the state of emergency, the ALRC urged the Council to respond to the crisis. The ALRC went on to describe the situation in **Nepal**, where in addition to such crimes as sexual violence, killings, abductions, and torture, it alleged that the police repeatedly refuse to accept complaints. This culture of impunity, the ALRC warned, will only 'breed further violence and victims.' Nepal later exercised its right of reply by stating that it had a clear policy of cooperation with NGOs and welcomed constructive criticism, yet the statement by ALRC was inaccurate and of a dubious motive, which degraded the credibility of such remarks.

The Union of Arab Jurists, Arab Lawyers Union, and International Education Development all spoke on deteriorating conditions in **Iraq** under US control, citing assassinations and kidnappings of intellectuals and Government personnel, as well as rising unemployment and poverty. The Union of Arab Jurists also urged the Council to appoint a Special Rapporteur to investigate human rights abuses in Iraq. Iraq used the right of reply to reject what was said by the Union of Arab Lawyers, claiming that to understand the situation in the country one had to 'look back to the large prison of the Saddam regime'. It claimed that the situation was now improving, that the Government has called for national reconciliation, and that they have invited the Special Rapporteurs on torture and children in armed conflict.

The Colombian Commission of Jurists asked the Council to help improve the protection of human rights defenders in **Colombia**, while the World Council of Churches reported on growing rates of torture, arbitrary arrest, and harassment of the **Papua** people in Indonesia. The World Council also called upon the Council to send a fact-finding mission to the region to collect reliable data on human rights abuses. Misereor's statement addressed the deteriorating human rights protections in **Chad** and requested that the state of emergency imposed on 15 February 2008 be lifted. It requested that the Government invite both human rights defenders, as well as the Special Rapporteur on arbitrary detention, to visit and report on human rights protections in the State.

A number of NGOs spoke on the status of human rights in **Jammu and Kashmir**.⁷ All of these NGOs warned the Council about deteriorating human rights protections in the Indian controlled part of the region. Citing the increased frequency of arbitrary detentions, executions, acts of violence against women, and threats against journalists, the World Muslim Congress asked the Council to establish a Special Rapporteur on Jammu & Kashmir mandated to visit Indian-controlled areas. Several NGOs also urged the Council to take more action in relation to the situation in **Western Sahara**. International Students Movement for the UN and Centrist Democratic International (CDI) both criticised Morocco's increased use of arbitrary arrests. CDI expressed particular concern over kidnappings in the Tinduf region, and regretted the reluctance of both Morocco and Algeria to take action.

The Netherlands, New Zealand, and Belgium all referred to the universal periodic review (UPR) as a new means to uphold the protection and promotion of human rights, but also stressed that it is but one measure and must be complemented by other measures to address urgent situations on the ground, including the continued use of Item 4.

Rights of reply under Item 4

The DPRK first took the floor to exercise its right of reply to statements made by Slovenia (on behalf of the EU) the previous afternoon. It claimed that the Special Rapporteur on the DPRK was a 'mouthpiece' of

⁷ International Islamic Federation of Students, International Human Rights Association of American Minorities, World Muslim Congress.

European countries, and that the persistence of such a mandate would make the DPRK's relationship with the Council 'more and more difficult'. They warned that if the EU persisted in its attacks they would not respond but 'take their own course of action'. China also rejected the 'groundless statements of the EU' and claimed that China knows best the situation of the human rights of people in China. It retorted that the EU should take a look at the records of its own countries, for example in the treatment of migrants, before condemning others.

Sri Lanka vented its ire at both the Council and its respective members by claiming that no mention of the 'pathetic situation in Gaza' was made under Item 4 (despite there being a separate agenda Item to address this) and if this was not a dangerous situation, they could not understand what was. It noted that several States had proposed that Sri Lanka negotiate with the Liberation Tigers of Tamil Eelam, and asked whether 'certain world powers' would negotiate with Al Qaeda. If not, they queried, why would such States expect Sri Lanka to adopt a different approach.

Zimbabwe was rebuked by the President of the Council for its language in its right of reply, brandishing the EU and their allies as racists who operate a 'helix of deception'. It stated that its elections would be free and fair, and they did not want outsiders to interfere.

Iran used its right of reply to claim that the statements of Canada, Slovenia, and others on the use of the death penalty were totally baseless and that this was 'first and foremost an issue of the criminal justice system'. Capital punishment was used for the most serious crimes in accordance with *International Covenant on Civil and Political Rights* and is implemented within the legal framework in accordance with the due process of law.

Slovenia (on behalf of the EU) responded that there is not one country beyond reproach and this also applies to countries of the EU. It was worried to hear from the representative of the DPRK that he rejected what he called 'the unsubstantiated allegations' of yesterday, which it stated were based on the report of the Special Rapporteur, and conveyed once again the urgent appeal to allow him to visit the country. Japan also wished that the DPRK would understand the genuine sentiment of the Council and accept the visit of the Special Rapporteur. In relation to the death penalty in Iran, the EU stated that the execution of minors is not in compliance with international obligations.

Review, rationalisation and improvement of special procedures mandate

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 mandate 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 were renewed.⁸ During its 7th session, the Council is asked to review 14 mandates.⁹

When the Council first started the review of mandates in September 2007, it was unclear how the review would be carried out. It therefore embarked on a 'learning-by-doing' process, refining the modalities of the

⁸ Four country-specific mandates (those 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. See ISHR's overview of the first part of the 6th session as well as the *Daily Updates* of the resumed 6th session held in December 2007, available at www.ishr.ch.

⁹ See the latest version of the programme of work, available at www2.ohchr.org/english/bodies/hrcouncil/docs/7session/PoW170308.doc.

review over time. According to *Resolution 5/1* the review is meant to take place in the context of the negotiation of the relevant resolutions, meaning the review is usually done at the same session as the presentation of the annual report by each special procedures mandate holder. The modalities developed for the review of mandates in the plenary are the following:

- One of the main sponsors of the resolution establishing the mandate under review will introduce the mandate, focusing on the achievement of the mandate and its contribution to ‘an increased level of human rights protection’ as required by *Resolution 5/1*.
- The current mandate holder will give his or her view on how the mandate has performed, and what it has contributed to increasing human rights protection.
- Members and observers, including NGOs and national human rights institutions, can intervene.
- The mandate holder will take the floor a second time.
- Finally, one of the sponsors will make some concluding remarks and will usually suggest renewing the mandate for a further period of three years (for thematic mandates) or one year (for country specific mandates).

In parallel to the discussion in plenary, the main sponsors usually hold informal consultations on draft resolutions aiming at the renewal of the respective mandates. This is where the actual negotiations are done. Decisions on the renewal of mandates will be taken in the last two days of the 7th session, when the Council enters its ‘decision-making phase’.

Special Rapporteur on violence against women

The mandate of the Special Rapporteur on violence against women, its causes and consequences was introduced by Canada as the main co-sponsor of the resolution establishing the mandate. It paid tribute to the work of Ms Yakin Ertürk, the current mandate holder, and of Ms Ertürk’s predecessor, Ms Radhika Coomaraswamy.¹⁰ Canada in particular welcomed the fact-finding missions, dialogue with governments, urgent appeals, engagement with civil society, and the fruitful collaboration with other Special Rapporteurs. Canada also highlighted important thematic reports,¹¹ and the development of indicators to facilitate more meaningful data collection. As a major contribution of the mandate, Canada stressed the importance of the Special Rapporteur’s work in setting due diligence standards and highlighting the duty of States to prevent and punish acts of violence against women. Appreciating the mandate as an important tool to build upon accomplishments and work towards implementation of international norms vital to defeat violence against women in all forms, Canada called for an extension of the mandate by three years.

Ms Ertürk agreed that many challenges lie ahead in implementing existing standards to combat violence against women. She highlighted that her mandate had become an institutionalised reporting mechanism and had also contributed to an increased understanding and dissemination of international norms pertaining to violence against women. She stated that the mandate had contributed to greater clarity on the root causes of violence against women. Like Canada, she highlighted the importance of thematic reports, and announced that her report for 2009 will focus on the political economy of women’s rights.¹² In that context, it could be expected that Ms Ertürk will focus, among other things, on the economic dimensions of situations where the rights of women are violated, and how economic considerations can improve women’s rights. She further stressed that the mandate had contributed to ensuring that violence against women is not understood in

¹⁰ Ms Coomaraswamy had worked for nine years since 1994 on elaborating international norms to combat violence against women in all its forms

¹¹ Canada highlighted her work on the intersections between culture and violence against women, the links between HIV/AIDS and such violence and violence against women during armed conflicts.

¹² Ms Ertürk said that this focus would contribute to advancing the economic, social and cultural rights of women, which are key to the enjoyment of civil and political rights and protection from the risk of violence and exploitation.

isolation from gender-based discrimination but addressed as part of efforts to ensure gender equality and the empowerment of women. She described this as a ‘paradigm shift’ away from seeing women as victims of violence towards supporting their empowerment. She said the mandate was now in its era of implementation, compliance, and monitoring, and called for the refining of legal responses and conceptual tools.

Interactive dialogue

All countries that spoke complimented the work of Ms Ertürk, stating that it has greatly contributed to combating violence against women,¹³ particularly in the areas of enhanced understanding of violence against women through a ‘universally shared methodological framework’¹⁴ and due diligence.¹⁵ They were very supportive of her many country visits and recommendations and all States pledged their support to the renewal of her mandate. Some States praised Ms Ertürk’s work on indicators to assess violence against women.¹⁶ The Russian Federation, while welcoming the indicators, said the Council and other relevant bodies should discuss these indicators. Some States expressed concern regarding the prevalence of violence against women.¹⁷ Norway drew attention to the fact that the Special Rapporteur had made significant steps in facilitating an understanding among governments that violence in the family is not a private matter. A number of comments were made regarding the future focus of the mandate:

- Slovenia (on behalf of the EU) stated that the challenge was translating the norms created by the mandate into practice. It elaborated that the indicators must be further developed and applied. India stressed that despite the existing norms, the normative and policy framework to combat violence against women needed to be further developed.
- Finland drew attention to the role of boys and men in the fight to combat violence against women and hoped the Special Rapporteur could highlight best practice to involve them to create a ‘holistic approach’ to the problem. Sweden elaborated on this issue, saying that the attitude of men had to change through education and training.
- A number of States drew attention to the role of the family in protecting women from violence.¹⁸
- Egypt claimed that the mandate had in the past shown ‘a skewed focus on domestic violence’, and suggested alternative directions for the mandate, such as the impact of excessive alcoholism on violence against women, and the role of the sex industry.¹⁹
- Pakistan, on behalf of the Organization of the Islamic Conference (OIC) called for an analysis of the social environment of poverty and marginalisation.²⁰ Again, Egypt called for these suggestions to be included in the terms of reference.
- Pakistan (on behalf of the OIC) suggested an increased focus on violence against women as a result of armed conflict and, in particular foreign occupation.²¹ Egypt suggested that this be included in the terms of reference for the mandate. Sweden advocated for a focus on the role of women in post-conflict situations and peace building.

¹³ Slovenia (on behalf of the EU), Pakistan (on behalf of the OIC), Netherlands, Malaysia, India, Russian Federation, Egypt, Cuba, Norway, Saudi Arabia, Finland, Columbia, Argentina, Chile, Turkey, Morocco, Algeria, Tunisia, Sweden, and Nepal.

¹⁴ Finland.

¹⁵ Canada, Turkey

¹⁶ Slovenia (on behalf of the EU), Turkey.

¹⁷ Turkey, Netherlands, India.

¹⁸ Pakistan (on behalf of the OIC), Russian Federation, Egypt, Algeria.

¹⁹ Supported by Pakistan (on behalf of the OIC).

²⁰ Malaysia also called for the Special Rapporteur to look at the background of States and examine all factors, which lead to violence against women. The Russian Federation also called for attention to be paid to underlying reasons. Saudi Arabia raised similar concerns.

²¹ Supported by Egypt.

Pakistan (on behalf of the OIC) stressed that the terms of reference for the renewed mandate must be clear and specific. The Russian Federation called for the mandate to be continued in a non-confrontational manner, in strict conformity with the *Code of Conduct for special procedures mandate holders*.²²

Two NGOs, the World Muslim Congress and the International Human Rights Association for American Minorities were both interrupted by the President for trying to address country-specific situations, thereby failing to focus on issues relating to recommendations to the mandate.

In her concluding remarks, Ms Ertürk expressed gratitude for the confidence displayed in her work and her mandate and welcomed the suggestions which she felt were a clear endorsement for her 2009 report on the political economy of women's rights. She also welcomed the comments regarding the role of men in combating violence against women.

Canada, in its closing comments, thanked the Special Rapporteur. It appreciated the commitment of the international community to continue the mandate.

Special Rapporteur on the DPRK

The review of the mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, currently held by Mr Vitit Muntarbhorn, was expected to be one of the more contentious issues of the 7th session of the Council. Slovenia (on behalf of EU)²³ and Japan as two of the main co-sponsors introduced the mandate.²⁴ Slovenia (on behalf of the EU) said that the situation in the DPRK remained 'extremely serious'. It stated that the situation was not improving and illustrated this by enumerating grave human rights violations in the country, including the widespread and systematic practice of torture; public executions; the imposition of the death penalty for political and religious reasons; and restricted freedoms of expression, association, and access to information.

Slovenia, while welcoming the various efforts by the DPRK to engage with some of the treaty bodies to which it is a party,²⁵ and the fact that the Government allowed humanitarian agencies to access parts of the country affected by the floods of August 2007, lamented the Government's blunt refusal to cooperate with the Special Rapporteur. It said that the Special Rapporteur's mandate has provided a 'balanced analysis' of the human rights situation in the country, and noted Mr Muntarbhorn's 'constructive position' towards the DPRK.²⁶ Slovenia underscored that the DPRK 'should by no means be "rewarded" for [its] non-cooperation,' and called upon the Council to acknowledge the gravity of the human rights situation the DPRK and extend the Special Rapporteur's mandate. Concluding its introductory statement, Slovenia (on behalf of the EU) posed two questions to Mr Muntarbhorn in relation to the lack of governmental cooperation and the fulfilment of the mandate, and asked him if he could elaborate on the 'added value' of the thematic and country-specific special procedures system in general and on the case of the DPRK in particular. Japan similarly urged the

²² A/HRC/RES/5/2. See also www2.ohchr.org/english/bodies/chr/special/index.htm.

²³ The candidate countries Croatia, Turkey and the Former Yugoslavian Republic of Macedonia, the Countries of the Stabilisation and Association Process and potential candidates Bosnia and Herzegovina, Montenegro and the European Free Trade Association countries Iceland and Liechtenstein, members of the European Economic Area, as well as Armenia, Georgia, the Republic of Moldova and the Ukraine align themselves with this statement.

²⁴ 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).

²⁵ The Democratic People's Republic of Korea (DPRK) is a party to four human rights treaties (see www.unhcr.ch/tbs/doc.nsf/newhvtstatusbycountry?OpenView&Start=1&Count=250&Expand=47#47). In November 2007, the DPRK submitted its 3rd and 4th periodic reports to the Committee on the Rights of the Child (CRC/C/PRK/4).

²⁶ Slovenia commended the Special Rapporteur for his efforts to continually invite the DPRK to engage with his mandate as a window of opportunity to engage with the UN.

DPRK to grant the Special Rapporteur free and full access to the country and called for a renewal of the mandate.

The Special Rapporteur then addressed the Council. He reiterated his oft-repeated invitation to the DPRK to respond to the mandate as a ‘window of opportunity’ to cooperate with the UN in general, but regretted the lack of cooperation by the Government. Mr Muntarbhorn observed that the key lessons he had learned about special procedures is that these can be used as bases of information to address protection gaps and weak implementation of human rights obligations at national levels. A Special Rapporteur, he said, can give ‘voice to the voiceless’, and has the ability to assess the impact of a human rights situation through numerous sources and through coordinating with UN agencies in place.

Interactive dialogue

The DPRK, speaking as a concerned country, ‘resolutely rejected’ a continuation of the mandate, stating that country-specific mandates are against the founding ideas of the Council and its principles of non-selectivity, non-politicisation’ and impartiality. Using notably strong words, the DPRK delegate said that the naming and shaming of the former Commission on Human Rights (the Commission) still prevailed in the Council, and accused the Western States of starting a ‘politically calculated preventive strike’ against the country. In conclusion, the DPRK hoped that the Council would not ‘push [the DPRK] to the point of no return’.

Several member States and observers took the floor to comment on the Special Rapporteur’s mandate on the situation in the DPRK. Two points of view were evident throughout the interactive debate. Some States strongly supported the renewal of the mandate and voiced their commitment to country-specific mandates,²⁷ whereas other States criticised the use of country-specific mandates in general, and the mandate on the DPRK in particular.²⁸

Many States expressed their appreciation of the Special Rapporteur’s dedication and commitment. The Republic of Korea believed that his efforts had served to enhance awareness on the human rights situation in the DPRK, not only in the Council, but also in the UN system and the international community as a whole. Canada stressed that the Special Rapporteur’s work demonstrates the importance of the DPRK assisting the work of the Special Rapporteur in fulfilling his mandate.

The Republic of Korea felt that the country-specific mandates, in tandem with the universal periodic review, are an indispensable tool for the Council to effectively address grave human rights violations in the country.²⁹ It further hoped that the extension of the mandate would foster an environment enabling the Special Rapporteur to engage even more constructive and meaningfully in the implementation of his mandate. Canada underscored the importance of having a Special Rapporteur with a mandate to pursue broad questions relating to civil, political, economic, social and cultural rights.

On the contrary, Pakistan (on behalf of the OIC) believed that a change in approach towards the DPRK was urgently needed: ‘Instead of renewing an infructuous country-specific mandate, the DPRK must be engaged politically both at regional and international levels.’ It further urged the international community not to ‘politicise’ humanitarian assistance.

²⁷ Argentina, Canada, Republic of Korea.

²⁸ Algeria, China, Cuba, Pakistan (on behalf of OIC), Vietnam, Zimbabwe. Only Cuba, Zimbabwe and Algeria explicitly called for the termination of the mandate on the DPRK. Pakistan (on behalf of the OIC) said that the UPR would make the mandate redundant.

²⁹ The Republic of Korea further stated that the ‘determining criteria’ in the process of review, rationalisation and improvement of mandates ‘must be the victims and the situation on the ground’.

Several States argued that the UPR mechanism should be used instead of country-specific mandates for dialogue between States in a spirit of cooperation and with objectivity as guiding principle. Pakistan (on behalf of the OIC) and China viewed the UPR as the appropriate forum to assess human rights situations in countries. China also believed that country-specific mandates would have a negative impact on the UPR mechanism. Vietnam shared the reservations of other States against country-specific mandates, maintaining that these ultimately led to confrontation. While supporting the statement made by Pakistan, Malaysia maintained that the Special Rapporteur should seek a constructive approach with the DPRK, thereby implicitly supporting the continuation of the mandate. It encouraged all parties to ‘engage positively and exercise impartiality’.

The Special Rapporteur briefly took the floor to thank the Council for the variety of comments. Responding to Slovenia’s questions, Mr Muntarhorn made some general observations with regard to special procedures. He first recalled that special procedures as a whole are open to both thematic and country-specific mandates to ensure that there are no protection gaps. He asserted that it was very rewarding as a Special Rapporteur to have access to victims and to be their voice. Finally, he stated that his approach remained ‘independent, principled and constructive,’ and that he was honoured to be taking part in the process of opening the DPRK’s window of opportunity.

Slovenia (on behalf of the EU) as a main sponsor of the mandate thanked the Council for the constructive and informative discussion. It viewed the assessment of the mandate as an opportunity to strengthen it and guide its future direction. Reiterating the gravity of the human rights situation, Slovenia (on behalf of the EU), said the credibility of the Council would be undermined if it did not renew this country mandate. It was not a matter of naming and shaming, Slovenia explained, but rather to invite the Government of the DPRK to enter into a dialogue and help people in need. Slovenia concluded its statement by proposing a renewal of the mandate for one more year.

Special Rapporteur on the sale of children

Uruguay as the main sponsor of the mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography started the review process. It recalled the Special Rapporteur had presented seven thematic reports over the course of the mandate and carried out nine country visits.³⁰ Uruguay pointed out that the results of the nine country visits carried out and the thematic reports written by the Special Rapporteur provide a ‘diagnostic agenda’ for further work in this area. Uruguay stressed that the mandate had contributed to the development of specific proposals for legislation and assistance programs and had developed ideas for innovative measures to protect children and systems of urgent search measures. It claimed that many of these proposals had been taken onboard by governments and implemented at the domestic level. In relation to country visits by the Special Rapporteur, it regretted that many States did not accept visit requests. Uruguay further highlighted the Special Rapporteur’s communications with governments as important preventive tools, and stressed the importance of following up communications and cases received.

Turning to the future importance of the mandate, Uruguay claimed that international organised crime is financing itself through the sale of children, child prostitution and child pornography, and said that there are indications that sexual exploitation and child trafficking is expected to grow in the future. For this reason, it stressed that governments and civil society should unite in the combat against such practices. It called on the Council to continue the mandate.

Mr Juan Miguel Petit, the current mandate holder, recalled that the mandate was set up in 1990, when the Commission on Human Rights had sought to address the increase in the sale of children and sexual

³⁰ See www2.ohchr.org/english/issues/children/rapporteur/annual.htm for a list of reports submitted by the Special Rapporteur.

exploitation of children. He said the mandate had contributed to build an international system of protection and has helped States to strengthen national mechanism. On this note, he expressed his conviction that only through democracy could human rights be guaranteed, and therefore could children be protected from violations.

Mr Petit, like Uruguay, recalled that his mandate had used three main tool; country visits,³¹ thematic studies, and communications to governments. He mentioned that this year's report focused on best practices regarding the setting up of rehabilitation centres for children victims of trafficking.

Turning to the future of the mandate, he said the mandate would now move into a new phase. While noting large progress in the development of new judicial instruments for the protection of children, it was now necessary to develop specific mechanisms and policies to address the root causes of the problem. To develop such tools, he said, was the challenge for the future. He in particular mentioned that development of policies to strengthen the 'social fabric' would be beneficial. In relation to the whole system of special procedures, Mr Petit shared his vision of a summary of all special procedures reports, which would allow to better publicise their work and give more visibility to human rights defenders. He also suggested the establishment of a 'world special procedures day'.

Interactive dialogue

All States and NGOs that took the floor welcomed the mandate and supported its renewal.³² Many welcomed the thematic focus of the various reports prepared by the Special Rapporteur. Slovenia (on behalf of the EU) recalled that in his last report, the Special Rapporteur highlighted that much more work needed to be done in the field of assistance and rehabilitation programmes for exploited children, and appreciated the Special Rapporteur's guidelines in this regard.³³ The International Save the Children Alliance, in a joint statement,³⁴ appreciated the work of the Special Rapporteur, and said the mandate was a very useful and accessible mechanism for NGOs.

Brazil, on behalf of the Group of Latin American and Caribbean States (GRULAC), stressed the Group's conviction that it is a very important mandate that has contributed significantly to the protection of children. Argentina said the mandate was particularly needed in view of the gravity of the crimes linked to the sale of children.

Switzerland highlighted the importance of national strategies developed, while Malaysia highlighted the role that local communities play as 'watchdog' or informal monitoring units in combating the exploitation of children. Some States highlighted measures taken at the national level to combat the exploitation of children.³⁵ Tanzania mentioned the forthcoming adoption by the parliament of new legislation prohibiting the sale of children. Morocco stressed the importance of the full participation of civil society in the implementation of such measures.

³¹ He carried out a total of nine country visits (Mexico, Ukraine, Greece, Albania, Romania, Paraguay, Brazil, France, South Africa).

³² Slovenia (on behalf of the EU), Malaysia, Brazil, on behalf of the Group of Latin American and Caribbean States (GRULAC), Switzerland, Russian Federation, Argentina, Tanzania, Morocco, International Save the Children Alliance (joint statement on behalf of the World Organisation Against Torture, World Vision International, International Federation Terres des Hommes, Plan International Inc., Myochikai, International Catholic Child Bureau, International Alliance of Women, and SOS Kinderdorf International).

³³ Switzerland also appreciated the Special Rapporteur's work in that regard.

³⁴ International Save the Children Alliance (joint statement on behalf of the World Organisation Against Torture, World Vision International, International Federation Terres des Hommes, Plan International Inc., Myochikai, International Catholic Child Bureau, International Alliance of Women, and SOS Kinderdorf International).

³⁵ Morocco, Tanzania, Malaysia.

A number of speakers commented on the future focus of the mandate. The Russian Federation suggested the mandate should study sex tourism connected to the exploitation of children. International Save the Children Alliance in a joint statement made a number of suggestions to improve the focus of the mandate. It called on the Council to ensure that sexual exploitation of children be addressed from a child rights perspective, taking into account the specific vulnerability of children; to mandate the future Special Rapporteur to apply a gender perspective to his or her work, acknowledging that sexual exploitation impacts differently on boys and girls; and to ensure that all States are held accountable to their international obligations in this regard.

Slovenia (on behalf of the EU) suggested that closer cooperation with the Special Rapporteur on trafficking in persons, especially in women and children would enhance the effectiveness of the mandate.³⁶ Switzerland went further and expressed some concern about the overlaps of the mandate with other institutions of the UN, in particular with the Special Rapporteur on trafficking in persons, the Special Rapporteur on violence against women, and the Special Representative of the Secretary-General for children in armed conflict. In his closing statement, the Special Rapporteur disputed the suggestion that there was overlap between his mandate and other special procedures mandates. He said that, while there are crosscutting areas, which link to several mandates, all ‘facets’ of a subject needed to be illuminated.

The Russian Federation, as during the review of other mandates, expressed its ‘hope’ that the Special Rapporteur would carry out his or her mandate in accordance with the code of conduct.³⁷

After the Special Rapporteur’s and Uruguay’s final statements, President Costea closed the review by encouraging everyone to participate in continuous consultations on the draft resolution aiming at the renewal of this mandate.

Special Rapporteur on freedom of expression

Canada, as the main sponsor, introduced the mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. Canada stressed the importance of this right, enshrined in the *Universal Declaration of Human Rights* (UDHR) and the *International Covenant on Civil and Political Rights*, as the foundation of a free and democratic society. It noted that since its establishment, the mandate has always been renewed by consensus. It described the considerable achievements that the Special Rapporteur had made towards the promotion and protection of this right, including the promotion of the *Principles on Freedom of Information Legislation* and the *Johannesburg Principles on National Security, Freedom of Expression and Access to Information*; the release of journalists through communications to governments; and the facilitation of cooperation with civil society and other UN and regional bodies. Canada also stressed the importance of the functions and activities of the Special Rapporteur³⁸ and pointed out a series of issues that the Special Rapporteur has addressed during his mandate.³⁹

In his statement, Mr Ligabo reiterated the importance of the mandate for the promotion and protection of this right. He underlined that the mandate had played a central role in the system of special procedures and that the cross-cutting nature of the right to freedom of expression had resulted in close cooperation with many other special procedures mandates. He noted that country visits are one of the most important strategies to guarantee the effectiveness of the mandate as they allow him to establish a dialogue with States and civil

³⁶ International Save the Children Alliance (joint statement).

³⁷ See fn. 22 above.

³⁸ Including gathering information on cases of violations; drawing attention to cases of serious concern; making recommendations to improve the promotion and protection of this right; providing technical and advisory support; and promoting international dialogue and regional cooperation.

³⁹ Including the protection of media professionals, access to information for education on and prevention of HIV/AIDS, counter-terrorism and freedom of expression, and Internet governance.

society, assess the main patterns of violations, disseminate good practices, and issue concrete recommendations to States. He highlighted that 22 country visits had been undertaken since the establishment of the mandate.

He further noted the importance of cooperation with regional instruments for human rights protection, including the Organisation of American States and the African Commission on Human and Peoples' Rights. The mandate had also been at the forefront of addressing sensitive and controversial issues. Finally, he stressed that for the mandate to be effective, it is essential that it does not fear addressing controversial issues, even when consensus is difficult to achieve.

Interactive dialogue

All the speakers reaffirmed their commitment to the right to freedom of opinion and expression, stressed the importance of the mandate,⁴⁰ and supported its renewal.⁴¹ Slovenia (on behalf of the EU) stressed the importance of this right as an essential foundation of democracy, without which other human rights could not be enjoyed.⁴² Many speakers commended the efforts of the Special Rapporteur,⁴³ including in pointing out recurring violations,⁴⁴ his activities on Internet governance⁴⁵ and preventive education on HIV/AIDS. The Netherlands referred to the need for media freedom, and called for an end to attacks on journalists and media professionals.⁴⁶

A few States stressed that the exercise of the right to freedom of expression should be limited to avoid interfering in the enjoyment of other rights.⁴⁷ Pakistan (on behalf of the OIC) pointed out that the right to freedom of expression should not be abused to 'insult, malign and intimidate', and referred to 'insulting caricatures' and 'offensive documentaries' against Islam. The Russian Federation noted that in assessing the enjoyment of the right to freedom of expression, the particularities of civilisations and cultures of countries should be taken into account.

Norway, Switzerland, and Slovenia (on behalf of the EU) pointed out that freedom of opinion and expression should be seen as complementary to other human rights, and referred to the indivisibility of freedom of expression and freedom of religion. The Cairo Institute for Human Rights Studies (CIHRS) condemned the use by States of 'unqualified legal provisions' on defamation to restrict freedom of expression. It asked the Special Rapporteur how the mandate could best ensure that any limitations on freedom of expression meet international legal standards and are not used to ban offensive speech.

Looking to the future, most States supported retaining a broad scope for the mandate, thus allowing the mandate holder to address any relevant issue.⁴⁸ Cuba noted the difference between promotion and protection of these rights, and acknowledged the progress made in the area of protection. It further pointed out that the future mandate holder should give priority to continue working on promoting the means that make it possible

⁴⁰ Pakistan (on behalf of the OIC), Slovenia (on behalf of the EU), Malaysia, Netherlands, Russian Federation, Egypt, Cuba, Republic of Korea, India, Switzerland, Norway, Argentina, US, Algeria, European Group of National Human Rights Institutions (EGNHRI), Human Rights Advocates (HRA), Reporters Without Borders (RSF), Cairo Institute for Human Rights Studies (CIHRS).

⁴¹ Slovenia (EU), Netherlands, Russian Federation, Cuba, Republic of Korea, India, Switzerland, Norway, Argentina, US, EGNHRI, HRA, RSF, CIHRS.

⁴² Netherlands, India, Switzerland, Norway, Argentina, US, HRA.

⁴³ Slovenia (on behalf of the EU), Netherlands, Cuba, Republic of Korea, India, Switzerland, Norway, Argentina, US, EGNHRI, HRA, RSF, CIHRS.

⁴⁴ Netherlands.

⁴⁵ Cuba.

⁴⁶ EGNHRI, HRA, RSF, CIHRS.

⁴⁷ Pakistan (on behalf of the OIC), Malaysia, Egypt, Russian Federation, Cuba.

⁴⁸ Slovenia (on behalf of the EU), Netherlands, Russian Federation, Cuba, Republic of Korea, India, Switzerland, Norway, Argentina, US, EGNHRI, HRA, RSF, CIHRS.

to achieve freedom of expression, such as combating illiteracy and developing tools for responsible public opinion and sustained information. Pakistan (on behalf of the OIC) called for the mandate to make recommendations to curb the tendency of abusing the right to freedom of expression. Egypt called for a mandate that would not allow defamation of religion or incitement of religious hatred. It stressed that unless the mandate included a reference to this, it would oppose its renewal. The Russian Federation expressed the wish that the activities of the Special Rapporteur in the future be objective and in conformity with the code of conduct for the special procedures. Human Rights Advocates (HRA) recommended that the right to vote be included under the freedom of expression.

Mr Ambeyi Ligabo, in his concluding comments, thanked all delegations for their valuable comments on the renewal of the mandate and highlighted a few points that could be taken up in the future. Firstly, he referred to incitement to racial, ethnic or religious hatred. He stressed that freedom of expression should not be used as a means to advocate hatred or violence against others, and that international instruments, in particular articles 19 and 20 of the *International Covenant on Civil and Political Rights* establish permissible limitations on the exercise of this right. He argued that these limitations should follow a set of criteria in order to avoid their overly subjective use. He pointed out the need to promote tolerance and build respect for diversity, and create a dialogue among civilisations.

With regard to the challenges the mandate faces, he noted that the mandate continues to be very relevant in the system of special procedures. On the protection of journalists, he suggested carrying out a worldwide study on harassment and attacks against journalists so that the Special Rapporteur would be in a better position to advise the Council on strategies to address this issue. Other challenges included new communication and information technologies, subjective use of limitations on freedom of expression, and legislation on freedom of expression. He suggested that these issues could be taken up in the future.

In its concluding remarks, Canada thanked all delegations and the Special Rapporteur, and called on all States to respect the right to freedom of thought, conscience and religion, as guaranteed in Article 18 of the *International Covenant on Civil and Political Rights*. It noted that this right protects individuals, not religions, stressing that any limitations on the right to freedom of expression must remain consistent with international human rights law. Finally, it highlighted that the mandate should remain focussed on promoting and protecting the right to freedom of opinion and expression, and that other mandates are better placed to address religious intolerance and racial discrimination.

Independent Expert on economic reform policies

Cuba, as the main co-sponsor of the mandate of the Independent Expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights, introduced the mandate.

It stated that all persons have the right to a social and international order in which all rights enshrined in the UDHR can be enjoyed. It recalled that States had agreed at the Vienna Conference to ease the external debt burden to complement the efforts made by developing countries to ensure enjoyment of economic, social and cultural rights. In the *Millennium Declaration* States also decided to address this issue comprehensively.

It explained that the mandate had been established in 2000. Its establishment was a result of a process that had begun many years before. The former Sub-Commission on the Prevention of Discrimination and Protection of Minorities⁴⁹ (the Sub-Commission) had elaborated a study 20 years ago on problems, policies, and progressive measures related to the realisation of economic, social and cultural rights. In its *Resolution*

⁴⁹ It was renamed the Sub-Commission on the Promotion and Protection of Human Rights in 1999, and has now been replaced by the Human Rights Council Advisory Committee.

1992/29, the Sub-Commission called on the Secretary-General to develop guidelines for dialogue between human rights bodies and international financial institutions. In 1995 the Sub-Commission was presented with a basic set of guidelines and norms, which were considered by a Working Group. The Working Group was unable to conclude its consideration of the matter in 1997 and recommended the appointment of an independent expert. In 1998, the Commission on Human Rights appointed an Independent Expert. In its *Resolution 1998/24*, it was decided to establish a Special Rapporteur on the impact of external debt on the enjoyment of economic, social and cultural rights. The Commission decided to merge the two mandates in 2000 and established the mandate of the Independent Expert.⁵⁰ The mandate holder had been requested to study interrelationship between foreign debt and trade, and other topics such as HIV/AIDS and contribute to follow up to the International Conference on Financing for Development.

Cuba further highlighted that it supported the renewal of the mandate since the external debt of developing countries continues to grow. It noted that it had circulated a draft resolution to renew the mandate. It finally expressed its gratitude to the Independent Expert for his work.

Mr Bernard A.N. Mudho, the Independent Expert on economic reform policies, was then asked to comment on the achievements of the mandate. He stated that he was honoured to have an opportunity to share his experience and thoughts with the Council. He observed at the outset that while considerable progress had been recorded since the establishment of the mandate, including by creating awareness and proposing international and national measures to alleviate the negative effects of the foreign debt burden, much still remains to be done. He reiterated his conviction that the mandate continues to be necessary.

The Independent Expert explained that the mandate was established in 2000 against the backdrop of the negative impacts on human rights from structural adjustment programmes. He stated that most economic reforms in developing countries are now guided by more comprehensive development plans aimed at improving participation of stakeholders and ownership. Furthermore, economic reform and foreign debt are now addressed in the context of poverty reduction strategies.

He underlined that it should be recognised that the impact of foreign debt on human rights cuts across different dimensions, timeframes, and categories of countries. He suggested that in the future foreign debt and international fiscal assistance should be regrouped to allow a more comprehensive approach. The Independent Expert suggested that the Council should consider refocusing the mandate to take account of this. He argued that combining economic reform and foreign debt into the same mandate had created ambiguity in the area of intervention. He proposed that a way forward would be to reformulate the mandate around the broader theme of the effects of national and international public finance and fundamental human rights. He noted that his work had demonstrated that the impact of foreign debt on States' capacity to comply with human rights obligations could not be separated from the need for comprehensive, transparent and prudent management of national and international public finance. He suggested that the central question to be addressed would be how to ensure a fiscal space that would allow for implementation of human rights while receiving international financial assistance with non-disabling repayment obligations. The Independent Expert also suggested that the new mandate holder could continue the work on the draft general guidelines,⁵¹ including the development of analytical tools and operational guidelines to facilitate their implementation.

He finally stressed that the Independent Expert should work in close coordination with the Working Group on the right to development and its High Level Task Force and that it should receive stronger support from States, international financial institutions, and other relevant UN bodies.

⁵⁰ Commission on Human Rights *Resolution 2000/82*. Through *Resolution 2003/21*, the Commission on Human Rights extended the mandate for a further three years.

⁵¹ In its *Resolutions 2004/18* and *2005/19*, the Commission on Human Rights requested the Independent Expert to draft general guidelines to be followed by States and by private and public, national and international financial institutions in the decision-making and execution of debt repayments and structural reform programmes, including those arising from foreign debt relief.

Interactive dialogue

Slovenia (on behalf of the EU) raised a number of questions regarding the effectiveness of the mandate. It asked if the Independent Expert believed that the mandate is able to assist States in improving implementation of their human rights obligations. It further asked if any improvements could be made to the mandate. Finally, it asked to what extent the mandate allowed the Independent Expert to take account of the effects of debt reduction initiatives and the efforts by developing countries to undertake economic reforms while respecting human rights.

Bangladesh stated that it believed that the Independent Expert had done a commendable job. It underlined that the mandate is of particular importance in the context of globalisation and growing inequality, poverty and deprivation. Bangladesh argued that the work of the Independent Expert had demonstrated that there is a gap between the desire to fulfil economic, social and cultural rights and national action and international cooperation to do so. It highlighted that the draft general guidelines merited further consideration. Finally, it stated that the Independent Expert's suggestion to refocus the mandate should be carefully considered by the Council.

Burkina Faso stated that it attaches great importance to the mandate. It noted that it was pleased with the guidelines developed by the Independent Expert. It stated that it hoped that the new mandate holder would focus on debt alleviation. Finally, it said that it supported the extension of the mandate.

The Centrist Democrat International argued that it is widely accepted that human rights do not have much to do with economic reforms. It underlined that economic reforms should be guided by the impact they may have on individuals at present and in the future.

Mr Mudho, the Independent Expert on economic reform policies, was then given the floor to make concluding comments. In response to the questions put to him by the EU, he noted that not many questions had been asked over the years. He stated that it appeared that many people did not have a clear idea of what the mandate seeks to do. He said that he had expected that after the careful description of the history of the mandate, it would be clear what its purpose was. He further replied that there would always be room for improvement and that international financial institutions could cooperate more with the mandate, which would produce more manifest results. He emphasised that the mandate is still relevant. Finally, the Independent Expert asked how much time delegations spend reading his reports and understanding the recommendations.

Cuba, in its closing remarks, stated that for a number of developing countries, the excessive cost of debt has affected their ability to fulfil economic, social and cultural rights. It expressed its gratitude to those that had spoken and especially to those that have supported the mandate and its extension. It hoped that the new mandate holder would ensure follow up to Mr Mudho's work. Finally, Cuba informed that next week it would hold informal consultations on the draft resolution extending the mandate. In closing, Cuba expressed the hope that the Council would adopt this resolution with the broadest possible support.

Special Representative of the Secretary-General on human rights defenders

Norway, the main sponsor of the mandate, presented the main areas of work of the Special Representative as laid out in the resolution creating the mandate, which was adopted in 2000 by the Commission on Human Rights. It explained that the first Special Representative, Ms Hina Jilani, was appointed in August 2000.

Norway stressed the importance of improving implementation of the 1998 *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect internationally*

Recognized Human Rights and Fundamental Freedom (the Declaration)⁵² and highlighted the important role that the mandate has played in this regard. It also stated that more needs to be done to improve the situation of defenders and identified several actions in this respect, including establishing strong cooperation and a constructive dialogue between the mandate and governments; increasing the visibility of human rights defenders; tolerating criticism and assisting defenders in delivering their messages; and improving cooperation and coordination between all actors.

Norway highlighted the contribution of the mandate to the creation of regional mechanisms for the protection of human rights defenders. Lastly, Norway expressed its admiration for the work of the Special Representative and the way in which Ms Jilani had shaped the mandate during eight years as a mandate holder and had established standards for the future of the mandate.

Norway ended its presentation with a brief overview of the ongoing process of informal consultations. So far, Norway has organised four open-ended informal consultations on the draft resolution.

The Special Representative focused her statement⁵³ on the significant achievements of the mandate in the implementation of the Declaration. Ms Jilani highlighted:

- The contribution of the mandate to the protection of thousands of individuals through communications, country visits, and dialogue and cooperation with governments. She stressed that collaboration with governments gave the mandate credibility, which lead to changes on the ground.
- The contribution of the mandate to the development of regional mechanisms and instruments for the protection of human rights defenders, in particular, the Special Rapporteur on human rights defenders of the African Commission on Human and Peoples' Rights, the Unit on Human Rights Defenders of the Inter-American Commission on Human Rights, the *Declaration on Human Rights Defenders* of the Council of Europe, and the *Guidelines of the European Union on Human Rights Defenders*.
- The analytical framework developed by the mandate to assess the situation of human rights defenders and the thematic research to better understand the obligations related to the implementation of the Declaration.
- Her work on the impact of security legislation on defenders, the role of defenders in emergency situations and in preservation, restoration, and peace building, and the enjoyment of fundamental freedoms for defenders such as freedom of association and peaceful assembly.
- The identification of defenders who are more at risk, such as defenders working on economic, social and cultural rights, women defenders and those defending the rights of indigenous peoples, minorities and lesbian, gay, bisexual and transgender (LGBT) persons.

Finally, the Special Representative addressed the issue of the title of the mandate. Ms Jilani noted that as a Special Representative of the Secretary-General, the title had facilitated her work and had given her access to relevant actors, especially within the UN system. She added that the review process provided States with an opportunity to strengthen the mandate and that a change in the title would be perceived as a decision to weaken the mandate.

Interactive dialogue

Most States that intervened in the interactive dialogue that followed commended the work of the Special Representative and expressed support for the renewal of the mandate. Slovenia (on behalf of the EU) expressed its gratitude to the Special Representative and highlighted the progress she had made over the last eight years. Switzerland commended the Special Representative for the key role that she has played in the promotion of the Declaration. Canada noted Ms Jilani's independence and integrity as a mandate holder.

⁵² Commonly known as *Declaration on Human Rights Defenders*. General Assembly Resolution 53/144 (A/RES/53/144), 8 March 1999.

⁵³ Ms Jilani was not present during the review. Ms Gay McDougall delivered the statement on her behalf.

Brazil thanked Ms Jilani for her professionalism, objectivity, and constructive approach, highlighting as a sign of their commitment to defenders issues, the establishment in 2007 of a National Policy on the Protection of Human Rights Defenders. The Netherlands highlighted the work of the Special Representative in helping victims.

Slovenia (on behalf of the EU) noted Ms Jilani's important work on the issue of effective cooperation between the mandate, international and regional mechanisms and other stakeholders, as well as her work identifying themes and defenders who face particular risks such as women human rights defenders. Canada also highlighted how her work on women human rights defenders and defenders working on economic, social and cultural rights had deepened the knowledge and understanding of the obligations and challenges relating to human rights defenders. The US highlighted the Special Representative's work on the issues of democratisation, emergency situations, security and women's empowerment.

Slovenia (on behalf of the EU) also stressed that the recommendations in her report to this session of the Council will provide important guidance and a source of methodology to her successor that will ensure consistency in the implementation of the mandate. Canada also commended her work on developing indicators to assess compliance with the Declaration.

Pakistan (on behalf of the OIC) expressed its support for the work of the Special Representative and stressed that the primary objective of the mandate should be the implementation of the Declaration. However, it noted with concern 'a tendency to overlook the collective rights of individuals and peoples' including the effective elimination of violations resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, and aggression or threats to national security. It also highlighted that although dialogue with governments is a crucial part of this mandate, the modalities of this dialogue should be mutually agreed upon by the mandate and the State concerned. The Russian Federation also expressed support for the renewal of the mandate but emphasised the need for the mandate to address the responsibility of human rights defenders.

Concerning the definition of human rights defenders, Slovenia (on behalf of the EU) highlighted the significance of adopting a broad understanding of the term based on the activity. It emphasised that States should not feel threatened by the activities of defenders and that open debate is indicative of a democratic, pluralistic society. Similarly, Switzerland stated that the Declaration protects the activity of defenders and not persons based on their identity. Thus, Switzerland did not support efforts to further define human rights defenders. The Russian Federation, on the other hand, favoured a strict interpretation of the term to avoid the use of the term human rights defender by those advancing a political agenda. Pakistan (on behalf of the OIC) and the Russian Federation stated that the title should be streamlined in line with other special procedures. However, the US argued that it was appropriate for this mandate to be a Special Representative of the Secretary-General given the importance that the General Assembly had given to mainstreaming human rights throughout the UN system.

The Ugandan National Human Rights Commission, the National Human Rights Commission of Rwanda, and the Senegalese Committee for Human Rights in a joint statement expressed strong support for the renewal of the mandate and commended Ms Jilani for her work. They highlighted country visits as an important tool to assess the situation on the ground and the Special Representative's thematic reports to identify general trends and conditions of defenders. They also noted that independent national human rights institutions have been identified by the Special Representative as one of the indicators of an enabling environment for human rights defenders and highlighted the important role that these institutions can play in following up to the recommendations of the special procedures.

A number of NGOs also intervened to express support for the renewal of the mandate and to pay tribute to Ms Jilani's work.⁵⁴ They highlighted the protection that this mandate has provided to defenders around the world and welcomed her specific focus on the situation of women human rights defenders and the development of indicators to assess the situation of defenders. NGO statements also focused on the importance of preserving the title of Special Representative of the Secretary-General, since this title has granted the mandate holder access to the highest levels of the UN system. Finally, NGOs urged the Council to seize the 10th anniversary of the Declaration as an opportunity to renew and strengthen the mandate.

Informal consultations

Mandate of the Special Representative of the Secretary-General on human rights defenders

Informal consultations on the draft resolution renewing the mandate of the Special Representative on human rights defenders continued today. Considerable time was spent on discussing proposed amendments to the preambular part of the text, in particular the proposal to include a new paragraph referring to the challenges and violations that defenders face.⁵⁵ Several delegations believed it was not appropriate to include such reference in the resolution renewing the mandate.⁵⁶ The rest of the discussion on the preambular paragraphs focussed on minor and technical amendments.

Another issue that provoked debate was the proposal, advanced at a previous informal consultation, that the Special Representative should clarify the concept of human rights defenders, including the requirements to be considered as such.⁵⁷ While Egypt argued that this proposal fell far short of elaborating a definition of who is a human rights defender, many delegations seemed to think that the proposal could lead towards a new definition. They argued that a definition is already provided by the *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms* and there is no need for further clarification.⁵⁸ However, other delegations argued that this was necessary in light of the human rights violations committed by 'self-proclaimed human rights defenders' and their abuse of the mandate.⁵⁹

The proposal by Egypt to make small adjustments to the description of the mandate was also discussed. The proposal would request the Special Representative to 'promote the effective implementation of the Declaration through cooperation and dialogue with Governments and other interested actors'. It appears that most delegations are ready to accept this proposal with some minor amendments.

⁵⁴ One joint statement of Human Rights First, Amnesty International, International Service for Human Rights, Front Line, World Organization against Torture, International Federation of Human Rights, Forum Asia, Human Rights Watch.

One joint statement of the International Coalition on Women Human Rights Defenders comprised of: Amnesty International, Asian Forum for Human Rights and Development (Forum-Asia), Asia Pacific Forum on Women, Law and Development, Center for Women's Global Leadership, Front Line, Information Monitor (Inform), International Service for Human Rights, ISIS-Women's International Cross-Cultural Exchange, The Latin American and Caribbean Committee for the Defense of Women's Rights, Women Living Under Muslim Laws, World Organization against Torture, Association for Women's Rights in Development, Baobab for Women's Human Rights, Human Rights First, International Federation of Human Rights, MADRE (an international women's human rights organization), Urgent Action Fund for Women's Rights, Women's Initiative for Gender Justice.

One statement of the International Service for Human Rights (ISHR).

⁵⁵ Ireland (on behalf of the EU).

⁵⁶ Egypt, Pakistan, Russian Federation, Iran, South Africa.

⁵⁷ The proposal was put forward by Egypt as a new operative paragraph 2a bis.

⁵⁸ Norway, Ireland, Switzerland, Belgium, UK, Mexico, France.

⁵⁹ Egypt, Russia, Iran, Bangladesh, South Africa, Bhutan, Algeria, China, Sri Lanka. Singapore and the Philippines took a similar approach.

The next informal consultations will take place on Monday 17 March, from 11:00 a.m. to 1:00 p.m., in Room XXII (22).

COUNCIL MONITOR STAFF

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