

# COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

## HUMAN RIGHTS COUNCIL, 6<sup>TH</sup> SESSION DAILY UPDATE, 25 SEPTEMBER 2007

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### Overview

The Human Rights Council (the Council) continued the review, rationalisation and improvement of special procedures mandates (the review) with the consideration of the mandate of the Independent Expert appointed by the Secretary-General on the situation of human rights in Haiti. All States that took the floor, including Haiti itself, praised the current mandate holder, Mr Louis Joinet, for his work and the positive impact it had had in Haiti. A number of general comments were made regarding the process of the review, with some insisting that a more ‘holistic’ approach needed to be found – a proposal made by non-governmental organisations (NGOs) more than a year ago when the Council began its institution-building work.

The Council also continued consideration of Item 9 entitled ‘racism, racial discrimination, xenophobia and related forms of intolerance: follow-up to and implementation of the Durban Declaration and Programme of

Action'. It heard updates by the Chairperson of the Preparatory Committee for the Durban Review Conference, by the Chairperson of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action, and by the Deputy High Commissioner for Human Rights' on the High Commissioner's report on defamation of religions.

A large number of States and NGOs took part in the debate, which centred on the implementation of the recommendations of the Durban Declaration and Programme of Action (the Durban Declaration), the need for the 2009 Durban Review Conference to address pre-existing, contemporary, and emerging manifestations of racism, to fill protection gaps, and to promote inter-religious and intercultural dialogue and the need for new international standards to address contemporary and new manifestations of racism and intolerance, including defamation of religion and Islamophobia.

## Review of the mandate of the Independent Expert on the situation of human rights in Haiti

The President of the Council, H.E. Doru Romulus Costea, opened the discussion on the review, rationalisation and improvement of the mandate of the Independent Expert of the Secretary-General on the situation of human rights in Haiti by reiterating the process for the review of mandates. He stated that the procedure would begin by giving the floor to the concerned State to introduce and give its views on the mandate (eight minutes). This would be followed by the current mandate holder explaining his experience with respect to the mandate in question (six minutes). After this, member States would be allowed to express their views (three minutes), followed by interventions by observers (two minutes). The mandate holder would then take the floor a second time to present his or her final comments (three minutes), after which the debate would be concluded. The entire process should not, according to the President, last more than 90 minutes. He cautioned that the discussion should focus on the content of the mandate. With that, he gave the floor to the delegation of Haiti to present their initial comments.

### Statement of the concerned country

Haiti, the concerned country, began by repeating its request of 12 June 2007 for the one-year extension of the mandate of the Independent Expert. Haiti stated that most of the recommendations of the current Independent Expert, Mr Louis Joinet, were 'appropriate', as he was well-versed with the Haitian judicial system and that his respect for the authorities and his professionalism had generated a climate of confidence between all concerned partners working on human rights in Haiti, which had allowed for many achievements. These achievements included a variety of positive reforms, primarily pertaining to the judiciary and the police force.<sup>1</sup> Haiti also highlighted that good governance was one of the priorities of the Government and that the Head of State was carrying out a 'determined fight' against corruption and drug trafficking. He ended by saying that the Government of Haiti considered it necessary to enhance cooperation between the Independent Expert and the authorities of the country in working to consolidate the rule of law.

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<sup>1</sup> Reforms included the following:

- Laws of the higher council of magistrates and the status of the magistrature have been approved by parliament.
- To deal with extended preventative detention, the prosecutor's office and the court of first instance have been modernised, and a legal advisory service has been set up.
- For minor offences, a procedure of immediate court appearances is applicable.
- A national office for identification has been set up, with an independent civil servant who has been made head of the forensic medical institute.
- The 'purge' of the institution of the police is continuing and a motorised unit comprising 1,000 agents will be deployed in the Haitian capital to combat petty crime.
- The security climate has markedly improved due to the joint action by the UN Stabilisation Mission for Haiti and the Haitian National Police.

## Statement of the Independent Expert on Haiti, Mr Louis Joinet<sup>2</sup>

Mr Joinet then took the floor to state that he needed to utilise his time not only to encourage the Council to renew the mandate of a ‘simple expert’, but that he also had to ‘bear witness but not to plead’ for the utility of country-specific mandates as a whole, in light of his 28 years of experience as a United Nations (UN) independent expert. He said that he was convinced that the representative of Haiti who had just spoken of the need to renew the mandate of the Independent Expert was doing so without pressure from any quarters. He said that if anyone had any questions about this he would like to remind them that this was not purely an initiative of President Rene Preval and the present Government, and that the renewal of the mandate was supported not only by the transition government of the Prime Minister Gerard Latortue but also by the government of President Jean-Bertrand Aristide.

He went on to say that while some may view this country mandate as ‘selective’, Haiti itself wished to renew the mandate. Mr Joinet said that the Council had now placed the mandate holders under ‘trusteeship’ through the adoption of the Code of Conduct. He stated that any further attempts to control the work of the special procedures could damage the special procedures system itself. He compared the universal periodic review (UPR) and the special procedures, stating that the UPR only involved the submission of reports and a very short review process, while special procedures could undertake investigations in the field. He also argued that the entire UPR process would occur within only four hours. Therefore, if the UPR was indeed to be considered ‘progress’, how could it be rendered redundant with the work of the Independent Expert on Haiti? He urged that the conversation on the renewal of the mandate of the Independent Expert should be steered towards ‘complementarity’ of the two mechanisms rather than focus on their ‘incompatibility’.

### Interactive dialogue

The President then opened the floor for statements. A large number of the States that took the floor expressed their support for the renewal of the mandate of the Independent Expert on Haiti.<sup>3</sup> The statements made by speakers fell into two broad categories – general comments on the process of review of mandates, and the human rights situation in Haiti. While some States wanted to establish the modalities of the review of all special procedures, other States focussed on the need to renew the mandate of the Independent Expert because of the continuing precarious human rights situation in Haiti.

### ***Process of review, rationalisation and improvement of mandates***

Egypt (on behalf of the African Group)<sup>4</sup> took the floor to state that in the case of ‘technical cooperation mandates’, the Council should be mindful of the principles enshrined in the institution-building text of 18 June.<sup>5</sup> It stated that decisions to create, review or discontinue country mandates should take into consideration the principles of cooperation and dialogue,<sup>6</sup> in order to strengthen the capacity of member States to comply with their human rights obligations. Egypt referred to certain points made by Haiti to support its argument. It stated that Haiti had identified certain ‘vital parameters’ to assess the effectiveness of technical assistance

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<sup>2</sup> Oral statements made at the Council can be found on the OHCHR extranet, which can be accessed at [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm) (fill out the form on the page to receive the user name and password). Recorded video and audio files of all formal meetings of the Council are available on the webcast: <http://www.un.org/webcast/unhrc/index.asp>.

<sup>3</sup> Portugal, on behalf of the European Union (EU), France, Cuba, Peru, Mexico, Canada, Switzerland, Guatemala, Uruguay, Chile, Luxembourg and Brazil.

<sup>4</sup> Egypt’s statement on behalf of the African Group was endorsed by Algeria and Morocco.

<sup>5</sup> *Resolution 5/1*.

<sup>6</sup> This point was echoed by Cuba.

country mandates. First, the express will of the country concerned to cooperate with the mandate and the mandate holder,<sup>7</sup> free from ‘political pressures’. Second, the obligation of the mandate holder to respect the authorities of the country concerned and build a ‘climate of confidence’. Third, the relevance of the work of the mandate holder and the recommendations made. Fourth, ‘clear and measurable positive results’ that could be attributed to the work of the concerned mandate holder.

Egypt (on behalf of the African Group) stated that it was evident from the points made both by Haiti as well as Mr Joinet that this mandate was likely to be renewed as it fulfilled the ‘clear and objective criteria’ just mentioned. However, it pointed out that this may not be the case with all other similar mandates. It called for a ‘clear and in-depth evaluation’ to be made when considering the future of a technical assistance mandate or any other existing mandate, for that matter. Egypt (on behalf of the African Group) characterised ‘country mandates’ as a ‘political label’ that did not provide the optimum avenue to achieving human rights objectives, especially when other means existed to address country situations. It stated that the existence of a mandate should neither be the goal of the review process, nor was it a guarantee of the improvement of the human rights situation in a particular country.

Pakistan (on behalf of the Organization of the Islamic Conference (OIC)) made a general statement on the review of mandates. It recalled the process for the review of mandates as set out in *Resolution 5/1* and stated that the decision to streamline, merge or eventually discontinue mandates should aim at the improvement of the enjoyment and protection of human rights. Pakistan then went on to highlight eight guiding principles for the assessment process, derived from *Resolution 5/1*.<sup>8</sup> Pakistan then listed the work that remained to be completed in order to fully implement *Resolution 5/1*, including:

- Arrange for an ad hoc extension of special procedures until the review process is completed;
- Outline a time frame for the review of all special procedures, which Pakistan believed should be independent of the negotiation of the respective resolutions;
- Define review, rationalisation and improvement of mandates in the light of the ‘guidelines’ supplied by *Resolution 5/1*;
- Set concrete goals for the review;
- Hold structured discussions on the relevance, scope, and content of the mandate; and
- Spell out minimum criteria for reviewing all mandates.

Pakistan (on behalf of the OIC) stated that it required more time to consider the possibility of tabling a draft resolution addressing the review, rationalisation and improvement of all special procedures and suggested that such an initiative should come from the President. It restated its position that the presentation of the report of the mandate holder should not form part of the review of the mandate; that extending a mandate through one operative paragraph in the relevant resolution would not constitute a review of the mandate; and lastly that the outcome of individual reviews of special procedures should be consolidated to obtain a ‘holistic picture’.

Algeria stated that the reason for the disappearance of the former Commission on Human Rights (the Commission) was the fact that its country mandates under Item 9 of the Commission’s agenda were ‘selective’ and ‘politicised’. Algeria also drew attention to the remark made by Mr Joinet regarding the Code of Conduct, stating that it wished for reference to it to be made in the various resolutions renewing mandates.

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<sup>7</sup> Algeria added to this later by stating that it always supported respecting the will of the country concerned when it came to country mandates.

<sup>8</sup> The guidelines require: an increased level of protection; coherence within the human rights system; that equal attention be paid to all human rights; avoiding duplication; bridging thematic gaps; that merging of mandates be undertaken with content, function, and workload in mind; creating or reviewing a mandate with the suitability of its structure in mind; and making new mandates as clear as possible in order to avoid ambiguity. For further detail, please refer to *Resolution 5/1*, available on the OHCHR extranet.

## ***Human rights situation in Haiti***

Several States highlighted that significant progress had been made in Haiti.<sup>9</sup> However, many felt that much remained to be done, and therefore called for the renewal of the mandate of the Independent Expert. Issues raised included the problem of drug trafficking,<sup>10</sup> poverty,<sup>11</sup> the status of women,<sup>12</sup> economic, social and cultural rights,<sup>13</sup> corruption,<sup>14</sup> issues relating to the functioning of the police<sup>15</sup> and prisons,<sup>16</sup> and violent crime.<sup>17</sup>

Portugal, on behalf of the European Union (EU), was the first of many States to commend the work of the Independent Expert in maintaining a 'fruitful and demanding dialogue' with the Government of Haiti and to call for the renewal of his mandate. France said that while progress had certainly been made, the Government still faced many challenges, and that the situation still required the attention of the Council. Canada also stated that the human rights situation in Haiti was still of concern and that the renewal of the mandate was 'indispensable', a view that was shared by several other States.<sup>18</sup>

Many speakers highlighted the importance of the cooperation between the Independent Expert and the Government of Haiti.<sup>19</sup> President Costea also stated that this mandate was an example of what a country mandate could achieve in the field. Mexico referred to the cooperation between Haiti and the Independent Expert as 'exemplary' when commending the significant progress made.

Several States drew attention to the important role of the United Nations Stabilisation Mission to Haiti (MINUSTAH),<sup>20</sup> with Peru calling for the renewal of its mandate.

## Discussion on Item 9

### **Preparatory Committee for the Durban review conference**

Ambassador Najat Al-Hajjaji of the Libyan Arab Jamahiriya (Libya), Chairperson of the Preparatory Committee for the Durban Review Conference<sup>21</sup> (the Preparatory Committee) gave an oral statement detailing the work of the first session of the Preparatory Committee.<sup>22</sup> She noted that after considerable dialogue,

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<sup>9</sup> Chile, Uruguay, Switzerland, Peru, Mexico, France, Portugal (on behalf of the EU).

<sup>10</sup> Haiti, France.

<sup>11</sup> Luxembourg, Brazil.

<sup>12</sup> Mexico, Canada, Brazil.

<sup>13</sup> Cuba, Luxembourg.

<sup>14</sup> Haiti, France, Chile.

<sup>15</sup> Portugal (on behalf of the EU), France, Canada, Chile, Luxembourg, International Federation for Human Rights (FIDH).

<sup>16</sup> Canada and Luxembourg.

<sup>17</sup> France.

<sup>18</sup> Uruguay, Guatemala, Chile.

<sup>19</sup> Mexico, Chile, France, Cuba.

<sup>20</sup> Chile, Morocco, Brazil.

<sup>21</sup> The Preparatory Committee for the Durban Review Conference held its organisational session in Geneva from 27 to 31 August 2007. It held nine meetings during the session. For the draft report on the session visit [http://www.ohchr.org/english/issues/racism/groups/prep\\_committee\\_durban/docs/prepcomdraft.doc](http://www.ohchr.org/english/issues/racism/groups/prep_committee_durban/docs/prepcomdraft.doc).

<sup>22</sup> This session was held from 27 to 30 August 2007.

consensus was reached on a number of key issues. She then outlined some of the decisions that were adopted by the Preparatory Committee. These included:

- Rules for the participation and consultation of observers, including the criteria and practice for NGO participation in Preparatory Committee sessions.
- Appointment of the High Commissioner for Human Rights (the High Commissioner), Ms Louise Arbour, as the Secretary-General of the Durban Review Conference.
- Recommendation that the Human Rights Council adopt a decision inviting the Council to submit its report to the General Assembly
- Adoption of provisional rules for the Durban Review Conference.
- Preparation of reports and other documents for the Durban Preparatory Committee, including review of the work of the Committee by States.
- Agreement that preparatory meetings and activities should be carried out at the international, regional, and national levels. Reports of such activities should be submitted to the Preparatory Committee.
- Request for the Secretary-General of the United Nations to provide the necessary resources for the Conference and for the High Commissioner to revitalise the voluntary fund set up for the Durban Conference.
- Agreement on the objectives for the Durban Review Conference.<sup>23</sup>

Ms Al-Hajjaji emphasised the importance of the fight against racism and noted that it was essential to human rights, democracy, the consolidation of the rule of law, and sustainable development. She regretted that six years had passed, and despite continuing efforts, racism and racial discrimination continued to be the root cause of numerous human rights violations. She stressed that the Durban Review Conference would give new impetus and ‘global unity’ to the fight against racism.

In the debate that followed, many States expressed their commitment to the implementation of the Durban Declaration and Programme of Action and to the eradication of racism, racial discrimination, xenophobia, and related intolerance.<sup>24</sup> A number of States expressed gratitude for the work of Ambassador Najat Al-Hajjaji of Libya in chairing the Preparatory Committee for the Durban Review Conference:

- Discussion centred on the implementation of the recommendations of the Durban Declaration and Programme of Action (DDPA), and the need for the 2009 Durban Review Conference to address pre-existing, contemporary, and emerging manifestations of racism, to fill protection gaps, and to promote inter-religious and intercultural dialogue.
- Several States acknowledged the important role of the Preparatory Committee and welcomed the consensus reached on a number of important issues. They urged all States to maintain a consensual approach to the future work of the Working Group.<sup>25</sup> China stated that the adoption of important decisions by consensus was a good working basis for the Preparatory Committee. Peru stated that the decisions

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<sup>23</sup> These objectives included: 1) to review progress and assess implementation of the Durban Declaration and Programme of Action by all stakeholders at the national, regional, and international level, including contemporary manifestations of racism, racial discrimination, xenophobia, and related intolerance through investigation of concrete measures taken to eliminate racism and to foster the implementation of the Durban Declaration and Programme of Action; 2) to assess the effectiveness of existing Durban follow-up mechanisms in order to enhance them; 3) to promote universal ratification and implementation of the *International Convention on the Elimination of all forms of Racial Discrimination* and prepare proper consideration of the recommendations of the Committee on the Elimination of Racial Discrimination; 4) to enhance the effectiveness of mechanisms to combat racism; 5) to identify and share good practices.

<sup>24</sup> Azerbaijan, Italy, Russian Federation, Switzerland, Pakistan, Malaysia, Senegal, China, Mexico, Peru, Nicaragua, Indonesia, Bangladesh, Republic of Korea, Turkey, Rwanda, Morocco, the Democratic People’s Republic of Korea (DPRK), Algeria, Tunisia, Panama, Norway, Argentina, Venezuela.

<sup>25</sup> Switzerland, Mexico, Turkey, Norway, Argentina.

made were a solid basis for the Review Conference. Norway characterised the decisions made as 'concrete, realistic and constructive'.

- Portugal (on behalf of the EU)<sup>26</sup> stated that it remained committed to conducting a review of the Durban Conference in the context of the General Assembly as agreed with members of the G77 and other States. Egypt (on behalf of the African Group) noted a lack of political will for the implementation of the DDPA, and therefore believed that there was a greater need for the Review Conference. It urged all States to respect the 'agreements' reached and not to reinterpret them and to use the Preparatory Committee to strengthen rather than weaken the review process.
- Malaysia and China expressed the hope that the Review Conference would address the lack of full implementation of the DDPA. Senegal stated that the Review Conference should be used to take stock of progress made and to renew the impetus for the eradication of racism and discrimination.
- Many States expressed the view that the Durban Review Conference should assess the implementation of the DDPA but also address contemporary and emerging forms of racism, racial discrimination and related intolerance.<sup>27</sup> Cuba advocated the identification of additional measures and solutions to combat new forms of racism as a goal of the Review Conference. South Africa expressed its hope that the review conference would assess the implementation of the DDPA and identify mechanisms for further implementation. It expressed concern at recent manifestations of racism.
- The Russian Federation welcomed the decision regarding NGO participation in the Preparatory Committee and stated that it would allow for the most effective and broad engagement. Several States supported a broadly based and participatory review conference.<sup>28</sup> The Women's International League for Peace and Freedom (in a joint statement) expressed regret at the exclusion of many NGOs accredited for the Durban Conference from the Preparatory Committee. They hoped that victims of discrimination would be fully engaged in the preparation of the review conference, and noted that this would require specific and material support.
- States and NGOs<sup>29</sup> also called for the revitalisation of the Durban fund to support the work of the Preparatory Committee and the Durban Review Conference. China called for such funding to come from the Office of the High Commissioner for Human Rights (OHCHR) and donor countries. Pakistan expressed its hope that OHCHR's Anti-Discrimination Unit would also receive 'adequate support'. Egypt (on behalf of the African Group) suggested that the High Commissioner devote more resources to the issue of racism and racial discrimination. Cuba urged all States to allocate the necessary budgetary resources for the Review Conference and for national and regional preparatory initiatives. South Africa called for financial assistance to be granted to least developed countries and NGO representatives, and asked the Preparatory Committee to focus on the full and active participation of NGOs.
- South Africa requested the Council to adopt a decision that would ask the Preparatory Committee to report to the General Assembly.

Ambassador Najat Al-Hajjaji was then given the floor to reply to the comments made. She noted that all delegations had expressed satisfaction with the results of the organisational session of the Preparatory Committee and had welcomed the spirit of consensus that they wished to see prevail. States had also expressed support for evaluating the implementation of the DDPA since new forms of racism continues to be relevant and she noted that the Review Conference would be a valuable opportunity to tackle these new forms of racism, including Islamophobia and 'religion phobia'. She emphasised the importance of focusing on implementation and to continue to listen to civil society. She ended her statement by appealing to States to ensure that the spirit of consensus and harmony continues to prevail.

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<sup>26</sup> The candidate countries Turkey, Croatia, and the former Yugoslav Republic of Macedonia, the countries of the Stabilisation and Association Process and potential candidates Albania, Bosnia and Herzegovina, Montenegro, Serbia, and the EFTA country Liechtenstein as well as Ukraine, the Republic of Moldova, Armenia, and Georgia aligned themselves with the statement.

<sup>27</sup> Azerbaijan, Pakistan, Cuba, South Africa, Malaysia, China, Nicaragua, Algeria, Tunisia, Morocco.

<sup>28</sup> South Africa, Norway.

<sup>29</sup> South Africa, Pakistan, China, Algeria, Woman's International League for Peace and Freedom.

## Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action

Ambassador Juan Martabit of Chile, the Chairperson of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action<sup>30</sup> (the Working Group) gave a brief update on the first and second parts of the Working Group's 5<sup>th</sup> session.<sup>31</sup>

Mr Martabit pointed out that he had already made an oral presentation during the 4<sup>th</sup> session of the Council, concerning the first part of the Working Group's work, which had been devoted to studying national action plans and their implementation in countries.<sup>32</sup>

The second part of the 5<sup>th</sup> session of the Working Group focused on a systematic analysis, including a review of the report of the Committee on the Elimination of Racial Discrimination (CERD) and the report of the group of five experts.<sup>33</sup> Mr Martabit explained that the report by CERD contained a study on current procedures and obstacles as well as recommendations to increase the monitoring role of CERD. The report of the five experts contains several sections, including one on complementary standards and positive obligations of States, and a second part on complementary standards for vulnerable groups. The report also addresses complementary standards and signs of racism, racial discrimination, and related intolerance. Mr Martabit underlined that the report of the five experts would be extremely valuable to States wanting to fight racism and racial discrimination. Mr Martabit said that with the submission of the report of the five experts his mandate had been concluded. He finished by emphasising that the progress in the Working Group had only become possible through the Group's agreement on common methods and actions.

Many States made statements during the debate that ensued:

- Broad praise was extended to Ambassador Juan Martabit of Chile, Chair of the Working Group, by States and the Deputy High Commissioner.
- A number of States commended the work of the Working Group and stated it had achieved significant progress in the implementation of its mandate. They also underlined that the Working Group could provide substantial input to the Durban Review Conference.<sup>34</sup> Mexico advocated that the recommendations of the Working Group made during the five years of its work be taken up.
- A number of States commented on the need for new complementary standards. Pakistan stated that the Ad Hoc Committee on the Elaboration of Complementary Standards<sup>35</sup> should develop new normative standards, including on incitement to racial and religious hatred. Turkey, on the other hand, stated that existing mechanisms should be fully explored before new ones were created. Portugal (on behalf of the

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<sup>30</sup> The Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action is one of the three mechanisms established to follow up the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, in 2001. The Intergovernmental Working Group was established by Commission on Human Rights *Resolution 2002/68* and approved by the Economic and Social Council in its *Decision 2002/270* of 25 July 2002. See <http://www.ohchr.org/english/issues/racism/groups/>.

<sup>31</sup> The 5<sup>th</sup> session of the Working Group was divided into two parts in conformity with Council *Decision 3/103*. The first part took place between 5 and 9 March 2007; the second part was convened from 3 to 7 September 2007.

<sup>32</sup> For a summary of the events at the 4<sup>th</sup> session of the Council, please check ISHR's *Daily Update* of 15 March 2007, available at [www.ishr.ch/hrm/council](http://www.ishr.ch/hrm/council).

<sup>33</sup> The experts were appointed by OHCHR in close consultation with regional groups as requested by Council *Resolution 1/5* of 29 June 2006.

<sup>34</sup> Brazil, Pakistan, Mexico, Morocco, Norway.

<sup>35</sup> The Ad Hoc Committee was established by Council *Decision 3/103* with a mandate to 'elaborate, as a matter of priority and necessity, complementary standards in the form of either a convention or additional protocol(s) to the International Convention on the Elimination of All Forms of Racial Discrimination, filling the existing gaps in the Convention and also providing new normative standards aimed at combating all forms of contemporary racism, including incitement to racial and religious hatred'.

EU) stated that new standards should be developed on the basis of a comprehensive and consensual process identifying gaps in existing international standards and addressing real needs in the fight against racism.

- The Russian Federation stated that the studies by CERD and the group of five experts were useful for the development of any new studies. Portugal (on behalf of the EU) stated that these reports must be the basis for future work to develop complementary standards.
- Pakistan (on behalf of OIC) suggested that OHCHR compile national and international best practices on how to combat defamation of religions. This could then form the basis for an international convention to combat defamation of religions.
- Cuba stressed that the Ad Hoc Committee on Complementary Standards should commence its work as soon as possible, and it supported the proposal by the African Group to hold the first meeting from 11 to 22 February 2008.<sup>36</sup>

Ambassador Martabit of Chile replied to the comments made. He attributed the success of the Working Group to the excellent diplomats that had been part of it and had been willing to work. He believed that a substantial contribution could be made if agreement could be reached on an additional protocol on education before the Review Conference. He also stated his personal view that the Council should open possibilities for a frank and constructive dialogue on issues related to culture, civilizations, and religion and that such sensitive issues should not be dealt with in an excessively politicised environment. He believed that the Council would be the rights venue for a systematic and well-organised dialogue in good faith.

### **Report by the High Commissioner on defamation of religions**

Ms Kyung-wha Kang, the Deputy High Commissioner for Human Rights, introduced the High Commissioner's report on combating defamation of religion.<sup>37</sup> She outlined the content of the report, explaining that it provided a brief overview of the work of the special procedures and treaty bodies over the past months. She added that the report concluded by stating that ignorance continues to be one of the underlying causes of religious discrimination. The document also urges States to focus on the implementation of recommendations made by human rights mechanisms and to enhance cooperation with stronger political will. Ms Kang stressed the report's emphasis on the importance of human rights education as an essential tool for combating stereotypes and encouraging tolerance, respect, and peaceful co-existence. She advised the Council that a more extensive report on the same issue had been prepared by the Secretary-General and would be released shortly.

- Many States welcomed the report of the High Commissioner on defamation of religions. Italy stated that the report provided a useful analysis of the phenomenon from different but complementary points of view. Senegal expressed its support for the report and the conclusions and recommendations on the need for political will to combat defamation of religions. Indonesia also agreed with the conclusions drawn in the report that the underlying causes of defamation were ignorance and lack of respect for diversity.
- Pakistan (on behalf of the OIC) criticised the report of the High Commissioner saying it did not fully capture that defamation of religions and in particular Islamophobia was a dangerous phenomenon in various countries. It stated that the analysis that defamation of religions 'continues to be a problem' was an understatement and that the issue must be addressed.

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<sup>36</sup> The Council recommended in its *Decision 3/103* that 'the Ad Hoc Committee shall convene annual sessions of 10 working days to draw up the requisite legal instruments and hold its first session before the end of 2007 subject to the Working Group having completed its task on complementary standards by that date'.

<sup>37</sup> The High Commissioner had been requested by the Council to prepare a report on defamation of religion in Council *Resolution 4/9*. The report is contained in document A/HRC/6/4, 4 September 2007.

- Many States expressed concern at the growing phenomenon of defamation of religions and the rise of racism, especially against Muslims.<sup>38</sup> Some States also noted with concern the use of political platforms for incitement to religious and racial intolerance. Concern was also expressed about racial profiling after the events of 11 September 2001. Many States said that these new forms of discrimination should be addressed. In this regard Algeria stated that experts had given insufficient attention to the gaps in legal and substantive protection of human rights.
- Pakistan (on behalf of OIC) suggested that a General Comment on Article 20 of the *International Covenant on Civil and Political Rights* (ICCPR) dealing with incitement to hatred be drafted by the Human Rights Committee. Italy welcomed the drafting of a General Comment on Article 20. Morocco encouraged the Council to examine the relationship between freedom of expression and manifestations of intolerance and incitement to hatred in light of Article 20 of the ICCPR. It stated that there was a need for objective limits to the scope of these rights.
- Many States also emphasised the need for inter cultural and religious dialogue to overcome these issues. Pakistan (on behalf of OIC) stated its support for inter- and intra-religious dialogue.<sup>39</sup> Several other States also supported this as critical to combating intolerance.<sup>40</sup> Italy stated that it looked forward to structured, high level dialogues on these themes, including panel discussions and roundtables.
- Italy and the Republic of Korea pressed that education is crucial to combat racism, racial discrimination, and related intolerance, a point echoed by Ms Al-Hajjaji.

The Deputy High Commissioner, Ms Kyung-wha Kang, responded to the comments made by recalling that the report of the High Commissioner should be read in connection with the report by the Secretary-General on the same theme that had been prepared for the 62<sup>nd</sup> session of the General Assembly. She paid tribute to the skilful work of Ambassador Martabit and Ambassador Al-Hajjaji. Finally, she recalled the statement made by the High Commissioner on the meeting of the Non-Aligned Movement that ‘no culture, no school of thought stands above the principles of non-discrimination, the ban on torture, the right to life and freedom of belief and conscience’, and stated that this would guide OHCHR’s work in support of the Working Group and the Preparatory Committee as well as all other mechanisms working to fight racism.

### Other issues addressed

Delegations also addressed broader issues under Item 9:

- The report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Doudou Diène, on the manifestation of defamation of religions and in particular on the serious implications of Islamophobia on the enjoyment of all rights,<sup>41</sup> was discussed by a handful of States and NGOs.<sup>42</sup> The European Center for Law and Justice stated that defamation of religions should be addressed by the Special Rapporteur on freedom of religion and within the scope of the international legal framework.

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<sup>38</sup> Azerbaijan, Pakistan, Malaysia, Bangladesh.

<sup>39</sup> Azerbaijan, Senegal.

<sup>40</sup> Italy.

<sup>41</sup> Contained in A/HRC/6/6. The Council discussed this report on 14 September 2007. For an overview of the discussion please see ISHR’s *Daily Update* for that day, available at [www.ishr.ch/hrm/council](http://www.ishr.ch/hrm/council).

<sup>42</sup> Azerbaijan, Bangladesh, Venezuela, International Humanist and Ethical Union, World Union for Progressive Judaism and Association for World Education, Ligue Internationale Contre le Racisme et l’Anti Sémitisme

- Some delegations focused their comments on the situation of particular groups or countries with regard to racism and racial discrimination. Some NGOs mentioned the situation of Dhalits and people of lower caste in India,<sup>43</sup> and the Tamils in Sri Lanka.<sup>44</sup>
- Malaysia<sup>45</sup> and Rwanda<sup>46</sup> discussed the link between racism and genocide and ethnic cleansing. Rwanda presented genocide as ‘an extreme form’ of racism and racial discrimination. It called for follow-up to the Durban Declaration to address gaps in international human rights instruments with regard to the denial or historical revisionism of incidences of genocide, pressing that these acts should be criminalised.
- Action Canada for Population and Development informed the Council of the drafting of a new convention on racism and all other forms of discrimination and intolerance by the Organisation of American States. It stated that the draft convention underlines the importance of eliminating racism but that it also addresses a broad range of other grounds for discrimination.
- Some States criticised the media for its portrayal of Islam. Azerbaijan stated that the publication of cartoons offensive to Islam in European newspapers was an incitement to religious hatred. Malaysia and Bangladesh called on the media to employ greater sensitivity and balance when reporting on issues related to religion, namely Islam.
- The DPRK linked the prevalence of racism to the legacy of colonialism, most particularly, Japan’s colonisation of Korea. The DPRK cited a collection of abuses occasioned upon the Korean people by Japan, including the sexual slavery of women.<sup>47</sup> It claimed that Korean nationals in Japan today still face discrimination and harsh treatment. In an exchange of rights of reply, the DPRK repeated its allegations, calling on Japan to stop its abuses of Korean nationals in Japan. Japan dismissed the DPRK’s allegations as unfounded and restated its commitment to combating racism.

## Informal consultations

### **Informal consultation on the proposed Special Rapporteur on contemporary forms of slavery**

The United Kingdom (UK) convened a further open consultation on its proposal to establish a new mandate on contemporary forms of slavery in place of the Working Group of the former Sub-commission on the Promotion and Protection of Human Rights (the Sub-Commission). Issues raised by States and NGOs at the earlier consultations had been addressed in a revised draft presented by the UK. On the last occasion Egypt (on behalf of the African Group) and the Philippines had said that the terms of reference for the mandate should include prostitution. This had been opposed by other States on the basis that some forms of prostitution clearly fell within the term "contemporary forms of slavery" but others did not. South Africa agreed with this analysis. The UK referred to the manner in which this issue had been addressed in the Beijing Declaration and Programme of Action and in the Rome Statute of the International Criminal Court and proposed that the term "forced prostitution" be incorporated. Delegations said that they were open to this and would seek instructions.

Several other issues were discussed more briefly. The Philippines, China, and the Russian Federation sought the inclusion of language that made the mandate subject to the Code of Conduct for mandate holders adopted by the Council in June (*Resolution 5/2*). The UK said that this was a general issue arising in relation to all

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<sup>43</sup> International Movement against All Forms of Discrimination and Racism, International Islamic Federation of Student Organisations, World Muslim Congress.

<sup>44</sup> Interfaith International.

<sup>45</sup> Associating itself with the statement of Pakistan (on behalf of the OIC).

<sup>46</sup> Associating itself with the statement of Egypt (on behalf of the African Group).

<sup>47</sup> Japan Fellowship of Reconciliation, International Association of Democratic Lawyers.

resolutions on mandates and would have to be addressed more generally than in relation to this resolution alone. A representative of the International Labour Organization (ILO) proposed that the resolution should refer specifically to forced labour and the ILO but several States opposed the singling out of any specific issue or organisation within the generic parts of the text. As the ILO representative left as soon as he had completed his statement, the matter was not pursued. Belarus proposed reference to the particular vulnerability of women and children to contemporary forms of slavery and there was general agreement to that. Other proposed changes to the draft were of a minor or technical nature.

The UK concluded the consultation saying that it would welcome comments from delegations on the proposed text and amendments after they had obtained instructions and that it would incorporate new language reflecting the various views expressed. There did not seem to be a need for a further open consultation. The proposal seems likely to receive wide support from member States.

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The Council Monitor forms part of the Human Rights Monitor Series produced by ISHR. It provides you with information about all the key developments at the Human Rights Council, including Daily Updates during the session of the Council, an Overview of the session, briefings and updates on the major issues of concern in the transition from the Commission on Human Rights to the Council and other key reports. It is currently an online publication that can be found at [www.ishr.ch/hrm/council](http://www.ishr.ch/hrm/council)

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