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Overview

On 25 October 2007, the Third Committee of the 62nd session of the General Assembly began consideration of six reports and four resolutions relating to economic, social and cultural rights under agenda item 70: 'Promotion and protection of human rights (b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms.' The reports addressed the following thematic areas and on three occasions there was an opportunity for an interactive debate with the mandate holder and author of the report:

- the right to development (statement from the Chairperson Rapporteur of the Working Group)
- the right to food (interactive dialogue with the Special Rapporteur)
- the right to health (interactive dialogue with the Special Rapporteur)
- human rights and cultural diversity
- the effects of economic reform policies and foreign debt on human rights (interactive dialogue with the Independent Expert)

- globalisation and its effect on human rights.

Four resolutions were adopted by a vote on the following thematic issues:

- the right to development
- the right to food
- cultural diversity
- globalisation.

As in previous years, the consideration of economic, social and cultural rights by the Third Committee highlighted the division amongst its membership along north – south, or developed and developing country lines. The typical voting pattern on resolutions ensured that those States identifying with the Non-Aligned Movement (NAM) outnumbered those in the Western and Other Group, and were ultimately successful in passing all resolutions. Although there was clear agreement amongst States to preserve the language of previous years' resolutions, there were also some important additions to emphasise that most States welcomed the adoption of the Declaration on the Rights of Indigenous Peoples and the Convention on the Rights of Persons with Disabilities.¹ In the case of the resolution on the right to food, some of the recommendations of the Special Rapporteur were incorporated, and his valuable work commended by the Third Committee.

For the mandate holders in relation to the right to health, the right to food, and foreign debt, this was the last session of the Third Committee that they will address before their term of office ends.

One of the controversial issues this year on the right to development resolution was in regard to language potentially committing States to an international standard on the right to development, which is being advocated by NAM States. The Committee will likely remain interested in this issue next year, with a particular focus on the kind of progress the Working Group makes on the issue.

The Right to Development

Report of the Secretary General on the right to development²

The report of the Secretary-General on the right to development supplements the report of the United Nations High Commissioner for Human Rights on the same theme, which was submitted to the Human Rights Council at its 4th session.³ Both reports highlight developments in relation to the right to development over the last twelve months as well as the conclusions and recommendations of the most recent session of the Working Group on the right to development,⁴ which include:

¹ The resolution on the right to development (A/C.3/62/L.49 – OP32) and the resolution on the right to food (A/C.3/62/L.53/Rev.1 – OP12) provide clear support for the adoption of both instruments.

² A/62/183. Available at: <http://www.un.org/ga/third/62/doclist.shtml>

³ The 4th session of the Human Rights Council took place from 12 to 30 March 2007. A/HRC/4/55 is available at: <http://www2.ohchr.org/english/bodies/hrcouncil/4session/reports.htm>

⁴ This 8th session of the Working Group took place from 26 February to 2 March 2007. A/HRC/4/47 is available at: <http://www2.ohchr.org/english/bodies/hrcouncil/4session/reports.htm>

- The right to development implementation criteria should be applied more widely to identified global development partnerships and other strategic partnerships, which would assist in the implementation of Millennium Development Goal (MDG) 8.⁵
- Further active participation of international financial, trade and development institutions, as well as UN agencies and civil society organizations, is needed to help move the discussion from conceptual debates and general principles to its operationalisation.⁶
- The high level taskforce should undertake a rigorous, phased review of the right to development criteria and present the Working Group with a revised list and suggestions for further work before the end of 2009.

Statement of the Chairperson-Rapporteur of the Working Group on the right to development⁷

On 29 October 2007, Dr. Arjun Sengupta's first report⁸ on the work of the Working Group and the progress and steps taken by the high level taskforce⁹ was presented to the Third Committee. In his absence, the report was delivered by the Director of the New York Office of the High Commissioner for Human Rights. As a result there was no interactive dialogue, although brief statements were made by Cuba and Indonesia.

The report noted that last year the criteria for the implementation of the right to development were adopted by consensus by both the high-level taskforce and the Working Group. Since that time, the Human Rights Council has adopted the conclusions and recommendations of the taskforce and Working Group,¹⁰ thereby approving the phased roadmap and work plan these bodies proposed. In Phase I (2007), the Task Force will deepen its study on the three established pilot development partnerships,¹¹ undertake technical missions, explore additional strategic partnerships in the context of MDG 8, and begin refining the right to development criteria. In Phase II (2008), the Task Force will study additional partnerships, concluding its work in Phase III (2009) with the presentation of its findings and a revised list of right to development criteria to the Working Group.

The Human Rights Council's endorsement of the road map last April was a significant step in mainstreaming the right to development. Dr Sengupta's statement pointed out that although the right to development is still evolving, there are many issues related to its progressive realization that go far

⁵ MDG 8 calls for the development of a global partnership for development. For more information, see:

<http://www.undp.org/mdg/goal8.shtml> or <http://www.un.org/millenniumgoals/#>

⁶ These institutions should include the World Bank, IMF, UNDP, WTO and others.

⁷ Dr. Arjun Sengupta is the Chairperson-Rapporteur of the Working Group on the right to development. His mandate was created by resolution 1998/269 of the Commission of Human Rights and decision 1998/72 of the Economic and Social Council. For more information on his work, see:

<http://www2.ohchr.org/english/issues/development/groups/index.htm>

⁸ Dr Sengupta's first report under his current mandate is A/62/183. Available at:

<http://www.un.org/ga/third/62/doclist.shtml>

⁹ <http://www2.ohchr.org/english/issues/development/groups/index.htm>

¹⁰ See <http://www2.ohchr.org/english/issues/development/groups/index.htm> for the report of the 8th session of the Working Group which took place in Geneva from 26 February to 2 March 2007, as well as the 3rd report of the high level taskforce meeting that took place in Geneva from 22 to 26 January 2007.

¹¹ The three partnerships are the African Peer Review Mechanism, the Economic Commission for Africa/ Organization for Economic Cooperation and Development-Development Assistance Committee Mutual Review of Development Effectiveness, and the Paris Declaration on Aid Effectiveness.

beyond MDG 8, and it will be necessary to develop criteria to cover these areas. At some point the international community will need to discuss whether a legally binding instrument or other measures would be more helpful in implementing the right to development.

Resolution and outcome

*Draft resolution on the right to development*¹²

This Resolution:

- Recognizes that extreme poverty and hunger are the *greatest* global threat that require the collective commitment of the international community for their eradication;
- Supports the realization of the mandates of both the Working Group and the high level taskforce, as renewed for a period of two years;¹³
- Stresses the importance of the endorsement of the road map proposed in the report of the Working Group on the right to development;
- Emphasizes the importance that the Working Group take appropriate steps for ensuring respect for and implementation of standards for the implementation of the right to development, which could take various forms and evolve into a basis for consideration of an international legal standard of a binding nature, through a collaborative process of engagement;
- Takes note with appreciation the adoption of the Convention on the Rights of Persons with Disabilities';¹⁴ and
- Stresses the GA's commitment to indigenous peoples in the process of realizing their right to development and their human rights as highlighted in the UN Declaration on the Rights of Indigenous Peoples.¹⁵
- Requests the Secretary-General to report on this matter at the 63rd session of the General Assembly and provide an interim report to the Human Rights Council, and invites the Chairperson of the Working Group to present a verbal update to the 63rd session of the GA.

Sponsored by **Cuba**, on behalf of the Non-Aligned Movement (NAM), this year's annual resolution on the right to development builds upon last year's text¹⁶ by adding one new pre-ambular paragraph and adding or amending several operative paragraphs. For example it recognizes extreme poverty and hunger as 'the greatest global threat', rather than just another of the threats requiring international action.¹⁷ It also expresses 'support' for the mandates of the Working Group and the high level taskforce on the right to development,¹⁸ rather than 'recognition' of the decision giving rise to their mandates as was the case last year.¹⁹ Some of the additional paragraphs refer to the GA's adoption of two new human rights instruments: the Convention on the Rights of Persons with Disabilities and the Declaration on Rights of Indigenous Peoples.²⁰ The paragraph referring the Declaration refers in some

¹² A/C.3/62/L.49. Available at: <http://www.un.org/ga/third/62/propslist.shtml>

¹³ A/HRC/RES/4/4. Available at: <http://ap.ohchr.org/documents/E/HRC/resolutions/A-HRC-RES-4-4.doc>

¹⁴ The General Assembly adopted the Convention on the Rights of Persons with Disabilities and its Optional Protocol on 13 December 2006. For more information, see: <http://www2.ohchr.org/english/issues/disability/convention.htm>

¹⁵ The General Assembly adopted the Declaration on the Rights of Indigenous Peoples on 13 September 2007. For more information, see: <http://www2.ohchr.org/english/issues/indigenous/declaration.htm>

¹⁶ A/RES/61/169. Available at: <http://www.un.org/Depts/dhl/resguide/r61.htm>

¹⁷ PP 16.

¹⁸ See OP 2 and OP 3.

¹⁹ See A/RES/61/169, OP 2 and OP 3.

²⁰ OP 31 and OP 32. Note the resolution 'takes note with appreciation' of the disabilities convention.

detail to the rights of indigenous peoples in the context of the right to development, and makes a 'commitment to the indigenous peoples',²¹ suggesting that the GA intends to take a lead role in integrating indigenous rights into its work.

One of the more contentious issues throughout the informal consultations was operative paragraph 10(d), which deals with operationalising the right to development and contemplates a convention as one means of achieving this outcome. This was in marked contrast to the more cautious approach in the Human Rights Council's resolution on the right to development at its fourth session where it 'decided' that once a set of standards for the elaboration of the right to development is elaborated, the Working Group will take steps to ensure the standards are applied, which could mean the standards 'evolve into a basis for consideration of an international legal standard of a binding nature'.²² However, at the Third Committee informal meetings where the resolution was negotiated, the NAM was not able to reach agreement with the European Union (EU), Canada, New Zealand and several other delegations on this point as the latter delegations could not accept language that indicated firm support for a legally binding commitment on the right to development.

The vote

In introducing the resolution, Cuba declared that the right to development is on a par with all other human rights and fundamental freedoms, and called on the Human Rights Council and the GA to agree on a program of work that would ensure progress is made to reflect this status. Cuba also stated that while it could not allay the concerns of the European Union regarding an international legally-binding instrument on the right to development, several delegations, notably Switzerland, made constructive proposals that helped push this resolution forward and improve upon last year's text.

The representative of the United States (US) reaffirmed his delegation's previous voting history of opposing this resolution. The US believes that the right to development is an individual right, while the resolution presents it as a collective right. The draft resolution also contains initiatives that the US found objectionable, such as future consideration of a legally binding instrument on the right to development.

The representative of Portugal, on behalf of the EU, stated that the realisation of the right to development is extremely important to the EU, as evidenced by its high level of participation in the informal consultations. The EU joined consensus on a resolution on the right to development at the 4th session of the Human Rights Council earlier this year.²³ However, Portugal then asserted that it is the primary responsibility of States to create an appropriate environment for development. The EU also felt that it did not have enough time to work with the text for all of its concerns to be accommodated, thus it could not support the resolution.

The Chairman informed the Third Committee that a recorded vote had been requested, and at the request of Cuba, he advised that the US had made the request. The result of the vote on the resolution on the right to development was: 121 supported, 52 opposed, and Vanuatu abstained. Among those delegations that voted against the draft were member States of the EU, the US and Japan. Last year, the

²¹ OP 32. Indigenous peoples are also referred to in PP 7, which expresses 'deep concern' about the poverty and inequity experienced by indigenous peoples.

²² See Human Rights Council resolution 4/4, adopted without a vote on 30 March 2007, available at <http://ap.ohchr.org/documents/E/HRC/resolutions/A-HRC-RES-4-4.doc>

²³ A/HRC/RES/4/4. Available at: <http://www2.ohchr.org/english/bodies/hrcouncil/4session/resolutions.htm>

resolution on the right to development was also adopted by the Third Committee with 126 votes in favour, 51 against, and 1 abstention, followed by the adoption of the resolution at the General Assembly (134-53-0).

In an explanation of vote after the vote, the representative of Colombia said that he voted in favour of the resolution, but wanted to stress that his comprehension of operative paragraph 32 referred to a commitment to help indigenous peoples realise their right to development.

The representative from Japan said that his Government was firmly committed to the right to development. Furthermore, he noted that Japan has greatly contributed to the formulation of the right and has continually been one of the leading development cooperators. However, Japan voted against the resolution because it believes that the right to development is an individual right, not a right that should dictate relations between States. While the Japanese Government believes that international cooperation is integral to the right, it does not deem it appropriate to make it a legal requirement.

Looking Forward

The high level taskforce has been reconstituted and is set to meet in January 2008. At this meeting, the progress of the implementation of previous recommendations will be consolidated and the plan for Phase II of the roadmap will be deliberated upon. The taskforce will then make recommendations to the Working Group. The Chairperson-Rapporteur firmly believes that the right to development has entered a crucial stage where the design and implementation of policies needs to be effectively developed.

The Right to Food

Presentation of the Special Rapporteur on the right to food²⁴

On 25 October 2007, Mr. Jean Ziegler, the Special Rapporteur on the right to food, presented his annual progress report to the Third Committee. During his oral presentation, the Special Rapporteur highlighted findings and recommendations from his report, including:

- The number of people suffering from hunger has been steadily increasing since 1996, violating people's right to adequate food; yet hunger is not inevitable.
- It is unacceptable that so many children continue to die from starvation each year, and yet so little progress has been made towards meeting the Millennium Development Goal of halving the proportion of people who suffer from hunger.
- States should extend the principle of *non-refoulement* to refugees fleeing hunger, stop deporting them, and develop a new international legal instrument to protect this otherwise unrecognized category of refugees.

²⁴ Mr. Jean Ziegler is the Special Rapporteur on the right to food. His mandate was created by resolution 2000/10 of the Commission on Human Rights and extended for three years by resolution 2003/25 of the Commission on Human Rights. For more information on his work, see:

<http://www2.ohchr.org/english/issues/food/index.htm>

- It is a 'crime against humanity' to use arable land to produce biofuels instead of food.²⁵ States should implement a five-year moratorium on the production of biofuels from food crops and develop standards in the production of biofuels to ensure they create employment and development.²⁶
- States should ensure that their international economic and trade policies do not negatively impact on the right to food in other countries. To this end, agricultural dumping, particularly in African markets, must end.

Interactive Dialogue

Several States either cautioned against rushing into the biofuel moratorium or expressed their opposition to it.²⁷ Burkina Faso raised concerns about the failure of successive trade talks to curb the incidence of agricultural dumping, and the Special Rapporteur agreed that trade subsidies had to be removed and States had to agree to cease agricultural dumping as a matter of urgency. In answer to questions about the linkages between the right to food and cultural rights, the Special Rapporteur praised some UN agencies for their work to integrate these two rights in their programs,²⁸ but was critical of the International Monetary Fund and the World Trade Organisation for their 'totally contradictory policies' and failure to accept economic, social, and cultural rights as human rights. The Special Rapporteur concluded by noting that this was his last report to the Third Committee prior to his mandate ending.

Resolution and outcome

*Draft resolution on the right to food*²⁹

The Resolution:

- Considers it 'intolerable' that more than 6 million children still die every year from hunger-related illnesses and some 854 million people are undernourished.
- Encourages the Special Rapporteur to continue mainstreaming the gender perspective in fulfillment of his mandate and encourages all UN bodies to do likewise.
- Recognises that support by States for small farmers, fishing communities and local enterprises is key to food security and provision of the right to food.
- Stresses that all States should ensure their international policies do not negatively impact on the right to food in other countries.

²⁵ The Special Rapporteur explained that within five years, the technology to produce biofuels from agricultural waste would be available; in the meantime, arable land should be dedicated to food production.

²⁶ Biomass is material derived from recently living organisms. This includes plants, animals and their by-products. Agricultural products specifically grown for biofuel production include corn, switchgrass, and soybeans, primarily in the United States; rapeseed, wheat and sugar beet primarily in Europe; sugar cane in Brazil; palm oil and miscanthus in South-East Asia; sorghum and cassava in China; and jatropha in India. For more information see: <http://en.wikipedia.org/wiki/Biofuels>

²⁷ Columbia suggested a full analysis of the idea of a moratorium on biofuels is needed, whereas Brazil, Indonesia and Paraguay elaborated on how biofuels had improved their economy, and cautioned against the moratorium. Switzerland emphasized that biofuels are a clean, alternative source of energy that created jobs and would help resolve trade issues.

²⁸ The Special Rapporteur made complimentary remarks about the Food and Agriculture Organisation (FAO), the UN Children's Fund (UNICEF) and the World Food Program (WFP).

²⁹ A/C.3/62/L.53/Rev.1. Available at: <http://www.un.org/ga/third/62/propslist.shtml>

- Calls on States, the UN system and other stakeholders to support national efforts to respond to the food crisis across Africa, and expresses deep concern that funding shortfalls are forcing the World Food Program to cut operations, including in Southern Africa.
- Decides to continue consideration of the question at the 63rd session of the GA.

Sponsored by **Cuba**, on behalf of the Non-Aligned Movement (NAM), the resolution builds upon last year's General Assembly *Resolution 61/163*³⁰ and *Resolution 6/2* of the Human Rights Council.³¹

Although almost all of the language remains intact from the previous GA resolution as a result of Cuba's desire to maintain the consensus, there are a number of important additions or entirely new paragraphs, including:

- A new operative paragraph 'reaffirming' that food programs need to be inclusive of and accessible to persons with disabilities;³²
- An addition to an existing paragraph to 'stress' the GA's 'commitment ...to promoting and protecting ...the economic, social and cultural rights of indigenous peoples in accordance with ...the Declaration on the Rights of Indigenous Peoples';³³
- A new operative paragraph 'recognising' the need for 'national protection mechanisms for people forced to leave their homes and land because of hunger or natural or man-made disasters'.³⁴ This gives partial effect to the Special Rapporteur's recommendation regarding the need for legal protections for refugees from hunger;
- A new operative paragraph that 'stresses that all States' should ensure that their international policies and trade agreements do not negatively impact on the right to food in other countries – as recommended by the Special Rapporteur;³⁵ and
- An addition to an existing paragraph expressing much stronger language in support for the 'valuable work and commitment of the first mandate-holder' and a new paragraph to 'support' the extension of the mandate by the HRC for three years.³⁶

One of the more contentious issues throughout the informal consultations was the inclusion of reference to the code of conduct for special procedures mandate-holders as detailed in Human Rights Council *Resolution 5/2*.³⁷ The NAM countries led by Russia were insistent on a reference to either resolution 5/2 or the code of conduct itself, whereas several other States, most notably the EU, felt that no reference should be made to the code of conduct or the resolution establishing it. These discussions echoed a larger debate that was occurring simultaneously in the Third Committee concerning the Report of the Human Rights Council, which was ultimately resolved when the Committee adopted an amended resolution on the HRC Report.³⁸ As a result, there is no reference to either the HRC resolution or the code of conduct in the GA resolution on the right to food.

³⁰ A/RES/61/163. Available at: <http://www.un.org/Depts/dhl/resguide/r61.htm>

³¹ A/HRC/6/2. Available at: http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_6_2.pdf

³² OP 7.

³³ OP 12.

³⁴ OP 14.

³⁵ OP 17.

³⁶ OP25 and 26.

³⁷ http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_6_5.pdf

³⁸ For further detail on the debate in the Third Committee concerning the HRC Report, see ISHR's update available at: http://www.ishr.ch/hrm/nymonitor/new_york_updates/nyu_ga_62_adoption_report.pdf

The vote

In introducing the resolution, Cuba pointed to the large number of co-sponsors as an indication of the broad support for the basic human right to food.³⁹ Cuba also referred to the resolution's commendation of the work of the current mandate holder before making a number of minor oral amendments.

A number of States took the floor to make a statement prior to consideration of the resolution to raise concerns and objections. For example, Finland withdrew its sponsorship of the resolution on the basis that operative paragraph 12 only requires that the Assembly "take into account" the Declaration on the Rights of Indigenous Peoples. Finland, along with Guatemala, felt that this requirement should have been expressed in much stronger terms. Returning to the findings in the Special Rapporteur's report, Columbia disputed that its domestic biofuels industry was violating human rights, and distanced itself from the report's recommendations regarding the need for changes to the biofuels industry.

The representative of the United States of America (USA) requested a recorded vote on the resolution. Although the US acknowledged that the world food situation is of profound significance, it explained it was not able to support the text because attainment of food security and freedom from hunger are aspirational goals that can only be realized progressively. The USA was concerned that the draft resolution contained inaccurate terminology and downplayed government responsibility to provide food security. The US spoke of its role as the largest donor of humanitarian food and affirmed its desire to find consensus on next year's draft.

The draft resolution on the right to food was voted on and adopted with: 176 in support, 1 opposed (USA), and no abstentions. Last year the resolution on the right to food was adopted along similar lines in both the Third Committee (175 – 1 – 0) and the General Assembly (185 – 1 – 0).

In an explanation of vote after the vote, Paraguay voted in favour because it is a land-locked agricultural country with a small, vulnerable economy. It believes the work of the Special Rapporteur should not exceed his mandate and should not over-emphasise 'emerging issues'.⁴⁰ In a general statement after the vote, Ecuador said it was unable to accept the oral amendment that had been made by Cuba to operative paragraph 12 as it diminished the protection of the economic, social and cultural rights of indigenous peoples.

Looking Forward

The term of office of the current Special Rapporteur will end in 2008 and the Human Rights Council will need to appoint a new mandate-holder. The Special Rapporteur is required to submit an interim report to the General Assembly at its 63rd session.

³⁹ Some 163 States sponsored the resolution at the time it was voted on.

⁴⁰ Paraguay referred the Special Rapporteur to OP 33 of the GA resolution and resolution 2000/10 of the Commission on Human Rights. For more information on the Special Rapporteur's mandate, see:
http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2000-10.doc

The Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health

Presentation of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health⁴¹

On 25 October 2007, Professor Paul Hunt, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health, presented his report to the Third Committee. The Special Rapporteur's presentation highlighted the following recent advancements in the promotion of the right to health:⁴²

- The publication of *Reducing Maternal Mortality: The contribution of the right to the highest attainable standard of health*,⁴³
- The successful high-level global conference on maternal health in London which resulted in the launch of a new *International Initiative on Maternal Mortality and Human Rights*,⁴⁴
- The Indian Government's invitation to the Special Rapporteur to undertake a formal mission in November on the issue of maternal mortality;
- The publication of a report on human rights impact assessments;⁴⁵
- The publication of *Neglected Diseases: A Human Rights Analysis*,⁴⁶ and
- The *draft Human Rights Guidelines for Pharmaceutical Companies in relation to Access to Medicines (draft Guidelines)*.⁴⁷

The focus of the Special Rapporteur's statement was on the need for more concerted global action to address maternal mortality. Referring to the deplorable statistics on this largely preventable human rights problem, the Special Rapporteur pointed out that more of the world's attention is absorbed by 'disappearances' and death penalty cases, even though they are dwarfed by the sheer volume of deaths

⁴¹ Mr. Paul Hunt is the Special Rapporteur on the right to the highest attainable standard of health. His mandate was created by resolutions 2002/31 and 2004/27 of the Commission on Human Rights. For more information on his work, see:

<http://www2.ohchr.org/english/issues/health/right/>

⁴² A/62/214. Available at: <http://www.un.org/ga/third/62/docslist.shtml>

⁴³ Co-authored by Paul Hunt and Judith Bueno de Mesquita. This publication was produced by UNFPA, the European Union, and the University of Essex in 2007. For more information, see:

http://www2.essex.ac.uk/human_rights_centre/rth/docs/ReducingMaternalMortality.pdf

⁴⁴ The conference took place on 19 October 2007. For more information, see:

http://www2.essex.ac.uk/human_rights_centre/rth/docs/Launch_Flyer_low%20res.pdf

⁴⁵ *Impact Assessments, Poverty and Human Rights: A case study using the right to the highest attainable standard of health* was co-authored by Paul Hunt and Gillian MacNaughton in 2006 with funding from UNESCO. It seeks to develop methodologies and tools that will aid governments in undertaking human rights impact assessments. Available at: [http://www2.essex.ac.uk/human_rights_centre/rth/docs/Impact%20Assessments%209Dec06\[1\].doc](http://www2.essex.ac.uk/human_rights_centre/rth/docs/Impact%20Assessments%209Dec06[1].doc)

⁴⁶ Co-authored by Paul Hunt, Rebecca Steward, Judith Bueno de Mesquita, and Lisa Oldring. This issue paper was published by the Special Programme for Research and Training in Tropical Diseases in 2007. Available at:

http://www2.essex.ac.uk/human_rights_centre/rth/docs/Neglected%20Diseases.pdf

⁴⁷ The draft Guidelines address some key access-to-medicine issues, such as research and development for neglected diseases, pricing, ethical marketing and clinical trials. Available for public comment until 31 December 2007 at: http://www2.essex.ac.uk/human_rights_centre/rth/docs/PH%20draft%20guidelines%2019%20sept%202007.doc

resulting from childbirth. The Special Rapporteur called on the Human Rights Council to take a stronger leadership role on this issue by convening a Special Session on maternal mortality.

The Special Rapporteur also encouraged States and international organizations to invest more in addressing the underlying determinants of health, such as access to clean water and sanitation. This would help prevent illnesses from occurring and lessen the need for comparatively costly expenditure on medical care. When taking action in these areas, States should pay particular attention to the health needs of disadvantaged groups and individuals.

An emerging issue was also highlighted by the Special Rapporteur, namely the link between global warming and increased ill health. This problem occurs as access to dependable water sources declines and people are forced to resort to polluted alternatives. The Special Rapporteur called on the Human Rights Council to undertake a study on the impact of climate change on human rights as soon as possible.

A resolution on the right to health was not brought to the General Assembly this year or last year. The Human Rights Council last considered a resolution on the right to health in its second session (2006), and adopted it without a vote.⁴⁸

Interactive Dialogue

The interactive dialogue focused on two of the main themes of the Special Rapporteur's report: the recently prepared *draft Guidelines* and the prioritization of health interventions by States.

The representative of Libya inquired whether the Special Rapporteur's *draft Guidelines* would create legally binding human rights standards for pharmaceutical companies and why only two such companies had been willing to participate in the development of the *draft Guidelines*. The Special Rapporteur responded that the *draft Guidelines* would not be legally binding, but are intended to assist pharmaceutical companies to formulate policies on access to medicines that respect the right to health, as well as peoples' right to human dignity. In other words, the *draft Guidelines* should provide a 'credible and persuasive' tool to pharmaceutical companies that will assist them to understand the human rights dimensions of their work. Although he expressed regret that his initial proposal to finalise the *draft Guidelines* in a two stage 'cooperative process' had to be put aside due to lack of industry participation,⁴⁹ the Special Rapporteur advised that discussions with some companies and industry groups would continue. This 'consultative process' should allow the Special Rapporteur to finalise the Guidelines in early 2008.

Brazil and China both asked questions about the role of individual States, as well as the international community, in promoting the right to health. In response, the Special Rapporteur referred to the report on his mission to Uganda,⁵⁰ which looked exclusively at neglected disease, which are also known as 'poverty related' or 'tropical diseases'. The Ugandan report, when read together with the Special Rapporteur's publication titled *Neglected*, serves as a practical tool for good policy making that can

⁴⁸ The resolution was sponsored by Brazil and is available in A/HRC/2/L.9/Rev.2. It requested the Special Rapporteur to 'identify and explore' in his next report to the HRC after its fourth session 'the key features of an effective, integrated and accessible health system.'

⁴⁹ The Special Rapporteur chose not to speak on behalf of companies that have not cooperated. Rather he extended his appreciation to the two companies that have: Novartis and NovoNordisk.

⁵⁰ The Special Rapporteur visited Uganda from 17 to 25 March 2006. His report to the Commission on Human Rights at its 62nd session, E/CN.4/2006/48/Add.2, is available at: <http://www2.ohchr.org/english/issues/health/right/visits.htm>

assist States, donors and others in the international community to cooperate better on health matters. The Special Rapporteur also highlighted a number of positive initiatives individual States have taken to incorporate the right to health specifically, and human rights more generally, into their decision-making processes. These included:

- Brazil's recent sponsorship of consultations on the *draft Guidelines* which helped promote awareness and discussion at the national level; and
- Sweden's high level of cooperation during his official country visit in 2006,⁵¹ as well as its commitment to incorporate the right to health into its international development policy, which in turn encourages recipient countries to incorporate human rights into domestic law and policy.

Portugal, on behalf of the European Union (EU), asked how the United Nations treaty bodies can give more informed guidance to States in relation to the issue of prioritization of health interventions and respect for human rights. Portugal questioned whether the treaty bodies have sufficient skills and resources to adequately address this task. The Special Rapporteur agreed that treaty bodies need to do more work on this issue so that they can provide systematic guidance to States. He commented that the treaty body system is equipped to do so by way of Concluding Comments, however it remains the responsibility of States to make decisions about expenditure of finite national budgets.

Looking Forward

The Special Rapporteur's mandate was extended in 2005 and will expire in 2008.⁵² The Special Rapporteur is currently concluding his visit to India, which is focused on maternal mortality. The Special Rapporteur invites comments on his *draft Guidelines* until 31 December 2007 and expects to finalise these in early 2008. He advised the Third Committee that he will provide the Human Rights Council with his report on the key right-to-health features in a health system in the new year.

Human Rights and Cultural Diversity

Report of the Secretary-General on human rights and cultural diversity⁵³

On 24 October 2007, the Third Committee considered this report compiled by the Office of the High Commissioner for Human Rights (OHCHR). The report was one of several introduced by the New York Office of OHCHR, hence there was no interactive debate.

The report summarises responses from Member States, United Nations agencies and NGOs about the inter-relationship between human rights and cultural diversity which were submitted to OHCHR, pursuant to GA resolution 60/167.⁵⁴ Submissions commented on the social, cultural, and educational

⁵¹ The Special Rapporteur visited Sweden from 10 to 28 January 2006. His report to the Human Rights Council at its 4th session, A/HRC/4/28/Add.2, is available at: <http://www2.ohchr.org/english/issues/health/right/visits.htm>

⁵² Resolution 2005/24 of the Human Rights Council extended the mandate of the Special Rapporteur for three years. See <http://www2.ohchr.org/english/bodies/chr/special/themes.htm>

⁵³ A/62/254. Available at: <http://www.un.org/ga/third/62/doclist.shtml>

⁵⁴ The report was submitted in fulfillment of GA resolution 60/167. Participating countries include Albania, Azerbaijan,

initiatives undertaken by States and others to promote and protect cultural pluralism. The report notes that few of the recommendations in the submissions suggest action that could be taken at the international level to promote cultural diversity. Several States cited the importance of UNESCO's *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*,⁵⁵ which affirms that cultural diversity is a defining characteristic of humanity. In addition, the Observatory of Diversity and Cultural Rights referred to its work to promote international acceptance of the *Fribourg Declaration*,⁵⁶ a declaration on cultural rights that seeks to present in one text, cultural rights that have been already been recognised in international and regional human rights instruments and jurisprudence.

The report also contains an update on the consultation in October 2005 that was organised by OHCHR to define the scope of a new mandate for an independent expert on 'the promotion and enjoyment of the cultural rights of everyone and respect for different cultural identities', pursuant to the Commission on Human Rights resolution 2005/20.⁵⁷ The consultation involved Members States, NGOs, and regional and international organizations.⁵⁸ Although no consensus was reached regarding the creation of a mandate, the majority of participants agreed to continue such discussion.

Resolution and outcome

*Draft resolution on human rights and cultural diversity*⁵⁹

This Resolution:

- Recalls that States have a duty under the UN Charter to cooperate, irrespective of the differences in their political, economic and social systems (new preambular paragraph);
- Recognises that the promotion of the rights of indigenous people will contribute to cultural diversity;
- Expresses the GA's determination to prevent and mitigate cultural homogenisation;
- Urges all international actors to build an international order based on (inter alia) cultural diversity and universal human rights, and to reject all doctrines of exclusion based on racism and racial discrimination;
- Stresses the need to freely use the media and new technologies to create conditions for renewed dialogue among cultures and civilizations (new operative paragraph); and
- Requests the Secretary-General to consult and prepare a report on human rights and cultural diversity for the 64th session of the GA.

This biennial resolution, traditionally sponsored by **Iran**, seeks to affirm the international community's

Bosnia and Herzegovina, Costa Rica, Croatia, Cuba, Cyprus, Ecuador, Greece, Iraq, Japan, Lebanon, Mexico, Paraguay, and Syria. Other participants include UNICEF and the Observatory of Diversity and Cultural Rights.

⁵⁵ These Member States include Croatia, Cuba, Cyprus, Iraq, Syria, as well as UNICEF, and the Observatory of Diversity and Cultural Rights. See UNESCO, *Convention on the Protection and Promotion of the Diversity of Cultural Expression*, Paris, 20 October 2005. Available at <http://unesdoc.unesco.org/images/0014/001429/142919e.pdf>

⁵⁶ The Declaration and information about its development and who supports it is available at:

http://www.humanrights.ch/home/en/Standards/International/News/idart_5252-content.html?zur=554

⁵⁷ E/CN.4.2005/20, Report of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action on its third session. Available at

http://www.un.org/ga/search/view_doc.asp?symbol=E%2FCN.4%2F2005%2F20&Lang=E

⁵⁸ E/CN.4/2006/40. Available at

http://www.un.org/ga/search/view_doc.asp?symbol=E%2FCN.4%2F2006%2F40&Submit=Search&Lang=E

⁵⁹ A/C.3/62/L.39. Available at <http://www.un.org/ga/third/62/propslist.shtml>

commitment to ensuring that cultural diversity and pluralism are celebrated everywhere, as they create tolerant, diverse, and peaceful relationships between all cultures and civilizations.

The resolution incorporates two new preambular paragraphs and one new operative paragraph⁶⁰ into the text of GA resolution 60/167.⁶¹ The inclusion of a new preambular paragraph that 'takes note of' the Non-Aligned Movement's meeting on cultural diversity⁶² is an unusual development in a GA resolution, which generally avoid highlighting the work of particular regional political groupings. However the initial draft of this paragraph had used stronger language, 'welcoming' the Non-Aligned Movement meeting and its outcome documents, and these aspects of the paragraph were removed by oral amendment. A similar paragraph was included in the Human Rights Council's resolution on this thematic issue at its sixth session, and prompted similar concerns from the EU in that forum.⁶³

Three other preambular paragraphs were also removed by oral amendments to address concerns from the EU that the resolution was seeking to promote cultural rights in a way that undermined the universal nature of human rights.⁶⁴

A final oral amendment was made to operational paragraph 14, a new paragraph that originally introduced a reference to the role of 'communication technologies' in promoting global dialogue and understanding. Amendments to this paragraph made it more concise and strengthened it to include a reference to the need for 'free' use of both 'the media and new information technologies.'

The vote

Following the oral amendments, in explanation of its position, Belarus stressed that a human rights dialogue can only be fostered through the preservation of religious, cultural, and historical heritages of individual States. Belarus also welcomed the text's reference to the NAM meeting on cultural diversity and acknowledged that this was the first of its kind before the Committee.

The Third Committee then **adopted the resolution without a vote.**

Portugal, on behalf of the European Union, delivered a statement to clarify the purpose of the resolution and express the EU's appreciation for the sponsor's efforts to 'streamline the text and accommodate the EU's pressing concerns'. The statement emphasised that although the world is a very diverse and complex entity, humanity shares a set of universal values, and no culture, belief or religion stands above the fundamental freedoms of each and every individual. Portugal added that 'cultural diversity' cannot be used to justify an infringement on human rights as that would equate to cultural relativism. Portugal also noted that documents and agreements made by the NAM Ministerial Meeting have no bearing on non-NAM countries.

⁶⁰ PP 5, PP 9 and OP 14.

⁶¹ A/Res/60/167. Available at <http://www.un.org/Depts/dhl/resguide/r60.htm>

⁶² PP 9.

⁶³ Slovenia, on behalf of the EU members of the Council said that the reference to the Tehran Declaration was unacceptable and was not binding on non-NAM members. See ISHR's Human Rights Council Daily Monitor dated 28 September 2007 at: http://www.ishr.ch/hrm/council/dailyupdates/session_006/28_september_2007.pdf

⁶⁴ See PP 14, PP17 and PP 20 of A/C.3/62/L.39 available at <http://www.un.org/ga/third/62/propslist.shtml>

Looking forward

Although the General Assembly resolution did not consider the establishment of a mandate to promote human rights and cultural diversity, this was the focus of a resolution adopted by consensus at the recent sixth session of the Human Rights Council.⁶⁵ That resolution 'acknowledged' that there is a 'momentum towards the establishment of an independent expert on the promotion of the enjoyment of the cultural rights of everyone and respect for cultural diversity', and requested the High Commissioner for Human Rights to consult on the content and scope of the mandate and report to the HRC at its eighth session in June 2008. Slovenia (on behalf of the EU) expressed concern at the creation of such a mandate, indicating that there are differing opinions on this matter. Given that cultural diversity is considered biennially by the General Assembly, these consultations and any other developments in the thematic area will next be considered at its 64th session in 2009.

Human Rights and Foreign Debt⁶⁶

Presentation of the Independent Expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights⁶⁷

On 25 October 2007, Mr. Bernards A.N. Mudho, the Independent Expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights, addressed the Third Committee. The Independent Expert's report⁶⁸ details the expert consultations that took place in Geneva in July 2007 regarding the development of draft guidelines on the relationship between debt payments, structural reform programs, and human rights, pursuant to Human Rights Council decision 2/109. His report also highlights:

- The minimum standards and core obligations of States in protecting and promoting economic, social, and cultural rights.
- The use of the Millennium Development Goals (MDGs)⁶⁹ as an interim benchmark by which to judge progress.
- The inter-relationship between human rights, trade reforms, privatisation, and financial institutions.

The Independent Expert's presentation to the Third Committee included a summary of his report to the Secretary-General, as well as a discussion of progress towards the finalisation of the draft guidelines.⁷⁰

⁶⁵ A/HRC/6/L.3/Rev.1 was sponsored by Cuba and adopted by consensus with oral revisions.

⁶⁶ See ISHR's website for a summary of discussions about human rights and foreign debt during the 61st session of the General Assembly. Available at: http://www.ishr.ch/hrm/archive/GA/GA61/foreign_debt_61.pdf

⁶⁷ Mr. Bernards A.N. Mudho is the Independent Expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights. His mandate was created by resolution 2000/82 of the Commission of Human Rights and renewed for another three years by resolution 5/1 of the Human Rights Council. For more information about his work, see: <http://www2.ohchr.org/english/issues/development/debt/index.htm>

⁶⁸ A/62/212. Available at: <http://www.un.org/ga/third/62/docslist.shtml>

⁶⁹ <http://www.un.org/millenniumgoals/>

⁷⁰ The draft guidelines aim to provide a voluntary policy framework for States and international financial institutions in the design of economic reform and debt management policies that will advance human rights, particularly economic, social, and

He explained that the guidelines are directed at Member States and financial institutions dealing with debt payments and structural reform programs in developing countries. The guidelines are still open for comment from Member States until the Independent Expert presents them to the Human Rights Council in December 2007, where further deliberations will occur.

The Independent Expert stressed that both borrowers *and* creditors must share responsibility for new loans and debt sustainability. Thus when major economic reform programs are being considered, including macroeconomic stabilization, trade liberalization and social sector reform, the economic, social and cultural impacts should first be assessed to ensure that the recipient country will not be prevented from fulfilling its human rights obligations.

Further, there is also a need for the global economy to agree on common lending principles. These principles need to address cases of potentially unsustainable debt situations, and should include a requirement that both the negotiation and implementation of loan agreements are open to public scrutiny by the national legislature and civil society organizations.

Interactive Dialogue

The interactive dialogue was brief with only two States asking substantive questions. Kenya asked how States could usher in economic improvements without compromising cultural rights. The Independent Expert advised that States should take steps to ensure that proposed economic reforms are sensitive to the cultural rights of local populations; hence, the guidelines' recommended use of country and context-specific benchmarks to take account of underlying cultural sensitivities.

Indonesia commented that the draft guidelines are vague on how to ensure that countries with economic difficulties also understand the wider social context of their own policies. The Independent Expert remarked that it is not possible to have a single socio-economic formula to fit the specific situation of every country. He said that the World Bank and International Monetary Fund participated in expert consultations with him in Geneva in July 2007 and will discuss their efforts to link debt relief and with poverty reduction with him again next month.

Looking Forward

In December 2007, the Independent Expert will provide his draft guidelines to the Human Rights Council for finalisation. To date, the General Assembly has not passed any resolutions with respect to the agenda of work covered by the Independent Expert's mandate, the extension/renewal of his mandate, or his particular thematic area.

Globalisation and Its Impact on the Full
Enjoyment of All Human Rights

Report of the Secretary General on globalisation and its impact on the full enjoyment of all human rights⁷¹

On 24 October 2007, the Secretary-General's report on Globalisation was submitted to the Third Committee by the New York Office of the High Commissioner for Human Rights. The report was one of several introduced by the New York Office of OHCHR, hence there was no interactive debate.

The Secretary General's report responded to General Assembly resolution 61/156, which requested he seek the views of Member States and UN agencies on how globalisation impacts of the full enjoyment of human rights. The responses of six States are summarized in the report.⁷²

Resolution and outcome

Draft resolution on globalisation and its impact on the full enjoyment of all human rights⁷³

The Resolution:

- Realises that the globalization process has social, political, environmental, cultural and legal dimensions which impact on human rights, including the right to development.
- Emphasises the need for international, regional and bilateral cooperation to protect the rights of migrants.
- Recognises that the benefits of globalisation are very unevenly shared and its costs are unevenly distributed, affecting human rights, particularly in developing countries.
- Calls upon Member States, UN agencies and civil society to promote equitable and environmentally sustainable economic growth for managing globalization so that poverty is systematically reduced.
- Underlines the need to establish an equitable, transparent and democratic international system to strengthen and broaden the participation of developing countries in international economic decision-making and norm-setting.
- Underlines the need to continue to analyze the consequences of globalization for the full enjoyment of human rights and requests the Secretary General to submit a substantive report on the subject to the General Assembly at its 63rd session.

Sponsored by Egypt, the resolution is almost identical to last year's General Assembly resolution 61/156.⁷⁴ There is also some duplication of language with the comparatively brief Human Rights Council resolution on the same topic that was adopted by a vote at its fourth session.⁷⁵

The vote

Egypt stated before the vote that they are not pre-judging globalisation in this resolution.

Portugal, on behalf of the European Union (EU), advised it would vote against the resolution.

⁷¹ A/62/222. Available at: <http://www.un.org/ga/third/62/docslst.shtml>

⁷² The six States are: Croatia, Cuba, Ecuador, Lebanon, Mexico and Tunisia.

⁷³ A/C.3/62/L.31. Available at: <http://www.un.org/ga/third/62/propslist.shtml>

⁷⁴ A/RES/61/156. Available at: <http://www.un.org/Depts/dhl/resguide/r61.htm> The only change is in the final operative paragraph (OP 13) which requests the Secretary-General to report to the 63rd session of the GA on this matter.

⁷⁵ Resolution 4/5 was adopted with 34 votes in favour, 13 against, and no abstentions.

According to the EU, the resolution assumes that globalisation has a negative impact on all human rights, rather than acknowledging that it is a complex and multidimensional process that can cause positive outcomes, such as poverty eradication.

The Chairman informed the Third Committee that a recorded vote had been requested and following an inquiry from Egypt, advised a vote was requested by the United States. The result of the vote on the resolution on globalisation was: 112 supported, 52 opposed, and 3 abstentions.⁷⁶ Votes against the resolution came from the Western and Other group,⁷⁷ joined by Micronesia, Palau, Japan and the Republic of Korea. Last year's resolution on this matter was adopted along similar lines, with 113 votes in favour, 53 voting against, and 4 abstentions, followed by the adoption of the resolution at the General Assembly (130-54-3).

Looking Forward

The Secretary-General will continue seeking the views of States and United Nations agencies on the consequences of globalisation for the full enjoyment of all human rights and submit a report to the 63rd session of the General Assembly.

Human Rights and Extreme Poverty

The Secretary-General's campaign to *Stand Up Against Poverty*

On 17 October 2007 - the International Day for the Eradication of Poverty - the Secretary-General launched the UN's Stand Up against Poverty campaign.⁷⁸ Its goal is to generate international awareness of and government commitment to the eradication of poverty and the achievement of the Millennium Development Goals by 2015.⁷⁹ The opening festivities included coordinated gatherings held worldwide which set a world record for the most number of people to 'stand up against poverty' in twenty-four hours.⁸⁰ Among them were nearly 900 UN staff, diplomats and representatives of NGOs, including Secretary-General Ban Ki-moon, who gathered on the lawn of the UN Headquarters complex in New York. Further actions to sustain the momentum of the campaign are being planned.

The second annual UN's Stand Up against Poverty campaign is a joint venture of the UN's Millennium Campaign and the Global Call to Action against Poverty, supported and funded exclusively by a range of civil society, non-governmental, and faith-based stakeholders. The focus of these efforts is to empower the people who are most affected by the devastating effects of poverty.

⁷⁶ Brazil, Chile, and Singapore abstained.

⁷⁷ http://en.wikipedia.org/wiki/Western_European_and_Others_Group

⁷⁸ For more information on the Stand Up against Poverty campaign, see:

http://www.un.org/News/briefings/docs/2007/071018_Akasaka.doc.htm

⁷⁹ For more information on the Millennium Development Goals to end poverty <http://www.oct17.org/en;>

<http://www.un.org/apps/news/story.asp?NewsID=24337&Cr=poverty&Cr1=&Kw1=poverty&Kw2=&Kw3=> and http://www.un.org/News/briefings/docs/2007/071017_Poverty.doc.htm

by 2015, see: <http://endpoverty2015.org/goals>

⁸⁰ For more information on the 17 October 2007 event, see: <http://www.oct17.org/en;>

<http://www.un.org/apps/news/story.asp?NewsID=24337&Cr=poverty&Cr1=&Kw1=poverty&Kw2=&Kw3=> and http://www.un.org/News/briefings/docs/2007/071017_Poverty.doc.htm

Last year,⁸¹ the GA did not request the Independent Expert on the question of human rights and extreme poverty⁸² to forward his 2007 reports on his activities. Therefore no discussion on the subject took place during this session. It is not clear whether the resolution, previously a biannual resolution for the Committee, will be considered again during the 63rd session of the General Assembly.⁸³

⁸¹ See General Assembly Resolution 61/157 and http://www.ishr.ch/hrm/archive/GA/GA61/extreme_poverty_61.pdf

⁸² Dr. Arjun Sengupta is the Independent Expert on the question of human rights and extreme poverty. For more information about his work, see: <http://www.ohchr.org/english/issues/poverty/expert/index.htm> and http://www.ishr.ch/hrm/archive/GA/GA61/extreme_poverty_61.pdf

⁸³ The extension of the mandate of the Independent Expert will be addressed during the Human Rights Council's upcoming 7th session in March 2008.

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