CHRI 2010

Easier Said than Done

Commonwealth Human Rights Initiative

working for the **practical realisation** of *human rights* in the countries of the Commonwealth

Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organisation, mandated to ensure the practical realisation of human rights in the countries of the Commonwealth. In 1987, several Commonwealth professional associations founded CHRI. They believed that while the Commonwealth provided member countries a shared set of values and legal principles from which to work, and provided a forum within which to promote human rights, there was little focus on the issues of human rights within the Commonwealth.
The objectives of CHRI are to promote awareness of and adherence to the Commonwealth Harare Principles, the Universal Declaration of Human Rights and other internationally recognised human rights instruments, as well as domestic instruments supporting human rights in Commonwealth member states.

Through its reports and periodic investigations, CHRI continually draws attention to progress and setbacks to human rights in Commonwealth countries. In advocating for approaches and measures to prevent human rights abuses, CHRI addresses the Commonwealth Secretariat, member governments and civil society associations. Through its public education programmes, policy dialogues, comparative research, advocacy and networking, CHRI's approach throughout is to act as a catalyst around its priority issues.

The nature of CHRI's sponsoring organisations allows for a national presence and an international network.* These professionals can steer public policy by incorporating human rights norms into their own work and act as a conduit to disseminate human rights information, standards and practices. These groups also bring local knowledge, can access policymakers, highlight issues, and act in concert to promote human rights.

CHRI is based in New Delhi, India, and has offices in London, UK, and Accra, Ghana.

* Commonwealth Journalists Association, Commonwealth Lawyers Association, Commonwealth Legal Education Association, Commonwealth Parliamentary Association, Commonwealth Press Union and Commonwealth Broadcasting Association.

ISBN: 81-88205-93-1

CHRI New Delhi Office
B-117, 1st Floor,
Sarvodaya Enclave,
New Delhi – 110017, INDIA
T +91 (0)11 4318 0200
F +91 (0)11 2686 4688
info@humanrightsinitiative.org

CHRI London Office
Institute of Commonwealth Studies
School of Advanced Study, University of London,
2nd Floor, South Block, Senate House,
Malet Street, London WC1E 7HU
T +44 (0)207 862 8857
F +44 (0)207 862 8820
chri@sas.ac.uk

CHRI Accra Office
House No. 9, Samora Machel Street
Asylum Down,
Opposite Beverly Hills Hotel,
Near Trust Towers, Accra, Ghana
T +233 (0)302 971170
F +233 (0)302 244819
chriafrica@humanrightsinitiative.org

www.humanrightsinitiative.org

Easier Said than Done

– A report on the commitments and performances of the Commonwealth members of the United Nations Human Rights Council

Edited by
R. Iniyan Ilango

Lead Author
Zachary Abugov

Co-Author
Caroline Selman

Additional contributions by
Isabelle Bourgeois, Jarryd Martin, Jennifer Kishan and Frederick Cowell

External Reviewers and Advisors
This report would not have been possible without the efforts of the following people who read country chapters and provided comments.

Agnes Ebo'o, Asad Jamal, Innocent Chukwuma, Maja Daruwala, Manda Boolell, Mandeep Tiwana, Mary Mutupa, Meghna Guhathakurta, Murray Burt, Navaz Kotwal, Richard Bourne, Robert Fox, Sara Hossain, Sharan Srinavas, Zohra Yusuf and other readers

Design and Layout by
Ashwanikumar Saini

CONTENTS

Q&A on the United Nations Human Rights Council and Easier Said Than Done

What is the United Nations Human Rights Council?

The United Nations Human Rights Council (UNHRC or the Council) is an intergovernmental body within the UN system comprising 47 elected States. The Council was established in June 2006 as a replacement to the former UN Commission on Human Rights and has primary responsibility for the promotion and protection of human rights at the UN. The Council holds three regular sessions annually and special sessions as required by pressing human rights situations that require urgent attention. Unlike its predecessor, which was a subsidiary body to the Economic and Social Council, the Human Rights Council is a subsidiary organ of the UN General Assembly. The Council has absorbed mechanisms of the former Commission such as the Special Procedures[1] and Complaints Procedure,[2] while including new mechanisms: the Universal Periodic Review (UPR)[3] and the Advisory Committee.[4] In another departure from the practices of its predecessor, the Council has a re-formulated regional division of seats that gives more representation to Southern States. Its election process is also different. States must release a pre-election pledge and then secure an absolute majority of votes cast in the General Assembly by secret ballot.

Why was the Council established?

The Council was established to replace the discontinued – and largely discredited – Commission on Human Rights (CHR) that was established in 1946. Despite several contributions and decades of setting international standards on human rights, the erstwhile CHR was criticised for being an overtly political and selective body. Numerous states with poor human rights records were able to lobby themselves on to the Commission, and, once there, work to block meaningful action on serious human rights abuses.

Has the Council lived up to expectations?

After four years of existence, the Council still appears to be battling issues similar to the ones that plagued CHR. During a speech at the celebrations for the sixtieth anniversary of the Universal Declaration of Human Rights in December 2008, UN Secretary-General Ban Ki Moon urged the Council to "rise above partisan posturing and regional divides" and to "address human rights abuses wherever they occur".[5] This plea has not been borne out. Most member States still vote on the basis of regional political groupings, major human rights abusers continue to sit on

1 For more information on the Special Procedures of the Human Rights Council please visit: http://www2.ohchr.org/english/bodies/chr/special/index.htm.

2 For more information on the Human Rights Council Complaint Procedure please visit: http://www2.ohchr.org/english/bodies/chr/complaints.htm.

3 For more information on the Universal Periodic Review please visit: http://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx.

4 For more information on the Human Rights Council Advisory Committee please visit: http://www2.ohchr.org/english/bodies/hrcouncil/advisorycommittee.htm.

5 Office of the High Commissioner for Human Rights, "Remarks of the UN Secretary-General to the Commemorative Session of the Human Rights Council on the Sixtieth Anniversary of the Universal Declaration of Human Rights" (12 December 2008) at http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=8691&LangID=E (last accessed on 22 December 2010).

the Council, and several serious human rights abuses are ignored by the Council for political expedience. Though many Commonwealth countries voluntarily pledged to promote and work positively to support the Council before their election, they have not been an exception to these negative trends.

How do countries get elected to the Council?

The Council's 47 seats are allocated by regional grouping (13 for Asian States, 13 for African States, six for Eastern European States, eight for Latin American and the Caribbean States and seven for Western European and Other States) for three-year terms. Every year a new slate of countries vies for seats within each regional grouping – the number is decided by the number of countries from each grouping that are departing the Council. Countries may only run for two consecutive three-year terms. A country must obtain an absolute majority of votes from the UN General Assembly to be elected to the Council. If no country within a regional grouping receives an absolute majority of votes, then a second round of voting takes place between high-scoring candidates. Recently, however, there has been a trend of regional groupings running closed slates – with the number of countries running matching the number of open seats – to avoid embarrassing countries that lose out to other countries from the same region.

What is a pledge and what does a pledge usually entail?

Each country running for election to the Council submits a pre-election pledge while presenting their candidature. Ideally, the pledge document is intended to be used by voting countries to determine which candidate best fits the criteria for election to the Council, i.e. which country has made the greatest contribution to the promotion and protection of human rights and is willing and capable of playing an effective role at the Council. Pledges usually list the country's past contributions to the promotion and protection of human rights, and future voluntary commitments on the same theme. The commitments made in each country's pre-election pledge are also intended to be used as a partial basis for that country's Universal Period Review. Examples of pledges can be found in the appendices of *Easier Said Than Done*.

Is the pledge-making process regulated?

The Office of the High Commissioner for Human Rights (OHCHR) has published a document that outlines suggested elements for voluntary pledges and commitments, but the document is not binding; nor is it exhaustive. The suggested elements include national and international human rights contributions, pledges and commitments, and can be found at http://www2.ohchr.org/english/bodies/hrcouncil/docs/pledges.pdf. Because the pledge-making process is neither regulated nor standardised, there is little consistency across pledges, though pledges to support the work of the Council and its subsidiary mechanisms are common, as are pledges to uphold the highest standards of human rights domestically. Pledges frequently also tend to be vague or broad and unquantifiable making the measurement of achievements and benchmarking difficult.

Are countries bound by their pre-election pledges?

The Universal Periodic Review mechanism is intended to consider a member's compliance with its commitments and, with a two-third majority, the General Assembly does have the ability to suspend the rights and privileges of Council members who have seriously and consistently breached their international human rights obligations. In reality, however, the UPR is a cooperative, voluntary process where States only accept recommendations on a voluntary basis and there has been little progress in holding governments accountable to their pledges.

What is the position of the Commonwealth in the Council?

Since the establishment of the Council in 2006, about one-third of the body's members have consistently been Commonwealth countries. That said, the Commonwealth has yet to realise its full potential at the Council. The Commonwealth, through its Secretariat, has undertaken some initiatives for technical assistance on the UPR, but is yet to play any major role comparable to what it played in the past, as in Zimbabwe and South Africa in the second half of the twentieth century.

What is the *Easier Said Than Done* series of reports?

CHRI has been monitoring the behaviour of Commonwealth countries at the UN Human Rights Council since the Council's inception in 2006. The Easier Said Than Done reports, of which there are now three (covering the Council from its inception in 2006 to mid-2010), measure the compliance of Commonwealth members of the UN Human Rights Council with their domestic and international human rights obligations.

This edition of the report summarises and analyses the human rights performance of 12 Commonwealth members of the Council from mid-2008 till mid-2010 at the Council, in the wider UN human rights machinery and in the domestic sphere.

What is the main focal point of the reports?

The focus of the Easier Said Than Done reports is the pre-election pledge made by each country before their election to the Council. These pledges include commitments to promote and protect human rights internationally, domestically and, specifically, at the Council. The reports analyse the extent to which Commonwealth members of the Council comply with their pre-election pledges.

How is this report structured?

The report begins with an examination of the Commonwealth's behaviour as an intergovernmental body and as a grouping within the Council. The 12 countries which sat on the Council during the reporting period – Bangladesh, Cameroon, Canada, Ghana, India, Malaysia, Mauritius, Nigeria, Pakistan, South Africa, the United Kingdom and Zambia – are then reviewed in individual country chapters. The first section of each country chapter gives a brief country context, and then reviews the country's international human rights treaty obligations, ratifications and treaty body reporting history. The next section details the country's performance and voting patterns at the Council at the eighth, ninth, tenth, eleventh, twelfth and thirteenth sessions of the Council, including special sessions.[6] The context of the country's election to the Council and a summary of its voluntary pre-election pledges follow. The final section of each country chapter summarises the domestic human rights situation in the country during the reporting period and compares the performances of each State with the human rights-related pledges and commitments it made before being elected to the Council. The report ends with a series of recommendations directed at the Council, the Commonwealth Eminent Persons Group, Official Commonwealth bodies, the Commonwealth Heads of Government and member States.

6 Only the ninth through twelfth Special Sessions are included in this report. The eighth and thirteenth Special Sessions, though they took place within the period covered by this report, concluded without any voting.

What sources of information have been used to compile this report?

Care was taken to the maximum extent possible to ensure that information on domestic human rights situations predominantly came from local sources. This report was written using research based almost exclusively on secondary sources. Drafts of each section on "Human Rights During the Reporting Period" were reviewed by at least one external reviewer knowledgeable about the concerned country. The report is also selective in its focus. It primarily considers domestic human rights issues that correspond with State pledges to the Council and were relevant for the assessment of the members' attitudes and performance at the Council.

This edition of Easier Said Than Done differs slightly from the earlier two, in that it includes a more detailed section on each country's voting record and behaviour at the Council. For ease of reading, lengthy formal titles of resolutions and draft resolutions were not included in the text[7] as the subject and a brief description were deemed sufficient to contextualise a member State's vote or comments.

The information contained in the sections that deal with State behaviour at the Council was obtained from three primary sources: daily press releases on the Council's proceedings released by the UN,[8] the summaries of Council proceedings published by the International Service for Human Rights,[9] and the final reports of each Council session published on the Council's website at the conclusion of each sitting.[10]

What are this report's inherent limitations?

As in the earlier editions, two main challenges were faced to provide a balanced analysis. The first was to measure the often vague, generalised and un-quantifiable pledges made by many Commonwealth governments, which, in some cases, resulted in equally vague compliance indicators. In other instances, the report assesses specific pledges in consequently specific terms. This pattern indicates that the pledge-making process is plagued by loopholes. It is also reveals the continuing lack of efficient standards to govern this process. Though OHCHR has published guidelines on pledge-making, these are not binding and most countries do not follow them to the letter.

The second challenge was to obtain human rights information for each country on an equal scale. This led to a variation in the quantity of information used to tally compliance with pledges. The limited availability of reliable, objective and/or quantified information is in itself an indication of the lack of infrastructure in many Commonwealth countries to monitor human rights situations, and highlights the urgent need for increased technical assistance to certain Commonwealth countries and a reinforced commitment to human rights from

7 The purpose of these sections of the report is to show voting records and behaviour for comparison with pledges, not to provide a record of resolutions passed by the Council in each session, information which is easily available elsewhere on the Council's website: http://www2.ohchr.org/english/bodies/hrcouncil/.

8 These press releases are available at http://www.ohchr.org/EN/NewsEvents/Pages/NewsSearch.aspx. To find a specific press release, select "Human Rights Council" in the menu next to "Mandate", then type in the date on which the press release fell. Leave the other menus in their default positions.

9 ISHR provided a "Daily Update" of the Council's proceedings till the end of the ninth session. Those updates can be found at: http://www.ishr.ch/council-monitor/daily-updates. The tenth, eleventh and twelfth sessions were reviewed by ISHR in its "Council Updates", which organised daily Council proceedings thematically, and can be found at: http://www.ishr.ch/council-monitor/council-updates?task=view.

10 The final reports of each Council session can be found on the Council website: (http://www2.ohchr.org/english/bodies/hrcouncil/) by clicking the link for the desired session on the right hand side of the page. The final report can be found through the "Documentation" link on the right side of each Session's homepage.

Commonwealth governments. When using the report, it is advisable to take these factors into consideration and avoid comparing countries' situations and/or extent of their compliance with their pledges.

What is the reporting period for this report?

This edition covers Council sessions from June 2008 to March 2010, whereas the reporting period for domestic human rights situations is from August 2008 to May 2010.

Executive Summary

The findings of this report – the third in the Easier Said Than Done series – mirror the discouraging picture painted by its predecessors. The promotion, protection and realisation of human rights still do not regularly factor into the behaviour of Commonwealth members of the UN Human Rights Council, both domestically and at the Council. The latest findings show:

An alarming lack of adherence by Commonwealth countries to the domestic human rights commitments they made before their election to the Council:

There was a stark disconnect between the lofty pre-election pledges submitted by Commonwealth countries clamouring for election to the Council and the reality of the domestic human rights situations of those countries reviewed in this report. Notable examples of pledge non-compliance existed in the high level of reported extrajudicial killings and abuse by security forces in Bangladesh, Nigeria and Pakistan; the stifling of freedom of the press in Cameroon; the continued imbalance between human rights and security legislation in Canada and the United Kingdom; the backlogged court system and deplorable state of prisons in Ghana and Zambia; the continued use of draconian colonial-era anti-insurgency legislation in India and Malaysia; the continued mistreatment of migrants in South Africa; and high levels of gender violence in Mauritius. Not one country reviewed lived up entirely to the domestic commitments contained in its pre-election pledge.

A number of attempts by certain Commonwealth countries to dilute the functioning of the Human Rights Council and its affiliated mechanisms:

Compliance was mixed on pledges that related to each country's behaviour at the Council, or with regard to Council mechanisms such as the Special Procedures. Several countries moved to limit the independence and scope of the Council's Special Procedures by arguing against the establishment of new mandates (Canada and Bangladesh); by criticizing Special Rapporteurs and Working Groups for ostensibly exceeding their mandates (Pakistan and Malaysia); and calling for strict adherence to the Code of Conduct (Pakistan, Nigeria and India). Some States (Bangladesh, Malaysia and Pakistan) were also critical of the Special Rapporteurs on torture and extrajudicial killings for considering the inclusion of the death penalty as part of their mandates, while other states attempted to limit the activities of the Expert Mechanism on the Rights of Indigenous Peoples (Canada), the Special Rapporteur on Human Rights Defenders (Bangladesh) and the Working Group on Enforced Disappearances (India). Zambia recently extended an open invitation to the Council's Special Procedures, but seven of twelve Commonwealth countries had not followed suit till the end of the reporting period.

Other mechanisms were similarly affected by the negative actions of Commonwealth countries at the Council. The Council's Advisory Committee was repeatedly reminded (Nigeria) to adhere strictly to the institution-building text and criticised (India) for not sticking to a strict interpretation of its mandate. Some countries worked to keep the UPR from being improved by stating that follow-up reports were not necessary between reviews (Bangladesh) and suggesting that the modalities of the Universal Periodic Review process were already defined and therefore required no further discussion (India). In the context of shrinking spaces for civil society and independent bodies

across the world, Bangladesh's comments about the need for a Code of Conduct to regulate NGO space at the Council were especially concerning, as were India's occasional attempts to limit the field activities of the OHCHR. A few Commonwealth States (Cameroon, Ghana and Mauritius), despite pledging to be active at the Council, participated rarely, suggesting a lack of interest or capacity. Furthermore, on basic UN human rights benchmarks, no Commonwealth member had ratified all of the major human rights treaties, and none except Cameroon was up to date on their treaty reporting requirements by the end of the reporting period.

A near-complete lack of consensus amongst Commonwealth countries at the Council, despite rhetoric in the 2007 Commonwealth Heads of Government (CHOGM) Communiqué that the Secretariat should play a role in "strengthening dialogue on and raising awareness of human rights in member countries, and through the UN Human Rights Council":[11]

Of the 41 votes conducted during the six regular sessions and six special sessions covered in this reporting period, there was a Commonwealth consensus on only one vote.[12] Despite the rhetoric from the 2007 CHOGM Communiqué about "strengthening dialogue" among the Council's Commonwealth membership, it was apparent that no headway was made during the reporting period, as evidenced by the voting records of Commonwealth countries on the Council.

The Commonwealth was once described before the Council as "a human rights organisation" by a former Secretary-General.[13] The establishment of the Council in 2006 could surely have been taken as an opportunity for the Commonwealth to reflect the fundamental human rights principles enshrined in the Harare Declaration through its actions. However, beyond the lack of consensus among members, the consistent, uninhibited negative conduct of most Commonwealth countries at the Council, poses serious questions about their respect for the heritage and future potential of the Commonwealth as a positive force in international human rights fora.

Voting on controversial country-specific and thematic resolutions continued to be divided along regional voting lines. A number of Commonwealth countries voiced their displeasure on country-specific scrutiny at the Council in word and deed – by criticising the existence of such mandates and voting against them.[14] Resolutions on the Democratic People's Republic of Korea (DPRK), Sudan, the Democratic Republic of Congo (DRC) and Sri Lanka were all voted on during the reporting period and a resolution on Myanmar[15] was adopted without a vote despite verbal opposition from a few Commonwealth countries. On DPRK, the Asian Commonwealth countries abstained from voting on the renewal of the mandate of the Special Rapporteur, ostensibly because of opposition (from Bangladesh and Malaysia, and Pakistan specifically) to country-specific mandates created against the will

11 Commonwealth Heads of Government Meeting 2007, "Final Communiqué" (23-25 November 2007) at http://www.thecommonwealth.org/shared_asp_files/GFSR.asp?NodeID=174528.

12 Where all Commonwealth countries were present and voted; see the table on page 248. The only Commonwealth consensus vote was on Israeli Settlements in the OPT, including East Jerusalem, and in the Occupied Syrian Golan during the thirteenth Regular Session. The same resolution was presented at the tenth Session where Canada voted against, ensuring no Commonwealth consensus.

13 Don McKinnon, "Speech to the Conference of National Human Rights Institutions" (26 February 2007) at http://www.thecommonwealth.org/document/160494/260207humanrightsinstitutionsspeech.htm.

14 Only on resolutions pertaining to Israel and the Occupied Palestinian Territory were most Commonwealth countries, with the exception of Canada and the UK (most of the time), in favour of country-specific scrutiny.

15 "Myanmar" is used in this report because of its common use at the UN Human Rights Council. CHRI acknowledges that "Burma" is recognised by many as the legitimate name of the country in question.

of the concerned country, but more likely for political reasons, as none applied the same rationale to resolutions concerning Israel and the Occupied Palestinian Territories (OPT). The Sudan mandate was nearly entirely scrapped after heavy lobbying from parts of the African Group. Ultimately a watered-down mandate was just barely renewed despite votes against it from the Asian Commonwealth countries (except India which merely abstained) and from Cameroon, Nigeria and South Africa of the Africa Group. Encouragingly, Mauritius and Zambia voted in favour of extending international scrutiny on Sudan, and Ghana abstained, breaking with the African group. The Eleventh Special Session on Sri Lanka resulted in the passing of an exceptionally weak resolution which made no mention of the need to conduct investigations into alleged violations of international human rights laws or the need to prosecute perpetrators. Attempts to alter the resolution to include reference to the alleged war crimes committed by all sides during the final stages of the war against the Liberation Tigers of Tamil Eelam were supported by Canada, Mauritius and the UK and rejected by every other Commonwealth member, except Nigeria and Zambia, which abstained. A resolution on the Democratic Republic of Congo (DRC) was passed in the Council's tenth session, but it was weak largely owing to votes against, and abstentions by, all Commonwealth members of the African and Asian Groups on amendments to the resolution which were more critical of the human rights situation in that country.

Voting on thematic resolutions showed that Commonwealth countries were divided on several issues. A few resolutions which were particularly troublesome from a human rights perspective ended up winning the votes of most of the Commonwealth countries. For example, a resolution on the promotion of human rights through a better understanding of the traditional values of humankind, viewed by several States and NGOs as an overt attempt to dilute the universality of the rights contained in the Universal Declaration of Human Rights, was supported by all the reviewed countries, except Mauritius and the UK, which voted against, and Ghana, which abstained.[16] Another example of negative voting was found in the two resolutions on combating defamation of religion, one of which was voted on in the same session as a less popular resolution on discrimination based on religion or belief. The defamation resolutions included vague definitions of defamation, and it was feared that it could be used to restrict freedom of religion and speech and to persecute religious dissenters. On the more recent of the two resolutions, Bangladesh, Pakistan, Nigeria and South Africa voted in favour of the resolutions, while the UK and Zambia voted against, and Cameroon, Ghana, India and Mauritius abstained.

Every vote or stance by a Commonwealth member offers an opportunity for it to bear out the assertion that the Commonwealth is a "human rights organisation". In reality, the record shows that owing to the absence of any rigorous collective review mechanism to hold its member States to account for human rights violations, the Commonwealth has shown little commitment to translating the soaring rhetoric of its periodic statements into reality, either in the international setting or within the association.

16 Canada and Malaysia were not members of the Council when this resolution was voted on.

The Commonwealth and the Human Rights Council

The Context

The first *Easier Said Than Done* report, which covered the Council's initial years (2006-2007), noted the marginal role played by the Commonwealth at the Council and identified two potential areas where the Commonwealth could make a significant impact:

1. Technical assistance to Commonwealth countries, provided in large part by the Commonwealth Secretariat's Human Rights Unit; and

2. Consensus building during deliberations at the Council.

Aspects of these were echoed by the Commonwealth Human Rights Forum 2007 in its concluding statement prior to the Commonwealth Heads of Government Meeting (CHOGM) 2007. The Forum was a part of the Commonwealth Peoples Forum 2007 – a parallel civil society event organised prior to CHOGM 2007 and attended by a broad cross section of Commonwealth civil society. The concluding statement also called for the Commonwealth to make the Universal Periodic Review a meaningful process and to ensure the participation of all stakeholders.

Following the release of the state, the CHOGM 2007 Communiqué recognised the facilitating role that the Commonwealth Secretariat could play through the Council in strengthening dialogue on, and raising awareness of, human rights in Commonwealth countries.

Commonwealth efforts towards engagement

With the mandate from CHOGM 2007, the Commonwealth Secretariat embarked on capacity-building programmes on the UPR for governments, National Human Rights Institutions and civil society through a unique process that trains all three sectors together. The first such meeting took place in the UK in March 2008. In parallel to these programmes, Commonwealth missions organised a best practice meeting in Geneva in March 2008 where the UK and Ghana shared their experience with the UPR process.

The Commonwealth Secretariat continued its capacity building programmes with a Caribbean regional seminar in Barbados in October 2008, a training seminar in Malawi in September 2009, a Commonwealth mid-term review of the UPR in the UK in March 2010 and a capacity building workshop in Swaziland in January 2011.

Most of the Secretariat's capacity building programmes also provided opportunities for civil society groups like CHRI and UPR.info to present their views and suggestions. In August 2009, the Secretariat brought together material and experience shared in the initial two programmes in the UK and Barbados to produce a publication titled: *Universal Periodic Review of Human Rights: Towards Best Practice*. A similar publication that draws from the

Commonwealth mid-term review in March 2010 is expected shortly.

All of the Commonwealth Secretariat's work around the UPR is run by the Human Rights Unit within the Secretariat. The Unit and its efforts on the UPR were duly recognised in the CHOGM 2009 Communiqué. In March 2010, the Unit also entered into a functional cooperation agreement with the Office of the High Commissioner for Human Rights to enhance its capacity to engage in human rights deliberations in Geneva.

On 19 May 2008, the Commonwealth Secretary-General launched the 'Geneva Group of Commonwealth Countries'. It was envisaged that the group, made up of Commonwealth missions affiliated to the UN in Geneva, would function as a forum to facilitate the effective participation of Commonwealth countries in the multilateral institutions located in Geneva. On 17 January 2011, the Commonwealth opened an office in Geneva to provide office space and a business centre at subsidised rates for Commonwealth missions and visiting delegations that participate in UN deliberations in Geneva, including at the Council. The Commonwealth office will also additionally offer the services of a resident expert on trade and human rights for Commonwealth missions and delegations.

Moving beyond technical assistance

Since the initial Council-related CHOGM mandate in 2007, the Commonwealth has taken resolute and significant steps to provide technical assistance to Commonwealth countries in some aspects of their engagement with the Council. However, there has been little movement towards strengthening dialogue, as mentioned in the CHOGM 2007 Communiqué, or building consensus, as urged in the 2006 *Easier Said than Done* report.

These gaps should be viewed within the context of the evolution in Commonwealth's human rights policies in the past five years. Pronouncements by Commonwealth Secretary-Generals on human rights often provide a rare glimpse of such policies.

Commonwealth Secretary-Generals have addressed the annual High Level Segment of the UN Human Rights Council twice since 2006. The first such address was by former Secretary-General Don McKinnon in 2007:

> "I speak today to one human rights organization on behalf of another. Because the modern Commonwealth is, without doubt, a human rights organization. The principles enshrined by our Heads of Government in their Declarations of 1971 and 1991 include the promotion of democracy, of fundamental human rights and of equality for all our citizens.
>
> We have converted those words and commitments into action. We have successfully developed a political mechanism to deal with members who seriously or persistently violate our principles.
>
> Those who do so can be excluded from our councils and even have their memberships suspended – and we are especially vigilant and responsive in situations where there has been an illegal overthrow of an elected government."

The Secretary-General then went on to conclude his speech by warning:

> "If this Council shields just one jurisdiction which displays a blatant abuse of human rights, it will discredit itself forever."[17]

In a noticeably different vein, the second High Level Segment speech by current Secretary-General Kamalesh Sharma in March 2010 goes on to say:

> "We recognise that as independent member states, the bulk of our membership is only a few decades old. The task of nation- and institution-building will always be a painstaking one, and living up to the high standards we have embraced will sometimes be beset with lapses. But the Commonwealth seeks to be a strategic partner of member states as they advance in this huge task. That is why we see greater value in raising a helping hand, than in raising a wagging finger. I sometimes give the analogy that the Commonwealth is more of a coach, engaged by the team, than a referee on the sidelines armed with a whistle and a red card."[18]

In a similar vein, recently Secretary-General Kamalesh Sharma reacted to media reports, which alleged that serious human rights concerns were being silenced[19] within the Commonwealth Secretariat, by saying that:

> "only one of the UN Treaties – the Convention on the Rights of the Child – has been ratified by all. Meanwhile the sovereign primacy of national law means that 21 of our member countries retain the death penalty, and as many as 42 outlaw homosexual acts.
>
> And so it is across the world, and the 192 member states of the United Nations. The 1948 Declaration remains at best an aspiration, at worst a loose promise.
>
> Such is the grey area of words, which is perhaps best set aside for the more prosaic reality of deeds. The Commonwealth's own stated values and commitment to human rights cannot be taken to mean that all its members are perfect, and observing them to the letter. All our members are journeying on the democratic path, the UK as much as any. But the vast majority of Commonwealth member countries are less than 50 years old, and their journey represents a far steeper and harder climb.
>
> So when the Commonwealth faces up to its fallibilities, it recognises them first across the entirety of its membership. And when it turns its attention to an individual member, it does so by proffering a helping hand, not raising a wagging finger.
>
> The inter-governmental Commonwealth sees little point in listing grievances, in naming names, or in using the crudest forms of megaphone diplomacy. But yes, when left with no other choice, it will of course stand up and be counted: it has suspended five of its members in the last 15 years.

17 Rt. Hon Don McKinnon, "Speech at the UN Human Rights Council – High Level Segment" (14 March 2007) at http://www.thecommonwealth.org/shared_asp_files/gfsr.asp?NodeID=161122&attributename=file (last accessed on 24 February 2010).

18 Kamalesh Sharma, "Speech at the UN Human Rights Council – High Level Segment" (1 March 2010) at http://www.thecommonwealth.org/document/220690/speech_at_un_human_rights_council___high_level_seg.htm (last accessed on 24 February 2010).

19 Guardian.co.uk, "Commonwealth has abandoned human rights commitment – leaked memo" (8 October 2010) at http://www.guardian.co.uk/law/2010/oct/08/commonwealth-human-rights-leaked-document (last accessed on 24 February 2010).

> Even when it does take those most extreme of measures, it does so with the offer of help to return a country to its democratic path.
>
> Just as we raise our concerns behind the scenes, we offer our support in a similarly unobtrusive and painstaking way."[20]

Taken together, the above pronouncements show a change in perspective from the relatively strong characterisation of human rights and the Commonwealth by the previous Secretary-General to the soft pedalled, behind-the-scenes approach espoused by the current Secretary-General. The latter approach, which heavily relies on quiet diplomacy, has a remarkable resemblance to stands regularly taken at the UN Human Rights Council by influential countries and voting blocs, usually with interests in the global South, in order to stifle public debate about their own poor human rights situations, or those of their allies.

In this context, a Commonwealth that works together to build dialogue or consensus at the Council could be a recipe for a new negative voting bloc that seeks to further mellow the Council.

It is this worrying feature that makes it imperative for the Eminent Persons Group on Commonwealth reform to take serious note of the Commonwealth and its interaction with the Council. This Group should also consider the association's human rights heritage and past leadership in international fora, including the UN, on issues such as the Apartheid. In their final report to CHOGM 2011 the Eminent Persons Group should articulate strong recommendations on the future relationship between the Council and the Commonwealth and make way for the Commonwealth to realise its potential to strengthen human rights dialogue at the Council in a positive way.

20 Commonwealth Secretariat, "Of Declarations and Deeds" (26 October 2010) at http://www.thecommonwealth.org/document/231259/the_commonwealth_hasn_t_reneged_on_its_commitment.htm (last accessed on 24 February 2010).

Bangladesh

Easier Said
than Done

1. Background

1.1. Context

Bangladesh won independence from Pakistan and became a sovereign state in 1971. In January 1975, the founder President of Bangladesh, Sheikh Mujibur Rahman, introduced a single party system and was killed in a coup along with most of his family members in August 1975. Several coups and counter-coups followed. A multiparty system was reintroduced in 1978 by General Ziaur Rahman, a sector commander of the liberation war, and an election was held in 1979. After General Ziaur Rahman was killed in a failed coup in 1981, the Army Chief, General Hossain Muhammad Ershad, usurped power and declared Martial Law in March 1982. His tenure continued till the end of 1990, when he was overthrown by a mass uprising. The country returned to democracy through the elections of February 1991. The political situation has, however, remained tumultuous as intense political rivalry and violence have set the rhythm of the country's volatile political history.

From the beginning of the period covered by this report till elections were held on 29 December 2008, Bangladesh was under the control of the Fakhruddin Ahmed-led Caretaker Government, described by many commentators as "military-backed". This was the second caretaker government since 2006, having taken over on 11 January 2007 from the previously discredited one headed by Iajuddin Ahmed.[21] The Iajuddin caretaker term was marked by conflict in the streets, with the country coming to a virtual standstill. Widely suspected of operating as an arm of the previous ruling party, its actions aimed at predetermining election results and deploying the military, led to the protest resignation of all independent persons serving as advisors to the regime. Following the Fakhruddin takeover, the elections scheduled for January 2007 were postponed indefinitely and a State of Emergency was imposed. Under the State of Emergency, the Emergency Powers Ordinance and the Rules framed thereafter were introduced on 25 January 2007. Fundamental freedoms such as freedom of expression (including freedom of the press), assembly and association were curtailed. This raised particular concerns over the possibility of holding free and fair elections. The State of Emergency remained in place till the government lifted it on 17 December 2008, two weeks before holding the elections.[22] The elections saw the return to power of former Prime Minister Sheikh Hasina at the helm of the Awami League Alliance, which won a massive majority.

1.2 UN Treaties

Bangladesh is a party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, the Convention Against Torture (CAT), the Convention on the Rights of the Child (CRC) and its two Optional Protocols, and the Convention on the Rights of Persons with Disabilities. It also signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Bangladesh has not signed the two Optional Protocols to ICCPR, the Optional Protocol to ICESCR, the Optional Protocol to CAT, the Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

1.3 UN Reporting History

Bangladesh has only completed some reporting obligations required under international treaties. It has twelve reports overdue under six of the main international human rights instruments.

Bangladesh has not completed any rounds of reporting under ICCPR and one report is due since 2001. It has failed to submit any reports under ICESCR and owes reports for 2000 and 2005. Under ICERD, Bangladesh has completed eleven rounds of reporting, but has yet to submit reports for 2002, 2004 and 2006. The country has completed almost all its reporting requirements under CEDAW but has not yet submitted its 2009 report. Bangladesh has not completed any rounds of reporting under CAT, and has three overdue reports from 1999, 2003 and 2007. All reports under CRC and its two Optional Protocols have been submitted, while the 2010 report under Convention on the Rights of Persons with Disabilities is overdue.

Bangladesh has not extended an open invitation to the Special Procedures of the Council.

1.4 UN Voting Patterns and Performance at the Council

Eighth Session of the UN Human Rights Council

On 2 June 2008, Bangladesh welcomed the statement by the High Commissioner to look at the legal relationship between freedom of expression and hate speech, especially in relation to religion.

On 3 June 2008, Bangladesh agreed with the conceptual and policy framework proposed by the Special Representative for the Secretary-General on trans-national corporations and human rights. The framework focused on the State's responsibility to protect against abuses from third parties, the responsibility of those third parties to respect human rights, and the need for more effective access to remedies.

On 3 June 2008, Bangladesh expressed support for a legally binding instrument to eliminate poverty.

On 3 June 2008, Bangladesh responded to a statement contained in the report of the Special Rapporteur on extrajudicial killings that the failure of Bangladesh and other listed countries to refuse requested visits by the Special Rapporteur created a vacuum. Bangladesh noted that delays in responding occur for several reasons and that reports must be meaningful and objective.

On 4 June 2008, Bangladesh expressed its opposition to an "a la carte" approach to the Optional Protocol to the International Covenant on Social, Economic and Cultural Rights. This approach would not include all the rights in the Covenant or the levels of obligation into the Optional Protocol. Bangladesh believed that the approach would contradict the principle of the universality of human rights.

On 5 June 2008, Bangladesh expressed support for the renewal of the mandate of the Special Rapporteur on extrajudicial killings but distinguished this from the renewal of the mandate holder, which was in its view, dependent on them discharging their mandate.

On 6 June 2008, Bangladesh called for the creation of a code of conduct for NGOs after an NGO raised the issue of the State of Emergency in Bangladesh during the general debate on human rights situations that required the Council's attention.

On 18 June 2008, Bangladesh voted in favour of a resolution on the promotion of the right of peoples to peace. Slovenia called for a vote, on behalf of the EU, on the basis that the issues contained in the resolution were best dealt with in other fora and that the resolution failed to state that the absence of peace did not justify breaches of human rights.

On 18 June 2008, Bangladesh voted in favour of a resolution on the promotion of a democratic and equitable international order. The resolution rejected a unilateral approach in favour of a multilateral one, when addressing international issues. Slovenia called for a vote on behalf of the EU, on the basis that the resolution addressed issues that were beyond the mandate of the Council. For example, it focused on relations between States rather than relations between States and their citizens.

Ninth Session of the UN Human Rights Council

On 8 September 2008, Bangladesh advised that the Office of the High Commissioner on Human Rights, in undertaking field activities, required a greater understanding of the realities and customs of the country being visited.

On 9 September 2008, Bangladesh called for greater consideration on dealing with non-state actors in relation to the recruitment of children in armed conflict.

On 10 September 2008, Bangladesh expressed strong concern at the adverse effects of dumping toxic waste and called for a greater allocation of resources to the mandate of the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights.

On 12 September 2008, Bangladesh encouraged the Independent Expert on human rights and international solidarity to continue drafting a declaration on international solidarity. Bangladesh stated that it believed that international solidarity played a central role in international relations.

On 16 September 2008, Bangladesh noted the discrepancy between the report of the Special Rapporteur on Sudan and the Ambassador of Sudan's briefing, calling it a credibility gap requiring the attention of all. Bangladesh referred to the positive efforts made by the Government of Sudan and called for support from the international community.

On 17 September 2008, Bangladesh expressed sincere appreciation for the work of the Advisory Committee and the Social Forum and was satisfied with the progress made. It further noted that the theme of the last Social Forum, which underlined the close link between poverty and human rights, was timely and pertinent and called for the theoretical discourses discussed therein to be translated into implementable strategies.

On 18 September 2008, in connection with the report of the High-Level Fact-Finding Mission to Beit Hanoun, Bangladesh stated that Israel had been in flagrant breach of international law. It criticised Israel for hindering the

fact-finding mission and observed that silence on the part of the international community leads to continued suffering in Palestine.

On 18 September 2008, during informal consultations on the draft resolution on human rights voluntary goals, Bangladesh opposed the creation of a specific deadline to implement the voluntary goals.

On 24 September 2008, Bangladesh voted in favour of a resolution on human rights and international solidarity. The resolution emphasised the need for international cooperation to tackle human rights issues in a manner that distributes costs and burdens fairly. France called for a vote, on behalf of the EU, on the basis that international solidarity was a moral principle not a human right defined in legal terms.

On 24 September 2008, Bangladesh voted in favour of a resolution on human rights and unilateral coercive measures. The resolution requested States to stop using or implementing unilateral, coercive measures, not in accordance with international law, particularly those creating obstacles to trade relations between States. It also condemned the use of unilateral coercive measures to assert political or economic pressures, especially on developing countries.

On 24 September 2008, Bangladesh voted in favour of a resolution on the follow-up to Resolution S-3/1 on the Assault on Beit Hanoun. The resolution welcomed the report of the High-Level Fact-Finding Mission dispatched to assess the situation in Beit Hanoun. It called for full implementation of all the recommendations made in the report and expressed regret for the delay caused by Israel's non-cooperation.

On 24 September 2008, Bangladesh expressed appreciation for the creation of UN guidelines to deal with the important topic of conditions of alternative care for children but highlighted the need for the drafting process to be more inclusive, transparent and intergovernmental.

Ninth Special Session of the UN Human Rights Council

On 12 January 2009, Bangladesh voted in favour of a resolution on the grave violations of human rights in the Occupied Palestinian Territories (OPT). The resolution strongly condemned the Israeli military operation in the OPT, stating that this had caused grave violations of the human rights of Palestinian civilians. It accused Israel of collective punishment of the Palestinian people and called on the international community to act.

Tenth Special Session of the UN Human Rights Council

On 23 February 2009, Bangladesh voted in favour of a resolution on the impact of the global economic and financial crisis on the universal realisation and effective enjoyment of human rights. The resolution expressed deep concern at the effect of the economic and financial crisis on human rights and called for increased participation by developing countries in international decision-making.

Tenth Session of the UN Human Rights Council

On 10 March 2009, Bangladesh asked the Special Rapporteur on the right to housing to consider the effects of climate change on housing in Bangladesh in her next report.

On 10 March 2009, Bangladesh suggested that donor countries of food aid should move away from food aid to more comprehensive provisions of support to less developed countries.

On 10 March 2009, Bangladesh welcomed the decision of the Independent Expert on access to safe drinking water and sanitation to focus on sanitation.

On 12 March 2009, Bangladesh criticised the focus of the report of the Special Rapporteur on human rights defenders (HRDs) on the use of the Universal Periodic Review (UPR) to enhance the protection of HRDs. Bangladesh viewed the evaluation of the UPR as premature.

On 26 March 2009, Bangladesh voted in favour of a resolution on human rights in the occupied Syrian Golan, which expressed deep concern for the suffering of the Syrian civilian population and referred to the systematic and continuous violations of fundamental and human rights by Israel.

On 26 March 2009, Bangladesh voted in favour of a resolution on Israeli settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution strongly condemned the Israeli announcement that it would build further settlements in the OPT.

On 26 March 2009, Bangladesh voted in favour of a resolution on the human rights violations emanating from the Israeli military attacks and operations in the OPT.

On 26 March 2009, Bangladesh voted in favour of a resolution on the follow-up to Council Resolution S-9/1 on the grave violations of human rights in the OPT, particularly due to the then recent Israeli military attacks against the occupied Gaza Strip. The resolution regretted that Resolution S-9/1 had not been fully implemented yet and demanded that Israel cooperate with the international community.

On 26 March 2009, Bangladesh voted in favour of a resolution on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.

On 26 March 2009, Bangladesh abstained from voting on a resolution expressing serious concern over the human rights situation in the Democratic People's Republic of Korea (DPRK) and extending the mandate of the Special Rapporteur on DPRK for a further year.

On 26 March 2009, Bangladesh voted in favour of a resolution on combating defamation of religions.

On 26 March 2009, Bangladesh voted in favour of a resolution calling for better geographical representation and gender balance in the staff of the Office of the High Commissioner for Human Rights (OHCHR).

On 27 March 2009, Bangladesh voted in favour of a resolution on the elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination.

On 27 March 2009, Bangladesh voted in favour of a decision on the publication of reports completed by the Sub-

Commission on the Promotion and Protection of Human Rights. The resolution provided for all reports by the Sub-Commission that had previously been mandated by the Commission on Human Rights and submitted to the OHCHR, to be published as UN documents. Bangladesh said it was regrettable that a vote was needed owing to the shortage of time available to discuss the decision.

On 27 March 2009, Bangladesh abstained from voting on a resolution on torture, and the role and responsibility of medical and other health personnel. In an additional vote, Bangladesh voted against including a paragraph in the resolution which took note of the report of the Special Rapporteur on torture.

On 10 March 2009, the Special Rapporteur on torture had presented his report in which he considered whether the death penalty amounted to cruel, inhuman or degrading treatment or punishment. This was apparently in response to a question posed by France at the General Assembly in October 2008. Bangladesh reacted strongly to this, accusing the Special Rapporteur of going beyond his mandate, questioning his impartiality and stating that there was no international consensus on the status of the death penalty as a breach of human rights.

On 27 March 2009, Bangladesh abstained from voting on a resolution on discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights. The resolution was introduced by the EU. The Czech Republic, on behalf of the EU, explained that the resolution was in response to the report of the Special Rapporteur on freedom of expression and that this was an important, sensitive issue. The resolution was criticised by some other States for failing to adequately address contemporary forms of religious discrimination.

During the Tenth Session, two draft resolutions on the human rights situation in the Democratic Republic of the Congo (DRC) were tabled, one by the EU and the other by the African Group. The resolution drafted by the EU expressed serious concerns regarding the human rights situation there, while the draft tabled by the African Group was less critical of the issue and called on OHCHR to enhance its technical assistance activities in the country. Following the adoption of the African Group's resolution by vote, the EU proposed amendments to the resolution reflecting serious concerns. Bangladesh voted in favour of the original resolution drafted by the African Group and voted against the amendments proposed by the EU.

Eleventh Special Session of the UN Human Rights Council

On 27 May 2009, Bangladesh voted in favour of a resolution on assistance to Sri Lanka in the promotion and protection of human rights. Before the vote, Germany, on behalf of the EU, proposed oral amendments to the draft resolution, as it made no mention of the need to conduct investigations into alleged violations of international human rights law or the need to prosecute perpetrators. Cuba, on behalf of a number of countries, requested that no action be taken on Germany's proposed oral amendments. The request was put to a vote and Bangladesh voted in favour of it.

Eleventh Session of the UN Human Rights Council

On 5 June 2009, the Independent Expert on human rights and extreme poverty thanked Bangladesh for its official invitation for a country visit. Bangladesh expressed support for the mandate and referred to the need for resources to tackle poverty. Bangladesh identified poverty as a cause and consequence of several human rights violations.

On 5 June 2009, Bangladesh agreed with the view of the Independent Expert on foreign debt and human rights that the debt problem had ethical, moral and legal dimensions and was not merely an economic issue.

On 15 June 2009, Bangladesh used the Interactive Dialogue during the panel discussion on the relationship between climate change and human rights, to refer to the implications of climate change for Bangladesh. Bangladesh supported the suggestion that a new special procedure for climate change be created.

On 18 June 2009, Egypt, on behalf of the African Group, and the Czech Republic, on behalf of the EU, introduced competing draft resolutions on the mandate on Sudan. The draft proposed by the African Group did not renew the mandate of the Special Rapporteur or create a mandate for any international monitoring. It referred positively to the efforts of the government. The EU resolution replaced the mandate of the Special Rapporteur with that of an Independent Expert with some monitoring and reporting functions. The EU later accepted the African Group's draft but with proposed amendments providing for the mandate of an Independent Expert. Bangladesh voted against these amendments, and after the amendments were passed, against the entire text as amended.

Twelfth Session of the UN Human Rights Council

On 15 September 2009, Bangladesh welcomed the High Commissioner's comments on the importance of economic, social and cultural rights and the ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

On 15 September 2009, during the general debate on the rights of migrants, Bangladesh noted that there was a link between undocumented migration and trafficking.

On 16 September 2009, the Special Rapporteur on contemporary forms of slavery noted that she had not yet received a reply to her request for a country visit to Bangladesh.

On 18 September 2009, Bangladesh called for international solidarity when tackling the global financial crisis and a rights-based approach to global policymaking. Bangladesh viewed the economic crisis as an opportunity to rethink the global economy.

On 18 September 2009, Bangladesh called for the implementation of the recommendations made by the Joint Inspection Unit concerning geographical representation among OHCHR staff. Bangladesh stated that a road map to achieve equitable representation in the OHCHR, with specific targets, should be set out and the process accelerated.

On 25 September 2009, Bangladesh stated that it was sufficient to report back on follow-up to the UPR only at the next review, as it was reasonable for States to take up to four years to implement measures.

On 28 September 2009, Bangladesh opposed establishing a new Independent Expert on the elimination of all forms of discrimination against women, as it could lead to a proliferation of existing mechanisms.

On 1 October 2009, Bangladesh praised the Independent Expert on Somalia and called on the international community to provide both political and economic support.

On 1 October 2009, Bangladesh voted in favour of a resolution on human rights and international solidarity.

On 2 October 2009, Bangladesh voted in favour of a resolution on human rights and unilateral coercive force.

On 2 October 2009, Bangladesh voted in favour of a decision on the effect of foreign debt on the enjoyment of human rights.

On 2 October 2009, Bangladesh voted in favour of a resolution on the right to development.

Bangladesh co-sponsored a resolution promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind and on 2 October 2009, voted in favour of it.

Twelfth Special Session of the UN Human Rights Council

On 16 October 2009, Bangladesh voted in favour of a resolution that focused on continuing violations of human rights by Israel in the OPT, and in particular, in East Jerusalem. It endorsed the recommendations set out in the reports of the Fact-Finding Mission to Gaza led by Justice Goldstone and by the High Commissioner for Human Rights, and called for their implementation.

Thirteenth Session of the UN Human Rights Council

On 1 March 2010, during the opening statements, Bangladesh expressed its will to eradicate poverty, as mentioned in its development agenda. It further called for better engagement among member States in the Council to ensure progress under international human rights law.

On 4 March 2010, during the Interactive Dialogue with the High Commissioner for Human Rights, Bangladesh encouraged the UNHRC and the OHCHR to reach a consensus on arranging for periodic interactions between the bodies. Bangladesh also noted that two concepts were missing from the Annual Report on the Activities of the OHCHR – poverty and climate change.

On 5 March 2010, Bangladesh welcomed the report of the Special Rapporteur on the right to food, supported the recommendations contained within it, and asked whether it would be possible to make the private sector comply with those recommendations. Concerning the report of the Special Rapporteur on adequate housing, Bangladesh emphasised on the important causal link between climate change and the displacement of people.

On 10 March 2010, Bangladesh reiterated its commitment to fight sexual violence against children and stated its belief that root causes have to be identified to prevent cases of child abuse.

On 11 March 2010, Bangladesh, commenting on the report of the Special Rapporteur on human rights defenders, expressed reservations about defining "human rights defenders" narrowly to mean only non-governmental organisations. Bangladesh commended the work of the Special Rapporteur on freedom of religion or belief and

underscored the important responsibility of media in promoting tolerance towards religion or belief.
On 15 March 2010, Bangladesh expressed its continuing support for the Myanmar government in its efforts towards the upcoming elections. It also expressed concern about the situation of Muslim minorities in Myanmar, but noted that members of these minorities were provided with identification cards and were allowed to vote in local elections. Bangladesh called for more participation by the international community in the democratisation of Myanmar.

On 16 March 2010, Bangladesh expressed its commitment and mentioned its efforts to ensure progress towards the Millennium Development Goals by 2015. Bangladesh stated that social sector investment was important to help reduce poverty.

On 22 March 2010, Bangladesh agreed with the recommendations in the Report by the High Commissioner for Human Rights on the OPT and asked for compliance by Israel after what it said were deliberate and premeditated violations of human rights by Israel. Bangladesh urged the parties who could influence Israel to negotiate with it.

On 22 March 2010, Bangladesh welcomed the Goldstone Report on Human Rights Situation in Palestine and Other Occupied Arab Territories. It asked the Council to "stand by the side of the oppressed" and take a clear stand on the human rights violations taking place in the OPT.

On 24 March 2010, concerning the work of the Independent Expert on Somalia, Bangladesh regretted that he did not visit the areas in Somalia where human rights violations occurred and asked for more support from the international community to improve the work of the Transitional Federal Government.

On 24 March 2010, Bangladesh voted in favour of a resolution on the composition of the OHCHR that asked for the implementation of measures to ensure a better representation of geographic diversity among the staff.

On 24 March 2010, Bangladesh voted in favour of a resolution on human rights in the occupied Syrian Golan. The resolution strongly condemned the occupation of Syrian Golan by Israel.

On 24 March 2010, Bangladesh voted in favour of a resolution on the right of the Palestinian people to self-determination. The resolution emphasised the value of self-determination, and supported Palestine and Israel in their process towards peace and security. It encouraged the international community to aid the Palestinians in their right to self-determination.

On 24 March 2010, Bangladesh voted in favour of a resolution on Israeli Settlements in the OPT, including East Jerusalem, and in the occupied Syrian Golan. The resolution asked the Government of Israel to reverse controversial announcements about new settlements and to respect legal obligations concerning access to food and supplies, the halting of impunity, the prevention of violence, etc.

On 24 March 2010, Bangladesh voted in favour of a resolution on grave human rights violations by Israel in the OPT, including East Jerusalem. The resolution strongly condemned the military attacks and operations in the

OPT, which it said caused grave violations of human rights. It asked for the end of the occupation and for the establishment of an independent sovereign state through a peace process.

On 25 March 2010, Bangladesh voted in favour of a resolution on the follow-up to the report of the United Nations Independent International Fact-Finding Mission on the Gaza Conflict. The resolution asked for independent and credible investigations regarding the violations of international humanitarian and international human rights law during the Gaza Conflict.

On 25 March 2010, Bangladesh abstained from voting on a resolution on the situation of human rights in DPRK. The resolution asked for the mandate of the Special Rapporteur on DPRK to be extended and for the government's participation in addressing human rights violations.

On 25 March 2010, Bangladesh voted in favour of a resolution on combating defamation of religions. The resolution urged the international community to promote a culture of tolerance and peace, especially concerning the wrongful association of Islam with human rights violations and terrorism.

On 26 March 2010, explaining its reasons for abstaining from voting on a resolution on the situation of human rights in DPRK, after the vote was taken, Bangladesh stated that it disagreed with "country mandates created against the will of the concerned country". Bangladesh's abstention did not reflect its position on the resolution; it just iterated its position that the country mandate did not help the situation in DPRK.

2. Pledge

2.1 Election to the Council

Bangladesh was one of the 18 Asian candidates who contested the May 2006 election to the Council. Thirteen seats were reserved for Asian States and Bangladesh came third among the Asian group with 160 votes.

In its second election on 12 May 2009, the number of Asian seats available and the number of candidates seeking election were identical, therefore the election results were predetermined. Bangladesh came third out of five candidates among the Asian group, after Jordan and Kyrgyzstan, with 171 votes.

2.2 Pledge Made

In its pre-election pledge in 2006, Bangladesh promised to establish a National Human Rights Commission "as soon as possible". Bangladesh also pledged to continue to work towards further strengthening and consolidating institutional structures that promote good governance, democracy, human rights and the rule of law. In the pre-election pledge document, Bangladesh also pledged its commitment to further integrate the promotion and protection of human rights and fundamental freedoms into its national policies, including that on development and poverty eradication, with a special focus on the rights of women, children, minorities and persons with disabilities. In the document Bangladesh stated that if elected it would separate the judiciary and the executive "as soon as feasible". Bangladesh also undertook to "contemplate" adhering to the remaining international and regional human rights instruments. In addition, Bangladesh promised to cooperate with efforts of the Council, further highlighting its long involvement in the functioning of the Commission.

Before its re-election to the Council in 2009, Bangladesh reminded the Council of its human rights achievements and progress. It noted that its constitutional framework provided for the protection of fundamental rights, including the right to equality before the law and equal protection of the law, and the prohibition of discrimination on grounds of race, religion, caste or sex. In its voluntary pledges, Bangladesh committed to intensify its efforts to uphold the principles enshrined in its Constitution, the Universal Declaration of Human Rights and other international instruments to which it was a party. It also pledged to continue with its agenda on the overall development of its people, including the empowerment of women, children and other vulnerable sections of the population. Furthermore, Bangladesh pledged to: follow a policy of zero tolerance towards any extrajudicial or extra-constitutional actions undertaken when dealing with persons accused of criminal activity; further strengthen the National Human Rights and Electoral Commissions; preserve and enhance the independence of the judiciary and freedom of the press; and increase its efforts to ensure the provision of basic necessities to its people. Bangladesh committed to strengthening efforts to meet its treaty body obligations, inviting some Special Rapporteurs to visit the country at "mutually convenient times", and strengthening further the government's partnership with civil society. Finally, Bangladesh promised to continue supporting the work of the Council, the Office of the High Commissioner for Human Rights and other human rights related UN agencies, programmes, and funds.

3. Compliance

3.1 Human Rights During the Reporting Period

On the 25 February 2009, just two months after the current government took office, a violent mutiny broke out at the Headquarters of Bangladesh's border guards, the Bangladesh Rifles (BDR), in Pilkhana. The mutiny lasted for 33 hours and resulted in the deaths of at least 75 people, including officers and civilians. The mutiny was brought to an end by the offering of a general amnesty and the appearance of the army with tanks. In the days following the mutiny, BDR members were ordered to report to barracks or face lawful action. Since then, grave concerns about the treatment of the detained BDR members have been raised as many of them reportedly died in custody. Official sources cited heart attacks, suicide and death by natural causes as the reasons behind the deaths. However, the high number of deaths, allegations of torture made by families and reports by human rights organisations, all point towards possible ill-treatment of the BDR members while in custody.[23] On 20 May 2009, the government formed a committee to investigate 21 BDR deaths.[24] The subsequent report termed all the deaths unnatural. On 2 October 2009, two murder cases were filed in respect of the deaths of two BDR members who were allegedly tortured to death.[25] On 11 January 2010, it was reported that 67 accused BDR soldiers had died in hospitals or committed suicide.[26] On 12 November 2009, Amnesty International published a report containing allegations of torture after taking testimonies in April and May 2009, and asserting that detained BDR members had received inadequate access to legal advice and inadequate contact with family members.[27] Local and international organisations noted that as of March 2010, up to 2,100 of the alleged mutineers were still in custody awaiting trial and the majority had not been charged.[28]

Controversy also surrounded the means of prosecuting the BDR members allegedly involved in the mutiny. Probes into the mutiny undertaken by both the army and the government advocated for the use of the Army Act, 1952 to prosecute the accused. Use of this Act was opposed by rights groups on the grounds that it did not

provide for a right of appeal and that, given the number of military casualties, it would be difficult to constitute a fair and impartial military tribunal. Moreover, the BDR is a civilian force and as such it would have been inappropriate for justice to be carried out by a military court.[29] On 10 September 2009, in reply to a Presidential Reference on the mode of trial, the Supreme Court expressed its opinion that BDR members could not be tried under the Army Act, 1952 – neither in its current form nor with an amendment allowing for retrospective effect.[30] On 15 September 2009, the government reportedly determined that offences such as murder, looting and arson would be tried in non-military courts using the Speedy Trial Tribunal under the Penal Code. Offences such as breaching discipline and ignoring officers' orders would be tried under the Bangladesh Rifles Order (BRO), 1972 (henceforth referred to as the BDR law) using special courts.[31]

The first of the trials under the BDR law commenced on 22 November 2009. Six special courts were set up for the purpose and were located at the respective BDR barracks where the alleged offences were committed. The courts each consisted of three members, headed by the BDR Director General. The maximum penalty available under the BDR law was seven years imprisonment.[32] Under the Penal Code, the maximum penalty available for the most serious offences allegedly committed during the mutiny, such as murder, was death.[33] There were concerns that the fast track procedure of the speedy trial process would lead to possible miscarriages of justice.[34] Additionally, twelve BDR members reportedly sought to retract confessions, which they alleged were extracted under torture.[35]

Bangladesh's prisons suffered from extreme overcrowding. 70,000 inmates were imprisoned in 68 jails, which together had a capacity of only 27,500.[36] The problem was exacerbated by the presence of numerous juvenile and remand prisoners. In August 2008, it was reported that 412 juveniles were detained in adult prisons rather than in juvenile correction facilities, as was required by Bangladeshi law.[37] In January 2009, it was reported that 286 foreign nationals remained in jail long after the expiration of their sentences, owing to problems with their repatriation.[38] In January 2010, the Inspector-General of prisons reportedly stated that only 23 per cent of inmates in the country had been convicted and that the rest were still awaiting trial, often long after their arrest.[39]

Overcrowding eased a little under the Awami League government. It was reported in February 2010 that the prison population had decreased from 86,000 to under 70,000.[40] A three-year project, conducted by the Ministry of Home Affairs in partnership with three legal service providers, Bangladesh Legal Aid and Services Trust, BRAC-Human Rights and Legal Aid Services and Madaripur Legal Aid Association, and supported by Deutsche Gesellschaft für Internationale Zusammenarbeit (GTZ), commenced in 2009 with the aim of releasing prisoners charged with minor offences who had been awaiting trial for years, often because they could not afford a lawyer. Under the project, 14,000 prisoners were released in 2009.[41] Despite this positive development, prisons remained extremely overcrowded. According to the Home Minister, as of January 2010 the government had no plans to construct additional facilities, though it did plan to improve existing facilities[42]

Death sentences were handed out throughout the reporting period and no moves were made towards a moratorium.[43] According to a report by Amnesty International, in 2008, five people were executed and 185 sentenced to death, bringing the number of people on death row to at least 1,085.[44] In December 2009, it was reported that the final draft of the "Border Guard Bangladesh Bill, 2009" had been submitted to the Home Ministry and Ministry of Law, Justice and Parliamentary Affairs and that the bill included a provision for the use

of the death penalty for future crimes such as mutiny, which was not contained in the BDR Order, 1972.[45] On 28 January 2010, five ex-army officers were executed for the assassination of the Bangladesh independence leader and former President, Sheikh Mujibur Rahman (father of the current Prime Minister, Sheikh Hasina) and the murder of members of his family.[46] Seven other ex-army officers were also sentenced to death but six live abroad, and have not yet surrendered to the courts in Bangladesh, and one is believed to have died.[47]

As part of their election pledge, the Awami League government vowed to bring about trials for war crimes committed during the 1971 Bangladesh Liberation War, after decades of demands by survivors, the families of victims and national and international rights organisations that impunity relating to the war should end.[48] On 26 January 2010, the War Crimes Committee of the International Bar Association (IBA) commented that the Bangladeshi International Crimes (Tribunals) Act, 1973, under which the government intended to try alleged war criminals, although broadly compatible with current international standards, had several flaws. The Act allegedly contained obsolete definitions for offences, and provided insufficient protection to the rights of people under investigation and at trial.[49] Concerns were raised by the European Union about the potential availability of the death penalty under the 1973 Act in "politically motivated cases".[50] On 23 March 2010, the Bangladeshi government announced that it had ratified the Rome Statute of the International Criminal Court, which sets high standards for investigating and prosecuting crimes under international law.[51] This announcement came two days before the government officially named the members of the 1971 War Crimes Tribunal and investigative and prosecuting bodies. Despite these developments, the abovementioned concerns about the Act, as noted by the IBA and the European Union, were not rectified till the end of the reporting period and there was further concern that a lack of surviving, credible documentary evidence from 1971 would severely hamper the Tribunal's ability to hold trials in accordance with international standards.[52]

Extrajudicial executions continued to be a major concern in Bangladesh. The Rapid Action Battalion (RAB) has consistently been the subject of allegations of extrajudicial killings since its formation in 2004. These killings are characteristically reported as "cross-fire" incidents or "shootouts" in which alleged criminals are killed in supposed "encounters" with security forces. According to a report by Odhikar, a Bangladeshi human rights organization, 146 people were killed by law enforcement agencies in alleged extrajudicial killings by the RAB, the police, the Coast Guard, the BDR and "Joint Forces".[53] Odhikar's annual report for 2009, alleged that 154 people were victims of extrajudicial killings during that year, and 35 of these occurred while the victim was in police custody.[54] Different civil society organisations quote slightly different statistics on extrajudicial killings. The legal aid and human rights organisation Ain O Salish Kendra reported that 139 extrajudicial killings took place in 2008, and that 110 people were killed by police in 2009. This is in contrast with an all-time high of 320 killings by police in 2005.[55]

On 16 November 2009, two brothers, Lutfor Rahman Khalasi and Khainil Haque Kalahsi, were killed in a "shoot-out" with the RAB. According to the RAB they were members of the outlawed Purba Banglar Communist Party who were shot when their cohorts opened fire on the RAB. However, at a press conference days before the shooting, their family members alleged that the pair was arrested by the RAB, and the family had appealed to them not to kill them under the pretence of crossfire.[56] On 17 November, the High Court ruled that the government and the RAB had 48 hours to explain the killings.[57] Following the Order, the Home Minister Sahara Khatun denied that any crossfire killings had occurred in the country.[58] As of May 2010, no member of the RAB had been brought to justice for the killings, at least partly because several High Court Benches were reconstituted

– including the one which had initially issued the "show cause" on the government – after which the matter was taken off the Court's daily case list.[59]

On 22 March 2010, the police shut down a photo exhibition entitled "Crossfire", which included images that symbolically represented extrajudicial killings by the RAB. The gallery in which the exhibition was housed was forcibly closed by police who claimed that the organisers did not have the requisite government permission to stage it.[60] This resulted in national and international condemnation from human rights groups. The exhibition reopened a week later following a legal challenge before the High Court.[61]

Abuse of power by law enforcement personnel has also contributed to restrictions on freedom of expression within Bangladesh. The Caretaker Government's Emergency Power Rules, 2007 posed several restrictions on journalists to be able to report freely. However, restriction on their activities in the form of physical harassment by law enforcement personnel and private individuals, and by bringing false cases against them, continued under the current government. A report by Ain O Salish Kendra recorded that during 2009, four journalists were killed, 19 received death threats, 84 saw cases filed against them and 136 were tortured, assaulted, threatened or harassed by criminals, law enforcers, militants and political activists.[62] The following cases serve as illustrative examples of the treatment meted out to media persons. On 19 October 2009, the Daily Star's Senior Correspondent in Bogra was reportedly arrested under false charges and later released on bail.[63] On 22 October 2009, RAB reportedly arrested and tortured FM Masum a staff reporter for the newspaper New Age. Masum, who had written several articles regarding RAB involvement in crossfire shootings, the drug industry and torture of journalists, was reportedly arrested at his house and tortured by the RAB. He was repeatedly beaten and salt was rubbed into his wounds.[64] On 24 October 2009, the RAB issued a press release regretting the incident and stating that it would form a committee to probe the incident.[65]

Bangladesh maintains criminal defamation legislation. On 7 December 2009, the Cabinet approved the Code of Criminal Procedure (Amendment) Bill, 2009, which would remove the power of courts to issue arrest warrants against editors, publishers, reporters or writers for alleged criminal defamation, and would be limited to issuing a summons or notice.[66]

Bangladesh passed Right to Information legislation during the reporting period. On 29 March 2009, Bangladesh enacted the Right to Information Act, 2009, which came into force on 1 July 2009.[67] The Act requires organisations who meet certain criteria, for example those constituted by the Bangladeshi Constitution, private organisations run with government funding, and those that perform public functions, to provide citizens with information on matters of public interest, although some organisations may refuse to provide information in certain circumstances.[68] An Information Commission was also established to ensure its proper enactment and to deal with complaints.

Progress towards setting up a National Human Rights Commission in Bangladesh has been slow and stilted but the project was finally underway. Under the Fakhruddin Ahmed-led Caretaker Government, the National Human Rights Commission was launched on 1 September 2008, nine months after its Ordinance was approved on 9 December 2007.[69] The Chairman, a former Supreme Court Justice, and two members of the Commission were appointed on 19 November 2008 and on 1 December 2008 the Commission was able to commence operations.[70]

However, following the election of the Awami-League-led government, the Commission reportedly ceased to be effective on 25 February 2009, as the interim ordinance expired while awaiting ratification by the new parliament.[71] In July 2009, a law re-activating the Commission was passed. The law provided for the appointment of a six-member commission and strengthened its powers to investigate breaches by disciplined forces.[72] The Commission's diversity requirements necessitate the inclusion of an indigenous community representative and a woman representative.

The 1972 Bangladesh Constitution provides for equality between men and women. Despite this, women continued to suffer discrimination in Bangladesh as a result of violence, traditional attitudes and discriminatory legislation and practices. The Women's Development Policy, 1997 and a few other pieces of legislation attempted to address some disparities, by providing for the reservation of a proportion of government seats for women and equal property and inheritance rights. However, the policy suffered from amendments in May 2004 by the BNP-led government which diluted its effect. The Caretaker Government cancelled the 2004 amendments, and adopted a new Women's Policy that reverted to many provisions contained in the original 1997 one (although it did not reaffirm equal inheritance rights). However, religious extremist organisations protested that the Caretaker Government had no power to frame policies or to make any provisions allowing for women's equality. As such, the policy was again poorly implemented. The current Awami League-led government vowed to ensure the realisation of the policy, with amendments to ensure the protection of indigenous women and the physically or intellectually challenged.[73] A Domestic Violence Bill was tabled in parliament but was not passed by the end of the reporting period.

Legislative reform is only one part of the solution, with discrimination against women also stemming from traditional, societal and religious attitudes towards them. Throughout the reporting period, there were frequent incidents of violence against women such as domestic violence, rape and acid attacks, as well as extrajudicial penalties in the name of "fatwa". A compilation from 15 national newspapers by Ain O Salish Kendra found "446 reports of incidents of rape, in which 158 women were victims of gang rape and 62 were murdered after rape. Cases were filed in 244 of these incidents. Thirty five incidents of fatwa were reported, and 281 women were reported to have been subjected to domestic violence, 285 women to torture for dowry, out of which 194 died. The media reported on 63 incidents of acid burns on women."[74]

The High Court Division of the Supreme Court of Bangladesh declared the issuance of "fatwa" illegal in 2001, yet several incidents were reported of women being subject to punishment, including whipping, as the result of a declaration of fatwa. Ain O Salish Kendra's 2009 report recorded that 35 women were subjected to fatwa, 20 of whom were caned and three forced to marry.[75] In June 2009, human rights groups called for immediate action, including the enactment of a law to address extrajudicial penalties issued in the name of fatwa and for the prosecution of offenders.[76] Furthermore, in August, the High Court issued a directive to the police to probe all incidents of extrajudicial penalties in the name of fatwa, criticising them for failing to do so earlier.[77]

Discrimination was also alleged against Bangladesh's indigenous communities. The population includes around 49 indigenous communities located within the Chittagong Hill Tracts (CHT) and lowland plains. There were ongoing concerns about the protection of these indigenous people's rights, which were exacerbated by tensions with settler communities in the area. Concerns expressed by representatives of the indigenous people include

constitutional recognition of their identity and rights, education of indigenous children in their mother tongue, and a quota system within education and government. Major concerns also centred on alleged land grabbing by settlers. Indigenous people traditionally took a community-based approach to land ownership, resulting in a lack of official records of individual ownership. This contributed to the displacement of indigenous people by settlers who were allegedly supported by the government and military. The subsequent tensions consistently resulted in violent clashes, and in February and March 2010, the region saw its worst violence since 1997.[78]

In 1997, the Chittagong Hill Tracts Peace Accord was signed by the Awami League-led government and representatives of the indigenous people. However, more than a decade later, the Accord had not been fully implemented. While the Accord provided for the removal of all temporary army camps, it failed to provide for a fixed time limit, and a number of political parties, including the BNP and Jamaat-E-Islami, strongly oppose the removal of these camps.[79] In August 2009, it was reported that only 31 out of 500 army camps had been withdrawn, and, as of March 2010, there were reportedly still at least 400 army camps in the region.[80] Indigenous groups reportedly raised many concerns regarding the functioning of the Land Commission established by the Accord to settle disputes on land ownership. According to the President of the Bangladesh Indigenous People's Forum, indigenous groups had proposed 19 amendments to the Land Commission Law since its enactment, but, as of August 2008, none of these had been taken up by the government.[81]

In July 2009, an international medical aid agency, Medecins Sans Frontieres (MSF), expressed concern over the treatment of Rohingya refugees from Myanmar who fled to south-east Bangladesh to escape persecution.[82] Myanmar does not recognise the citizenship of the Rohingya people, who are required to seek permission to travel and marry, are prohibited from practising the Muslim faith and suffer restrictions in access to public services.[83] In Bangladesh, unregistered Rohingya refugees were reportedly prevented from living in the official refugee camp run by the Bangladeshi government and UNHCR, and instead had to stay in a makeshift camp. In June 2008, MSF issued a statement raising concerns about conditions within the camp which it described as dire, referring to "acute malnutrition rates above the emergency threshold". MSF also alleged that the houses of some Rohingya refugees were destroyed and that the inhabitants claimed to have been beaten up.[84] The government response was that they could only provide assistance to refugees who were officially recognised, stating that residents of the makeshift camp should return to Myanmar immediately.[85] In February 2010, MSF again raised concerns about the situation, this time regarding what it viewed as a violent crackdown on unregistered Rohingya refugees. MSF asserted that doctors at the camp had treated refugees for injuries resulting from beatings administered by the police and Bangladeshi citizens. Rohingyas, including those who had been in Bangladesh for several years, complained of having their houses destroyed and of border guards attempting to force them to leave Bangladesh. MSF also commented on the continuing poor conditions at the camp owing to overcrowding and the inability of the refugees to earn a living or to access food aid.[86] In March 2010, Physicians for Human Rights released a report entitled "Stateless and Starving: Persecuted Rohingya Flee Burma and Starve in Bangladesh". The report makes similar allegations to those in the MSF report regarding the state of unofficial refugee camps and the treatment of unregistered refugees by the Bangladeshi authorities. It also alleged that the Bangladeshi government's actions in preventing unofficial camps from receiving adequate humanitarian aid were to blame for the extreme malnutrition in the camps.[87]

Numerous forced evictions were carried out during the reporting period. For example, in December 2008, human rights groups called on the Caretaker Government to stop the process of evicting 120,000 slum dwellers in Dhaka from a slum which had reportedly been inhabited for 35 years. The Executive Director of Ain O Salish Kendra stated that after the evictions of these slum dwellers, by the Caretaker Government, the Housing and Public Works Adviser promised human rights groups that no further evictions would take place without rehabilitating the slum dwellers.[88] In March 2009, two Dalit rights groups reportedly formed a human chain in Dhaka to protest the eviction of a Dalit community from a neighbourhood where they claimed they had lived for a century. The protest called for the arrest and trial of "land robbers", who, one evictee claimed, carried out the violent eviction with the help of police and criminals.[89]

3.2 Compliance with the Pledge

In its pre-election pledges, Bangladesh committed itself to adopt a zero tolerance policy on extrajudicial or extra-constitutional actions while dealing with persons accused of criminal activity. It further undertook to intensify its efforts to uphold the principles enshrined in its Constitution, the Universal Declaration of Human Rights and the other international instruments to which it was a party. Bangladesh also promised to continue working towards further strengthening and consolidating institutional structures that promote good governance, democracy, human rights and the rule of law. Notwithstanding these pledges and commitments, extrajudicial killings continued to occur throughout the reporting period. Numerous instances of prolonged detention, custodial death and torture by security forces were also reported, while journalists continued to be harassed, tortured and killed. Bangladeshi prisons remained overcrowded and juveniles were occasionally held in adult prisons. Death sentences continued to be handed down during the reporting period.

Bangladesh also pledged to further integrate the promotion and protection of human rights and fundamental freedoms into its national policies, including those on development and poverty eradication, with a special focus on the rights of women, children and minorities. Additionally, Bangladesh pledged to continue with its agenda for the overall development of its people including the empowerment of women, children and other vulnerable sections of the population. Despite these pledges, a new policy on women was poorly implemented and eventually diluted, so that discrimination against women continued. Domestic violence, sexual violence and acid attacks against women were commonly reported. There were also reports that extrajudicial penalties, resulting from fatwas, targeted women. Indigenous people in Bangladesh reportedly faced discrimination and refugees were poorly treated. Numerous forced evictions were also reported.

Bangladesh, in its pledge, promised that it would "contemplate" adhering to international and regional human rights instruments to which it was not already a party. Bangladesh's contemplation has thus far not led it to ratify the two Optional Protocols to ICCPR, the Optional Protocol to ICESCR, the Optional Protocol to CAT, the Convention for the Protection of All Persons from Enforced Disappearance or the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

In its pledge to the Council, Bangladesh undertook to support the work of the Council, the Office of the High Commissioner for Human Rights and other human rights related UN agencies, programmes, and funds. However, at the Council, Bangladesh discouraged the Special Rapporteur on human right defenders from exploring ways to protect human rights defenders through the UPR. Bangladesh was also strongly critical of the Special Rapporteur

on torture for considering whether the death penalty amounted to cruel, inhuman or degrading treatment or punishment. Further, Bangladesh opposed establishing a new Independent Expert on the elimination of all forms of discrimination against women. It presented its view that follow-up reports on the UPR were not necessary between reviews. Bangladesh took perhaps its most concerning stance when it called for the creation of a code of conduct for NGOs, which would have restricted the already endangered space that NGOs enjoy at the Council. Bangladesh actively opposed examining country situations at Council sessions. It opposed international scrutiny of Myanmar and Sri Lanka, while voting in favour of weaker approaches to the human rights situation in DRC and Sudan, and abstained on votes on DPRK. Bangladesh voted in favour of every Organisation of the Islamic Conference (OIC)-introduced resolution on the subject of Israel and Palestine.

On controversial thematic resolutions, Bangladesh followed allied voting blocs and voted in favour of resolutions on the promotion of the right of peoples to peace, the promotion of a democratic and equitable international order, human rights and international solidarity, unilateral coercive measures, defamation of religions, and the elaboration of complementary standards to ICERD. Bangladesh abstained on a resolution on discrimination based on religion or belief.

The country's pledge to strengthen efforts to meet its treaty body obligations was not realised. At the end of the reporting period, twelve reports under six of the main international human rights instruments were overdue. Bangladesh has not submitted any report under ICCPR, ICESCR, or CAT, and has overdue reports under ICERD, CEDAW and CPD. It has, however, submitted all its reports under CRC.

---

21 The Daily Star, "Emergency declared; Iajuddin quits as Chief Adviser" (12 January 2007) at http://www.thedailystar.net/2007/01/12/d7011201011.htm (last accessed on 22 October 2010).

22 The Daily Star, "Emergency ceases on December 17" (12 December 2009) at http://www.thedailystar.net/story.php?nid=66774 (last accessed on 22 October 2010).

23 The Daily Star, "Yet another BDR man dies" (23 March 2009) at http://www.thedailystar.net/story.php?nid=80909 (last accessed on 17 February 2010); The Daily Star, "BDR jawan dies, 7 others hospitalised" (18 March 2009) at http://www.thedailystar.net/story.php?nid=80225 (last accessed on 17 February 2010); The Daily Star, "BDR member commits suicide in Dinajpur" (17 March 2009) at http://www.thedailystar.net/story.php?nid=80049 (last accessed on 17 February 2010); The Daily Star, "BDR subedar 'kills' himself" (10 March 2009) at http://www.thedailystar.net/story.php?nid=79213 (last accessed on 17 February 2010); BBC News, "Bangladesh mutiny deaths probed" (21 May 2009) at http://news.bbc.co.uk/2/hi/8060954.stm (last accessed on 17 February 2010); The Independent, The Daily Star, "Out Dirty Little Secret" (27 March 2009) at http://www.thedailystar.net/newDesign/news-details.php?nid=81466 (last accessed on 17 February 2010); The Daily Star, 'Another BDR jawan dies at Ctg hospital" (1 October 2009) at http://www.thedailystar.net/newDesign/news-details.php?nid=107800 (last accessed on 18 February 2010).

24 The Daily Star, "Odd BDR deaths to be probed" (21 May 2009) at http://www.thedailystar.net/story.php?nid=89133 (last accessed on 22 October 2010).

25 The Daily Star, "First murder case filed over BDR deaths" (3 October 2009) at http://www.thedailystar.net/story.php?nid=108090 (last accessed on 22 October 2010).

26 The Daily Star, "TFI Cell at Pilkhana may be withdrawn" (11 January 2010) at http://www.thedailystar.net/newDesign/news-details.php?nid=121311 (last accessed on 22 October 2010).

27 Amnesty International, "Looking for Justice: Mutineers on trial in Bangladesh" (12 November 2009) at http://www.amnesty.org/en/library/asset/ASA13/006/2009/en/bc5ff8c4-464a-4292-9410-4a2ccb9493dc/asa130062009en.pdf (last accessed on 22 October 2010).

28 Human Rights Watch, "Bangladesh: Hundreds held one year after massacre: Investigate allegations of killings and torture in custody" (17 March 2010) at http://www.hrw.org/en/news/2010/03/17/bangladesh-hundreds-held-one-year-after-massacre (last accessed on August 10 2010).

29 Amnesty International, Press Release, "Bangladesh: Do not extend Army Act to Bangladesh Rifle suspects" (25 August 2009) at http://www.amnesty.org.au/news/comments/21591/ (last accessed on 22 October 2010).

30 The Daily Star, "SC Against Trial Under Army Act" (11 September 2009) at http://www.thedailystar.net/story.php?nid=105304 (last accessed on 22 October 2010).

31 The Daily Star, "BDR Trial Finalised" (16 September 2009) at http://www.thedailystar.net/story.php?nid=106026 (last accessed on 22 October 2010).
32 The Daily Star, "BDR Trial Finalised" (16 September 2009) at http://www.thedailystar.net/story.php?nid=106026; The Daily Star, "Six BDR Courts to run 50 Trials" (6 December 2009) at http://www.thedailystar.net/newDesign/news-details.php?nid=116596 (last accessed on 22 October 2010).
33 The Daily Star, "BDR Trial Finalised" (16 September 2009) at http://www.thedailystar.net/story.php?nid=106026 (last accessed on 18 February 2010).
34 Amnesty International, "Looking for Justice: Mutineers on Trial in Bangladesh" (12 November 2009) at http://www.amnesty.org/en/library/asset/ASA13/006/2009/en/bc5ff8c4-464a-4292-9410-4a2ccb9493dc/asa130062009en.pdf (last accessed on 22 October 2010).
35 The Daily Star, "12 BDR men seek to retract confessions" (28 October 2009) at http://www.thedailystar.net/story.php?nid=111700 (last accessed on 18 February 2010).
36 bdnews24.com, "Only quarter of the inmates guilty" (31 January 2010) at http://www.bdnews24.com/details.php?id=152494&cid=2 (last accessed on 27 October 2010).
37 The Daily Star, "412 juvenile crime suspects still in jail" (20 August 2008) at http://www.thedailystar.net/story.php?nid=51129 (last accessed on 27 October 2010).
38 The Daily Star, "6 foreign prisoners freed, 20 more await their turn" (3 January 2009) at http://www.thedailystar.net/story.php?nid=69795 (last accessed on 27 October 2010).
39 bdnews24.com, "Only Quarter of the Inmates guilty" (31 January 2010) at http://www.bdnews24.com/details.php?id=152494&cid=2 (last accessed on 27 October 2010).
40 bdnews24.com, "Only Quarter of the Inmates guilty" (31 January 2010) at http://www.bdnews24.com/details.php?id=152494&cid=2 (last accessed on 27 October 2010).
41 bdnews24.com, "Only Quarter of the Inmates guilty" (31 January 2010) at http://www.bdnews24.com/details.php?id=152494&cid=2 (last accessed on 27 October 2010).
42 bdnews24.com, "Only quarter of the Inmates Guilty" (31 January 2010) at http://www.bdnews24.com/details.php?id=152494&cid=2 (last accessed on 27 October 2010).
43 The Daily Star, "7 to Die for Killing 2 Women after Rape" (20 August 2008) at http://www.thedailystar.net/story.php?nid=51136; The Daily Star, "One to die for killing wife" (27 August 2009); The Daily Star, "2 outlaws to die for murder" (8 March 2010) at http://www.thedailystar.net/newDesign/news-details.php?nid=129155 (last accessed on 22 October 2010).
44 Amnesty International, "Death Sentence and Executions in 2008" (March 2009) at http://www.amnestyusa.org/abolish/annual_report/DeathSentencesExecutions2008.pdf (last accessed on 22 October 2010).
45 The Daily Star, "Draft keeps provision for death sentence" (16 December 2009) at http://www.thedailystar.net/story.php?nid=117960 (last accessed on 22 October 2010).
46 The Daily Star "5 Bangabandhu Killers Hanged" (28 January 2010) at http://www.thedailystar.net/newDesign/news-details.php?nid=123827 (last accessed on 22 October 2010).
47 BBC News, "Bitter legacy of Bangladeshi hero's killing" (28 January 2010) at http://news.bbc.co.uk/2/hi/south_asia/8484473.stm (last accessed on 17 August 2010).
48 The Daily Star, "Trials of War Criminals Under International Law in Bangladesh" (31 January 2009) at http://www.thedailystar.netlaw/2009/01/05/index.htm (last accessed on 23 October 2010).
49 The Daily Star, "War Crimes Act Needs Reform" (26 January 2010) at http://www.thedailystar.net/newDesign/news-details.php?nid=123502 (last accessed on 23 October 2010).
50 The Daily Star, "EU opposes death penalty in Bangabandhu, mutiny, war crimes cases" (23 January 2010) at http://www.thedailystar.net/newDesign/latest_news.php?nid=21798 (last accessed on 23 October 2010).
51 Amnesty International, "Bangladesh: Important steps forward for international justice" at http://www.amnesty.org/en/library/asset/ASA13/007/2010/en/9c63f7e0-33c5-42dd-89f0-e0c71d976b79/asa130072010en.html (last accessed on 11 August 2010).
52 Bdnews24.com, "Analysis: Stage may be set, challenges lie ahead" (26 March 2010) at http://bdnews24.com/details.php?id=156738&cid=2 (last accessed on 11 August 2010).
53 Odhikar, "Report on Bangladesh: Human Rights Report 2008" (15 January 2009) at http://www.odhikar.org/report/pdf/hr_rep ort_2008.pdf (last accessed on 29 November 2010).
54 Odhikar, "Report on Bangladesh: Human Rights Report 2009" (1 January 2010) at http://www.odhikar.org/documents/2009/English_report/HRR_2009.pdf (last accessed on 29 November 2010).
55 Ain O Salish Kendra, "Annual Report, 2009" (2010) at http://www.askbd.org/web/wp-content/uploads/2010/08/Annual_Report_2009.pdf (last accessed on 23 October 2010).
56 The Daily Star, "2 brothers killed in 'shootout'" (17 November 2009) at http://www.thedailystar.net/story.php?nid=114426 (last accessed on 23 October 2010).
57 The Daily Star, "Explain Crossfire in 48 Hours" (18 November 2009) at http://www.thedailystar.net/story.php?nid=114504 (last accessed on 23 October 2010).
58 The Daily Star, "Explain Crossfire in 48 Hours" (18 November 2009) at http://www.thedailystar.net/story.php?nid=114504 (last accessed on 23 October 2010).
59 The Daily Star, "Stop extra judicial killings: Respect and establish an effective judiciary" (17 May 2010) at http://www.blast.org.bd/index.php?option=com_content&view=article&id=101:stopextrajudicialkillings&catid=28:nr&Itemid=73 (last accessed on 23

October 2010).

60 bdnews24.com, "Lawyers condemn police action against Drik" (22 March 2010) at http://www.bdnews24.com/details.php?id=156444&cid=2 (last accessed on 9 August 2010).

61 Amnesty International, "Bangladesh lifts ban on extrajudicial executions images display" (1 April 2010) at http://www.amnesty.org/en/news-and-updates/bangladesh-lifts-ban-extrajudicial-executions-images-display-2010-04-01 (last accessed on 10 August 2010).

62 The Daily Star, "229 Custodial Deaths in 2009" (1 January 2010) at http://www.thedailystar.net/newDesign/news-details.php?nid=119999 (last accessed on 28 October 2010).

63 The Daily Star, "Star's Bogra reporter held, freed on bail" (20 October 2009) at http://www.thedailystar.net/story.php?nid=110558 (last accessed on 28 October 2010).

64 The Daily Star, "RAB picks up, tortures reporter" (23 October 2009) at http://www.thedailystar.net/newDesign/news-details.php?nid=110968 (last accessed on 28 October 2010).

65 The Daily Star, "RAB regrets torture on reporter" (24 October 2009) at http://www.thedailystar.net/story.php?nid=111089 (last accessed on 28 October 2010).

66 The Daily Star, "Arrest Warrant Against Journos to go" (7 December 2009) at http://www.thedailystar.net/newDesign/latest_news.php?nid=20975 (last accessed on 27 October 2010).

67 The Daily Star, "RTI Act Comes Into Effect Today" (1 July 2009) at http://www.thedailystar.net/story.php?nid=94991 (last accessed on 25 October 2010).

68 Commonwealth Human Rights Initiative, "Bangladesh, The Right to Information Act, 2009 – A Summary" (2009) at http://www.humanrightsinitiative.org/programs/ai/rti/international/laws_papers/bangladesh/bangladesh_rti_act_2009_summary.pdf (last accessed on 28 October 2010).

69 The Daily Star, "National HR Commission Launched" (2 September 2008) at http://www.thedailystar.net/story.php?nid=52949 (last accessed on 25 October 2010).

70 bdnews24.com, "HR Commission Begins Work" (2 December 2008) at http://www.bdnews24.com/details.php?id=119517&cid=2 (last accessed on 25 October 2010).

71 bdnews24.com, "New HR Law covers violations by armed forces, police" (10 July 2009) at http://www.bdnews24.com/details.php?id=137555&cid=2 (last accessed on 25 November 2010).

72 bdnews24.com, "New HR law covers violations by armed forces, police" (10 July 2009) at http://www.bdnews24.com/details.php?id=137555&cid=2 (last accessed on 25 October 2010).

73 The Daily Star, "Policy faces property test" (8 March 2010) at http://www.thedailystar.net/newDesign/news-details.php?nid=129177 (last accessed on 25 October 2010).

74 Ain O Salish Kendra, "Human Rights in Bangladesh 2009 – A summary report" (2010) at http://www.askbd.org/web/wp-content/uploads/2010/09/HR_summary_09.pdf (last accessed on 25 October 2010).

75 The Daily Star, "229 Custodial Deaths in 2009" (1 January 2010) at http://www.thedailystar.net/newDesign/news-details.php?nid=119999 (last accessed on 25 October 2010).

76 The Daily Star, "Enact Law Banning Fatwa" (16 June 2009) at http://www.thedailystar.net/story.php?nid=92831 (last accessed on 25 October 2010).

77 The Daily Star, "HC orders probe into extrajudicial penalties" (25 August 2009), at http://www.thedailystar.net/newDesign/latest_news.php?nid=18869 (last accessed on 29 November 2010).

78 The Daily Star, "Form Commission to Resolve Land Disputes of Indigenous Peoples" (17 February 2010) at http://www.thedailystar.net/newDesign/news-details.php?nid=126711 at (last accessed on 25 October 2010); The Daily Star, "Connect the Visible Dots: A Post-Accord History" (16 April 2010) at http://www.thedailystar.net/newDesign/news-details.php?nid=134516 (last accessed on 29 November 2010).

79 The Daily Star, "Agonies of Indigenous Peoples" (3 August 2009) at http://www.thedailystar.net/newDesign/news-details.php?nid=99796 (last accessed on 25 October 2010).

80 Organiser, "A Call for UN intervention: Genocide of Bangladeshi Buddhists by Muslim settlers" (21 March 2010) at http://www.organiser.org/dynamic/modules.php?name=Content&pa=showpage&pid=336&page=47 (last accessed on 29 November 2010); The Daily Star, "Agonies of Indigenous Peoples" (3 August 2009) at http://www.thedailystar.net/newDesign/news-details.php?nid=99796 (last accessed on 25 October 2010).

81 The Daily Star, "Chittagong Hill Tracts: Indigenous people in CHT become victims of land grabbing and displacement" (7 August 2008) at http://www.thedailystar.net/story.php?nid=49331 (last accessed on 28 October 2010).

82 Medecins Sans Frontieres, "Resurgence in abuse and displacement against Rohingya refugees in Bangladesh" (16 July 2009) at http://www.msf.org/msfinternational/invoke.cfm?objectid=825C7292-15C5-F00A-25782F03675D0A0D&component=toolkit.article&method=full_html (last accessed on 28 October 2010).

83 The Daily Star, "Between the River and the Sea" (22 January 2010) at http://www.thedailystar.net/newDesign/news-details.php?nid=122858 (last accessed on 25 October 2010).

84 Medecins Sans Frontieres, "Resurgence in abuse and displacement against Rohingya refugees in Bangladesh" (16 July 2009) at http://www.msf.org/msfinternational/invoke.cfm?objectid=825C7292-15C5-F00A-25782F03675D0A0D&component=toolkit.article&method=full_html (last accessed on 28 October 2010).

85 BBC News, "Concern over Bangladesh Refugees" (19 June 2009) at http://news.bbc.co.uk/2/hi/south_asia/8109135.stm (last accessed on 27 October 2010).

86 BBC News, "Bangladesh accused of 'crackdown' on Rohingya refugees" (18 February 2010) at http://news.bbc.co.uk/2/hi/south_

asia/8521280.stm (last accessed on 25 October 2010).

87 Physicians for Human Rights, "Stateless and Starving: Persecuted Rohingya Flee Burma and Starve in Bangladesh" (March 2010) at http://physiciansforhumanrights.org/library/documents/reports/stateless-and-starving.pdf (last accessed on 10 August 2010).

88 The Daily Star, "Stop eviction of Korail slum dwellers" (23 December 2008) at http://www.thedailystar.net/newDesign/news-details.php?nid=68336 (last accessed on 28 October 2010).

89 The Daily Star, "Eviction of Dalits protested" (19 April 2009) at http://www.thedailystar.net/newDesign/news-details.php?nid=83574 (last accessed on 28 October 2010).

Cameroon

Easier Said
than Done

1. Background

1.1. Context

In 1961, the British-administered Southern Cameroons merged with the Republic of Cameroon, which had won its independence from French administrators a year earlier. The first President of the Federal Republic of Cameroon, Ahmadou Ahidjo, ruled over it for over 20 years. During his repressive regime, he converted the federal Cameroon into a unitary state by a national referendum, led it into single party rule in 1966 and re-christened it the United Republic of Cameroon in 1972. In 1982, Paul Biya, Ahidjo's Prime Minister, succeeded him as President and opened the country to multiparty elections, which he won in 1992, 1997 and 2004. Commonwealth observers, whilst accepting the 2004 election results, stated that the electoral process lacked credibility in key areas. Divisions between the Anglophone Northwest and Southwest provinces and the remaining Francophone provinces began to surface strongly in the 1990s. Anglophones claim to be marginalised and have advocated various solutions ranging from federalism to secession.

1.2 UN Treaties

Cameroon is a party to the International Covenant on Civil and Political Rights (ICCPR) and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, the Convention Against Torture (CAT) and the Convention on the Rights of the Child (CRC). Cameroon also signed the two Optional Protocols to the Convention on the Rights of the Child, the Convention for the Protection of All Persons from Enforced Disappearance (CED), the Convention on the Rights of Persons with Disabilities and its Optional Protocol and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Cameroon is not a party to the second Optional Protocol to ICCPR.

1.3 UN Reporting History

Cameroon has completed all of its reports due under international treaties.

The country completed four rounds of reporting under CAT and ICCPR, three rounds under CEDAW and eighteen rounds under ICERD. It has also completed two rounds of reporting ICESR and CRC.

Cameroon has not extended an open invitation to the UN Human Rights Council's Special Procedures.

1.4 UN Voting Patterns and Performance at the Council

Eighth Session of the UN Human Rights Council

On 18 June 2008, Cameroon voted in favour of a resolution on the promotion of the right of peoples to peace. Slovenia called for a vote, on behalf of the EU, on the basis that the issues contained in the resolution were best handled in other fora and that the resolution failed to state that the absence of peace did not justify breaches of human rights.

On 18 June 2008, Cameroon voted in favour of a resolution on the promotion of a democratic and equitable international order. The resolution rejected a unilateral approach in favour of a multilateral one when addressing international issues. Slovenia called for a vote, on behalf of the EU, on the basis that the resolution addressed issues that were beyond the mandate of the Council. For example, it focused on relations between States rather than relations between States and their citizens.

Ninth Session of the UN Human Rights Council

On 24 September 2008, Cameroon voted in favour of a resolution on human rights and international solidarity. The resolution emphasised the need for international cooperation to tackle human rights issues in a manner that distributes costs and burdens fairly. France called for a vote, on behalf of the EU, on the basis that international solidarity was a moral principle not a human right defined in legal terms.

On 24 September 2008, Cameroon voted in favour of a resolution on human rights and unilateral coercive measures. The resolution requested States to stop using or implementing unilateral, coercive measures not in accordance with international law, particularly those creating obstacles to trade relations between States. The resolution also condemned the use of unilateral coercive measures to assert political or economic pressures, especially against developing countries.

On 24 September 2008, Cameroon abstained from voting on a resolution on the follow-up to Resolution S-3/1 on the assault on Beit Hanoun, which it viewed as unbalanced. The resolution welcomed the report of the High-Level Fact-Finding Mission dispatched to assess the situation in Beit Hanoun. It called for full implementation of all the recommendations made in the report and expressed regret for the delay caused by Israel's non-cooperation.

Ninth Special Session of the UN Human Rights Council

On 12 January 2009, Cameroon abstained from voting on a resolution on the grave violations of human rights in the OPT. The resolution strongly condemned the Israeli military operation in the OPT, stating that this had caused grave violations of the human rights of Palestinian civilians. It accused Israel of collective punishment of the Palestinian people and called on the international community to act.

Tenth Special Session of the UN Human Rights Council

On 23 February 2009, Cameroon voted in favour of a resolution on the impact of the global economic and financial crisis on the universal realisation and effective enjoyment of human rights. The resolution expressed deep concern at the effect of the economic and financial crisis on human rights and called for increased participation by developing countries in international decision-making.

Tenth Session of the UN Human Rights Council

On 9 March 2009, Cameroon referred to its challenge of providing houses for people expelled from flood zones and expressed a desire to work with the Special Rapporteur on the Right to Housing to deal with the issue.

On 26 March 2009, Cameroon voted in favour of a resolution on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.

On 26 March 2009, Cameroon abstained from voting on a resolution on human rights in the occupied Syrian Golan which expressed deep concern for the suffering of the Syrian civilian population and referred to the systematic and continuous violations of fundamental and human rights by Israel.

On 26 March 2009, Cameroon voted in favour of a resolution on Israeli settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution strongly condemned the Israeli announcement that it would build further settlements in the OPT.

On 26 March 2009, Cameroon abstained from voting on a resolution on the human rights violations emanating from the Israeli military attacks and operations in the OPT.

On 26 March 2009, Cameroon abstained from voting on a resolution on the follow-up to Council Resolution S-9/1 on the grave violations of human rights in the OPT, particularly due to Israeli military attacks against the Occupied Gaza Strip. The Resolution regretted that the previous Resolution S-9/1 had not been fully implemented yet and demanded that Israel cooperate with the international community.

On 26 March 2009, Cameroon voted in favour of a resolution on combating defamation of religions.

On 26 March 2009, Cameroon voted in favour of a resolution expressing serious concern over the human rights situation in DPRK and extending the mandate of the Special Rapporteur on DPRK for a further year.

On 26 March 2009, Cameroon voted in favour of a resolution calling for better geographical representation and gender balance in the staff of the OHCHR.

On 27 March 2009, Cameroon voted in favour of a resolution on the elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination.

On 27 March 2009, Cameroon abstained from voting on a decision on the publication of reports completed by the Sub-Commission on the Promotion and Protection of Human Rights. The resolution provided for the publication as UN documents of all reports by the Sub-Commission that had previously been mandated by the Commission on Human Rights and submitted to the OHCHR.

On 27 March 2009, Cameroon abstained from voting on a resolution on discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights. The resolution was introduced by the EU. The Czech Republic, on behalf of the EU, explained that it was in response to the report of the Special Rapporteur on freedom of expression and that this was an important, sensitive issue. The resolution was criticised by some other States for failing to adequately address contemporary forms of religious discrimination.

On 27 March 2009, Cameroon voted in favour of a resolution on torture and the role and responsibility of medical and other health personnel. In an additional vote, Cameroon voted in favour of including a paragraph in the resolution which took note of the report of the Special Rapporteur on torture. On 10 March 2009, the Special Rapporteur on torture had presented his report in which he considered whether the death penalty amounted to

cruel, inhuman or degrading treatment or punishment. Several States had accused the Special Rapporteur of going beyond his mandate and noted that there was no international consensus on the status of the death penalty as a breach of human rights.

During the Tenth Session, two draft resolutions on the human rights situation in DRC were tabled, one by the EU and the other by the African Group. The resolution drafted by the EU expressed serious concerns regarding the human rights situation, while the draft tabled by the African Group was less critical of the issue and called on OHCHR to enhance its technical assistance activities in the country. Following the adoption of the African Group's resolution by vote, the EU proposed amendments to the resolution reflecting serious concerns. Cameroon voted in favour of the original resolution drafted by the African Group and voted against the amendments proposed by the EU.

Eleventh Special Session of the UN Human Rights Council

On 27 May 2009, Cameroon voted in favour of a resolution on assistance to Sri Lanka in the promotion and protection of human rights. Before the vote, Germany, on behalf of the EU, proposed oral amendments to the draft resolution, as it made no mention of the need to conduct investigations into alleged violations of international human rights law or the need to prosecute perpetrators. Cuba, on behalf of a number of countries, requested that no action be taken on Germany's proposed oral amendments. The request was put to a vote and Cameroon voted in favour of it.

Eleventh Session of the UN Human Rights Council

On 5 June 2009, Cameroon acknowledged a link between foreign debt and human rights and welcomed the draft guidelines on this issue. Cameroon called on the affluent countries to continue cancelling the debts of struggling countries to help strengthen human rights.

On 17 June 2009, Cameroon voted in favour of a resolution on the promotion of the right of peoples to peace. The resolution recognised States' obligations to improve the protection of human rights by ensuring peace. Germany, on behalf of the EU, stated that while it recognised some of the principles set out in the resolution, the issues mentioned in the draft were more comprehensively dealt with in other fora. Furthermore, Germany, on behalf of the EU, noted that the resolution dealt with relationships between States, not the relationship between States and their citizens.

On 17 June 2009, Cameroon voted in favour of a resolution on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, but particularly economic, social and cultural rights.

On 18 June 2009, Egypt, on behalf of the African Group, and the Czech Republic, on behalf of the EU, introduced competing draft resolutions on Sudan. The draft proposed by the African Group did not renew the mandate of the Special Rapporteur or create a mandate for any international monitoring. It referred positively to the efforts of the government. The EU resolution replaced the mandate of the Special Rapporteur with that of an Independent Expert with some monitoring and reporting functions. The EU later accepted the African Group's draft but with proposed amendments providing for the mandate of an Independent Expert. Cameroon voted against these amendments, and after the amendments were passed, voted against the entire text as amended.

Twelfth Session of the UN Human Rights Council

On 1 October 2009, Cameroon voted in favour of a resolution on human rights and international solidarity.

On 2 October 2009, Cameroon voted in favour of a resolution on human rights and unilateral coercive force.

On 2 October 2009, Cameroon voted in favour of a decision on the effect of foreign debt on the enjoyment of human rights.

Cameroon co-sponsored a resolution on the right to development and on 2 October 2009, voted in favour of it.

Cameroon co-sponsored a resolution on promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind and on 2 October 2009, voted in favour of it.

Twelfth Special Session of the UN Human Rights Council

On 16 October 2009, Cameroon abstained from voting on a resolution that focused on continuing violations of human rights by Israel in the OPT, and in particular, in East Jerusalem. It endorsed the recommendations set out in the reports of the Fact-Finding Mission to Gaza led by Justice Goldstone and by the High Commissioner for Human Rights, and called for their implementation.

Thirteenth Session of the UN Human Rights Council

On 10 March 2010, Cameroon called for concerted global action to fight violence against children.

On 24 March 2010, Cameroon voted in favour of a resolution on the composition of the OHCHR that asked for the implementation of measures to ensure a better representation of geographic diversity among the staff.

On 24 March 2010, Cameroon abstained from voting on a resolution on human rights in the occupied Syrian Golan. The resolution strongly condemned the occupation of Syrian Golan by Israel.

On 24 March 2010, Cameroon voted in favour of a resolution on Israeli Settlements in the OPT, including East Jerusalem, and in the occupied Syrian Golan. The resolution asked the Government of Israel to reverse controversial announcements about new settlements and to respect legal obligations concerning access to food and supplies, the halting of impunity, the prevention of violence, etc.

On 25 March 2010, Cameroon abstained from voting on a resolution on the Follow-up to the Report of the United Nations Independent International Fact-Finding Mission on the Gaza Conflict. The resolution asked for independent and credible investigations regarding the violations of international humanitarian and international human rights law.

On 25 March 2010, Cameroon abstained from voting on a resolution on the situation of human rights in DPRK. The resolution asked for the mandate of the Special Rapporteur on DPRK to be extended and for the government's participation in addressing human rights violations.

On 25 March 2010, Cameroon abstained from voting on a resolution on combating defamation of religions. The resolution urged the international community to promote a culture of tolerance and peace, especially concerning the wrongful association of Islam with human rights violations and terrorism.

On 26 March 2010, explaining its reasons for abstaining on a resolution on combating defamation of religions, Cameroon stated that it was home to all religions and that religious harmony contributed to the reigning peace in Cameroon. Cameroon shared the concerns of the OIC that the holy nature of all religions should always be protected.

2. Pledge

2.1 Election to the Council

Cameroon was one of 13 African countries that contested the May 2006 elections for the 13 seats reserved for Africa. The election results were pre-determined. Cameroon came tenth among the African Group with 171 votes.

On 12 May 2009, because the number of candidates was the same as the number of seats reserved for Africa, the election results were again pre-determined. Cameroon came fourth out of the five States elected to the five vacant seats among the African Group with 142 votes.

2.2 Pledge Made

In its first pre-election pledge in 2006, Cameroon stated that its laws provide that "Tout acte discriminatoire à l'égard des personnes ou de groupes ou d'organisation est réprimé" (All acts of discrimination perpetrated against persons, groups or organisations are prohibited). It also stated that press freedom was guaranteed in Cameroon and that the protection of minorities and indigenous people has been granted. The country pledged to promote and respect human rights and liberties and promised to work towards the effectiveness of civil and political rights. Cameroon added that it would work towards the effectiveness of economic, social and cultural rights, including the right to development. The country promised to cooperate with regional organisations, national human rights institutions and civil society organisations promoting human rights. It committed to promote the respect of human rights obligations enshrined in various international instruments. Cameroon pledged to cooperate fully with the members of the Human Rights Council, and to work towards building the Council as a credible institution.

Cameroon's pre-election pledge in 2009 summarised the commitments made in its 2006 pledge and iterated its progress in working towards those commitments. Cameroon committed to promote civil and political rights, "especially freedom of the press", and to provide sufficient resources to ELECAM, the national election managing body as a method of ensuring the transparency of elections. Cameroon also promised to fight corruption, improve governance and work with civil society and the National Commission for Human Rights to improve the general situation of human rights in the country. It also pledged to 1) ensure that places of detention meet international standards, 2) build new prisons, 3) respect the rights of detainees, and 4) improve the treatment of minors in places of detention. Cameroon pledged to reinforce measures to protect the rights of minorities, disabled and other vulnerable groups. It also committed to strengthen the independence and authority of the national judicial system.

3. Compliance

3.1 Human Rights During the Reporting Period

During the reporting period, Cameroon continued to take steps away from democratic governance. Following the controversial 2008 Amendment to the Constitution which removed Presidential term limits and allows President Paul Biya to run for a third consecutive seven-year term in 2011, the government forced through a Bill in March 2010 which removed the power to organise and oversee elections from the newly-created independent Electoral Commission, ELECAM, and returned it partially to the government and the judiciary.[90] The Cameroonian government and judiciary are both allegedly highly corrupt institutions. Cameroon ranked 146 out of 180 in Transparency International's 2009 Corruption Index.[91] According to a 2007 study by Transparency International-Cameroon, the most corrupt sectors include customs, taxation, police, judiciary and general administration.[92]

The previous edition of this report stated that in February 2008, major demonstrations against the government were put down by security forces and an estimated 40-100 demonstrators were shot dead.[93] According to Amnesty International, the state agents who were responsible for the killings had not, as of the end of 2009, been identified publicly nor had they received any administrative or judicial sanction. The victims of the massacre had also not received any redress.[94]

Throughout the period of this report, Cameroon fared poorly in the protection of freedom of expression. Journalists and editors of newspapers faced prosecution, imprisonment and intimidation in the course of carrying out their jobs. On 22 September 2008, the editor of the Détente Libre newspaper, Lewis Medjo, was arrested and charged with "publishing false information".[95] On 7 January 2009, he was sentenced to three years imprisonment and a 3,000,000 Cameroonian CFA Franc.[96] His arrest and conviction have been linked to the publication of two articles in August 2008. One alleged that the Head of State, Paul Biya, was planning to force the President of the Supreme Court to take early retirement in 2009, and another alleged that the then Director of National Security, Edgar Alain Mebe Ngo'o had colluded in blackmailing a businessman. In June 2009, the editor and deputy-editor of a weekly paper were convicted by a military court for exposing defence secrets and were sentenced to five years imprisonment and a fine.[97] In October 2008, two journalists, Zacharie Ndiomo Flash, the Publisher of Le Zenith newspaper and Armand Ondoua of Le Regional newspaper, as well as their informant, Ekombo Nkoumou Tsala, were arrested while trying to investigate alleged corruption and bribery at the National School of Administration and Magistracy (ENAM). They were subsequently charged with blackmailing the Director of ENAM.[98] In December 2009, the editor of the weekly Germinal, Jean-Bosco Talla, was convicted of "insulting the Head of State" after he published excerpts from a book that referred to alleged homosexual activities between the President, Paul Biya, and his predecessor, Ahmadou Ahidjo. The editor was given a one-year suspended sentence and $6800 fine.[99] Two more journalists, Simon Sabouang and Serge Herve Nko'o, were arrested without a warrant in February 2010, while attempting to investigate potential corruption by Laurent Esso, Minister of State and Secretary-General of the Presidency, in his role as director of the state oil company, Société Nationale des Hydrocarbures (SNH).[100]

In addition to the threat of imprisonment, journalists have also faced intimidation and censorship. In June 2008, a television show was interrupted by government representatives during a debate on a politically sensitive scandal,

when reference was made to the detention of two journalists investigating the issue. Six journalists were then briefly detained, questioned and released.[101] In October 2009, Reporters Without Borders expressed concern about the repeated intimidation of Jules Koum Koum, the editor of a weekly paper, Le Jeune Observateur. Following the publication of a number of reports on corruption, people broke into Jules Koum Koum house, stealing documents and hacking into his emails.[102] In August 2009, a private radio station was closed down for "recurring violations of legal and administrative regulations" of media laws. The action has been linked to a particular show in which people called in to air grievances and request help.[103] On 22 April 2010, the managing editor of the Cameroun Express, Germain Cyrille Ngota, commonly known as "Bibi Ngota", died while in prison. He was incarcerated in pre-trial detention for 90 days for fraud after he investigated a case involving one of President Biya's top aides, Laurent Esso, over alleged corruption as director of SNH. The government claimed that Ngota, along with two other managing editors of different newspapers who remain in custody, forged Esso's signature in an attempt to blackmail him. The government reported that Ngota died due to "infections" linked to the HIV virus, but his family and colleagues dispute the cause of death, saying that he had high blood pressure and was denied medical treatment while in jail.[104] A peaceful protest by journalists to express anger at Ngota's death in prison was violently suppressed by police officers wielding clubs. Under international pressure, a judicial inquiry into the death was ordered.[105]

Restrictions on freedom of expression were not limited to journalists. In October 2008, the singer/songwriter Lapiro de Mbanga, also a member of an opposition political party, was sentenced to three years imprisonment and a $640,000 fine for his alleged involvement in riots during February 2008, over high living costs. However, his arrest in April 2008 was seen by many as a response to his critical song lyrics, in particular regarding controversial constitutional amendments. The sentence he received was double that of those given to others convicted of organising the riots.[106] In November 2008, a vocal human rights defender who was campaigning against corruption in public professional schools alleged that he received death threats from the mafia group behind the corruption.[107] In December 2008, a demonstration organised by a human rights NGO, Citizens Association for the Defence of Collective Interests (ACDIC) to protest against reported corruption in the Ministry of Agriculture and Rural Development, was interrupted by the police. The president of the NGO, Bernard Njonga, and eight others were reportedly brutalised and arrested for holding an illegal meeting.[108] In January 2009, a teacher, Roland Fube, was arrested for "contempt of Head of State" after he complained that during Presidential visits, the resulting roadblocks hampered economic activity. On 22 February, his brother was kidnapped by unidentified individuals and he was threatened that he should not talk to the press about the case.[109]

The government's response to a critical report published by Amnesty International in January 2009 suggested that it was reluctant to engage with human rights groups. The report raised serious concerns about several human rights issues and alleged that Amnesty International's representatives had been refused access to the country.[110] The government denied that representatives had not been permitted to enter the country, refuted some of the allegations and claimed that the report did not provide adequate attention to the positive developments made by the government.[111] Among the concerns raised by the report, Amnesty International referred to overcrowded, unhygienic conditions in Cameroon's jails, which often held men, women and children in the same facilities, with limited food and medical care.[112] The conditions in Cameroon's prisons were widely seen as deplorable.[113] New Bell Prison in Douala, the economic capital of Cameroon, was, in August 2008, the country's most populous

prison, housing 3,421 prisoners in a facility built to hold only 800. Overcrowding had reportedly resulted in many prisoners having to sleep outside, while poor sanitation was demonstrated by open toilets and a lack of water. Food reportedly comprised a handful of corn and French beans for lunch and some rice for dinner. Petty criminals were housed with hardened criminals, and children with adults. There were reports of sexual abuse, including the regular rape of children.[114] In August 2008, nine prisoners died when a fire broke out at a prison.[115] A year later in August 2009, the National Commission on Human Rights and Freedoms published a report which said that five prisoners in northern Cameroon died every month because of the lack of medical attention. Prison conditions were described in the report as "draconian, inhuman and degrading" and prison authorities reportedly showed "indifference" towards human rights abuses.[116] In May 2010, the government initiated a series of human rights training seminars for justice officials and prison superintendents.[117] It remains to be seen whether the training seminars will result in tangible, positive changes in the penal system.

Despite the existence of a provision within the Criminal Procedure Code (2005) which limited legal pre-trial detention at six months (unless extended by a judge), in practice many prisoners were in pre-trial detention for much longer.[118] It was reported in August 2008, that over 70 per cent of the inmates of New Bell Prison were still awaiting judgement, and often had been in prison for several years due to a backlog of cases.[119] In October 2009, "government statistics" showed that 62.48 per cent of the country's 24,000 prisoners were still awaiting trial.[120]

Cameroon continues to criminalise homosexuality. Under Section 347 of the Penal Code, a person can be sentenced to between six months and five years imprisonment and fined CFA 200,000 for sexual contact with members of the same sex.[121] It was reported that in May 2009, a man was arrested and charged under Sections 347 and 74 for criminal intention and under Section 346 for gross indecency after a mother alleged that he had slept with her minor son. A gay rights group asserted that the allegation of paedophilia was untrue and that the man was being stigmatised after he was arrested the previous year for homosexual conduct and remanded at New Bell Prison for six months before being released.[122] In November 2009, a lesbian, gay, bisexual, and transgender (LGBT) activist was arrested and detained after he was heard discussing LGBT rights in a taxi.[123]

The Southern Cameroon National Council (SCNC), an Anglophone secessionist movement, continues to allege repression and maltreatment of Anglophone Cameroonians under the Francophone majority government. In October 2008, 24 SCNC activists were arrested. Following an appearance before a magistrates' court in February 2009, the activists were allegedly beaten up, arbitrarily arrested and detained, and had their property ransacked by armed soldiers of the Special Amphibious Battalion in the presence of the District Officer.[124]

Cameroon's National Commission for Human Rights and Fundamental Freedoms had been in existence since 1990 and became financially autonomous in 2004. However, there were complaints in 2008 that the Commission was inadequately funded and lacked offices in most towns and regions. As of the beginning of 2010, a number of regional offices were reportedly open, and the government planned to open regional offices in the five remaining regions in 2010.[125] Many Cameroonians were reportedly ignorant about the functioning of the Commission and a lack of cooperation from local authorities reportedly hampered the work of the body.[126]

3.2 Compliance with the Pledge

The government's pre-election pledge in 2009 to improve governance was desperately needed, given that a year

earlier the President had amended the Constitution to enable himself to run for a third term. Despite specific pledges made to the Council regarding ELECAM (a newly-created independent election commission), the government withdrew the body's power to organise and oversee elections. High-levels of governmental and judicial corruption also belied this pledge on governance, as well as other specific pledges made to the Council. Despite Cameroon's specific pledges to cooperate with its National Human Rights Commission, the Commission remains under-resourced and is hampered by a lack of cooperation from local authorities.

The government's pre-election pledges to promote and make civil and political rights effective were not realised. Freedom of assembly remained severely restricted, with demonstrations being suppressed and demonstrators harassed or killed. Freedom of expression also suffered as those who criticised the government were harassed and incarcerated. Similarly, despite Cameroon's specific pledges to protect the freedom of the press, journalists suffered grave harassment, intimidation, censorship and incarceration for legitimately practising their profession.

Cameroon's pledge to prohibit all forms of discrimination and protect minorities was not borne out, as LGBT people were punished and incarcerated for discussing or practising their sexuality. Similarly, the Anglophone minority continued to allege that they were discriminated against by the Francophone majority.

Finally, Cameroon's very specific pledges on improving the plight of prisoners were not realised, with dire conditions being reported in the country's prisons. Cameroonian prisons were overcrowded, unhygienic, and men, women and children were occasionally housed in the same facility. Prisons reportedly did not provide adequate food or medical care, and prisoners died regularly as a result.

Despite its pledge to work towards building the credibility of the Council, in comparison with the other Commonwealth members, Cameroon was not an active participant at the Council. The country made few interventions and at most times it followed the consensus of the African Group and the other southern voting blocs to which it belonged. Cameroon thus took predictable stances and voted in favour of resolutions on the right of peoples to peace, promotion of a democratic and equitable international order, international solidarity and human rights, unilateral coercive measures, and traditional values. Cameroon also took a wavering stance on the controversial resolution on defamation of religions by voting for it once and then abstaining on a second resolution at a later session.

On country-specific resolutions Cameroon displayed ambivalence about voting with the African Group. On DRC, Sudan and Sri Lanka, Cameroon followed the African Group and allied blocs by voting against international scrutiny. On resolutions on human rights violations by Israel, Cameroon broke away from the African Group and allied voting blocs to repeatedly abstain on all resolutions except for resolutions on Israeli settlements in the occupied territories, which it supported twice. In the case of DPRK, Cameroon voted in favour of international scrutiny at the Tenth Session and abstained from voting on the issue at the Thirteenth Session.

---

90 Reuters, "Cameroon opposition accuses Biya of poll rigging bid" (29 March 2010) at http://uk.reuters.com/article/idUKLDE62S25420100329 (last accessed on 21 October 2010).

91 Transparency International, "Corruption Perceptions Index 2009" at http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table (last accessed on 1 December 2010).

92 Transparency International-Cameroon, "Enquête nationale 2006 auprès des entreprises sur la corruption au Cameroun" (2007) at

http://www.transparency.org/regional_pages/africa_middle_east/surveys_and_indices (last accessed on 21 October 2010).

93 Cameroon Tribune, "Facts and Figures of the Tragic Protests" (11 March 2008) at http://www.cameroon-tribune.net/article.php?lang=Fr&oled=j11032008&idart=9281&olarch (last accessed on April 2008); A local NGO, Maison des Droits de L'Homme, issued a statement saying they were aware of "more than 100 deaths" [refer: Agence France Presse "Cameroon Government Raises Violence Death Toll to 40" (10 March 2008) at http://afp.google.com/article/ALeqM5jJqZqCOmhiBm7XKvnTzefuzqvNMQ (last accessed on April 2008).

94 Amnesty International, "Amnesty International Report 2010 – Cameroon" (28 May 2010) at http://www.unhcr.org/refworld/docid/4c03a839c.html (last accessed on 29 November 2010), p. 96.

95 Reporters Sans Frontières, "Douala-based Newspaper Publisher Arrested and Jailed" (24 September 2008) at http://allafrica.com/stories/200809290149.html (last accessed on 21 October 2010).

96 Reporters Sans Frontières, "Journalist Sentenced to three years imprisonment for 'spreading false news'" (9 January 2009) at http://www.ifex.org/cameroon/2009/01/09/journalist_sentenced_to_three_years/ (last accessed on 21 October 2010).

97 RSF Press Release, "Two Journalists Get Five Years for violation of 'Defence Secrets'" (18 June 2009) at http://www.rsf.org/Two-journalists-get-five-years-for.html (last accessed on 22 October 2010).

98 The Post, "Journalists jailed for investigating Enam Corruption" (2 March 2009) at http://allafrica.com/stories/200903021522.html (last accessed on 22 October 2010).

99 Committee to Protect Journalists, "In Cameroon, jailed editor sentenced for 'insulting' Biya" (29 December 2009) at http://cpj.org/2009/12/in-cameroon-jailed-editor-sentenced-for-insulting.php.

100 Committee to Protect Journalists, "Cameroonian Security Agents Detain 2 Journalists" (9 February 2010) at http://cpj.org/2010/02/cameroonian-security-agents-detain-2-journalists.php (last accessed on 22 October 2010).

101 Reporters Sans Frontières, "Six Journalists Arrested and TV Programme Interrupted for Referring to Sensitive Subject" (10 June 2008) at http://www.rsf.org/Six-journalists-briefly-arrested.html (last accessed on 22 October 2010).

102 Reporters Sans Frontières, "Newspaper Editor Threatened Over Coverage Corruption" (2 October 2009) at http://www.ifex.org/cameroon/2009/10/05/koum_koum_intimidated/ (last accessed on 22 October 2010).

103 Committee to Protect Journalists, "Cameroon Shutters Radio Station Over Talk Programme" (19 August 2009) at http://cpj.org/2009/08/cameroon-shutters-radio-station-over-talk-program.php (last accessed on 22 October 2010).

104 Agence France Press, "Cameroon says detained journalist dies of 'infections'" (29 April 2010) at http://www.google.com/hostednews/afp/article/ALeqM5ibnCCmrzUeBYVahGdut93D4zUYjg (last accessed on 11 August 2010).

105 The Epoch Times, "Protesting Journalists in Cameroon Stopped by Police" (3 May 2010) at http://www.theepochtimes.com/n2/content/view/34645/ (last accessed on 11 August 2010).

106 Afrol News, "Cameroonian Songbird Jailed for Rioting" (10 October 2008) at http://www.afrol.com/articles/31190 (last accessed on 22 October 2010).

107 The Post, "Anti-Corruption Activist Threatened with Death" (4 December 2008) at http://allafrica.com/stories/200812040950.html (last accessed on 22 October 2010).

108 The postnewsline.com, "Police Brutalise, Arrest Anti-Corruption Activists" (14 December 2008) at http://allafrica.com/stories/200812140012.html (last accessed on 22 October 2010).

109 The Post, "Biya Urged to Release Incarcerated Teacher" (27 February 2009) at http://allafrica.com/stories/200903020450.html (last accessed on 22 October 2010).

110 Amnesty International, "2009 Report - Human Rights in Republic of Cameroon" at http://www.amnesty.org/region/cameroon/report-2009 (last accessed on 22 October 2010).

111 ThePostnewsline.com, "Government Refutes Poor Human Rights Report" (6 February 2009) at http://allafrica.com/stories/200902060806.html (last accessed on 22 October 2010).

112 Amnesty International, "2009 Report - Human Rights in Republic of Cameroon" at http://www.amnesty.org/region/cameroon/report-2009 (last accessed on 22 October 2010).

113 The Post, "Female Detainees Decry Deplorable Prison Conditions" (10 October 2008) at http://allafrica.com/stories/200810100992.html (last accessed on 22 October 2010).

114 Agence France Presse, "Cameroon Prison "Hell on Earth"" (9 August 2008) at http://www.news24.com/Content/Africa/News/965/22e5be836eda48a7973f443a1b339713/09-08-2008-05-18/Cameroon_prison_hell_on_earth (last accessed on 22 October 2010).

115 Afrol News, "9 Prisoners Killed in a Fire in Cameroon" (20 August 2008) at http://www.afrol.com/articles/30379 (last accessed on 22 October 2010).

116 IRIN, "Cameroon: 'Inhuman' conditions, denial of justice for detainees" (26 August 2009) at http://allafrica.com/stories/200908270844.html (last accessed on 6 December 2010).

117 Cameroon Tribune, "Penitentiary Officials Drilled on Rights of Prisoners" (26 May 2010) at http://allafrica.com/stories/201005261281.html (last accessed on 11 August 2010).

118 GeED, PRODHOP, ADEFHO, SNJC, ALVF, Alternatives Cameroun, "Cameroon: NGO report on the implementation of CCPR" (June 2010) at http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GeED_Cameroon_HRC99.pdf (last accessed on 2 December 2010).

119 Agence France Presse, "Cameroon Prison "Hell on Earth"" (9 August 2008) at http://www.news24.com/Content/Africa/News/965/22e5be836eda48a7973f443a1b339713/09-08-2008-05-18/Cameroon_prison_hell_on_earth (last accessed on 22 October 2010).

120 GeED, PRODHOP, ADEFHO, SNJC, ALVF, Alternatives Cameroun, "Cameroon: NGO report on the implementation of CCPR" (June 2010) at http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GeED_Cameroon_HRC99.pdf (last accessed on 2 December 2010).

121 Amnesty International, "Persecution based on actual or imputed sexual orientation" at http://www.amnesty.nl/documenten/

schrijfnetwerken/0409_mailing_LGBT_achtergr.rtf (last accessed on 11 August 2010).

122 Behind the Mask, "Free Ewane! – Gay Rights Activist" (3 July 2009) at http://www.globalgayz.com/country/Cameroon/view/CMR/gay-cameroon-news-and-reports--5#article10 (last accessed on 1 December 2010).

123 Behind the Mask, "LGBTI Activist Detained Without Charge – Cameroon" (6 November 2009) at http://www.asylumlaw.org/docs/sexualminorities/CameroonMask110609.pdf (last accessed on 22 October 2010).

124 African Press International, "Activists and their Lawyer Arrested" (9 March 2009) at http://africanpress.wordpress.com/2009/03/09/activists-and-their-lawyer-arrested/ (last accessed on 22 October 2010).

125 The Post, "More Human Rights Commission Offices to Open" (28 January 2010) at http://allafrica.com/stories/201001280884.html (last accessed on 22 October 2010).

126 The Post, "Inadequate Resources Hamper Human Rights Commission's Work" (14 September 2008) at http://allafrica.com/stories/200809151256.html (last accessed on 22 October 2010).

Canada

Easier Said
than Done

1. Background

1.1. Context

Canada has a federal system of government. The federation comprises 10 provinces, which are jurisdictions that derive their power and authority from the Constitution Act, 1867, and three northern territories which derive their power directly from the Federal Government in Ottawa. Canada has been governed by a Conservative Party-led minority government since 2006.

In the past, Canada was active in its attempts to promote human rights and democracy. Domestically, the country legislated progressive reforms to better accommodate its French-speaking minority and has been a major donor internationally, financing a range of human rights activities. However, Canada has lost some of its international prestige as a protector of human rights globally and is not without its internal human rights issues. Despite a recent history of relatively progressive legislation, the Canadian indigenous community remains seriously disadvantaged. Issues relating to migration and asylum also persist. More recently, Canada has also been part of a group of countries using questionable methods in the conduct of the global War on Terror. Because Canada decided not to seek re-election to the Council when its initial three-year term expired in June 2009, this country section only covers Canada's activities in the Council till June 2009. However, the section on Human Rights During the Reporting Period is current up to May 2010, as are the sections on UN Treaties and UN Reporting History.

1.2 UN Treaties

Canada is a party to the International Covenant on Civil and Political Rights (ICCPR) and its two Optional Protocols, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its Optional Protocol, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC) and its two Optional Protocols, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Convention on the Rights of Persons with Disabilities.

Canada is not a party to the Convention on the Protection of the Rights of All Migrants Workers (CMW), the Convention for the Protection of All Persons from Enforced Disappearance (CED), the Optional Protocol to ICESCR, the Optional Protocol to the Convention on the Rights of Persons with Disabilities or the Optional Protocol to CAT.

1.3 UN Reporting History

Canada has completed most of its reporting requirements due under international treaties.

The country has completed almost all its rounds of reporting under CAT, but has not yet submitted the report for 2008. Under ICERD, Canada has completed each of the 18 reports, but the 2009 report is overdue. It has completed all its reporting requirements under CCPR, CESCR, CEDAW, CRC and its two Optional Protocols till the end of the reporting period.

Canada has also extended an open invitation to the UN Human Rights Council's Special Procedures.

1.4 UN Voting Patterns and Performance at the Council

Eighth Session of the UN Human Rights Council

On 2 June 2008, Canada commended the independence and impartiality of the High Commissioner and also the increased presence of the Office of the High Commissioner for Human Rights "in the field".

During informal consultations on the draft resolution on the Optional Protocol to the International Convention on Economic, Social and Civil Rights on 2 June 2008, Canada suggested that the text of the optional protocol should not be renegotiated as it represented a "delicate compromise" following five years of careful negotiation, and any attempt to "reopen" the text at this stage would endanger the adoption of the draft optional protocol.

On 3 June 2008, Canada reiterated the importance of the Guiding Principles on Internal Displacement. Canada also echoed Switzerland in: 1) stating that the strengthening of peace and the rights of internally displaced persons (IDPs) were interdependent and 2) asking the Special Rapporteur on IDPs about the types of mechanisms that could be used in order to better involve IDPs in peace processes.

On 3 June 2008, Canada expressed support for the report and recommendations of the Special Rapporteur for extrajudicial killings on his mission to the Philippines, and encouraged the Philippines to implement the recommendations.

On 4 June 2008, Canada expressed support for the mandate of the Special Rapporteur on torture and emphasised the need for countries to accept country visits by the Special Rapporteur.

On 6 June 2008, during the discussion on human rights situations that require the Council's attention, Canada raised specific human rights concerns in relation to Myanmar, DRC, Sri Lanka, Sudan, Belarus and DPRK.

During a general debate on UPR on 13 June 2008, Canada pointed out that the Universal Periodic Review needed time to reach its potential, and that "each country would have to undergo two reviews before an assessment could be made". Canada commended the participation of civil society and NGOs in the UPR process and made some suggestions on improving the modalities of the process. During the General Comments by NGOs, Canada defended the statement of an NGO as being in order after it was challenged by other States on procedural grounds. The NGO had noted that during certain UPR sessions, allies of the country being reviewed made positive comments about the State under review as a method of "filibustering" and avoiding negative comments. The challenge against the statement was from States which believed that country-specific comments should not be tabled during the general debate.

During an informal consultation on 13 June 2008, Canada supported the inclusion of war crimes within the mandate of the Special Rapporteur on extrajudicial killings.

On 16 June 2008, Canada highlighted that it had apologised to indigenous communities affected by segregationist education policies.

On 17 June 2008, Canada, in response to the presentation of the Independent Expert on the Situation of Human Rights in Haiti, noted positive developments but highlighted that the human rights situation in the country was still a serious concern.

On 17 June 2008, Canada objected to attempts to soften the wording of a draft resolution aimed at the human rights situation in Myanmar.

On 18 June 2008, Canada voted against a resolution on the promotion of the right of peoples to peace. Slovenia called for a vote, on behalf of the EU, on the basis that the issues contained in the resolution were best dealt with in other fora and that the resolution failed to state that the absence of peace did not justify breaches of human rights.

On 18 June 2008, Canada voted against a resolution on the promotion of a democratic and equitable international order. The resolution rejected a unilateral approach in favour of a multilateral one when addressing international issues. Slovenia called for a vote, on behalf of the EU, on the basis that the resolution addressed issues that were beyond the mandate of the Council. For example, it focused on relations between States rather than relations between States and their citizens.

On 18 June 2008, Canada joined the consensus on the adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights which provides for an individual communication procedure under ICESCR. However, Canada indicated that it may not be able to become a state party to the optional protocol as it would have preferred an "a la carte" approach whereby not all the rights in the Covenant or levels of obligation were included in the Optional Protocol. In response to comments by Pakistan on the importance of the right to self-determination, Canada was of the view that self-determination could not be invoked to trigger a complaint under a future complaints mechanism.

Ninth Session of the UN Human Rights Council

On 8 September 2008, Canada supported a statement made on behalf of the EU that the OHCHR should continue to be an independent institution.

On 9 September 2008, Canada expressed interest in the proposal of the Special Representative of the Secretary-General for Children and Armed Conflict to use the UPR to discuss the issue and monitor implementation of the recommendations of the Committee of the Rights of the Child.

On 10 September 2008, Canada highlighted the importance of international cooperation to tackle the global food crisis and its impact on women and girls. It also referred to the fact it had increased international aid contributions in response to the crisis.

On 10 September 2008, Canada expressed interest in thematic work envisaged by the Special Rapporteur on human rights of indigenous peoples. The work included a focus on the views of indigenous women as they related to indigenous languages, trans-national corporations, and recognition of legal systems.

On 10 September 2008, Canada opposed the inclusion of wording within the report of the Special Rapporteur on the right to food instructing the Council to consider "non-commercial speculation on the futures markets of primary agricultural commodities" and "the feasibility of establishing a global reinsurance fund". Canada viewed this as exceeding the mandate and preferred more general wording.

On 15 September 2008, Canada noted positive developments in Cambodia but maintained that concerns remain.

On 16 September 2008, Canada expressed concerns about the human rights situations in Sudan, Zimbabwe, Sri Lanka and Iran while noting some positive developments in Belarus.

On 16 September 2008, in informal consultations on a resolution on human rights and voluntary goals, Canada regretted the inclusion of two new voluntary goals; one on bringing an end to unilateral coercive measures and the other on increasing resources for development assistance.

On 17 September 2008, during an informal discussion on a draft resolution on the follow-up to the Seventh Special Session on the impact of the world food crisis on the right to food, Canada supported the deletion of paragraphs on increasing agricultural and humanitarian assistance. It preferred to replace the paragraphs with relevant ones from an original resolution passed at the Seventh Special Session on the right to food.

On 18 September 2008, during informal consultations on the draft resolution on the protection of human rights of civilians in armed conflict, Canada stated that it could not endorse the inclusion of a paragraph calling on States involved in armed conflicts to facilitate the work of any future mechanisms that the Council may establish in response to human rights violations in armed conflict.

On 19 September 2008, during an informal consultation on the draft resolution for the protection of civilians in armed conflict, Canada sought to insert the word "applicable" before the words "human rights law" in several places. Canada again stated its opposition to the inclusion of the paragraph on cooperation with future Council mechanisms.

On 19 September 2008, during an informal consultation on the draft resolution on advisory services and technical assistance for Cambodia, Canada requested the reinsertion of a paragraph expressing concern regarding continuing human rights violations.

On 22 September 2008, Canada endorsed the draft resolution on the situation on human rights in Sudan sponsored by the EU and supported the extension of the mandate by another year.

On 24 September 2008, Canada expressed concerns regarding a draft resolution on the extension of the mandate of the Special Rapporteur on toxic waste, although it did not block the consensus on the resolution. Canada was concerned about the potential for confusion over the existence and scope of a right to safe drinking water and sanitation, which it did not feel existed.

On 24 September 2008, Canada qualified its support for a resolution on international development by stating that

it was inappropriate to renew the mandates of the Working Group on the right to development and the high-level Taskforce on the implementation of the right to development, while the taskforce's work was ongoing. Canada viewed the creation of a legally binding standard on the right to development as only one option among many available ones.

On 24 September 2008, Canada joined the consensus on a resolution on the human rights of migrants, but stressed that the global forum on migration should remain independent of the UN system.

On 24 September 2008, Canada joined the consensus on a resolution on the follow-up to the Seventh Special Session on the world food crisis but criticised the resolution for failing to place the primary responsibility on States and failing to refer to the responsibility of States to provide free and unhindered access to humanitarian aid.

On 24 September 2008, Canada voted against a resolution on human rights and international solidarity. The resolution emphasised the need for international cooperation to tackle human rights issues in a manner that distributes costs and burdens fairly. France called for a vote, on behalf of the EU, on the basis that international solidarity was a moral principle not a human right defined in legal terms.

On 24 September 2008, Canada voted against a resolution on human rights and unilateral coercive measures. The resolution requested States to stop using or implementing unilateral, coercive measures not in accordance with international law, particularly those creating obstacles to trade relations between States. The resolution also condemned the use of unilateral coercive measures to assert political or economic pressures, especially against developing countries. Canada reiterated its consistent opposition to the resolution as it did not distinguish between measures such as economic sanctions, which were acceptable, and extraterritorial coercive measures, which were not.

On 24 September 2008, Canada voted against a resolution on the follow-up to Resolution S-3/1 on the assault on Beit Hanoun, which it viewed as unbalanced. The resolution welcomed the report of the High-Level Fact-Finding Mission dispatched to assess the situation in Beit Hanoun. It called for full implementation of all the recommendations made in the report and expressed regret for the delay caused by Israeli non-cooperation. Canada called the draft resolution "fundamentally flawed and one-sided".

On 24 September 2008, during the Interactive Dialogue with the Special Rapporteur on Sudan, Canada expressed concern regarding the lack of progress in the human rights situation.

On 24 September 2008, Canada presented a draft resolution on the effective implementation of human rights instruments which was adopted without a vote.

Ninth Special Session of the UN Human Rights Council

On 12 January 2009, Canada voted against a resolution on the grave violations of human rights in the OPT. The resolution strongly condemned the Israeli military operation in the OPT, stating that this had caused grave violations of the human rights of Palestinian civilians. It accused Israel of collective punishment of the Palestinian people and called on the international community to act.

Tenth Special Session of the UN Human Rights Council

On 23 February 2009, Canada abstained from voting on a resolution on the impact of the global economic and financial crisis on the universal realisation and effective enjoyment of human rights. The resolution expressed deep concern at the effect of the economic and financial crisis on human rights and called for increased participation by developing countries in international decision-making. While explaining its stand before the vote, Canada stated that the resolution did not highlight the fact that States have primary responsibility for protecting and promoting the human rights of the individuals within their jurisdiction.

Tenth Session of the UN Human Rights Council

On 9 March 2009, the Special Rapporteur on the right to housing presented her mission report on Canada. The report commended Canada's historically successful public housing policy but made several criticisms. Canada expressed disagreement with the report which it felt misunderstood the federal system and failed to acknowledge the efforts it made to establish effective policies.

On 12 March 2009, Canada expressed agreement with the Special Rapporteur on human rights defenders that the work of human rights defenders should be recognised and promoted in the UPR.

On 13 March 2009, Canada welcomed the General Principles on Internal Displacement, suggested their incorporation in domestic and international instruments and encouraged the African Union to adopt the Draft Convention for the Protection and Assistance of Internally Displaced Persons.

On 16 March 2009, Canada thanked the Special Rapporteur on DPRK for his report and expressed support for the mandate.

On 17 March 2009, Canada expressed support for the creation of a special procedure on human rights in DRC.

On 17 March 2009, in an Interactive Dialogue on the Report of the Special Rapporteur on Myanmar, Canada highlighted areas of concern in relation to the human rights situation.

On 20 March 2009, Canada expressed concern over what it saw as "objectionable and unacceptable" treatment meted out to Israel during the adoption of its UPR report.

On 26 March 2009, Canada voted against a resolution on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.[127]

On 26 March 2009, Canada voted against a resolution on human rights in the occupied Syrian Golan which expressed deep concern for the suffering of the Syrian civilian population and referred to the systematic and continuous violations of fundamental and human rights by Israel. Canada explained that it considered the resolution unbalanced and that it would not contribute to a solution to the problems in the region.

On 26 March 2009, Canada voted against a resolution on Israeli settlements in the OPT, including East Jerusalem,

and the occupied Syrian Golan. The resolution strongly condemned the Israeli announcement that it would build further settlements in the OPT. Canada explained that while it viewed Israeli settlements as contrary to international law, it felt the resolution was not balanced.

On 26 March 2009, Canada voted against a resolution on the human rights violations emanating from the Israeli military attacks and operations in the OPT.

On 26 March 2009, Canada dissociated itself from the consensus on a resolution on the right of the Palestinian people to self-determination. Canada explained that while it recognised the right of the Palestinian people to self-determination it felt that the resolution did not contribute towards a peaceful resolution or improve the situation.

On 26 March 2009, Canada voted against a resolution on the follow-up to Council Resolution S-9/1 on the grave violations of human rights in the OPT, particularly due to the then recent Israeli military attacks against the Occupied Gaza Strip. The resolution regretted that the previous Resolution S-9/1 had not been fully implemented yet and demanded that Israel cooperate with the international community. Canada expressed deep concern regarding the situation but asserted that the responsibilities for the conflict had not been established. As such, Canada held, that that the resolution was unbalanced.

On 26 March 2009, Canada voted against a resolution on combating defamation of religions. Canada explained that defamation was beyond the scope of the Council as only individuals have human rights and that the concept posed a risk to freedom of expression.[128]

On 26 March 2009, Canada voted in favour of a resolution expressing serious concern over the human rights situation in DPRK and extending the mandate of the Special Rapporteur on DPRK for a further year.

On 26 March 2009, Canada voted against a resolution calling for better geographical representation and gender balance in the staff of the OHCHR.

On 27 March 2009, Canada voted against a resolution on the elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination.

On 27 March 2009, Canada voted in favour of a decision on the publication of reports completed by the Sub-Commission on the Promotion and Protection of Human Rights. The resolution provided for all reports by the Sub-Commission that had previously been mandated by the Commission on Human Rights and submitted to the OHCHR, to be published as UN documents.

On 27 March 2009, Canada voted in favour of a resolution on discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights. The resolution was introduced by the EU. The Czech Republic, on behalf of the EU, explained that the resolution was in response to the report of the Special Rapporteur on freedom of expression and that this was an important, sensitive issue. The resolution was criticised by some other States for failing to adequately address contemporary forms of religious discrimination.

On 27 March 2009, Canada voted in favour of a resolution on torture and the role and responsibility of medical and other health personnel. In an additional vote, Canada voted in favour of including a paragraph in the resolution which took note of the report of the Special Rapporteur on Torture. On 10 March 2009, the Special Rapporteur on torture presented his report in which he considered whether the death penalty amounted to cruel, inhuman or degrading treatment or punishment. Several States accused the Special Rapporteur of going beyond his mandate and noted that there was no international consensus on the status of the death penalty as a breach of human rights. Canada stated that taking note of the report in no way constituted an endorsement and expressed disappointment that the resolution was being put to a vote.

During the Tenth Session, two draft resolutions on the human rights situation in DRC were tabled, one by the EU and the other by the African Group. The resolution drafted by the EU expressed serious concerns regarding the human rights situation there, while the draft tabled by the African Group was less critical of the issue and called on OHCHR to enhance its technical assistance activities in the country. Following the adoption of the African Group's resolution by vote, the EU proposed amendments to it, reflecting serious concerns. Canada voted against the original resolution drafted by the African Group and voted in favour of the amendments proposed by the EU.

Eleventh Special Session of the UN Human Rights Council

On 26 May 2009, Canada expressed concerns about the human rights situation in Sri Lanka.

On 27 May 2009, Canada voted against a resolution on assistance to Sri Lanka in the promotion and protection of human rights. Before the vote, Germany, on behalf of the EU, proposed oral amendments to the draft resolution, as it made no mention of the need to conduct investigations into alleged violations of international human rights law or the need to prosecute perpetrators. Cuba, on behalf of a number of countries, requested that no action be taken on Germany's proposed oral amendments. The request was put to a vote and Canada voted against it. Canada called the human rights situation in Sri Lanka "troubling" and expressed serious concerns about the country's conduct during its conflict with the Liberation Tigers of Tamil Eelam.

Eleventh Session of the UN Human Rights Council

On 2 June 2009, Canada reiterated support for the development of measures to encourage corporate social responsibility.

On 3 June 2009, in response to the debate following the report by the Special Rapporteur on freedom of expression, Canada observed that Special Rapporteurs were free to address any issue within their mandate. States were free to agree or disagree with the views expressed in the reports but the independence of the Special Procedures was vital to their effectiveness and should be respected.

On 3 June 2009, Canada expressed concern about the intimidation of, and retaliation against, people cooperating with Special Procedure mandate holders.

On 3 June 2009, Canada commended the Special Rapporteur on violence against women for her work.

On 5 June 2009, during the debate on the update of the High Commissioner of Human Rights, Canada expressed concern about conflict in Somalia. It acknowledged the continuing human rights challenges faced by Colombia, and welcomed its standing invitation to Special Procedure mandate holders. Canada urged Nepal to extend the High Commissioner's mandate in its country.

On 9 June 2009, Canada raised the issue of human rights abuses in Iran, including the execution of juveniles, and the human rights situation in Zimbabwe as situations that required the Council's attention.

On 12 June 2009, a discussion on the functions and modalities for future panel discussions was held following opposition by some States to holding a thematic panel discussion on the protection of civilians in armed conflicts. During the discussion, Canada emphasised the need to create alternative fora for substantive dialogue, rather than just on modalities, and the Canadian Ambassador suggested that discussions should be informal, with delegates representing their own views, rather than those of their governments.

On 9 June 2009, Canada expressed concern that the Expert Mechanism on the rights of indigenous peoples was moving forward with topics and an agenda that the Council had not approved. The Expert Mechanism was expected to discuss the implementation of the Declaration on the Rights of Indigenous Peoples at its next session. Canada felt that the Council should have the opportunity to consider and approve this agenda.

On 16 June 2009, Canada expressed concerns for the human rights situation in Sudan and stated that it supported the extension of the mandate for the Special Rapporteur.

On 17 June 2009, Canada voted against a resolution on the promotion of the right of peoples to peace. The resolution recognised States' obligations to improve the protection of human rights by ensuring peace. Germany, on behalf of the EU, stated that while it recognised some of the principles set out in the resolution, the issues in the draft could be more comprehensively dealt with in other fora. Furthermore, Germany, on behalf of the EU, noted that the resolution dealt with relationships between States, and not the relationship between States and their citizens.

On 17 June 2009, Canada voted against a resolution on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.

On 17 June 2009, Canada participated in the interactive dialogue with the Special Rapporteur on Haiti, referring to the progress made in the country, the remaining challenges, and Canada's actions to improve the human rights situation in Haiti.

On 17 June 2009, Canada introduced a draft resolution to accelerate efforts to eliminate all forms of violence against women, which was adopted without a vote, after oral amendments.

On 18 June 2009, Canada dissociated itself from a resolution on the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action. Canada explained its disassociation on what it considered to be politicised references aimed at the conflict in the Middle East.

On 18 June 2009, Egypt, on behalf of the African Group, and the Czech Republic, on behalf of the EU, introduced competing draft resolutions on the mandate on Sudan. The draft proposed by the African Group did not renew the mandate of the Special Rapporteur or create a mandate for any international monitoring. It referred positively to the efforts of the Sudanese government. The EU resolution replaced the mandate of the Special Rapporteur with that of an Independent Expert with some monitoring and reporting functions. The EU later accepted the African Group's draft, but with proposed amendments providing for the mandate of an Independent Expert. Canada voted in favour of these amendments, and when they were accepted, it voted in favour of the entire amended text.

On 18 June 2009, Canada disassociated itself from the consensus on a resolution aimed ostensibly at enhancing the system of Special Procedures. Canada said that the draft weakened the independence of mandate holders. It referred selectively to the Code of Conduct for Special Procedures and made no reference to States' obligations to cooperate in good faith with mandate holders.

2. Pledge

2.1 Election to the Council

Canada was one of nine contestants for the seven seats reserved for the Western European and Other States Group in 2006. Canada won a seat with 130 votes, the lowest vote tally in this group. Portugal and Greece were both unsuccessful in securing a seat.

Canada decided not to seek re-election at the Human Rights Council when its three-year term ended in 2009.

2.2 Pledge Made

In its pre-election pledge in 2006, Canada stated that promotion and protection of human rights was part of its domestic and foreign policies. It stressed that it played a leadership role in the implementation of key human rights norms in areas that concern indigenous people, violence against women and the mass exodus of refugees and migrants. Canada added that by May 2006, it would have no reports pending before the relevant treaty bodies, and that it would submit its future reports in time. Canada also pledged to "consider" signing or ratifying the Optional Protocol to CAT and "other human rights instruments". It committed itself to implementing human rights in the domestic sphere, including issues concerning indigenous people and racism. Finally, Canada stated that gender equality is promoted and protected in the country through the Canadian Charter of Rights and Freedoms.

3. Compliance

3.1 Human Rights During the Reporting Period

Canada's reputation as a world leader in the protection and promotion of human rights was under pressure during the reporting period. Domestically, the Canadian government was accused of breaching firmly established democratic norms. In late 2008, the government announced controversial measures in its annual budget, one of which would have cut funding to opposition parties. The three opposition parties formed a coalition to oust the ruling, minority Conservative Party from power. The Prime Minister, Stephen Harper, requested the Governor General of Canada, who is the Queen of England's representative and the country's ceremonial head of state,

to prorogue parliament, and she complied. The prorogation was highly controversial, as was the opposition's decision to form a coalition to assume power from the minority government.[129] The prorogation period allowed the government and opposition parties to negotiate and compromise on the controversial budget measures and status quo was maintained when Parliament reconvened some months later.

Parliament was again prorogued for over two months in late December 2009. Though former Prime Ministers did use prorogation as a means to shut down Parliament, this usually happened at the end of a legislative session when most of the legislative work was complete. In this instance in 2009, 36 bills were pending before Parliament and when it re-convened, each bill had to be resubmitted, whether or not it had been debated earlier or passed multiple readings.

A committee looking into the allegation that from 2006 to 2007 the Canadian Army in Afghanistan consistently turned suspected Taliban insurgents over to Afghan security services, where they faced a high risks of torture, was also closed as a result of the prorogation. The allegation which led to the formation of the committee was made in public hearings during May 2009 by a senior Canadian diplomat. He claimed that Afghan security services were known to beat and whip prisoners with power cables and used electricity. He further noted that till April 2007, there was no monitoring system to ascertain the treatment of prisoners.[130] Opposition parties alleged that the Prime Minister prorogued Parliament in an effort to muzzle the committee which was posing difficult questions on the issue to government officials.[131] Analysis from The Economist newspaper in London offered harsh criticism of Stephen Harper's conduct after the prorogation: "He bars most ministers from talking to the media; he has axed some independent watchdogs; he has binned campaign promises to make government more open and accountable. Now he is subjecting Parliament to prime-ministerial whim."[132]

The government was also accused of interfering in the management of Rights and Democracy, an institution accountable to Parliament that promotes human rights and democracy globally. The appointment of new board members by the government in late 2009, created a major divide within the board, regarding the allocation of funds by Rights and Democracy to NGOs in the Middle East which tracked human rights abuses in the OPT, including those perpetrated by the Israeli military. Dozens of human rights organisations from around the world wrote an open letter denouncing the actions of the new government-appointed board members and alleging that the Prime Minister was trying to gag legitimate criticism of Israel. Warren Allmand, a former Liberal Party cabinet minister who is also a former President of Rights and Democracy, reportedly accused the government of "a deliberate attempt...to dampen and control public dissent and accountability."[133] The turmoil around Rights and Democracy was linked by Warren Allmand to an assertion by a cabinet member that KAIROS, a multi-denominational aid group, had its funding cut by the Canadian government because of what he alleged were anti-Israel positions.[134]

Women's rights groups faced funding cuts by the government during the reporting period, a fact that was noted by the Committee on the Elimination of Discrimination against Women. A funding programme run by the government's Status of Women Committee developed new guidelines for NGOs which stipulated that funding for domestic advocacy, lobbying or research would no longer be granted. The resulting lack of funds forced several NGOs to shut down or severely restrict their work.[135] A report published in February 2010 by an alliance of feminist and labour activists noted that Canada's ranking in the World Economic Forum's Gender-Gap Index

had dropped from the fourteenth position in 2006 to the twenty-fifth in 2009. This was partially due to a widening wage gap between men and women.[136]

The high profile case of Omar Khadr, a Canadian citizen detained in Guantanamo Bay, continued to represent a major blot on Canada's human rights record. Mr Khadr was arrested when he was fifteen years old, but continued to be treated as an adult offender till the end of the reporting period.[137] Canada, which had ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, consistently failed to intervene in his case. Beyond being the youngest detainee at Guantanamo Bay, Khadr was the only citizen from a western nation imprisoned there.[138] In January 2010, the Supreme Court of Canada ruled that it could not order the Canadian government to request Khadr's repatriation. It did however add that by sending Canadian agents to interview Mr. Khadr in 2004, and by sharing certain information with the US, Canada had breached its human rights obligations.[139]

In January 2009, the UN Special Rapporteur on torture reported that there was strong evidence that Canada had helped secure the arrest and extraordinary rendition of terror suspects by the United States to secret detention centres.[140] In October 2008, an independent inquiry launched by the Canadian government concluded that Canadian officials contributed indirectly to the detention and torture of three Canadian citizens in Syria.[141] On 5 May 2010, it was reported that a senior official of the Canadian Security Intelligence Service suggested to a parliamentary committee that the average Canadian would accept the use of intelligence obtained from torture if it saved Canadian lives.[142]

Canada's failure to ensure the human rights of its citizens abroad was also demonstrated in relation to the death penalty. Canada has abolished the death penalty and, in the past, sought clemency for its citizens who had been sentenced to death while abroad. However, during the first half of the reporting period the government practised a policy of not seeking clemency for Canadian citizens who were deemed to have been provided a fair trial in a democratic country and sentenced to death. The issue came to prominence in the case of Ronald Smith, a Canadian citizen on death row in the United States.[143] In March 2009, a Federal Court ruled that the government was required to resume efforts to obtain clemency, a ruling that the Department of Foreign Affairs stated it would not contest.[144]

Some Canadian police forces came under criticism during the reporting period. Throughout the period, police services across Canada regularly used "tasers" or stun guns to subdue violent or unpredictable suspects without resorting to live ammunition. Though the use of tasers is intended to be non-lethal and without lasting effect, an Amnesty International report alleged that six people were killed in Canada in 2008 after being shot with tasers.[145] A March 2009 report found that in 2008, police used tasers 376 times in 329 incidents. Targets included a 15 year old, a 71 year old person, and 112 people described as emotionally disturbed. Police in one incident threatened a 12 year old person with a taser.[146] Concern was raised in the UN Human Rights Council about the use of tasers when Canada came up for review under the Universal Periodic Review in February 2009.[147] In August 2008, two human rights groups announced that they would no longer refer complaints against the Vancouver police to the Office of the Police Complaints Commissioner (OPCC). Reasons cited for the boycott were a lack of confidence in the complaints procedure which allowed the police to investigate themselves. OPCC involvement was only initiated in cases of obvious bias.[148] In January 2009, the Royal Canadian Mounted Police (RCMP) was advised by the

Commission for Public Complaints Against the RCMP to improve its handling of complaints.[149]

Canada voted against the 2007 UN Declaration on the Rights of Indigenous Peoples and has since asserted that the declaration could therefore not be used as a benchmark to measure Canada's human rights compliance. On 3 March 2010, the government made a public commitment to take steps to endorse the declaration.[150]

Discrepancies between the quality of life of indigenous and non-indigenous citizens continued. In February 2010, it was reported that six of Canada's ten poorest postal codes in 2006 were First Nations (indigenous) communities.[151] Indigenous children were more likely to be moved from their parents, with one in ten ending up in foster care as opposed to one in 200 non-indigenous children. This was particularly controversial in light of accusations that child welfare agencies serving First Nations reserves received 22 per cent less funding than provincial agencies. A case was filed before the Canadian Human Rights Tribunal to determine whether this constituted discrimination.[152] Citizens from indigenous backgrounds were also disproportionately represented within prisons. Despite constituting only 3 per cent of the population of Canada, aboriginal adults made up 22 per cent of the custodial population in 2007-2008.[153] The figure was more dramatic for women prisoners, with Inuit, First Nations and Métis women constituting 30 per cent of the female federal-prison population.[154] Many of these women were detained in high-security facilities, depriving them of appropriate access to rehabilitation programmes.[155] Beyond high-levels of incarceration, indigenous women are subject to excess violence.[156] Canada was criticised for its failure to compile data regarding aboriginal people and women, which resulted in a dearth of national statistics on violence against indigenous women.[157] However, the Native Women's Association of Canada has compiled a list of 520 missing and murdered aboriginal women over the last three decades from media reports and family testimonies.[158] In October 2008, Canada was urged by the UN Committee on the Elimination of Discrimination against Women (CEDAW) to examine why these cases had not been investigated adequately.[159]

Canada has struggled to reconcile indigenous people's land rights with corporate development. The Lubicon Cree, an indigenous group in Alberta, has never signed a treaty with the government and therefore has no reserve lands. Intermittent dialogue over 60 years failed to reach a resolution, with negotiations breaking down in 2003. As far back as 1990, the UN Human Rights Committee ruled that the Canadian government had violated the rights of the Lubicon Cree, resulting in an assurance by the government that it would reach a negotiated settlement. Since then, various UN committees have expressed concern about the situation and urged the government to resolve it. Despite this, no resolution was reached till the end of the reporting period and the government continued to hand out licences for oil and gas extraction in areas traditionally claimed by the Lubicon Cree.[160]

Holding the Winter Olympics in Vancouver in February 2010 allegedly had a negative impact on homelessness and indigenous people's rights. It was reported that after the awarding of the Games to Canada in 2003, over 1,300 affordable housing beds were lost in Vancouver.[161] The Provincial Assistance to Shelter Act, which empowered the police to move homeless people to shelters in extreme weather, was perceived by homeless advocates as a tool to remove these people during the Games. Critics of the Act termed it the Olympic Kidnapping Act. The publicity with the Games highlighted the wider issue of homelessness in Vancouver, which was reported to have increased by 137 per cent between 2002 and 2008, and in Canada as a whole.[162] In March 2009, the Special Rapporteur on the right to housing presented the Council with the findings of his mission report to Canada. It highlighted the fact that Canada had a growing homeless population, unequal access to housing for indigenous

people and a need to expand public housing.[163] In Vancouver, though they only constituted 2 per cent of the overall population, First Nations people made up 30 per cent of the homeless population.[164] Indigenous groups were divided over whether the Games were a positive or negative development. Much of the Games took place on what many First Nations groups consider to be stolen First Nations land and there were also concerns about the negative environmental impact on the land.[165]

3.2 Compliance with the Pledge

In its pre-election pledge Canada claimed that promotion and protection of human rights was a part of its foreign and domestic policy. The government's prorogation of Parliament, allegedly to stifle discussion on Canadian complicity in the torture of detainees, is exemplary of the dubiousness of this claim. Three additional examples provide evidence that human rights considerations did not always factor into Canadian foreign policy: 1) the government's continued reluctance to intervene in the cases of Omar Khadr and Ronald Smith (before the Federal Court judgement on Smith's case); 2) allegations by the Special Rapporteur on torture that Canadian officials helped secure the arrest and extraordinary rendition of terror suspects by the United States to secret detention centres; 3) alleged government interference in the operations of Rights and Democracy, an institution accountable to Parliament, promoting human rights and democracy globally.

Government funding cuts to women's rights groups operating in Canada contradicted its pledge to promote and protect human rights domestically and its assertion that the government and civil society engage "in a spirit of cooperation and dialogue". Furthermore, Canada's steady decline in the World Economic Forum's Gender-Gap Index suggests that the Canadian Charter of Rights and Freedom was not being fully used to ensure gender equality.

Though Canada did state its intention during the reporting period to endorse the UN Declaration on the Rights of Indigenous People, its pledge regarding its leadership role in this regard did not result in measurable improvement. Indigenous people continued to be severely disadvantaged compared to the rest of the Canadian population. Violence against indigenous women, high rates of incarceration of indigenous men and women, disputes over land claims and high-levels of homelessness and poverty continued to plague Canada's indigenous communities.

Canada's performance in the Council sessions generally fulfilled its commitments to ensure that the Council's work had a direct, concrete and positive impact on the promotion and protection of the rights of people around the world. Canada supported international scrutiny of Myanmar and repeatedly expressed concerns about, and voted for, resolutions which were critical of human rights situations in various countries such as Sudan, DRC, DPRK and Sri Lanka. Only on resolutions concerning Israel and the OPT, did Canada vote against international scrutiny. On several occasions it was the only State on the entire Council to vote against resolutions which criticised Israel for human rights violations.

Canada generally worked positively to strengthen and support UNHRC mechanisms, such as the Special Procedures, but on one occasion it attempted to limit the activities of the Expert Mechanism on the Rights of Indigenous Peoples, which Canada felt was moving towards an agenda that the Council had not approved. On another occasion, Canada expressed concern about the extension of the mandate of the Special Rapporteur on toxic waste, because it believed that the right to safe drinking water and sanitation – rights central to that mandate – did not exist.

Canada voted predictably with allied voting blocs on controversial thematic resolutions. It voted against resolutions on the promotion of a democratic and equitable international order, international solidarity and human rights, the right of people to peace, unilateral coercive measures, the global economic and financial crisis, foreign debt, defamation of religions and the elaboration of complementary standards to ICERD. Canada voted in favour of a resolution on discrimination based on religion or belief.

Canada's pledge to submit its future treaty body reports on time was not realised. Neither its 2008 report to CAT nor its 2009 report to ICERD was submitted by the end of the reporting period. A report to CESCR became overdue just after the reporting period. Canada's pledge to consider signing the Optional Protocol to CAT was not realised during the reporting period, and its pledge to consider signing or ratifying other human rights instruments was only partially fulfilled. Canada did ratify the Convention on the Rights of Persons with Disabilities in March 2010, but had yet to ratify the Convention on the Protection of the Rights of Migrant Workers, Convention for the Protection of all Persons from Enforced Disappearances and the Optional Protocols to CESCR and CPD.

---

127 Canada voted against a similar resolution 10 years earlier at the Commission on Human Rights. In its explanation of its earlier vote, Canada stated that it agreed that the issue was serious, but the resolution failed to capture its concerns on the issue adequately. International Alert, "The Mercenary Issue at the UN Commission on Human Rights" (January 2001) at http://www.international-alert.org/pdf/unhr.pdf (last accessed on 18 November 2010).

128 Reuters, "UN Body adopts resolution on religious defamation" (26 March 2009) at http://www.reuters.com/article/idUSTRE52P60220090326 (last accessed on 18 November 2010).

129 CBC News, "GG agrees to suspend Parliament until January" (4 December 2008) at http://www.cbc.ca/canada/story/2008/12/04/harper-jean.html (last accessed on 9 November 2010).

130 BBC News, "Canada hears of Afghan torture" (19 November 2009) at http://news.bbc.co.uk/2/hi/americas/8367610.stm (last accessed on 8 November 2010).

131 The Economist, "Harper goes prorogue" (7 January 2010) at http://www.economist.com/node/15213212 (last accessed on 7 November 2010).

132 The Economist, "Harper goes prorogue" (7 January 2010) at http://www.economist.com/node/15213212 (last accessed on 7 November 2010).

133 The Globe and Mail, "Conservatives cracking down on criticism of Israel" (2 February 2010) at http://www.theglobeandmail.com/news/politics/conservatives-cracking-down-on-criticism-of-israel-ngos-warn/article1453888/ (last accessed on 8 November 2010).

134 The Globe and Mail, "Conservatives cracking down on criticism of Israel" (2 February 2010) at http://www.theglobeandmail.com/news/politics/conservatives-cracking-down-on-criticism-of-israel-ngos-warn/article1453888/ (last accessed on 8 November 2010).

135 CEDAW, "Concluding observations of the Committee on the Elimination of Discrimination Against Women - CEDAW/C/CAN/CO/7" (20 October-7 November 2008), at http://www.equalityrights.org/cera//wp-content/uploads/2010/03/CEDAW-2008-COs1.pdf (last accessed on 8 November 2010).

136 The Toronto Star, "Canadian women's rights in decline, report says" (23 February 2010) at http://www.thestar.com/news/canada/article/769954--canadian-women-s-rights-in-decline-report-says (last accessed on 8 November 2010).

137 The Toronto Star, "Protesters rally for Omar Khadr's return to Canada" (5 October 2008) at http://www.thestar.com/news/canada/article/512279 (last accessed on 8 November 2010); Reuters, "UNICEF head opposed to Khadr trial at Guantanamo" (28 May 2010) at http://in.reuters.com/article/idINIndia-48859520100527 (last accessed on 30 November 2010).

138 BBC News, "Canada 'not obliged to help Guantanamo man'" (29 January 2010) at http://news.bbc.co.uk/2/hi/americas/8488073.stm (last accessed on 8 November 2010).

139 BBC News, "Canada 'not obliged to help Guantanamo man'" (29 January 2010) at http://news.bbc.co.uk/2/hi/americas/8488073.stm (last accessed on 8 November 2010).

140 BBC News, "UN to Investigate secret US Jails" (10 March 2009) at http://news.bbc.co.uk/2/hi/americas/7935926.stm (last accessed on 8 November 2010).

141 CBC News, "The cases of Almalki, Nureddin and El Maati" (22 October 2008) at http://www.cbc.ca/news/background/arar/torture-claims.html (last accessed on 8 November 2010).

142 The National Post, "Canadians would accept torture if it saved lives: CSIS official" (5 May 2010) at http://www.nationalpost.com/Canadians+would+accept+life+saving+intel+obtained+torture+CSIS+official/2991211/story.html (last accessed on 11 August 2010).

143 The Toronto Star, "Aid man on death row, Ottawa told" (5 March 2009) at http://www.thestar.com/news/canada/article/596825 (last accessed on 8 November 2010).

144 The Toronto Star, "Ottawa to seek clemency for Canadian on death row" (3 April 2009) at http://www.thestar.com/news/canada/

article/613537 (last accessed on 8 November 2010).

145 Canwest News Service, "RCMP's taser use draws Amnesty's Ire" (28 May 2009) at http://www2.canada.com/nanaimodailynews/news/story.html?id=1636909 (last accessed on 28 October 2010).

146 Thestar.com, "Boys, 15, tasered by police, stats show" (20 March 2009) at http://www.thestar.com/news/gta/article/605357 (last accessed on 8 November 2010).

147 Reuters, "Canada urged to improve human rights record" (3 February 2009) at http://uk.reuters.com/article/idUKTRE5124QF20090203 (last accessed on 28 October 2010).

148 The Vancouver Sun, "Complaints Commissioner loses civil liberty groups' faith" (1 August 2008) at http://www.canada.com/vancouversun/news/westcoastnews/story.html?id=506a36a6-bbc2-4f8a-a941-46d2a1d0b85c (last accessed on 8 November 2010).

149 CBC News, "RCMP must improve handling of public complaints: commission" (29 January 2009) at http://www.cbc.ca/canada/story/2009/01/29/rcmp-commission.html#ixzz0jB0uqGvD.

150 UN Press Release, "General Assembly adopts Declaration on the Rights of Indigenous Peoples" (13 September 2007) http://www.un.org/News/Press/docs/2007/ga10612.doc.htm; Parliament of Canada, "Speech from the Throne to open the 3rd session of the 40th Parliament of Canada" (2 March 2010) at "http://www2.parl.gc.ca/Parlinfo/Documents/ThroneSpeech/40-3-e.html (last accessed on 11 August 2010).

151 Vancouver Sun, "Is Vancouver's Downtown Eastside really 'Canada's poorest postal code'?" (10 February 2010) at http://communities.canada.com/vancouversun/blogs/parenting/archive/2010/02/10/downtown-eastside-poorest-postcal-code.aspx (last accessed on 8 November 2010).

152 CBC News, "Feds short changing Aboriginal child services: AFN" (15 September 2009) at http://www.cbc.ca/canada/story/2009/09/14/aboriginal-discrimination-child-services-tribunal.html.

153 CBC News, "Poverty a factor in Aboriginal incarceration rates" (22 July 2009) at http://www.cbc.ca/canada/north/story/2009/07/22/yukon-jail-rates.html (last accessed on 8 November 2010).

154 Amnesty International, Report, "No more stolen sisters: the need for a comprehensive response to discrimination and violence against indigenous women" (30 September 2009) at http://www.amnesty.org/en/library/info/AMR20/012/2009/en (last accessed on 8 November 2010).

155 CEDAW, "Concluding observations of the Committee on the Elimination of Discrimination against Women - CEDAW/C/CAN/CO/7" (20 October-7 November 2008), at http://www.equalityrights.org/cera//wp-content/uploads/2010/03/CEDAW-2008-COs1.pdf (last accessed on 8 November 2010).

156 Amnesty International, Report, "No more stolen sisters: The need for a comprehensive response to discrimination and violence against indigenous women" (30 September 2009) at http://www.amnesty.org/en/library/info/AMR20/012/2009/en (last accessed on 8 November 2010).

157 Amnesty International, Report, "No more stolen sisters: The need for a comprehensive response to discrimination and violence against indigenous women" (30 September 2009) at http://www.amnesty.org/en/library/info/AMR20/012/2009/en (last accessed on 8 November 2010).

158 CBC News, "Vigils remember killed, missing Aboriginal women" (4 October 2009) at http://www.cbc.ca/canada/british-columbia/story/2009/10/04/bc-aboriginal-vigil-missing-highway-of-tears.html.

159 CEDAW, "Concluding observations of the Committee on the Elimination of Discrimination Against Women - CEDAW/C/CAN/CO/7" (20 October-7 November 2008), at http://www.equalityrights.org/cera//wp-content/uploads/2010/03/CEDAW-2008-COs1.pdf (last accessed on 8 November 2010).

160 CBC, "UN urges Ottawa to resume talks with Lubicon Cree" (2 November 2005) at http://www.cbc.ca/canada/story/2005/11/02/lubicon-051102.html; CBC, "UN Asks Ottawa to Negotiate with Lubicon Cree Again" (23 May 2006) at http://www.cbc.ca/canada/calgary/story/2006/05/23/nor-lubicon-un.html; Amnesty International, "20 years' denial of recommendations made by the United Nations Human Rights Committee and the continuing impact on the Lubicon Cree" (17 March 2010) at http://www.amnesty.org/en/library/info/AMR20/003/2010/en (last accessed on 9 November 2010).

161 CBC News, "Anti-Olympics activists woo world press attention in Vancouver" (18 November 2008) at http://www.cbc.ca/canada/british-columbia/story/2008/11/18/bc-anti-olympic-protest.html (last accessed on 8 November 2010).

162 The Guardian, "Winter Olympics on slippery slope after Vancouver crackdown on homelessness" (3 February 2010) at http://www.guardian.co.uk/world/2010/feb/03/vancouver-winter-olympics-homeless-row (last accessed on 9 November 2010).

163 International Service for Human Rights, "Council Monitor Tenth Session" (9 March 2009) at http://www.nesri.org/media_updates/2009_council_update_10_item_3_housing.pdf (last accessed on 8 November 2010).

164 Amnesty International, Report, "No more stolen sisters: The need for a comprehensive response to discrimination and violence against indigenous women" (30 September 2009) at http://www.amnesty.org/en/library/info/AMR20/012/2009/en (last accessed on 9 November 2010).

165 BBC news, "Aboriginal Canadians divided over Vancouver Olympics" (1 January 2010) at http://news.bbc.co.uk/2/hi/americas/8426055.stm (last accessed on 9 November 2010).

Ghana

Easier Said
than Done

1. Background

1.1. Context

In 1957, Ghana became the first country in sub-Saharan Africa to achieve independence from colonial rule. In 1966, Ghana's first President was deposed in a coup, heralding a 26-year period of intermittent military rule, in which coups and counter-coups abounded. In 1992, Ghana adopted a new Constitution, which established multiparty democracy and placed Ghana on a more stable democratic footing. After elections in December 2000, Ghana saw its first peaceful democratic transition of power since independence, ending 20 years of rule by Jerry Rawlings, who took power in a coup in 1979. In December 2008, a hard-fought Presidential election was eventually decided in a run-off vote and John Atta Mills, a former Vice-President under Jerry Rawlings, was elected in the country's second peaceful transition of power.

Though violence between ethnic groups was a regular occurrence in northern Ghana during the mid-1990s, and flare-ups of violence still occur, Ghana is now generally referred to as peaceful nation and a successful model of African reform.

1.2 UN Treaties

Ghana is a party to the International Covenant on Civil and Political Rights (ICCPR) and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention Against Torture (CAT), the Convention on the Rights of the Child (CRC) and its Optional Protocol on the Involvement of Children in Armed Conflict and the Convention on the Protection of the Rights of All Migrant Workers (CMW). Ghana also signed the Optional Protocols to CAT, ICESCR, CEDAW, the Convention for the Protection of All Persons from Enforced Disappearance (CED), the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography, and the Convention on the Rights of Persons with Disabilities (CPD) and its Optional Protocol.

Ghana is not a party to the Second Optional Protocol to ICCPR.

1.3 UN Reporting History

Ghana has completed only some of its reporting requirements, and has largely failed to satisfy its obligations.

Ghana has not completed any reporting under ICESR (reports are outstanding for 2003 and 2008) or ICCPR (an initial report was due in February 2001). It has completed seventeen rounds of reporting under the ICERD, but has not yet submitted its report for 2006 and 2008. The country has completed one reporting round under CAT but still owes its 2005 report. Under CMW, Ghana's initial report is overdue since 2004. It has completed its reporting requirements under CRC and CEDAW.

Ghana has extended an open invitation to the Human Rights Council Special Procedures.

1.4 UN Voting Patterns and Performance at the Council

Eighth Session of the UN Human Rights Council

On 18 June 2008, Ghana voted in favour of a resolution on the promotion of the right of peoples to peace. Slovenia called for a vote, on behalf of the EU, on the basis that the issues contained in the resolution were best dealt with in other fora and that the resolution failed to state that the absence of peace did not justify breaches of human rights.

On 18 June 2008, Ghana abstained from voting on a resolution on the promotion of a democratic and equitable international order, but subsequently declared it had intended to vote in favour of the draft resolution. The resolution rejected a unilateral approach in favour of a multilateral one, when addressing international issues. Slovenia called for a vote, on behalf of the EU, on the basis that the resolution addressed issues that were beyond the mandate of the Council. For example, it focused on relations between States rather than relations between States and their citizens.

Ninth Session of the UN Human Rights Council

On 24 September 2008, Ghana voted in favour of a resolution on human rights and international solidarity. The resolution emphasised the need for international cooperation to tackle human rights issues in a manner that distributes costs and burdens fairly. France called for a vote, on behalf of the EU, on the basis that international solidarity was a moral principle not a human right defined in legal terms.

On 24 September 2008, Ghana voted in favour of a resolution on human rights and unilateral coercive measures. The resolution requested States to stop using or implementing unilateral, coercive measures, not in accordance with international law, particularly those creating obstacles to trade relations between States. The resolution also condemned the use of unilateral coercive measures to assert political or economic pressures, especially against developing countries.

On 24 September 2008, Ghana voted in favour of a resolution on the follow-up to Resolution S-3/1 on the assault on Beit Hanoun, which it viewed as unbalanced. The resolution welcomed the report of the High-Level Fact-Finding Mission dispatched to assess the situation in Beit Hanoun. It called for full implementation of all the recommendations made in the report and expressed regret for the delay caused by Israel's non-cooperation.

Ninth Special Session of the UN Human Rights Council

On 12 January 2009, Ghana voted in favour of a resolution on the grave violations of human rights in the OPT. The resolution strongly condemned the Israeli military operation in the OPT, stating that this had caused grave violations of the human rights of Palestinian civilians. It accused Israel of collective punishment of the Palestinian people and called on the international community to act.

Tenth Special Session of the UN Human Rights Council

On 23 February 2009, Ghana voted in favour of a resolution on the impact of the global economic and financial crisis on the universal realisation and effective enjoyment of human rights. The resolution expressed deep concern at the effect of the economic and financial crisis on human rights and called for increased participation by developing countries in international decision-making.

Tenth Session of the UN Human Rights Council

On 26 March 2009, Ghana voted in favour of a resolution on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.

On 26 March 2009, Ghana voted in favour of a resolution on human rights in the occupied Syrian Golan which expressed deep concern for the suffering of the Syrian civilian population and referred to the systematic and continuous violations of fundamental and human rights by Israel.

On 26 March 2009, Ghana voted in favour of a resolution on Israeli settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution strongly condemned the Israeli announcement that it would build further settlements in the Occupied Palestinian Territory.

On 26 March 2009, Ghana voted in favour of a resolution on the human rights violations emanating from the Israeli military attacks and operations in the OPT.

On 26 March, Ghana voted in favour of a resolution on the follow-up to Council Resolution S-9/1 on the grave violations of human rights in the OPT, particularly due to Israeli military attacks against the Occupied Gaza Strip. The resolution regretted that the previous Resolution S-9/1 had not been fully implemented yet and demanded that Israel cooperate with the international community.

On 26 March 2009, Ghana abstained from voting on a resolution on combating defamation of religions.

On 26 March 2009, Ghana adopted the position of the EU and voted in favour of a resolution expressing serious concern over the human rights situation in DPRK and extending the mandate of the Special Rapporteur on DPRK for a further year.

On 26 March 2009, Ghana voted in favour of a resolution calling for better geographical representation and gender balance in the staff of the OHCHR.

On 27 March 2009, Ghana voted in favour of a resolution on the elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination.

On 27 March 2009, Ghana abstained from voting on a decision on the publication of reports completed by the Sub-Commission on the Promotion and Protection of Human Rights. The resolution provided for all reports by the Sub-Commission that had previously been mandated by the Commission on Human Rights and submitted to the OHCHR, to be published as UN documents.

On 27 March 2009, Ghana abstained from voting on a resolution on torture and the role and responsibility of medical and other health personnel. In an additional vote, Ghana abstained from voting on the inclusion of a paragraph in the resolution which took note of the report of the Special Rapporteur on torture. On 10 March 2009, the Special Rapporteur on torture had presented his report in which he considered whether the death penalty amounted to cruel, inhuman or degrading treatment or punishment. Several States had accused the Special

Rapporteur of going beyond his mandate and noted that there was no international consensus on the status of the death penalty as a breach of human rights.

On 27 March 2009, Ghana abstained from voting on a resolution on discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights. The resolution was introduced by the EU. The Czech Republic, on behalf of the EU, explained that the resolution was in response to the report of the Special Rapporteur on freedom of expression and that this was an important, sensitive issue. The resolution was criticised by some other States for failing to adequately address contemporary forms of religious discrimination.

During the Tenth Session, two draft resolutions on the human rights situation in DRC were tabled, one by the EU and the other by the African Group. The resolution drafted by the EU expressed serious concerns regarding the human rights situation there, while the draft tabled by the African Group was less critical of the issue and called on OHCHR to enhance its technical assistance activities in the country. Following the adoption of the African Group's resolution by vote, the EU proposed amendments to the resolution reflecting serious concerns. Ghana voted in favour of the original resolution drafted by the African Group and abstained from voting on the amendments proposed by the EU.

Eleventh Special Session of the UN Human Rights Council

On 27 May 2009, Ghana voted in favour of a resolution on assistance to Sri Lanka in the promotion and protection of human rights. Before the vote, Germany, on behalf of the EU, proposed oral amendments to the draft resolution, as it made no mention of the need to conduct investigations into alleged violations of international human rights law or the need to prosecute perpetrators. Cuba, on behalf of a number of countries, requested that no action be taken on Germany's proposed oral amendments. The request was put to a vote and Ghana voted in favour of it.

Eleventh Session of the UN Human Rights Council

On 2 June 2009, Ghana expressed strong support for the mandate of the Special Representative of the Secretary-General on the issue of human rights and trans-national corporations and other business enterprises. Ghana hoped that the mandate would lead to the creation of a legally-binding instrument on the human rights responsibilities of trans-national corporations.

On 5 June 2009, Ghana welcomed a human rights approach to extreme poverty. Ghana stated that States should not be made incapable of guaranteeing the most basic human rights of their people owing to foreign debts.

On 17 June 2009, Ghana voted in favour of a resolution on the promotion of the right of peoples to peace. The resolution recognised States' obligations to improve the protection of human rights by ensuring peace. Germany, on behalf of the EU, stated that while it recognised some of the principles set out in the resolution, the issues set out in the draft were more comprehensively dealt with in other fora. Furthermore, Germany, on behalf of the EU, noted that the resolution dealt with relationships between States, not the relationship between States and their citizens.

On 17 June 2009, Ghana voted in favour of a resolution on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, mainly economic, social and cultural rights.

On 18 June 2009, Egypt, on behalf of the African Group, and the Czech Republic, on behalf of the EU, introduced competing draft resolutions on Sudan. The draft proposed by the African Group did not renew the mandate of the Special Rapporteur or create a mandate for any international monitoring. It referred positively to the efforts of the government. The EU resolution replaced the mandate of the Special Rapporteur with that of an Independent Expert with some monitoring and reporting functions. The EU later accepted the African Group's draft but with proposed amendments providing for the mandate of an Independent Expert. Ghana abstained from voting on these amendments, and after they were accepted, abstained from voting on the entire text as amended.

Twelfth Session of the UN Human Rights Council

On 18 September 2009, in relation to the report of the Independent Expert on human rights and international solidarity, Ghana observed that while States have the primary responsibility for the promotion and protection of human rights, this became difficult owing to the current economic crisis. Ghana highlighted the importance of international solidarity to achieve social justice and equity.

On 1 October 2009, Ghana voted in favour of a resolution on human rights and international solidarity.

On 2 October 2009, Ghana voted in favour of a resolution on human rights and unilateral coercive force.

On 2 October 2009, Ghana voted in favour of a decision on the effect of foreign debt on the enjoyment of human rights.

On 2 October 2009, Ghana voted in favour of a resolution on the right to development.

On 2 October 2009, Ghana abstained from voting on a resolution promoting human rights and fundamental freedoms through a better understanding of the traditional values of humankind.

Twelfth Special Session of the UN Human Rights Council

On 16 October 2009, Ghana voted in favour of a resolution that focused on continuing violations of human rights by Israel in the OPT, and in particular in East Jerusalem. It endorsed the recommendations set out in the reports of the Fact-Finding Mission to Gaza led by Justice Goldstone and by the High Commissioner for Human Rights, and called for their implementation.

Thirteenth Session of the UN Human Rights Council

On 15 March 2010, during the general debate on human rights situations that require the Council's attention, Ghana noted that conflict and political instability in Africa diverted the Economic Community of West African States from its main goals. It specifically mentioned the situations in Guinea and Madagascar. Ghana asked for close cooperation between the international community and regional bodies to facilitate early resolution of these crises and to ensure the democratic functioning of institutions in those countries.

On 16 March 2010, Ghana expressed its pleasure at the establishment of Social Forum and welcomed its report for 2009. Ghana also stated that the Special Procedures of the Council were important, and mentioned its desire that actions be taken to ensure that the mechanisms not be seen "as politicised or patronising". Ghana

asked the Council to provide the necessary resources and mechanisms to allow for effective work.

On 19 March 2010, Ghana thanked the OHCHR for its work on the Universal Periodic Review, which Ghana saw as a useful mechanism. it did however note that some improvements were possible to ensure impartiality and credibility of the process.

On 24 March 2010, Ghana encouraged the technical assistance and capacity-building to strengthen the role of the governments in DRC, Guinea and Somalia. Ghana asked for more cooperation between the different actors of the international community to ensure order, peace and security.

On 24 March 2010, Ghana voted in favour of a resolution on human rights in the occupied Syrian Golan. The resolution strongly condemned the occupation of Syrian Golan by Israel.

On 24 March 2010, Ghana voted in favour of a resolution on the right of the Palestinian people to self-determination. The resolution emphasised the value of self-determination, and supported Palestine and Israel in their process towards peace and security. It encouraged the international community to aid the Palestinians in their right to self-determination.

On 24 March 2010, Ghana voted in favour of a resolution on Israeli Settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution asked the Government of Israel to reverse controversial announcements about new settlements and to respect legal obligations concerning access to food and supplies, the halting of impunity, the prevention of violence, etc.

On 24 March 2010, Ghana voted in favour of a resolution on grave human rights violations by Israel in the OPT, including East Jerusalem. The resolution strongly condemned the military attacks and operations in the OPT, which it said caused grave violations of human rights. It asked for the end of the occupation and for the establishment of an independent sovereign state through a peace process.

On 25 March 2010, Ghana voted in favour of a resolution on the Follow-up to the Report of the United Nations Independent International Fact-Finding Mission on the Gaza Conflict. The resolution asked for independent and credible investigations regarding the violations of international humanitarian and international human rights law.

On 25 March 2010, Ghana voted in favour of a resolution on the situation of human rights in DPRK. The resolution asked for the mandate of the Special Rapporteur on DPRK to be extended and for the government's participation in addressing human rights violations.

On 25 March 2010, Ghana abstained from voting on a resolution on combating defamation of religions. The resolution urged the international community to promote a culture of tolerance and peace, especially concerning the wrongful association of Islam with human rights violations and terrorism.
On 26 March 2010, speaking after the vote, Ghana expressed regret at its absence during voting on a resolution on the composition of the staff of the OHCHR. Ghana stated that it would have voted in favour of the resolution had it been present.

2. Pledge

2.1 Election to the Council

Ghana was one of 13 African countries to contest the May 2006 elections to the Council. The number of candidates was the same as the number of seats for Africa, meaning that the election results were predetermined. Ghana came first among the African Group with 183 votes.

In its re-election bid on 21 May 2008, Ghana was successful and came second in the African Group with 181 votes. The results were predetermined as there were four vacant seats for African countries and four candidates.

2.2 Pledge Made

In its 2006 pre-election pledge, Ghana committed to cooperate fully with UN treaty bodies. It also pledged to participate actively in the work of the UN Human Rights Council and to aid in the establishment of an effective Universal Periodic Review (UPR) system. Ghana promised to extend standing invitations to the Council's Special Procedures. It committed to strengthening its policies for the advancement of women and eliminating gender-discrimination from its law books. Finally, Ghana highlighted provisions of its 1992 Constitution, which guarantees fundamental rights and freedoms.

In its pre-election pledge in March 2008, Ghana again highlighted the provisions of its 1992 Constitution which guaranteed fundamental rights and freedoms. In its voluntary pledges, Ghana committed to cooperate fully with UN treaty bodies and pledged to participate actively in the work of the UN Human Rights Council with a view to strengthening it. Ghana also promised to extend its standing invitation to the Council's Special Procedures. It committed to strengthening its policies for the advancement of women and the elimination of gender-discrimination. Ghana stressed that legal provisions already existed to tackle traditional practices, such as female genital mutilation, and also emphasised the establishment of the Domestic Violence Victims Support Unit. Finally, it reiterated its commitment to the survival, development and protection of children in issues that affect their well-being.

3. Compliance

3.1 Human Rights During the Reporting Period

John Kufuor's second and final term as President expired in December 2008, setting the stage for Ghana's third set of presidential elections since the end of Jerry Rawlings' 20-year rule in 2000. No candidate won the necessary 50 per cent of the vote in the initial tally, meaning that a runoff was necessary to decide the final outcome of the election. Professor John Atta Mills, in his third attempt at running for Ghana's top office, won the runoff by a slim margin.[166] UN Secretary-General Ban Ki Moon hailed the election and runoff as "peaceful and organized" and congratulated Ghana for setting an "admirable example".[167]

Despite general praise that, barring a few exceptions, the election was free and fair, the pre-election and post-election periods were punctuated by concerning events. A media group alleged that journalists were violently targeted by the supporters of both major Ghanaian political parties, the National Democratic Congress (NDC)

and the National Patriotic Party (NPP), for reporting on alleged irregularities in the run-up to the election.[168] Ghana's Bureau of National Investigations (BNI) was accused of mistreating NPP politicians in the post-election period. Following Atta Mills' victory in December 2008, several NPP politicians were reportedly invited to the BNI offices for "friendly chats", but were reportedly denied legal counsel while being interrogated.[169] In August 2009, a Ghanaian court declared the practice of questioning people without giving them access to legal counsel as unconstitutional, after an NPP politician sued BNI.[170]

During the reporting period, members of the police occasionally used violence and disproportionate force while carrying out their duties. Two mechanisms that oversaw the police and acted as complaint bodies, the Police Intelligence and Professional Standards Bureau (PIPS) and the Police Council, had limited capacity and lacked resources, meaning that human rights standards within the police services were inadequately enforced.[171] In February 2010, the Commission on Human Rights and Administrative Justice (CHRAJ), Ghana's national human rights body, investigated reports that two inmates died in a police holding cell owing to excessive heat caused by overcrowding. CHRAJ discovered that the two remand inmates had suffocated to death in a cell designed for 10 inmates, which held up to 30 at the time. According to media reports, the officer-in-charge at the station called the deaths a "normal" occurrence. CHRAJ found that the overcrowding and congestion in the cells coupled with the lack of ventilation made them unfit for human beings.[172]

Members of the armed forces were also accused of abusing their powers. In September 2008, an offer of compensation from the Ghanaian Armed Forces was rejected by a group of lorry drivers who were reportedly arrested in June 2008 for parking offences outside a military hospital and subsequently forced to handle and engage in sexual acts with female corpses in the hospital morgue. The offer of approximately 100 USD and one year's medical coverage as compensation was deemed unsuitable by the drivers, some of whom claimed to have suffered severe psychological trauma after the incident.[173]

After years of pressure from civil society groups,[174] as well as a march by hundreds of people in the streets of Accra in January 2010,[175] the Government of Ghana finally tabled a Right to Information Bill before Parliament in February 2010. CHRI and the non-governmental Right to Information Coalition remained concerned that the Bill still contained blanket exemptions that would hinder the exercise of right to information. There was still no provision for an independent information commission or commissioner to monitor implementation of the Bill and serve as a review body when information was denied. The coalition presented its views and concerns to the member of the joint committees of parliament that were scrutinising the Bill, but still no progress seemed to have been made with the Bill. The Joint Committee insisted on carrying out regional consultations on the Bill (because of its sensitivity, they alleged) before presenting their report to the plenary. The Bill was not passed by the end of the reporting period.

Forced evictions continued to be a major concern during the reporting period. The Centre on Housing Rights and Evictions (COHRE) reported that in October 2009, hundreds of people were made homeless by the demolition of a slum along a railway line in Accra. Residents reportedly said that they were not consulted about the eviction nor were they compensated or relocated to adequate alternative housing.[176] CHRAJ noted in a press conference after the end of the reporting period that past evictions of illegal settlements in Accra were in contravention of international law on forced evictions. Evictions were carried out at dawn, when residents were

not present, or at other times where residents had difficulty recovering their possessions before their homes or businesses were demolished.[177]

The Ghanaian government signed a Memorandum of Understanding with the Government of The Gambia in July 2009 – a move which was heavily criticised by civil society groups.[178] Bilateral relations between the two countries had soured after it was alleged that as many as 44 Ghanaian nationals and several other West Africans were killed and buried in mass graves in The Gambia in 2005. The lone survivor of the attack alleged that the Ghanaian nationals were travelling by boat to Europe and made a stop in The Gambia to pick up more passengers, when the massacre occurred. He further alleged that it was perpetrated by Gambian security services working at the behest of President Jammeh, who mistook the passengers of the boat for mercenaries entering The Gambia to overthrow the government.[179] A report on the joint UN-ECOWAS investigation of the incident was released in May 2009. It found evidence of only eight killings and just six of the dead were said to be Ghanaian. It also found no evidence that President Jammeh was directly or indirectly responsible.[180] CHRI has noted that the investigation could not be considered conclusive because it did not elaborate on the alleged disappearances of 38 Ghanaians whose bodies were not found.[181]

Prisons in Ghana remain notoriously overcrowded. In September 2008, a prison warden urged the Ghanaian courts to speed up cases involving remand prisoners, in an attempt to ease overcrowding. According to a media report, the warden said that the prisons over which he had jurisdiction had an intended capacity of 717 inmates, but were holding 2,926 prisoners at the time. Of that number, 1,903 were remand prisoners whose cases were either under investigation or who were awaiting trial. In 2002, the same prison had only 324 remand prisoners.[182] A new UNDP-supported programme entitled 'Justice for All' was instituted during the reporting period, to aid in the reduction of prison congestion. Among the beneficiaries of the programme were two women who were released on bail unconditionally, but had previously been imprisoned without trial for a combined total of 16 years.[183] CHRAJ observed later in the reporting period that a prisoner was still held on remand at the medium-security Nsawam prison after 17 years.[184] According to the 2009 Ghana Prisons Service Report, "the average daily remand population for 2009 was 3,838 compared to 4,285 in 2008. This represents an annual remand reduction rate of 10.4 per cent. In October 2009, it was reported that a scheme to separate adult and juvenile offenders in the prisons of the northern region had fallen apart, meaning that children were at that time held in the same cells as adults.[185] In April 2010, the Chairman of the Prisons Service Council said that Ghana's prisons were merely warehousing prisoners without the ability to offer any rehabilitation or reform services and that recidivism for released convicts was consequently high. Furthermore, he reportedly stated: "Prison conditions are still deplorable, overcrowding and inadequate access to physical and mental health care are major challenges that need to be addressed."[186]

The death penalty was still in use in Ghana. Despite positive moves towards abolishment, calls from human rights organisations to take the final step and abolish the death penalty[187] had not, at the conclusion of the reporting period, been heeded. In April 2009, the then Attorney General and Minister for Justice, Mrs Betty Mould-Iddrisu, reportedly stated that the government did not have plans to abolish the death penalty in the current legislative term.[188] A constitutional review process, whose outcome would decide on the future of the death penalty in Ghana, was ongoing at the end of the reporting period.

Mob justice perpetrated against suspected criminals continued throughout the reporting period. In July 2009, a newspaper reported that up to five people had been executed by mobs since the beginning of that month in the city of Cape Coast.[189] In December 2009, residents of a northern district of Ghana were warned by CHRAJ not to take part in mob killings, after it was reported that suspected witches and wizards were being lynched.[190] Towards the end of the reporting period, it was noted that mobs occasionally formed outside radio stations with the intention of attacking presenters or guests for their comments during interviews. In one case, a commentator who was allegedly about to be a target of mob violence was arrested by the police and charged with publishing false information with the intention to cause fear and panic. The police stated that they had done so in order to save the commentator from being lynched. The members of the mob intending to do him harm were not arrested. In a similar case, a commentator who insulted the physical appearance of the President on radio was arrested by police who said that they were protecting him from the mob which was forming outside the station.[191]

Despite the existence of a Domestic Violence Act and the creation of a Domestic Violence and Victim Support Unit (DOVVSU) within the police service, domestic violence continued to be an issue. According to an international human rights organisation, DOVVSU reported that cases of violence against women and girls had increased in 2009.[192] The International Federation for Human Rights (FIDH) reported that in 2008, 12,245 cases of domestic violence were reported to DOVVSU throughout Ghana.[193] The Accra regional office of DOVVSU noted an increase in cases brought before it in 2009 and attributed this to a public education campaign on domestic violence which made the public more aware of the issue and their rights.[194] While the Domestic Violence Act includes a provision by which victims of domestic violence are offered free medical treatment from the police if they filed a police report, a media report indicated that in reality, victims were often forced to pay for their treatment. In some cases where the victims could not afford the medical bills, the police forced them to go into arbitration with the perpetrator to obtain compensation, instead of aiding DOVVSU in prosecuting the perpetrator.[195] In January 2010, a police official working with DOVVSU noted that victims of domestic violence often avoided seeking help out of fear that police intervention would lead to jailing the perpetrator, who was often the victim's sole source of income.[196]

Certain customary practices continued to affect the rights of women negatively, especially those of girl children. Female genital mutilation (FGM) became a criminal offence in Ghana in 1994, but it was still practised during the reporting period, especially in Ghana's northern regions.197 Despite slavery and human trafficking being illegal, a ritual continued to be practised in an eastern region of Ghana in which virgin girls between the ages of eight and 15 years were gifted to local priests (potentially for sexual or domestic servitude) to absolve a relative of a crime or wrongdoing.198

Women were under-represented in Ghana's political system during the reporting period. In May 2009, it was observed that during a three-day self-assessment meeting in which several political parties gathered to work on ballot integrity, seven of the political parties in attendance did not include a single woman in their delegation of five. Media reports indicated that the head of the Electoral Commission censured the parties for not including women in their delegations. He added that as a result, they were in breach of a section of the Political Parties Law and a constitutional provision which calls for gender equality.[199] According to a report in April 2010, out of a total of 230 MPs, only 19 were women. District assemblies, though they had been asked to increase female representation through a non-binding administrative instruction, reportedly often gave the excuse "that they cannot find the women" or "when they come they don't talk".[200]

Ghana continued to maintain criminal sanctions against consensual same-sex activity. Section 104 of the Criminal Code (1960), as amended in 2003, provides: "(1) Whoever has unnatural carnal knowledge (a) of any person without his consent shall be guilty of a first degree felony and shall be liable on conviction to imprisonment for a term of not less than five years and not more than twenty-five years; or (b) of any person with his consent is guilty of a misdemeanour. (2) Unnatural carnal knowledge is sexual intercourse with a person in an unnatural manner…"

3.2 Compliance with the Pledge

Ghana stated in its pledge document that it was fully committed to the promotion and protection of human rights domestically and that such a commitment "had carved for [Ghana] the image of a highly democratic country". While Ghana's 2008 Presidential election was generally praised, the comportment of supporters of both major political parties around the election revealed undemocratic tendencies. Police monitoring mechanisms were poorly resourced. The prison system was overcrowded and conditions were "deplorable", at least partially because of Ghana's backlogged trial courts. Death sentences were still handed down. Forced evictions were carried out in a manner which was in contravention of international law.

Ghana's pledge included an assertion that it fostered "an environment that allows space for and encourages the work of human rights defenders and journalists for human rights". Reports of incidents in which radio presenters and guests were intimidated by mobs and subsequently arrested, cast this statement into doubt. A proposed Right to Information Bill was criticised for its vagueness and was not passed by the end of the reporting period.

In its pledge, Ghana vowed to strengthen policies for the advancement of women and the elimination of gender-discrimination, female genital mutilation and domestic violence. The under-representation of women in the political sphere suggests that complete gender equality was not yet a reality. Female genital mutilation was still prevalent in parts of Ghana and domestic violence was a major issue. Ghana's pledged commitment to the protection and well-being of children was likewise questionable, as it was reported that children were kept in adult cells in at least one Ghanaian prison. Traditional practices which subjected girl children to slavery were reportedly still in use.

Ghana pledged to strengthen the Human Rights Council and participate actively in its work. While it did make a few statements in the Council, during most sessions, Ghana refrained from participating in interactive dialogues and general debates. On two occasions, Ghana had to clarify that it had intended to vote in favour of a resolution when it had already abstained or was absent, suggesting an under-prepared or weak approach to Council deliberations.

Ghana voted with allied voting blocs on thematic resolutions with a few exceptions. It voted in favour of resolutions on the right of peoples to peace, human rights and international solidarity, and unilateral coercive measures. It also voted in favour of resolutions on the global economic and financial crisis, the elaboration of complementary standards to ICERD and the effect of foreign debt on the enjoyment of human rights.

Further dispelling Ghana's pledge to participate actively in the Council, Ghana abstained more often than most

States on controversial thematic and country-specific resolutions, suggesting that it was wary of stepping on the toes of other States on the Council. Ghana abstained from voting on resolutions on the promotion of a democratic and equitable international order (though it later stated that it had intended to vote in favour), the defamation of religions, torture and the role and responsibility of medical and other health personnel, and human rights and traditional values.

Ghana abstained on a weak resolution on Sudan and on amendments proposed to a resolution on DRC, which were critical of the government. When it did vote on country-specific resolutions, the results varied. Ghana voted against subjecting Sri Lanka to international scrutiny. It voted similarly on DRC by supporting a weak resolution. Ghana twice supported international scrutiny on DPRK and voted in favour of every resolution condemning human rights violations by Israel.

Ghana's pledge to promptly submit its periodic reports to treaty bodies was unfulfilled, as the country had overdue reports under ICESR, ICCPR, ICERD, CAT and CMW.

---

166 allAfrica.com, "Ghana: Atta Mills wins presidency in change of power" (3 January 2009) at http://allAfrica.com/stories/200901030019.html (last accessed on 24 August 2010).
167 UN News Service, "Ghana: Secretary-General Welcomes Peaceful Polls" (5 January 2009) at http://allAfrica.com/stories/200901050174.html (last accessed on 24 August 2010).
168 International Freedom of Expression Exchange Clearing House, "Ghana: Two radio journalists assaulted by political party supporters, another by police officer" (2 January 2009) at http://allAfrica.com/stories/200901030010.html (last accessed on 24 August 2010).
169 JoyOnline, "Sammy Crabbe sues BNI" (24 June 2009) at http://news.myjoyonline.com/news/200906/31840.asp (last accessed on 13 December 2010).
170 JoyOnline, "Court faults BNI's conduct over suspect interrogation" (18 August 2009) at http://news.myjoyonline.com/news/200908/34104.asp (last accessed on 24 August 2010).
171 Public Agenda, "CHRI commends country's progress on protection of human rights" (12 December 2008) at http://allAfrica.com/stories/200812120738.html.
172 Public Agenda, "Ghana: Ashaiman police cell violates inmates rights" (19 February 2010) at http://allAfrica.com/stories/201002220825.html (last accessed on 23 August 2010).
173 IRIN, "Victims of Military Abuses to Prosecute Officers" (18 September 2008) at http://allAfrica.com/stories/200809190017.html (last accessed on 24 August 2010); Commonwealth Human Rights Initiative, Africa, "2008 Report" (2009), p. 42.
174 Ghana News Agency, "Parliament urged to expedite action on the Right to Information Bill" (23 March 2010) at http://www.ghananewsagency.org/s_social/r_5381/ (last accessed on 20 August 2010).
175 The Chronicle, "Uproar over failure to pass RTI bill into law" (28 January 2010) at http://allAfrica.com/stories/201001280749.html (last accessed on 20 August 2010).
176 Centre on Housing Rights and Evictions, "Ghana" at http://www.cohre.org/regions/ghana (last accessed on 25 November 2010).
177 Ghana Business News, "Ghana's human rights commission unhappy with demolition exercises" (14 September 2010) at http://www.ghanabusinessnews.com/2010/09/14/ghana%E2%80%99s-human-rights-commission-unhappy-with-demolition-exercises/ (last accessed on 25 November 2010).
178 Commonwealth Human Rights Initiative, "UPR Submission on Human Rights Case in The Gambia" (2010) at http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/GM/CHRI_UPR_GMB_S07_2010_CommonwealthHumanRightsInitiative.pdf (last accessed on 11 November 2010).
179 Afrol News, "Ghana: massacre survivor exposes" (16 August 2007) at http://www.afrol.com/articles/26441 (last accessed on 11 November 2010).
180 Commonwealth Human Rights Initiative, "UPR Submission on Human Rights Case in The Gambia" (2010) at http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/GM/CHRI_UPR_GMB_S07_2010_CommonwealthHumanRightsInitiative.pdf (last accessed on 11 November 2010).
181 Commonwealth Human Rights Initiative, "UPR Submission on Human Rights Case in the Gambia" (2010) at http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/GM/CHRI_UPR_GMB_S07_2010_CommonwealthHumanRightsInitiative.pdf (last accessed on 11 November 2010).
182 JoyOnline, "Prison authorities cry for speedy trial of cases" (11 September 2008) at http://news.myjoyonline.com/

news/200809/20432.asp (last accessed on August 23 2010).
183 Daily Graphic, "Two Prisoners Regain Freedom after 16 years on Remand" (28 August 2009) at http://www.modernghana.com/news/235229/1/two-prisoners-regain-freedom-after-16-years-on-rem.html (last accessed on 23 August 2010).
184 Ghana Web, "The injustices and congestion in Ghana's prisons" (9 January 2010) at http://www.ghanaweb.com/GhanaHomePage/features/artikel.php?ID=174812 (last accessed on 21 November 2010).
185 Accra Daily Mail, "Ghana: Juvenile Offenders Share Cells with Adult Offenders" (22 October 2009) at http://allAfrica.com/stories/200910220583.html (last accessed on 23 August 2010).
186 Ghana News Agency, "Current prison system is merely warehousing offenders" (15 April 2010) at http://www.ghananewsagency.org/s_social/r_14503/ (last accessed on 20 November 2010).
187 Public Agenda, "Ghana: Amnesty International Opposes Death Penalty" (29 March 2009) at http://allAfrica.com/stories/200903270706.html (last accessed on 23 August 2010).
188 Public Agenda, "Ghana: Death Penalty Will Not Go For Now" (3 April 2009) at http://allAfrica.com/stories/200904030774.html (last accessed on 23 August 2010).
189 Public Agenda, "Ghana: mob justice hits Cape Coast" (20 July 2009) at http://allAfrica.com/stories/200907201455.html (last accessed on 11 November 2010).
190 The Daily Mail, "CHRAJ to deal with people who lynch alleged witches" (13 December 2009) at http://allAfrica.com/stories/200912141562.html (last accessed on 11 November 2010).
191 Peace FM Online, "Arrest unruly mob seeking to attack radio commentators: Baako" (27 May 2010) at http://elections.peacefmonline.com/politics/201005/44060.php?pageNum_rsComments=1&totalRows_rsComments=12 (last accessed on 11 November 2010).
192 Amnesty International, "Amnesty International Report 2010: The State of the World's Human Rights - Ghana" (2010) at http://www.amnestyusa.org/annualreport.php?id=ar&yr=2010&c=GHA.
193 FIDH, "Dossier of Claims: Ghana" (5 March 2010) at http://www.africa4womensrights.org/post/2010/03/05/Dossier-of-Claims:-Ghana (last accessed on 25 November 2010).
194 Public Agenda, "Domestic violence cases on the rise" (25 January 2010) at http://allAfrica.com/stories/201001250928.html (last accessed on 21 November 2010).
195 Public Agenda, "Domestic violence cases on the rise" (25 January 2010) at http://allAfrica.com/stories/201001250928.html (last accessed on 21 November 2010).
196 Ghana News Agency, "Police calls for support for domestic violence victims" (12 January 2010) at http://www.ghananewsagency.org/s_social/r_11296/ (last accessed on 21 November 2010).
197 FIDH, "Dossier of Claims: Ghana" (5 March 2010) at http://www.africa4womensrights.org/post/2010/03/05/Dossier-of-Claims:-Ghana (last accessed on 25 November 2010).
198 FIDH, "Dossier of Claims: Ghana" (5 March 2010) at http://www.africa4womensrights.org/post/2010/03/05/Dossier-of-Claims:-Ghana (last accessed on 25 November 2010).
199 Ghana Web, "Afari-Gyan reprimands leadership of seven political parties" (15 May 2009) at http://www.ghanaweb.com/GhanaHomePage/SportsArchive/artikel.php?ID=162185 (last accessed on 25 November 2010).
200 Public Agenda, "Quota system will increase representation of women in decision-making" (23 April 2010) at http://allAfrica.com/stories/201004270992.html (last accessed on 25 November 2010).

India

Easier Said
than Done

1. Background

1.1. Context

British India gained independence from colonial rule in 1947 and was divided into two newly created States – modern-day India and Pakistan which, at that time, included modern-Bangladesh. As Hindu and Muslim populations moved across borders, the Partition led to the single largest mass movement of people in history.

Today, India has the world's second largest population and is, by its own statements, the world's largest democracy. The country retains the second largest Muslim population in the world after Indonesia, and has developed a free press and active civil society. India is a generally secular and tolerant society where most of the world's religions coexist, yet outbursts of communal violence do occur. Spurred by economic liberalisation in the early 1990s, the burgeoning growth of the IT sector, a large pool of skilled workers and infrastructural improvements have boosted India's nominal GDP (PPP) to the eleventh highest in the world. Though India's growth rate dropped significantly due to the global credit and financial crisis, it rebounded late in the reporting period, and continued to be among the fastest growing economies of the world.

Despite economic successes, a number of factors keep India from meeting its human rights commitments. Communal tensions and violence, terrorism, endemic gender and caste-based discrimination, extreme poverty, systemic corruption and vast economic disparities, are among the problems faced by the world's largest democracy.

1.2 UN Treaties

India has ratified the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESR), the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC) and its two Optional Protocols, and the Convention on the Rights of Persons with Disabilities (CPD). India has signed the Convention on Enforced Disappearances (CED) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

India has not signed the Convention on the Protection of the Rights of All Migrants Workers (ICRMW). It has also not signed the two Optional Protocols to the ICCPR, or the Optional Protocols to ICESCR, CAT, CPD and CEDAW.

1.3 UN Reporting History

India has completed some of its reporting requirements under international instruments. It has completed three rounds of reporting under ICCPR, but owes one report since 2001. Under ICESCR, it has completed all rounds of reporting. It has submitted three reports under CEDAW but two are overdue. India has completed nineteen rounds of reporting under ICERD, but has two reports overdue. The country has not yet submitted its initial report under CPD or its initial reports for the two Optional Protocols to CRC. Under CRC, India has completed two rounds of reporting and one is overdue since 2008.

India has not extended an open invitation to the Council's Special Procedures.

1.4 UN Voting Patterns and Performance at the Council

Eighth Session of the UN Human Rights Council

On 2 June 2008, India spoke positively of its experience with the Universal Periodic Review (UPR) and looked forward to hearing the views of NGOs and NHRIs.

On 3 June 2008, India responded to the report of the Special Rapporteur on extrajudicial killings, which claimed that the failure of India and other listed countries to accept requested visits by the Special Rapporteur created a vacuum. India asserted that the Special Rapporteur was not in line with the Code of Conduct for Special Procedures.

On 3 June 2008, India expressed support for the mandate of the Special Representative of the Secretary-General on business and human rights, and on 4 June 2008, co-sponsored a resolution to renew the mandate. On 6 June 2008, India stated that the mandate should be extended for two years rather than the conventional three years on the grounds that the Special Representative had indicated that this was sufficient, and that it could be reviewed again after the two years. The resolution was passed without a vote on 18 June 2008, and the mandate was extended by three years, not two.

On 4 June 2008, India discouraged other States from making amendments to the Draft Optional Protocol on the International Convention of Economic, Social and Cultural Rights (OPICESCR), out of concern that the amendments would undermine the adoption of the Optional Protocol. India expressed support for the draft.

On 4 June 2008, India expressed support for the mandate of the Special Rapporteur on the independence of judges and lawyers.

On 17 June 2008, India tabled and later withdrew a resolution that would have required the formal reappointment of all mandate holders after their first term of three years. Mandate holders were formerly reappointed for a second and final three-year term without a formal reappointment process.

On 17 June 2008, India criticised a resolution on the human rights situation in Myanmar for being too harshly worded. It also criticised the timing of the resolution and emphasised the fact that Myanmar was recovering from a natural disaster.

On 18 June 2008, India dissociated itself from a resolution on the human rights situation in Myanmar. It criticised the resolution for failing to recognise the positive developments made by Myanmar. India considered it to be politicised.

On 18 June 2008, India abstained from voting on a resolution on the promotion of the right of peoples to peace. Slovenia called for a vote on behalf of the EU, on the basis that the issues contained in the resolution were best dealt with in other fora and that the resolution failed to state that the absence of peace did not justify breaches of human rights.

On 18 June 2008, India voted in favour of a resolution on the promotion of a democratic and equitable international order. The resolution rejected a unilateral approach in favour of a multilateral one when addressing international

issues. Slovenia called for a vote on behalf of the EU, on the basis that the resolution addressed issues that were beyond the mandate of the Council. For example, it focused on relations between States rather than relations between States and their citizens.

Ninth Session of the UN Human Rights Council

On 8 September 2008, India referred to the need for the Council and the Office of the High Commissioner for Human Rights (OHCHR) to work in partnership. India also called for a clarification of the terms of reference for the consultative group on the appointment of mandate holders, the status of the work pending before the former Sub-Commission on the Promotion and Protection of Human Rights and the relationship between the Council and the OHCHR.

On 8 September 2008, India reaffirmed its commitment to preparations for the Durban Review Conference.

On 9 September 2008, India supported the recommendations of the Special Rapporteur on the right to food and emphasised the need for technological development in developing countries and the removal of trade barriers.

On 10 September 2008, during informal consultations on the draft resolution on the follow-up to the special session on the food crisis, India expressed reservations about the inclusion of a broad endorsement of the report of the Special Rapporteur on the right to food as it had only been published the day before.

On 17 September 2008, India commented that the Advisory Committee must focus on specific tasks assigned to it by the Council. India emphasised that the Advisory Committee could not adopt resolutions or decisions and criticised it for treating this explicit requirement as a question of semantics.

On 18 September 2008, India was of the view that the modalities of the Universal Periodic Review process were already defined and therefore required no further discussion. India viewed the holding of a debate on the matter as premature.

On 19 September 2008, during an informal consultation on the draft resolution on the protection of civilians in armed conflict, India expressed reservations regarding the inclusion of a request to the Advisory Committee to study the issue. India preferred an approach whereby the Council could reconsider the issue and take the next steps after holding a consultation with experts.

On 19 September 2008, during the general debate on follow-up and implementation of the Vienna Declaration and Programme of Action, India was praised by the Netherlands for its pledge to eradicate manual scavenging.

On 24 September 2008, India supported the draft resolution on the mandate of the Special Rapporteur on toxic waste and encouraged the broadening of the mandate, but suggested that its focus should be on the illicit movement of waste.

On 24 September 2008, India expressed concerns over the inclusion within a resolution on human rights and transitional justice of a request that the Office of the High Commissioner assist countries in designing and establishing

systems of transitional justice. India stated that this help should only be provided with the explicit consent of the country and that conceptual work should be carried out by the Council and not the High Commissioner.

On 24 September 2008, India voted in favour of a resolution on human rights and international solidarity. The resolution emphasised the need for international cooperation to tackle human rights issues in a manner that distributes costs and burdens fairly. France called for a vote on behalf of the EU, on the basis that international solidarity was a moral principle not a human right defined in legal terms.

On 24 September 2008, India voted in favour of a resolution on human rights and unilateral coercive measures. The resolution requested States to stop using or implementing unilateral, coercive measures not in accordance with international law, particularly those creating obstacles to trade relations between States. It also condemned the use of unilateral coercive measures to assert political or economic pressures, especially on developing countries.

On 24 September 2008, India voted in favour of a resolution on the follow-up to Resolution S-3/1 on the Assault on Beit Hanoun. The resolution welcomed the report of the High-Level Fact-Finding Mission dispatched to assess the situation in Beit Hanoun. It called for full implementation of all the recommendations made in the report and expressed regret for the delay caused by Israel's non-cooperation.

Ninth Special Session of the UN Human Rights Council

On 12 January 2009, India voted in favour of a resolution on the grave violations of human rights in the OPT. The resolution strongly condemned the Israeli military operation in the OPT, stating that this had caused grave violations of the human rights of Palestinian civilians. It accused Israel of collective punishment of the Palestinian people and called on the international community to act.

Tenth Special Session of the UN Human Rights Council

On 23 February 2009, India voted in favour of a resolution on the impact of the global economic and financial crisis on the universal realisation and effective enjoyment of human rights. The resolution expressed deep concern at the effect of the economic and financial crisis on human rights and called for increased participation by developing countries in international decision-making.

Tenth Session of the UN Human Rights Council

On 10 March 2009, during an interactive dialogue on the report of the Special Rapporteur on the right to food, India commented that recipient States should be held to account regarding food aid as each State bears the primary responsibility to guarantee the right to food to its people. India also referred to the need to support agriculture in developing countries.

On 26 March 2009, India abstained from voting on a resolution expressing serious concern over the human rights situation in DPRK and extending the mandate of the Special Rapporteur on DPRK for a further year.

On 17 March 2009, in an interactive dialogue on the report of the Special Rapporteur on the human rights situation in Myanmar, India emphasised the positive developments made by the Myanmar government. It later

dissociated itself from the vote on the resolution on the situation of human rights in Myanmar, which it criticised both for its timing and content.

On 26 March 2009, India voted in favour of a resolution on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of people to self-determination.

On 26 March 2009, India voted in favour of a resolution on human rights in the occupied Syrian Golan, which expressed deep concern for the suffering of the Syrian civilian population and referred to the systematic and continuous violations of fundamental and human rights by Israel.

On 26 March 2009, India voted in favour of a resolution on Israeli settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution strongly condemned the Israeli announcement that it would build further settlements in the OPT.

On 26 March 2009, India voted in favour of a resolution on the human rights violations emanating from the Israeli military attacks and operations in the OPT.

On 26 March 2009, India voted in favour of a resolution on the follow-up to Council Resolution S-9/1 on the grave violations of human rights in the OPT, particularly due to the then recent Israeli military attacks against the occupied Gaza Strip. The resolution regretted that Resolution S-9/1 had not been fully implemented yet and demanded that Israel cooperate with the international community.

On 26 March 2009, India abstained from voting on a resolution on combating defamation of religions. India condemned defamation of religions but had reservations about the focus on Islam over other religions.

On 26 March 2009, India voted in favour of a resolution calling for better geographical representation and gender balance in the staff of the OHCHR.

On 26 March 2009, India criticised calls for a special session on the human rights situation in Sri Lanka.

On 26 March 2009, India stated that the Advisory Committee should only make recommendations in response to specific requests from the Council.

On 27 March 2009, India voted in favour of a resolution on the elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination.

On 27 March 2009, India voted against a decision on the publication of reports completed by the Sub-Commission on the Promotion and Protection of Human Rights. The resolution provided for all reports by the Sub-Commission that had previously been mandated by the Commission on Human Rights and submitted to the OHCHR, to be published as UN documents. India called for a vote on the resolution on the basis that there had been no opportunity to discuss it.

On 27 March 2009, India abstained from voting on a resolution on torture and the role and responsibility of medical and other health personnel. In an additional vote, India abstained from voting on the inclusion of a paragraph in the resolution which took note of the report of the Special Rapporteur on torture. On 10 March 2009, the Special Rapporteur on torture presented his report in which he considered whether the death penalty amounted to cruel, inhuman or degrading treatment or punishment. Several States accused the Special Rapporteur of going beyond his mandate and noted that there was no international consensus on the status of the death penalty as a breach of human rights.

On 27 March 2009, India voted in favour of a resolution on discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights. The resolution was introduced by the EU. The Czech Republic, on behalf of the EU, explained that the resolution was in response to the report of the Special Rapporteur on freedom of expression and that this was an important, sensitive issue. The resolution was criticised by some other States for failing to adequately address contemporary forms of religious discrimination.

During the Tenth Session, two draft resolutions on the human rights situation in DRC were tabled, one by the EU and the other by the African Group. The resolution drafted by the EU expressed serious concerns regarding the human rights situation there, while the draft tabled by the African Group was less critical of the issue and called on OHCHR to enhance its technical assistance activities in the country. Following the adoption of the African Group's resolution by vote, the EU proposed amendments to the resolution reflecting serious concerns. India voted in favour of the original resolution drafted by the African Group and voted against the amendments proposed by the EU.

Eleventh Special Session of the UN Human Rights Council

On 27 May 2009, India voted in favour of a resolution on assistance to Sri Lanka in the promotion and protection of human rights. Before the vote, Germany, on behalf of the EU, proposed oral amendments to the draft resolution, as it made no mention of the need to conduct investigations into alleged violations of international human rights law or the need to prosecute perpetrators. Cuba, on behalf of a number of countries, requested that no action be taken on Germany's proposed oral amendments. The request was put to a vote and India voted in favour of it.

Eleventh Session of the UN Human Rights Council

On 2 June 2009, India emphasised the importance of the mandate of the Special Representative of the Secretary-General on business and human rights. India stated that non-state actors, especially those in the business sector, also had human rights responsibilities.

On 3 June 2009, India expressed support for the mandate of the Special Representative on freedom of expression but expressed regret at the lack of fresh, concrete ideas on the topics focused on in his report.

On 3 June 2009, in response to the report of the Special Rapporteur on health, India asserted that governments have a duty to ensure availability and affordability of medicines for life-threatening diseases.

On 3 June 2009, India requested the Special Rapporteur on extrajudicial killings to explain why he had not met

Taliban representatives during his country visit to Afghanistan while he had met representatives of the Liberation Tigers of Tamil Eelam in Sri Lanka. India asked the Special Rapporteur to elaborate on which "various actors" had reservations about him doing so.

On 4 June 2009, in response to the High Commissioner's call for an independent inquiry into the human rights situation in Sri Lanka, India suggested that the High Commissioner should adhere to the outcome of the special session, be sensitive to concerns already expressed, and not adopt a position on contested proposals or controversial issues or ideas that weren't accepted in the outcome of the Special Session. India stated that the independence of the High Commissioner could not be presumed to exceed that of the United Nations Secretary-General.

On 12 June 2009, during a discussion on the functions and modalities for future panel discussions, India referred to the need to have representatives from developing countries on the panels.

On 16 June 2009, India rejected the Special Rapporteur on racism's reference to caste-based discrimination as a form of racial discrimination. The Special Rapporteur responded by referring to General Recommendation 24 of the Committee on the Elimination of Racial Discrimination, reaffirming that caste-based discrimination is a form of racial discrimination, and therefore, in his opinion, it was clearly within his mandate.

On 17 June 2009, India abstained on a resolution for the promotion of the right of peoples to peace. The resolution recognised States' obligations to improve the protection of human rights by ensuring peace. Germany, on behalf of the EU, stated that while it recognised some of the principles set out in the resolution, the issues set out in the draft were more comprehensively dealt with in other fora. Furthermore, Germany, on behalf of the EU, noted that the resolution dealt with relationships between States, and not the relationship between States and their citizens.

On 17 June 2009, India voted in favour of a resolution on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.

On 18 June 2009, India expressed disappointment over the recommendation of a candidate for the Working Group on people of African descent. India stated that given that the candidate was already a member of ICERD (though he had stated his intention to resign) his appointment would constitute a breach of Resolution 5/1, which prohibited cumulating several human rights mandates. India asserted that if the Council approved the nomination, India would dissociate itself from the consensus.

On 18 June 2009, Egypt, on behalf of the African Group, and the Czech Republic, on behalf of the EU, introduced competing draft resolutions on the mandate on Sudan. The draft proposed by the African Group did not renew the mandate of the Special Rapporteur or create a mandate for any international monitoring. It referred positively to the efforts of the government. The EU resolution replaced the mandate of the Special Rapporteur with that of an Independent Expert with some monitoring and reporting functions. The EU later accepted the African Group's draft but with proposed amendments providing for the mandate of an Independent Expert. India abstained from voting on these amendments, and after they were accepted, abstained from voting on the entire text as amended.

Twelfth Session of the UN Human Rights Council

On 14 September 2009, India criticised the High Commissioner for not having a more robust, comprehensive, clear and detailed vision of how to take the work of OHCHR forward. India felt it would be useful for the High Commissioner's periodic updates to include her perspectives on agenda issues.

On 1 October 2009, India voted in favour of a resolution on human rights and international solidarity.

On 2 October 2009, India voted in favour of a resolution on human rights and unilateral coercive force.

On 2 October 2009, India voted in favour of a decision on the effect of foreign debt on the enjoyment of human rights.

On 2 October 2009, India opposed the adoption of a draft resolution on Aung San Sui Kyi and other political prisoners in Myanmar. The resolution was adopted without a vote.

On 2 October 2009, India voted in favour of a resolution on the right to development.

On 2 October 2009, India voted in favour of a resolution on promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind.

Twelfth Special Session of the UN Human Rights Council

On 16 October 2009, India commented that there were flaws in Goldstone's Report on the UN fact-finding mission on the Gaza conflict.

On 16 October 2009, India voted in favour of a resolution that focused on continuing violations of human rights by Israel in the OPT, and in particular in East Jerusalem. It endorsed the recommendations set out

in the reports of the Fact-Finding Mission to Gaza led by Justice Goldstone and by the High Commissioner for Human Rights, and called for their implementation.

Thirteenth Session of the UN Human Rights Council

On 4 March 2010, India appreciated the statement in a report by the High Commissioner that the food and global economic and financial crisis were the most serious human rights issues of 2009. However, India stated that it had wanted those challenges to be addressed in more depth in the report. India praised the work of the Council's Special Procedures mandate holders and urged the High Commissioner to provide more information about the composition of the staff of her Office and plans to increase work on gender equality and women's rights.

On 5 March 2010, India expressed gratitude for the report of the High Commissioner on the composition of the staff in her office but remained concerned about the lack of specific targets and deadlines to reduce the imbalance in the geographical distribution of staff.

On 5 March 2010, India took note of the report of the Special Rapporteur on adequate housing and mentioned that evictions carried out by India in the context of "mega events" were only undertaken in line with the law on illegal inhabitations of land.

On 9 March 2010, India noted its reservation concerning the comment made by the Working Group on enforced disappearances, that enforced disappearances represented a crime against humanity. India also noted that the Rome Declaration did not enjoy universal acceptance and therefore the new norms enunciated within it could not be taken as evidence of customary international law.

On 10 March 2010, India stated that it attached significant importance to the protection and promotion of the rights of the child.

On 11 March 2010, India stated that it appreciated the work of the Special Rapporteur on Freedom of Religion or Belief, and took note of the early warning signs of discrimination that she had listed in her report.

On 17 March 2010, India expressed serious concern that Cyprus had not attended the adoption of the report of its Universal Periodic Review. It further stated that the Council should have taken more responsibility to ensure Cyprus' presence, perhaps by allowing more time for consultations before the adoption of the report.

On 18 March 2010, India stated that it was greatly encouraged by Bhutan's acceptance of most of the recommendations made during its Universal Periodic Review.

On 19 March 2010, during the General Debate on the Universal Periodic Review, India said that the UPR was one of the Council's most important mechanisms. While India commended all States and the OHCHR for the success of the UPR, it said that the issue of determining the speaker's list must be resolved expeditiously.

On 24 March 2010, India commended Nepal's progress in promoting and protecting human rights. It agreed with a report by the High Commissioner on Technical Assistance to Nepal. Turning to Afghanistan, India regretted the human rights situation in Afghanistan and it further encouraged the international community to stand firm in the face of religious fundamentalism.

On 24 March 2010, India voted in favour of a resolution on the composition of the OHCHR that asked for the implementation of measures to ensure a better representation of geographic diversity among its staff.

On 24 March 2010, India voted in favour of a resolution on human rights in the occupied Syrian Golan. The resolution strongly condemned the occupation of Syrian Golan by Israel.

On 24 March 2010, India voted in favour of a resolution on the right of the Palestinian people to self-determination. The resolution emphasised the value of self-determination and supported Palestine and Israel in their process towards peace and security. It encouraged the international community to aid the Palestinians in their right to self-determination.

On 24 March 2010, India voted in favour of a resolution on Israeli Settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution asked the Government of Israel to reverse controversial announcements about new settlements and to respect legal obligations concerning access to food and supplies, the halting of impunity, the prevention of violence, etc.

On 24 March 2010, India voted in favour of a resolution on grave human rights violations by Israel in the OPT, including East Jerusalem. The resolution strongly condemned the military attacks and operations in the OPT, which it said caused grave violations of human rights. It asked for the end of the occupation and for the establishment of an independent sovereign state through a peace process.

On 25 March 2010, India voted in favour of a resolution on the follow-up to the report of the United Nations Independent International Fact-Finding Mission on the Gaza Conflict. The resolution asked for independent and credible investigations regarding the violations of international humanitarian and international human rights law during the Gaza Conflict.

On 25 March 2010, India abstained from voting on a resolution on the situation of human rights in DPRK. The resolution asked for the mandate of the Special Rapporteur on DPRK to be extended and for the government's participation in addressing human rights violations. India, speaking in an explanation of its vote, before the vote, expressed its concerns over the abduction of nationals of one country by another and shared its sympathy with victims' families.

On 25 March 2010, India abstained from voting on a resolution on combating defamation of religions. The resolution urged the international community to promote a culture of tolerance and peace, especially concerning the wrongful association of Islam with human rights violations and terrorism.

On 26 March 2010, speaking in an explanation of its vote, before voting, India said it would dissociate itself from the adoption of a resolution on the situation of human rights in Myanmar, as constructive engagement with the international community would be more productive than the imposition of sanctions.

On 26 March 2010, speaking after the approval of a list of members for the Advisory Committee and candidates for the Special Procedure mandate holders, India stood by the need to follow the letter and spirit of the institution-building package with regard to the appointment of the Special Procedures.

2. Pledge

2.1 Election to the Council

India was one of the 18 Asian candidates who contested the May 2006 election to the Council. Thirteen seats were reserved for Asian States and India came first among Asian candidates with 173 votes. India was elected to a one-year term.

In May 2007, India sought re-election. Four seats were vacant for Asian candidates and India once again came first in vote tallies and was re-elected with 185 votes.

2.2 Pledge Made

India made nearly identical pre-election pledges in 2006 and 2007. In each pre-election pledge document, before outlining its pledges, India described its National Human Rights Commission as a powerful independent body and stated that the "free and independent" media played a crucial role in monitoring and promoting respect for human rights. Among its many pledges, India committed to stand by its national mechanisms and procedures to promote the human rights of all its citizens. It also pledged to foster a culture of transparency, accountability and openness in the functioning of the government, as provided for in India's Right to Information Act. India further promised to encourage civil society efforts to promote human rights and to eliminate discrimination and violence against women through legislation and effective implementation of existing policies. India further pledged to support and strengthen the Council, including the Special Procedures and UPR mechanisms. Finally, India pledged that the promotion and protection of human rights was ingrained in its domestic and foreign policy.

3. Compliance

3.1 Human Rights During the Reporting Period

Indian police forces were criticised during the reporting period for numerous abuses, ranging from incompetence to murder. A 2006 Supreme Court decision outlined six directives that were intended to initiate the reform of police services which every Indian state was required to comply with by 2007. However, most of the states had not yet complied with the directives by the end of the reporting period in 2010. A number of states implemented diluted directives with altered objectives. Thirteen states passed new police legislation to replace the 1861 Police Act, but many of these new laws significantly increased police powers, reduced accountability and entrenched the capacity for political interference in policing matters. Groups that had in the past demanded reform of existing police laws found themselves, during the reporting period, reduced to advocating for the 1861 Act to be retained in many states, for fear that the new legislation would amount to a step backwards.

One of the Supreme Court directives required each state to set up a Police Complaints Authority to look into and examine public complaints against the police. CHRI recently released reports on the Police Complaints Authorities in Goa and Uttarakhand, as well as an annual report on the working of the Complaints Authorities.[201] CHRI's report on Goa's Police Complaints Authorities included allegations that complainants were threatened by the police that they would be killed by fake encounters for lodging complaints. In an August 2009 report, an international human rights organisation concluded that the Indian police were undermining India's democracy. According to the report, Indian police were found to discriminate on the basis of caste and socioeconomic status, to consider themselves to be above the law, to detain suspects illegally, to torture suspects and to carry out extrajudicial killings in custody with impunity.[202]

A major report published in August 2008 on the 50-year anniversary of the passing of the Armed Forces Special Powers Act (AFSPA), called for the law to be repealed. According to the report, AFSPA grants the military wide

powers to shoot-to-kill, and destroy property in so-called "disturbed areas". It also protects military personnel responsible for serious crimes from prosecution, creating a pervasive culture of impunity.[203] At the end of the reporting period, equivalent AFSPA legislation was in force in the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura.[204]

Several bills tabled during the reporting period were the subject of controversy. The Prevention of Torture Bill, which was proposed in 2008, was passed by the Lok Sabha (Lower House of Parliament) and was due for debate in the Rajya Sabha (upper house) by the end of the reporting period. The Bill's statement of objects and reasons indicated that it was intended to bring India in line with CAT.[205] However, the Bill, in the form passed by the Lok Sabha, was criticised for diluting the standards set out in CAT, entirely neglecting domestic human rights and jurisprudential standards, and actually protecting public servants more than victims of torture.[206] Furthermore, by the end of the reporting period, India had not extended an invitation to the UN's Special Rapporteur on torture, despite the fact that a request by the Special Rapporteur was pending since 1993.[207] The effect of the lack of legislative action on torture was apparent in the high number of cases of alleged torture by the police services. Torture in police custody was described in a report by the Asian Centre for Human Rights (ACHR) as a "widespread and systematic practice". The same report listed dozens of alleged cases of police beatings and torture in custody (many of which resulted in death), several cases of female detainees being subjected to serious sexual assault by police officers, and a number of cases in which minors were the victims of torture.[208]

The Indian city of Mumbai suffered a major terrorist attack in November 2008. A small group of gunmen, armed with explosives, grenades and assault rifles, attacked a railway station, two hotels, a hospital, a Jewish centre and other sites in Mumbai over the course of three days. In the attack, 257 people were killed and hundreds more injured. Indian security forces killed nine of the ten gunmen, who were reportedly acting on behalf of a Pakistani militant group called Lashkar-e-Taiba.[209] The tenth gunman was apprehended, and in May 2010, was sentenced to death.[210]

Human rights organisations urged the Indian government to show restraint in its response to the attacks, but according to some human rights groups, the advice went unheeded. In mid-December 2008, the Indian legislature passed new amendments to the Unlawful Activities (Prevention) Act, 1967 (UAPA) and tabled a bill which would create a new government agency called the National Investigation Agency (NIA). The Delhi-based Human Rights Law Network (HRLN) stated that the amendments to UAPA effectively brought back the Prevention of Terrorism Act (POTA), 2002, which was widely criticised for its discriminatory application and wide purview before it was repealed in 2004. The 2008 amendments to UAPA contained controversial provisions ranging from a "vague" definition of "acts of terrorism", which borrowed heavily from POTA, to an extension on the limits for which suspected terrorists could be detained.[211] The NIA Act was criticised for allowing the establishment of special courts and in-camera trials, without providing for any clear limits on when and why such a court could be legally established.[212] Taken together, the UAPA amendments and NIA Act were termed "draconian" by HRLN.[213]

Police, military and paramilitary forces fighting armed militant groups in the State of Manipur continued to be given special powers and protection from prosecution by AFSPA, and had allegedly committed egregious abuses of power. A report published in September 2008 said that killings of civilians by the army in Manipur were a result of the powers conferred on the army by AFSPA and were partly responsible for fuelling the insurgency.[214] In August

2009, it was reported that an 11 year old girl whose parents were suspected of aiding armed opposition groups was allegedly detained in police custody for five days in order to force the couple to turn themselves in.[215] Of the 96 cases of extrajudicial executions reported to the Indian National Human Rights Commission (NHRC) by ACHR from 2004-2009, 50 were from Manipur.[216] In a well-documented case, a surrendered militant who police first alleged was killed in a gunfight was later revealed in photographs to have been the victim of a clear, well-documented extrajudicial killing. The publication of photographs which showed the killing sparked riots in Imphal, the capital of Manipur, which was put under curfew. Police in the city were given shoot-at-sight orders.[217] In July 2009, a report released by an international human rights organisation cited allegations that the police in Manipur had robbed civilians before killing them in fake encounters, labelling them militants, and leaving their bodies in the morgue.[218] In February 2010, NHRC reprimanded the Government of Manipur for not reporting 111 police encounters, as it was required to do by the NHRC revised guidelines on encounter killings released in 2003.[219] Human rights activists alleged in June 2009 that AFSPA was partially to blame for the extremely high number of alleged extrajudicial killings in Manipur, as it allowed police and security services to abuse their powers under the guise of counter-insurgency operations.[220]

The Indian State of Jammu and Kashmir includes territories that are the centre of a long-running dispute between India and Pakistan. The state experienced significant unrest during the reporting period, in the form of civilian rioting and violence between militants and military and police personnel.[221] Large demonstrations followed by police killings were commonplace. In June 2008, large-scale protests by Muslims erupted in Jammu and Kashmir, following a controversial transfer of forested land to Hindus for a pilgrimage. The transfer was then revoked, sparking Hindu protests and consequently Muslim counter-demonstrations, which continued through the summer of 2008, resulting in 40 deaths by mid-August. Twenty demonstrators were allegedly killed in police shootings on 11 and 12 August 2008.[222] The next four days saw seven people shot as curfews and shoot-on-sight orders were issued in response to escalating violence.[223] Five separatist leaders in Kashmir were arrested during the curfew. At least one of those leaders was reportedly charged under the Public Safety Act, which allows police to detain a person for a period of up to two years.[224] The Public Safety Act, along with the Armed Forces (Jammu and Kashmir) Special Powers Act and the Jammu and Kashmir Disturbed Areas Act were all criticised for the impunity they afforded the police and military forces operating in the state during the reporting period.[225] A five-week-long election took place in late 2008, during which there were numerous protests. At least one person was killed and two injured when police fired into a crowd of stone-throwing demonstrators.[226] In June 2009, members of the Central Reserve Police Force were accused of raping and murdering two young women, triggering massive riots that left one person dead and 150 injured. The accusations were, however, dismissed by the findings of the Central Bureau of Investigation.[227]

Adivasis (indigenous people) residing in Central and Eastern India were the victims of human rights abuses perpetrated by security forces, business interests and armed non-state actors during the reporting period. Police and paramilitaries came under attack during the reporting period by Naxalites (Maoists) operating in Chhattisgarh, Orissa and Bihar. Adivasis reportedly bore the brunt of counter-insurgency operations by government forces, as they were consistently accused of being Naxalites or Naxalite sympathisers. In June 2009, Adivasi protestors blockaded major roads in the State of West Bengal to protest against police violence.[228] In October 2009, residents of Gompad village in the State of Chhattisgarh alleged that police and security forces had massacred nine Adivasis in Gompad; just one example of the type of violence perpetrated against those thought to be Naxalite sympathisers.

A petition to the Supreme Court asking for an investigation into the massacre resulted in the detention of several of the petitioners. The Solicitor-General for Chhattisgarh claimed that by detaining the petitioners, the state government was protecting them. However, villagers and family members stated that the detainees were not perceived to be police informants and that no threats had been issued against them.[229]

In April 2010, the Working Group on Human Rights in India and the UN (WGHR) condemned the severe repression of a group of Adivasis in the State of Orissa by police and a private militia. WGHR alleged that Adivasi protestors, who have opposed the building of a Tata steel plant on their fertile lands since 2006, were surrounded by police and private militia fighters and fired on with plastic bullets, pellets and live ammunition, seriously injuring 30-40 people.[230] According to an Amnesty International report, only five of the injured protestors were allowed to be taken to hospital.[231] The other injured were reportedly threatened with torture and prevented from leaving to seek medical attention. Three people died, allegedly as a result of a lack of medical care, and other villagers who attempted to leave the village were reportedly arrested and put in jail on false charges.[232] A fact-finding team led by a former member of the Orissa High Court was able to document accounts of burning of houses, looting of property and killing of livestock by the police, as well as by private militias, who were reportedly allowed by the police to attack protestors with live ammunition and were accused by protestors of defacing the grave sites of twelve Adivasis who were killed in a police shooting in 2006.[233] May 2010 also saw clashes between police and protesters in the same region, and at least one person died in an alleged police shooting.[234]

Orissa also witnessed major protests by Adivasi groups against the building of a Bauxite mine and refinery by British mining giant, Vedanta. Vedanta's actions in pursuing the controversial project are covered in the UK chapter of this report. A report released by India's Ministry of Environment and Forests found that no study was conducted by the Indian government on the effect that such mining operations would have on the Adivasis living in Orissa, before granting Vedanta permission to operate there. Amnesty International alleged that the Ministry's findings revealed numerous human rights violations in the area proximate to the mine, including the disruption of the habitat and way of life of this "Primitive Tribal Group", as well as violations of the rights to water, a healthy environment and health as a result of Vedanta's operations.[235]

Discrimination based on caste is prohibited by the Indian Constitution, yet it remains a part of everyday life, most often to the disadvantage of those at the lower end of the caste system – the Dalits. In a January 2010 interview, India's then Chief Justice K.G. Balakrishnan, a Dalit himself, told reporters that despite his ascendancy to the highest judicial post in India, caste prejudices remained across the country. He suggested that prejudices are actually on the increase, though they are beginning to take more sophisticated forms.[236] At a session of the UN Human Rights Council, India vehemently opposed the publishing of a set of Draft Principles and Guidelines for the Effective Elimination of Discrimination Based on Work and Descent, which would have recognised discrimination based on the caste system as a "human rights abuse".[237] The draft was published in September 2009 but it was not adopted by the end of the reporting period, despite support from Nepal and civil society groups.[238]

During the reporting period, Dalits allegedly faced discrimination from both the public and the government. In March 2010, Dalit rights organisations alleged that the Government of Delhi had diverted more than 90 per cent of the funds meant for Dalits to other initiatives.[239] A survey conducted in Gujarat showed that Dalits were

the victims of over a hundred discriminatory practices in several different facets of life. According to the survey, caste-based discrimination was evident in 50 per cent of government services, including schools and buses. The founder of one of the organisations behind the study said that the level of continued discrimination is due to the "failure of the state system, failure of the judiciary and administration. The policies of the government, its programmes and policies seem to strengthen seclusion."[240] Violence against Dalits continued to be commonplace during the reporting period. In November 2008, a 15-year-old Dalit boy was beaten, paraded around his village and thrown on to the train tracks where he was killed, reportedly because he had sent a love letter to a girl of a higher caste.[241] In February 2010, it was reported by ActionAid that Dalits in Orissa were expected to wash clothes for the upper castes without payment, in what amounted to bonded labour, and were often tortured or otherwise abused if they refused.[242] In April 2010, a disabled Dalit teenager and her elderly father were killed and 18 Dalit-owned businesses and homes destroyed in an arson attack. The attack was reportedly intended to target Dalit wealth.[243] A press release from the National Campaign on Dalit Human Rights indicated that the state government was "casual" about the attack and that only after protests, was it compelled to offer compensation and charge suspects.[244] The Chief Minister of the State of Uttar Pradesh, Mayawati Kumari, is the only female Dalit Chief Minister in India's history, yet attacks against Dalits have reportedly increased under her tenure. An ACHR report cited an increase from 6,628 reported attacks on Dalits in Uttar Pradesh in 2007 to 6,942 in 2008, a 4.74 per cent increase. The report qualified these figures by noting that, under Mayawati's rule, Dalits were more willing to lodge complaints. However, it also suggested that increased reporting has brought about more attacks in the name of retribution against Dalits who attempt to enforce their rights.[245]

Several Indians who sought to use India's Right to Information Act during the reporting period, came under attack by security forces and unknown criminal elements, assumed to be linked to malefactors, including businessmen or politicians, keen on ensuring that corrupt practices were not exposed or blocked. In September 2009, it was reported that India's Chief Information Commissioner revealed that there had been an increase in the number of cases of murdered RTI activists who used RTI to make local councils and state and central governments more accountable.[246] A Commissioner with the Central Information Commission, India's highest authority for RTI applications, attributed the violence to the lack of appreciation for the rule of law amongst some of India's most powerful people.[247] For example, an RTI activist named Dattatray Patil was hacked to death in May 2010, after exposing a corruption scandal which saw the removal of two high-level police officers in Pune.[248] A proposed bill to protect whistleblowers had not yet been submitted for debate in Parliament at the end of the reporting period.

Cases of Human Rights Defenders (HRDs) being subjected to arbitrary detention, harassment and activism-related murder were recorded in Manipur, Orissa, Madhya Pradesh, Chhattisgarh, West Bengal and Jammu and Kashmir.[249] In a highly publicised case, Dr Binayak Sen was imprisoned in Chhattisgarh before the beginning of the reporting period and was finally released on bail in May 2009 after a Supreme Court decision. Dr Sen, a paediatrician and longtime human rights defender, active amongst the tribal population in Chhattisgarh, was arrested in 2007 under the Chhattisgarh Special Public Safety Act, 2005 and the Unlawful Activities (Prevention) Act on charges that he was acting as a courier for an imprisoned Naxalite leader.[250] A member of a human rights organisation described Dr Sen's imprisonment as a "glaring example of how the Indian authorities misuse security legislation to target activists."[251]

The backlog of court cases in India's judicial system did not improve since the previous edition of Easier Said Than Done was published. In August 2009, it was reported that Indian Prime Minister, Manmohan Singh, urged the country's judiciary to address the massive backlog of pending cases, which he said was the largest in the world. The backlog was blamed on a lack of judges and the continued usage of archaic laws.[252] In March 2010, a High Court Judge from the State of Andhra Pradesh said that there were 31.28 million pending cases in India's courts and that it would take up to 320 years to clear the backlog.[253] Death sentences were still handed down up to the end of the reporting period, although an international human rights organisation reported in March 2003 that India had not executed anyone for five years.[254]

Frequent communal violence remained an issue in India during the reporting period. In late August 2008, riots broke out after the murder of a prominent Hindu spiritual leader in the eastern state of Orissa.[255] Hindus and Christians clashed in violence that left over 50 people dead and hundreds of churches destroyed.[256] By October 2008, 20,000 people affected by the violence were forced to flee to the shelter of 25 government-established relief camps.[257] In the weeks following the major outbursts of violence, the NHRC was criticised for not investigating the events.[258] Violence also broke out in Assam in October 2008 between the indigenous Bodo people and Muslim settlers, which reportedly resulted in at least 25 deaths, of which 14 were at the hands of the police.[259] In July 2009, at least three people died in fighting between Muslims and Hindus in the southern state of Karnataka after the carcass of a pig was thrown into a mosque.[260]

Though legislation existed to protect women from violence and discrimination, minimal access to justice ensured that women in India continued to be subjected to both. The reporting period was also punctuated by incidents of violence against (usually young) women who were considered to act in "un-Indian" ways. A leading feminist reportedly attributed the phenomenon to the fact that more young Indian women were working in cities and claiming their share of the public space, which has made some Indian men uncomfortable.[261] For example, in February 2009, female college students were attacked by a mob of men belonging to a radical Hindu organisation for drinking alcohol and dancing with men at a bar. The group reportedly had no problem with men being allowed to drink at bars.[262] In 2008, the National Crime Records Bureau (NCRB) published statistics which showed that violence against women is the fastest growing crime in India.[263] In 2008, it was reported that two women were raped in India every hour.[264] In 2009, the number of rapes in India increased.[265] A study released in October 2009 showed that working women in India were more likely to be victims of domestic violence than those who do not earn an income.[266] In December 2009, policemen in Gujarat were reportedly accused of assaulting eight Muslim women who were arrested after allegedly being involved in the illegal slaughter of a cow (an animal that is considered sacred by many Hindus). A media report quoted a representative of the National Commission for Women as saying that the state government of Gujarat was not taking the issue seriously or pursuing a case against the accused police officers.[267]

Late in the reporting period, the upper house of the Indian legislature passed a bill which would see 33 per cent of seats in the national and state legislatures allocated to women. At the conclusion of the reporting period the bill had not yet been passed by the lower chamber of the legislature and there were complaints from Muslim and Dalit groups that there were no provisions within the bill to ensure that their communities would be represented among that 33 per cent.[268]

Journalists in India were subjected to numerous acts of violence and intimidation, especially those reporting on the conflicts in Kashmir, Central India, and the Northeast. In Kashmir in August 2008, journalists reporting on riots which broke out early in the month experienced levels of harassment and violence not seen in India for decades. According to one report, a journalist was allegedly killed by the police, several were beaten, television stations were censored and the curfew in the region made publishing newspapers difficult.[269] Incidents of violence and intimidation directed at journalists in Kashmir were also reported by organisations working on media freedom in August 2009[270], January 2010[271] and April 2010.[272] Journalists working in the north-east of India were also targeted. The murders of journalists in Assam and Manipur were reported in November 2008 and the murder of another journalist in Assam was reported in March 2009.[273] A journalist from Bihar who had reported on counterfeit merchandise and stolen goods being trafficked was shot dead in November 2008.[274] West Bengal saw assaults on journalists covering elections and an offensive on a Maoist-held town in May and June 2009 respectively.[275] In February 2010, an international media organisation recorded thirteen attacks on journalists countrywide during that month alone.[276] Beyond intimidation, harassment and murder, there were reports that foreign journalists who were critical of India were denied visas. In November 2008, two Swedish journalists who had reported on social problems in India were denied visas to enter India.[277] Similarly, a German journalist working for the newspaper Der Spiegel was denied a visa because his reporting was viewed as "overly critical and biased".[278]

India did not promote adherence to international human rights obligations in its relations with its southern neighbour, Sri Lanka. Though Indian Prime Minister, Manmohan Singh, called for the Sri Lankan government to respect the human rights of ethnic Tamils in its war against the Liberation Tigers of Tamil Eelam (LTTE), during the final offensive of that war, India stood by while thousands of civilians were allegedly killed.[279] India was also partially responsible for a successful attempt at the UN Human Rights Council to block a resolution condemning the Sri Lankan government for the civilian deaths that resulted from the final stage of its offence against the LTTE.[280]

An international database of housing rights violations recorded 45 cases of forced eviction, 31 of demolition/destruction, 28 of dispossession and three cases of privatisation of public goods and services during the reporting period.[281] The capital city of New Delhi was to hold the Commonwealth Games in October 2010, four months after the end of the reporting period. It was already reported in October 2009 that up to 400,000 people in three large slum clusters were relocated from 2004 onwards. An urban planner doing research on the Commonwealth Games, noted that such high levels of evictions had not been seen since the Emergency, referring to the 21-month period in the 1970s when fundamental constitutional rights were suspended.[282]

India continued to struggle against extreme poverty during the reporting period. In August 2009, a report released by a government committee revealed that at least 38 per cent of Indians lived in situations of "extreme poverty". Extreme poverty was defined on the basis of a person's ability to buy 2,100 calories of food per day in urban areas and 2,400 calories in rural areas. The publishing of poverty figures is controversial in India and the report's findings are partially disputed by other studies which claim that anywhere from 27 per cent to 70 per cent of India's population lived in poverty or are poor.[283] A study by an Indian campaign group in July 2009 found that 200 million Indians did not get enough to eat; a figure which the study reportedly says puts India's hungry at a higher figure than all of Sub-Saharan Africa combined.[284] The reporting period also saw India receive serious

warnings from UNICEF on its deplorable record in relation to child mortality and from Human Rights Watch on the unnecessarily high rates of maternal mortality.[285]

The National Human Rights Commission of India was criticised after the reporting period for being "increasingly ineffective in protecting and promoting human rights". The Commission reportedly had a constantly increasing load of over 100,000 cases and saw no corresponding increase in funding from the government.[286]

3.2 Compliance with the pledge

India made a commitment in its pre-election pledge to stand by its national mechanisms and procedures to promote the human rights of all its citizens. Despite this, police and security services functioned with impunity throughout the reporting period, shielded by draconian laws dealing with terrorism and militancy. India's police services showed minimal signs of reform by the end of the reporting period. Moreover, in certain troubled parts of the country there were allegations that security forces were involved in torture, extrajudicial killings and rape. Certain underdeveloped parts of the country saw their natural wealth exploited by foreign corporations, and indigenous populations who resisted encroachment on their land were at times violently repressed by the police and private militias. Human rights defenders also suffered harassment, incarceration and death, while communal violence left many suffering. Extreme poverty, hunger, and high child mortality rates continued to plague vast sections of India's population. Caste-based discrimination remains a problem. Death sentences were still handed out throughout the reporting period.

High-levels of domestic and sexual violence and discrimination based on gender belied India's pledge to eliminate discrimination and violence against women through legislation and effective implementation of existing policies.

India's pledge to foster a culture of transparency, accountability and openness in the functioning of the government, as provided in its Right to Information Act, was blemished by reports that the users of the Act were being killed or attacked with increasing frequency. India's description in its pledge of its free and independent media – which it said played a crucial role in monitoring and promoting respect for human rights – was likewise tarnished by reports of journalists being intimidated, harassed and even killed. The National Human Rights Commission of India was described as a powerful, independent body in India's pledge, but it was judged to be increasingly ineffective and lacked sufficient funds.

In spite of its pledge to support and strengthen the Council and Special Procedures mechanisms, India sought to restrict Special Procedures by calling for stricter adherence to the Code of Conduct. It especially resisted new initiatives proposed by the Advisory Committee. India also strongly opposed the efforts by the Office of the High Commissioner for Human Rights to 1) call for independent inquiry on the human rights situation in Sri Lanka and 2) provide assistance to countries for transitional justice. Additionally, India worked against the efforts of the Working Group on enforced disappearances to assert that enforced disappearances are crimes against humanity.

On country-specific situations before the Council, India's stance was negative. While India abstained on resolutions on DPRK, it supported weak ones on Sudan and DRC. While voting on resolutions on Myanmar and Sri Lanka, India attempted to shield the two countries from international scrutiny.

On thematic resolutions at the Council, India generally followed allied voting blocs. It voted in favour of resolutions on a democratic equitable international order, human rights and international solidarity, unilateral coercive measures, complementary standards to ICERD, foreign debt, the effect of the global financial crisis, and torture and the role and responsibility of medical and other health personnel.

Notably, India abstained from voting on resolutions on the right of peoples to peace, and on the defamation of religions. On the latter, it condemned defamation of religions but stated that it had reservations about the resolution's particular focus on Islam.

---

201 Available at www.humanrightsinitiative.org.

202 Bloomberg, "India's 'Colonial' police weaken rule of law, rights groups say" (4 August 2009) at http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aIp0PVBDQweU (last accessed on 28 September 2010).

203 Human Rights Watch, "Repeal Armed Forces Special Powers Act" (18 August 2008) at http://www.hrw.org/en/news/2008/08/17/india-repeal-armed-forces-special-powers-act (last accessed on 29 September 2010).

204 Section three of the AFSPA, 1958 and the AFSPA (Punjab) are virtually identical, while the equivalent section in the AFSPA (Jammu and Kashmir) is structured somewhat differently. However, in all other respects the two latter Acts, for Punjab and Jammu and Kashmir, are identical to each other but are slightly different in structure and language to AFSPA, 1958. In substance, however, all three Acts are similar.

205 The bill, as it was introduced in the Lok Sabha, can be found at the following link: http://www.prsindia.org/uploads/media/Torture/prevention%20of%20torture%20bill%202010.pdf.

206 Navaz Kotwal, Programme Coordinator, Commonwealth Human Rights Initiative

207 Amnesty International, "Time to end torture: Open letter to Indian authorities" (26 June 2009) at http://www.amnesty.org/en/library/asset/ASA20/013/2009/en/b194d11a-dcd1-4291-bc67-007b55fe7685/asa200132009eng.html (last accessed on 29 September 2010);Office of the High Commissioner for Human Rights Website, at http://www2.ohchr.org/english/issues/torture/rapporteur/visits.htm (last accessed on 4 October 2010).

208 Asian Centre for Human Rights, "Torture in India – 2010" (April 2010) at http://www.achrweb.org/reports/india/torture2010.pdf (last accessed on 28 September 2010).

209 *Indian Express*, "'We took Mumbai orders from Pakistan'" (1 December 2008) at http://www.indianexpress.com/news/we-took-mumbai-attack-orders-from-pakistan/392860/3 (last accessed on 28 September 2010).

210 Rediff News, "Kasab gets death for 'waging war' against India" (6 May 2010) at http://news.rediff.com/slide-show/2010/may/06/slide-show-1-kasab-to-hang-for-26-11-carnage.htm (last accessed on 28 September 2010).

211 IPS, "India: New Anti-Terror laws draconian say activists" (19 December 2008) at http://ipsnews.net/news.asp?idnews=45179 (last accessed on 28 September 2010).

212 Amnesty International, "India: New Anti-Terror Laws would violate international human rights standards" (18 December 2008) at http://www.amnesty.org/en/for-media/press-releases/india-new-anti-terror-laws-would-violate-international-human-rights-stan (last accessed on 28 September 2010).

213 IPS, "India: New Anti-Terror laws draconian say activists" (19 December 2008) at http://ipsnews.net/news.asp?idnews=45179 (last accessed on 28 September 2010).

214 Human Rights Watch, "India: Army killings fuel insurgency in Manipur" (15 September 2008) at http://www.hrw.org/en/news/2008/09/14/india-army-killings-fuel-insurgency-manipur (last accessed on 29 September 2010).

215 Amnesty International, "Arrest of 11-year-old girl latest human rights violation in Manipur" (21 August 2009) at http://www.amnesty.org/en/news-and-updates/news/arrest-11-year-old-girl-latest-human-rights-violation-manipur-20090821 (last accessed on 29 September 2010).

216 *The Tribune*, "Enforce the law in the North-East" (19 August 2009) at http://www.tribuneindia.com/2009/20090819/edit.htm#7 (last accessed on 28 September 2010).

217 *Hindustan Times*, "Shoot-at-sight orders in curfew bound Imphal" (5 August 2009) at http://www.hindustantimes.com/Shoot-at-sight-orders-in-curfew-bound-Imphal/H1-Article1-440121.aspx (last accessed on 28 September 2010).

218 Human Rights Watch, "India: End Manipur killings" (17 July 2009) at http://www.hrw.org/en/news/2009/07/17/india-end-manipur-killings (last accessed on 29 September 2010).

219 *The Hindu*, "NHRC pulls up Manipur for not reporting 111 encounters" (2 February 2010) at http://www.hindu.com/2010/02/02/stories/2010020260631800.htm (last accessed on 28 September 2010); India National Human Rights Commission, "Revised Guidelines/procedures to be followed in dealing with deaths occurring in encounter deaths" (2 December 2003) at http://nhrc.nic.in/Documents/RevisedGuidelinesDealingInEncounterDeaths.pdf (last accessed on 3 November 2010).

220 *Times of India*, "Rights watchdog worried over Manipur killings" (2 June 2009) at http://timesofindia.indiatimes.com/Guwahati/Rights-watchdogs-worried-over-Manipur-killings/articleshow/4610188.cms (last accessed on 29 September 2010).
221 *The Guardian*, "Violence surges in Indian Kashmir after decline" (14 May 2010) at http://www.guardian.co.uk/world/feedarticle/9077696 (last accessed on 1 October 2010).
222 *Sunday Times*, "Kashmir under curfew after 20 deaths" (13 August 2008) at http://www.timesonline.co.uk/tol/news/world/asia/article4519976.ece (last accessed on 29 September 2010).
223 Amnesty International, "India: Repeal shoot-on-sight orders" (13 August 2008) at http://www.amnesty.org/en/for-media/press-releases/india-repeal-shoot-sight-orders-20080813 (last accessed on 29 September 2010).
224 BBC News, "Another Kashmir separatist held" (29 August 2008) at http://news.bbc.co.uk/2/hi/south_asia/7588436.stm (last accessed on 29 September 2010).
225 Human Rights Watch, "India: Hold abusers in Kashmir accountable" (9 February 2009) at http://www.hrw.org/en/news/2009/02/09/india-hold-abusers-kashmir-accountable (last accessed on 30 September 2010).
226 DNA, "57 per cent vote in Kashmir's violence marred fifth phase" (13 December 2008) at http://www.dnaindia.com/india/report_57-per-cent-vote-in-kashmir-s-violence-marred-fifth-phase-intro-roundup_1213687 (last accessed on 1 October 2010).
227 Amnesty International, "One killed, 150 injured as protests continue in Jammu and Kashmir following rape and murder of two young women" (10 June 2009) at http://www.amnesty.org/en/news-and-updates/news/one-killed-150-injured-protests-continue-jammu-kashmir-20090610 (last accessed on 1 October 2010); *The Hindu*, "CBI rules out rape, murder in Shopian Case" (15 December 2009) at http://www.hindu.com/2009/12/15/stories/2009121561142000.htm (last accessed on 1 October 2010).
228 Amnesty International, "Indian authorities should avoid excessive use of force in West Bengal" (19 June 2009) at http://www.amnesty.org/en/library/asset/ASA20/006/2009/en/d0207ace-e475-4b00-afe3-5c99ae61f6c8/asa200062009en.html (last accessed on 1 October 2010).
229 *The Hindu*, "Police killed villagers say Gompad witnesses" (21 February 2010) at http://beta.thehindu.com/news/national/article110448.ece?homepage=true (last accessed on 1 October 2010).
230 WGHR, "Three deaths in one week in Kalinganagar" (19 April 2010) at http://www.wghr.org/pdf/WGHR%20PR%20(Kalinganagar)%2019.04.10_final.pdf (last accessed on 1 October 2010).
231 Amnesty International, "India: authorities must halt unnecessary and excessive use of police force and civilian militia attack on Adivasi protestors in Orissa" (1 April 2010) at http://www.amnesty.org/en/library/asset/ASA20/008/2010/en/588ed30a-6c22-4055-88b0-3e81b836b68f/asa200082010en.html (last accessed on 1 October 2010).
232 WGHR, "three deaths in one week in Kalinganagar" (19 April 2010) at http://www.wghr.org/pdf/WGHR%20PR%20(Kalinganagar)%2019.04.10_final.pdf (last accessed on 1 October 2010).
233 Amnesty International, "India: Authorities Must Halt Unnecessary and Excessive Use of Police Force and Civilian Militia Attack on Adivasi Protestors in Orissa" (1 April 2010) at http://www.amnesty.org/en/library/asset/ASA20/008/2010/en/588ed30a-6c22-4055-88b0-3e81b836b68f/asa200082010en.html (last accessed on 1 October 2010).
234 Amnesty International, "India: authorities must halt unnecessary and excessive use of police force and civilian militia attack on Adivasi and peasant protestors in Orissa" (16 May 2010) at http://www.amnesty.org/en/library/asset/ASA20/013/2010/en/6a21ed47-2366-4ce6-9230-ca6b610cd574/asa200132010en.html (last accessed on 3 October 2010).
235 Amnesty International, "India: authorities must act on vital findings of official probe into Vedanta's projects in Orissa" (15 March 2010) at http://www.amnesty.org/en/library/asset/ASA20/007/2010/en/ca5d3999-8628-4e81-ae43-7080682d17fd/asa200072010en.html%20march%202010 (4 October 2010).
236 *Times of India*, "Caste bias against Dalits not down: CJI" (11 January 2010) at http://timesofindia.indiatimes.com/india/Caste-bias-against-dalits-not-down-CJI/articleshow/5431611.cms (last accessed on 24 September 2010).
237 *Asia Times*, "UN's caste declaration riles India" (20 October 2009) at http://www.atimes.com/atimes/South_Asia/KJ20Df02.html (last accessed on 24 September 2010); *The Telegraph* - UK, "Caste discrimination against India's 'untouchables' is an international issue" (16 April 2010) at http://www.telegraph.co.uk/news/worldnews/asia/india/7597109/Caste-discrimination-against-Indias-untouchables-is-an-international-issue.html (last accessed on 24 September 2010).
238 Human Rights Watch, The National Campaign on Dalit Human Rights (NCDHR), and the International Dalit Solidarity Network (IDSN), "Time to tear down the wall of caste" (9 October 2009) at http://www.hrw.org/en/news/2009/10/09/time-tear-down-wall-caste (last accessed on 24 September 2010).
239 National Campaign on Dalit Rights, "Delhi budget analysis - Dalits deprived of what they deserve" (23 March 2010) at http://www.ncdhr.org.in/media-library/delhi-budget-analysis-dalits-deprived-of-what-they-deserve (last accessed on 24 September 2010).
240 IBN Live, "Survey shows untouchability still rampant in Gujarat" (29 January 2010) at http://ibnlive.in.com/news/survey-shows-untouchability-still-rampant-in-gujarat/109356-3.html (last accessed on 24 September 2010).
241 *Sunday Times*, "Teenager murdered for writing love letter to girl of higher caste" (21 November 2008) at http://www.timesonline.co.uk/tol/news/world/asia/article5197439.ece (last accessed on 24 September 2010).
242 ActionAid, "ActionAid demands NHRC intervention to end violation of Dalit rights in Orissa" (15 February 2010) at http://www.actionaid.org/india/index.aspx?PageID=%205253 (last accessed on 27 September 2010).

243 *Times of India*, "Mirchpur: Attackers targeted Dalit wealth" (28 April 2010) at http://timesofindia.indiatimes.com/india/Mirchpur-Attackers-targeted-dalit-wealth/articleshow/5866066.cms (last accessed on 27 September 2010).
244 National Campaign on Dalit Human Rights, "Fact-finding team condemns arson, burning of Dalit houses and gruesome killing at Mirchpur, in Haryana" (27 April 2010) at http://www.ncdhr.org.in/media-library/Press%20Releasepdf.pdf (last accessed on 27 September 2010).
245 *The Telegraph* - Calcutta, "Dalit cases up under Maya rule" (30 May 2009) at http://www.telegraphindia.com/1090531/jsp/nation/story_11043604.jsp (last accessed on 27 September 2010).
246 *Wall Street Journal*, "Indians seek transparency amid fear" (10 September 2010) at http://online.wsj.com/article/SB10001424052748703369704575462563730785770.html (last accessed on 4 October 2010).
247 *Christian Science Monitor*, "In India, deadly backlash against freedom of information activists" (10 March 2010) at http://www.csmonitor.com/World/Asia-South-Central/2010/0310/In-India-deadly-backlash-against-freedom-of-information-activists/(page)/2 (last accessed on 4 October 2010).
248 DNA, "Duo arrested for murder of 47-year-old RTI activist in Mumbai" (26 May 2010) at http://www.dnaindia.com/mumbai/report_duo-arrested-for-murder-of-47-year-old-rti-activist-in-mumbai_1387877 (last accessed on 4 October 2010).
249 Amnesty International, "Human Rights in the Republic of India" at http://www.amnesty.org/en/region/india (last accessed on 4 October 2010).
250 *Indian Express*, "Binayak Sen Walks Out of Jail after Two Years" (27 May 2009) at http://www.indianexpress.com/news/binayaksenwalksoutofjailaftertwoyear/466413/ (last accessed on 4 October 2010).
251 Amnesty International, "Indian Doctor Binayak Sen released from prison on bail" (26 May 2009) at http://www.amnesty.org/en/news-and-updates/good-news/indian-doctor-binayak-sen-released-prison-bail-20090526 (last 4 October 2010).
252 BBC, "Indian PM's plea on justice backlog" (19 August 2009) at http://news.bbc.co.uk/2/hi/south_asia/8204607.stm (last accessed on 3 October 2010).
253 *Times of India*, "Courts will take 320 years to clear backlog of cases" (6 March 2010) at http://timesofindia.indiatimes.com/india/Courts-will-take-320-years-to-clear-backlog-cases-Justice-Rao/articleshow/5651782.cms (last accessed on 4 October 2010).
254 Sify News, "Amnesty hails India's moratorium on the death penalty" (30 March 2010) at http://www.sify.com/news/amnesty-hails-india-s-moratorium-on-death-penalty-news-international-kd4qkfaggdi.html (last accessed on 23 December 2010).
255 Amnesty International, "India: Government should match its words with action and halt violence against Christian minorities in Orissa" (1 October 2008) at http://www.amnesty.org/en/library/asset/ASA20/021/2008/en/275778f8-906a-11dd-b16f-6118895def38/asa200212008en.html (last accessed 24 September 2010).
256 Asian Centre for Human Rights, "NHRC condemned for failure to act on Orissa" (3 September 2010) at http://www.achrweb.org/press/2008/IND0308.html (last accessed on 24 September 2010).
257 Amnesty International, "India: Government should match its words with action and halt violence against Christian minorities in Orissa" (1 October 2008) at http://www.amnesty.org/en/library/asset/ASA20/021/2008/en/275778f8-906a-11dd-b16f-6118895def38/asa200212008en.html (last accessed on 24 September 2010).
258 Asian Centre for Human Rights, "NHRC condemned for failure to act on Orissa" (3 September 2010) at http://www.achrweb.org/press/2008/IND0308.html (last accessed on 24 September 2010).
259 BBC News, "Deadly clashes break out in Assam" (5 October 2008) at http://news.bbc.co.uk/2/hi/south_asia/7653481.stm (last accessed on 24 September 2010).
260 BBC news, "Three die in Karnataka violence" (2 July 2009) at http://news.bbc.co.uk/2/hi/south_asia/8130624.stm (last accessed on 24 September 2010).
261 Reuters, "Attacks on Indian women signals rising conservatism" (13 February 2009) at http://in.reuters.com/article/idINIndia-38000920090213 (last accessed on 24 September 2010).
262 *New York Times*, "Attack on women at Indian bar intensifies a clash of cultures" (8 February 2009) at http://www.nytimes.com/2009/02/09/world/asia/09india.html?_r=1&em (last accessed on 24 September 2010).
263 *Washington Post*, "In India, new opportunities for women draw anger and abuse from men" at http://www.washingtonpost.com/wp-dyn/content/article/2008/08/24/AR2008082401665.html (last accessed on 24 September 2010).
264 *Times of India*, "Two women raped in India every hour" (1 December 2008) at http://timesofindia.indiatimes.com/File-Two-women-raped-in-India-every-hour/articleshow/3778956.cms (last accessed on 24 September 2010).
265 National Crime Records Bureau, "Figures at a glance - 2009" (2009) at http://ncrb.nic.in/CII-2009-NEW/cii-2009/figure%20at%20a%20glance.pdf (last accessed on February 9 2011).
266 RTI International, "India: Working women face increased domestic violence, study finds" (27 October 2009) at http://www.rti.org/news.cfm?objectid=E2059C0A-5056-B172-B83B64CC3767C816 (last accessed on 24 September 2010).
267 *Indian Express*, "NCW team visits Godhra to probe complaints into police torture" (22 January 2010) at http://www.indianexpress.com/news/ncw-team-visits-godhra-to-probe-complaints-into-police-torture/570412/0 (last accessed on 1 October 2010).
268 *The Australian*, "Indian bill backs women MPs" (10 March 2010) at http://www.theaustralian.com.au/news/world/indian-bill-backs-women-mps/story-e6frg6so-1225839319280 (last accessed on 24 September 2010).

269 Reporters Sans Frontières, "Black month for press freedom in Kashmir, with a cameraman killed, at least 32 journalists attacked and media censored" (3 September 2008) at http://en.rsf.org/india-black-month-for-press-freedom-in-03-09-2008,28405.html (last accessed on 24 September 2010).

270 Committee to Protect Journalists, "Police threaten journalists with arrest in India" (7 August 2009) at http://cpj.org/2009/08/police-threaten-journalists-with-arrest-in-india.php#more (last accessed on 24 September 2010).

271 Committee to Protect Journalists, "Authorities assault, fire on journalists in Kashmir" (22 January 2010) at http://cpj.org/2010/01/authorities-assault-fire-on-journalists-in-kashmir.php (last accessed on 24 September 2010).

272 Reporters Sans Frontières, "Police beat reporter on Srinagar street" (27 April 2010) at http://en.rsf.org/india-police-beat-reporter-on-srinagar-27-04-2010,37160.html.

273 Reporters Sans Frontières, "Journalist gunned down in Assam, second to be killed on North East in a week" (24 November 2008) at http://en.rsf.org/india-journalist-gunned-down-in-assam-24-11-2008,29402.html (last accessed on 24 September 2010); Reporters Sans Frontières, "Newspaper editor gunned down in Assam" (25 March 2009) at http://en.rsf.org/india-newspaper-editor-gunned-down-in-25-03-2009,30670.html (last accessed on 24 September 2010).

274 Committee to Protect Journalists, "Journalist shot dead in Bihar" (1 December 2008) at http://cpj.org/2008/12/journalist-shot-dead-in-bihar.php#more (last accessed on 24 September 2010).

275 Committee to Protect Journalists, "Photojournalists assaulted by security forces in West Bengal" (8 July 2009) at http://cpj.org/2009/07/photojournalists-assaulted-by-security-forces-in-w.php#more (last accessed on 24 September 2010); Committee to Protect Journalists, "Political group attacks photojournalist covering Indian elections" (24 July 2009) at http://cpj.org/2009/07/political-group-attack-photojournalist-covering-in.php#more (last accessed on 24 September 2010).

276 Reporters Sans Frontières, "A 'disturbing' spate of police violence against journalists" (26 February 2010) at http://en.rsf.org/india-a-disturbing-spate-of-police-26-02-2010,36548.html (last accessed on 24 September 2010).

277 Reporters Sans Frontières, "Journalists denied visas for India after critical reporting" (10 November 2008) at http://en.rsf.org/india-journalists-denied-visas-for-india-10-11-2008,29241.html (last accessed on 24 September 2010).

278 Reporters Sans Frontières, "No visa for German journalist who wants to base himself in New Delhi" (1 September 2009) at http://en.rsf.org/india-no-visa-for-german-journalist-who-01-09-2009,34350.html (last accessed on 24 September 2010).

279 *The Hindu*, "Respect human rights, PM asks Sri Lanka" (16 October 2008) at http://www.hindu.com/2008/10/16/stories/2008101654990100.htm (last accessed on 27 September 2010); *The Telegraph* - UK "India 'complicit' in killing of 20,000 civilians in Sri Lanka" (1 June 2009) at http://www.telegraph.co.uk/news/worldnews/asia/srilanka/5419206/India-complicit-in-killing-of-20000-civilians-in-Sri-Lanka.html (last accessed on 27 September 2010).

280 *Times of India*, "India, China prevent European bid to corner Sri Lanka on rights violations" (29 May 2009) at http://timesofindia.indiatimes.com/India/India-China-prevent-European-bid-to-corner-Sri-Lanka-on-rights-violations/articleshow/4590186.cms (last accessed on 27 September 2010).

281 Housing and Land Rights Network, "Search results for all types of violation between 1 August 2008 and 1 June 2010 – India" at http://www.hlrn.org/english/violation2.asp (last accessed on 4 October 2010).

282 Live Mint (*Wall Street Journal*), "The economic cost of the games" (26 October 2009) at http://www.livemint.com/2009/10/26205604/The-economics-of-the-Games.html (last accessed on 4 October 2010).

283 BBC News, "More Indians in 'extreme poverty'" (21 August 2009) at http://news.bbc.co.uk/2/hi/south_asia/8214061.stm (last accessed on 28 September 2010).

284 BBC News, "Report highlights hunger in India" (31 July 2009) at http://news.bbc.co.uk/2/hi/south_asia/8178072.stm (last accessed on 28 September 2010).

285 BBC News, "UN India warning on child health" (5 August 2008) at http://news.bbc.co.uk/2/hi/south_asia/7542521.stm (last accessed on 28 September 2010); Human Rights Watch, "India: Too Many Women Dying in Childbirth" (7 October 2009) at http://www.hrw.org/en/news/2009/10/07/india-too-many-women-dying-childbirth (last accessed on 28 September 2010).

286 FORUM-ASIA, "2010 ANNI report on the performance and establishment of National Human Rights Institutions in Asia" (2010), page 74.

Malaysia

Easier Said
than Done

1. Background

1.1. Context

After the end of the Second World War, and Japanese Occupation, Malaysia became one of the first Cold War battlegrounds. Between 1948 and 1960, as it moved towards independence, Malaysia largely remained under Colonial emergency laws, with British and Commonwealth troops on the ground engaged in counter-insurgency operations against Malaysian communist groups. Malaysia achieved independence in 1957 as the Federation of Malaya. In 1963, three former British colonies, Sabah, Sarawak and Singapore, joined the federation. In 1965, Singapore withdrew and became a separate country, creating Malaysia as it is today, with thirteen states in a federal structure.

Malaysia has long been a multi-ethnic country with a Malay majority and a minority of Chinese, Indians, indigenous peoples and other groups. After race riots in 1969, the government began a policy of positive discrimination towards the majority Malays. This context continues to inform the relationships between Malaysia's different ethnic groups today. Malaysia experienced rapid economic growth during the late 1980s and early 1990s and remains a strong economy, despite the 1997 South East Asian economic crisis.

Malaysia decided not to seek re-election to the Council when its initial three-year term expired in June 2009, therefore this country section only covers Malaysia's performance in the Council till June 2009. However, the section on Human Rights During the Reporting Period is current to May 2010 as are the sections on UN Treaties and UN Reporting History.

1.2 UN Treaties

Malaysia is a party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CPD).

Malaysia is not a party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention for the Protection of All Persons from Enforced Disappearance (CED), the Convention Against Torture (CAT) or the Convention on the Protection of the Rights of All Migrants Workers (CMW). Malaysia has not signed the Optional Protocol to CEDAW, the Optional Protocol to the CRD or the two Optional Protocols to CRC.

1.3 UN Reporting History

Malaysia has fulfilled its reporting requirements under CRC. Under CEDAW, Malaysia has completed two rounds of reporting, but one report is overdue since 2008.

Malaysia has not extended an open invitation to the UN Human Rights Council's Special Procedures.

1.4 UN Voting Patterns and Performance at the Council

Eighth Session of the UN Human Rights Council

On 6 June 2008, Malaysia dissociated itself from a resolution on the human rights situation in Myanmar which it viewed as too strong.

On 18 June 2008, Malaysia criticised a resolution on the human rights situation in Myanmar for failing to recognise the positive developments in the country.

On 18 June 2008, Malaysia voted in favour of a resolution on the promotion of the right of peoples to peace. Slovenia called for a vote on behalf of the EU, on the basis that the issues contained in the resolution were best dealt with in other fora and that the resolution failed to state that the absence of peace did not justify breaches of human rights.

On 18 June 2008, Malaysia voted in favour of a resolution on the promotion of a democratic and equitable international order. The resolution rejected a unilateral approach in favour of a multilateral one when addressing international issues. Slovenia called for a vote on behalf of the EU, on the basis that the resolution addressed issues that were beyond the mandate of the Council. For example, it focused on relations between States rather than relations between States and their citizens.

Ninth Session of the UN Human Rights Council

On 12 September 2008, Malaysia encouraged the Independent Expert on human rights and international solidarity to continue drafting a declaration on international solidarity. Malaysia also encouraged the development of action-oriented recommendations.

On 15 September 2008, Malaysia noted the positive developments made by Cambodia.

On 18 September 2008, in connection with the report of the High-Level Fact-Finding Mission to Beit Hanoun, Malaysia condemned the collective punishment of the people of Palestine and expressed strong support for the recommendations contained in the report.

On 24 September 2008, Malaysia voted in favour of a resolution on the follow-up to Resolution S-3/1 on the Assault on Beit Hanoun. The resolution welcomed the report of the High-Level Fact-Finding Mission dispatched to assess the situation in Beit Hanoun. It called for full implementation of all the recommendations made in the report and expressed regret for the delay caused by Israel's non-cooperation.

On 24 September 2008, Malaysia voted in favour of a resolution on human rights and unilateral coercive measures. The resolution requested States to stop using or implementing unilateral, coercive measures not in accordance with international law, particularly those creating obstacles to trade relations between States. It also condemned the use of unilateral coercive measures to assert political or economic pressures, especially on developing countries.
On 24 September 2008, Malaysia voted in favour of a resolution on human rights and international solidarity. The resolution emphasised the need for international cooperation to tackle human rights issues in a manner that

distributes costs and burdens fairly. France called for a vote on behalf of the EU, on the basis that international solidarity was a moral principle not a human right defined in legal terms.

Ninth Special Session of the UN Human Rights Council

On 12 January 2009, Malaysia voted in favour of a resolution on the grave violations of human rights in the OPT. The resolution strongly condemned the Israeli military operation in the OPT, stating that this had caused grave violations of the human rights of Palestinian civilians. It accused Israel of collective punishment of the Palestinian people and called on the international community to act.

Tenth Special Session of the UN Human Rights Council

On 23 February 2009, Malaysia voted in favour of a resolution on the impact of the global economic and financial crisis on the universal realisation and effective enjoyment of human rights. The resolution expressed deep concern at the effect of the economic and financial crisis on human rights and called for increased participation by developing countries in international decision-making.

Tenth Session of the UN Human Rights Council

On 26 March 2009, Malaysia abstained from voting on a resolution expressing serious concern over the human rights situation in DPRK and extending the mandate of the Special Rapporteur on DPRK for a further year. Speaking in explanation of its vote, Malaysia reiterated its opposition to country-specific mandates.

On 17 March 2009, in an interactive dialogue on a report presented by the Special Rapporteur on the Human Rights Situation in Myanmar, Malaysia focused on the positive developments made by the government. On 27 March 2009, following the adoption without a vote of the resolution on the situation of human rights in Myanmar, Malaysia stated that it would have preferred a more balanced approach that reflected the positive progress made.

On 26 March 2009, Malaysia voted in favour of a resolution on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.

On 26 March 2009, Malaysia voted in favour of a resolution on human rights in the occupied Syrian Golan, which expressed deep concern for the suffering of the Syrian civilian population and referred to the systematic and continuous violations of fundamental and human rights by Israel.

On 26 March 2009, Malaysia voted in favour of a resolution on Israeli settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution strongly condemned the Israeli announcement that it would build further settlements in the OPT.
On 26 March 2009, Malaysia voted in favour of a resolution on the human rights violations emanating from the Israeli military attacks and operations in the OPT.

On 26 March, Malaysia voted in favour of a resolution on the follow-up to Council Resolution S-9/1 on the grave violations of human rights in the OPT, particularly due to the then recent Israeli military attacks against

the Occupied Gaza Strip. The resolution regretted that Resolution S-9/1 had not been fully implemented yet and demanded that Israel cooperate with the international community.

On 26 March 2009, Malaysia voted in favour of a resolution on combating defamation of religions.

On 26 March 2009, Malaysia voted in favour of a resolution calling for better geographical representation and gender balance in the staff of the OHCHR.

On 27 March 2009, Malaysia voted in favour of a resolution on the elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination.

On 27 March 2009, Malaysia abstained from voting on a decision on the publication of reports completed by the Sub-Commission on the Promotion and Protection of Human Rights. The decision provided for all reports by the Sub-Commission that had previously been mandated by the Commission on Human Rights and submitted to the OHCHR, to be published as UN documents. Malaysia made clear that it abstained because of the manner in which the resolution was introduced by its sponsors rather than for lack of support for the work of the Sub-Commission or the Advisory Committee, whose recommendation had led to the decision.

On 27 March 2009, Malaysia abstained from voting on a resolution on torture and the role and responsibility of medical and other health personnel. In an additional vote, Malaysia voted against including a paragraph in the resolution which took note of the report of the Special Rapporteur on torture. On 10 March 2009, the Special Rapporteur on torture had presented his report in which he considered whether the death penalty amounted to cruel, inhuman or degrading treatment or punishment. Several States had accused the Special Rapporteur of going beyond his mandate and noted that there was no international consensus on the status of the death penalty as a breach of human rights.

On 27 March 2009, Malaysia abstained from voting on a resolution on discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights. The resolution was introduced by the EU. The Czech Republic, on behalf of the EU, explained that the resolution was in response to the report of the Special Rapporteur on freedom of expression and that this was an important, sensitive issue. Malaysia explained that the resolution did not highlight the issue of hate speech.

During the Tenth Session, two draft resolutions on the human rights situation in DRC were tabled, one by the EU and the other by the African Group. The resolution drafted by the EU expressed serious concerns regarding the human rights situation there, while the draft tabled by the African Group was less critical of the issue and called on OHCHR to enhance its technical assistance activities in the country. Following the adoption of the African Group's resolution by vote, the EU proposed amendments to the resolution reflecting serious concerns. Malaysia voted in favour of the original resolution drafted by the African Group and voted against the amendments proposed by the EU.

Eleventh Special Session of the UN Human Rights Council

On 26 May 2009, Malaysia aligned itself with statements criticising the calling of a Special Session on the Human Rights Situation in Sri Lanka. Malaysia viewed the situation in Sri Lanka as an internal, domestic issue.

On 27 May 2009, Malaysia voted in favour of a resolution on assistance to Sri Lanka in the promotion and protection of human rights. Before the vote, Germany, on behalf of the EU, proposed oral amendments to the draft resolution, as it made no mention of the need to conduct investigations into alleged violations of international human rights law or the need to prosecute perpetrators. Cuba, on behalf of a number of countries, requested that no action be taken on Germany's proposed oral amendments. The request was put to a vote and Malaysia voted in favour of it.

Eleventh Session of the UN Human Rights Council

On 2 June 2009, the Special Rapporteur on the right to education presented a mission report on Malaysia. Malaysia responded to the report by detailing the developments made since the 2007 visit. Malaysia also categorically denied allegations of a lack of material support for schools belonging to ethnic communities.

On 3 June 2009, Malaysia was extremely critical of the report by the Special Rapporteur on freedom of expression. Malaysia was of the view that the Special Rapporteur had overstepped his mandate by commenting on defamation of religion and that by doing so had precipitated a degree of erosion in the objectivity and neutrality of the Special Procedures institution. Malaysia hoped that the Special Rapporteur would not test the goodwill of States on the sensitive issue in future.

On 16 June 2009, Malaysia noted the positive progress made by Sudan.

On 16 June 2009, Malaysia expressed concern for, and condemnation of, Israel's actions in the OPT. It expressed support for calls to halt the expansion of settlements in the OPT.

On 17 June 2009, Malaysia voted in favour of a resolution for the promotion of the right of peoples to peace. The resolution recognised States' obligations to improve the protection of human rights by ensuring peace. Germany, on behalf of the EU, stated that while it recognised some of the principles set out in the resolution, the issues set out in the draft were more comprehensively dealt with in other fora. Furthermore, Germany, on behalf of the EU, noted that the resolution dealt with relationships between States, not the relationship between States and their citizens.

On 17 June 2009, Malaysia voted in favour of a resolution on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.

On 18 June 2009, Egypt on behalf of the African Group, and the Czech Republic, on behalf of the EU, introduced competing draft resolutions on the mandate on Sudan. The draft proposed by the African Group did not renew the mandate of the Special Rapporteur or create a mandate for any international monitoring. It referred positively to the efforts of the government. The EU resolution replaced the mandate of the Special Rapporteur with that of an Independent Expert with some monitoring and reporting functions. The EU later accepted the African Group's draft but with proposed amendments providing for the mandate of an Independent Expert. Malaysia voted against these amendments, and after they were accepted, against the entire text as amended.

2. Pledge

2.1 Election to the Council

In 2006, Malaysia was one of 18 Asian candidates that contested the 13 seats reserved for Asia. Malaysia was elected fifth in the Asian Group, with 158 votes.

Malaysia decided not to seek re-election to the Human Rights Council when its three-year term ended in May 2009.

2.2 Pledge Made

In its pre-election pledge in 2006, Malaysia stated that it would work to make the Council a "strong, fair, effective, efficient and credible vehicle for the promotion and protection of human rights worldwide". It also promised that it would actively participate in the setting of norms, encourage a spirit of cooperation based on the principles of mutual respect and dialogue, and promote coherence in the Council. Malaysia stated that it would support the Office of the High Commissioner on Human Rights, as well as other UN agencies and actors to achieve internationally agreed objectives. The country also promised to actively support international action to advance the rights of vulnerable groups, including women and children. Malaysia highlighted that in the context of the global threat of terrorism, it succeeded in achieving a balance between human rights and security requirements, drawing lessons from its own experience in combating armed insurgency.

3. Compliance

3.1 Human Rights During the Reporting Period

The Internal Security Act (ISA), which allowed for indefinite detention without trial, continued to present a serious threat to human rights in Malaysia. Under the ISA, the police could arrest and detain an individual without a warrant for up to 60 days. With or without arrest by the police, a minister could order the detention of an individual for two years, a period that could be extended indefinitely, if in the view of the minister the individual was deemed to be a threat to national security or public order. No prior procedure was required to be followed and judicial review was limited to procedural grounds. Representations could be made to an Advisory Board; however their recommendations were not binding on the minister.[287]

While the ISA was originally intended for use during extreme security situations, successive Malaysian governments have been criticised for using it to stifle opposition and extract evidence.[288] For example, in September 2008, Teresa Kok, an Opposition MP, Tan Hoon Cheng, a newspaper reporter, and Raja Petra, a critical blogger, were all arrested and detained under the ISA.[289] Tan Hoon Cheng was apparently arrested because of a report she wrote on allegedly racist remarks made by a United Malays National Organisation (UMNO) Division Chief. Teresa Kok was reportedly arrested after an article linked her to a protest over the call to prayer at a mosque. Tan was released after 18 hours and Kok after seven days. Raja Petra was detained after a complaint was made over posts he made on his blog. The Department of Islamic Development and several Muslim groups saw the posts as seditious and as belittling Islam.[290] On 22 September 2008, the Home Minister signed an order directing the detention of Raja Petra for two years under the Act.[291] After eight weeks in detention, a Malaysian court took the

unusual step of ordering Raja Petra's release on the basis that there were insufficient grounds to detain him.[292] This was the first time the court had challenged an order under the ISA since 1987.[293]

The newly elected Prime Minister, Najib Razak, used his first speech in April 2009 to announce that a review of the ISA would be conducted and that thirteen persons detained under the Act would be released.[294] Following the release of the initial thirteen detainees, a further thirteen were released in May 2009, and five more were released in September 2009, so that only nine ISA detainees remained in custody.[295] Despite these positive developments, the Prime Minister and Home Minister made it clear that while amendments to the ISA might be acceptable, its total repeal was not. In January 2010, the continuing use of the Act was demonstrated when nine foreigners and one Malaysian were detained under the Act following the holding of a religious meeting.[296] On 25 March 2010, the Malaysian Court of Appeal overturned a verdict that would have seen a former detainee under the Internal Security Act receive RM 2.5 million in compensation from the government for wrongful imprisonment and alleged torture while in custody. Abdul Malek Hussain, a supporter of the Opposition Leader, Anwar Ibrahim, was arrested at anti-government protests in 1998 and held for two months without charge. Instead of awarding Malek compensation, which was initially awarded to him by Malaysia's High Court in 2007, the Appeals Court ruled that Malek's detention was lawful and that torture could not be proved. Malek was therefore ordered to pay RM 50,000 to the government to compensate it for legal fees.[297] Despite repeated promises that it would amend the ISA, the reporting period ended without the government carrying out any reform.

In addition to the ISA, the government demonstrated a willingness to use other forms of legislation to curb political opposition and freedom of speech and assembly.

The Sedition Act punished any act provoking hatred, contempt or disaffection with a state ruler with up to three years imprisonment. Raja Petra, the same blogger who was detained under the ISA, also faced charges of sedition at the end of the reporting period, after writing about Prime Minister Najib's alleged involvement in the murder of a Mongolian woman.[298] In March 2009, an Opposition Leader, Karpal Singh, was charged with sedition after questioning the actions of the Sultan of Perak during a controversial transfer of power in Perak, in which the national ruling party took over the state government. Singh reportedly accused the government of wielding the Sedition Act "as a political weapon against its political opponents".[299] On 5 May 2009, a human rights activist, Wong Chin Haut, was arrested for sedition after his organisation called on people to wear black to protest against the ruling party's takeover of the Perak state government. Fourteen people were later arrested for gathering outside his place of detention. Within 24 hours of Wong's arrest, a politician for the opposition coalition, Mohammad Sabu, was also arrested, reportedly in connection with his plan to organise a mass prayer session on 7 May 2009, the day that the new chief minister would formally take up his position.[300]

The Printing Press and Publications Act, 1984 lets ministers ban a publication if they deem it to contain anything prejudicial to public order, morality, security, public interest or national interest. Additionally, publications could be banned if they were seen as contrary to any law or were likely to alarm public opinion. In February 2010, a Muslim women's group successfully challenged a ministerial order made by the Home Minister that banned a book entitled Muslim Women and the Challenges of Islamic Extremism. It was held that the minister's discretion was not final, that it was possible to review whether the preconditions for a ban were met, and that in this case they had not been.[301]

Media freedom came under attack during the reporting period. In August 2009, reports that the government was tendering for the creation of a filter system to restrict access to "undesirable websites" caused concern.[302] Prime Minister Najib responded by giving an assurance that the government would not filter Internet access. On the same day, the Information Minister stated that the censorship plans had been abandoned, but vowed to continue to monitor internet content and use existing legislation to crack down on "negative practices".[303] The news portal Malaysiakini has complained of harassment by the Malaysian Communications and Multimedia Commission (MCMC). After it posted videos covering a controversial protest over a Hindu temple, the MCMC requested that they be removed, visited the offices of Malaysiakini three times and subjected twelve members of the staff to lengthy interviews.[304] In early 2009, one week before Najib Razak became Prime Minister and two weeks before by-elections, two opposition newspapers were banned for three months. No reasons were provided, but critics saw the bans as attempts to stifle criticism of the ruling party.[305] The lifting of the ban was announced in the Prime Minister's opening speech in April 2009.[306]

Unofficial intimidation continued to impinge on freedom of speech and stifle opposition to the government. In February 2009, pictures of Opposition MP and human rights activist Elizabeth Wong sleeping naked were circulated in what she described as an example of the government's "gutter politics".[307] In early 2010, the Leader of the Opposition, Anwar Ibrahim, was put on trial for sodomy in a move that was seen by many as politically motivated.[308] Mr Ibrahim's lawyers claimed that they had been denied access to medical evidence, DNA evidence and CCTV footage. They further claimed that the judge was biased and that he had prejudiced the trial by allowing inappropriate media coverage.[309] Mr Ibrahim had previously been convicted of sodomy in 2000 and sentenced to nine years. He was later acquitted and released in 2004.[310] The 2010 sodomy case was ongoing at the conclusion of the reporting period.[311] On 16 July 2009, a political aide named Teoh Beng Hock was found dead the morning after he was interviewed for ten hours by the Malaysia Anti-Corruption Commission. It appeared as if he had fallen from a building.[312] Allegations of foul play followed, and in October 2009, a pathologist found that marks on Teoh Beng Hock's body suggested that he had been tortured and strangled.[313]

The complicity of the police in some of these cases suggests that police power was being abused during the reporting period. Abuse of police powers was alleged in relation to the arrest of a member of the human rights organisation, SUARAM. Cheng Lee Whey was arrested in October 2008 and accused of disseminating false information about an alleged police abuse of power during the breaking up of a squatter camp.[314] In October 2009, she was charged with making a false report to the police.[315] In its 2008 report, SUHAKAM, the Malaysian Human Rights Commission, recorded 44 complaints against the police, including abuse of remand procedures, by moving suspects from one police district to another to prolong detention; brutality during interrogation, and; failure to inform family members of arrest.[316] There were also frequent media reports regarding extrajudicial killings by the police.[317] SUARAM estimated that in 2008, 44 people were shot dead by the police with possibly many more deaths going unreported. It alleged that some of these shootings occurred without attempts to apprehend the suspects.[318] In April 2010, a 15-year-old boy was shot dead by the police, when he attempted to flee, because he allegedly did not have a driver's license. After public outcry, the police officer responsible was charged with manslaughter; the first ever occasion in which a Malaysian police officer was charged for killing a suspect.[319] The government established a special panel to supervise the investigation of the shooting.[320] In its 2009 report, SUARAM stated that between 1 January and 5 December 2009, at least seven deaths occurred in police custody.[321] Numerous deaths in police custody were reported in the media.[322] A high-profile example was the

case of A. Kugan, who was arrested on 14 January 2009 and died less than a week later during interrogation. An initial post-mortem concluded that he died of fluid in the lungs but provided no explanation as to how this had occurred.[323] A second independent post-mortem found that he died as a result of severe beating. It was reported that he had 42 marks from burns and contusions from his feet to his head, including burn marks believed to have been caused by a hot iron. While the police initially alleged there was no foul play, the case was reclassified as a murder at the request of the Attorney General.[324] In October 2009, a constable was charged with causing grievous hurt to Kugan.[325]

Attempts to reform the police service to improve its human rights record suffered setbacks. Many recommendations made by the 2004 Royal Commission to Enhance the Operation and Management of the Royal Malaysian Police and SUHAKAM were not implemented. Perhaps most significantly, the recommendation that an Independent Police Complaints and Misconduct Commission (IPCMC) be set up was not carried out.[326] The Enforcement Agency Integrity Commission was set up in July 2009 and was given a much broader mandate that was not limited to the police force.[327] It was widely criticised as being inadequate and was described as a "watered-down" version of the IPCMC.[328]

Concern was raised late during the reporting period about the effectiveness of SUHAKAM, Malaysia's human rights commission. On 27 April 2010, a former Vice-Chairman of SUHAKAM revealed in an interview that he believed that SUHAKAM was designed by the government to be a "toothless tiger" that could only play an advisory role. He was of the opinion that a National Human Rights Action Plan, which in his mind was a necessity for SUHAKAM to become effective, would not be implemented in Malaysia under the current government.[329]

During the reporting period Malaysia's population was 53 per cent Malay, 26 per cent Chinese, 12 per cent indigenous and 8 per cent Indian. The New Economic Policy, which in reality is over 40 years old, continued to give preferential treatment to ethnic Malays in relation to housing, jobs, education and loans.[330] In response to increasing opposition to this policy, on 16 September 2008, Prime Minister Najib Razak announced a policy entitled "1Malaysia", which was intended to promote ethnic harmony among Malaysia's communities. Nonetheless, tensions between the communities persisted. In February 2010, an aide of the Prime Minister, Nasir Safar, created a controversy after he referred to Indian and Chinese Malaysians as immigrants.[331] Racial tension is interlinked with religious tension between Muslim Malays and non-Muslim minorities. Under Malaysian law, Malays are required to be Muslim, severely impinging on their freedom of religion. While it is permitted to attempt to convert people to Islam, it is illegal to attempt to convert Muslims to other religions.[332] Islam is given primacy under the Malaysian Constitution and a two-tier court system exists in relation to family matters, comprising both Syariah (Sharia) and secular courts.[333] Syariah law is applied to Muslims only. Controversy has surrounded its jurisdiction in relation to the conversion of children to Islam.[334] Cases tended to arise where one parent chose to convert a child to Islam without the consent of the other parent. Non-Muslim parents alleged discrimination by Islamic Syariah courts in conversion cases, while secular courts claimed they had no jurisdiction to hear such cases. In April 2009, the government determined that conversion required the consent of both parents.[335]

The Malaysian government pursued a policy of prohibiting the use of the word "Allah" except by Muslims in reference to the Islamic God. It did so despite the widespread use of the word Allah to refer to gods of other religions throughout South East Asia. In March 2009, 10,000 Bibles that contained the word Allah were seized,[336]

and a court case which challenged the seizure of CDs containing the word Allah was ongoing.[337] On 31 December 2009, a court upheld the right of a Catholic newspaper to use the word Allah which it had been prohibited from doing since 2007.[338] The government vowed to appeal against the decision and the appeal was still pending as of 15 March 2010.[339] The ruling was followed by a number of arson attacks on churches, and counterattacks which involved leaving pigs' heads in mosques.[340] In August 2009, in an unrelated incident, a protest was held by Muslims to denounce the relocation of a Hindu temple. The protest included parading a severed cow's head, an action that is considered deeply insulting to Hindus.[341]

Poor treatment of refugees, asylum seekers and both legal and illegal immigrants persisted in Malaysia. The mistreatment of domestic workers received particular attention in 2009. Malaysia had an estimated 300,000 maids, 90 per cent of whom came from Indonesia.[342] According to the Indonesian Embassy and migrant worker advocates, around 1,000 Indonesian maids fled their employers every year. Maids were reportedly subjected to physical and sexual abuse, withholding of wages and retention of passports by employers.[343] Concern about the level of abuse was emphasised by several high-profile cases. An Indonesian maid, Siti Hajar, escaped from her employer in June 2009, alleging that she had been repeatedly beaten with a cane, had scalding water thrown on her, and had been fed only rice twice a day and, on occasion, non-halal food.[344] Her employer was later charged with hurting her with a hammer, a pair of scissors and hot water.[345] The case followed the conviction in November 2008 of the former employer of another Indonesian maid, Nirmalat Bonat. Following allegations of repeated abuse in 2004, the employer was sentenced to 18 years imprisonment for causing her grievous hurt with an iron and hot water.[346] Protests from the Indonesian government prompted the Malaysian government to make a number of legal changes to ensure better protection for domestic maids. These included a requirement that all maids and employers sign a contract guaranteeing a minimum, banked salary and at least one day off a week. Maids and employers were also mandated to attend a course to inform each of their rights and responsibilities.[347] Reports in the press revealed reluctance by some employers who expressed concerns that maids would get involved in "unhealthy activities" if they were allowed days off.[348]

A hostile attitude towards illegal immigrants was manifested in frequent raids. In 2009, 7,099 operations were carried out against illegal immigrants, resulting in the detention of 47,310 people.[349] These raids were often carried out by members of Relawan Ikatan Rakyat (Rela), a paramilitary volunteer corps, whose primary purpose is to stem illegal immigration and who have the right to arrest suspected illegal immigrants without a warrant. The organisation has been accused by civil society of failing to distinguish between illegal immigrants, legal immigrants, asylum seekers and stateless people. For example, a raid in August 2008 rounded up 11,600 individuals, only 500 of whom did not to have a regular immigration status.[350] People picked up in raids were taken to Rela-run detention camps, which were allegedly overcrowded, unhygienic and abusive. In August 2009, it was reported that five out of thirteen detention camps were overcrowded.[351] Outbreaks of leptospirosis, a disease attributed to drinking water contaminated by animal urine, occurred at Juru Detention Camp in May 2009, resulting in two deaths and 37 cases of hospitalisation.[352] There was another outbreak at an undisclosed detention centre in September 2009, resulting in the death of six detainees from Myanmar. In August 2009, a detainee at KLIA detention centre reportedly died from an unknown illness and six others were hospitalised with similar symptoms.[353] The abuse of detainees by camp officials was also alleged. In July 2009, a riot broke out at one of the detention centres. Immigration officials blamed the riot on frustration over deportation delays, but detainees cited fear of abuse as their motive.[354] In April 2009, it was reported by SUARAM that a Bangladeshi man died at Lenggen detention

camp after he was tortured by police and a Liberian was found dead at the same camp with an undisclosed cause of death.[355] In March 2010 an international human rights organisation criticised the Malaysian government's immigration policy, suggesting that little had been done by the government to reduce human rights violations against migrants.[356]

Child marriage continued to be acceptable in Malaysia. Islamic law greatly influenced the debate, under which girls are able to marry once they reach puberty. The issue became particularly controversial in the wake of two separate incidents in which a 10-year-old girl and an 11-year-old girl married 40-year-old men.[357] In response, a Syariah court confirmed that while Malaysian Islamic Family Law provided that the minimum age of marriage was 16 for girls and 18 for boys, permission for marriage at a younger age could be granted by a Syariah court.[358]

Malaysia continues to apply the death penalty for several offences. It is a mandatory sentence for murder, drug trafficking and unauthorised possession of a firearm.[359] According to the campaign group, Malaysians Against the Death Penalty, in March 2009, there were 300 people on death row, most of whom were men under the age of 25 convicted of cannabis-dealing offences.[360] Malaysia also continued to use corporal punishment. Caning was listed as a supplementary punishment for at least 40 crimes.[361] The practice received international attention in February 2010, after three women were caned for having extra-marital sex.[362] In another case, a woman was sentenced to caning for drinking beer. On 1 April 2010, it was reported that the sentence of the woman charged with drinking beer was commuted to three weeks of community service, after a major outcry by human rights groups.[363]

3.2 Compliance with the Pledge

In its pre-election pledge to the Council, Malaysia stated that it had succeeded in achieving a balance between human rights and security requirements and that it drew lessons from its own historical experience in combating armed insurgency. However, the draconian legislation that was introduced in the past to fight insurgency allegedly continued to be used to stifle dissent. In addition to sedition and press laws, the highly controversial Internal Security Act remained in effect at the end of the reporting period.

Journalists in Malaysia were reportedly harassed and opposition members were intimidated. Much needed police reforms did not occur, while police abuse, custodial deaths and extrajudicial killings were frequently reported. Additionally, the death penalty and corporal punishment continued to be practised. Malaysia's National Human Rights Commission remained weak, while discrimination based on religion and ethnicity continued to be a major concern.

Despite Malaysia's pledge to actively support international action to advance the rights of vulnerable groups including children, refugees, asylum seekers and legal and illegal migrants still suffered and child marriages continued to take place.

Malaysia pledged to work towards making the Council a strong, fair, effective, efficient and credible vehicle for the promotion and protection of human rights worldwide. It also promised to support the Office of the High Commissioner of Human Rights, as well as other UN agencies and actors to achieve internationally agreed objectives. However, at the Council sessions, Malaysia discouraged the efforts of the Special Rapporteur on torture to consider whether the death penalty constituted a form of cruel, inhuman or degrading treatment or

punishment. It also reacted strongly against an attempt by the Special Rapporteur on freedom of expression to comment on the defamation of religions.

When voting on resolutions regarding individual country situations, Malaysia discouraged international scrutiny of Myanmar and Sri Lanka, and preferred to look at Cambodia in positive terms. On DRC and Sudan, Malaysia supported weaker resolutions. Malaysia abstained on votes on DPRK and voted in favour of resolutions that condemned Israel for human rights violations.

On controversial thematic resolutions, Malaysia followed the voting patterns of affiliated voting blocs such as the Asian Group and OIC. Malaysia voted in favour of resolutions on the right of peoples to peace, the promotion of a democratic and equitable international order, the impact of the global economic crisis on the enjoyment of human rights, defamation of religions, the elaboration of complementary standards to ICERD, and the effect of foreign debt on the enjoyment of human rights, and abstained on a resolution on discrimination based on religion or belief.

---

287 *The Star*, "ISA needs critical scrutiny" (9 September 2009) at http://thestar.com.my/columnists/story.asp?file=/2009/9/9/columnists/reflectingonthelaw/4673865&sec=Reflecting%20On%20The%20Law.

288 *The Star*, "Cops should respect individuals right to Counsel: Suhakam" (16 June 2009) at http://thestar.com.my/news/story.asp?file=/2009/6/16/nation/20090616175152&sec=nation (last accessed on 9 November 2010).

289 BBC News, "Malaysia blogger's joy at release" (7 November 2008) at http://news.bbc.co.uk/2/hi/asia-pacific/7714696.stm (last accessed on 10 November 2010).

290 *The Star*, "Why Raja Petra, Tan and Kok were detained" (13 September 2008) at http://thestar.com.my/news/story.asp?file=/2008/9/13/nation/2022372&sec=nation (last accessed on 10 November 2010).

291 *The Star*, "Raja Petra to be detained 2 Years under ISA" (23 September 2008) at http://thestar.com.my/news/story.asp?file=/2008/9/23/nation/20080923111517&sec=nation (last accessed on 10 November 2010).

292 BBC News, "Malaysia blogger's joy at release" (7 November 2008) at http://news.bbc.co.uk/2/hi/asia-pacific/7714696.stm (last accessed on 10 November 2010).

293 Reporters Without Borders, "Leading blogger Raja Petra Kamaruddin finally released" (7 November 2008) at http://www.rsf.org/Leading-blogger-Raja-Petra.html (last accessed on 10 November 2010).

294 *The Star*, "PM Najib's maiden speech: One Malaysia. People first" (3 April 2009) at http://thestar.com.my/news/story.asp?file=/2009/4/3/nation/20090403201619&sec=nation (last accessed on 10 November 2010).

295 *The Star*, "Five ISA detainees released, only 9 remain" (15 September 2009) at http://thestar.com.my/news/story.asp?file=/2009/9/15/nation/20090915170636&sec=nation (last accessed on 10 November 2010).

296 BBC News "Malaysia to extradite foreign terror suspects" (18 February 2010) at http://news.bbc.co.uk/2/hi/asia-pacific/8521418.stm (last accessed on 10 November 2010).

297 Mysinchew.com, "Ex-ISA detainee loses RM 2.5m award, ordered to pay litigation costs" (2 March 2010) at http://www.mysinchew.com/node/36857 (last accessed on 12 August 2010).

298 BBC News, "Malaysia blogger's joy at release" (7 November 2008) at http://news.bbc.co.uk/2/hi/asia-pacific/7714696.stm (last accessed on 10 November 2010).

299 BBC News, "Malaysian MP on sedition charges" (17 March 2009) at http://news.bbc.co.uk/2/hi/asia-pacific/7947461.stm (last accessed on 10 November 2010).

300 Amnesty International Public Statement, "Malaysia: Government crackdown on freedom of expression" (6 May 2009) at http://www.amnesty.org/en/library/asset/ASA28/003/2009/en/c55f626a-f649-4ef7-bfc5-3d4cb20b1711/asa280032009en.pdf (last accessed on 10 November 2010).

301 *The Star*, "Much to cheer in book ban decision" (10 February 2010) at http://thestar.com.my/columnists/story.asp?file=/2010/2/10/columnists/reflectingonthelaw/5644886&sec=Reflecting%20On%20The%20Law (last accessed on 10 November 2010).

302 *The Star*, "Internet users upset over Govt's filter attempt" (7 August 2009) at http://athousandlittlepiecesofglass.blogspot.com/2009/08/internet-users-upset-over-govts-filter.html (last accessed on 1 December 2010).

303 ZD Net Asia, "M'sia Govt. cancels Net censorship plan" (13 August 2009) at http://www.zdnetasia.com/m-sia-govt-cancels-net-censorship-plan-62056847.htm (last accessed on 1 December 2010).

304 *The Star*, "Don't harass website, MCMC told" (12 September 2009) at http://thestar.com.my/news/story.asp?file=/2009/9/12/nation/4699333&sec=nation (last accessed on 10 November 2010).
305 BBC News, "Malaysian opposition media banned" (23 March 2009) at http://news.bbc.co.uk/2/hi/asia-pacific/7959518.stm (last accessed on 10 November 2010).
306 The Star, "PM Najib's maiden speech: One Malaysia. People first" (3 April 2009) at http://thestar.com.my/news/story.asp?file=/2009/4/3/nation/20090403201619&sec=nation (last accessed on 10 November 2010).
307 BBC News, "Politician in Malaysia nudity row" (17 Feb 2009) at http://news.bbc.co.uk/2/hi/asia-pacific/7893960.stm (last accessed on 10 November 2010).
308 BBC News, "Malaysia's sex trial of Anwar raises political stakes" (18 February 2010) at http://news.bbc.co.uk/2/hi/asia-pacific/8512398.stm (last accessed on 10 November 2010).
309 BBC News, "Malaysia court rejects bid to halt Anwar sodomy trial" (17 February 2010) at http://news.bbc.co.uk/2/hi/asia-pacific/8519581.stm (last accessed on 10 November 2010).
310 BBC News, "Malaysia court rejects bid to halt Anwar sodomy trial" (17 February 2010) at http://news.bbc.co.uk/2/hi/asia-pacific/8519581.stm (last accessed on 10 November 2010).
311 PhilStar, "Lawyers: Malaysia's Anwar has alibi in sodomy case" (31 may 2010) at http://www.philstar.com/Article.aspx?articleid=580109 (last accessed on 12 August 2010).
312 *The Malay Mail*. "Teoh Ben Hock wasn't murdered says pathologist" (19 February 2010) at http://www.mmail.com.my/content/28049-teoh-beng-hock-wasnt-murdered-says-pathologist.
313 BBC News, "Malaysia opposition aide Theo Beng Hock's body exhumed" (21 November 2009) at http://news.bbc.co.uk/2/hi/asia-pacific/8371865.stm (last accessed on 10 November 2010).
314 *The Star*. "Activist held under ISA over demolition of squatter colony" (18 October 2008) at http://thestar.com.my/news/story.asp?file=/2008/10/18/nation/2316138&sec=nation (last accessed on 10 November 2010).
315 *The Star*, "Suaram member charged with making false report" (14 October 2009) at http://thestar.com.my/news/story.asp?file=/2009/10/14/nation/20091014154622&sec=nation.
316 *The Star*, "Cops should respect individuals right to Counsel: Suhakam" (16 June 2009) at http://thestar.com.my/news/story.asp?file=/2009/6/16/nation/20090616175152&sec=nation.
317 *The Star*, "4 robbery suspects killed in shootout with cops" (5 October 2009) at http://thestar.com.my/news/story.asp?file=/2009/10/5/nation/20091005123237&sec=nation; *The Star*, "Two robbers shot dead in Klang (Updated)" (21 August 2009) at http://thestar.com.my/news/story.asp?file=/2009/8/21/nation/20090821095544&sec=nation (last accessed on 10 November 2010).
318 Suaram, "Police Shooting - Suaram: Weak Procedures and Lack of Accountability in Police Shootings: Government Must Act Immediately to end Impunity" (24 November 2009) at http://madpet06.blogspot.com/2009/11/police-shooting-suaram-weak-procedures.html
319 *Bloomberg Business Week*, "Malaysian policeman charged with killing teenage" (10 May 2010) at http://www.businessweek.com/ap/financialnews/D9FJRGBG1.htm (last accessed on 12 August 2010).
320 *Jakarta Post*, "Panel probes Malaysia fatal police shooting of boy" (5 May 2010) at http://www.thejakartapost.com/news/2010/05/05/panel-probes-malaysia-fatal-police-shooting-boy.html (last accessed on 12 August 2010).
321 Suaram, "Malaysia Human Rights Report 2009: Civil Political Rights" (2010) at http://www.suaram.net/sites/default/files/Overview%202009.PDF.
322 Suaram, "Malaysia Human Rights Report 2009: Civil Political Rights" (2010) at http://www.suaram.net/sites/default/files/Overview%202009.PDF; *The Star* "Family wants inquest to be held" (29 July 2009) at http://thestar.com.my/news/story.asp?file=/2009/7/29/nation/4409962&sec=nation; SUHAKAM, "SUHAKAM Investigation into the Death in Police Custody of P. Babu Bahau Police Station, IPD Jempol, Negeri Sembilan" (5 February 2010) at http://www.suhakam.org.my/c/document_library/get_file?p_l_id=35723&folderId=163007&name=DLFE-7310.pdf (last accessed on 10 November 2010).
323 *The Star*, "Second post-mortem on Kugan begins (updated)" (25 January 2009) at http://thestar.com.my/news/story.asp?file=/2009/1/25/nation/20090125132139&sec=nation.
324 *The Star*, "2nd post-mortem: Kugan beaten to death (updated)" (3 March 2009) at http://thestar.com.my/news/story.asp?file=/2009/3/3/nation/20090303151615&sec=nation (last accessed on 10 November 2010).
325 *The Star*, "Kugan's mum fails to hand petition to King" (11 March 2010) at http://thestar.com.my/news/story.asp?file=/2010/3/11/nation/5841040&sec=nation (last accessed on 10 November 2010).
326 MySinchew.com, "Wake up call for the police" (27 June 2009) at http://www.mysinchew.com/node/26482 (last accessed on 17 August 2010).
327 The Nut Graph, "Why the EAIC is unconstitutional" (9 July 2009) at http://www.thenutgraph.com/why-the-eaic-is-unconstitutional (last accessed on 22 December 2010).
328 N*ew Mandala*, "Police, Kings in Malaysia" (11 March 2009) at http://asiapacific.anu.edu.au/newmandala/2010/12/20/polis-raja-di-malaysia-polis-kings-in-malaysia/; *The Edge*, "Will the IPCMC haunt the EAIC?" (9 July 2009) at http://www.theedgemalaysia.com/

features/1741-will-the-ipcmc-haunt-the-eaic.html (last accessed on 22 December 2010).

329 Free Malaysia Today, "Suhakam's plan: No action if this Govt stays" (27 April 2010) at http://www.freemalaysiatoday.com/fmt-english/news/general/4957-no-action-if-current-govt-stays-in-power (last accessed on 12 August 2010).

330 BBC News "Malaysia questions ethnic preference" (23 July 2009) at http://news.bbc.co.uk/2/hi/asia-pacific/8165746.stm (last accessed on 10 November 2010).

331 *The Star*, "PM's aide to resign over alleged racial remarks at 1Malaysia seminar" (3 February 2010) at http://thestar.com.my/news/story.asp?file=/2010/2/3/nation/5599738&sec=nation (last accessed on 10 November 2010).

332 BBC News, "Religious row flares in Malaysia" (15 July 2009) at http://news.bbc.co.uk/2/hi/asia-pacific/8151352.stm (last accessed on 10 November 2010).

333 BBC News, "Malaysia magazine sorry for communion-spitting offence" (6 March 2010) at http://news.bbc.co.uk/2/hi/asia-pacific/8553493.stm (last accessed on 10 November 2010).

334 BBC News "Malaysia tackles child conversion" (23 April 2009) at http://news.bbc.co.uk/2/hi/asia-pacific/8014025.stm (last accessed on 10 November 2010).

335 BBC News "Malaysia tackles child conversion" (23 April 2009) at http://news.bbc.co.uk/2/hi/asia-pacific/8014025.stm (last accessed on 10 November 2010).

336 BBC News "Malaysia Withhold Allah Bibles" (4 November 2009) at http://news.bbc.co.uk/2/hi/asia-pacific/8343626.stm (last accessed on 10 November 2010).

337 *The Star*, "June 3 date over seizure of 'Allah' CDs" (16 March 2010) at http://thestar.com.my/news/story.asp?file=/2010/3/16/courts/5868550&sec=courts (last accessed on 10 November 2010).

338 BBC News "Malaysian court rules non-Muslims may call God Allah" (31 December 2009) at http://news.bbc.co.uk/2/hi/asia-pacific/8435975.stm (last accessed on 10 November 2010).

339 BBC News, "Malaysia magazine sorry for communion-spitting offence" (6 March 2010) at http://news.bbc.co.uk/2/hi/asia-pacific/8553493.stm; MySinchew.com, "Allah case postponed again" (15 March 2010) at http://www.mysinchew.com/node/36402 (last accessed on 17 August 2010).

340 BBC News, "Malaysia charges three over Allah row church fires" (29 January 2010) at http://news.bbc.co.uk/2/hi/asia-pacific/8486517.stm (last accessed on 10 November 2010).

341 *The Star*, "Friday's protest to be investigated under sedition act Selangor CPO says" (28 August 2009) at http://thestar.com.my/news/story.asp?file=/2009/8/29/nation/20090829145734&sec=nation (last accessed on 10 November 2010).

342 *The Malay Mail*, "Maid Abuse in Malaysia: Tortured Souls in Our Homes" (12 June 2009) at http://www.mmail.com.my/content/maid-abuse-malaysia-tortured-souls-our-homes (last accessed on 10 November 2010).

343 *The Malay Mail*, "Maid Abuse in Malaysia: Tortured Souls in Our Homes" (12 June 2009) at http://www.mmail.com.my/content/maid-abuse-malaysia-tortured-souls-our-homes (last accessed on 10 November 2010); *The Star*, "Last on the Maids' list" (21 June 2009) at http://thestar.com.my/news/story.asp?file=/2009/6/21/focus/4163369&sec=focus.

344 *The Star*, "Maid: I want to forget the hell" (10June 2009) at http://thestar.com.my/news/story.asp?file=/2009/6/10/nation/4087508&sec=nation (last accessed on 10 November 2010).

345 *The Star*, "Siti Hajar's employer charged at Sessions Court" (18 June 2009) at http://thestar.com.my/news/story.asp?file=/2009/6/18/nation/20090618114110&sec=nation (last accessed on 10 November 2010).

346 *The Star*, "Nirmala Bonat case: Housewife found guilty; 18 years jail" (27 November 2008) at http://thestar.com.my/news/story.asp?file=/2008/11/27/nation/20081127110151&sec=nation (last accessed on 10 November 2010).

347 *The Star*, "Compulsory day off for maids" (17 June 2009) at http://thestar.com.my/news/story.asp?file=/2009/6/17/nation/4132651&sec=nation; *The Star*, "Compulsory for employers to bank in maids' salaries" (23 April 2009) at http://thestar.com.my/news/story.asp?file=/2009/4/23/nation/20090423172340&sec=nation; New Straits Times "Employers and new maids to attend half-day course" (22 February 2010) at http://whiteglove.com.my/index.php?option=com_content&task=view&id=221&Itemid=47 (last accessed on 10 November 2010).

348 The Star, "Last on the Maids' list" (21 June 2009) at http://thestar.com.my/news/story.asp?file=/2009/6/21/focus/4163369&sec=focus; *The Star*, "Get feedback first, say bosses and association" (17 June 2009) at http://thestar.com.my/news/story.asp?file=/2009/6/17/nation/4133791&sec=nation; *The Star*, "Problems with maids' day off ruling" (18 June 2009) at http://thestar.com.my/news/story.asp?file=/2009/6/18/focus/4138521&sec=focus (last accessed on 10 November 2010).

349 *The Star*, "Mechanism to monitor illegals, put fear into them" (16 February 2010) at http://thestar.com.my/news/story.asp?file=/2010/2/16/nation/20100216143416&sec=nation (last accessed on 10 November 2010).

350 Amnesty International, "Malaysia 2009 Report" (2010) at http://www.amnesty.org/en/region/malaysia/report-2009 (last accessed on 10 November 2010)

351 *The Star*, "Myanmar migrants stuck in Malaysia detention camps" (16 August 2009) at http://thestar.com.my/news/story.asp?file=/2009/8/16/nation/20090816141200&sec=nation (last accessed on 10 November 2010).

352 *The Star*, "13 illegals discharged" (18 May 2009) at http://thestar.com.my/news/story.asp?file=/2009/5/18/nation/3929082&sec=nation (last accessed on 10 November 2010);

The Star, "Leptospirosis kills 2nd Myanmar illegal immigrant" (20 May 2009) at http://thestar.com.my/news/story.asp?file=/2009/5/19/nation/20090519114600&sec=nation (last accessed on 12 August 2010).

353 Suaram, "Immigration detention centres, how many more must die?" (16 October 2009) at http://www.forum-asia.org/index.php?option=com_content&task=view&id=2350&Itemid=129 (last accessed on 1 December 2010).

354 *The Star*, "Myanmar migrants stuck in Malaysia detention camps" (16 August 2009) at http://thestar.com.my/news/story.asp?file=/2009/8/16/nation/20090816141200&sec=nation (last accessed on 10 November 2010).

355 Suaram, "Immigration detention centres, how many more must die?" (16 October 2009) at http://www.forum-asia.org/index.php?option=com_content&task=view&id=2350&Itemid=129 (last accessed on 1 December 2010).

356 AlJazeera.net, "Malaysia accused over migrant abuse" (24 March 2010) at http://english.aljazeera.net/news/asia-pacific/2010/03/2010324574214493.html (last accessed on 12 August 2010).

357 *New Straits Times*, "Child Marriages: Put an end to practice" (16 March 2010) at http://www.malaysianbar.org.my/legal/general_news/child_marriages_put_an_end_to_practice.html (last accessed on 10 November 2010),

358 *The Star*, "Underage marriage needs permission: Syariah Court chief judge" (11 March 2009) at http://thestar.com.my/news/story.asp?file=/2010/3/11/nation/20100311130227&sec=nation (last accessed on 10 November 2010).

359 Amnesty International Public Statement, "Malaysia: Human Rights Agenda for the new government" (2 April 2009) at http://www.amnesty.org/en/library/asset/ASA28/002/2009/en/83d5080d-d430-4f7a-95a9-c2fe03ec7309/asa280022009en.pdf (last accessed on 10 November 2010).

360 Malaysians Against the Death Penalty, "Campaigners target Malaysia to stop mandatory death penalty for drugs" (3 March 2010) at http://madpet06.blogspot.com/2010/03/campaigners-target-malaysia-to-stop.html (last accessed on 10 November 2010).

361 Amnesty International Public Statement, "Malaysia: End caning as punishment against immigrants" (2 July 2009) at http://www.amnesty.org/en/library/asset/ASA28/004/2009/en/cb8fcc4f-1721-4953-81f9-5999cc601363/asa280042009eng.pdf (last accessed on 10 November 2010).

362 BBC News, "Malaysia canes three women over extra-marital sex" (17 February 2010) at http://news.bbc.co.uk/2/hi/asia-pacific/8520487.stm (last accessed on 10 November 2010).

363 *Bloomberg Business Week*, "Beer-drinking Malaysian woman escapes caning sentence" (1 April 2010) at http://www.businessweek.com/news/2010-04-01/beer-drinking-malaysian-woman-escapes-caning-sentence-update1-.html (last accessed on 12 August 2010).

Mauritius

Easier Said
than Done

1. Background

1.1. Context

The Republic of Mauritius gained its independence in 1968, ending a colonial history comprising Dutch, French and British administrations. The country has a multi-ethnic population composed of an Indo-Mauritian majority, a substantial Creole community and small Sino and Euro-Mauritian minorities. Before its independence, the British separated the Chagos Islands from Mauritius to form the British Indian Ocean Territory. Approximately 2,000 Chagos islanders were forcibly removed from their homes and sent to Mauritius. The Republic, along with the Seychelles, has been engaged in a sovereignty dispute over the Chagos Islands ever since. Following its independence, Mauritius moved away from a plantation economy to develop its industrial, financial and tourism sectors and is now recognised as one of the few economic success stories in the African Union (AU).

1.2 UN Treaties

Mauritius is a party to the International Covenant on Civil and Political Rights (ICCPR) and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, the Convention Against Torture (CAT) and its Optional Protocol and the Convention on the Rights of the Child (CRC) and its two Optional Protocols and the Convention on the Rights of Persons with Disabilities (CPD). Mauritius also signed the Optional Protocol to the CPD.

Mauritius has not signed the Convention on the Protection of the Rights of All Migrants Workers (CMW), the Convention for the Protection of All Persons from Enforced Disappearance (CED), the Second Optional Protocol to ICCPR or the Optional Protocol to the ICESCR.

1.3 UN Reporting History

Mauritius has completed some of its reporting obligations under international treaties, but has failed to satisfy all its requirements. There are currently seven reports overdue under three main international human rights instruments.

Mauritius has fulfilled its reporting requirements under ICESCR, CRC and CEDAW. The country has completed fourteen rounds of reporting under ICERD, but still owes reports for 2001, 2003, 2005 and 2007. It has completed two rounds of reporting under CAT, but still owes its reports from 2002 and 2006. Under CCPR, Mauritius has completed four rounds of reporting but one is newly overdue from early 2010.

Mauritius has not extended an open invitation to the UN Human Rights Council's Special Procedures.

1.4 UN Voting Patterns and Performance at the Council

Eighth Session of the UN Human Rights Council

On 18 June 2008, Mauritius voted in favour of a resolution on the promotion of the right of peoples to peace. Slovenia called for a vote on behalf of the EU, on the basis that the issues contained in the resolution were best

dealt with in other fora and that the resolution failed to state that the absence of peace did not justify breaches of human rights.

On 18 June 2008, Mauritius voted in favour of a resolution on the promotion of a democratic and equitable international order. The resolution rejected a unilateral approach in favour of a multilateral one when addressing international issues. Slovenia called for a vote on behalf of the EU, on the basis that the resolution addressed issues that were beyond the mandate of the Council. For example, it focused on relations between States rather than relations between States and their citizens.

Ninth Session of the UN Human Rights Council

On 24 September 2008, Mauritius voted in favour of a resolution on human rights and international solidarity. The resolution emphasised the need for international cooperation to tackle human rights issues in a manner that distributes costs and burdens fairly. France called for a vote on behalf of the EU, on the basis that international solidarity was a moral principle not a human right defined in legal terms.

On 24 September 2008, Mauritius voted in favour of a resolution on human rights and unilateral coercive measures. The resolution requested States to stop using or implementing unilateral, coercive measures not in accordance with international law, particularly those creating obstacles to trade relations between States. It also condemned the use of unilateral coercive measures to assert political or economic pressures, especially on developing countries.

On 24 September 2008, Mauritius voted in favour of a resolution on the follow-up to Resolution S-3/1 on the Assault on Beit Hanoun. The resolution welcomed the report of the High-Level Fact-Finding Mission dispatched to assess the situation in Beit Hanoun. It called for full implementation of all the recommendations made in the report and expressed regret for the delay caused by Israel's non-cooperation.

Ninth Special Session of the UN Human Rights Council

On 12 January 2009, Mauritius voted in favour of a resolution on the grave violations of human rights in the OPT. The resolution strongly condemned the Israeli military operation in the OPT, stating that this had caused grave violations of the human rights of Palestinian civilians. It accused Israel of collective punishment of the Palestinian people and called on the international community to act.

Tenth Special Session of the UN Human Rights Council

On 23 February 2009, Mauritius voted in favour of a resolution on the impact of the global economic and financial crisis on the universal realisation and effective enjoyment of human rights. The resolution expressed deep concern at the effect of the economic and financial crisis on human rights and called for increased participation by developing countries in international decision-making.

Tenth Session of the UN Human Rights Council

On 10 March 2009, Mauritius, speaking about the food crisis, stated that economic and human rights discourses had operated on separate planes for too long. It added that WTO rules stemming from the Agreement on

Agriculture locked countries into "the existing unfair system", which Mauritius said left many developing countries without the ability to support an agriculture sector. Mauritius called for more detailed studies to clarify the impact of concrete measures, such as the Agreement on Agriculture and other international trade agreements, on the complex relationship between trade in agriculture and human rights.

On 26 March 2009, Mauritius voted in favour of a resolution expressing serious concern over the human rights situation in DPRK and extending the mandate of the Special Rapporteur on DPRK for a further year.

On 26 March 2009, Mauritius voted in favour of a resolution on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.

On 26 March 2009, Mauritius voted in favour of a resolution on human rights in the occupied Syrian Golan which expressed deep concern for the suffering of the Syrian civilian population and referred to the systematic and continuous violations of fundamental and human rights by Israel.

On 26 March 2009, Mauritius voted in favour of a resolution on Israeli settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution strongly condemned the Israeli announcement that it would build further settlements in the OPT.

On 26 March 2009, Mauritius voted in favour of a resolution on the human rights violations emanating from the Israeli military attacks and operations in the OPT.

On 26 March 2009, Mauritius voted in favour of a resolution on the follow-up to Council Resolution S-9/1 on the grave violations of human rights in the OPT, particularly due to the then recent Israeli military attacks against the Occupied Gaza Strip. The resolution regretted that Resolution S-9/1 had not been fully implemented yet and demanded that Israel cooperate with the international community.

On 26 March 2009, Mauritius abstained from voting on a resolution on combating defamation of religions.

On 26 March 2009, Mauritius voted in favour of a resolution calling for better geographical representation and gender balance in the staff of the OHCHR.

On 27 March 2009, Mauritius voted in favour of a resolution on the elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination.

On 27 March 2009, Mauritius voted in favour of a resolution on torture and the role and responsibility of medical and other health personnel. In an additional vote, Mauritius voted in favour of including a paragraph in the resolution which took note of the report of the Special Rapporteur on torture. On 10 March 2009, the Special Rapporteur on torture had presented his report in which he considered whether the death penalty amounted to cruel, inhuman or degrading treatment or punishment. Several States had accused the Special Rapporteur of going beyond his mandate and noted that there was no international consensus on the status of the death penalty as a breach of human rights.

On 27 March 2009, Mauritius voted against a decision on the publication of reports completed by the Sub-Commission on the Promotion and Protection of Human Rights. The resolution provided for all reports by the Sub-Commission that had previously been mandated by the Commission on Human Rights and submitted to the OHCHR, to be published as UN documents.

On 27 March 2009, Mauritius voted in favour of a resolution on discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights. The resolution was introduced by the EU. The Czech Republic, on behalf of the EU, explained that the resolution was in response to the report of the Special Rapporteur on Freedom of Expression and that this was an important, sensitive issue. The resolution was criticised by some other States for failing to adequately address contemporary forms of religious discrimination.

During the Tenth Session, two draft resolutions on the human rights situation in DRC were tabled, one by the EU and the other by the African Group. The resolution drafted by the EU expressed serious concerns regarding the human rights situation while the African Group's draft was less critical of the issue and called on OHCHR to enhance its technical assistance activities in the country. Following the adoption of the African Group's resolution by vote, the EU proposed amendments to the resolution reflecting serious concerns. Mauritius voted in favour of the original resolution drafted by the African Group and abstained from voting on the amendments proposed by the EU.

Eleventh Special Session of the UN Human Rights Council

On 27 March 2009, Mauritius voted in favour of a resolution on assistance to Sri Lanka in the promotion and protection of human rights. Before the vote, Germany, on behalf of the EU, proposed oral amendments to the draft resolution, as it made no mention of the need to conduct investigations into alleged violations of international human rights law or the need to prosecute perpetrators. Cuba, on behalf of a number of countries, requested that no action be taken on Germany's proposed oral amendments. The request was put to a vote and Mauritius voted against it.

Eleventh Session of the UN Human Rights Council

On 15 June 2009, Mauritius used the panel discussion on human rights and climate change to highlight the implications of climate change on Mauritius. Mauritius welcomed the OHCHR's study on human rights and climate change but felt that it didn't take important concerns fully into account.

On 15 June 2009, Mauritius expressed continuing serious concern about the human rights situation in the OPT, especially Gaza.

On 17 June 2009, Mauritius voted in favour of a resolution for the promotion of the right of peoples to peace. The resolution recognised States' obligations to improve the protection of human rights by ensuring peace. Germany, on behalf of the EU, stated that while it recognised some of the principles set out in the resolution, the issues set out in the draft were more comprehensively dealt with in other fora. Furthermore, Germany, on behalf of the EU, noted that the resolution dealt with relationships between States, not the relationship between States and their citizens.

On 17 June 2009, Mauritius voted in favour of a resolution on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.

On 18 June 2009, Egypt on behalf of the African Group, and the Czech Republic, on behalf of the EU, introduced competing draft resolutions on the mandate on Sudan. The draft proposed by the African Group did not renew the mandate of the Special Rapporteur or create a mandate for any international monitoring. It referred positively to the efforts of the government. The EU resolution replaced the mandate of the Special Rapporteur with that of an Independent Expert with some monitoring and reporting functions. The EU later accepted the African Group's draft but with proposed amendments providing for the mandate of an Independent Expert. Mauritius took a different stance to that of the African Group and voted in favour of these amendments, and after they were accepted, voted in favour of the entire text as amended.

Twelfth Session of the UN Human Rights Council

On 1 October 2009, Mauritius voted in favour of a resolution on human rights and international solidarity.

On 2 October 2009, Mauritius voted in favour of a resolution on human rights and unilateral coercive force.

On 2 October 2009, Mauritius voted in favour of a decision on the effect of foreign debt on the enjoyment of human rights.

On 2 October 2009, Mauritius voted in favour of a resolution on the right to development.

On 2 October 2009, Mauritius voted against a resolution on promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind.

Twelfth Special Session of the UN Human Rights Council

On 16 October 2009, Mauritius voted in favour of a resolution that focused on continuing violations of human rights by Israel in the OPT, and in particular, in East Jerusalem. It endorsed the recommendations set out in the reports of the Fact-Finding Mission to Gaza led by Justice Goldstone and by the High Commissioner for Human Rights, and called for their implementation.

Thirteenth Session of the UN Human Rights Council

On 24 March 2010, Mauritius voted in favour of a resolution on the composition of the OHCHR that asked for the implementation of measures to ensure a better representation of geographic diversity among the staff.

On 24 March 2010, Mauritius voted in favour of a resolution on human rights in the occupied Syrian Golan. The resolution strongly condemned the occupation of Syrian Golan by Israel.

On 24 March 2010, Mauritius voted in favour of a resolution on the right of the Palestinian people to self-determination. The resolution emphasised the value of self-determination, and supported Palestine and Israel in

their process towards peace and security. It encouraged the international community to aid the Palestinians in their right to self-determination.

On 24 March 2010, Mauritius voted in favour of a resolution on Israeli Settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution asked the Government of Israel to reverse controversial announcements about new settlements and to respect legal obligations concerning access to food and supplies, the halting of impunity, the prevention of violence, etc.

On 24 March 2010, Mauritius voted in favour of a resolution on grave human rights violations by Israel in the OPT, including East Jerusalem. The resolution strongly condemned the military attacks and operations in the OPT, which it said caused grave violations of human rights. It asked for the end of the occupation and for the establishment of an independent sovereign state through a peace process.

On 25 March 2010, Mauritius voted in favour of a resolution on the follow-up to the report of the United Nations Independent International Fact-Finding Mission on the Gaza Conflict. The resolution asked for independent and credible investigations regarding the violations of international humanitarian and international human rights law during the Gaza Conflict.

On 25 March 2010, Mauritius voted in favour of a resolution on the situation of human rights in DPRK. The resolution asked for the mandate of the Special Rapporteur on DPRK to be extended and for the government's participation in addressing human rights violations.

On 25 March 2010, Mauritius abstained from voting on a resolution on combating defamation of religions. The resolution urged the international community to promote a culture of tolerance and peace, especially concerning the wrongful association of Islam with human rights violations and terrorism.

2. Pledge

2.1 Election to the Council

Mauritius was one of thirteen African countries that contested the May 2006 elections for the Council. The number of candidates was the same as the number of seats reserved for Africa, meaning that the results of the elections were pre-determined. In the election, Mauritius came thirteenth among the African Group, with 178 votes.

On 12 May 2009, the election results were again pre-determined with four candidates and four vacant seats. Mauritius was successful and came second among the African Group, after Senegal, with 162 votes.

2.2 Pledge Made

In its pre-election pledge in 2006, Mauritius committed to uphold the primacy of democracy and good governance, to promote its citizens' human rights and to strengthen national institutions with a mandate to protect and promote human rights. Mauritius drew attention to the new sex discrimination division of its National Human

Rights Commission as evidence of its commitment to human rights at home. Mauritius also pledged to advance human rights internationally. The country promised to contribute to the enhancement of UN human rights activities and to participate actively in the work of the UN Human Rights Council. Mauritius highlighted its experience as a multi-ethnic State to stress its commitment to enhance intercultural dialogue and understanding among civilisations.

In its pre-election pledge in 2009, Mauritius informed the Council of its human rights-related progress and reiterated several of its pledges from 2006. It described its performance in the Council as non-political and non-confrontational. It pledged its determination to cooperate with various treaty bodies and to follow up closely on their concluding observations and recommendations. Mauritius stated that it was deeply committed to human rights and pledged to continue to uphold the highest standards of human rights and to strengthen its national human rights framework. Mauritius explained the framework in place in the country to combat violence and discrimination against women and to promote female empowerment, specifically referring to its Protection from Domestic Violence Act and its National Gender Policy Framework. Mauritius noted that it recently passed legislation which prohibits discrimination in the workplace, among other settings. Mauritius also stated its intention to introduce into Parliament a Police Complaints Bill, a Sexual Offences Bill, a Children's Bill and a Combating in Trafficking in Persons Bill. It added that it was finalising a National Action Plan on Human Rights. Finally, Mauritius committed to making or supporting "far-reaching" judicial sector reforms, which were to include a constitutional amendment to be made "shortly".

3. Compliance

3.1 Human Rights During the Reporting Period

Despite having a fairly positive human rights record, certain issues prevented Mauritius from living up to its commitments during the reporting period.

An announcement by the Prime Minister in February 2010 that he intended to reintroduce the death penalty for certain crimes showed a surprising lack of commitment to a cause previously supported by Mauritius. The announcement came only a few months after Mauritius expressed support for a UN moratorium on the death penalty. Mauritius removed capital punishment from its criminal code in 1995, and had not executed anyone since 1987, but the country's Constitution still allowed for capital punishment at the end of the reporting period.[364]

Gender discrimination and violence against women remained topics of concern. The poor representation of women in parliament received particular attention. Only 18 per cent of MPs were women, while female representation was 11.2 per cent in municipalities, and 5.2 per cent in local councils.[365] As of May 2010, Mauritius was one of only two countries that failed to sign the SADC Protocol on Gender and Development which set a goal of achieving 50 per cent female representation by 2015, though it did make earlier commitments to SADC to reach 30 per cent representation by 2005.[366] It was speculated that Mauritius had not reached the SADC target due to the influence of religious and cultural norms regarding the proper roles of men and women. Additionally, it was noted that many women were employed in jobs that did not allow them to participate in political life owing to time constraints or employment regulations.[367] According to the National Human Rights Commission of

Mauritius, discrimination is as bad if not worse in the private sector as it is in the public sector.[368] In 2008, the sex discrimination division of the Commission received 63 complaints, 12 of which related to sex discrimination, 22 to sexual harassment and 29 were of a general nature.[369] A UN report suggested that although legislative safeguards against sexual harassment in the workplace were in place, their efficacy was doubtful given that they failed to provide a safe environment for women to report cases.[370]

According to the Commission, the incidence of gender violence including rape and domestic violence remained high. Mauritians were particularly shocked by the brutal rape and murder of a sex worker, who was eight months pregnant, in November 2009.[371] The police released statistics which showed that between January 2008 and March 2009, they received 406 complaints of domestic violence.[372] A gender activist in Mauritius noted that government shelters for victims of gender violence were insufficient and the government did not offer civil society organisations adequate funds to set up their own shelters. Furthermore, the government neglected to rehabilitate perpetrators of gender violence, which, according to one gender and human rights activist, meant that those guilty of gender violence were more likely to re-offend.[373] A Sexual Offences Bill that would have criminalised marital rape was not passed by Parliament by the end of the reporting period. Originally placed before parliament in October 2007, public outcry over a provision legalising consensual anal sex led to it being placed before a Select Committee, where it remained.[374] On 14 May 2010, a media report indicated that the bill would probably be put on hold or abolished.[375]

A UN Committee reported that child labour was an issue of concern in Mauritius. It also alleged that a number of schoolgirls voluntarily worked with prostitution rings, while others were forced into prostitution. Schools varied widely in their quality, and a third of the children did not pass their primary school leaving examinations. A UN Committee blamed the high rate of failure partially on the fact that English was the primary language of instruction in all schools, despite Creole being the most spoken language in many parts of the country.[376]

The reporting period witnessed allegations of discrimination against ethnic minorities, particularly in relation to employment in the public sector. Reportedly, politicians were widely perceived as having a tendency to employ people from their own communities. According to the Federation of Mauritian Creoles, Creoles, while constituting 35 per cent of the Mauritian population, only held 2 per cent of public sector jobs. This led to calls for affirmative action through the use of quotas.[377] The UN Committee on Economic, Social and Cultural Rights noted in its concluding report in May 2010, that Mauritian Creoles experienced higher levels of poverty than other ethnic groups in Mauritius.[378]

The Equal Opportunities Act, 2008 was adopted in December 2008. The Act aimed to provide protection against discrimination on grounds of age, ethnic origin, colour, race, physical handicap, caste, marital status, political beliefs, belongings or sexual orientation. An Equal Opportunities Division was created to work towards eliminating discrimination and promoting equality and good relations between people. An Equal Opportunities Tribunal was also created to hear complaints, issue interim orders and determine whether complaints are justified.[379]

Despite "a long tradition of press freedom" in Mauritius, a series of incidents occurred during the reporting period in which politicians verbally abused or attempted to silence the media.[380] On 27 May 2010, journalists from La Sentinelle, a media agency, were refused entry to a press conference.[381] According to an international

media freedoms organisation, the editors of La Sentinelle were told by the Prime Minister that they would pay the price for supporting the opposition during the May 2010 elections. In the aftermath of the elections, government ministries, interstate agencies and libraries were told to cancel their subscriptions to L'Express, one of La Sentinelle's newspapers. These were not the first cases of discrimination towards La Sentinelle. In 2006, after L'Express published a series of articles criticising the government, Air Mauritius stopped carrying the newspaper on its flights, and state information services were told to stop advertising in La Sentinelle's newspapers.[382]

The Independent Commission for Corruption had 100 cases of corruption pending in the months after the end of the reporting period. The cases were filed against various public officials, including high-level bureaucrats and police officers.[383]

The Committee on Economic, Social and Cultural Rights noted in its concluding recommendations in May 2010 that Mauritius had yet to finalise the draft National Human Rights Action Plan. This was despite the fact that the Plan had been under finalisation for a number of years. Furthermore, the Committee noted that economic, social and cultural rights did not factor into the plan. The Committee also commented that the National Human Rights Commission of Mauritius had no specific mandate to deal with economic, social and cultural rights as such.[384]

3.2 Compliance with the Pledge

In its pre-election pledge, Mauritius vowed to uphold the primacy of democracy and good governance, promote its citizens' human rights and strengthen national institutions with a mandate to protect and promote human rights. Despite these commitments, attempts were made during the reporting period to resurrect the death penalty, and the media suffered politically motivated harassment. Child labour and exploitation also continued to be issues of concern. Mauritius' National Human Rights Commission remained weak and had not yet incorporated economic, social and cultural rights into its mandate. Despite assertions in its pledge that it was finalising a National Action Plan on Human Rights, Mauritius had not announced or acted on such a plan by the end of the reporting period. In its pledge, Mauritius also stated its intention to introduce into parliament a Police Complaints Bill, a Sexual Offences Bill, a Children's Bill and a Combating Trafficking in Persons Bill. However, none of these pieces of legislation had been passed into law by the end of the reporting period.

In its pledge, Mauritius noted that it recently passed anti-discrimination legislation, which prohibits discrimination in the workplace, among other spheres. However, discrimination was a reality for Mauritian Creoles, who were severely under-represented in public life.

Mauritius' pledges described the frameworks that were in place to combat violence and discrimination against women and to promote female empowerment, specifically referring to its Protection from Domestic Violence Act and its National Gender Policy Framework. Mauritius also drew attention to the new Sex Discrimination Division of its National Human Rights Commission as evidence of its commitment to human rights at home. In spite of these assertions, discrimination against women and cases of sexual and domestic violence continued to be reported. While attempts were made to introduce legal measures to combat marital rape, progress was stalled, and no measures were in effect by the end of the reporting period.

Mauritius further pledged to advance human rights internationally and participate actively in the work of the UN Human Rights Council. However, Mauritius was not particularly active at the Council sessions. On country-specific resolutions, commendably, Mauritius broke with voting bloc affiliations to support greater international scrutiny of DPRK and Sudan. Disappointingly however, when voting on DRC and Sri Lanka, Mauritius supported weaker proposals on the former and discouraged international scrutiny of the latter. Mauritius supported condemnation of human rights violations by Israel.

On thematic resolutions, Mauritius largely followed the voting patterns of affiliated blocs, such as the African Group. Mauritius voted in favour of resolutions on the right of peoples to peace, the promotion of a democratic and equitable international order, human rights and international solidarity, human rights and unilateral coercive measures, the impact of the global economic crisis on the enjoyment of human rights, the elaboration of complementary standards to ICERD, foreign debt and human rights, and discrimination based on religion or belief. Mauritius abstained on resolutions on defamation of religions and voted against a resolution on traditional values and human rights.

Despite its pledged determination to cooperate with the various treaty bodies, Mauritius had seven reports overdue at the end of the reporting period, including reports under ICERD, CAT and ICCPR.

---

364 *L'Express*, "The Death Penalty: Killing in the name of…" (26 February 2010) at http://www.lexpress.mu/story/10022-the-death-penalty-killing-in-the-name-of.html; Constitution of Mauritius, Sections 4(a) and 4(b) at http://www.gov.mu/portal/site/AssemblySite/menuitem.ee3d58b2c32c60451251701065c521ca/?content_id=03654555fc808010VgnVCM100000ca6a12acRCRD#pro (last accessed on 11 November 2010).

365 Inter Press Service, "Plea for More Female Candidates" (18 February 2010) at http://allafrica.com/stories/201002190010.html (last accessed on 11 November 2010); Phone conversation with Manda Boolell, a gender and human rights activist in Mauritius.

366 Inter Press Services, "South Africa: A loud and clear no to violence against women" (12 May 2010) at http://allafrica.com/stories/201005121025.html (Last accessed on 13 August 2010); Southern Africa News Features, "New Cabinet Falls Short of SADC Gender Protocol" (8 June 2010) at http://allafrica.com/stories/201006080304.html (last accessed on 11 November 2010).

367 Inter Press Service, "Plea for More Female Candidates" (18 February 2010) at http://allafrica.com/stories/201002190010.html.

368 National Human Rights Commission of Mauritius, Annual Report 2008 at http://www.gov.mu/portal/goc/nhrc/files/nhrcreport2008.pdf (last accessed on 17 November 2010).

369 National Human Rights Commission of Mauritius, Annual Report 2008 at http://www.gov.mu/portal/goc/nhrc/files/nhrcreport2008.pdf (last accessed on 17 November 2010).

370 UN Committee on Economic, Social and Cultural Rights, "Consideration of reports submitted by State parties under Articles 16 and 17 of the Covenant - Concluding Observations of the Committee on Economic, Social and Cultural Rights – Mauritius" (3-21 May 2010) at http://www2.ohchr.org/english/bodies/cescr/docs/co/E.C.12.MUS.CO.4_AUV.doc (last accessed on 12 November 2010).

371 *L'Express*, "The gruesome end assassination Marie Ange Milazar" (15 November 2009) at http://translate.google.co.uk/translate?hl=en&sl=fr&u=http://www.lexpress.mu/services/epaper-73014-b-assassinat-la-fin-atroce-de-marie-ange-milazar-b.html&ei=KqfFS8gnzbysB8y-tJUO&sa=X&oi=translate&ct=result&resnum=6&ved=0CBMQ7gEwBQ&prev=/search%3Fq%3DMarie-Ange%2BMilazar%26hl%3Den%26sa%3DG (last accessed on 17 November 2010).

372 Le Defi Media Group, "Domestic violence worries" (6 April 2009) at http://www.defimedia.info/articles/153/1/Domestic-violence-worries/Page1.html (last accessed on 17 November 2010).

373 Phone conversation with Manda Boolell, gender and human rights activist.

374 *L'Express* "Painful Reality of Rape in Marriage" (16 May 2008) at http://allafrica.com/stories/200805160732.html (last accessed on 17 November 2010).

375 *L'Express*, "Mauritius: New Administration – The Challenges" (14 May 2010) at http://allafrica.com/stories/201005140734.html (last accessed on 17 November 2010).

376 UN Committee on Economic, Social and Cultural Rights, "Consideration of Reports Submitted by State Parties Under Articles 16 and 17 of the Covenant - Concluding Observations of the Committee on Economic, Social and Cultural Rights – Mauritius" (3-21 May 2010) at http://www2.ohchr.org/english/bodies/cescr/docs/co/E.C.12.MUS.CO.4_AUV.doc (last accessed on 12 November

2010); Phone conversation with Manda Boolell, a gender and human rights activist in Mauritius.

377 IPS, "MAURITIUS-RIGHTS: Sceptical Welcome for Equality Law" (29 January 2009) at http://ipsnews.net/news.asp?idnews=45599 (last accessed on 17 November 2010).

378 UN Committee on Economic, Social and Cultural Rights, "Consideration of reports submitted by State parties under Articles 16 and 17 of the Covenant - Concluding Observations of the Committee on Economic, Social and Cultural Rights – Mauritius" (3-21 May 2010) at http://www2.ohchr.org/english/bodies/cescr/docs/co/E.C.12.MUS.CO.4_AUV.doc (last accessed on 12 November 2010).

379 IPS, "MAURITIUS-RIGHTS: Sceptical Welcome for Equality Law" (29 January 2009) at http://ipsnews.net/news.asp?idnews=45599.

380 Reporters Sans Frontières, "Politically-motivated boycott of media group by government" (2 June 2010) at http://en.rsf.org/mauritius-politically-motivated-boycott-of-03-06-2010,37657.html (last accessed on 11 November 2010).

381 Amnesty International Mauritius, "Communiqué d'Amnesty International sur la liberté de la presse" (31 May 2010) at http://www.amnestymauritius.org/french/more.php?readmore=45 (last accessed on 13 August 2010).

382 Reporters Sans Frontières, "Politically-motivated boycott of media group by government" (2 June 2010) at http://en.rsf.org/mauritius-politically-motivated-boycott-of-03-06-2010,37657.html (last accessed on 11 November 2010).

383 Independent Commission Against Corruption, "Cases pending before intermediate court as at 13.08.2010" at http://www.gov.mu/portal/sites/icac/trialdates.html (last accessed on 12 November 2010).

384 UN Committee on Economic, Social and Cultural Rights, "Consideration of reports submitted by State parties under Articles 16 and 17 of the Covenant - Concluding Observations of the Committee on Economic, Social and Cultural Rights – Mauritius" (3-21 May 2010) at http://www2.ohchr.org/english/bodies/cescr/docs/co/E.C.12.MUS.CO.4_AUV.doc (last accessed on 12 November 2010).

Nigeria

Easier Said
than Done

1. Background

1.1. Context

Nigeria is governed under a federal system, made up of 36 states and one federal capital territory, with executive power vested in the president. The country is resource-rich, but poverty remains pervasive. The economy relies heavily on the presence of natural resources, with an oil industry representing the vast majority of Nigeria's exports. This dependency worsened as a result of the failure of successive rulers to diversify the economy.

After several periods of military rule over 16 years, Nigeria returned to democracy in 1999. President Olusegun Obasanjo ruled till his two-term limit expired in 2007. His successor, the leader of the People's Democratic Party, Umaru Yar'Adua, was elected as Nigeria's new President at that time. In November 2009, it was reported that President Yar'Adua was being treated for a serious ailment in Saudi Arabia, and in February 2010, the Senate transferred power from the ailing President to Vice President Goodluck Jonathan, who took over the Presidency in an acting capacity. Umaru Yar'Adua died in May 2010 and Acting President Goodluck Jonathan succeeded him officially.

1.2 UN Treaties

Nigeria is a party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, the Convention Against Torture (CAT) and its Optional Protocol, the Convention on the Rights of Persons with Disabilities (CPD) and its Optional Protocol, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), the International Convention for the Protection of All Persons from Enforced Disappearance (CED) and the Convention on the Rights of the Child (CRC) and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. Nigeria has also signed the Optional Protocol to CRC on the Involvement of Children in Armed Conflict.

Nigeria has not signed the two Optional Protocols to ICCPR or the Optional Protocols to ICESCR.

1.3 UN Reporting History

Nigeria has completed some reports due under international treaties, but has failed to satisfy all its reporting requirements.

The country has completed 18 rounds of reporting under ICERD, but has two reports overdue. It has completed one round of reporting under ICESCR, although the 2000 report is overdue. Nigeria has not completed any reporting under CAT. The country has fulfilled its reporting commitments under CEDAW, ICCPR and CRC.

Nigeria has not extended an open invitation to the UN Human Rights Council's Special Procedures.

1.4 UN Voting Patterns and Performance at the Council

Eighth Session of the UN Human Rights Council

On 2 June 2008, Nigeria commended the work of the Eighth Special Session on the food crisis for emphasising the importance of ensuring that all rights are treated in an equal manner.

On 2 June 2008, Nigeria welcomed the High Commissioner's suggestion to convene an expert consultation on the permissible limits to freedom of expression, such as in cases of religious hatred.

On 2 June 2008, the Special Rapporteur on extrajudicial killings, in a presentation on his country visit to Nigeria, criticised Nigeria for failing to make sufficient progress and for the fact that adultery and sodomy were still capital crimes.

On 3 June 2008, Nigeria strongly denied the allegation of the Special Rapporteur that executions were carried out under Sharia law and stated that death penalties were not imposed for adultery or sodomy. It opposed the Special Rapporteurs recommendation that the death penalty be abolished. Nigeria was one of six countries which argued that the actions of the Special Rapporteur constituted a breach of the Code of Conduct for mandate holders.

On 3 June 2008, Nigeria supported the framework proposed by the Special Representative of the Secretary-General on human rights and trans-national corporations, which focused on the State's duty to protect against human rights abuses by third parties, including businesses. On 4 June 2008, Nigeria, as one of the main sponsors of a draft resolution which renewed the Special Representative's mandate, praised the Special Representative for his work and expressed strong support for the renewal of the mandate.

On 18 June 2008, Nigeria voted in favour of a resolution on the promotion of the right of peoples to peace. Slovenia called for a vote on behalf of the EU, on the basis that the issues contained in the resolution were best dealt with in other fora and that the resolution failed to state that the absence of peace did not justify breaches of human rights.

On 18 June 2008, Nigeria voted in favour of a resolution on the promotion of a democratic and equitable international order. The resolution rejected a unilateral approach in favour of a multilateral one when addressing international issues. Slovenia called for a vote on behalf of the EU, on the basis that the resolution addressed issues that were beyond the mandate of the Council. For example, it focused on relations between States rather than relations between States and their citizens.

Ninth Session of the UN Human Rights Council

On 8 September 2008, Nigeria expressed support for the preparation of the Durban Review Conference and suggested it should not focus on extraneous issues. Nigeria also highlighted poverty, gender equality and the rights of women and children as priority human rights issues.

On 10 September 2008, Nigeria expressed strong support for the work of the Special Rapporteur on toxic waste.

It criticised States for failing to ratify the 1995 UN Basel Convention on the issue. On 12 September 2008, Nigeria called for the mandate to look into the responsibility of corporations and for an increased allocation of resources for the mandate.

On 12 September 2008, Nigeria expressed strong support for the incorporation of a gender perspective into the Council's work and suggested that more women from developing countries should be appointed as mandate holders.

On 12 September 2008, Nigeria supported the recommendations of the Special Rapporteur on the sale of children. Nigeria also supported the scope of her mandate and believed that an in-depth analysis of cultural and social factors in this context was needed.

On 17 September 2008, Nigeria reminded the Advisory Committee to work in line with the institution-building text.

On 18 September 2008, Nigeria, in connection with the holding of a general debate on Universal Periodic Review, cautioned against creating a new cycle for the Universal Periodic Review in addition to the agreed four-year cycle. Nigeria also stated that the rules of procedure should be applied so that statements which were not in order would not be included in the UPR or the report on the session.

On 24 September 2008, Nigeria voted in favour of a resolution on human rights and international solidarity. The resolution emphasised the need for international cooperation to tackle human rights issues in a manner that distributes costs and burdens fairly. France called for a vote on behalf of the EU, on the basis that international solidarity was a moral principle not a human right defined in legal terms.

On 24 September 2008, Nigeria voted in favour of a resolution on human rights and unilateral coercive measures. The resolution requested States to stop using or implementing unilateral, coercive measures not in accordance with international law, particularly those creating obstacles to trade relations between States. It also condemned the use of unilateral coercive measures to assert political or economic pressures, especially against developing countries.

On 24 September 2008, Nigeria voted in favour of a resolution on follow-up to Resolution S-3/1 on the assault on Beit Hanoun. The resolution welcomed the report of the High-Level Fact-Finding Mission dispatched to assess the situation in Beit Hanoun. It called for full implementation of all the recommendations made in the report and expressed regret for the delay caused by Israel's non-cooperation.

Ninth Special Session of the UN Human Rights Council

On 12 January 2009, Nigeria voted in favour of a resolution on the grave violations of human rights in the OPT. The resolution strongly condemned the Israeli military operation in the OPT, stating that this had caused grave violations of the human rights of Palestinian civilians. It accused Israel of collective punishment of the Palestinian people and called on the international community to act.

Tenth Special Session of the UN Human Rights Council

On 23 February 2009, Nigeria voted in favour of a resolution on the impact of the global economic and financial crisis on the universal realisation and effective enjoyment of human rights. The resolution expressed deep concern at the effect of the economic and financial crisis on human rights and called for increased participation by developing countries in international decision-making.

Tenth Session of the UN Human Rights Council

On 5 March 2009, Nigeria stated that the institution-building text dealing with UPR was currently sufficient and did not need to be altered at the present time.

On 5 March 2009, Nigeria expressed support for the efforts of the African Union at finding an acceptable solution to the problem in Sudan and emphasised that the International Criminal Court should not be politicised.

On 6 March 2009, Nigeria expressed support for the implementation of the Convention of the Rights of Peoples with Disabilities and the recommendations of the Committee on the Rights of Peoples with Disabilities. Nigeria also outlined the steps taken by Nigeria to address these issues.

On 6 March 2009, Nigeria expressed support for the consideration of a new international convention to regulate private military and security companies.

On 6 March 2009, Nigeria expressed support for some of the recommendations of the Working Group on arbitrary detention, but emphasised the need to distinguish between migrants who were arbitrarily detained and those who were legally detained.

On 10 March 2009, Nigeria outlined the steps it had taken in response to the report of the Special Rapporteur on torture. The Special Rapporteur expressed appreciation for this on 12 March 2009, and was particularly happy about Nigeria's consideration of a draft bill on establishing an Anti-Torture Commission.

On 11 March 2009, Nigeria supported the holding of a panel discussion on the obstacles to implementing the Convention on the Rights of the Child at a national level. Nigeria outlined the measures it had taken and highlighted some of the obstacles it faced.

On 13 March 2009, Nigeria expressed its commitment to the Trafficking in Persons Protocol and referred to the need to tackle root causes and for international cooperation on the issue.

On 16 March 2009, Nigeria referred to hunger, poverty and the rights of women and children as priority human rights issues.

On 20 March 2009, Nigeria expressed its opposition to any adjustments being made to the Universal Periodic Review process, which it felt was dealt with adequately in the institution-building text.
On 23 March 2009, Nigeria expressed support for the work of the Advisory Committee and observed that they

should continue work in accordance with the institution-building text, while also suggesting additional issues for the consideration of the Council.

On 24 March 2009, Nigeria expressed strong support for the Durban Declaration and Programme of Action.

On 26 March 2009, Nigeria voted in favour of a resolution on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.

On 26 March 2009, Nigeria voted in favour of a resolution on human rights in the occupied Syrian Golan which expressed deep concern for the suffering of the Syrian civilian population and referred to the systematic and continuous violations of fundamental and human rights by Israel.

On 26 March 2009, Nigeria voted in favour of a resolution on Israeli settlements in the OPT, including East Jerusalem, and in the Occupied Syrian Golan. The resolution strongly condemned the Israeli announcement that it would build further settlements in the OPT.

On 26 March 2009, Nigeria voted in favour of a resolution on the human rights violations emanating from the Israeli military attacks and operations in the OPT.

On 26 March 2009, Nigeria voted in favour of a resolution on the follow-up to Council Resolution S-9/1 on the grave violations of human rights in the OPT, particularly due to the then recent Israeli military attacks against the Occupied Gaza Strip. The resolution regretted that the previous Resolution S-9/1 had not been fully implemented yet and demanded that Israel cooperate with the international community.

On 26 March 2009, Nigeria voted in favour of a resolution on combating defamation of religions.

On 26 March 2009, Nigeria voted against a resolution expressing serious concern over the human rights situation in DPRK and extending the mandate of the Special Rapporteur on DPRK for a further year. On 27 March 2009, Nigeria explained its vote by saying that other better solutions to the issue were available. Nigeria further noted that China's vote against the resolution should be taken into account, as the two countries were close neighbours, and that country-specific resolutions had so far been unhelpful.

On 26 March 2009, Nigeria voted in favour of a resolution calling for better geographical representation and gender balance in the staff of the OHCHR.

On 27 March 2009, Nigeria voted in favour of a resolution on the elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination.

On 27 March 2009, Nigeria voted in favour of a resolution on torture and the role and responsibility of medical and other health personnel. In an additional vote, Nigeria voted in favour of including a paragraph in the resolution which took note of the report of the Special Rapporteur on torture. On 10 March 2009, the Special Rapporteur on torture had presented his report in which he considered whether the death

penalty amounted to cruel, inhuman or degrading treatment or punishment. Several States had accused the Special Rapporteur of going beyond his mandate and noted that there was no international consensus on the status of the death penalty as a breach of human rights.

On 27 March 2009, Nigeria abstained from voting on a decision on the publication of reports completed by the Sub-Commission on the Promotion and Protection of Human Rights. The resolution provided for all reports by the Sub-Commission that had previously been mandated by the Commission on Human Rights and submitted to the OHCHR, to be published as UN documents.

On 27 March 2009, Nigeria abstained from voting on a resolution on discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights. The resolution was introduced by the EU. The Czech Republic, on behalf of the EU, explained that the resolution was in response to the report of the Special Rapporteur on freedom of expression and that this was an important, sensitive issue. The resolution was criticised by some other States for failing to adequately address contemporary forms of religious discrimination.

During the Tenth Session, two draft resolutions on the human rights situation in DRC were tabled, one by the EU and the other by the African Group. The resolution drafted by the EU expressed serious concerns regarding the human rights situation while African Group's draft was less critical of the issue and called on OHCHR to enhance its technical assistance activities in the country. Following the adoption of the African Group's resolution by vote, the EU proposed amendments to the resolution reflecting serious concerns. Nigeria voted in favour of the original resolution drafted by the African Group and voted against the amendments proposed by the EU.

Eleventh Special Session of the UN Human Rights Council

On 27 May 2009, Nigeria voted in favour of a resolution on assistance to Sri Lanka in the promotion and protection of human rights. Before the vote, Germany, on behalf of the EU, proposed oral amendments to the draft resolution, as it made no mention of the need to conduct investigations into alleged violations of international human rights law or the need to prosecute perpetrators. Cuba, on behalf of a number of countries, requested that no action be taken on Germany's proposed oral amendments. The request was put to a vote and the Nigeria abstained from voting.

Eleventh Session of the UN Human Rights Council

On 3 June 2009, Nigeria engaged with the Special Rapporteur on violence against women, and endorsed her recommendations. Nigeria also noted that the inequality between economic, social and cultural rights, and civil and political rights, contributed to the problem of violence against women.

On 3 June 2009, Nigeria responded to a request by the Special Rapporteur on the independence of judges that more States extend invitations to him to visit them, saying that Nigeria would take action to abide by his request.

On 3 June 2009, Nigeria supported the need for governments to create enabling environments to allow free and fair information to flow more effectively to civil society, ideally through universally agreed principles and resolutions adopted by the General Assembly and the Council.

On 4 June 2009, during a panel discussion on women's rights, Nigeria supported the possibility of establishing a new special procedure on laws that discriminate against women.

On 5 June 2009, Nigeria commended the Independent Expert on the question of human rights and extreme poverty and supported her focus on cash transfer programmes. Nigeria agreed with the view that poverty was a human rights issue rather than a purely economic one.

On 5 June 2009, Nigeria noted its appreciation at the increasing engagement between the OHCHR and the Council and stated that it was essential that the OHCHR's advocacy role remained unconstrained. Nigeria also echoed concerns expressed by the High Commissioner about the general human rights situation of migrants.

On 16 June 2009, Nigeria called for treaty bodies to consider the status of women and their human rights in their reports and discussions.

On 16 June 2009, Nigeria commended the Special Rapporteur on racism for focusing on the outcome of the Durban Review Conference in his report. Nigeria also applauded the outcome of the Durban Review Conference and looked forward to the implementation of the outcome document.

On 17 June 2009, Nigeria voted in favour of a resolution on the promotion of the right of peoples to peace. The resolution recognised States' obligations to improve the protection of human rights by ensuring peace. Germany, on behalf of the EU, stated that while it recognised some of the principles set out in the resolution, the issues set out in the draft were more comprehensively dealt with in other fora. Furthermore, Germany, on behalf of the EU, noted that the resolution dealt with relationships between States, not the relationship between State and their citizens.

On 17 June 2009, Nigeria voted in favour of a resolution on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.

On 18 June 2009, Egypt, on behalf of the African Group, and the Czech Republic, on behalf of the EU, introduced competing draft resolutions on the mandate on Sudan. The draft proposed by the African Group did not renew the mandate of the Special Rapporteur or create a mandate for any international monitoring. It referred positively to the efforts of the government. The EU resolution replaced the mandate of the Special Rapporteur with that of an Independent Expert with some monitoring and reporting functions. The EU later accepted the African Group's draft but with proposed amendments providing for the mandate of an Independent Expert. Nigeria abstained from voting on these amendments, and after they were accepted, voted against the entire text as amended.

On 18 June 2009, Nigeria, on behalf of the African Group, introduced a draft resolution on the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action, which extended the mandate of the Working Group by three years. The resolution was adopted without a vote following oral amendments.

Twelfth Session of the UN Human Rights Council

On 15 September 2009, Nigeria, on behalf of the African Group, shared the OHCHR's understanding that the elimination of discrimination should be prioritised, but placed specific emphasis on the elimination of racism, racial discrimination, xenophobia, and related intolerance in all their manifestations.

On 18 September 2009, Nigeria, on behalf of the African Group, emphasised the need to ensure a better geographic representation of staff in the OHCHR.

On 1 October 2009, Nigeria voted in favour of a resolution on human rights and international solidarity.

On 2 October 2009, Nigeria voted in favour of a resolution on human rights and unilateral coercive force.

On 2 October 2009, Nigeria voted in favour of a decision on the effect of foreign debt over the enjoyment of human rights.

On 2 October 2009, Nigeria voted in favour of a resolution on the right to development.

On 2 October 2009, Nigeria co-sponsored a resolution on promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind and voted in favour of it. Nigeria stated that the positive influence of traditional values should not be predetermined without a panel discussion.

Twelfth Special Session of the UN Human Rights Council

On 16 October 2009, Nigeria, on behalf of the African Group, described the Goldstone Report as balanced and fair and suggested that it be seriously considered.

On 16 October 2009, Nigeria voted in favour of a resolution that focused on continuing violations of human rights by Israel in the OPT, and in particular, in East Jerusalem. It endorsed the recommendations set out in the reports of the Fact-Finding Mission to Gaza led by Justice Goldstone and by the High Commissioner for Human Rights, and called for their implementation.

Thirteenth Session of the UN Human Rights Council

On 4 March 2010, speaking on behalf of the African Group, Nigeria commended the OHCHR for its support to the Council and stated that it was conscious of the value of the contributions of the Special Rapporteurs. Nigeria said that the Code of Conduct for Special Procedures was meant to enhance their independence within established rules and practices. Nigeria asked that the United Nations and member States actively participate to facilitate the outcome of the Durban review. Finally, Nigeria reminded the Council of the importance of the right to development, a major concern of the African Group.

On 5 March 2010, Nigeria thanked the High Commissioner for her engagement in the protection and promotion of human rights, though it remained concerned about the lack of geographic diversity among her office's staff. It urged the OHCHR to continue to facilitate the implementation of the Durban Development and Programme of

Action and proposed that OHCHR lead the fight against racism and racial discrimination in sports.

On 8 March 2010, Nigeria commended a report by the Special Rapporteur on human rights and terrorism and applauded the focus of the report on violence against women. Nigeria also commented that the report of the Special Rapporteur on Torture was worthy of serious consideration by the Council.

On 11 March 2010, Nigeria commended the "considerable" work of the Special Rapporteur on freedom of religion. It explained that the violence in the city of Jos was wrongly coloured as religious violence, when in fact it was largely caused by poverty, illiteracy and political exploitation. Nigeria claimed that the alleged perpetrators of the violence were arrested and would be prosecuted in due course.

On 12 March 2010, Nigeria reiterated its commitment to the Convention on the Rights of the Child and expressed regret that children still suffer despite established mechanisms to protect them. Also, concerning the elaboration of an Optional Protocol to the Convention, Nigeria recommended exhausting domestic remedies before resorting to remedies proscribed by the Committee on the Rights of the Child.

On 16 March 2010, Nigeria gave its commitment to ensure the right to effective participation of minorities and said that it was imperative for governments of countries with minority populations to ensure that adequate political space was provided to them.

On 16 March 2010, Nigeria, on behalf of the African Group, welcomed the work of the Advisory Committee, expressing appreciation for the draft United Nations Declaration on Human Rights Education and Training. It stated that it supported all further negotiations on the draft. The African Group was also encouraged by the emphasis given to the effects of the international financial meltdown on the right to development.

On 19 March 2010, Nigeria, on behalf of the African Group, expressed satisfaction with the Universal Periodic Review process and renewed its commitment to it. Nigeria appealed to the international community to continue to share best practices and views on strengthening the mechanism and to provide updates on the implementation of the recommendations stemming from it.

On 22 March 2010, Nigeria, on behalf of the African Group, welcomed a resolution on the OPT, especially concerning the recommendation that Israel lift the blockade of Gaza. Nigeria urged Israel to urgently implement United Nations human rights instruments on the matter.

On 23 March 2010, Nigeria, on behalf of the African Group, expressed its commitment to the implementation of the Vienna Declaration and Programme of Action and underscored "its comprehensiveness and all-encompassing provisions". Nigeria encouraged the international community to seize the opportunity presented by the document to assess the progress achieved on the promotion and protection of human rights, and the obstacles that remained.

On 23 March 2010, Nigeria, on behalf of the African Group, emphasised the significance of the work done by the Durban follow-up mechanisms and the Ad Hoc Committee on the elaboration of complementary standards. It expressed its commitment to fighting all forms of racism. Nigeria noted with concern that a lack of will amongst

some delegations had hampered progress and asked for the cooperation of the international community to ensure the implementation of the provisions of the Declaration and Programme of Action.

On 24 March 2010, Nigeria, on behalf of the African Group, commented on a report by the Independent Expert on Somalia and regretted the lack of emphasis put on technical assistance and capacity building in the country. Nigeria called for the international community to assist Somalia in reinforcing its institutions of governance and providing support for peacekeepers in the country.

On 24 March 2010, Nigeria, on behalf of the African Group, noted improvements in the promotion and protection of human rights in DRC and welcomed the country's cooperation with thematic Special Rapporteurs and the Special Representative of the Secretary-General on children in armed conflict.

On 24 March 2010, Nigeria voted in favour of a resolution on the composition of the OHCHR that asked for the implementation of measures to ensure a better representation of geographic diversity among staff.

On 24 March 2010, Nigeria voted in favour of a resolution on human rights in the occupied Syrian Golan. The resolution strongly condemned Israel's occupation of Syrian Golan.

On 24 March 2010, Nigeria voted in favour of a resolution on the right of the Palestinian people to self-determination. The resolution emphasised the value of self-determination and supported Palestine and Israel in their process towards peace and security. It encouraged the international community to aid the Palestinians in their right to self-determination.

On 24 March 2010, Nigeria voted in favour of a resolution on Israeli Settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution asked the Government of Israel to reverse controversial announcements about new settlements and to respect legal obligations concerning access to food and supplies, the halting of impunity, the prevention of violence, etc.

On 24 March 2010, Nigeria voted in favour of a resolution on grave human rights violations by Israel in the OPT, including East Jerusalem. The resolution strongly condemned the military attacks and operations in the OPT, which it said caused grave violations of human rights. It asked for the end of the occupation and for the establishment of an independent sovereign state through a peace process.

On 25 March 2010, Nigeria voted in favour of a resolution on the Follow-up to the Report of the United Nations Independent International Fact-Finding Mission on the Gaza Conflict. The resolution asked for independent and credible investigations regarding the violations of international humanitarian and international human rights law.

On 25 March 2010, Nigeria abstained from voting on a resolution on the situation of human rights in DPRK. The resolution asked for the mandate of the Special Rapporteur on DPRK to be extended and for the government's participation in addressing human rights violations.

On 25 March 2010, Nigeria voted in favour of a resolution on combating defamation of religions. The resolution

urged the international community to promote a culture of tolerance and peace, especially concerning the wrongful association of Islam with human rights violations and terrorism.

On 25 March 2010, Nigeria, on behalf of the African Group, introduced a draft document on the elaboration of complementary standards on the elimination of all forms of discrimination. It expressed bitter disappointment that the Ad Hoc Committee on Elaboration of Complementary Standards had not reached a consensus on the necessity of complementary standards as had been agreed in Durban.

On 26 March 2010, Nigeria, on behalf of the African Group, introduced a resolution on strengthening technical cooperation and consultative services in the Republic of Guinea and condemned the killing of innocent demonstrators holding peaceful demonstrations in the country. The African Group called on the international community to support the transitional government towards peace and order and asked member States to adopt the resolution without a vote.

On 26 March 2010, Nigeria, on behalf of the African Group, introduced a draft text on the situation of human rights in DRC and strengthening of technical cooperation and consultative services.

On 26 March 2010, Nigeria, on behalf of African Group, introduced a resolution on a world of sports free from racism, racial discrimination, xenophobia and related intolerance. The resolution underlined the need to prevent racism and combat impunity in sport. Nigeria expressed its commitment to safeguard freedom of worship and encouraged the international community to foster a dialogue to stamp out all kinds of racism.

On 26 March 2010, Nigeria, on behalf of the African Group, thanked the President of the Council, the High Commissioner and her Secretariat and civil society for their work during the session and underscored its pleasure at the consensus outcome which characterised the Council's work during the Thirteenth Session.

2. Pledge

2.1 Election to the Council

Nigeria was one of 13 African countries to contest the May 2006 elections to the Council. The number of candidates was the same as the number of seats reserved for Africa, meaning that the election results were pre-determined. In the election, Nigeria came twelfth among the African Group with 169 votes.

On 12 May 2009, the results of the elections were again pre-determined. With 148 votes, Nigeria came third among five candidates contesting the five seats reserved for African States.

2.2 Pledge Made

In its 2006 pre-election pledge, Nigeria undertook to participate actively in the Council and to aim at making it a credible, strong, fair and effective United Nations human rights body. It notably committed itself to full cooperation with the Special Procedures of the Council and pledged to maintain an open door policy for all UN human rights inspectors, Rapporteurs and representatives carrying out their mandates. Nigeria promised to work with treaty

bodies and to submit timely periodic reports. It also pledged to contribute actively to the development of a human rights culture and to mainstreaming human rights in the UN and regional organisations. Nigeria reiterated its commitment to strengthen its National Human Rights Commission to help in promoting human rights within its own borders and pledged to uphold the principle of non-discrimination and the rights of all its citizens. Nigeria further committed itself to the protection of all human rights, including the right to development.

In 2009, Nigeria's pre-election pledge document included a review of initiatives already undertaken by the government to advance its human rights agenda. The review noted the presence in the National Assembly of various bills intended to review and/or reform the National Human Rights Commission, the administration of justice system, the prison system and the Nigeria police. It also noted that the country had intensified efforts against corruption and economic crimes by strengthening the bodies that were set up for the purpose. In its pledges, Nigeria stated that it stood by its 2006 pre-election pledges. It specifically promised to support and engage with the Council to promote human rights within and outside Nigeria. Furthermore, Nigeria pledged to cooperate with all treaty bodies, to intensify efforts to ratify or domesticate all outstanding human rights instruments, to implement all accepted recommendations of its Universal Periodic Review and to cooperate with all human rights-related Special Procedures of the United Nations. Finally, Nigeria pledged to continue to make its best effort to enhance the protection and promotion of human rights in Nigeria.

3. Compliance

3.1 Human Rights During the Reporting Period

Nigeria's police and security services were criticised during the reporting period for extortion, illegal detention, brutality, torture and extrajudicial killings.[385] Calls for reform from various civil society organisations, the National Human Rights Commission (NHRC) and even some government ministers have not yet been heeded, as evidenced by the overwhelming number of instances of police misconduct throughout the reporting period. There were reports that police officers in some parts of the country regularly extorted money from motorists.[386] In Imo state, numerous security task forces had to be disbanded because of their harassment of ordinary citizens.[387] The Human Rights Writers Association of Nigeria (HURIWA) criticised the police for ineffectiveness, citing the extremely high number of armed robberies and murders in the country, and the inability of the police to combat them.[388] Allegations of illegal detention were reported around the country. At one point, the police put nearly 4,000 members of a northern Nigerian Islamic group into preventive detention, because the group posed a "potential threat".[389]

Extrajudicial killings were rife throughout the reporting period, despite an assurance in September 2008 that the Federal Government did not support the killings. The then-foreign minister warned "institutions" not to engage in extrajudicial killings and said that any person perpetrating them would be prosecuted.[390] Furthermore, in December 2008, the Police Service Commission reportedly said it would begin sanctioning commissioners of police whose serving officers were found to have committed extrajudicial killings.[391] Despite these official statements, the killings continued to be reported. In December 2008, an international human rights organisation called on the Nigerian government to investigate allegations that the Police Mobile Force had killed up to 90 people, mostly Muslims, in the communal violence-ridden city of Jos. The report included allegations that men in police and military uniforms had carried out summary executions of detainees and killed up to 26 people at

once, after chasing them into an automobile workshop. Most of the killings reportedly happened on the day that the Plateau State Governor issued a shoot-on-sight order to security services.[392] One year after the killings, an international human rights organisation revised the number of deaths to 130 and noted that no prosecutions of security forces had taken place.[393] At the end of the reporting period, there were unconfirmed reports that a few perpetrators had been dealt with internally by the Nigeria Police Force, but no prosecutions had occurred in the public domain.[394] In January 2009, a coalition of human rights groups in Osun state petitioned the police in their state regarding several alleged extrajudicial killings.[395] In March 2009, a two-day tribunal was organised in the city of Ibadan by the NHRC and NGOs and was attended by police representatives. Attendees heard multiple stories about people who were raped or killed by police.[396]

In Borno state, the alleged leader of Boko Haram, an Islamic sect which was blamed for an outbreak of violence over several days in July 2009, was arrested late that same month. He was killed by police while in custody, in an unmistakable and well-publicised instance of extrajudicial killing. Police claimed that he was killed while being captured, but video footage obtained by the media later showed him being arrested by the police with a bandage on his arm.[397] One police officer reportedly went as far as to invite journalists into the police station to view the body.[398] It was reported that hundreds of members of the same sect were allegedly "summarily executed" by security services who used indiscriminate violence to end unrest in Borno state. International condemnation of the killings, and especially the custodial death of the Boko Haram, was met in August 2009 with a Federal Government apology and a promise to investigate.[399] In February 2010, a video surfaced which was allegedly filmed in Borno state in July 2009. It clearly showed a Nigerian police officer carrying out extrajudicial executions leading to renewed calls for Goodluck Jonathan, the Acting President at the time, to investigate. In March 2010, up to 17 police officers were reportedly arrested on Jonathan's orders for their involvement in the July 2009 violence, and in April 2010 the family of a man who was killed in the violence was awarded monetary compensation by the police.[400]

In December 2009, a hospital in Enugu told the media that it had difficulties disposing all the bodies that the police delivered to the mortuary – 75 between June and November of 2009. A mass grave was filled in late 2009 and another was expected to be dug shortly. While police claimed that the corpses were those of armed robbers who were killed in legitimate shootouts, reports allege that at least seven of the bodies were of men who had been arrested and paraded alive in front of the media in the past, suggesting that they had been killed in custody.[401] In December 2009, an international human rights organisation released a major report on the "hundreds" of extrajudicial killings perpetrated by Nigerian police and security services every year. The report alleged that Nigeria Police Force Order 237 is part of the problem as it allows officers to use lethal force against suspects or detainees when they are trying to escape, even if the escapee does not pose a threat to life.[402] The vague wording of the Order allows officers to escape with impunity. According to the report, the rare police officer who is prosecuted for offences hardly ever sees jail time.[403] In April 2010, police were asked to explain the disappearance of six young men from police custody. The men were arrested the year before and had not been seen since. Their families believed that the men were victims of extrajudicial executions.[404] In February 2010, Goodluck Jonathan, the Acting President, reportedly pledged to reform and hold the police services to account but there was little verifiable action on the pledge as of the end of the reporting period.[405]

Torture was an issue throughout the reporting period. According to many domestic and international NGOs and the Nigerian NHRC, torture by police and security forces was pervasive.[406] In one incident cited by the

Nigerian Bar Association (NBA), six men were picked up by the police for robbery and forced to confess by having teargas sprayed in their eyes. One of the young men was allegedly murdered by the police shortly thereafter.[407] In April 2009, the Attorney General and Justice Minister called on police to stop victimising innocent people and to stop torturing suspects. He said that the goal should be to "have police who will not wilfully indulge in the violation of human rights of citizens".[408] A report released by a major international donor organisation in 2010 reiterated dozens of ways in which Nigeria's police torture suspects to extract confessions, including beatings, rape, mental torture, sleep deprivation and shooting in both legs (known as the VIP treatment).[409] In April 2010, the NHRC called on Acting President Goodluck Jonathan to outlaw torture absolutely.[410] An anti-torture bill was before parliament but had not been passed at the conclusion of the reporting period.

For Nigeria's 46,000 prisoners, conditions are dire. General overcrowding, poor sanitation, and a lack of food and medicines are reportedly major issues in Nigeria's prisons.[411] The central and state governments repeatedly pledged to address overpopulation in the prison system.[412] Despite these pledges, and the occasional amnesty given to some prisoners to ease overcrowding,[413] congestion continued to be a problem in Nigeria, largely due to the fact that 65 per cent (30,000) of Nigeria's prisoners were still awaiting trial.[414] CHRI was told that the use of unregulated remand by magistrates was the primary reason that prisons in Nigeria were congested, and that if all remand prisoners were released then the prisons would be decongested quickly.[415] A riot broke out in one Nigerian prison in January 2010, reportedly owing to unrest about overcrowding.[416] Beyond overcrowding, a major report released in October 2008 by the Legal Defence and Assistance Project (LEDAP) and Amnesty International found that up to 80 per cent of prison inmates in Nigeria were subject to beatings or torture at some point during their detention. A Nigerian NGO reportedly claimed that 97 of the Port Harcourt Maximum Security Prison's inmates were underage.[417] There were also reports that prison guards were extorting families of prisoners every time they visited the prison.[418]

Given the problems inherent in Nigeria's police and justice sectors, its retention of the death penalty was especially concerning. Despite a positive step by Lagos state in August 2009, which led to three death row inmates being pardoned and 37 death row inmates having their sentences commuted, capital punishment remained an issue during the reporting period.[419] In moves that human rights groups said would jeopardise the lives of those kidnapped, three states in Nigeria passed bills in February and May 2009 which would make kidnapping with a weapon a mandatory capital offence.[420] At least 40 of Nigeria's death row prisoners were between 13 and 17 years at the time of the commission of their capital offence.[421] In April 2010, it was reported that Nigeria had 870 death row inmates, and although there have reportedly been no official executions in Nigeria since 2002 and diplomats say Nigeria exercises a self-imposed moratorium on the death penalty, death sentences are still given in courts and human rights groups believe that secret executions have taken place since 2002.[422] Even more concerning was the April 2010 assertion by the Abia State Governor that official executions should resume as a method of clearing prison congestion.[423] This assertion was widely condemned and it was clarified in the following days that no policy to execute prisoners as a way of controlling congestion had been implemented.[424]

The Prevention of Terrorism Bill, 2009, was placed in the Nigerian National Assembly as the reporting period ended. The bill was criticised for being in direct contradiction to several of Nigeria's international and domestic

human rights obligations. For example, the bill reportedly includes definitions of terrorism that are overly broad, a reverse burden of proof and limits of permissible detention that are well beyond any internationally acceptable standards.[425]

Freedom of expression continued to come under attack in the form of violence and threats directed at media persons. In August 2008, a reporter with the newspaper This Day was shot in his car. Conflicting reports suggested that he was either shot by robbers who took nothing from his car or by men in police uniforms as he opened the door to get out of the car.[426] In September 2008, a report indicated that Channels Television Station was suspended and four of its staff members were held by security services, after the channel mistakenly aired an allegedly fabricated report that President Umaru Yar'Adua might step down for health reasons.[427] In October 2008, police in Bauchi state revealed that they were investigating the editor of a state-owned newspaper for writing an article on the performance of the state administration.[428] Later in October 2008, a US-based blogger was detained without charge and reportedly subjected to torture to elicit the names of sources on stories that were embarrassing to the government.[429] In November 2008, the Nigerian Guild of Editors reported that the editors of the newspaper Leadership suffered harassment at the hands of Nigeria's State Security Service.[430] In March 2009, an editor of a Lagos-based newspaper was reportedly taken from Abuja and detained for one week in Bayelsa state following the publication of a controversial story about the Governor of that state.[431] The NHRC reportedly noted that the detention was "an infringement of the freedom of the Press as guaranteed by the 1999 Constitution of the Federal Republic of Nigeria."[432] In September 2009, Bayo Ohu, an assistant editor with the Guardian, was killed in his home by unknown assailants. Colleagues reportedly believed the murder to be a result of Mr Ohu's report on fraud in the Customs Department.[433] In April 2010, three journalists were killed in two separate incidents. In one case, two journalists with a Christian newspaper were allegedly killed by Muslim rioters while on their way to the city of Jos, which was experiencing unrest at the time. The other journalist was killed in his home by unknown assailants who did not take anything from his house.[434] In the aftermath of these murders, major protests were staged by journalists who were reportedly angry at the impunity with which their colleagues were murdered.[435] Around the time of the murders, four different journalists who covered the dismissal of Nigeria's Electoral Commission Chairman received identical death threats and it was reported by the Nigeria Union of Journalists that eight of its members received death threats and at least one was being followed by men who reportedly called themselves "security officials".[436]

Non-journalists also came under attack for using their right to freedom of expression. In December 2008, police in Ondo state shot and killed five people who were protesting the death of a woman killed in a road accident allegedly caused by a police officer.[437] In March 2009, a human rights group alleged that soldiers shot two men who were attending a peaceful protest in Delta state. The human rights group alleged that the soldiers were being protected from their consequences by their superiors.[438] In March 2009, it was reported that 24 activists associated with the group Coalition Against Corrupt Leaders, who were charged with protesting within a state election petition tribunal in July 2008, had their bail revoked and were to be remanded till their trial. The decision to revoke bail was termed as "nothing other than another clampdown on opposition figures" by a supporter of the imprisoned activists.[439] In August 2009, a rights group condemned the brutalisation, arrest and detention by police of secondary school pupils. They were protesting the Kogi State Government's lack of sensitivity to the demands of their teachers, who were engaged in a strike action. A newspaper reported that one student was killed by police gunfire aimed at dispersing protesters.[440] In April 2010, three human rights

activists were allegedly assaulted and detained for several hours in Rivers state before being released without charge. While in detention in Port Harcourt, the activists were reportedly denied legal counsel and medical attention to their injuries, which were sustained during their detention.[441] The Civil Liberties Organisation (CLO) reportedly stated that it considered the attack on the activists to be calculated "attempts to stifle voices of dissent in the state".[442]

Despite reports that fraud and corruption were easing in the run-up to the reporting period - President Yar'Adua reportedly said that in the previous year the government had recovered USD 3.4 billion that had been looted and returned it to the Nigerian treasury[443] - corruption remained pervasive in Nigeria.[444] In its latest ranking released in November 2009, Transparency International ranked Nigeria 130th in the world in corruption perceptions.[445]

The Economic and Financial Crimes Commission (EFCC), which was once described as the best anti-corruption agency in Africa by the Executive Director of the UN Office on Drugs and Crime, had to fire eleven of its officials for fraud, mostly relating to their job applications. The EFCC was shrouded in controversy in the previous edition's reporting period when its Executive Chairman, Nuhu Ribadu, was sent on a year-long training course and replaced by Farida Waziri, a former police official. Opposition and human rights groups reportedly alleged that Mr Ribadu's removal and Ms Waziri's instatement were pushed by seven state governors who were being investigated by the EFCC during Mr Ribadu's tenure. The police reportedly denied that Mr Ribadu's removal had anything to do with the government acceding to politicians "anxious" that their finances should not be investigated.[446] Mr Ribadu was subsequently put on trial for failing to disclose assets during his tenure as Chairman of the Commission, in what his supporters called a political charge. He reportedly alleged that threats and attempts on his life were made, which caused him to flee the country.[447] In May 2010, the charges against Mr Ribadu were finally dropped, after a direct appeal to the new President, Goodluck Jonathan.[448]

Several former state governors and other government officials were charged by the EFCC during the reporting period, and some were convicted. In a bizarre case, the former Chairman of the Niger Delta Development Commission was charged with the theft of USD 6.8 million from the state, much of which he reportedly used in black magic rituals. In one ritual he was alleged to have burned millions of Nigerian Naira (NGN) and then rubbed the ash all over his body.[449] In December 2008, former Edo State Governor was convicted of withholding information from EFCC about a bank account which held over 3.5 million NGN.[450] In March 2009, the former governor of Ondo state was arrested over allegations of corruption, abuse of office and theft of public funds. He was reportedly making final preparations to leave the country just before being taken into custody.[451] In August 2009, it was reported that the EFCC was seeking 19 Nigerian bank executives who were fired by the Central Bank of Nigeria after it was forced to bail out five major Nigerian banks for approximately USD 2.6 billion, because their cash reserves were dangerously low owing to bad loans. The 19 executives were sought for questioning over charges related to money laundering, false accounting and share price manipulation.[452] Six people, including the former Sokoto State Governor, were arrested in December 2009 for the alleged looting of 15 million NGN from state coffers.[453] In February 2010, the former Governor of Nasarawa state was reportedly arrested for the alleged embezzlement of 15 billion NGN from state coffers.[454] In May 2010, the Chairman of the People's Democratic Party was charged with fraudulently earning USD 1.5 million in federal funds when he was a minister under former President Olusegun Obasanjo. He reportedly denied the charges and was granted

bail.[455] Also in May 2010, a former minister, who was in self-imposed exile in the United States, returned to Nigeria to face charges that he embezzled up to 32 billion NGN while he was in office.[456]

Nigeria had not enacted Freedom of Information legislation by the end of the reporting period, despite eleven years of aborted attempts.[457] The Independent National Election Commission (INEC), the primary election monitoring body in Nigeria, was heavily tainted owing to its role in the 2007 election and by-election rigging scandals in local elections. INEC has struggled to root out electoral corruption in Nigeria and it is unclear whether ambitious plans to create a biometric, and supposedly fraud-proof voters register, will be ready in time for the 2011 general election.[458]

The Nigerian NHRC had its status downgraded by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights during the reporting period of the previous edition of this report because of government interference in the removal of its Executive Secretary. In March 2009, the Executive Secretary of the NHRC was again removed by the Federal Government, in a move that was condemned by civil society groups who called it "an apparent unlawful and arbitrary removal" and urged the government to implement its commitment to the Paris Principles, "which [guarantee] full independence for national human rights commissions and provides a framework for the effective operation of these institutions".[459] In August 2009, the new Executive Secretary said that poor funding, a weak legal framework and inadequate capacity and staff development were the primary reasons why the NHRC was unable to achieve its mandate.[460] In February 2010, the Senate passed a bill which would amend the NHRC Act. The Executive Secretary urged the National Assembly to do the same, as the bill, if passed, would give the NHRC greater independence, a more secure funding arrangement and additional powers for investigation and enforcement.[461] The bill had not passed into law as of the end of the reporting period.

Sectarian violence was an issue in Nigeria throughout the reporting period as violent riots and clashes between Christians and Muslims in certain parts of the country continued. The most serious sectarian violence was experienced in the city of Jos in Plateau State. Three major clashes between Christians and Muslims took place in Jos during the reporting period, though there are indications that the violence was largely perpetrated for political and economic reasons, and that ethnic cleavages also factored into the violence. In November 2008, 400 people were reportedly killed in riots, and the political class was blamed for not anticipating and preventing tensions from erupting into violence in the aftermath of elections.[462] A local Muslim Community called for the state governor to be tried for genocide for the lack of action he allegedly took while Muslims were being killed during the riots.[463] Violent clashes resurfaced in January 2010 and up to 326 people were killed.[464] Again in March 2010, up to 500 people were killed in new violence, that media reports surmised were intended to be revenge attacks for the violence in January.[465] A media story in April 2010 said that violence was being recorded in the villages surrounding Jos on almost a daily basis.[466] One activist summed up the government's response to sectarian clashes as being characterised by "impunity, shifting of blame, looking for scapegoats and non-implementation of probe panel reports." [467]

Housing remained a major issue in Nigeria. In August 2009, the Managing Director of the Federal Mortgage Bank of Nigeria said that the country would require 45 trillion Nigerian Naira to deliver comfortable shelter to all Nigerians.[468] Despite the dire housing situation in Nigeria, several forced evictions were sanctioned by various

levels of the Nigerian government during the reporting period. A number of states carried, or attempted to carry, out controversial demolition plans to bolster urban renewal strategies. In the Federal Capital Territory of Abuja a court injunction was needed to keep the territorial minister from carrying out a planned demolition of a suburb of Abuja which, one report claims, might have left a million people homeless.[469] The NHRC likewise protested against the planned demolition,[470] which the court put on hold till the pending court appeal was resolved. At the end of the reporting period, the decision of the court was still pending.[471] Residents of a village in the Federal Capital Territory protested against the demolition of their homes in Kagini Village in defiance of two court orders which they claimed mandated the bulldozing of their homes to be stopped.[472] Rivers State saw the worst forced evictions during the reporting period as the Rivers State Government planned and carried out an urban renewal strategy which involved the mass eviction and demolition of all waterfront properties in the capital of Port Harcourt. The UN Special Rapporteur on the right to adequate housing voiced concerns in August 2009, on the plan to potentially evict "hundreds of thousands" of people in Port Harcourt in the following year. She expressed additional concerns that those who would be evicted had not been consulted on the process.[473] Despite opposition from domestic and international human rights groups, the planned demolitions continued. In October 2009, three people were killed when police opened fire on protesters who were attempting to block the demolition of their homes in Port Harcourt. In addition to the dead, 11 people were reportedly in hospital with gunshot wounds and 23 men were arrested for breaching the peace.[474] An international human rights group pointed out that demolitions were taking place in contravention of the Rivers State Government's own Physical Planning and Development Law (2003), which would have forced the government to provide alternative housing for all the occupants affected.[475]

The Niger Delta, where various militant groups have been fighting for turf amongst the oil-rich creeks, continued to be a scene of violence, despite ceasefire attempts. It was alleged by an organisation claiming to represent the largest ethnic group in the region, that up to 1,000 civilians were killed by water and air-borne gunship attacks in a hostage rescue operation, in which the Nigerian military attempted to rescue an international ship crew who had been taken hostage by the Movement to Emancipate the Niger Delta (MEND). The Nigerian military denied the charge.[476] The region also continued to be hit hard by environmental degradation which some organisations blamed on the Federal Government for not regulating the activities of oil multinationals. Indeed, environmental degradation was said to have ruined the livelihoods of people dependent on their environment for an income, which has in turn reportedly fuelled support for and participation in militant violence.[477] There were also reports in international media that security forces arrested an American filmmaker who was making a documentary in the Niger Delta region. He was charged with spying – reportedly the third time in 2008 that charges of spying were levied against foreign journalists in the region.[478]

The situation of women in Nigeria remained poor. Violence against women was reportedly still a major issue and only three states in Nigeria reportedly had a domestic violence law banning the practice. Although Nigeria ratified CEDAW in 1985, it had yet to be domesticated in Nigeria at the end of the reporting period.[479]

In some areas of Nigeria, children continued to be branded child witches, which often resulted in abandonment, horrific physical violence, and sometimes murder. One children rights activist said that many people in Akwa Ibom State believed that children could be possessed by demons,[480] and that opportunistic "bishops" often extorted money from families wishing to exorcise them. One "bishop" admitted to a documentary film crew

that he had killed 110 children in the course of exorcisms, though, when he was arrested, he claimed he had only killed the demons inside the children, not the children themselves.[481] In November 2009, the Community Tribunal of the Economic Community of West African Sates (ECOWAS), reflecting on the state of child education in Nigeria, held that there was a universal right to primary education and that the authorities in Nigeria were under an obligation to make such provisions. [482]

Homosexuals continued to face discrimination during the reporting period. A gay Nigerian man told BBC in August 2008 that he fled Nigeria over threats to his life because of his sexuality.[483] Homosexual sex remained illegal – especially so in the north of the country where it could reportedly result in the death penalty[484] – and homophobic statements were made by public figures throughout the reporting period. In August 2008, the Governor of Lagos State called for religious leaders to "prevent the spread" of homosexuality.[485] During Nigeria's Universal Period Review exercise in February 2009, Nigeria's representative reportedly told the UN Human Rights Council that the government did not consult any civil society groups working on the rights of sexual minorities in preparing its national report because no group could be found.[486] In January 2009, international human rights organisations condemned a new bill in the Nigerian legislature which would ban gay marriages. The bill would license authorities to raid any suspected gay marriage and imprison the couple being married for three years.[487] In March 2009, gay rights organisations stormed the National Assembly in a protest over the bill. The bill was not passed by the end of the reporting period.

3.2 Compliance with the Pledge

Nigeria pledged to continue making its best efforts to enhance the protection and promotion of human rights domestically. The dire human rights situation in Nigeria during the reporting period was testament to the lack of fulfilment of this pledge.

Police and security services regularly acted outside the law. Habitual extortions, illegal detentions, horrific torture, extrajudicial killings and general ineffectiveness were regularly reported. The National Human Rights Commission of Nigeria was cited in Nigeria's pledge as a body which would be reformed to bring it in line with the Paris Principles. These reforms were not carried out, and the Commission continued to be hampered by government interference as well as a lack of funding and a weak legal framework. Reforms to the prison system did not fructify and prison conditions in Nigeria remained deplorable owing to extreme overcrowding. Poor sanitation, lack of food and medicine, the beating and torture of prisoners and placing minors with adults were also concerns. The death penalty was retained, and although no executions were reportedly carried out, death sentences were still handed down and secret executions were alleged to have occurred. The proposed Prevention of Terrorism Bill, 2009 contained several provisions which were in direct contradiction to many of Nigeria's international and domestic human rights obligations.

Media persons, protestors and civil society activists were targeted with harassment, violence, death threats, and illegal detention, despite Nigeria's rhetoric at the Council sessions that governments should "create enabling environments to allow free and fair information to flow more effectively to civil society". Freedom of information legislation was not passed by the conclusion of the reporting period. Corruption remained pervasive, with the Economic and Financial Crimes Commission continuing to investigate many high-profile cases of corruption. The functioning of the Commission was plagued by charges of fraud against its own staff. Despite a dire

housing situation, forced evictions were carried out regularly. Violence against women and children did not decline and homosexuals continued to be discriminated against and harassed.

Nigeria fulfilled its pledge to actively engage with the Council, as it was one of the most vocal member States at most sessions and made a considerable number of interventions on behalf of the African Group towards the end of the reporting period. That said, it also vowed to use its active engagement to promote human rights within and outside Nigeria, and results were mixed on that aspect of its pledge.

With the exception of the resolutions on Israel and the OPT, Nigeria voted against extending country-specific mandates, stating its opinion that they were counter-productive, and was generally against resolutions which were critical specific countries. On Sudan and DRC, Nigeria supported a weak approach. Nigeria voted against a resolution on extending the Council's mandate in DPRK, and reiterated that country-specific resolutions had thus far been unhelpful. Nigeria later abstained on a similar resolution which extended the mandate of the Special Rapporteur on the Human Rights Situation in DPRK. Nigeria voted in favour of a weak resolution on Sri Lanka and abstained on a vote that attempted to silence amendments to resolutions critical of Sri Lanka.

Nigeria voted with the African Group and other allied voting blocs on controversial thematic resolutions. It voted in favour of resolutions on the right of peoples to peace, human rights and international solidarity, unilateral coercive measures, defamation of religions, the promotion of a democratic and equitable international order, the effect of the global financial crisis, the elaboration of complementary standards to ICERD, the effect of foreign debt on human rights, and on traditional values. The country abstained on a resolution on discrimination based on religion or belief.

Nigeria called for the Code of Conduct for Special Procedures to be strictly enforced when the Special Rapporteur on extrajudicial killings criticised Nigeria's stance on the death penalty, in a report to the Council. In a later session, Nigeria stated that the Code of Conduct for Special Procedures was meant to enhance independence within established rules and guidelines. Nigeria also reminded the Advisory Committee to stick to the institution-building text on more than one occasion. Regarding the UPR, Nigeria noted its opinion that the UPR's institution-building text was satisfactory and need not be reopened, after the High Commissioner for Human Rights and several other countries expressed a desire for the process to eventually be supplemented with a follow-up mechanism.

Nigeria pledged to cooperate with all treaty bodies, but it still had a number of reports overdue at the end of the reporting period, including one dating back to 2000.

---

385 Open Society Justice Initiative, "Criminal Force – torture, abuse, and extrajudicial killings by the Nigeria police force" (2010) at http://allafrica.com/download/resource/main/main/idatcs/00020133:ca1fc169adf8765a6fee823ead6b52ad.pdf (last accessed on 5 October 2010).

386 *Leadership*, "IGP arrests seven over illegal checkpoints" (21 November 2008) at http://allafrica.com/stories/200811210389.html (last accessed on 8 October 2010); *Daily Independent*, "Police extortion at College Road" (6 November 2008) at http://allafrica.com/stories/200811060972.html (last accessed on 8 October 2010).

387 *Leadership*, "Rights group condemn police harassment of citizens" (2 February 2009) at http://allafrica.com/stories/200902020789.html (last accessed on 6 October 2010).

388 *This Day*, "HURIWA wants police force reorganized" (24 April 2009) at http://allafrica.com/stories/200904240521.html (last accessed on 6 October 2010).
389 Digital Journal, "Nigerian police detain thousands in raid" (16 August 2009) at http://www.digitaljournal.com/article/277732 (last accessed on 6 October 2010).
390 *Vanguard*, "Federal government warns institutions, persons against extrajudicial killings" (17 September 2008) at http://allafrica.com/stories/200809170492.html (last accessed on 5 October 2010).
391 *This Day*, "Extrajudicial killings – PSC to sanction CPS" (2 December 2008) at http://allafrica.com/stories/200812020236.html (last accessed on 6 October 2010).
392 Human Rights Watch, "Arbitrary killings by security forces in Jos" (19 December 2008) at http://www.hrw.org/en/news/2008/12/19/nigeria-arbitrary-killings-security-forces-jos (last accessed on 6 October 2010).
393 Human Rights Watch, "Prosecute killings by security forces" (26 November 2009) at http://www.hrw.org/en/news/2009/11/26/nigeria-prosecute-killings-security-forces (last accessed on 6 October 2010).
394 Email correspondence with a Nigerian lawyer working on police reform.
395 *This Day*, "Civil society groups complain of extrajudicial killings" (9 January 2009) at http://allafrica.com/stories/200901090174.html (last accessed on 6 October 2010).
396 *This Day*, "All we demand is justice" (11 March 2009) at http://allafrica.com/stories/200903120119.html (last accessed on 6 October 2010).
397 Africa Confidential, "Islamists raise the stakes as they take on Yar'Adua" (7 August 2009) at http://www.africa-confidential.com/article-preview/id/3191/No-Title (last accessed on 9 November 2010).
398 *Vanguard*, "Boko Haram leader, Yusuf, killed" (30 July 2009) at http://allafrica.com/stories/200907310003.html (last accessed on 6 October 2010).
399 *Daily Trust*, "Boko Haram – FG apologises to UN over killings" (18 August 2009) at http://allafrica.com/stories/200908180461.html (last accessed on 5 October 2010).
400 BBC News, "Nigeria Police Held Over Boko Haram Sect Killings" (1 March 2010) at http://news.bbc.co.uk/2/hi/africa/8544131.stm (last accessed on 6 October 2010); AfrikNews, "Police officers arrested for extrajudicial killings" (2 March 2010) at http://www.afrik-news.com/article17063.html (last accessed on 6 October 2010).
401 AfrikNews, "Police and Vigilante Killings Out of Control" (9 December 2009) at http://www.afrik-news.com/article16612.html (last accessed on 6 October 2010).
402 Open Society Justice Initiative, "Criminal Force – Torture, abuse, and extrajudicial killings by the Nigeria police force" (2010) at http://allafrica.com/download/resource/main/main/idatcs/00020133:ca1fc169adf8765a6fee823ead6b52ad.pdf (last accessed on 5 October 2010).
403 Amnesty International, "Nigerian police 'kill at will'" (9 December 2009) at http://www.amnesty.org/en/news-and-updates/report/nigerian-police-039kill-will039-20091209 (last accessed on 6 October 2010).
404 Amnesty International, "Nigeria must urgently investigate disappearance of six from police custody" (14 April 2010) at http://www.amnesty.org/en/news-and-updates/nigeria-must-urgently-investigate-disappearance-six-police-custody-2010-04-14 (last accessed on 6 October 2010).
405 Amnesty International, "Nigeria police killings must be investigated" (12 February 2010) at http://www.amnesty.org/en/for-media/press-releases/nigeria-police-killings-must-be-investigated-20100212 (last accessed on 8 October 2010).
406 *Daily Independent*, "Halt Use of Torture by Security Agencies, Writers Tell FG" (26 November 2008) at http://allafrica.com/stories/200811270581.html (last accessed on 5 October 2010).
407 *Vanguard*, "NBA faults police over torture" (24 October 2008) at http://allafrica.com/stories/200810240471.html (last accessed on 5 October 2010).
408 *Daily Independent*, "Stop torturing citizens, Aondoakaa tells police" (24 April 2009) at http://allafrica.com/stories/200904240680.html (last accessed on 5 October 2010).
409 Open Society Justice Initiative, "Criminal Force – Torture, abuse, and extrajudicial killings by the Nigeria police force" (2010) at http://allafrica.com/download/resource/main/main/idatcs/00020133:ca1fc169adf8765a6fee823ead6b52ad.pdf (last accessed on 5 October 2010).
410 *Vanguard*, "NHRC harps on zero tolerance for torture" (24 April 2010) at http://allafrica.com/stories/201004261164.html (last accessed on 5 October 2010).
411 *This Day*, "What is life worth in prisons" (13 April 2010) at http://allafrica.com/stories/201004130883.html (last accessed on 5 October 2010).
412 *Daily Independent*, "Government restates commitment to prison decongestion" (24 February 2009) at http://allafrica.com/stories/200902240439.html (last accessed on 5 October 2010).
413 *Daily Independent*, "How Lagos CJ put smiles on 45 prison inmates" (11 January 2010) at http://allafrica.com/stories/200902020922.html (last accessed on 5 October 2010).
414 *Daily Trust*, "65% of inmates awaiting trial" (14 April 2010) at http://allafrica.com/stories/201004140287.html (last accessed on 5

October 2010).

415 Email correspondence with a Nigerian lawyer working on police reform.

416 *This Day*, "Riot in Kaduna prison over congestion" (23 January 2010) at http://allafrica.com/stories/201004130883.html (last accessed on 5 October 2010).

417 *Leadership*, "97 under-aged persons in Port Harcourt prisons" (20 November 2008) at http://allafrica.com/stories/200811200516.html (last accessed on 5 October 2010).

418 *Daily Trust*, "Extortion at prison gates – C-G orders investigation" (23 January 2009) at http://allafrica.com/stories/200901230388.html (last accessed on 5 October 2010).

419 Amnesty International, "Death row prisoners freed in Nigeria" (26 August 2009) at http://www.amnesty.org/en/news-and-updates/good-news/death-row-prisoners-freed-nigeria-20090826 (last accessed on 5 October 2010).

420 *This Day*, "Kidnapping – Enugu assembly passes bill on capital punishment" (20 February 2009) at http://allafrica.com/stories/200902200048.html (last accessed on 5 October 2010); *This Day*, "Rivers – Kidnappers to Face Life Imprisonment" (18 February 2009) at http://allafrica.com/stories/200902180140.html (last accessed on 5 October 2010); Amnesty International, "Kidnapper's face death penalty in Nigeria's Imo state" (8 May 2009) at http://www.amnesty.org/en/news-and-updates/news/kidnappers-face-death-penalty-nigeria-imo-state-20090508 (last accessed on 5 October 2010).

421 IPS, "Nigeria 'forced confessions' condemn hundreds" (21 October 2008) at http://allafrica.com/stories/200810210929.html (last accessed on 6 October 2010).

422 Amnesty International, "Nigerian governors 'threaten to execute inmates' to Ease Prison Congestion" (22 April 2010) at http://www.amnesty.org/en/news-and-updates/nigerian-governor-%E2%80%98threatens-execute-inmates%E2%80%99-ease-prison-congestion-2010-04-22 (last accessed on 5 October 2010).

423 AFP, "Nigerian governors approve execution of convicted prisoners" (21 April 2010) at http://www.google.com/hostednews/afp/article/ALeqM5gdNYCQesSvxYJ6mo4D13Y8mJDe9Q (last accessed on 5 October 2010).

424 *Vanguard*, "Prison Congestion Worries Government" (26 April 2010) at http://allafrica.com/stories/201004270524.html (last accessed on 5 October 2010).

425 Amnesty International, "Nigeria: Provisions of the 'Prevention of Terrorism Bill 2009' are incompatible with Nigeria's human rights obligations: Briefing to the National Assembly" (27 May 2010) at http://www.unhcr.org/refworld/docid/4c7f93422.html (last accessed on 8 October 2010).

426 Committee to Protect Journalists, "Paul Aboyomi Ogundeji" (16 August 2008) at http://cpj.org/killed/2008/paul-aboyomi-ogundeji.php (last accessed on 6 October 2010).

427 Committee to Protect Journalists, "CPJ condemns ongoing TV suspension and detention of journalists" (18 September 2008) at http://cpj.org/2008/09/cpj-condemns-ongoing-tv-suspension-and-detention-o.php (last accessed on 6 October 2010).

428 *Leadership*, "Police to probe journalist over publication" (2 October 2008) at http://allafrica.com/stories/200810020249.html (last accessed on 6 October 2010).

429 *Daily Independent*, "Writers decry continued detention of online journalist" (27 October 2008) at http://allafrica.com/stories/200810271025.html (last accessed on 6 October 2010).

430 *This Day*, "NGE flays harassment of *Leadership* editors" (19 November 2008) at http://allafrica.com/stories/200811190593.html (last accessed on 6 October 2010).

431 *This Day*, "abducted editor surfaces in Bayelsa" (19 March 2009) at http://allafrica.com/stories/200903190211.html (last accessed on 6 October 2010).

432 *Daily Independent*, "National Human Rights Commission Condemns Assault on Editor" (26 March 2009) at http://allafrica.com/stories/200903260497.html (last accessed on 6 October 2010).

433 Committee to Protect Journalists, "Bayo Ohu" (20 September 2009) at http://cpj.org/killed/2009/bayo-ohu.php (last accessed on 6 October 2010).

434 Committee to Protect Journalists, "Three journalists killed in Nigeria" (26 April 2010) at http://cpj.org/2010/04/three-journalists-killed-in-nigeria.php (last accessed on 6 October 2010).

435 *This Day*, "NUJ Protests Journalists' Murder" (4 May 2010) at http://allafrica.com/stories/201005040322.html (last accessed on 6 October 2010).

436 Committee to Protect Journalists, "In Nigeria, 4 journalists receive death threats" (30 April 2010) at http://cpj.org/2010/04/in-nigeria-4-journalists-receive-death-threats.php (last accessed on 6 October 2010); *Daily Independent*, "Journalists at the mercy of gunmen" (3 May 2010) at http://allafrica.com/stories/201005040175.html (last accessed on 6 October 2010).

437 *This Day*, "Nigeria: Police Kill Five Protesters in Ondo" (2 December 2008) at http://allafrica.com/stories/200812020240.html (last accessed on 6 October 2010).

438 *Vanguard*, "CDHR Asks Uduaghan to probe shooting of two civilians" (6 March 2009) at http://allafrica.com/stories/200903060103.html (last accessed on 7 October 2010).

439 *This Day*, "Court revokes bail of 24 rights activists" (24 March 2009) at http://allafrica.com/stories/200903240180.html (last accessed on 7 October 2010).

440 *Vanguard*, "Group Blasts Police Brutalization of Pupils in Kogi" (5 August 2009) at http://allafrica.com/stories/200908060270.html (last accessed on 7 October 2010).
441 Amnesty International, "Activists assaulted and illegally detained by Nigerian police" (9 April 2010) at http://www.amnesty.org/en/news-and-updates/activists-assaulted-and-illegally-detained-nigerian-police-2010-04-09 (last accessed on 6 October 2010).
442 *This Day*, "Enough of the attacks on activists" (20 April 2010) at http://allafrica.com/stories/201004200337.html (last accessed on 7 October 2010).
443 BBC News, "Nigeria recovers 'graft billions'" (1 October 2008) at http://news.bbc.co.uk/2/hi/africa/7646231.stm (last accessed on 7 October 2010).
444 AfrikNews, "Nigerian President to ban immunity for corrupt officials" (11 December 2008) at http://www.afrik-news.com/article15024.html (last accessed on 7 October 2010).
445 Transparency International, "2009: Corruption Perceptions Index" (2009) at http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table (last accessed on 7 October 2010).
446 *The Nation*, "Nigeria graft police sack own staff for fraud" (25 August 2008) at http://www.nation.co.ke/News/africa/-/1066/463674/-/149hntfz/-/index.html (last accessed on 7 October 2010).
447 BBC News, "Ribadu tells of corruption battle" (10 November 2009) at http://news.bbc.co.uk/2/hi/africa/8322992.stm (last accessed on 7 October 2010); *This Day*, "1027 Petition UN, EU over Ribadu" (10 March 2009) at http://allafrica.com/stories/200903100155.html (last accessed on 7 October 2010).
448 BBC News, "Nigeria drops corruption fighter Nuhu Ribadu Charges" (5 May 2010) at http://news.bbc.co.uk/2/hi/africa/8663236.stm (last accessed on 7 October 2010).
449 BBC News, "Nigerian accused of 'juju' theft" (20 August 2008) at http://in.reuters.com/article/idINLI36634020090818 (last accessed on 7 October 2010).
450 *Daily Independent*, "Igbinedion convicted of corruption" (19 December 2008) at http://allafrica.com/stories/200812190191.html (last accessed on 7 October 2010).
451 *This Day*, "Alleged N25 billion fraud – EFCC arrests Agagu" (5 March 2009) at http://allafrica.com/stories/200903050144.html (last accessed on 7 October 2010).
452 Reuters, "Nigeria anti-graft police seek executives" (19 August 2009) at http://in.reuters.com/article/idINLI36634020090818 (last accessed on 7 October 2010).
453 *This Day*, "Alleged N15 billion fraud – Six Barafawa aides arrested" (14 December 2009) at http://allafrica.com/stories/200912140353.html (last accessed on 7 October 2010).
454 *Khaleej Times*, "Nigeria arrests former state governor for graft" (23 February 2010) at http://www.khaleejtimes.com/DisplayArticle08.asp?xfile=data/international/2010/February/international_February1117.xml&section=international (last accessed on 7 October 2010).
455 *This Day*, "Corruption charges – AC asks Ogbulafor to step down" (4 May 2010) at http://allafrica.com/stories/201005040207.html (last accessed on 7 October 2010); Agencia AngolaPress, "Nigerian's ruling party chairman resigns" (14 May 2010) at http://www.portalangop.co.ao/motix/en_us/noticias/africa/2010/4/19/Nigeria-ruling-party-chairman-resigns,711f6684-56a9-45e2-8a34-93d2c531d32e.html (last accessed on 18 November 2010).
456 AfrikNews, "Former minister braces up for corruption charges" (5 May 2010) at http://allafrica.com/stories/201005040207.html (last accessed on 7 October 2010).
457 *Daily Champion*, "US-based NGO makes case for FOI bill" (2 April 2009) at http://allafrica.com/stories/200904020087.html (last accessed on 6 October 2010).
458 Lecture by Professor Okechukwu Ibeanu (INEC), "Nigeria: Planning and Prospects for the 2011 Elections" (8 October 2010) at Chatham House, Africa Programme Seminar Series, London UK.
459 *Vanguard*, "Serap, CDHR, others flay NHRC boss removal" (28 March 2009) at http://allafrica.com/stories/200903300041.html (last accessed on 8 October 2010).
460 *Leadership*, "Why we are unable to perform – NHRC" (14 August 2009) at http://allafrica.com/stories/200908140292.html (last accessed on 8 October 2010).
461 National Human Rights Commission of Nigeria, "NHRC commends the Senate" (10 February 2010) at http://www.nigeriarights.gov.ng/index.php?option=com_content&view=article&id=73&Itemid=27 (last accessed on 8 October 2010).
462 *Daily Independent*, TMG blames crisis on political class" (4 December 2008) at http://allafrica.com/stories/200812040200.html (last accessed on 7 October 2010).
463 *Daily Trust*, "Gov Jang must be charged for genocide – Plateau Muslim Ummah" (12 December 2008) at http://allafrica.com/stories/200812120356.html (last accessed on 7 October 2010).
464 CBC, "Nigerian police say 326 died in religious violence" (25 January 2010) at http://www.cbc.ca/world/story/2010/01/25/nigeria-religious-conflict.html (last accessed on 7 October 2010).
465 *New York Times*, "Toll from religious and ethnic violence in Nigeria rises to 500" (8 March 2010) at http://www.nytimes.com/2010/03/09/world/africa/09nigeria.html?_r=1&ref=global-home (last accessed on 7 October 2010).

466 BBC News, "Nigeria reprisal killings continue near city of Jos" (21 April 2010) at http://news.bbc.co.uk/2/hi/8634515.stm (last accessed on 7 October 2010).
467 IRIN, "Impunity for perpetrators of sectarian violence" (24 April 2009) at http://allafrica.com/stories/200904270112.html (last accessed on 7 October 2010).
468 *This Day*, "FMBN – Nation requires n45 trillion for housing" (5 August 2009) at http://allafrica.com/stories/200908050030.html (last accessed on 7 October 2010).
469 *Daily Champion*, "Demolition – One million face sack in abuja" (2 February 2010) at http://allafrica.com/stories/201002020638.html (last accessed on 7 October 2010).
470 *Daily Trust*, "NHRC wants Lugbe demolition stopped" (12 March 2010) at http://allafrica.com/stories/201003120314.html (last accessed on 7 October 2010).
471 *Daily Trust*, "Court halts Lugbe's demolition" (20 May 2010) at http://allafrica.com/stories/201005200616.html (last accessed on 7 October 2010).
472 *Daily Trust*, "Demolition – Kagini residents protest defiance of court" (3 January 2010) at http://allafrica.com/stories/201001040870.html (last accessed on 7 October 2010).
473 UN News Centre, "Independent UN expert sounds alarm on mass forced evictions in Nigeria" (13 August 2009) at http://www.un.org/apps/news/story.asp?NewsID=31754&Cr=housing&Cr1 (last accessed on 7 October 2010).
474 Amnesty International, "Three killed as Nigerian security forces fire at demonstrators" (14 October 2009) at http://www.amnesty.org/en/news-and-updates/news/three-killed-nigerian-security-forces-fire-protesters-20091014 (last accessed on 7 October 2010).
475 Amnesty International, "Rivers state government set to demolish more homes" (2 November 2009) at http://www.amnesty.org/en/for-media/press-releases/nigeria-rivers-state-government-set-demolish-more-homes-20091102 (last accessed on 7 October 2010).
476 AfrikNews, "Military offensive kills 1000 for 17 hostages" (18 May 2009) at http://www.afrik-news.com/article15696.html (last accessed on 8 October 2010).
477 Vanguard, "Lar faults military intervention in Niger Delta crisis" (24 October 2008) at http://www.afrik-news.com/article15696.html (last accessed on 8 October 2010).
478 Reuters, "Nigerian security forces arrest US filmmaker" (2 September 2008) at http://in.reuters.com/article/idINL273290720080902 (last accessed on 8 October 2010).
479 *Vanguard*, "FG should domesticate CEDAW, protect women from violence" (20 February 2009) at http://allafrica.com/stories/200902200154.html (last accessed on 8 October 2010).
480 *Daily Mail*, "'Bishop' who claimed he'd killed 110 child 'witches' is arrested in Nigeria" (4 December 2008) at http://www.dailymail.co.uk/news/worldnews/article-1091972/Bishop-claimed-hed-killed-110-child-witches-arrested-Nigeria.html (last accessed on 8 October 2010).
481 *Leadership*, "Akwa Ibom 'Child-Witches' – The man behind the abuse" (31 January 2009) at http://allafrica.com/stories/200902020381.html (last accessed on 8 October 2010).
482 *SERAP v Federal Republic of Nigeria and Universal Basic Education Commission* ECW/CCJ/APP/08/08.
483 *Modern Ghana*, "Gay Nigerian tells of death threats" (3 August 2008) at http://www.modernghana.com/newsthread/176890/1/30240 (last accessed on 7 October 2010).
484 IOL News, "Groups angered by Nigeria gay marriage ban" (12 March 2009) at http://www.iol.co.za/news/africa/groups-angered-by-nigeria-gay-marriage-ban-1.437119 (last accessed on 7 October 2010).
485 *Leadership*, "Prevent spread of homosexuality, Fashola" (6 August 2008) at http://allafrica.com/stories/200808060726.html (last accessed on 7 October 2010).
486 *Vanguard*, "We've no gay nor lesbian group, says Chief Ojo Madueke" (14 February 2009) at http://allafrica.com/stories/200902140009.html (last accessed on 7 October 2010).
487 Amnesty International, "Nigeria's Proposed ban on same-sex partnerships an assault on human rights" (28 January 2009) at http://www.amnesty.org/en/news-and-updates/news/nigerias-proposed-ban-same-sex-partnerships-assault-human-rights-20090128 (last accessed on 7 October 2010).

Pakistan

Easier Said
than Done

1. Background

1.1. Context

The Constitution of Pakistan, adopted in 1973, envisioned a federal republic in which Islam was the state religion. Several constitutional and ordinary laws were enacted with the ostensible aim to make Pakistan an Islamic state.

Repeated long periods of military rule characterised Pakistan's political history. The institutions of the army and its intelligence agencies continue to play a dominant role in key areas, including internal security and foreign affairs. While Marital Law was not declared, Pakistan was most recently under military rule from October 1999, when General Pervez Musharraf seized power from Nawaz Sharif, to November 2007, when Musharraf resigned from his post as Army Chief of Staff but stayed on as President. On 18 August 2008, Musharraf resigned as President after being threatened with impeachment. Asif Ali Zardari, the widower of assassinated Pakistan People's Party (PPP) leader Benazir Bhutto, became President and Head of State on September 6, 2008. A constitutional amendment in May 2010, which will be elaborated on later in this chapter, drastically altered both the power dynamics between the President and the Prime Minister, and the Federal Government and the provinces.

1.2 UN Treaties

Pakistan is a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Convention on the Rights of the Child (CRC). It has signed the two Optional Protocols of the CRC and the Convention on the Rights of Persons with Disabilities.

Pakistan is not a party to the Optional Protocol to CAT, the two Optional Protocols to the ICCPR, the Optional Protocol to the ICESCR, the Optional Protocol to the CEDAW, the Convention for the Protection of All Persons from Enforced Disappearance (CED), or the Convention on the Protection of the Rights of All Migrants Workers (CMW).

1.3 UN Reporting History

Pakistan has completed most reporting requirements due under international treaties, but has failed to satisfy all its requirements.

Pakistan failed to submit one report under CEDAW in 2009. As of the end of the reporting period, Pakistan did not have any reports overdue under CESCR, but a deadline for a report due in June 2010 was not met. The country has completed all 19 rounds of reporting under ICERD and has completed its reporting requirements under CRC.

Pakistan has not extended an open invitation to the Special Procedures of the UN Human Rights Council.

1.4 UN Voting Patterns and Performance at the Council

Eighth Session of the UN Human Rights Council

On 2 June 2008, Pakistan expressed dissatisfaction with the wording of a draft resolution on the Optional Protocol to the International Convention on Economic, Social and Civil Rights which it viewed as selective for its non-inclusion of the right to self-determination as a basis for complaints. Pakistan felt that consensus had not been achieved, and that further consideration was necessary. However, it suggested the addition of a preambular paragraph reaffirming the right to self-determination as a solution.

On 3 June 2008, Pakistan responded to the report of the Special Rapporteur on extrajudicial killings by asserting its position that the death penalty did not infringe any universally-recognised human right.

On 3 June 2008, Pakistan expressed support for the mandate of the Special Representative of the Secretary-General on business and human rights and for the creation of mandatory minimum corporate social responsibility standards.

On 6 June 2008, Pakistan questioned the decision to extend the mandate of the Special Representative of the Secretary-General on business and human rights for two years, rather than the conventional three years.

On 18 June 2008, Pakistan, on behalf of the OIC, criticised the resolution on the human rights situation in Myanmar as being politicised, as it failed to recognise the positive development made by Myanmar.

On 18 June 2008, Pakistan voted in favour of a resolution on the promotion on the right of peoples to peace. Slovenia called for a vote on behalf of the EU, on the basis that the issues contained in the resolution were best dealt with in other fora and that the resolution failed to state that the absence of peace did not justify breaches of human rights.

On 18 June 2008, Pakistan voted in favour of a resolution on the promotion of a democratic and equitable international order. The resolution rejected a unilateral approach in favour of a multilateral one when addressing international issues. Slovenia called for a vote on behalf of the EU, on the basis that the resolution addressed issues that were beyond the mandate of the Council. For example, it focused on relations between States rather than relations between States and their citizens.

On 18 June 2008, Pakistan disagreed with the inclusion of a reference to the death penalty within the resolution extending the mandate of the Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions.

Ninth Session of the Human Rights Council

On 15 September 2008, Pakistan, on behalf of the OIC, criticised the criteria developed by the High-Level Task Force on the right to development, for the purpose of evaluating the implementation of the Millennium Development Goals. Pakistan felt that the criteria focused too heavily on the national dimension, and should have taken into account the impact of international trading systems and financial regimes.

On 15 September 2008, Pakistan, on behalf of the OIC, commented that the institution-building text on Universal Periodic Review was clear and that no further layers of procedure were necessary.

On 18 September 2008, in connection with the report of the High-Level Fact-Finding Mission to Beit Hanoun, Pakistan, on behalf of the OIC, criticised Israel for not allowing the fact-finding mission access for several months. It also observed that legitimate concerns of war crimes had been raised, and agreed that occupation was the root cause of suffering in the area, and that the international community failed to fulfil its obligations.

On 19 September 2008, during an interactive dialogue with the Special Rapporteur on racism, Pakistan, on behalf of the OIC, expressed its hope that the Special Rapporteur's work would reinforce the importance of development of international norms to combat defamation of religions.

On 19 September 2008, during an informal consultation on a resolution on advisory services and technical assistance for Cambodia, Pakistan objected to the reinsertion of a paragraph expressing concern regarding continuing human rights violations on the basis that it would cause difficulties for the Government of Cambodia.

On 24 September 2008, Pakistan voted in favour of a resolution on human rights and international solidarity. The resolution emphasised the need for international cooperation to tackle human rights issues in a manner that distributes costs and burdens fairly. France called for a vote on behalf of the EU, on the basis that international solidarity was a moral principle and not a human right defined in legal terms.

On 24 September 2008, Pakistan voted in favour of a resolution on human rights and unilateral coercive measures. The resolution requested States to stop using or implementing unilateral, coercive measures not in accordance with international law, in particular those creating obstacles to trade relations between States. It also condemned the use of unilateral coercive measures to assert political or economic pressures, especially on developing countries.

On 24 September 2008, Pakistan voted in favour of a resolution on the follow-up to Resolution S-3/1 on the Assault on Beit Hanoun. The resolution welcomed the report of the High-Level Fact-Finding Mission dispatched to assess the situation in Beit Hanoun. It called for full implementation of all the recommendations made in the report and expressed regret for the delay caused by Israel's non-cooperation.

On 24 September 2008, Pakistan, on behalf of the OIC, commented on the positive human rights efforts made by Sudan. It also reiterated its opposition to country-specific mandates, although it expressed support for efforts to reach a consensual outcome.

Ninth Special Session of the UN Human Rights Council

On 12 January 2009, Pakistan voted in favour of a resolution on the grave violations of human rights in the OPT. The resolution strongly condemned the Israeli military operation in the OPT, stating that this had caused grave violations of the human rights of Palestinian civilians. It accused Israel of collective punishment of the Palestinian people and called on the international community to act.

Tenth Special Session of the UN Human Rights Council

On 23 February 2009, Pakistan voted in favour of a resolution on the impact of the global economic and financial crisis on the universal realisation and effective enjoyment of human rights. The resolution expressed deep concern on the effect of the economic and financial crisis on human rights and called for an increased participation by developing countries in international decision-making.

Tenth Session of the UN Human Rights Council

On 6 March 2009, Pakistan, on behalf of the OIC, expressed support for greater regulation of private military and security companies.

On 26 March 2009, Pakistan abstained from voting on a resolution expressing serious concern over the human rights situation in DPRK and extending the mandate of the Special Rapporteur on DPRK for a further year.

On 26 March 2009, Pakistan voted in favour of a resolution on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.

On 26 March 2009, Pakistan voted in favour of a resolution on human rights in the occupied Syrian Golan, which expressed deep concern for the suffering of the Syrian civilian population and referred to the systematic and continuous violations of fundamental and human rights by Israel.

On 26 March 2009, Pakistan voted in favour of a resolution on Israeli settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution strongly condemned the Israeli announcement that it would build further settlements in the OPT.

On 26 March 2009, Pakistan voted in favour of a resolution on the human rights violations emanating from the Israeli military attacks and operations in the OPT.

On 26 March 2009, Pakistan voted in favour of a resolution on the follow-up to Council Resolution S-9/1 on the grave violations of human rights in the OPT, particularly due to the then recent Israeli military attacks against the Occupied Gaza Strip. The resolution regretted that Resolution S-9/1 had not been fully implemented yet and demanded that Israel cooperate with the international community.

On 26 March 2009, Pakistan voted in favour of a resolution on combating defamation of religions.

On 26 March 2009, Pakistan voted in favour of a resolution calling for better geographical representation and gender balance in the staff of the OHCHR.

On 26 March 2009, Pakistan, on behalf of the OIC, criticised the calling of a special session on the human rights situation in Sri Lanka.

On 27 March 2009, Pakistan voted in favour of a resolution on the elaboration of complementary standards to

the International Convention on the Elimination of All Forms of Racial Discrimination.

On 27 March 2009, Pakistan abstained from voting on a resolution on torture and the role and responsibility of medical and other health personnel. In an additional vote, Pakistan voted against including a paragraph in the resolution which took note of the report of the Special Rapporteur on torture. On 10 March 2009, the Special Rapporteur on torture presented his report in which he considered whether the death penalty amounted to cruel, inhuman or degrading treatment or punishment. Pakistan accused the Special Rapporteur of going beyond his mandate and noted that there was no international consensus on the status of the death penalty as a breach of human rights.

On 27 March 2009, Pakistan voted in favour of a decision on the publication of reports completed by the Sub-Commission on the Promotion and Protection of Human Rights. The resolution provided for all reports by the Sub-Commission that had previously been mandated by the Commission on Human Rights and submitted to the OHCHR, to be published as UN documents. Pakistan agreed with a statement by Bangladesh that it was regrettable that a vote was due on a procedural matter. It further stated that insufficient time had been given for consultations on the matter, but that it would vote in favour of the resolution so that the important work of the Sub-Commission would not be wasted.

On 27 March 2009, Pakistan abstained from voting on a resolution on discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights. The resolution was introduced by the EU. The Czech Republic, on behalf of the EU, explained that the resolution was in response to the report of the Special Rapporteur on Freedom of Expression and that this was an important, sensitive issue. The resolution was criticised by some other States for failing to adequately address contemporary forms of religious discrimination.

During the Tenth Session, two draft resolutions on the human rights situation in DRC were tabled, one by the EU and the other by the African Group. The resolution drafted by the EU expressed serious concerns regarding the human rights situation there, while the African Group's draft was less critical of the issue and called on OHCHR to enhance its technical assistance activities in the country. Following the adoption of the African Group's resolution by vote, the EU proposed amendments to the resolution reflecting serious concerns. Pakistan voted in favour of the original resolution drafted by the African Group and voted against the amendments proposed by the EU.

Eleventh Special Session of the UN Human Rights Council

On 27 May 2009, Pakistan voted in favour of a resolution on assistance to Sri Lanka in the promotion and protection of human rights. Before the vote, Germany, on behalf of the EU, proposed oral amendments to the draft resolution, as it made no mention of the need to conduct investigations into alleged violations of international human rights law or the need to prosecute perpetrators. Cuba, on behalf of a number of countries, requested that no action be taken on Germany's proposed oral amendments. The request was put to a vote and the Pakistan voted in favour of it.

Eleventh Session of the UN Human Rights Council

On 2 June 2009, Pakistan, on behalf of the OIC, emphasised the need to continue focusing on corporate responsibility during the current economic crisis.

On 2 June 2009, Pakistan, on behalf of the OIC, conveyed its strong reservations on the report of the Special Rapporteur on freedom of expression. Pakistan observed that the report did not comment on the misuse and abuse of freedom of opinion and expression and therefore was not in conformity with the Special Rapporteur's mandate or Resolution 7/36.[488] Pakistan further stated that freedom of expression was not absolute and had its limitations. It advised the Special Rapporteur to adhere to the mandate and the Code of Conduct in future.

On 3 June 2009, Pakistan expressed support for the content of the report of the Special Rapporteur on the Independence of Judges and Lawyers.

On 3 June 2009, in response to the report of the Special Rapporteur on health, Pakistan identified affordability of medicines as the main obstacle to realising the right to health.

On 3 June 2009, Pakistan, on behalf of the OIC, described the proposal of the Special Rapporteur on extrajudicial killings to undertake a study to identify best practice in policing public assemblies, as interesting.

On 3 June 2009, a resolution on preventable maternal mortality and morbidity and human rights was adopted. In informal consultations before its adoption, Pakistan raised concerns on the grounds that maternal morbidity and mortality was a developmental issue rather than a human rights one. The text was amended to state that it was a health, development and human rights challenge rather than a potential human rights violation.

On 3 June 2009, Pakistan, on behalf of the OIC, in response to a 15-year review of the work of the Special Rapporteur on violence against women, argued that she had exceeded her mandate by addressing same sex relations, safe abortions and extending the definition of family.

On 4 June 2009, Pakistan, on behalf of the OIC, expressed regret about a statement made by the High Commissioner in her official capacity at a meeting of lesbian, gay, bisexual and transgender groups, owing to the fact that this issue had not been universally recognised.

On 4 June 2009, Pakistan on behalf of the OIC, referred to the need to support the fact-finding mission in the OPT. It characterised the situation there as one of repression and occupation rather than conflict.

On 4 June 2009, Pakistan, on behalf of the OIC, welcomed the High Commissioner's decision to prioritise the issue of migrant rights.

On 4 June 2009, during a panel discussion on women's rights, Pakistan, on behalf of the OIC, was among the States that rejected the proposal for a new special procedure regarding laws that discriminate against women. The justifications provided for this were that it could be viewed as an attack on specific cultures and would infringe on the mandate of CEDAW. A member of the Expert Panel responded by stressing that targeting

specific countries would be unacceptable, but pointed out that the CEDAW Committee met States only once every five years and urged that a new Special Representative could be used to draw a distinction between formal and substantive rights.

On 4 June 2009, the High Commissioner raised concerns regarding people in north-west Pakistan who had fled their homes. Pakistan replied that security forces were engaged in law enforcement operations in the area to provide protection. It added that it was "deeply conscious" of its responsibilities and referred to the need for humanitarian assistance.

On 12 June 2009, during a discussion on the functions and modalities for future panel discussions, Pakistan focused on the need for transparency during the appointment of panellists.

On 16 June 2009, Pakistan, on behalf of the OIC, reiterated support for complementary standards to fight racism and related intolerance.

On 17 June 2009, Pakistan voted in favour of a resolution for the promotion of the right of peoples to peace. The resolution recognised States' obligations to improve the protection of human rights by ensuring peace. Germany, on behalf of the EU, stated that while it recognised some of the principles set out in the resolution, the issues set out in the draft were more comprehensively dealt with in other fora. Furthermore, Germany, on behalf of the EU, noted that the resolution dealt with relationships between States, not the relationship between States and their citizens.

On 17 June 2009, Pakistan voted in favour of a resolution on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.

On 18 June 2009, Egypt on behalf of the African Group, and the Czech Republic, on behalf of the EU, introduced competing draft resolutions on the mandate on Sudan. The draft proposed by the African Group did not renew the mandate of the Special Rapporteur or create a mandate for any international monitoring. It referred positively to the efforts of the government. The EU resolution replaced the mandate of the Special Rapporteur with that of an Independent Expert with some monitoring and reporting functions. The EU later accepted the African Group's draft but with proposed amendments providing for the mandate of an Independent Expert. Pakistan voted against these amendments, and after they were accepted, against the entire text as amended.

Twelfth Session of the UN Human Rights Council

On 1 October 2009, Pakistan voted in favour of a resolution on human rights and international solidarity.

On 2 October 2009, Pakistan voted in favour of a resolution on human rights and unilateral coercive force.

On 2 October 2009, Pakistan voted in favour of a decision on the effect of foreign debt on the enjoyment of human rights.

On 2 October 2009, Pakistan, on behalf of the OIC, expressed regret that the resolution on freedom of opinion and expression did not explicitly refer to the obligation to combat incitement to hatred. Pakistan also emphasised the importance of the concept of defamation of religions.

On 2 October 2009, Pakistan opposed the adoption of a draft resolution on Aung San Sui Kyi and other political prisoners in Myanmar on the grounds that country-specific resolutions should not be adopted. Pakistan was concerned that the resolution would impinge on the sovereignty of Myanmar.

On 2 October 2009, Pakistan voted in favour of a resolution on the right to development.

On 2 October 2009, Pakistan voted in favour of a resolution on promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind.
Pakistan, on behalf of the OIC, called for holding a special session on the human rights situation in the OPT, to be held on 15 and 16 October 2009.

Twelfth Special Session of the UN Human Rights Council

On 16 October 2009, Pakistan, on behalf of the OIC, described the Goldstone Report on the UN Fact-Finding Mission on the Gaza Conflict, as balanced and fair, and suggested that it be considered seriously.

On 16 October 2009, Pakistan voted in favour of a resolution that focused on continuing violations of human rights by Israel in the OPT, particularly in East Jerusalem. It endorsed the recommendations set out in the reports of the Fact-Finding Mission to Gaza led by Justice Goldstone and by the High Commissioner for Human Rights, and called for their implementation.

Thirteenth Session of the UN Human Rights Council

On 4 March 2010, Pakistan, on behalf of the OIC, welcomed the report of the High Commissioner and especially her call for additional budget allocation to allow the office to be truly independent. Pakistan also noted that the independence of Special Rapporteurs was not an absolute right, and that they must respect their mandates and the Code of Conduct. Pakistan regretted that no mention was made in the High Commissioner's statement on the incidents related to defamation of religions and discrimination based on religion.

On 5 March 2010, Pakistan, on behalf of the OIC, criticised a report by the High Commissioner on the defamation of religions for being late and stated that the phenomena of defamation of religions needed to be squarely addressed. Pakistan also stated that it was important that the geographical imbalance in the staff of the OHCHR be reversed.

On 5 March 2010, Pakistan, on behalf of the OIC, noted that it appreciated the recommendations of the Special Rapporteurs on the right to food and the right to adequate housing. Concerning the report of the Special Rapporteur on the right to food, Pakistan welcomed the assertion that the private sector and States needed to adopt policies to protect the right to food. On the report of the Special Rapporteur on the right to adequate housing, Pakistan, on behalf of the OIC, agreed with the recommendations concerning the different consequences of mega-events on the right to adequate housing.

On 5 March 2010, Pakistan, on behalf of the OIC, said that the OIC placed immense importance on the protection of the rights of persons with disabilities and invited governments to establish national human rights institutions, laws and policies to ensure the implementation of the Convention on the Rights of Persons with Disabilities. Pakistan also noted that most countries had not yet established national human rights institutions in line with the Paris Principles.

On 8 March 2010, Pakistan welcomed a report by the Special Rapporteur on human rights while countering terrorism and put an emphasis on its mention of the right to privacy and data protection. Pakistan, on behalf of the OIC, agreed that adequate legal safeguards should be put in place to minimise the infringement of the right to privacy. Pakistan, on behalf of the OIC, suggested to the Special Rapporteur on torture that he focus more on issues related to targeting racial and religious communities.

On 9 March 2010, Pakistan, on behalf of the OIC, stated that the Working Group on enforced disappearances should adhere strictly to its mandated tasks and that its limited monitoring role did not give it the right to act as a monitoring body for a Convention which had not yet come into force.

On 9 March 2010, Pakistan, in response to the report of the Working Group on enforced disappearances, said that it was investigating the six cases of alleged enforced disappearances as mentioned in the report. Pakistan also noted that while it took the issue seriously, many allegations of disappearances did not fall into the category of forced or involuntary disappearances as recognised by the United Nations.

On 10 March 2010, Pakistan, speaking on behalf of the OIC, put emphasis on the importance of the promotion and protection of the rights of the child as an investment in the future of humanity. Pakistan, on behalf of the OIC, argued that stringent action should be taken on curbing sexual violence against children, and that the root causes of sexual violence should be addressed in combating the issue.

On 10 March 2010, Pakistan informed the Council of its efforts to stop child abuse and exploitation and said that there was an urgent need for the international community to act collectively on violence against children. Pakistan pledged to undertake and galvanise global efforts on the issue.

On 11 March 2010, Pakistan, on behalf of the OIC, supported many of the views expressed in the reports of the Special Rapporteurs on freedom of religion or belief and on human rights defenders. Referring to the work of the Special Rapporteur on human rights defenders, the OIC emphasised the importance of protection mechanisms for human rights defenders and the need for a good relationship between States and their civil societies.

On 11 March 2010, Pakistan, on behalf of the OIC, made a note of the remarks of the Special Representative of the Secretary-General on violence against children and to the priorities given in her report. Pakistan asked for more information concerning the integration of the Special Representative's mandate into relevant and effective existing mechanisms to ensure that there was no duplication.

On 12 March 2010, Pakistan stated that the right to self-determination continued to be denied to certain people, as in the OPT and Jammu and Kashmir, and that the fulfilment of this right was integral to fully enjoying one's human rights.

On 12 March 2010, Pakistan, on behalf of the OIC, said that it appreciated the work of the Working Group on the Optional Protocol to the Convention on the Rights of the Child for its relevance and transparency. Even though it stated that the session in December 2009 to elaborate on a potential Optional Protocol was efficient, Pakistan, on behalf of the OIC, asked for discussions on several issues which remained unaddressed.

On 15 March 2010, Pakistan, on behalf of the OIC, stated its opposition to all country-specific mandates during an interactive dialogue with the Special Rapporteur on the Human Rights Situation in DPRK. Mechanisms such as the Universal Periodic Review encouraged cooperation and Pakistan stated that the acceptance of some recommendations by DPRK during its review showed that the best approach to discuss human rights concerns was "one of engagement rather than one of estrangement".

On 16 March 2010, Pakistan, on behalf of the OIC, agreed with a report of the Independent Expert on minority issues stating that the issue of the participation of minorities in a public democracy was important. The OIC raised the issue of the stigmatisation and negative profiling of Muslims in some Western countries and asked the Independent Expert for possible ways that these minorities could enter the political setting in those countries.

On 16 March 2010, on behalf of the OIC, Pakistan commended the conduct of the Council's Social Forum and supported the recommendations which resulted from this event. Pakistan expressed hope for further work in the next Social Forum concerning poverty eradication.

On 17 March 2010, Pakistan strongly commended the frank and elaborate manner with which Norway approached its Universal Periodic Review.

On 18 March 2010, Pakistan congratulated Bhutan for accepting most of the recommendations which came out of its Universal Periodic Review.

On 18 March 2010, Pakistan thanked DPRK for its frank position on a large number of recommendations made during its Universal Periodic Review and noted that it was encouraging that the country was considering taking further steps to implement some of the recommendations. Pakistan expressed confidence that efforts to improve the human rights situation in the country would be undertaken by the government.

On 19 March 2010, Pakistan stated that it valued the efforts of Brunei Darussalam to promote and protect human rights and was pleased that some of the recommendations of the Universal Periodic Review were implemented.

On 19 March 2010, Pakistan thanked Ethiopia for its frank and comprehensive presentation on the occasion of its UPR and expressed confidence that the country would continue its efforts to promote and protect human rights.

On 22 March 2010, Pakistan, on behalf of the OIC, noted what it deemed to be deliberate and pre-meditated violations of human rights in the OPT by Israel. It further stated that Israel was obstructing an impartial and independent investigation into its repressive policies; a view which Pakistan said was corroborated by the reports of the Secretary-General and the High Commissioner. Pakistan urged the adoption by consensus of a follow-

up resolution tabled by the OIC and asked for the implementation of the recommendations from the reports of Justice Goldstone and the High Commissioner.

On 22 March 2010, Pakistan, on behalf of the OIC, stated its rejection of Israeli pronouncements and called on Israel to stop illegal activities to ensure a successful peace process in the Middle East. Pakistan, on behalf of the OIC, hoped for the support of the Council towards the resolutions presented by the OIC.

On 23 March 2010, on behalf of the OIC, Pakistan expressed satisfaction with the Vienna Declaration and Programme of Action but stated that implementation would be an uphill struggle.

On 23 March 2010, on behalf of the OIC, Pakistan welcomed the report by Intergovernmental Working Group on Effective Implementation of the Durban Declaration and looked forward to the adoption of a resolution in the session by consensus. Pakistan stated its belief that an additional protocol on this subject was needed and reminded the Council of the OIC proposed resolution on combating defamation of religions.

On 24 March 2010, Pakistan noted Afghanistan's progress concerning the promotion and the protection of human rights and urged the international community to cooperate and support the government. On Afghanistan, Pakistan regretted the focus on security and counter-insurgency operations by the international community, as it felt the focus should be on development. Furthermore, Pakistan noted the failure of the international community to combat the problems caused by poppy cultivation and the drug trade in Afghanistan.

On 24 March 2010, Pakistan voted in favour of a resolution on the composition of the OHCHR that asked for the implementation of measures to ensure a better representation of geographic diversity among staff.

On 24 March 2010, Pakistan voted in favour of a resolution on human rights in the occupied Syrian Golan. The resolution strongly condemned the occupation of Syrian Golan by Israel. Pakistan, on behalf of the OIC, which introduced the draft resolution, expressed disappointment that during the negotiations some groups held "traditional views" that made the text ineffective in ensuring the promotion and the protection of human rights in the occupied Syrian Golan. Pakistan asked for the full support of the Council and hoped that the resolution would be adopted by consensus.

On 24 March 2010, Pakistan voted in favour of a resolution on the right of the Palestinian people to self-determination. The resolution emphasised the value of self-determination and supported Palestine and Israel in their process towards peace and security. It encouraged the international community to aid the Palestinians in their right to self-determination. Pakistan, on behalf of the OIC and the Arab Group, had introduced the draft resolution. It reiterated the importance of the "unqualifiable" right to self-determination and hoped the resolution would be adopted by consensus.

On 24 March 2010, Pakistan voted in favour of a resolution on Israeli Settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution asked the Government of Israel to reverse controversial announcements about new settlements and to respect legal obligations concerning access to food and supplies, the halting of impunity, prevention of violence, etc. Pakistan, on behalf of the OIC and the Arab Group, had introduced the draft resolution.

On 24 March 2010, Pakistan voted in favour of a resolution on grave human rights violations by Israel in the OPT, including East Jerusalem. The resolution strongly condemned the military attacks and operations in the OPT, which it said caused grave violations of human rights. It asked for the end of the occupation and for the establishment of an independent sovereign state through a peace process. Pakistan, on behalf of the Arab Group and the OIC, had introduced the draft resolution and encouraged the Council to adopt it by consensus.

On 24 March 2010, Pakistan introduced a resolution on the follow-up to the report of the United Nations Independent International Fact-Finding Mission on the Gaza Conflict, and voted in favour of it on 25 March 2010. The resolution asked for independent and credible investigations regarding the violations of international humanitarian and international human rights law during the Gaza Conflict.

On 25 March 2010, Pakistan abstained from voting on a resolution on the situation of human rights in DPRK. The resolution asked for the mandate of the Special Rapporteur on DPRK to be extended and for the government's participation in addressing human rights violations.

On 25 March 2010, Pakistan voted in favour of a resolution on combating defamation of religions. The resolution urged the international community to promote a culture of tolerance and peace, especially concerning the wrongful association of Islam with human rights violations and terrorism. Introducing the resolution, Pakistan said that the resolution presented the Council with a choice for civilisations to either clash or cooperate with one another.

On 25 March 2010, Pakistan thanked the African Group for its work on a draft resolution on the elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination. Pakistan also reminded the Council that once a resolution was approved, its mandate had to conform to the terms of the resolution.

On 26 March 2010, explaining its vote on behalf of the OIC, before a vote on a resolution on the protection of human rights and fundamental freedoms while countering terrorism, Pakistan emphasised the importance of the right to privacy. Furthermore, Pakistan, on behalf of the OIC, urged that Special Procedure mandate holders comply with and respect the Code of Conduct that binds them.

2. Pledge

2.1 Election to the Council

Pakistan was one of 18 Asian candidates that contested the May 2006 election at the Council for the 13 seats reserved for Asia. Pakistan came sixth in the Asian Group with 149 votes. Thailand, Kyrgyzstan, Lebanon, Iran and Iraq were unsuccessful in securing a seat.

On 21 May 2008, the number of candidates was the same as the number of seats reserved for Asia, meaning that the results of the election were pre-determined. In the election, Pakistan came fourth among the Asian Group with 114 votes, the lowest score in this group.

2.2 Pledge Made

In its pre-election pledge in 2006, Pakistan committed itself to supporting the universal ratification of core human rights treaties and working towards an early ratification of ICCPR, ICESR and CAT. The country pledged active participation in the UN Human Rights Council and to assist in the implementation of its mandate. Pakistan also stressed that its contribution to the promotion of human rights included the protection of the rights of women and religious minorities, as well as the promotion of human dignity and fundamental freedoms. It promised to establish an independent national human rights institution and to introduce a human rights curriculum into its educational system. Finally, Pakistan indicated that it had contributed considerably to the promotion of human rights nationally and internationally.

Pakistan's pre-election pledge in 2008 stated that it had fulfilled most of the pledges it made in 2006. It included in that statement, the fact that the creation of a National Human Rights Commission was "on the anvil". Pakistan again pledged to support the Council's work to ensure that it was empowered to use its full potential. Pakistan also affirmed the importance of the human rights Special Procedures system and said that it supported the active role of civil society in the Council's work. Pakistan noted that special attention was given in the country to the social and economic emancipation of women and protection of the rights of other vulnerable groups including children and minorities. Finally, Pakistan pledged that, if elected, it would support activities aimed at promoting the highest standards of human rights in other fora.

3. Compliance

3.1 Human Rights During the Reporting Period

Pakistan experienced significant levels of conflict throughout the reporting period. Various insurgent groups under the banner of the Tehrik-i-Taliban Pakistan (TTP) were engaged in fighting in the recently-renamed Khyber Pakhtunkhwa Province, the Federally Administered Tribal Areas (FATA) and the Provincially Administered Tribal Areas (PATA). It was a protracted insurgency which resulted in hundreds of casualties and significant civilian displacement. A ceasefire in February 2009 was agreed by the Taliban in exchange for the imposition of Sharia law and de-facto administrative control of the Swat valley in Pakistan's tribal areas to the Taliban and affiliated groups. Within months, the Taliban exceeded the territorial limits set out in the ceasefire leading to a major offensive by the Pakistan Army and an increased outpouring of internally displaced persons.[489]

The army was accused of using excessive force during its surge against militants in the Swat valley. The army stated that certain mass graves were filled by militants with the bodies of militants killed in army operations. However, the non-governmental Human Rights Commission of Pakistan (HRCP) and other human rights groups alleged that the graves were in fact filled by the army with suspected Taliban fighters who were victims of extrajudicial killings.[490] Eyewitnesses reported observing the arrest of at least one militant commander who was later found in a mass grave. Police allege he was killed in an encounter.[491] Many of the bodies recovered from mass graves reportedly showed signs of torture.[492] In April 2010, an international human rights organisation accused Pakistan of carrying out over 200 summary executions in the previous eight months.[493] A video posted in October 2009 on the social networking website Facebook, allegedly showed Pakistani soldiers beating up suspected Taliban sympathisers.[494]

Police and intelligence agencies were also accused of using torture in non-insurgency affected areas. In June 2009, the Asian Human Rights Commission (AHRC) alleged in a press release that intelligence and security-related agencies such as the Inter Services Intelligence (ISI), the Military Intelligence (MI), the Federal Investigation Agency (FIA), the Pakistan Navy and the Frontier Constabulary (FC) routinely engaged in torture and ran torture cells in different cities.[495] In December 2009, at a civil society workshop on torture, the Secretary General of HCRP said that torture was increasing in Pakistan and that it fuelled violence in society. A human rights activist at the workshop called the practice of torture "immensely prevalent" in the police.[496] In March 2010, the Supreme Court (SC) ordered the government of Punjab to close police torture cells, which it said played host to "rampant" police torture. All provinces were asked to submit comprehensive reports to the SC on incidents of torture, including affidavits from police officers that there were no private torture cells in their jurisdictions.[497] Later in March 2010, it was revealed that police in Sindh had tortured a vegetable vendor by dragging him around a market behind a donkey cart.[498]

Beyond torture, police were accused of abusing power and acting with impunity throughout Pakistan. According to AHRC, police in Sindh province carried out a fake encounter killing in December 2008. This practice reportedly remains widespread in Pakistan owing to the fact that police enjoy impunity "because of the support they receive from provincial heads".[499] HRCP recorded 226 police encounter killings in 2009.[500] According to AHRC, in August 2009 police in Punjab province picked up a woman who was waiting for a bus, took her to a hotel and gang-raped her.[501] Late in the reporting period, AHRC reported that a 13-year-old girl was brought into police custody and raped by police officers for 21 days. It was reported that the perpetrators were subsequently able to obtain a "stay order" from the Lahore High Court, which prevents any legal action being taken against them.[502] In March 2010, a video was leaked to Pakistani TV channels which showed five police officials beating suspects in custody. According to a media report, the beating of suspects in custody is "common practice" for Pakistani police, who allegedly have a long-standing reputation for brutality and torture.[503]

Pakistan passed a major constitutional amendment in April 2010. The Eighteenth Amendment introduced a wide slate of reforms which ranged from the transfer of major powers from the President to the Prime Minister, and from the federation to the provinces, to the renaming of the North West Frontier Province to Khyber Pakhtunkhwa. The Amendment was criticised by the Chairperson of HRCP for continuing to neglect the rights of ethnic and religious minorities and the status of the Tribal Areas, among other shortcomings.[504] For instance, the Eighteenth Amendment prescribed that only a Muslim could become Prime Minister. Non-Muslims may contest elections to the National Assembly and command a majority of seats, but cannot lead parliament. A more positive amendment is the inclusion of Article 19A which makes the right to information a fundamental right. Previous legislation on RTI suffered from excessive listing of exceptions to the right.[505]

The judiciary in Pakistan remained backlogged and slow. An HRCP report put pending cases in the superior and lower courts at approximately 1.52 million at the end of 2009.[506] Prisons remained significantly overcrowded. HCRP noted in a report released in 2008 that the province of Sindh held 20,000 prisoners in facilities meant for 9,000. Across the country it was reported that 59,000 prisoners were detained in 32 prisons meant for no more than 21,000.[507] Generally, prison conditions were called "nightmarish" and "appalling".[508] One report attributed a riot in a Karachi prison as resulting from harsh treatment and overcrowding; four prisoners died during the riot.[509] In January 2010, it was reported that President Zardari directed authorities to improve the poor conditions in jails throughout Sindh.[510]

Pakistan continued to sentence convicted criminals to death despite the initiation of an unofficial moratorium on the death penalty.[511] At least 36 people were executed in Pakistan in 2008.[512] In June 2009, the government promised to commute 7,000 death sentences to life imprisonment, though the Interior Minister noted in September 2009 that terrorists would still receive the death penalty. Moreover, the Interior Minister's decree in November 2008 that cyber-terrorists would also face the death penalty if they caused loss of life, suggested that the government was not moving towards abolition.[513] An informal moratorium on executions, which began in November 2008, was not made official by the end of the reporting period, and death sentences continued to be handed out at a pre-moratorium rate, according to HCRP.[514] In 2009, 276 persons were reportedly awarded death penalties and 7,700 people were on death row.[515] In a 2009 report, the National Judicial Policy Making Committee noted that, in all provinces except Sindh, Pakistani prisoners who were sentenced to death were kept in death cells (or on death row) before their last appeal was decided on.[516] A Pakistani lawyer reported that prisoners could be on death row for years before their appeals were heard.[517]

Demonstrations supported by the Federal Opposition were staged by lawyers' groups in March 2009. These led to the reinstatement to the Supreme Court of former Chief Justice Iftikhar Mohammad Chaudhry, who was ousted along with 60 other judges and put under house arrest by the Musharraf regime in 2007.[518] The reinstatement was preceded by the detention of 300 activists who were intending to march on the capital, Islamabad to secure Chaudhry's release. Many opposition leaders reportedly went into hiding to avoid being detained.[519]

The issue of enforced disappearances in Pakistan, which gained notoriety in the aftermath of the US-led invasion of Afghanistan in 2001, was not satisfactorily resolved. New incidents of enforced disappearances continued to be recorded throughout the reporting period from across the country. It was hoped that with the end of military rule, the disappearances would stop and that the missing people could be traced. In February 2009, an international human rights organisation stated that despite several pledges by the Pakistan government that enforced disappearances would be investigated, no information was provided on those disappeared. A large proportion of the victims came from the province of Balochistan. According to one Baloch leader: "[t]here will never be a complete list as people are picked up on a daily basis."[520] A Baloch separatist group, which claimed that 6,000 Baloch activists were missing, kidnapped an official from the UN High Commissioner for Refugees to facilitate an exchange for their release. The Pakistan government denied the allegations.[521] The reinstatement of Chief Justice Chaudhry in March 2009 spawned renewed hope that the disappearances would finally be addressed. Before being sacked by President Musharraf in 2007, Chaudhry had pursued cases of alleged enforced disappearance "with vigour".[522] In October 2009, the list of disappeared people maintained by HRCP reportedly had 198 names, of which 99 were located. However, Defence for Human Rights, Pakistan (DHRP), a campaign group, estimated the number of disappearances to be 8,000-10,000 people.[523] In November 2009, the Supreme Court reopened hearings into cases of disappeared people, which were halted under the Musharraf regime in 2007. Despite this, a report released at the time noted that the government had still not revealed the detailed whereabouts of people who were presumed to be held in detention.[524] In February 2010, the government reportedly said that 92 of 282 missing people were traced and that most of them were reportedly living at their addresses.[525] In April 2010, the Pakistan Army revealed that thousands of suspected militants were held in indefinite detention. Most of the detainees were held for nearly a year and were not allowed any contact with family members, lawyers or humanitarian groups. Pakistani officials reportedly said that the detained would remain in detention as Pakistan did not have an applicable military court system through which to process detainees, nor was the "dysfunctional"

civilian court system trusted to keep suspected militants from walking free.[526] A commission on missing persons was formed by the Federal Government on the instructions of the Supreme Court. The commission held its first meeting in May 2010, just as the reporting period ended.[527]

During the reporting period, Pakistan continued to be one of the most dangerous countries in the world for journalists. In late August 2008, the Pakistan Army bombed a Taliban jail, killing a journalist who was abducted by the Taliban and was held there.[528] In November 2008, Pakistani security forces killed a journalist who reportedly did not stop his car as a military convoy passed.[529] In January 2009, a journalist was shot and killed in Rawalpindi and a private TV station was ransacked by a mob.[530] February 2009 saw a journalist abducted for 30 hours and interrogated about a recent interview with a Taliban leader.[531] In that same month, a journalist was shot dead in the volatile Swat valley while covering a peace rally organised by a cleric who would be responsible for temporarily bringing Sharia law to the region.[532] The owner and editor of a Baloch publication, which had in the past supported Baloch nationalism, was seriously injured after being shot by members of a radical Sunni group. The group allegedly had the support of elements of the Pakistan intelligence agencies.[533] In March 2009, another journalist was shot and killed in Rawalpindi by unknown assailants. The Pakistan Federal Union of Journalists was sceptical about assurances from authorities that there would be an investigation, given the government's exceptionally poor record of investigating murders of members of the media.[534] In May 2009, a media organisation reported that 15 journalists were killed in Pakistan during the previous year and 248 cases of violations against the media were reported during the same period. These included arrests, kidnappings, assaults, injuries, intimidation, threats and attacks on media properties.[535] In June 2009, a journalist was fired on at a checkpoint in the north-west and wounded, and on the same day local police baton-charged a group of journalists protesting the lack of security afforded to journalists in the country's war-torn regions.[536] In August 2009, two journalists were shot and killed in Pakistan's war-torn north-west, in what appeared to be premeditated assassinations.[537] Harassment of media persons continued throughout the country late into 2009. Media groups complained of a lack of access to the fighting in the Tribal Areas of the north-west in November 2009, three weeks after the Pakistan Army started a campaign to regain the territory it had conceded to militants earlier in the year.[538] In December 2009, after a week of protests on the disappearance of a reporter with a Baloch nationalist newspaper, police finally admitted that they had arrested and held him. A radio presenter in a different part of the country also went missing around the same time, but the police did not confirm that any arrest had occurred.[539] In January, the house of a television reporter for Dawn News was attacked, allegedly by personnel of one of Pakistan's intelligence agencies.[540] In February 2010, a journalist who was covering a feud between two ethnic groups was shot dead while riding his motorcycle in Sindh province. A media organisation reported at the same time, that Pakistan was the fourth deadliest country in the world for journalists in 2009.[541] Finally, in early May 2010, a journalist was abducted, tortured and killed by unidentified assailants in Pakistan's Sindh province.[542]

Women were subjected to "constant violence" during the reporting period.[543] In 2008, 612 women were killed in so-called "honour killings", in which a woman or girl is killed by her family for being perceived to have injured the honour of her family. This could sometimes happen if she has an extramarital affair, marries of her own will, or for merely exchanging an accidental glance with a man to whom she is not related.[544] In 2009, the number rose to 647, according to HCRP.[545] In an August 2008 case reported by AHRC, three teenage girls and two mothers (who tried to intervene) were shot and injured, then buried alive, reportedly because the girls wanted to make their own decision regarding marriage.[546] In March 2010, four men were convicted of the killings and sentenced to death.[547]

According to a women's rights organisation, cases of violence against women increased by 13 per cent in 2009. In that year alone, 1,384 women were murdered, 928 were raped and 683 committed suicide.[548] An Additional Police Surgeon in Karachi said in September 2008 that 100 women were raped in the city every day. Only 0.5 per cent of the cases were reported. The lack of reporting was attributed to a backlogged justice system, a lengthy and complicated medical process and a general lack of medical facilities. In Karachi, there were only six women medico-legal officers (WMLOs) for a population of 18 million.[549]

A news report in June 2009 alleged that while the Pakistan Peoples Party (PPP) government claimed to have prioritised women's rights, the medico-legal system was woefully inadequate to handle rape cases. Medical examination and record-keeping after a rape were found to be inadequate, and DNA tests were only done in "high profile cases", because of the high costs involved.[550] In January 2010, AHRC released a statement saying that acid attacks continue to be serious concern, and included a series of disturbing pictures of victims of attacks.[551] Acid attacks were usually targeted at women who were perceived to be breaking a social code, who spurned the advances of a man or who had offended the "honour" of her family.[552] A Bill entitled the Acid Control and Burn Crime Prevention Bill had not been passed into law by the end of the reporting period. [553] Forced marriages, a practice by which a young woman is forced to marry someone not of her own choosing, were also reportedly widespread.[554]

Two major bills designed to protect women – one relating to domestic violence and one to sexual harassment – were passed by the National Assembly in 2009, but only the bill on sexual harassment eventually became law.[555] The Domestic Violence (Prevention and Protection) Bill was not passed by the Senate within the three-month time period mandated by the Constitution, meaning that it was allowed to lapse.[556] Some politicians blamed the lapse on the negligence in the law ministry, which failed to bring it before the Senate.[557] Additionally, politicians who were supposedly "anti-women" were promoted to the cabinet during the reporting period.[558] In late 2008, a senator from Balochistan province defended honour killings as "part of our custom", in reference to the killing and live burial of five women (see above).[559] The same senator was promoted to the cabinet a few months later. Another senator, who once headed an illegal tribunal which gave five girls between two and five years old as compensation to the family of a murdered man, was also appointed to the cabinet at the same time.[560]

A significant portion of Pakistan's child population continued to face hardship. One civil society organisation estimated that 11-12 million children were employed as labourers.[561] About 20.3 million children did not go to school.[562] According to a report by the Committee on the Rights of the Child, Pakistan lacks a comprehensive child protection mechanism, and the mechanism that does exist is highly inefficient.[563] According to an NGO working on children's rights, Pakistani jails held at least 1,300 juvenile prisoners. Furthermore, up to 10,000 juveniles were allegedly facing criminal litigation at the end of the reporting period.[564]

Despite pledges by the government to improve minority rights in Pakistan, the reporting period witnessed numerous incidents of violence and discrimination directed against minorities. In July 2009, a violent and allegedly pre-meditated massacre of Christians by hundreds of Muslims occurred in Punjab after a Qur'an was purportedly desecrated. News reports indicated that on the day before the attack, announcements were made in mosques to "make mincemeat of the Christians". Eight people were killed and a Christian neighbourhood was "burned down".[565] While arrests were made and victims' families were offered compensation, there were protests and

accusations among the Christians that the police neglected to protect them.[566] HRCP agreed that police did little to stop the violence.[567] Christian groups criticised the government for blasphemy legislation which they claimed was used by extremists to falsely accuse Christians of desecrating the Qur'an, and this often led to violence against the minority group.[568] Blasphemy was reportedly one of the 28 capital crimes in Pakistan.[569] A Christian man was charged with desecrating a Qur'an in September 2009, and was imprisoned. He was found dead two days later. Police claimed that he committed suicide, but an alliance of over 30 human rights groups alleged that he was tortured and killed.[570] A Christian group called the death an 'extrajudicial murder'.[571] In February 2010, the government stated that it would review and reform the blasphemy law, though it would not repeal it. "Hard-line Islamic groups" had reportedly blocked reform attempts in the past.[572] At the end of the reporting period, there was reportedly no movement toward reforming the blasphemy law.

Ahmadi Muslims, a minority sect declared by the government to be non-Muslim in 1974, were also the subjects of discrimination and violence. In September 2008, three Ahmadi Muslims were killed after the host of a religious TV talk show and a guest sanctioned the killing of people of the sect.[573] Late in the reporting period, two Ahmadiyya mosques were attacked in Lahore and over 80 people were killed in suicide blasts and gunfire.[574] Under the existing criminal law promulgated during the rule of the erstwhile Pakistani dictator General Zia ul Haq, the Ahmadiyya community is not allowed to refer to its prayer houses as "mosques".

Violence between the Sunni Muslim majority and the Shia Muslim minority was consistently reported by the media throughout the reporting period, as suicide bombings and other attacks carried out by militant groups caused massive civilian casualties. According to HRCP, in 2,586 incidents of terrorism, 3,021 people were killed and 7,334 were injured during 2009. Of these, 1,296 people were killed in 108 suicide bombings, 747 were killed in Karachi of which 291 were targeted killings. Of these, 209 were political activists.[575] Attacks against Shias were carried out across the country and warranted specific inclusion in the HRCP 2009 report. At least 7 out of 108 suicide attacks targeted Shia congregations killing a minimum of 218 people and injuring hundreds of others.[576]

Members of the Mehsud tribe who fled violence in South Waziristan reportedly faced discrimination and violence once they reached other more secure parts of Pakistan. The leadership of the Pakistani Taliban partially comprised Mehsud tribesmen, and civilians fleeing violence were often harassed or discriminated against by the army and other Pakistanis, who suspected them of being Taliban fighters masquerading as victims.[577]

3.2 Compliance with the Pledge

In Pakistan's 2008 pre-election pledge, it stated that it had fulfilled most of the commitments it made in its first pre-election pledge in 2006. In that pledge document, Pakistan noted its national and international contribution to the promotion of human rights, human dignity and fundamental freedoms. The fulfilment of this pledge was belied by widespread and frequent allegations of excesses by the Pakistani security forces, which appeared to act with impunity while carrying out extrajudicial killings, torture, rape (including custodial rape), custodial abuse and enforced disappearances. Moreover, freedom of assembly and expression remained under threat as protestors and journalists continued to be suppressed, sometimes violently. Deteriorating prison conditions, ambivalence towards the death penalty and a slow judicial system further sullied the veracity of Pakistan's claims that it had fulfilled its previous human rights pledges. Pakistan was yet to establish an independent national human rights institution in spite of its pledge to do so and the positive stance it took at the Council sessions on this topic.

Pakistan made assurances that special attention was paid to the emancipation of women and the protection of the rights of vulnerable groups such as children and minorities. In spite of these commitments, women continued to be subjected to sexual and domestic violence, honour killings, and hate crimes. Child labour and detention also remained serious issues, and religious and ethnic minorities suffered from discrimination, some of which was even legally sanctioned.

Pakistan pledged to actively participate in the UN Human Rights Council, assist in the implementation of the Council's mandate, and support the work of the Council to ensure that it was empowered to fully realise its potential. While Pakistan was one of the most active participants at the Council, frequently, its participation neither contributed to the implementation of the Council's mandate nor empowered the Council to make use of its full potential.

On thematic resolutions, Pakistan voted in line with allied voting blocs such as OIC. Pakistan voted in favour of resolutions on the right of peoples to peace, the promotion of a democratic and equitable international order, human rights and international solidarity, unilateral coercive measures, defamation of religions, complementary standards to ICERD, the global economic and financial crises and foreign debt. Pakistan abstained on resolutions on discrimination based on religion or belief and torture and the role and responsibility of medical and other health personnel.

At the Council sessions Pakistan was a leading force of opposition to resolutions which increased scrutiny of individual country situations. It either declined to support or actively undermined various initiatives that could increase scrutiny on Cambodia, DRC, DPRK, Myanmar, Sri Lanka and Sudan. Such scrutiny is an important part of the Council's mandate, without which it cannot reach its full potential. In view of this, it is clear that Pakistan did not fulfil this aspect of its pledge.

Pakistan repeatedly acted to curtail the independence and scope of the Council's mechanisms, including the Special Procedures. Pakistan consistently lobbied for the restriction of the scope of Special Procedures through stricter enforcement of the Code of Conduct. At one point, Pakistan stated that the independence of the Special Rapporteurs was not an absolute right, as they must respect their mandates and the Code of Conduct.

Illustratively, Pakistan refused to extend the purview of the mandate of the Special Rapporteur on extrajudicial killings to include the death penalty, which Pakistan felt was not in contravention of any universal human right. In another instance, on behalf of the OIC, Pakistan expressed strong reservations regarding a report by the Special Rapporteur on freedom of expression, criticising it for failing to deal with the misuse and abuse of the freedom of opinion and expression. Similarly, Pakistan stated that the Working Group on enforced disappearances should strictly adhere to its mandate and limited monitoring role, and that it should not consider itself a monitoring body for the Convention on Enforced Disappearances, which had yet to come into force. On another occasion, Pakistan argued that the Special Rapporteur on violence against women had exceeded her mandate, by addressing same-sex relations and safe abortions and by extending the definition of family.

---

488 Resolution 7/36 was passed at the Seventh Session at which Pakistan, on behalf of the OIC, introduced an amendment requesting

the Special Rapporteur to report on instances where the abuse of the right of freedom of expression constitutes an act of racial or religious discrimination.

489 BBC News, "More bodies in Pakistani valley" (31 August 2009) at http://news.bbc.co.uk/2/hi/8230267.stm (last accessed on 12 October 2010); Dawn.com, ""Extrajudicial killings in Swat': HRCP seeks probe by parliamentary body" (18 August 2009) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/national/extrajudicial-killings-in-swat-hrcp-seeks-probe-by-parliamentary-body-889 (last accessed on 12 October 2010).

490 *New York Times*, "Pakistan army said to be linked to Swat killings" (14 September 2009) at http://www.nytimes.com/2009/09/15/world/asia/15swat.html?pagewanted=2&_r=1 (last accessed on 12 October 2010).

491 BBC News, "More bodies in Pakistani valley" (31 August 2009) at http://news.bbc.co.uk/2/hi/8230267.stm (last accessed on 12 October 2010); Dawn.com, ""Extrajudicial killings in Swat': HRCP Seeks Probe by Parliamentary Body" (18 August 2009) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/national/extrajudicial-killings-in-swat-hrcp-seeks-probe-by-parliamentary-body-889 (last accessed on 12 October 2010).

492 *New York Times*, "Pakistan army said to be linked to Swat killings" (14 September 2009) at http://www.nytimes.com/2009/09/15/world/asia/15swat.html?pagewanted=2&_r=1 (last accessed on 12 October 2010).

493 Reuters, "Pakistan accused of killings, torture" (6 April 2010) at http://www.taipeitimes.com/News/world/archives/2010/04/06/2003469841/2 (last accessed on 12 October 2010).

494 *The Hindu*, "Pakistan probes torture video" (2 October 2009) at http://beta.thehindu.com/news/international/article28072.ece (last accessed on 12 October 2010).

495 Asian Human Rights Commission, "Rogued Rule of Law Allows Torture to Exist" (26 June 2009) at http://www.ahrchk.net/statements/mainfile.php/2009statements/2106/ (last accessed on 12 October 2010).

496 Dawn.com, "Torture in society shows state's mindset: HRCP" (21 December 2009) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/national/torture-in-society-shows-States-mindset-hrcp-129 (last accessed on 21 December 2010).

497 Dawn.com, "Police ordered by Supreme Court to close torture cells" (12 March 2010) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/03-sc-orders-closure-of-police-torture-cells-ss-07 (last accessed on 12 October 2010).

498 *Daily Times*, "Police torture vegetable vendor in Jacobabad" (22 March 2010) at http://www.dailytimes.com.pk/default.asp?page=2010\03\22\story_22-3-2010_pg7_22 (last accessed on 20 October 2010).

499 Asian Commission for Human Rights, "Police officers must be charged" (9 January 2009) at http://www.scoop.co.nz/stories/WO0901/S00172.htm (last accessed on 20 October 2010).

500 Human Rights Commission of Pakistan, "State of Human Rights in 2009" (2010) p. 77, at http://www.hrcp-web.org/pdf/Annual%20Report%202009.pdf (last accessed on 1 November 2010).

501 Asian Commission for Human Rights, "Constant violence against women in 2009" (6 February 2010) at http://www.scoop.co.nz/stories/WO1002/S00151.htm (last accessed on 20 October 2010).

502 Asian Commission for Human Rights, "A 13 year old girl was raped for 21 days by policemen; The ineptness of the courts provide protection to perpetrators" (19 May 2010) at http://www.ahrchk.net/statements/mainfile.php/2010statements/2550/ (last accessed on 20 October 2010).

503 BBC News, "Pakistan police filmed beating robbery suspects" (3 March 2010) at http://news.bbc.co.uk/2/hi/south_asia/8547515.stm (last accessed on 20 October 2010).

504 Dawn.com, "Strengths and pitfalls of the 18th Amendment" (18 April 2010) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/editorial/strengths-and-pitfalls-640 (last accessed on 21 October 2010).

505 Email correspondence with Zohra Yusuf, Member, Advisory Commission, CHRI.

506 Dawn.com, "HCRP report portrays dismal state of affairs" (23 March 2010) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/front-page/19-hrcp-report-portrays-dismal-state-of-affairs-330-hh-07 (last accessed on 11 October 2010).

507 *Daily Times*, "HCRP launches new report on human rights situation" (7 April 2009) at http://www.dailytimes.com.pk/default.asp?page=2009\04\07\story_7-4-2009_pg7_23 (last accessed on 11 October 2010).

508 Dawn.com, "Prisoners' rights" (30 August 2009) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/16-prisoners-rights-hs-02 (last accessed on 11 October 2010); BBC News, "Marital visits for pakistan jails" (28 August 2009) at http://news.bbc.co.uk/2/hi/south_asia/8226803.stm (last accessed on 11 October 2010).

509 BBC News, "Four killed in Pakistan jail riot" (16 October 2008) at http://news.bbc.co.uk/2/hi/south_asia/7673481.stm (last accessed on 11 October 2010).

510 *Daily Times*, "CM orders improvement of jail conditions" (8 January 2010) at http://www.dailytimes.com.pk/default.asp?page=2010\01\08\story_8-1-2010_pg12_5 (last accessed on 11 October 2010).

511 Human Rights Watch, "The last holdouts" (10 September 2008) at http://www.hrw.org/en/node/75159/section/4 (last accessed on 9 October 2010); South Asia News Agency, "HRCP urges abolition of death penalty" (10 October 2010) at http://www.sananews.net/english/2010/10/09/hrcp-urges-abolition-of-death-penalty/ (last accessed on 11 October 2010).

512 Amnesty International, "Death sentences and executions in 2008" (2009) at http://www.amnesty.org/en/library/asset/ACT50/003/2009/en/0b789cb1-baa8-4c1b-bc35-58b606309836/act500032009en.pdf (last accessed on 11 October 2010).
513 Dawn.com, "Government may commute death sentences" (18 September 2009) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/12-govt+may+commute+death+sentence--bi-12 (last accessed on 9 October 2010).
514 South Asia News Agency, "HRCP urges abolition of death penalty" (10 October 2010) at http://www.sananews.net/english/2010/10/09/hrcp-urges-abolition-of-death-penalty/.
515 Human Rights Commission of Pakistan, "State of Human Rights in 2009" (2010) pp. 7 and 77, at http://www.hrcp-web.org/pdf/Annual%20Report%202009.pdf (last accessed on 1 November 2010).
516 National Judicial (Policy Making) Committee, "2009 – A year of focus on justice at the grass root level" (2009) at http://www.supremecourt.gov.pk/web/user_files/File/NJP2009.pdf (last accessed on 2 November 2010).
517 Email correspondence with Asad Jamal, Lawyer, Human Rights Defender and Member, Human Rights Commission of Pakistan.
518 BBC News, "Pakistan reinstates sacked judge" (16 March 2009) at http://news.bbc.co.uk/2/hi/south_asia/7945294.stm (last accessed on 12 October 2010)
519 Human Rights Watch, "Free detained opposition activists" (11 March 2009) at http://www.hrw.org/en/news/2009/03/11/pakistan-free-detained-opposition-activists (last accessed on 12 October 2010).
520 Dawn.com, "Tensions brew in Balochistan as countless missing" (25 May 2009) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/provinces/04-Missing-in-Balochistan-qs-02 (last accessed on 12 October 2010).
521 Amnesty International, "Resolve hundreds of Baluch 'disappearances'" (25 February 2009) at http://www.amnesty.org/en/library/asset/ASA33/001/2009/en/d47d6ba4-9043-4b4f-82b2-1afa68f79908/asa330012009en.html.
522 Dawn.com, "All but forgotten" (7 October 2009) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/18-all-but-forgotten-am-03 (last accessed on 12 October 2010).
523 Dawn.com, "All but forgotten" (7 October 2009) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/18-all-but-forgotten-am-03 (last accessed on 12 October 2010); BBC News, "Families anguish over Pakistan missing" (7 October 2009) at http://news.bbc.co.uk/2/hi/uk_news/8290471.stm (last accessed on 12 October 2010),
524 Amnesty International, "Amnesty International welcomes Supreme Court move to hear disappearances cases" (20 November 2009) at http://www.amnestyusa.org/document.php?id=ENGASA330112009&lang=e (last accessed on 12 October 2010),
525 Dawn.com, "Ninety-two of 282 missing people traced" (13 February 2010) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/national/04-missing-persons-tracing-qs-06 (last accessed on 12 October 2010),
526 *Washington Post*, "Pakistan holding thousands in indefinite detention, officials say" (22 April 2010) at http://www.washingtonpost.com/wp-dyn/content/article/2010/04/21/AR2010042102658.html?nav=emailpage (last accessed on 12 October 2010),
527 *The Nation*, "Commission on missing persons formed, SC told" (4 May 2010) at http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/04-May-2010/Commission-on-missing-persons-formed-SC-told (last accessed on 1 November 2010),
528 Committee to Protect Journalists, "Taliban-held journalist killed in army strike" (2 September 2008) at http://cpj.org/2008/09/taliban-held-journalist-killed-in-army-strike.php (last accessed on 19 October 2010),
529 BBC News, "Pakistan troops 'kill journalist'" (10 November 2008) at http://news.bbc.co.uk/2/hi/south_asia/7719129.stm (last accessed on 19 October 2010),
530 Reporters Sans Frontières, "Journalist gunned down in Rawalpindi, TV station attacked in Quetta" (26 January 2009) at http://en.rsf.org/pakistan-journalist-gunned-down-in-26-01-2009,30109.html (last accessed on 19 October 2010).
531 Committee to Protect Journalists, "Journalist kidnapped and released in Pakistan" (12 February 2009) at http://cpj.org/2009/02/journalist-kidnapped-and-released-in-pakistan.php (last accessed on 19 October 2010).
532 BBC News, "Anger at Swat journalist killing" (19 February 2009) at http://news.bbc.co.uk/2/hi/south_asia/7899072.stm (last accessed on 19 October 2010).
533 Reporters Sans Frontières, "Baloch newspaper editor seriously injured in shooting attack" (24 February 2009) at http://en.rsf.org/pakistan-baloch-newspaper-editor-seriously-24-02-2009,30388.html (last accessed on 19 October 2010).
534 Committee to Protect Journalists, "Reporter shot and killed in Rawalpindi" (27 March 2009) at http://cpj.org/2009/03/reporter-shot-and-killed-in-rawalpindi-pakistan.php (last accessed on 19 October 2010).
535 *The Hindu*, "15 journalists killed in Pak in one year in line of duty" (1 May 2009) at http://www.hindu.com/thehindu/holnus/001200905011651.htm (last accessed on 19 October 2010).
536 Committee to Protect Journalists, "Pakistani forces fire on journalists in frontier region" (11 June 2009) at http://cpj.org/2009/06/pakistani-forces-fire-on-journalists-in-fata-regio.php (last accessed on 19 October 2010).
537 Committee to Protect Journalists, "Pakistani TV reporter shot dead" (14 August 2009) at http://cpj.org/2009/08/pakistani-tv-reporter-shot-dead.php (last accessed on 19 October 2010); BBC News, "Journalist Shot Dead in Pakistan" (24 August 2009) at http://news.bbc.co.uk/2/hi/south_asia/8217568.stm (last accessed on 19 October 2010).
538 Reporters Sans Frontières, "Call for better media access to tribal areas" (10 November 2009) at http://en.rsf.org/pakistan-call-for-better-media-access-to-10-11-2009,34965.html (last accessed on 19 October 2010).

539 Reporters Sans Frontières, "Police finally admit to holding missing Baloch journalist" (18 December 2009) at http://en.rsf.org/pakistan-police-finally-admit-to-holding-18-12-2009,35381.html (last accessed on 19 October 2010).
540 Email correspondence with Zohra Yusuf, Member, Advisory Commission, CHRI.
541 Committee to Protect Journalists, "TV journalist shot dead in Pakistan" (19 February 2010) at http://cpj.org/2010/02/tv-journalist-shot-dead-in-pakistan.php (last accessed on 19 October 2010).
542 Committee to Protect Journalists, "In Pakistan, Sindh journalist's body found" (12 May 2010) at http://cpj.org/2010/05/in-pakistan-sindh-journalists-body-found.php (last accessed on 19 October 2010).
543 Asian Human Rights Commission, "Constant violence against women in 2009" (6 February 2010) at http://www.scoop.co.nz/stories/WO1002/S00151.htm (last accessed on 11 October 2010).
544 *Daily Times*, "HCRP launches new report on human rights situation" (7 April 2009) at http://www.dailytimes.com.pk/default.asp?page=2009\04\07\story_7-4-2009_pg7_23 (last accessed on 11 October 2010); IRIN, "Buried alive in the name of tradition" (1 September 2008) at http://www.unhcr.org/refworld/country,COI,IRIN,,PAK,4562d8cf2,48ce1d681e,0.html (last accessed on 11 October 2010).
545 Dawn.com, "HRCP report portrays dismal state of affairs" (23 March 2010) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/front-page/19-hrcp-report-portrays-dismal-state-of-affairs-330-hh-07 (last accessed on 11 October 2010).
546 IRIN, "Buried alive in the name of tradition" (1 September 2008) at http://www.alertnet.org/thenews/newsdesk/IRIN/21f6d1f3a22e8ddc48f47cb16bf30b36.htm (last accessed on 11 October 2010).
547 CRI, "4 Pakistanis get life term for burying women alive" (10 March 2010) at http://english.cri.cn/6966/2010/03/10/2001s555511.htm (last accessed on 11 October 2010).
548 Dawn.com, "Violence against women increased 13 pc in '09" (2 February 2010) at http://news.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/front-page/13+violence-against-women-increased-13pc-in-09-220-za-05 (last accessed on 1 November 2010).
549 *Daily Times*, "At least 100 rapes in Karachi a day" (16 September 2008) at http://www.dailytimes.com.pk/default.asp?page=2008\09\16\story_16-9-2008_pg1_8 (last accessed on 11 October 2010).
550 Dawn.com, "Victims of a broken system" (21 August 2009) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/02-victims-of-a-broken-system-02 (last accessed on 11 October 2010).
551 Asian Human Rights Commission, "Acid attacks continue to be a serious concern" (22 January 2010) at http://www.ahrchk.net/statements/mainfile.php/2010statements/2392/ (last accessed on 11 October 2010).
552 Care2, "Getting burned in Pakistan: Report find acid and burn attacks against women on the rise" (7 June 2009) at http://www.care2.com/causes/womens-rights/blog/getting-burned-in-pakistan-report-finds-acid-and-burn-attacks-against-women-is-on-the-rise/ (last accessed on 11 October 2010).
553 Asian Human Rights Commission, "Acid attacks continue to be a serious concern" (22 January 2010) at http://www.ahrchk.net/statements/mainfile.php/2010statements/2392/ (last accessed on 11 October 2010).
554 BBC Two, "Forced to marry" (28 November 2008) at http://news.bbc.co.uk/2/hi/programmes/this_world/7750648.stm (last accessed on 11 October 2010).
555 *Asian Tribune*, "Bill signed into law for women protection against harassment in Pakistan" (30 January 2010) at http://www.asiantribune.com/news/2010/01/30/bill-signed-law-women-protection-against-harassment-pakistan (last accessed on 11 October 2010).
556 Dawn.com, "Call to reintroduce lapsed bills on women rights" (16 January 2010) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/local/13+karachi-call-to-reintroduce-lapsed-bills-on-women-rights-610-za-02 (last accessed on 11 October 2010).
557 NewsBlaze, "The Domestic Violence Bill termed a good piece of legislation" (18 March 2010) at http://newsblaze.com/story/20100318125344iwfs.nb/topstory.html (last accessed on 2 November 2010).
558 IPS, "Pakistan's newest cabinet members support premeditated murder of women" (11 December 2008) at http://www.alternet.org/rights/111116/pakistan's_newest_cabinet_members_support_premeditated_murder_of_women/ (last accessed on 11 October 2010).
559 *New York Times*, "Pakistan investigates case of 5 killed over 'honour'" (unknown date) at http://www.nytimes.com/2008/09/02/world/asia/02iht-pstan.4.15840349.html?_r=2 (last accessed on 11 October 2010).
560 IPS, "Helpless against honour killings" (22 November 2008) at http://www.ipsnews.net/news.asp?idnews=44814 (last accessed on 11 October 2010).
561 Dawn.com, "Trapped in child labour" (12 May 2010) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/editorial/trapped-in-child-labour-250 (last accessed on 11 October 2010).
562 Dawn.com, "HCRP report portrays dismal state of affairs" (23 March 2010) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/front-page/19-hrcp-report-portrays-dismal-state-of-affairs-330-hh-07 (last accessed on 11 October 2010).

563 Dawn.com, "Children at risk" (15 May 2010) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/editorial/children-at-risk-550 (last accessed on 11 October 2010).
564 Dawn.com, "1,300 juveniles in jails: report" (2 July 2010) at http://news.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/local/islamabad/1,300-juveniles-in-jails-report-270 (last accessed on 1 November 2010).
565 *New York Times*, "Deadly rioting was planned, group says" (4 August 2009) at http://www.nytimes.com/2009/08/05/world/asia/05briefs-Pakistan.html?partner=rss&emc=rss (last accessed on 11 October 2010).
566 *Christian Science Monitor*, "Pakistan's Christians protest lack of protection after deadly rampage" (3 August 2009) at http://www.csmonitor.com/World/Asia-South-Central/2009/0803/p06s10-wosc.html (last accessed on 11 October 2010).
567 Asia One News, "Pakistan cannot afford Christian controversy" (9 August 2009) at http://news.asiaone.com/News/Latest%2BNews/Asia/Story/A1Story20090809-160067.html (last accessed on 11 October 2010).
568 Pakistan Christian TV, "Pakistan Government is unwilling or is unable to control the abuse of law and protect the minorities – PCAF" (27 October 2009) at http://pakistanchristian.tv/news/2009-10-27_Pakistan_Government_is_unwilling_or_is_unable_to_control_the_abuse_of_law_a.cfm (last accessed on 11 October 2010).
569 Institute of Policy Studies, "Should Pakistan abolish or retain capital punishment" (2010) at http://www.ips.org.pk/pakistanaffairs/politics/1075-should-pakistan-abolish-or-retain-capital-punishment.html (last accessed on 11 October 2010).
570 *New York Times*, "Human rights groups seek answers on Christian's death" (16 September 2010) at http://www.nytimes.com/2009/09/17/world/asia/17pstan.html (last accessed on 11 October 2010).
571 Assyrian International News Agency, "Pakistan and ongoing Christian Persecution" (2 Mat 2010) at http://www.aina.org/news/20100204183422.htm (last accessed on 11 October 2010).
572 Dawn.com, "Government intends to alter blasphemy law" (25 February 2010) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/03-government-intends-to-alter-blasphemy-law-ss-03 (last accessed on 11 October 2010).
573 Energy Publisher, "Pakistani TV goads Muslim on Muslim violence" (15 September 2008) at http://www.energypublisher.com/article.asp?id=16144 (last accessed on 12 October 2010).
574 *The Sunday Times*, "Suicide squads kill 80 in attack on two minority mosques" (29 May 2010) at http://www.timesonline.co.uk/tol/news/world/asia/article7138983.ece (last accessed on 11 October 2010).
575 Human Rights Commission of Pakistan, "State of Human Rights in 2009" (2010) at http://www.hrcp-web.org/pdf/Annual%20Report%202009.pdf (last accessed on 1 November 2010).
576 Human Rights Commission of Pakistan, "State of Human Rights in 2009" (2010) at http://www.hrcp-web.org/pdf/Annual%20Report%202009.pdf (last accessed on 1 November 2010).
577 Dawn.com, "Tensions boil over as refugees arrive" (26 October 2009) at http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/provinces/11-tensions-boil-over-as-refugees-arrive--il--02 (last accessed on 11 October 2010).

South Africa

Easier Said
than Done

1. Background

1.1. Context

South Africa underwent a democratic transition in 1994, after 46 years of minority white rule under a segregationist policy known as Apartheid, which severely discriminated against the non-white majority. Since 1994, South Africa has successfully held four elections and made major strides towards ensuring equality for citizens of all races, considering its categorically unequal past. South Africa now has a highly progressive Constitution with a Bill of Rights, and in 2006, it became the first African country, and only the fifth country in the world, to legalise same-sex unions. Despite these achievements, South Africa still faces considerable domestic challenges that need to be addressed, many of which are still linked to the legacy of Apartheid. Other pressing rights-related challenges are a result of South Africa's economic success relative to the rest of the region along with the instability in other southern African States.

1.2 UN Treaties

South Africa is a party to the International Covenant on Civil and Political Rights (ICCPR) and its two Optional Protocols, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, the Convention on the Rights of the Child (CRC) and its two Optional Protocols, the Convention on the Rights of Persons with Disabilities (CPD) and its Optional Protocol, and the Convention Against Torture (CAT). South Africa has signed, but not yet ratified, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Optional Protocol to CAT.

South Africa is not a party to the Convention on the Protection of the Rights of All Migrants Workers (CMW) or the Convention for the Protection of All Persons from Enforced Disappearance (CED).

1.3 UN Reporting History

South Africa has completed some of its reporting obligations due under international treaties, but has largely failed to satisfy its reporting requirements.

Under ICCPR, South Africa has not completed its initial report which is overdue since 2000. The country has completed all four of its rounds of reporting under CEDAW. It has completed one round of reporting under CRC, but one report is overdue since 2002. Under the Optional Protocol to CRC on the Sale of Children, Child Prostitution and Pornography, South Africa has not completed any reporting. The country has three reports overdue under ICERD and one each for CAT and CPD.

South Africa has extended an open invitation to the Council's Special Procedures.

1.4 UN Voting Patterns and Performance at the Council

Eighth Session of the UN Human Rights Council

On 4 June 2008, South Africa asserted that corporations have responsibilities under international law.

On 6 June 2008, South Africa questioned the decision to extend the mandate of the Special Representative of the Secretary-General on business and human rights for two years rather than the conventional three.

On 18 June 2008, South Africa dissociated itself from a resolution on the renewal of the mandate of the Independent Expert on human rights and extreme poverty, stating that the resolution narrowly addressed and trivialised the extreme poverty and hunger that was ongoing in many developing countries.

On 18 June 2008, South Africa dissociated itself from a resolution on the mandate of the Special Representative of the Secretary-General on business and human rights. South Africa maintained that the resolution did not expand the mandate sufficiently and suggested that the Special Representative should be requested to draft a coherent, comprehensive legal instrument to breach existing governance gaps.

On 18 June 2008, South Africa voted in favour of a resolution on the promotion of the right of peoples to peace. Slovenia called for a vote on behalf of the EU, on the basis that the issues contained in the resolution were best dealt with in other fora and that the resolution failed to state that the absence of peace did not justify breaches of human rights.

On 18 June 2008, South Africa voted in favour of a resolution on the promotion of a democratic and equitable international order. The resolution rejected a unilateral approach in favour of a multilateral one when addressing international issues. Slovenia called for a vote on behalf of the EU, on the basis that the resolution addressed issues that were beyond the mandate of the Council. For example, it focussed on relations between States rather than relations between States and their citizens.

Ninth Session of the UN Human Rights Council

On 16 September 2008, South Africa expressed concern regarding a resolution on human rights and voluntary goals. South Africa was uncomfortable with a reference to the withdrawal of reservations to core international human rights treaties as a goal. It also expressed concern regarding the resolution's allusion to the seventieth anniversary of the Universal Declaration of Human Rights as a "deadline" for the achievement of goals.

On 18 September 2008, in connection with the report of the High-Level Fact-Finding Mission to Beit Hanoun, South Africa observed that it was regrettable that Palestine was still under occupation. It called for the resumption of peace negotiations and reaffirmed the Palestinian people's right to self-determination.

On 19 September 2008, South Africa encouraged States to address the imbalance between civil and political rights, and economic, social and cultural rights.

On 24 September 2008, South Africa voted in favour of a resolution on human rights and international solidarity. The resolution emphasised the need for international cooperation to tackle human rights issues in a manner that distributes costs and burdens fairly. France called for a vote on behalf of the EU, on the basis that international solidarity was a moral principle not a human right defined in legal terms.

On 24 September 2008, South Africa voted in favour of a resolution on human rights and unilateral coercive measures. The resolution requested States to stop using or implementing unilateral, coercive measures, not in accordance with international law, particularly those creating obstacles to trade relations between States. It also condemned the use of unilateral coercive measures to assert political or economic pressures, especially on developing countries.

On 24 September 2008, South Africa voted in favour of a resolution on the follow-up to Resolution S-3/1 on the Assault on Beit Hanoun. The resolution welcomed the report of the High-Level Fact-Finding Mission dispatched to assess the situation in Beit Hanoun. It called for full implementation of all the recommendations made in the report and expressed regret for the delay caused by Israel's non-cooperation.

Ninth Special Session of the UN Human Rights Council

On 12 January 2009, South Africa voted in favour of a resolution on the grave violations of human rights in the OPT. The resolution strongly condemned the Israeli military operation in the OPT, stating that this had caused grave violations of the human rights of Palestinian civilians. It accused Israel of collective punishment of the Palestinian people and called on the international community to act.

Tenth Special Session of the UN Human Rights Council

On 23 February 2009, South Africa voted in favour of a resolution on the impact of the global economic and financial crisis on the universal realisation and effective enjoyment of human rights. The resolution expressed deep concern at the effect of the economic and financial crisis on human rights and called for increased participation by developing countries in international decision-making.

Tenth Session of the UN Human Rights Council

On 6 March 2009, South Africa expressed support for the greater regulation of private military and security companies.

On 26 March 2009, South Africa abstained from voting on a resolution expressing serious concern over the human rights situation in DPRK and extending the mandate of the Special Rapporteur on DPRK for a further year.

On 26 March 2009, South Africa voted in favour of a resolution on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.

On 26 March 2009, South Africa voted in favour of a resolution on human rights in the occupied Syrian Golan, which expressed deep concern for the suffering of the Syrian civilian population and referred to the systematic and continuous violations of fundamental and human rights by Israel.

On 26 March 2009, South Africa voted in favour of a resolution on Israeli settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution strongly condemned the Israeli announcement that it would build further settlements in the OPT.

On 26 March 2009, South Africa voted in favour of a resolution on the human rights violations emanating from the Israeli military attacks and operations in the OPT.

On 26 March, South Africa voted in favour of a resolution on the follow-up to Council Resolution S-9/1 on the grave violations of human rights in the OPT, particularly due to the then recent Israeli military attacks against the Occupied Gaza Strip. The resolution regretted that Resolution S-9/1 had not been fully implemented yet and demanded that Israel cooperate with the international community.

On 26 March 2009, South Africa voted in favour of a resolution on combating defamation of religions.

On 26 March 2009, South Africa voted in favour of a resolution calling for better geographical representation and gender balance in the staff of the OHCHR.

On 27 March 2009, South Africa voted in favour of a resolution on the elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination. South Africa introduced the resolution on behalf of the African Group referring to the need to strengthen and update existing international standards of racism.

On 27 March 2009, South Africa voted in favour of a resolution on torture and the role and responsibility of medical and other health personnel. South Africa abstained from voting in an additional vote on the inclusion of a paragraph in the resolution which took note of the report of the Special Rapporteur on torture. On 10 March 2009, the Special Rapporteur on torture had presented his report in which he considered whether the death penalty amounted to cruel, inhuman or degrading treatment or punishment. Several States had accused the Special Rapporteur of going beyond his mandate and noted that there was no international consensus on the status of the death penalty as a breach of human rights.

On 27 March 2009, South Africa abstained from voting on a decision on the publication of reports completed by the Sub-Commission on the Promotion and Protection of Human Rights. The resolution provided for all reports by the Sub-Commission that had previously been mandated by the Commission on Human Rights and submitted to the OHCHR, to be published as UN documents.

On 27 March 2009, South Africa voted against a resolution on discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights. The resolution was introduced by the EU. The Czech Republic, on behalf of the EU, explained that the resolution was in response to the report of the Special Rapporteur on Freedom of Expression and that this was an important, sensitive issue. South Africa explained that the resolution diminished the suffering of human rights victims, failed to deal appropriately with incitement to religious hatred, and did not provide for the justiciability of economic and social rights.

During the Tenth Session, two draft resolutions on the human rights situation in DRC were tabled, one by the EU and the other by the African Group. The resolution drafted by the EU expressed serious concerns regarding the human rights situation while the African Group's draft tabled was less critical of the issue there, and called on OHCHR to enhance its technical assistance activities in the country. Following the adoption of the African

Group's resolution by vote, the EU proposed amendments to the resolution reflecting serious concerns. South Africa voted in favour of the original resolution drafted by the African Group and voted against the amendments proposed by the EU.

Eleventh Special Session of the UN Human Rights Council

On 27 May 2009, South Africa voted in favour of a resolution on assistance to Sri Lanka in the promotion and protection of human rights. Before the vote, Germany, on behalf of the EU, proposed oral amendments to the draft resolution, as it made no mention of the need to conduct investigations into alleged violations of international human rights law or the need to prosecute perpetrators. Cuba, on behalf of a number of countries, requested that no action be taken on Germany's proposed oral amendments. The request was put to a vote and South Africa voted in favour of it.

Eleventh Session of the UN Human Rights Council

On 3 June 2009, South Africa criticised the report of the Special Rapporteur on Freedom of Expression for not being comprehensive enough. South Africa felt that the Special Rapporteur was premature in pronouncing his views on defamation of religion.

On 17 June 2009, South Africa voted in favour of a resolution for the promotion of the right of peoples to peace. The resolution recognised States' obligations to improve the protection of human rights by ensuring peace. Germany, on behalf of the EU, stated that while it recognised some of the principles set out in the resolution, the issues set out in the draft were more comprehensively dealt with in other fora. Furthermore, Germany, on behalf of the EU, noted that the resolution dealt with relationships between States, not the relationship between States and their citizens.

On 17 June 2009, South Africa voted in favour of a resolution on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.

On 18 June 2009, Egypt on behalf of the African Group, and the Czech Republic, on behalf of the EU, introduced competing draft resolutions on the mandate on Sudan. The draft proposed by the African Group did not renew the mandate of the Special Rapporteur or create a mandate for any international monitoring. It referred positively to the efforts of the government. The EU resolution replaced the mandate of the Special Rapporteur with that of an Independent Expert with some monitoring and reporting functions. The EU later accepted the African Group's draft but with proposed amendments providing for the mandate of an Independent Expert. South Africa voted against these amendments, and after they were accepted, against the entire text as amended.

Twelfth Session of the UN Human Rights Council

On 1 October 2009, South Africa voted in favour of a resolution on human rights and international solidarity.

On 2 October 2009, South Africa voted in favour of a resolution on human rights and unilateral coercive force.

On 2 October 2009, South Africa voted in favour of a decision on the effect of foreign debt on the enjoyment of human rights.

On 2 October 2009, South Africa voted in favour of a resolution on the right to development.

On 2 October 2009, South Africa voted in favour of a resolution on promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind.

Twelfth Special Session of the UN Human Rights Council

On 16 October 2009, South Africa voted in favour of a resolution that focused on continuing violations of human rights by Israel in the OPT, and in particular, in East Jerusalem. It endorsed the recommendations set out in the reports of the Fact-Finding Mission to Gaza led by Justice Goldstone and by the High Commissioner for Human Rights, and called for their implementation.

Thirteenth Session of the UN Human Rights Council

On 1 March 2010, South Africa urged that the implementation of the Durban Declaration be accelerated to ensure that the international financial meltdown would not affect human rights conditions in developing countries.

On 1 March 2010, South Africa expressed hope that the results of the Copenhagen United Nations Climate Change Conference would be developed into an international legally binding instrument. South Africa also stated that the achievement of the Millennium Development Goals was a paramount preoccupation of developing countries, especially after the international financial meltdown.

On 1 March 2010, after Israel refused to allow an independent investigation into the incursion of the Israeli Defence Force into the Gaza Strip, South Africa urged the Israeli government to cooperate with the international community and encouraged the Council to address the recommendations in the report of the High-Level Fact-Finding Mission on Gaza.

On 4 March 2010, South Africa agreed that additional resources should be allocated to the OHCHR, but suggested that a breakdown of costs be included. South Africa affirmed the importance of the Universal Periodic Review, stating that uniform standards should be improved and work on all forms of racism should be increased.

On 5 March 2010, South Africa expressed disappointment that the report of the Special Rapporteur on the right to adequate housing, which focused on the impact of international sporting events on adequate housing, did not incorporate a country visit to South Africa. South Africa criticised the report's negative portrayal of the impact of major sporting events and also commented on the importance of development linked with mega-events.

On 8 March 2010, South Africa commended the report of the Special Rapporteur on human rights and terrorism. South Africa further expressed its hope that international legal standards would be developed to ensure that communication technology was not abused to violate rights and freedoms.

On 10 March 2010, South Africa explained its own actions in protecting the rights of the child and reiterated the importance of UN structures in this process. South Africa expressed a will to learn more about best practices concerning the prevention of and protection from child abuse. In relation to sexual violence against children in armed conflict situations, South Africa asked to what extent UN rehabilitation and reintegration programmes emphasised on the special needs of boys and girls.

On 22 March 2010, South Africa urged the implementation of the High Commissioner for Human Rights' recommendations on the OPT and also called for a peace process to solve the conflict. South Africa asked specifically for the removal of checkpoints, the acceptance of building material into Gaza, the release of Palestinian prisoners, an investigation into the weapons used during the Gaza war and the establishment of a new round of negotiations.

On 23 March 2010, South Africa welcomed the Report of the Working Group on people of African descent. It commended the country visits by the Working Group and asked for the visits to continue. South Africa urged the Council and member States to make more efforts to address and act on the challenges related to people of African descent.

On 24 March 2010, South Africa voted in favour of a resolution on the composition of the OHCHR that asked for the implementation of measures to ensure a better representation of geographic diversity among the staff.

On 24 March 2010, South Africa voted in favour of a resolution on human rights in the occupied Syrian Golan. The resolution strongly condemned the occupation of Syrian Golan by Israel.

On 24 March 2010, South Africa voted in favour of a resolution on the right of the Palestinian people to self-determination. The resolution emphasised the value of self-determination and supported Palestine and Israel in their process towards peace and security. It encouraged the international community to aid the Palestinians in their right to self-determination.

On 24 March 2010, South Africa voted in favour of a resolution on Israeli Settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution asked the Government of Israel to reverse controversial announcements about new settlements and to respect legal obligations concerning access to food and supplies, the halting of impunity, the prevention of violence, etc.

On 24 March 2010, South Africa voted in favour of a resolution on grave human rights violations by Israel in the OPT, including East Jerusalem. The resolution strongly condemned the military attacks and operations in the OPT, which it said caused grave violations of human rights. It asked for the end of the occupation and for the establishment of an independent sovereign state through a peace process.

On 25 March 2010, South Africa voted in favour of a resolution on the follow-up to the report of the United Nations Independent International Fact-Finding Mission on the Gaza Conflict. The resolution asked for independent and credible investigations regarding the violations of international humanitarian and international human rights law during the Gaza Conflict.

On 25 March 2010, in the context of mega-events, explaining its stand before voting on a resolution on adequate housing as a component of the right to an adequate standard of living, South Africa stated that the emphasis of the resolution on mega-events distracted the Council from its mission to ensure the progressive realisation of economic, social and cultural rights. South Africa criticised the fact that this resolution targeted some countries and certain sporting codes selectively.

On 25 March 2010, South Africa abstained from voting on a resolution on the situation of human rights in DPRK. The resolution asked for the mandate of the Special Rapporteur on DPRK to be extended and for the government's participation in addressing human rights violations.

On 25 March 2010, South Africa voted in favour of a resolution on combating defamation of religions. The resolution urged the international community to promote a culture of tolerance and peace, especially concerning the wrongful association of Islam with human rights violations and terrorism.

On 26 March 2010, in a general comment concerning the resolution on a world of sports free from racism, racial discrimination, xenophobia and related Intolerance, South Africa spoke about its fight against organising sports programmes on the basis of skin colour and expressed its commitment to promote tolerance and diversity during the upcoming World Cup of soccer.

2. Pledge

2.1 Election to the Council

South Africa was one of 13 African countries that contested the May 2006 elections to the Council. The number of candidates was the same as the number of seats reserved for Africa, meaning that the results of the election were predetermined. In the election, South Africa came fourth in the African Group with 179 votes.

South Africa's first Council tenure was for one year and in May 2007 it was re-elected to the Council for a three-year term. There were four vacancies for African States and six candidates. South Africa was re-elected with 175 votes – the highest number of votes after Madagascar, which came first in the election with 182 votes.

2.2 Pledge Made

In its pre-election pledge in 2007, which mirrored its 2006 pledge document almost exactly, South Africa committed to strongly upholding the notion of the promotion, protection and fulfilment of all human rights and fundamental freedoms and promised to submit all reports due to treaty bodies. South Africa pledged to submit in the near future a National Action Plan exclusively covering the area of racism and racial discrimination as required by the Durban Declaration and Programme of Action. South Africa also noted in an aide memoire attached to its list of voluntary pledges, that it was a party to ICERD, that South African nationals were serving on the ICERD Treaty Monitoring body, and that it was in the process of ratifying the International Covenant on the Protection of the Rights of All Migrant Workers and Members of Their Families. The country pledged to work for the right to development to be inscribed within the framework of ICCPR and ICESCR. South Africa committed itself to advocate for balanced and sustainable development within a human rights framework.

When introducing its pledge, South Africa highlighted that its Constitution guaranteed human rights and fundamental freedoms.

3. Compliance

3.1 Human Rights During the Reporting Period

South Africa continued to struggle with discrimination and violence directed at asylum seekers, refugees and economic migrants. May 2008 saw massive riots in Johannesburg and other South African cities in which more than 60 people, mostly migrants from other African countries, or South Africans mistaken for migrants, were killed.[578] The Government of South Africa was criticised for inaction both during and after the riots. After the violence broke out on 11 May, President Thabo Mbeki reportedly took ten days to call in the army to establish order. Even then, enforcement officials were not deployed in adequate strength to combat the violence.[579] It also reportedly took the president 14 days to address the nation after the violence began.[580] Many of the perpetrators of the May 2008 violence remained at large at the end of the reporting period, and the government had made no concerted efforts to bring them to justice.[581]

An estimated 20,000-80,000 people were also reportedly displaced in the immediate aftermath of the attacks.[582] Some fled to government-established "safety camps" for the internally displaced, while others fled the country. Conditions in the temporary government camps were reportedly dire, "including a lack of food, poor sanitation and, in wintry Cape Town, insufficient protection from the elements".[583] The temporary camps were closed by the South African government in October 2008, without putting in place a detailed reintegration and protection plan for the residents. The move was decried by civil society groups, who argued that by closing the camps, migrants were being forced back into their communities where the threat of violence was still severe. Those who returned to their South African communities from the camps were reportedly victims of assault, rape and in some cases, murder.[584] According to one report, some migrants in the displacement camps were deported without their asylum claims being fairly processed. In the Cape Town camp, 98 per cent of the claims were reportedly rejected.[585] Although the camps officially closed in October, several migrants were reportedly still living in at least one camp till March 2009 because they were afraid to return to their communities.[586] Authorities ordered the dismantling and burning of one of the final "safety" camps in March 2009, which put thousands Zimbabwean refugees on the streets.[587]

A report released by the University of Witwatersrand in February 2009 alleged that a lack of political leadership and a "woefully unprepared" disaster management framework were responsible for the insufficient humanitarian response to the May 2008 xenophobic riots and resulting displacement.[588] In March 2009, the International Organization for Migration (IOM) released a report warning that riots could reoccur if the root causes of the violence were not addressed.[589] The IOM report also noted that while the 2008 riots were extraordinary for their intensity and scale, the manner in which they were carried out was not so notable, as xenophobic violence was a constant in South Africa since the end of Apartheid.[590] The reporting period was no exception. For example, in October 2008, a Somali woman was reportedly stabbed 100 times and her three children killed in an attack which the UN High Commissioner for Human Rights labelled as "xenophobic".[591] An international human rights organisation called on the government to do more to stop the "continuing"

xenophobic violence in both February and May 2010, suggesting that the violence was consistent up to the conclusion of the reporting period.[592]

While President Zuma expressed outrage at the continuing violence against migrants in December 2009,593 other politicians and state actors reportedly made the migrants' situation worse. In October 2008, police in Cape Town shot rubber bullets into a crowd of protesting "exiles" at close range, and the ensuing stampede resulted in the death of a baby. The group Save Zimbabwe Campaign called on the government to take drastic action against police for abusing their responsibilities by putting down peaceful protests outside Home Affairs offices across the country.594 A similar scene played out in Pretoria in January 2009, when a reportedly officially sanctioned peaceful solidarity rally by a Zimbabwean activist group was abruptly shut down by a slew of rubber bullets.595 In the run-up to the 2009 elections, it was reported that local politicians were using xenophobic rhetoric to garner votes. For example, it was noted that some politicians in Johannesburg campaigned for votes based on action plans to rid their areas of foreigners. In January 2009, a Zimbabwean and a Tanzanian fell to their deaths in Durban while trying to escape a 150-strong mob. One of the six people that were eventually charged with their murders was a local ward councillor of the ruling African National Congress (ANC) Party.596 In December 2009, an international human rights organisation alleged that health care professionals in South Africa practised discrimination against migrants by routinely denying them health care and treatment. The report argued that migrants, whether refugees, asylum seekers or economic migrants, were often the most in need of medical treatment due to squalid living conditions and violent xenophobic attacks.597

South Africa was due to host the World Cup in the month after the end of the reporting period. Preparations involved plans to displace and relocate thousands of slum dwellers in ten different cities. Some media reports termed the displacement: "hiding the homeless". In October 2009, an NGO spokesman alleged that he was aware of plans by the city of Johannesburg to relocate 15,000 homeless people to shelters outside of the city before the World Cup. Critics of the plan termed the shelters "concentration camps", though city officials denied that anyone was forced there.[598] Police in Cape Town reportedly arrested dozens of homeless people in the run-up to the World Cup and, in some cases, relocated them to "shack cities" outside areas where tourists would venture.[599] Many of those who were relocated were told that the government would provide them with housing, as housing is guaranteed as a right under South Africa's Constitution. In reality however, most were settled in transitional camps. According to some reports, many people may have to wait up to ten years before they are finally moved out of transitional housing and provided a home.[600]

Housing rights in South Africa were a regular flashpoint. In September 2009, the Kennedy Road shack settlement in Durban was attacked by a large group of armed men, who were allegedly backed and organised by the local branch of the ruling ANC. The target of the attack was reportedly Abahlali baseMjondolo, a shack-dwellers' organisation which was the largest poor people's movement in South Africa. Abahlali had previously protested against the provincial government of KwaZulu-Natal's (KZN) 2007 Elimination of Slums Act, which saw thousands of people relocated from slums to transitional housing complexes outside city centres. Abahlali promoted a policy of "No house, no land, no vote", which took electoral support away from the ANC. This policy, coupled with the struggle between Abahlali and the ANC for political control over the direction and development of the Kennedy Road settlement were reported to have been the motivation for the ANC's alleged attack.[601] The attack resulted in at least two deaths, several serious injuries, more than a dozen arrests of

residents (none of the attackers were arrested), destruction of and damage to a considerable number of homes and buildings, and the displacement of thousands of residents. An international human rights organisation decried the attack and criticised the local police for arriving late, and for specifically targeting supporters or members of Abahlali for arrest, despite the fact that many of the arrested were reportedly not in the settlement at the time of the attack.[602] In the weeks following the attack the state government circulated a different story, stating that the attacks had in fact been an intensely localised criminal matter perpetrated by a vigilante group linked to Abahlali. Five Abahlali members remained in custody awaiting trial at the end of the reporting period, and the movement's activities reportedly went underground.[603] In October 2009 after a case was brought in May 2009 by Abahlali against the KZN provincial government, the South African Constitutional Court found the KZN Slums Act to be unconstitutional.[604]

During the reporting period, the police in South Africa continued to act violently against suspected criminals with impunity. Some politicians, who were eager to act tough on crime in a country with one of the highest crime rates in the world, actively supported the violence. In October 2008, it was reported that the number of deaths as a result of police action had risen by 17 per cent over the preceding year. The report alleged that a statement in early 2008 by the Deputy Safety and Security Advisor that police should ignore regulations and "shoot to kill", was partially responsible for the rise in shooting deaths.[605] In March 2010, it was reported that police killings increased further: from 375 in 2006-2007, to 420 in 2007-2008, and to 556 in 2008-2009. The shoot-to-kill debate was reopened in August 2009, when the new Commissioner of the South African Police Force, Bheki Cele, reportedly called for Section 49 of the Criminal Procedure Act (sometimes referred to as the "justifiable homicide" law) to be revisited in order to allow police officers to shoot suspects without the burden of worrying about consequences. Section 49 of the Criminal Procedure Act allowed a police officer to shoot to kill if their life or the lives of bystanders were in danger, but the proposed amendment would have expanded the circumstances with which justifiable homicide by the police was acceptable. Cele had reportedly already instituted the same policy in KwaZulu-Natal, which had more deaths in police custody than in any other province in the previous year.[606] President Zuma's support to amend Section 49 was criticised by human rights groups who claimed that Zuma's rhetoric would lead to the shooting of innocents by police officers believing they had been given a carte blanche to shoot with impunity.[607] In October 2009, after an innocent woman was killed and her friends wounded by police who mistook them for car hijackers, Zuma's spokesperson clarified that the amendment would not allow police to shoot randomly.[608] In November 2009, after a three-year old boy was shot and killed by police who had mistaken a pipe he was carrying for a gun, Bheki Cele condemned the killing but still defended the police's right to use deadly force.[609] In the same month, Deputy Police Minister Fikile Mbalula called civilian deaths at the hands of police "unavoidable".[610] An opposition politician alleged that the spate of illegal police shootings in October and November 2009 was linked to Zuma and Cele's support to the amendments and their rhetoric on the issue.[611] The amendment to Section 49 was not passed by the conclusion of the reporting period.

South Africa's prison system raised various human rights concerns. Almost one-third of South Africa's approximately 160,000 prisoners were detainees awaiting trial.[612] According to an opposition politician, in January 2009 the South African prison system was overcrowded by 143 per cent, which, he alleged, had facilitated the spread of HIV/AIDS and tuberculosis.[613] In Johannesburg, the remand section of the country's most populous prison was designed for 2,630 people but held 6,973 un-sentenced prisoners in 2008.[614] According to a report

published in January 2010, medical facilities in some South African prisons were substandard. The report accused medical staff and nurses in prisons of neglecting their duties and said that ill inmates were responsible for washing those who were unable to wash themselves. A lack of medical supplies and medicines, such as insulin for diabetics and asthma pumps for the asthmatic, reportedly led to a number of preventable deaths.[615] AIDS and tuberculosis were rife in South African prisons. According to a study published in March 2009, natural deaths in prisons increased by 322 per cent from 1997 to 2007, despite the overall prison population only growing by approximately 10 per cent during the same period. The number of medical paroles effectively remained static over the period, which raised questions in a media report about why inmates were not being given medical parole to die in dignity at home.[616]

Media freedoms came under attack during the reporting period. In November 2008, the South Africa section of the Media Institute of Southern Africa (MISA) reported that members of the editorial board of the South African Broadcasting Corporation (SABC) were allegedly intimidated by political parties in the run-up to the 2009 presidential election.[617] Indeed, a similar article was published just before the election in which it was alleged that the ANC was pressuring media organisations not to air criticisms of the party or of the Presidential candidate Jacob Zuma. This pressure was overtly exercised in the form of legal action, with several media organisations being sued for criticising the ANC. In addition, covert pressure was applied to media organisations such as SABC, which cancelled airing a controversial documentary on political satire, allegedly because of pressure from the ANC.[618] In May 2009, the South African National Editor's Forum (SANEF) expressed serious concerns about the cumbersome accreditation contracts which journalists often had to sign when covering major events. The Forum alleged that the accreditation process could threaten media freedom and keep the public from being able to access independent sources of information on important events.[619] In April 2010, MISA again expressed concern at a number of incidents in which members of the African National Congress Youth League (ANCYL), the powerful youth wing of the ruling ANC, allegedly harassed or threatened journalists.[620] A Protection of Information Bill was before Parliament at the end of the reporting period. The Bill was severely criticised for creating new obstacles to civil society and media groups seeking to expose official malpractices. The Bill would give the government extensive powers to prevent communications that threaten the "national interest", and would allow sentences of a minimum of three and a maximum of 25 years to be handed down for breaches of its provisions. The definition of "national interest" was reportedly vague and included wide-ranging categories such as "all matters related to the advancement of the public good".[621]

Income inequality remained stark and unemployment was still high in South Africa during the reporting period. An EU report estimated that in 2006 South Africa had one of the highest income disparities in the world.[622] 2008 saw the University of South Africa release figures which showed that income inequality had increased since 2006. In May 2010, unemployment in South Africa was a startling 25.2 per cent.[623]

Corruption remained a problem in South Africa during the reporting period. The country was ranked 55 in Transparency International's 2009 Corruption Perceptions Index. According to the South African Communist Party and a trade union leader there were myriad instances where corrupt politicians and public servants awarded government tenders to private companies with which they were illegally collaborating. Indeed, the practice was sufficiently common for these public officials to become known as "tenderpreneurs".[624] The Secretary-General of the Congress of SA Trade Unions, referring to businesses that placed bids and won tenders, said that "the

public should be given a chance to comment about the businesses and know who they are. The public should also be told on what merits did the business receive the tender."[625]

South African politicians were the subject of numerous controversies throughout the reporting period. Some of these controversies suggested personal attitudes that contradicted South Africa's human rights obligations. Jacob Zuma, who was elected President in April 2009, was on trial for corruption, fraud, racketeering and tax evasion during the initial stages of the reporting period, though he and his followers claimed the charges were politically motivated. They were dropped just before the Presidential election because of an abuse of process that occurred during the investigation. The head of the Scorpions, South Africa's former anti-corruption investigating body, and the National Director of Public Prosecutions at the time colluded to manipulate the time at which the charges were laid against Zuma. Opposition groups protested that the charges were dropped by the National Prosecuting Authority owing to political pressure, and pointed out that Zuma's innocence was not determined.[626] In March 2010, it was reported that President Zuma had released a document "containing any gifts, benefits or financial interests held or received either by him or by any family member", 245 days after he was legally required to by South Africa's executive ethics code. The District Attorney's parliamentary leader called Zuma's tardiness illegal and said that there should be consequences for the president's actions.[627] Zuma's attitudes towards women have been the subject of criticism for several years. He is a polygamist, and is open about his numerous extramarital affairs. In January 2010, President Zuma married his fifth wife and in February 2010 it was reported that he had fathered a child out of wedlock, for which he was apologetic.[628] His attitude towards HIV/AIDS is notoriously backward, though he won the support of at least one AIDS pressure group when he acknowledged the devastation wrought on South Africa by AIDS and called for urgent action to combat the disease.[629]

Julius Malema, the president of the ANCYL, was a highly controversial figure in South African public life. His election in early 2008, which one columnist alleged was "certainly fraudulent",[630] was the first of several incidents which put the youth wing of the ANC at the centre of continuous controversy. In June 2008, Malema reportedly said that he and the ANCYL were prepared to take up arms and kill, if charges of corruption against the ANC leader Jacob Zuma were not dropped.[631] The statements were widely condemned and he later said that he did not mean the statement to be taken literally.[632] In November 2009, he called the Minister of Transport a "white messiah".[633] In February 2010, a media report alleged that Malema lived a lavish lifestyle with two homes costing over R1 million and many cars, one of which cost R1.2 million, despite only making R 20,000 per month.[634] In March 2010, Malema was reportedly convicted of hate speech for saying that a woman who accused President Zuma of rape had "a nice time", because she stayed in his home till the morning and asked for taxi fare to go home. He was ordered by a judge to apologise and pay USD 6,700 to a women's shelter as punishment.[635] Also in March 2010, Malema was severely criticised for repeatedly singing an old anti-Apartheid song which contained the lyrics "Kill the Boer, Kill the farmer". "Boer" means farmer in Afrikaans but is also used as a derogatory term for white people in South Africa. A High Court ruling found the singing of the song to be unconstitutional and ruled that it could warrant imprisonment for incitement to murder.[636] Malema travelled to Zimbabwe to meet Robert Mugabe in April 2010, where he reportedly praised Zimbabwe's land reform programme and sang "Kill the Boer", despite being banned from doing so in South Africa.[637] In early April 2010, a white supremacist leader, Eugene Terre'blanche, was killed by his farmhands. Some organisations and opposition parties linked the killing to Malema's consistent singing of "Kill the Boer". The ANC, which denied the link, nonetheless told Malema to stop singing the song.[638]

Despite a progressive Constitution that prohibits discrimination based on sexual orientation, and the sanctioning of same-sex marriage in 2006 by the South African Constitutional Court, South African society remained conservative and generally intolerant towards homosexuals. A survey published in November 2008 revealed that up to 80 per cent of South Africans surveyed "consistently felt that sex between two men or two women was always wrong" and many people characterised gays or lesbians as "un-African".[639] President Jacob Zuma is well known for his previous homophobic statements, though he has since apologised for them and recently criticised the imprisonment of a gay couple in Malawi for engaging in consensual homosexual sex.[640]

These societal attitudes translated into an alarming trend of violence against homosexuals in South Africa. In March 2009, Action Aid and the South African Human Rights Commission released a report chronicling the alarming increase in the number of lesbian women who were victims of rape by men intending to "correct" or "cure" their sexual preference. "Corrective rape", as it is termed in the report, became such a problem that one gay and lesbian rights group said that it dealt with ten new lesbian rape victims per week.[641] According to a media report, up to 31 lesbian women were murdered in homophobic attacks since 1998. Just two of those cases went to trial and only one perpetrator was convicted. The highest-profiled of these cases was that of Eudy Simelane, a lesbian woman who played on the national women's football squad and had the potential to become the first female referee of a men's World Cup match. She was brutally raped and murdered in 2008 by a gang of young men, who activists allege were intending to "correct" her sexual preference.[642]

South African women of all sexual preferences were victims of widespread sexual violence. A study released by the South African Medical Research Council reportedly found that 28 per cent of 1,738 men interviewed had raped someone, and that 10 per cent committed their first rape when they were 10 years or younger. The author of the study lamented that punitive measures could not be used to lower such horrible statistics, and that the problem was "deeply embedded in ideas about manhood" in South Africa, which is a strongly patriarchal society.[643] There were reportedly 36,190 rapes documented by South African police in 2008, though some rape treatment experts estimate that the number of unreported cases could raise the total to approximately 500,000 cases. One report indicated that over 25 per cent of South Africa's female population, from childhood to old age, could expect to be raped during their lifetime.[644] Children comprised just under half of the reported rape victims in South Africa, which has the highest number of recorded child rapes in the world.[645]

3.2 Compliance with the Pledge

In its pre-election pledge, South Africa stated that it "strongly upholds the notion of i) promotion, ii) protection and iii) fulfilment of all human rights and fundamental freedoms", and that its Constitution guaranteed "all universally recognised human rights and fundamental freedoms." Despite this assertion, the human rights situation in South Africa was dire during the reporting period. Housing rights and homelessness were major flashpoints, despite South Africa's constitutional guarantee of housing as a fundamental right. Police, supported in a nexus with political interests, acted violently against suspected criminals as "shoot to kill policies" were used in some parts of South Africa and debated nationally. Prisons were overcrowded, AIDS and tuberculosis affected prisoners at high rates, and sick inmates were reportedly neglected by prison medical staff. The media reportedly faced intimidation by political parties and a controversial Protection of Information Bill was passed into law. Although South Africa's Constitution is among the most progressive in the world on LGBT rights, discrimination and violence targeted at the LGBT community was frequent and brutal. Furthermore, women of

all sexual orientations faced an extremely high risk of rape and there were concerns that South Africa's leaders harboured attitudes towards women that were inconsistent with the country's human rights obligations. South Africa reportedly also had the highest number of documented cases of child rape in the world.

South Africa undertook in its pledge to submit a National Action Plan exclusively covering the areas of racism and racial discrimination in the near future. Yet xenophobia was pervasive and allegedly used to serve political interests. South Africa further pledged that it was in the process of ratifying the International Covenant on the Protection of the Rights of All Migrant Workers and Members of Their Families. However, the issue of violence against migrants was ubiquitous during the reporting period, especially as it related to the treatment of victims of the May 2008 xenophobic riots.

South Africa was a vocal participant in Council discussions, and made statements on various issues ranging from the Gaza Conflict to racial discrimination, to the effect of mega-events on human rights. South Africa voted with allied voting blocs on nearly every issue during the reporting period. It voted in favour of thematic resolutions on the right of peoples to peace, human rights and international solidarity, unilateral coercive measures, defamation of religions, a democratic and equitable international order, the global financial crisis, the elaboration of complementary standards to ICERD, torture and the role and responsibility of medical and other health personnel, foreign debt, and human rights and traditional values. South Africa was the only country on the Council to vote against a resolution on discrimination based on religion and belief.

South Africa almost always voted to reduce international scrutiny on resolutions regarding country-specific mandates. It voted for weak resolutions on Sudan and DRC. South Africa also voted against subjecting Sri Lanka to international scrutiny, and abstained on votes regarding DPRK. The country voted in favour of resolutions on human rights violations by Israel.

South Africa pledged to continue submitting country reports to human rights treaty monitoring bodies. While South Africa did submit one report to CEDAW during the reporting period, a number of other reports were not completed. South Africa now has overdue reports under the Optional Protocol to the CRC, ICERD, CAT and CPD. South Africa noted that it was in the process of ratifying the ICESCR, the Optional Protocol to CAT and CMW, but none were ratified by the end of the reporting period.

---

578 BBC News, "SA mourns victims of xenophobia" (3 July 2008) at http://news.bbc.co.uk/2/hi/africa/7486969.stm (last accessed on 16 September 2010).

579 Mandeep Tiwana, Policy Manager, CIVICUS: World Alliance for Citizen Participation; *Bloomberg*, "South Africa's Mbeki must resign, South Africa's biggest paper says" (25 May 2008) at http://www.bloomberg.com/apps/news?pid=newsarchive&sid=anFggJLG9cDw&refer=home (last accessed on 29 October 2010).

580 Bloomberg, "South Africa's Mbeki must resign, South Africa's biggest paper says" (25 May 2008) at http://www.bloomberg.com/apps/news?pid=newsarchive&sid=anFggJLG9cDw&refer=home (last accessed on 29 October 2010).

581 Mandeep Tiwana, Policy Manager, CIVICUS: World Alliance for Citizen Participation.

582 *Business Day*, "'Lack of leadership' blamed for weak response to violence" (2 February 2009) at http://allafrica.com/stories/200902020130.html (last accessed on 16 September 2010).

583 IRIN, "South Africa: Foreigners (still) beware" (21 November 2008) at http://www.irinnews.org/Report.aspx?ReportId=81618 (last accessed on 16 September 2010).

584 IRIN, "South Africa: Foreigners (still) beware" (21 November 2008) at http://www.irinnews.org/Report.aspx?ReportId=81618 (last

accessed on 16 September 2010).

585 Amnesty International, "South Africa: Displaced at risk as camps close" (7 October 2008) at http://www.amnesty.org/en/for-media/press-releases/south-africa-displaced-risk-camps-close-20081007 (last accessed on 16 September 2010).

586 Cape Argus, "South Africa: Refugees 'might as well go home'" (11 March 2009) at http://allafrica.com/stories/200903120112.html (last accessed on 16 September 2010).

587 Health-e, "South Africa: More chaos for Zimbabweans as Home Affairs Displaces Musina Refugees" (6 March 2009) at http://allafrica.com/stories/200903060555.html (last accessed on 16 September 2010).

588 *Business Day*, "'Lack of leadership' blamed for weak response to violence" (2 February 2009) at http://allafrica.com/stories/200902020130.html (last accessed on 16 September 2010).

589 IRIN, "South Africa: Act II of xenophobia waiting in the wings" (12 March 2009) at http://allafrica.com/stories/200903120848.html (last accessed on 16 September 20010).

590 IRIN, "South Africa: Act II of xenophobia waiting in the wings" (12 March 2009) at http://allafrica.com/stories/200903120848.html (last accessed on 16 September 20010).

591 UN News Service, "South Africa: UN Chief urges protection for foreigners after brutal killing" (7 October 2008) at http://allafrica.com/stories/200810070866.html (last accessed on 16 September 2010).

592 Amnesty International, "Grave concern at continuing violence against refugees and migrants" (8 February 2010) at http://www.amnesty.org/en/library/asset/AFR53/004/2010/en/d049ea18-a6fa-45b1-9ce2-d49bd106eab0/afr530042010en.html (last accessed on 16 September 2010); Reuters, "South African government must protect migrants – Amnesty" (27 May 2010) at http://www.ethiopianreview.com/news/126985 (last accessed on 16 September 2010).

593 AllAfrica.com, "South Africa: Zuma outraged at xenophobic attacks" (16 December 2009) http://allafrica.com/stories/200912160524.html (last accessed on 16 September 2010).

594 SW Radio Africa, "South Africa: Zim group lashes out at government after death of refugee baby" (7 October 2008) at http://allafrica.com/stories/200810080530.html (last accessed on 16 September 2010).

595 SW Radio Africa, "South Africa: Police use violence to break up Zimbabwean protest" (26 January 2009) at http://allafrica.com/stories/200901261737.html (last accessed on 16 September 2010).

596 IRIN, "South Africa: Keeping xenophobia out of politics" (11 February 2009) at http://www.irinnews.org/Report.aspx?ReportId=82883 (last accessed on 16 September 2010).

597 Human Rights Watch, "South Africa: Improve migrants' access to health care" (7 December 2009) at http://www.hrw.org/en/news/2009/12/07/south-africa-improve-migrants-access-health-care (last accessed on 29 October 2010).

598 Times LIVE, "Hiding the homeless" (24 October 2009) at http://www.timeslive.co.za/sundaytimes/article165084.ece (last accessed on 10 September 2010).

599 NPR, "South Africa hides its homeless ahead of the world cup" (10 June 2010) at http://www.npr.org/templates/story/story.php?storyId=127593697 (last accessed on 10 September 2010).

600 Democracy Now, "South Africa's poor targeted by evictions, attacks in advance of 2010 World Cup" (1 October 2010) at http://www.democracynow.org/2009/10/1/south_africas_poor_targeted_by_evictions (last accessed on 10 September 2010).

601 Pambazuka.org, "Democracy's everyday death: South Africa's quiet coup" (10 October 2009) at http://www.pambazuka.org/en/category/features/59322 (last accessed on 10 September 2010).

602 Amnesty International, "South Africa: Failure to conduct impartial investigation into Kennedy Road violence is leading to further human rights abuse" (16 December 2009) at http://www.amnesty.org/en/library/asset/AFR53/011/2009/en/53fce922-d49e-4537-b3bb-84060cf84c85/afr530112009en.html (last accessed on 10 September 2010).

603 Kerry Chance, "The Work of Violence: A timeline of armed attacks at Kennedy Road" (July 2010) at http://sds.ukzn.ac.za/files/RR%2083%20Chance.pdf (last accessed on 10 September 2010).

604 Times LIVE, "Shack dwellers celebrate Concourt victory" (14 October 2009) at http://www.timeslive.co.za/news/local/article151537.ece (last accessed on 10 September 2010).

605 *Business Day*, "South Africa: Dramatic increase in police killings" (3 October 2008) at http://allafrica.com/stories/200810030049.html (last accessed on 15 September 2010).

606 *Cape Argus*, "South Africa: Police must shoot to kill, worry later – Cele" (1 August 2009) at http://allafrica.com/stories/200908010001.html (last accessed on 15 September 2010).

607 *The Scotsman*, "Deadly prelude for new 'shoot-to-kill' police orders" (13 October 2009) at http://news.scotsman.com/world/Deadly-prelude--for-new.5726462.jp (last accessed on 15 September 2010).

608 iafrica.com, "No 'shoot to kill' order" (12 October 2009) at http://news.iafrica.com/politics/news/1979481.htm (last accessed on 15 September 2010).

609 JoyOnline, "SA chief damns shooting of three-year-old boy" (11 November 2009) at http://news.myjoyonline.com/international/200911/37754.asp (last accessed on 15 September 2010).

610 *Business Day*, "South Africa: Mbalula says civilian deaths are 'unavoidable'" (13 November 2009) at http://allafrica.com/stories/200911130036.html (last accessed on 15 September 2010).

611 BBC News, "Are South African police trigger-happy?" (12 November 2009) at http://news.bbc.co.uk/2/hi/africa/8354961.stm (last accessed on 15 September 2010).
612 UN Information Service, "Special Rapporteur paints harrowing picture of prison conditions as experts call for measures to ensure respect for human rights" (15 April 2010) at http://www.un.org/News/Press/docs/2010/soccp351.doc.htm (last accessed on 10 September 2010).
613 IOL, "SA prisoners overcrowded" (30 June 2009) at http://www.africancrisis.co.za/Article.php?ID=53481& (last accessed on 10 September 2010).
614 IOL, "SA prison population among the world's highest" (26 April 2008) at http://www.iol.co.za/index.php?set_id=1&click_id=13&art_id=vn20080426082428847C562791&page_number=1 (last accessed on 13 September 2010).
615 IOL, "Ill inmates get raw deal: report" (27 January 2010) at http://www.iol.co.za/news/south-africa/ill-inmates-get-raw-deal-report-1.471637 (last accessed on 10 September 2010).
616 Politics Web, "SA's soaring prison death rate" (22 March 2009) at http://www.politicsweb.co.za/politicsweb/view/politicsweb/en/page71619?oid=122299&sn=Detail (last accessed on 10 September 2010); UNDP, "Prison population and incarceration rate – 2007 rankings" (4 November 2008) at http://www.allcountries.org/ranks/prison_incarceration_rates_of_countries_2007.html (last accessed on 10 September 2010); British Home Office, "World Prison Population List" (1999) at http://rds.homeoffice.gov.uk/rds/pdfs/r88.pdf (last accessed on 10 September 2010).
617 Media Institute for Southern Africa, "South Africa: SABC journalists allegedly intimidated by political party representatives" (17 November 2008) at http://allafrica.com/stories/200811180019.html (last accessed on 13 September 2010).
618 Al-Jazeera, "South Africa's media freedom fight" (22 April 2009) at http://english.aljazeera.net/news/africa/2009/04/200941710513 0736428.html (last accessed on 13 September 2010).
619 South African National Editor's Forum, "South Africa: Zuma's commitment in his inauguration speech" (10 May 2009) at http://allafrica.com/stories/200905100023.html (last accessed on 13 September 2010).
620 Afrik-News, "South Africa: Harassments and threats against journalists increase in South Africa" (13 April 2010) at http://www.afrik-news.com/article17320.html (last accessed on 14 September 2010).
621 CIVICUS, "Civil society deeply concerned about the rollback of media freedoms in South Africa" (12 August 2010) at http://www.civicus.org/civicus-home/1449 (last accessed on 29 October 2010).
622 *Business Day*, "South Africa: Income disparity widening" (4 July 2008) at http://allafrica.com/stories/200807040868.html (last accessed on 29 October 2010); European Commission – Economic and Financial Affairs, "South Africa" (2006) at http://ec.europa.eu/economy_finance/international/non_eu/acp/south_africa_en.htm (last accessed on 29 October 2010).
623 *Wall Street Journal*, "South Africa unemployment hits 25.2%" (4 May 2010) at http://online.wsj.com/article/SB10001424052748703866704575223993865587422.html (last accessed on 29 October 2010).
624 *Business Day*, "SACP warns on 'tenderisation' of the state" (30 March 2010) at http://allafrica.com/stories/201003300051.html (last accessed on 29 October 2010); News 24, "Vavi: No tenderpreneurs" (1 May 2010) at http://www.news24.com/SouthAfrica/Politics/Vavi-No-tenderpreneurs-20100430 (last accessed on 29 October 2010).
625 News 24, "Vavi: No tenderpreneurs" (1 May 2010) at http://www.news24.com/SouthAfrica/Politics/Vavi-No-tenderpreneurs-20100430 (last accessed on 29 October 2010).
626 *Business Day*, "South Africa: Opposition parties angry at Authority's decision to drop charges" (7 April 2009) at http://allafrica.com/stories/200904070033.html (last accessed on 14 September 14 2010).
627 Times LIVE, "Zuma gives what he's got" (10 March 2010) at http://www.timeslive.co.za/local/article349117.ece (last accessed on 14 September 2010).
628 *Sydney Morning Herald*, "Zuma regrets pain amid fury at sex scandal" (8 February 2010) at http://www.smh.com.au/world/zuma-regrets-pain-amid-fury-at-sex-scandal-20100207-nky4.html (last accessed on 14 August 2010); AfrikNews, "President Zuma weds fifth wife, another to follow soon" (4 January 2010) at http://www.afrik-news.com/article16711.html (last accessed on 14 September 2010).
629 Reuters, "South Africa's Zuma wins rare backing of AIDS activists" (30 October 2009) at http://in.reuters.com/article/idINIndia-43556120091030 (last accessed on 14 September 2010).
630 *Business Day*, "While SA laughs, Malema spreads his tentacles" (11 November 2010) at http://www.businessday.co.za/articles/Content.aspx?id=87495 (last accessed on 14 September 2010).
631 Times LIVE, "'We are willing to kill if Zuma is tried'" (1 September 2009) at http://www.timeslive.co.za/sundaytimes/article58928.ece (last accessed on 13 September 2010).
632 BBC News, "Tutu condemns 'Kill for Zuma' vow" (21 June 2008) at http://news.bbc.co.uk/2/hi/africa/7467306.stm (last accessed on 14 September 2010).
633 Times LIVE, "Malema and 'messiah' slug it out" (22 November 2009) at http://www.timeslive.co.za/sundaytimes/article203843.ece (last accessed on 14 September 2010).
634 IOL, "Malema's millions" (19 February 2010) at http://www.iol.co.za/index.php?set_id=1&click_id=13&art_id=vn20100219062028333C116350 (last accessed on 14 September 2010).

635 *Los Angeles Times*, "ANC youth leader mired in controversy" (16 March 2010) at http://articles.latimes.com/2010/mar/16/world/la-fg-south-africa-hate16-2010mar16 (last accessed on 14 September 2010).
636 IOL, "Malema gagged" (27 March 2010) at http://www.iol.co.za/index.php?set_id=1&click_id=13&art_id=vn20100327082631611C970282&page_number=1 (last accessed on 14 September 2010).
637 *Zimbabwe Guardian*, "Malema dangerously like Mugabe" (9 April 2010) at http://newzimsituation.com/malema-dangerously-like-mugabe-40511.htm (last accessed on 14 September 2010); IOL, "Malema ignores interdict, sings 'banned' song" (3 April 2010) at http://www.iol.co.za/index.php?set_id=1&click_id=13&art_id=nw20100403201210816C174889 (last accessed on 14 September 2010).
638 TVNZ, "ANC tells youth leader to cool it" (7 April 2010) at http://tvnz.co.nz/world-news/anc-tells-youth-leader-cool-3451453 (last accessed on 14 September 2010).
639 Pambazuka.com, "South Africa: Progressive Constitution, Conservative Country" (18 March 2010) at http://www.pambazuka.org/en/category/features/63117 (last accessed on 13 September 2010).
640 Times LIVE, "Zuma: Malawi gay stance wrong" (27 May 2010) at http://www.timeslive.co.za/local/article474380.ece/Zuma--Malawi-gay-stance-wrong%20- (last accessed on 13 September 2010).
641 ActionAid, "Hate crime: The rise of 'corrective' rape" (13 March 2009) at http://allafrica.com/stories/200903130747.html (last accessed on 13 September 2010).
642 *The Australian*, "Wave of rapes hits lesbians in South Africa" (26 September 2009) at http://www.theaustralian.com.au/news/wave-of-rapes-hits-lesbians-in-south-africa/story-e6frg6uf-1225779764220 (last accessed on 13 September 2010).
643 TVNZ, "S. Africa rapes linked to macho culture" (20 June 2009) at http://tvnz.co.nz/view/tvnz_smartphone_story_skin/2791108 (last accessed on 15 September 2010); *Times of India*, "Rape linked to manhood in South Africa" (9 July 2009) at http://timesofindia.indiatimes.com/World/Rest-of-World/Rape-linked-to-manhood-in-South-Africa/articleshow/4758934.cms (last accessed on 15 September 2010).
644 Digital Journal, "Half of South Africa's young have AIDS from rape" (8 January 2009) at http://www.digitaljournal.com/article/264771 (last accessed on 15 September 2010).
645 Digital Journal, "Child rapes soared in South Africa this month" (31 December 2008) at http://www.digitaljournal.com/article/264259 (last accessed on 15 September 2010).

United Kingdom

Easier Said
than Done

1. Background

1.1. Context

The United Kingdom (UK) was historically the world's largest colonial power, and today remains a major European and global power. The UK is a permanent member of the UN's Security Council, giving it significant geopolitical influence. It comprises four constituent countries – England, Northern Ireland, Scotland and Wales. The people of Scotland, Wales and Northern Ireland have separate democratically elected legislatures – the Scottish Parliament and the Welsh and Northern Ireland Assemblies. The Westminster Parliament in London continues to legislate on most matters that affect the whole of the UK. Conflict between the government and separatists in Northern Ireland led to widespread violence and human rights violations which ended with the Good Friday Agreement in 1998. Despite general peace in Northern Ireland, fringe separatist groups continue to engage violently with the government on sporadic occasions.

The UK government introduced explicit human rights protection into the UK law by means of the Human Rights Act in 1998. The Act domesticated the rights enshrined in the European Convention of Human Rights (ECHR). The Equality and Human Rights Commission (EHRC) was established on 1 October 2007 bringing together the work of Great Britain's three previous equality commissions while taking on responsibility for new strands of discrimination law as well as human rights. It has powers to enforce equality legislation and a mandate to encourage compliance with the Human Rights Act.

1.2 UN Treaties

UK is party to the International Covenant on Civil and Political Rights (ICCPR) and its Second Optional Protocol, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and its Optional Protocol and the Convention on the Rights of the Child (CRC) and its two Optional Protocols. It has signed the Convention on the Rights of Persons with Disabilities (CPD) and its Optional Protocol.

Core treaties to which the United Kingdom is not a party are the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), the International Convention for the Protection of All Persons from Enforced Disappearance (CED), and the Optional Protocols to ICECSR and ICCPR.

1.3 UN Reporting History

The UK has completed almost all of its reporting obligations under the international treaties with the exception of the fifth report on CAT, which has been overdue since 2008.

The UK has issued an open invitation to the UN Human Rights Council's Special Procedures.

1.4 UN voting patterns and performance at the council

Eighth Session of the UN Human Rights Council

On 3 June 2008, the UK broadly supported the framework proposed by the Special Representative of the Secretary-General on business and human rights and endorsed the recommendation not to create a binding international mechanism at the present time. On 4 June 2008, the UK commented that the resolution renewing the mandate of the Special Representative was a step in the right direction but that all EU countries may not be able to endorse the conceptual framework. The UK again cautioned against creating binding legal obligations for corporations at the present time. On 6 June 2008, the UK objected to the inclusion in the preambular paragraphs of a reference to the human rights responsibilities of trans-national corporations. The UK felt that this reference, combined with a previous one pointing to the fact that trans-national corporations can contribute to the promotion of human rights, would create an imbalance.

On 4 June 2008, the UK expressed its views on a draft resolution on the Optional Protocol to ICESR. The UK stated its preference for an a la carte approach whereby not all the rights in the Covenant or levels of obligation would be included in the Optional Protocol. The UK was also sceptical about the utility of a complaints process for individuals and did not support the creation of a trust fund to finance the procedures outlined in the Optional Protocol. The UK indicated that it may not be able to become a State party to the Optional Protocol.

On 6 June 2008, the UK raised Belarus, Sudan, DRC, Kenya, Myanmar, Zimbabwe, DPRK, Tibet and Sri Lanka as countries with human rights situations requiring the Council's attention. The UK offered support to any country who genuinely wanted to improve human rights.

On 17 June 2008, the UK supported a firm tone for a resolution on the human rights situation in Burma.

On 17 June 2008, while discussing the Durban Review Conference, the UK stated that it would not accept limiting freedom of expression as a method of achieving non-discrimination. It added that ICCPR dealt with the balance effectively. The UK also stated their stance that no anti-Semitism would be tolerated at the Conference.

On 18 June 2008, the UK voted against a resolution on the promotion of the right of peoples to peace. Slovenia called for a vote on behalf of the EU, on the basis that the issues contained in the resolution were best dealt with in other fora and that the resolution failed to state that the absence of peace did not justify breaches of human rights.

On 18 June 2008, the UK voted against a resolution on the promotion of a democratic and equitable international order. The resolution rejected a unilateral approach in favour of a multilateral one when addressing international issues. Slovenia called for a vote on behalf of the EU, on the basis that the resolution addressed issues that were beyond the mandate of the Council. For example, it focused on relations between States rather than relations between States and their citizens.

On 18 June 2008, the UK joined the consensus on adopting the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, but stated that it did not view the Optional Protocol as allowing individuals to bring claims for the right to self-determination.

Ninth Session of the UN Human Rights Council

On 8 September, the UK supported expanding the fieldwork of the OHCHR. It highlighted the importance of the OHCHR remaining independent while working as an equal with the Council.

On 8 September 2008, the UK highlighted the important role of civil society and the media in realising human rights, emphasising the importance of freedom of expression to achieve this. The UK also affirmed its belief that because the role of the Office of the High Commissioner for Human Rights was so vital, it was important for the Office to maintain its independence.

On 9 September 2008, the UK contributed to the interactive dialogue with the Special Representative of the Secretary-General on children and armed conflict, to refer to situations in specific countries and to ask additional questions.

On 10 September 2008, the UK agreed with the Special Rapporteur on the right to food that there was enough food in the world and the problem was its distribution. The UK committed itself to tackling this important issue.

On 16 September 2008, the UK referred to the human rights situations in DPRK, Sudan, Iran, Georgia, DRC and Myanmar as cases that required the Council's attention.

On 16 September 2008, the UK expressed deep concerns at the human rights situation in Sudan, and expressed disappointment that the Special Rapporteur was not granted full access. It criticised the poor implementation of earlier recommendations and called on Sudan to cooperate with the International Criminal Court.

On 18 September 2008, during informal consultations on a resolution on the protection of human rights of civilians in armed conflict, the UK opposed the inclusion of a paragraph calling on States involved in armed conflicts to facilitate the work of any future mechanisms that the Council may establish in response to human rights violations in armed conflict. The UK proposed moving the paragraph to the preamble.

On 19 September 2008, during an informal consultation on a resolution on advisory services and technical assistance for Cambodia, the UK requested the reinsertion of a paragraph expressing concern regarding continuing human rights violations.

On 22 September 2008, the UK endorsed a resolution on the situation of human rights in Sudan sponsored by the EU and supported the extension of the mandate by another year.

On 23 September 2008, the UK called on the international community to assist all Somali parties with the implementation of the Djibouti Agreement and provide them with financial and technical support. The Djibouti Agreement is a peace agreement between the Transitional Federal Government of Somalia and the Alliance for the Re-liberation of Somalia.

On 24 September 2008, the UK followed the EU's position and voted against a resolution on human rights and international solidarity. The resolution emphasised the need for international cooperation to tackle human rights

issues in a manner that distributes costs and burdens fairly. France called for a vote on behalf of the EU, on the basis that international solidarity was a moral principle not a human right defined in legal terms.

On 24 September 2008, the UK voted against a resolution on human rights and unilateral coercive measures. The resolution requested States to stop using or implementing unilateral, coercive measures not in accordance with international law, particularly those creating obstacles to trade relations between States. It also condemned the use of unilateral coercive measures to assert political or economic pressures, especially on developing countries.

On 24 September 2008, the UK voted against a resolution on the follow-up to Resolution S-3/1 on the Assault on Beit Hanoun. The resolution welcomed the report of the High-Level Fact-Finding Mission dispatched to assess the situation in Beit Hanoun. It called for full implementation of all the recommendations made in the report and expressed regret for the delay caused by Israel's non-cooperation. The Netherlands, speaking on behalf of the UK, suggested that a follow up to the report by the Secretary-General and the General Assembly was inappropriate, as the regrettable events had already led to a fact-finding mission.

On 24 September 2008, during the interactive dialogue with the Special Rapporteur on Sudan, the UK expressed concern regarding lack of progress on human rights and disappointment that the Special Rapporteur was not granted access to all areas during the visit.

Ninth Special Session of the UN Human Rights Council

On 12 January 2009, the UK abstained from voting on a resolution on the grave violations of human rights in the OPT. The resolution strongly condemned the Israeli military operation in the OPT, stating that this had caused grave violations of the human rights of Palestinian civilians. It accused Israel of collective punishment of the Palestinian people and called on the international community to act.

Tenth Special Session of the UN Human Rights Council

On 23 February 2009, the UK followed the position of the EU and abstained from voting on a resolution on the impact of the global economic and financial crisis on the universal realisation and effective enjoyment of human rights. The resolution expressed deep concern at the effect of the economic and financial crisis on human rights and called for increased participation by developing countries in international decision-making.

Tenth Session of the UN Human Rights Council

On 5 March 2009, the UK asserted the need for the High Commissioner to be able to offer assistance to States and individual rights holders independently and free from political considerations.

On 5 March 2009, the UK referred to the need to challenge social, cultural and religious justifications used to rationalise the denial of human rights to women.

On 6 March 2009, the Chairperson of the Working Group on the use of mercenaries thanked the UK for the cooperation of its national authorities during a country visit to the UK in 2008. However, the UK considered

some paragraphs in the report to be flawed. The UK expressed explicit support for the consideration of a new international convention to regulate private military and security companies.

On 10 March 2009, the UK reacted to references made in the report of the Special Rapporteur on terrorism to the UK's involvement with human rights abuses arising from interrogation and extraordinary rendition. The UK restated its position against torture and said it would follow up on these allegations with the Special Rapporteur.

On 12 March 2009, the Special Rapporteur on freedom of religion presented the report of the country mission to the UK. This included references to areas of inequality in relation to religion and to targeting Muslims under anti-terrorism measures. In its reply, the UK referred to measures taken to reduce inequality and discrimination in relation to religion.

On 12 March 2009, the UK expressed support for the mandate of the Special Rapporteur on human rights defenders and endorsed the recommendation to use the UPR as a tool to enhance protection. The UK raised queries and concerns regarding human rights defenders in Zimbabwe, Sri Lanka, Colombia, Burma and Iran.

On 12 March 2009, the UK used the panel discussion on the rights of the child to refer to the steps it had taken to implement CRC.

On 13 March 2009, the UK expressed support for the mandate of the Special Rapporteur on human rights and IDPs and referred to its concern regarding IDPs in Sri Lanka.

On 16 March 2009, the UK called on DPRK to cooperate with the Special Rapporteur on that country and to treat emigrants from DPRK as refugees.

On 17 March 2009, the UK expressed serious concerns regarding the human rights situation in Myanmar. It specifically called for the release of up to 2,200 political prisoners, including Daw Aung San Suu Kyi, and stated that unless democratic opposition and ethnic groups were allowed to participate in the 2010 elections, the results would have no international credibility.

On 17 March 2009, the UK expressed support for the creation of a Special Procedure on human rights in DRC.

On 17 March 2009, the UK raised the human rights situations in DPRK, Myanmar, DRC, Sri Lanka and Zimbabwe as ones requiring the attention of the Council.

On 25 March 2009, the UK expressed concerns for the human rights situation in Somalia. It called for any Commission of Inquiry to be Somali-led with international support, and also for the renewal of the mandate of the Independent Expert on the Situation of Human Rights in Somalia.

On 26 March 2009, the UK voted against a resolution on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.

On 26 March 2009, the UK followed the approach of the EU and abstained from voting on a resolution on human rights in the occupied Syrian Golan. The resolution expressed deep concern for the suffering of the Syrian civilian population and referred to the systematic and continuous violations of fundamental and human rights by Israel. Germany, on behalf of the EU, explained that the text was similar to that of the previous year and it was not balanced.

On 26 March 2009, the UK followed the approach of the EU and voted in favour of a resolution on Israeli settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution strongly condemned the Israeli announcement that it would build further settlements in the OPT. Germany, on behalf of the EU, condemned Israeli settlements as contrary to international law and an obstacle to peace.

On 26 March 2009, the UK abstained from voting on a resolution on the human rights violations emanating from the Israeli military attacks and operations in the OPT.

On 26 March 2009, the UK followed the position of the EU and abstained from voting on a resolution on the follow-up to Council Resolution S-9/1 on the grave violations of human rights in the OPT, particularly due to the then recent Israeli military attacks against the occupied Gaza Strip. The resolution regretted that the previous Resolution S-9/1 was not fully implemented yet and demanded that Israel cooperate with the international community. Germany, on behalf of the EU, explained that while the EU was concerned about the situation it felt that the resolution was unbalanced.

On 26 March 2009, the UK followed the approach of the EU and voted against a resolution on combating defamation of religions. Germany, on behalf of the EU, asserted that the EU had a strong belief in freedom of expression and belief while commenting that individual religions should not be singled out and that defamation of religions should not be approached from a human rights perspective.

On 26 March 2009, the UK adopted the position of the EU and voted in favour of a resolution expressing serious concern over the human rights situation in DPRK and extending the mandate of the Special Rapporteur for a further year.

On 26 March 2009, the UK voted against a resolution on the achievement of better geographical representation and gender balance in the staff of the OHCHR.
On 27 March 2009, the UK adopted the position of the EU and voted against a resolution on the elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination. Germany, speaking on behalf of the EU, explained that it felt the resolution was not necessary or desirable owing to the fact that it either restated or went further than the decisions made at the Ad Hoc Committee of the Council on the elaboration of complementary standards.

On 27 March 2009, the UK voted in favour of a decision on the publication of reports completed by the Sub-Commission on the Promotion and Protection of Human Rights. The resolution provided for all reports by the Sub-Commission that had previously been mandated by the Commission on Human Rights and submitted to the OHCHR, to be published as UN documents.

On 27 March 2009, the UK voted in favour of a resolution on torture and the role and responsibility of medical and other health personnel. In an additional vote, the UK voted in favour of including a paragraph in the resolution which took note of the report of the Special Rapporteur on torture. On 10 March 2009, the Special Rapporteur on torture had presented his report in which he considered whether the death penalty amounted to cruel, inhuman or degrading treatment or punishment. Several States had accused the Special Rapporteur of going beyond his mandate and noted that there was no international consensus on the status of the death penalty as a breach of human rights.

On 27 March 2009, the UK followed the position of the EU and voted in favour of a resolution on discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights. The resolution was introduced by the EU. The Czech Republic, on behalf of the EU, explained that the resolution was in response to the report of the Special Rapporteur on Freedom of Expression and that this was an important, sensitive issue. The resolution was criticised by some other States for failing to adequately address contemporary forms of religious discrimination.

During the Tenth Session, two draft resolutions on the human rights situation in DRC were tabled, one by the EU and the other by the African Group. The resolution drafted by the EU expressed serious concerns regarding the human rights situation there, while the African Group's draft was less critical of the issue and called on OHCHR to enhance its technical assistance activities in the country. Following the adoption of the African Group's resolution by vote, the EU proposed amendments to the resolution reflecting serious concerns. The United Kingdom voted against the original resolution drafted by the African Group and voted in favour of the amendments proposed by the EU.

Eleventh Special Session of the UN Human Rights Council

On 26 May 2009, the UK expressed concerns about the human rights situation in Sri Lanka.

On 27 May 2009, the UK voted against a resolution on assistance to Sri Lanka in the promotion and protection of human rights. Before the vote, Germany, on behalf of the EU, proposed oral amendments to the draft resolution, as it made no mention of the need to conduct investigations into alleged violations of international human rights law or the need to prosecute perpetrators. Cuba, on behalf of a number of countries, requested that no action be taken on Germany's proposed oral amendments. The request was put to a vote and the UK voted against it.

Eleventh Session of the UN Human Rights Council

On 2 June 2009, the UK reiterated its strong support for the work of the Special Representative on business and human rights.

On 3 June 2009, the UK expressed support for the reports of the Special Rapporteur on extrajudicial killings and the Special Rapporteur on violence against women, its causes and consequences.

On 3 June 2009, in relation to the report of the Special Rapporteur on freedom of expression, the UK strongly supported the independence and integrity of Special Procedure mandate holders. It expressed concern that comments

made by some States during the interactive dialogue appeared to contradict that independence and integrity.

On 5 June 2009, during the general debate on the update of the High Commissioner on Human Rights, the UK expressed support for the Durban Review but emphasised that it was not enough on its own. The UK said the High Commissioner's mandate in Nepal should be renewed and encouraged DRC and Sri Lanka to take up offers of assistance.

On 8 June 2009, during the debate on human rights situations that require the Council's attention, the UK expressed concern regarding the human rights situations in Myanmar, DPRK, Iran, Fiji and Zimbabwe. The UK extended an offer to engage with and support these States.

On 12 June 2009, during the general debate on the UPR, the UK called for participation in the working group to be maximised to allow all willing States to participate. The UK expressed concern about manipulation of the Speaker's lists and of the adoption of recommendations that risked undermining human rights. It emphasised the importance of the role of civil society and affirmed that civil society organisations must be allowed to speak for their fully allotted time.

On 16 June 2009, the UK expressed concerns over the human rights situation in Sudan and said it supported the extension of the mandate for the Special Rapporteur.

On 17 June 2009, the UK adopted the position of the EU and voted against a resolution on the promotion of the right of peoples to peace. The resolution recognised States' obligations to improve the protection of human rights by ensuring peace. Germany, on behalf of the EU, stated that while it recognised some of the principles set out in the resolution, the issues set out in the draft were more comprehensively dealt with in other fora. Furthermore, Germany, on behalf of the EU, noted that the resolution dealt with relationships between States, not the relationship between States and their citizens.

On 17 June 2009, the UK adopted the position of the EU and voted against a resolution on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights. In explanation, Germany, on behalf of the EU, stated that the matter had little to do with States' human rights obligations, it duplicated the work of other international organisations and that the Council had limited resources.

On 18 June 2009, Egypt on behalf of the African Group, and the Czech Republic, on behalf of the EU, introduced competing draft resolutions on the mandate on Sudan. The draft proposed by the African Group did not renew the mandate of the Special Rapporteur or create a mandate for any international monitoring. It referred positively to the efforts of the government. The EU resolution replaced the mandate of the Special Rapporteur with that of an Independent Expert with some monitoring and reporting functions. The EU later accepted the African Group's draft but with proposed amendments providing for the mandate of an Independent Expert. The UK voted in favour of these amendments, and after they were accepted, in favour of the entire text as amended.

Twelfth Session of the UN Human Rights Council

On 16 September 2009, the UK expressed support for the mandates of the Special Representative of the Secretary-General on children and armed conflict and the Special Rapporteur on contemporary forms of slavery and provided its thoughts on the both issues.

On 18 September 2009, the UK acknowledged that the economic crisis required a global response and that the Council had a role to play, but stressed that this was limited to the effect of the crisis on human rights. The UK cautioned on the need to pay particular attention to human rights during times of crisis.

On 22 September 2009, during the debate on human rights situations that require the Council's attention, the UK expressed specific concerns about Iran, Myanmar, Fiji and Sri Lanka as well as concern for human rights in the DPRK, the DRC, Somalia, Sudan and Zimbabwe.

On 1 October 2009, the UK acknowledged the progress made by Cambodia in relation to human rights. The UK also acknowledged the challenges faced by Cambodia and the resulting continuing human rights concerns. The UK called on the OHCHR to advise and support Cambodia.

On 1 October 2009, the UK expressed grave concerns regarding the human rights situation in Somalia and support for the extension of the mandate of the Independent Expert on Somalia for a further year. The UK called for the work of improving the human rights situation to be Somali-led with support from the international community.

On 1 October 2009, the UK adopted the position of the EU and voted against a resolution on human rights and international solidarity. In explanation of the vote, France, on behalf of the EU, highlighted that States are primarily responsible for human rights of people within their jurisdiction and that the concept of international solidarity was not a properly defined legal human rights concept.

On 2 October 2009, the UK followed the approach of the EU and voted against a resolution on human rights and unilateral coercive force. In explanation of the vote, France, on behalf of the EU, reasserted the position that the resolution dealt with inter-State relations and that the Council was therefore not the appropriate forum.

On 2 October 2009, the UK abstained from voting on a resolution on the right to development. This followed an explanation by France, on behalf of the EU, that the resolution did not reflect the EU's concerns that the work of the High-Level Task Force of the Working Group on the right to development should not necessarily lead to the creation of international norms on the matter and that it was important to focus on creating favourable environments at a national level.

On 2 October 2009, the UK voted against a resolution on promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind.

On 2 October 2009, the UK voted against a decision on the effect of foreign debt on the enjoyment of human rights.

Twelfth Special Session of the UN Human Rights Council

On 15 October 2009, the UK stated that it viewed the calling of a Special Session on the human rights situation in the OPT as unnecessary, two weeks after it was decided at the Twelfth Regular Session to postpone the vote on the resolution on follow-up to the Fact-Finding Mission till March 2010.

On 16 October 2009, the UK commented that there were flaws in the reports of the Fact-Finding Mission to Gaza led by Justice Goldstone and by the High Commissioner for Human Rights

Thirteenth Session of the UN Human Rights Council

On 2 March 2010, the UK stated that it was important for the UNHRC to adhere to the principles enshrined in the Universal Declaration of Human Rights. There was still terrible abuse, discrimination, oppression and injustice in the world and the Council should accept the challenges offered by those principles. Furthermore, the UK noted that the UN needs to be strengthened and its performance and accountability to be improved. The UK also pointed out that many Millennium Development Goals were far from being achieved, and that those goals relating to the status of women should be a priority.

On 4 March 2010, the UK stated that the Council and OHCHR should continue on the basis of an equal partnership. It also agreed with the High Commissioner that Special Procedures were critical to advance human rights worldwide and stated that it was pleased that more countries had issued standing invitations to Special Procedures this year. However, the UK expressed disappointment that several countries used the open invitation to project a semblance of openness, but then actively blocked visits. Finally, the UK shared the High Commissioner's concern about the deteriorating human rights situation in Iran.

On 5 March 2010, during the Interactive Discussion on the report of the Special Rapporteur on the right to adequate housing, the UK stated that it was important to deliver a sustainable housing legacy during mega-events such as the Olympic Games. The UK committed itself to respect this right as it carried out work for the 2012 Summer Olympics in London through a legacy plan.

On 5 March 2010, the UK stated that the international community needed to use the Convention on the Rights of Persons with Disabilities to promote and protect the rights of such persons.

On 8 March 2010, regarding the Report of the Special Rapporteur on torture, the UK asked for clarification concerning actions that should be taken to ensure credible and independent investigations on allegations of torture in Iran. The UK also expressed its commitment to the Optional Protocol to the United Nations Convention against Torture, which it said it would ratify and implement soon.

On 9 March 2010, the UK asked for recommendations from the Working Group on arbitrary detention on how best to address arbitrary detention in Iran. The UK also commended the Report of the Representative of the Secretary-General on the human rights of IDPs.

On 9 March 2010, during a discussion on the right to truth, the UK disagreed that a general right to truth exists under international law and said that its own government had enacted domestic Freedom of Information legislation for public policy reasons, and not because they were required to do so by international law.

On 11 March 2010, after welcoming the report of the Special Rapporteur on human rights defenders, the UK asked for solutions to strengthen the protection of gay and lesbian human rights defenders who are often victims of denigration and violence. The UK also asked how the Special Rapporteur would use the commentary she proposed to develop on the United Nations Declaration on Human Rights Defenders. Finally, the UK called on Iran to end its poor treatment of religious minorities.

On 15 March 2010, the UK commended the work of the Special Rapporteur on the Human Rights Situation in DPRK and regretted that the country refused access to the Special Rapporteur. The UK inquired as to how the international community should react to the situation.

On 15 March 2010, the UK thanked the Special Rapporteur on Myanmar and urged the government to act on the systemic violations of human rights. The UK expressed its concerns regarding the renewal of fighting in the eastern part of Myanmar, targeting the civilian population.

On 15 March 2010, during the General Debate on human rights situations that require the Council's attention, the UK expressed its concerns about the human rights situation in Iran, Guinea, Zimbabwe, Sri Lanka, DPRK and Myanmar. The UK reiterated its belief that the Council needs to address serious human rights situations in a timely and effective manner.

On 19 March 2010, the UK informed the Council of the significant human rights progress the country realised by using different mechanisms to promote and protect them. It also showcased the country's efforts to implement the recommendations of the Universal Periodic Review.

On 24 March 2010, the UK welcomed the High Commissioner's Reports on Nepal and Colombia and OHCHR's work in capacity building. The UK encouraged the focus on human rights and the cooperation between Nepal and OHCHR and congratulated Nepal for making progress on transitional justice mechanisms.

On 24 March 2010, the UK supported the Independent Expert on Somalia, It recommended a "Somali-led process" to fight impunity and suggested that those African Union countries which had pledged troops should redeem their pledges. The UK asked the Independent Expert about possible mechanisms to address impunity, the possibility of establishing a Somali-led commission of inquiry and the integration of its recommendations into local United Nations agencies.

On 24 March 2010, the UK welcomed the joint report of seven United Nations experts on the situation of human rights in DRC. The UK further called for incorporation of a mechanism to support the implementation of human rights recommendations into the resolution that would be adopted at the same session. Additionally, the UK encouraged the Council to send a clear political message to support the country in fighting sexual violence and impunity.

On 24 March 2010, the UK voted against a resolution on the composition of the OHCHR that asked for the implementation of measures to ensure a better representation of geographic diversity among the staff.

On 24 March 2010, the UK abstained from voting on a resolution on human rights in the occupied Syrian Golan. The resolution strongly condemned the occupation of Syrian Golan by Israel.

On 24 March 2010, the UK voted in favour of a resolution on the right of the Palestinian people to self-determination. The resolution emphasised the value of self-determination, and supported Palestine and Israel in their process towards peace and security. It encouraged the international community to aid the Palestinians in their right to self-determination.

On 24 March 2010, the UK voted in favour of a resolution on Israeli Settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution asked the Government of Israel to reverse controversial announcements about new settlements and to respect legal obligations concerning access to food and supplies, the halting of impunity, the prevention of violence, etc.

On 24 March 2010, the UK voted against a resolution on grave human rights violations by Israel in the OPT, including East Jerusalem. The resolution strongly condemned the military attacks and operations in the OPT, which it said caused grave violations of human rights. It asked for the end of the occupation and for the establishment of an independent sovereign state through a peace process.

On 25 March 2010, the UK abstained from voting on a resolution on the follow-up to the report of the United Nations Independent International Fact-Finding Mission on the Gaza Conflict. The resolution asked for independent and credible investigations regarding the violations of international humanitarian and international human rights law during the Gaza Conflict.

On 25 March 2010, the UK voted in favour of a resolution on the situation of human rights in DPRK. The resolution asked for the mandate of the Special Rapporteur on DPRK to be extended and for the government's participation in addressing human rights violations.

On 25 March 2010, in a general comment on a resolution regarding the United Nations Declaration on Human Rights Education and Training, the UK reiterated the importance of awareness of one's rights as essential for the full enjoyment of human rights. It added, however, that the initiative should be based on existing resources.

On 25 March 2010, the UK voted against a resolution on combating defamation of religions. The resolution urged the international community to promote a culture of tolerance and peace, especially concerning the wrongful association of Islam with human rights violations and terrorism.

On 26 March 2010, in a general comment concerning the resolution on a world of sports free from racism, racial discrimination, xenophobia and related intolerance, the UK expressed its commitment to tackle racism by co-sponsoring the resolution and using different international initiatives.

2. Pledge

2.1 Election to the Council

The UK was one of nine contestants for the seven seats reserved for the Western Europe and Other States Group in the UN Human Rights Council elections of 2006. The UK came in third with 148 votes, after Germany and France.

The UK was re-elected to the UN Human Rights Council on 21 May 2008 with 120 votes and will serve till 2011. The number of candidates (two) was the same as the number of seats reserved for Western European States, so the results of the election were pre-determined. The UK came in second, after France.

2.2 Pledge Made

In its pre-election pledge in 2006, the UK made a commitment to work to reinforce human rights at the heart of the UN and to work for progress on human rights internationally through international bodies such as the Commonwealth, the World Bank and the European Union. The UK made several international commitments. It pledged to advance human rights themes such as gender-based violence and the implementation of UN Security Council Resolution 1325 on Women, Peace and Security. It committed itself to combating torture and pledged to tackle modern-day slavery and human trafficking. The UK made a commitment to promote the right to education and gender equality in education. It promised to contain and progressively eliminate the spread of HIV/AIDS. The UK also pledged to "engage business as a positive force for the promotion of human rights through [...] Corporate Social Responsibility". Furthermore, it undertook to uphold the highest standard of human rights domestically. The UK pledged to tackle inequality and discrimination, specifically mentioning the modernisation of equality legislation and the creation of an Equality Bill; increase race equality and community cohesion; and ensure that "a person's racial or ethnic origin is not a barrier to success". The UK also pledged to protect children's rights.

The UK's re-election pledge in 2008 reiterated several of its pledges from 2006. Its pledge was separated into four sections of commitments: those that related to the functioning of the Council; those that concerned supporting other UN human rights bodies (such as treaty bodies); those that referred to protection of human rights internationally; and those that related to the upholding of the highest standards of human rights domestically. The UK pledged to continue its endeavour to meet its obligations to UN treaty monitoring bodies fully. Internationally, the UK pledged its commitment to tackle all forms of gender-based violence and contemporary forms of slavery (including human trafficking), to combat torture wherever and whenever it occurs, to continue to promote human rights through its "leading work" on corporate social responsibility, and to continue to promote the fundamental values of the Commonwealth, which include human rights, gender equality and the rule of law, among others. Domestically, the UK pledged to maintain full implementation of all its obligations under international human rights instruments. Furthermore, it committed itself to continue to increase race equality and community cohesion, and reaffirmed that domestic efforts were being undertaken to tackle inequality and discrimination. The protection of children's rights was noted as a "key priority" by the UK.

3. Compliance

3.1 Human Rights During the Reporting Period

In the post 9/11 era, the UK has failed to balance human rights obligations with its national security agenda. The Anti-Terrorism Crime and Security Act, 2001, which allowed foreign terror suspects to be held without trial, was repealed in 2004 by a House of Lords ruling owing to its incompatibility with the UK's human rights obligations. In February 2009, the European Court of Human Rights awarded modest compensation to eight of eleven claimants who had been detained under the Act. The Court ruled that detention under the Act constituted a breach of the claimants' human rights – specifically the right to liberty and security, the right to have the lawfulness of detention decided by a court and the right to compensation for unlawful detention.[646]

The policy which replaced the deportation provisions under the now-defunct Anti-Terrorism Crime and Security Act, 2001 proved equally controversial. The "control order" regime, though intended to be a less egregious breach of human rights than the previous system, was a key example of the failure of the UK government to balance human rights considerations with its security agenda. Control orders were introduced by the Prevention of Terrorism Act, 2005 as an alternative method of dealing with suspected terrorists who could not be prosecuted due to inadmissible or security-sensitive evidence. The control order regime was compared to "house arrest with no end", as it permitted the Home Secretary to sign an order placing wide-ranging restrictions on a suspect's life, including curfews of up to 16 hours, restrictions on the people the suspect could meet, electronic tagging and other measures.[647]

Since their introduction, control orders had been imposed on 45 people and, as of February 2010, were imposed on 12 people.[648] There have been a number of judicial challenges to the regime, most recently focusing on the rights of suspects to receive information about the case against them. Following a ruling of the European Court of Human Rights on the use of secret evidence, in June 2009, the High Court ruled in relation to three persons subject to control orders that the government must provide them with more information about the charges against them. The ruling did not amount to a quashing of the orders, however the Home Secretary revoked the orders to avoid being forced to release additional information about the evidence against the subjects.[649] In January 2010, the High Court ruled that two of the men could sue the government for damages.[650] In February 2010, a review of the control order regime by an "independent reviewer" found that abandoning the regime would have a damaging effect on UK security, and recommended that the regime be continued.[651]

Serious concerns were raised during the reporting period about the UK's practice of deporting people to countries which allegedly have a history of torture. In accordance with the European Convention on Human Rights and the Convention Against Torture, the UK is prohibited from deporting an individual to a country where the individual could be subjected to torture. An April 2010 report by Amnesty International described the UK as Europe's "most influential and aggressive" promoter of the use of diplomatic assurances, which are pledges sought by the sending country that the accepting country will not torture a deportee.[652] According to a report by an international human rights organisation, diplomatic assurances do not protect people from torture and are sometimes used by governments as a fig leaf to cover their own complicity in torture.[653] In February 2009, the House of Lords upheld the government's decision to deport a controversial Islamic critic, Abu Qatada, to Jordan and two other terrorist suspects to Algeria. This decision was made despite concerns

that both countries had used torture in the past and that Qatada would be subject to an unfair prosecution that would rely on evidence obtained by torture.[654] In May 2010, the deportation of an alleged leader of an Al-Qaeda cell to Pakistan was halted by a judge, who stated that despite posing a threat to British society, the accused could not be returned to Pakistan owing to the risk that he would be tortured by members of Pakistan's intelligence service.[655]

The UK came under fire during the reporting period for transferring suspected Taliban insurgents to the Afghan National Directorate of Security, where, it was alleged, a number of suspects were tortured. A court case brought against the UK government by human rights advocates alleged that the UK failed to maintain proper checks on detainees transferred in 2006 and 2007, and as a result some detainees were subject to electric shock and serious sexual abuse.[656]

Beyond the deportation of criminals and suspected terrorists to countries which are known to practise torture and the transfer of Afghan detainees, the UK was criticised for transferring detainees to US custody in cases of alleged extraordinary rendition. In March 2009, the UN Special Rapporteur on counter-terrorism and human rights expressed concern at the UK's involvement with the extraordinary rendition programme of the United States. He accused the UK of providing intelligence on suspects to the United States and undertaking "initial seizures" of suspects, which had in the past led to extraordinary renditions.[657] Indeed, in February 2009, the Defence Secretary admitted in Parliament that two men in British army detention in Iraq were handed over to the US, and were then transported to Afghanistan – a clear case of extraordinary rendition.[658]

Agents of the UK's intelligence and secret services, colloquially known as MI5 and MI6, are accused of being complicit in the torture of terror suspects in foreign custody. In April 2009, the BBC reported that the police were investigating a report from a human rights group, Cageprisoners, which alleged that 29 cases existed, where UK security services were involved in the torture or mistreatment of suspects abroad.[659] Binyam Mohamed, an Ethiopian national who had residency in the UK, accused the UK intelligence services of facilitating his arrest and alleged torture in Pakistan, Morocco, Afghanistan, and Guantanamo Bay, where he was a detainee from 2004 to 2009. In July 2009, an MP claimed to have seen compelling evidence that the UK was complicit in the torture of Rangzieb Ahmed, a leading Al-Qaeda figure in the UK, by Pakistani intelligence services. The MP alleged that British intelligence services, despite having adequate evidence to arrest Ahmed on terrorism charges while he was in the UK, waited for him to travel to Pakistan before suggesting to the Pakistani government that he be arrested. He was detained and allegedly tortured by the Pakistani intelligence service, before being returned to the UK to face trial. The MP also alleged that MI5 and MI6 supplied questions to Pakistani intelligence to use during Ahmed's interrogation.[660]

In August and September 2009, the heads of MI5[661] and MI6,[662] the Foreign Secretary and the Home Secretary[663] all denied that the UK was complicit in torture. In February 2010, an NGO claimed to have seen the government's secret guidance on interrogations that were supplied to British agents operating abroad, and stated that the guidance condoned complicity in torture. The government responded that the unpublished guidance was lawful. It also noted that new rules which were due to be published superseded the old guidance, but emphasised that the new rules also opposed torture.[664] As of the end of the reporting period, the new rules were yet to be published.

Major intelligence breaches occurred during the reporting period, in sharp contrast with the stringent and sometimes controversial security policies of the UK government. In October 2008, it was reported that a civil servant pleaded guilty to breaching the Official Secrets Act in June 2008, when he left top-secret intelligence documents on a commuter train.[665] Another major breach occurred in April 2009, when the Assistant Police Commissioner at the Metropolitan Police Service (MPS), who was also the counter-terrorism chief, was publicly photographed while holding a secret document. The document, which detailed upcoming counter-terror raids, could be read in newspapers published internationally and forced the MPS and MI5 to conduct hurried daylight raids to avoid spoiling the exposed plans.[666] The raids resulted in the extended detention of thirteen men who were never charged, but some of whom voluntarily returned to Pakistan after being held for months while awaiting potential deportation.[667]

The police in the UK stopped and searched over 1.5 million people in 2008 and 2009. Most of them were stopped under "general laws" and over 200,000 were stopped under terrorism legislation, an increase of 66 per cent on 2007 figures.[668] Section 44 of the Terrorism Act, 2000 allows the Home Secretary to authorise police to randomly stop and search people under certain circumstances. In January 2010, Section 44 was found illegal by the European Court of Human Rights in Strasbourg, but the UK government appealed, and no decision had been reached by the end of the reporting period.[669] Stop and search laws proved generally controversial, especially as a result of media reports that children as young as nine years were being regularly stopped and searched without the supervision of an adult. On average, it was alleged that five children under 10 years were stopped and searched every day in London.[670] Additionally, the Equality and Human Rights Commission found that the stop and search legislation was primarily targeted at minorities, with black people being six times more likely to be stopped, and Asian people around twice as likely, as white people.[671]

In March 2009, a parliamentary committee on human rights accused the police of using improper and heavy-handed methods to control protests.[672] A few weeks later, London hosted a G20 summit which saw up to 35,000 people gather in protest. Police were accused by a different parliamentary committee of handling of the protests improperly, including the use of excessive force and a lack of planning. One man, who was not protesting, died of internal bleeding after being pushed to the ground by a police officer.[673] In some parts of London, the police used a tactic called "kettling", by which protesters are kept in a small outdoor area for hours to tire them out. A report released by Her Majesty's Inspector of Constabulary, a police watchdog, stated that vulnerable and distressed people were not allowed to leave the "kettle" and no toilet facilities were provided.[674]

The UK parliament suffered a major scandal in 2009, when the details of each parliamentarian's expense account, funded by tax payers, were revealed, initially in an exposé by the Telegraph, and later by a full disclosure on the parliamentary website. The expenses incurred by British MPs ranged from the mundane, including the cleaning of a moat at one MP's country estate, to the criminal.[675] Numerous MPs from both major political parties either resigned or were expelled from their parties for unethical or illegal expense claims.[676] Criminal charges were brought against four former MPs for manipulation of tax-payers' money, some of which involved the use of false invoices to claim thousands of pounds for non-existent cleaning services and stationery.[677]

Immigration became an increasingly discussed topic in mainstream politics. The reporting period saw a growth of "white pride" movements, such as the English Defence League, which organised confrontational rallies in Muslim

areas in an attempt to provoke violent conflict.[678] The period also witnessed the mainstreaming of fringe right-wing political parties, such as the British National Party (BNP), which did not consider non-whites to be British. The BNP won seats in the European Parliament and in local council elections.[679]

According a report by the Chief Inspector of the UK Border Agency, multiple government policies and practices relating to asylum seekers were criticised during the reporting period. In February 2010, it was revealed that approximately 200,000 asylum seekers, some of whom had lodged applications several years ago, were still waiting to be processed.[680] Attitudes towards asylum seekers were reportedly "worse than ever".[681] A whistleblower revealed that at one of the offices of the UK Border Agency, officers took pride in refusing applicants including those who allegedly had sufficient grounds to be accepted.[682] The UK Border Agency was also criticised by human rights campaigners for forcibly returning failed asylum seekers to DRC in January 2009 and to Iraq in 2010.[683] The head of a refugee group in Wales reportedly stated that the UK Border Agency infringed the Convention on the Rights of the Child by sometimes transporting children of asylum seekers to detention centres separate from their parents.[684] Unaccompanied child asylum seekers allegedly faced a culture of disbelief among the officials who assessed their claims.[685]

There were several significant cases during the reporting period in which British courts resisted the government's attempts to construe the rights of asylum seekers narrowly. In 2009, the Court of Appeal held that asylum seekers from Sri Lanka who, due to their fear of being deported, faced extreme psychological trauma and were at risk of suicide, could claim asylum in the UK.[686] As the reporting period ended the Supreme Court was deliberating on whether the fear of persecution on grounds of an individual's homosexuality was a basis to claim asylum in the UK.[687] This decision was a test case on the issue, which involved individuals who had fled from persecution in Cameroon and Iran. A report on the "treatment of lesbian and gay claims for asylum found that the refusal rate was 98 per cent, compared with 73 per cent for asylum claims generally".[688]

Asylum seekers were officially guaranteed housing and benefits by the UK government while their applications were pending. However, according to a report, in 2008, 52 per cent of asylum seekers and refugees living in Scotland were destitute, meaning that they had no access to public funds and were living on the streets or with friends. This figure had increased from 36 per cent in 2007.[689] Asylum seekers who were supported by the government had their weekly cheques reduced by 16 per cent in 2009; a reduction which a spokesman for an asylum seeker support group said would hurt the most vulnerable people living in the UK.[690] Asylum seekers whose applications were rejected during the reporting period – if they were not forcibly removed from the UK – were evicted from government accommodation and had their benefits cancelled to encourage them to leave. Consequently, many of them reportedly found themselves destitute or were forced into the underground economy.[691]

The ordeal of the Chagos Islanders continued to stain the human rights record of the UK government.[692] In 1966, the Chagos Islands, an archipelago of 65 islands in the Indian Ocean, were leased by the UK to the United States for the construction of an air and naval facility. The two thousand Chagos Islanders who inhabited the islands were forcibly removed despite the fact that the American military installation only occupied one island, Diego Garcia, which is far removed from the other islands of the archipelago. The Islanders were displaced to Mauritius, Seychelles and the UK. Since their expulsion in the late 1960s and early 1970s, the Islanders have sought to return to their homes, and in 2000 a British High Court granted them that right (with the exception of Diego

Garcia).[693] The US allegedly pressured the UK to leave the archipelago uninhabited as it considered the potential return of the Chagos Islanders to be contrary to the security interests of its facility on Diego Garcia, which is used to launch bombing missions to Iraq and Afghanistan.[694] In 2004, the UK government used the Royal Prerogative, which is exercised by ministers in the Queen's name, to overturn the High Court ruling and stop the Islanders from returning. In 2007, the Court of Appeal found the exercise of the Royal Prerogative to be unlawful and pointed out that its use was not immune to scrutiny from the courts, as the government alleged. [695] However, in October 2008, the House of Lords served a final blow to the Chagos Islanders' cause by overturning the Court of Appeal order. In April 2010, the UK created the world's largest marine reserve around the Chagos Islands, which is considered one of the world's richest marine ecosystems. The reserve would ban fishing or construction on the islands, which would effectively prevent the Islanders from legally sustaining themselves, should they be allowed to return.[696] At the end of the reporting period, lawyers for the Chagossians were mounting an application for judicial review of the Secretary of State's decision. Chagossian supporters reportedly considered the establishment of the reserve a backhanded way of ensuring that the islanders could never return home.[697] As the reporting period ended, an appeal to the European Court of Human Rights on the issue was underway. According to one of the UK's former high commissioners to Mauritius, it was expected that the right of return would be restored.[698]

In August 2009, in response to allegations of corruption, the UK Foreign Office re-asserted its control over the day-to-day operations of the Turks and Caicos Islands, suspending the right to trial by jury and the Island's national assembly. The Premier of Turks and Caicos, Michael Misik, challenged the Foreign Secretary's decision in the High Court but the court rejected his application for judicial review and also held that the European Convention of Human Rights did not apply to the UK's overseas territories in these cases.[699]

Gender violence continued to be a serious problem in the United Kingdom. According to the Equality and Human Rights Commission, over three million British women suffered rape, domestic violence, stalking and other forms of abuse each year. This figure was released as the Commission threatened to take legal action against more than 100 local councils for the lack of special services for female victims of violence. The Commission was also concerned that as many as one in four existing rape crisis centres could close as a result of recession.[700] According to a police spokesman, the recession was also likely to increase the number of cases of domestic violence in the short term, as had occurred in the United States.[701] A study released in September 2009 revealed that one in three teenage girls who had been in an intimate relationship had been sexually abused and one in four had been physically abused by their boyfriends.[702] A different survey, released in March 2010, found that one in seven female students had been victims of serious sexual or physical assault, with many cases going unreported to the police; and one in four had faced some type of sexual assault.[703]

The UK lagged slightly behind the rest of the European Union in terms of pay equity. Rates of pay for British women were only 79 per cent of those paid to men, whereas in the other 27 countries of the EU the rate was 82 per cent.[704]

Sex trafficking remains a problem in the UK, with most victims coming from Eastern Europe and Central Asia. In December 2008, the UK ratified the European Convention Against Trafficking in Human Beings.[705] Despite this, the Anti-Trafficking Monitoring Group criticised the UK's performance in this area. It stated that Border Agency officials were poorly trained, that "no meaningful" prevention measures were being taken and that

the prosecution of potential victims, who often committed crimes under duress, were being pursued over the prosecution of traffickers.[706]

The Forced Marriage (Civil Protection) Act of 2007 was considered a positive development in the last edition of Easier Said Than Done. Eighty-six girls and women applied for civil protection in the first year of the law's existence, some of whom were as young as nine years. Half the applicants were reported to be children.[707] The UK government strengthened protection of women from forced marriages during the reporting period, by raising the age limit from 18 to 21 for marriage visa applicants. Now both members of a married couple must be 21 or older to apply for a marriage visa. The intended effect is to keep vulnerable young people from being exploited.[708] A news report indicated that many South Asian women who came to the UK to marry were treated as domestic slaves by their in-laws. In 2008-09, more than 500 women who applied to remain in the UK after their marriage broke down were deported because they could not prove that abuse had taken place.[709]

UK libel laws remained highly punitive and were reported to be a threat to the freedom of speech in the UK. Courts reportedly retained the power to award high fines and punitive damages in libel cases. Defendants in libel actions were often in a position of having to prove that their remarks were justified or true.[710] Solicitors' firms were employed by multinational corporations to issue pre-action sanctions and super-injunctions, in attempts to silence journalists. In an infamous case, the law firm, Carter-Ruck, issued a super-injunction in an attempt to prevent the Guardian from publishing a draft scientific report about the alleged dumping of toxic waste by the oil trading company, Trafigura, in West Africa.[711] Concerns were also raised that libel legislation often stopped scientists and medical practitioners from speaking out against large corporations and associations whom they believed were affecting public health negatively. An author who criticised the British Chiropractic Association was sued unsuccessfully for libel by the Association in 2008. His victory was described as setting a precedent, but media reports suggest that till the UK's outdated libel law is reformed, the freedom of experts to speak out against misleading scientific claims could potentially be stifled by the fear of an expensive court case.[712] The generous treatment of claimants in the UK has led to the practice of "libel tourism", a form of jurisdiction shopping for a favourable judgement which can then be enforced in other jurisdictions.[713] Just before the conclusion of the reporting period, a private members bill was introduced which would impose jurisdictional and temporal limits on such actions, in an effort to reduce the number of "libel tourism" cases.[714]

Individual privacy came under attack during the reporting period. Under the Regulation of Investigatory Powers Act, 2000, local councils may conduct surveillance operations on individuals, reportedly for offences as minimal as littering. Thousands of operations were reportedly conducted during the reporting period.[715] The oversight of investigatory powers and electronic surveillance powers remains weak. The European Court of Human Rights ruled in 2010 that the retention of DNA of anyone who had ever been arrested by the police was unlawful as it amounted to the creation of a DNA database "by the backdoor".[716]

British companies, especially mining companies, continued to be the target of human rights campaigns abroad. It was reported in the last edition of this report that Vedanta's bauxite mine in the Indian state of Orissa was severely impinging on the rights of the Adivasis[717] who lived on and near the site of the mine, while also seriously damaging the ecosystem and polluting the environment. A protest by more than 20,000 Adivasis in January 2009 highlighted the continuing concern of the local residents regarding the company's activities – a large part of a

mountain in Orissa, which is considered a holy site by local Adivasis, was due to be destroyed.[718] In October 2009, the UK government told Vedanta to "change its behaviour" after a government examination found that Vedanta had contravened OECD guidelines by failing to consult the local population before planning construction at the site.[719] A report in the Guardian in February 2010, found that despite being chastised by the UK government, Vedanta had still not consulted the local Adivasis on the bauxite mine. The report stated that the UK was not holding Vedanta up to the standards of the OECD, as it did for companies which operated primarily within the borders of the UK.[720] In the same month, Amnesty International found that Vedanta's other mining operations in Orissa were severely affecting the health of people living in the area, as Vedanta and the Indian government had failed to publicise that the mines and refineries would affect the quality of the rivers and agricultural lands in the surrounding area.[721] In February 2010, it was reported that four multi-million pound European investors pulled out of Vedanta, including the Church of England and the Norwegian government's pension plan.[722]

3.2 Compliance with the Pledge

The UK pledged to maintain all its obligations under international human rights instruments, and to fully implement them in the domestic sphere. The UK did not fulfil this pledge, as various breaches were reported. Despite being a party to CAT and its Optional Protocol, and claiming in its pledge to combat torture wherever and whenever it occurred, the UK was accused of being Europe's most aggressive user of diplomatic assurances when deporting people to countries which were known to practise torture. Furthermore, the UK's treatment of suspected terrorists, especially under the control order regime, cast its compliance with its obligations under ICCPR into doubt. The imposition of control orders amounting to indefinite home detention without trial, as well as the failure to provide information to suspects on the cases against them, arguably constituted breaches of Articles 9 and 14(2) and (3) of ICCPR. Orders restricting association may have also breached Article 22. Additionally, the UK's alleged complicity in extraordinary rendition may have constituted breaches of Articles 9 and 14.

The UK made a number of additional pledges relevant to its domestic human rights performance, many of which went unfulfilled. Despite a stated commitment to race equality and communal cohesion, the Equality and Human Rights Commission found evidence of extensive racial profiling by police officers. Alarming statistics on domestic, sexual and other abuse belied a pledged commitment to fight gender-based violence. Further, the UK noted in its pledge that the protection of children's rights was a key priority for the government. Despite this, children as young as nine were regularly stopped and searched by London police, and the children of asylum seekers were occasionally transported to detention centres separate from their parents, in contravention of the UK's responsibilities under CRC. The UK's pledge to engage business as a positive force through its "leading" work on corporate social responsibility was not borne out as large UK-based corporations such as Vedanta showed no regard for the human rights of those living in the areas affected by their operations. Furthermore, the UK's plaintiff-friendly libel legislation allowed businesses to mount lawsuits in order to stifle legitimate criticism of their patents and products.

The UK was among the Council's most vocal members regarding country-specific human rights situations of concern and consistently voted for resolutions intended to increase international scrutiny on these countries. The UK repeatedly brought up the human rights situation in Myanmar at Council sessions. It also expressed serious concern over the human rights situations in Sudan and DPRK and called on both governments to allow access

to the Council's Special Procedures. It further expressed serious concern over the situations in DRC and Sri Lanka, and voted to increase international scrutiny of Sri Lanka. The UK mostly followed the lead of the EU by abstaining or voting against resolutions concerning Israel and the OPT.

On controversial thematic resolutions, the UK consistently voted with the EU and allied voting blocs. The UK voted against resolutions on the right of peoples to peace, human rights and international solidarity, unilateral coercive measures, defamation of religions, a democratic equitable international order, the elaboration of complementary standards to ICERD, human rights and traditional values, and foreign debt. The UK voted in favour of a resolution on discrimination based on religion and belief, and, at the Tenth Special Session, abstained on a resolution on the global financial crisis.

The UK generally fulfilled its pledge to strengthen the Council and to fully cooperate with Special Procedures. It consistently expressed general support for the Council's Special Procedures and occasionally expressed particular support for individual Special Rapporteurs. The UK advocated for the OHCHR to expand its fieldwork and noted repeatedly that the Office's independence was of paramount importance. During a general debate on the UPR the UK also mentioned the importance of allowing civil society organisations to speak for their fully allotted time.

The UK generally complied with its pledge to endeavour to fully meet its obligations to the UN Treaty Monitoring Bodies, but by the end of the reporting period it had still not completed a report to CAT that was due in 2008.

---

646 *The Times*, "Judges award Abu Qatada £2,500 compensation for 'unfair' detention" (20 February 2009) at http://www.timesonline.co.uk/tol/news/uk/crime/article5765126.ece

647 BBC News, "Q&A: Control Orders" (1 February 2010) at http://news.bbc.co.uk/2/hi/uk_news/6268959.stm (last accessed on 31 August 2010).

648 BBC News, "Counter-terrorism control orders backed by review" (1 February 2010) at http://news.bbc.co.uk/2/hi/uk_news/8490871.stm (last accessed on 25 October 2010).

649 BBC News, "Terror suspects win legal battle" (10 June 2009) at http://news.bbc.co.uk/2/hi/uk_news/8092763.stm (last accessed on 25 October 2010).

650 BBC News, "Former control order suspects to sue British government" (18 January 2010) at http://news.bbc.co.uk/2/hi/uk_news/8465418.stm (last accessed on 25 October 2010).

651 BBC News, "Counter-terrorism control orders backed by review" (1 February 2010) at http://news.bbc.co.uk/2/hi/uk_news/8490871.stm (last accessed on 1 September 2010).

652 Amnesty International, "Dangerous deals: Europe's reliance on 'diplomatic assurances' against torture" (April 2010) at http://www.amnesty.org/en/library/asset/EUR01/012/2010/en/608f128b-9eac-4e2f-b73b-6d747a8cbaed/eur010122010en.pdf (last accessed on 1 September 2010).

653 Human Rights Watch, "Diplomatic assurances against torture: Question and Answer" (2006) at www2.ohchr.org/english/bodies/cat/docs/ngos/hrw_q_a.doc (last accessed on 1 September 2010).

654 *The Guardian*, "Government's Qatada court victory may come at a price" (18 February 2009) at http://www.guardian.co.uk/uk/2009/feb/18/qatada-deportation-lords-analysis (last accessed on 25 October 2010).

655 *The Times*, "'Al-Qaeda operative can stay in UK despite posing threat, judge rules" (19 May 2010) at http://www.timesonline.co.uk/tol/news/uk/crime/article7129649.ece (last accessed on 3 September 2010).

656 UPI, "UK's prisoner transfer policy questioned" (21 April 2010) at http://www.upi.com/Top_News/US/2010/04/21/UKs-prisoner-transfer-policy-questioned/UPI-75721271856166/ (last accessed on 1 September 2010).

657 BBC News, "UN criticises UK 'rendition role'" (10 March 2010) at http://news.bbc.co.uk/2/hi/uk_news/politics/7933929.stm (last accessed on 1 September 2010).

658 BBC News, "Minster admits terror transfer" (26 February 2009) at http://news.bbc.co.uk/2/hi/uk_news/politics/7912656.stm (last accessed on 1 September 2010).

659 BBC News, "Police probe torture allegations" (5 April 2009) at http://news.bbc.co.uk/2/hi/uk_news/7983914.stm (last accessed on 6 September 2010).
660 BBC News, "'Torture complicity': Key cases" (4 August 2009) at http://news.bbc.co.uk/2/hi/uk_news/8182918.stm (last accessed on 3 September 2010).
661 BBC News, "MI5 'does not collude in torture'" (16 October 2009) at http://news.bbc.co.uk/2/hi/uk_news/8309919.stm (last accessed on 25 October 2010).
662 BBC News, "MI6 'is not complicit' in torture " (10 August 2009) at http://news.bbc.co.uk/2/hi/uk_news/8188307.stm (last accessed on 25 October 2010).
663 BBC News, Ministers deny torture collusion (9 August 2009) at http://news.bbc.co.uk/2/hi/uk_news/8191450.stm (last accessed on 25 October 2010).
664 BBC News, "Fresh legal challenges over MI5 torture guidance" (23 February 2010) at http://news.bbc.co.uk/2/hi/uk_news/8529357.stm (last accessed on 3 September 2010).
665 *The Sunday Times*, "Civil servant breached Official Secrets Act by leaving top secret documents on train" (28 October 2008) at http://www.timesonline.co.uk/tol/news/uk/crime/article5030050.ece (last accessed on 6 September 2010),
666 All Headline News, "Anti-Terror Raids Net 12 Suspects In U.K., Arrests Made After Police Plan Exposed" (9 April 2009) at http://www.allheadlinenews.com/articles/7014726015 (last accessed on 6 September 2010).
667 *The Sunday Times*, "Pakistani students held in anti-terror raids abandon deportation fight" (22 August 2009) at http://www.timesonline.co.uk/tol/news/uk/crime/article6805888.ece (last accessed on 6 September 2010).
668 *The Telegraph*, "Huge rise in stop and search" (16 April 2010) at http://www.telegraph.co.uk/news/uknews/law-and-order/7594021/Huge-rise-in-stop-and-search.html (last accessed on 31 August 2010).
669 *The Guardian*, "Stop and search powers illegal, European court says" (12 January 2010) at http://www.guardian.co.uk/world/2010/jan/12/stop-and-search-ruled-illegal (last accessed on 31 August 2010).
670 BBC News, "Anger over child stop and search" (18 March 2009) at http://news.bbc.co.uk/2/hi/uk_news/england/london/8206546.stm (last accessed on 31 August 2010).
671 BBC News, "Police stop and search powers 'target minorities'" (15 March 2010) at http://news.bbc.co.uk/2/hi/uk_news/8567528.stm (last accessed on 31 August 2010).
672 BBC News, "Police 'heavy-handed at protests'" (23 March 2009) at http://news.bbc.co.uk/2/hi/uk_news/politics/7958198.stm (last accessed on 31 August 2010).
673 CBC News, "G20 London police planning called inadequate" (7 July 2009) at http://www.cbc.ca/world/story/2009/07/07/report-g20-protests.html (last accessed on 31 August 2010).
674 CBC News, "G20 London police planning called inadequate" (7 July 2009) at http://www.cbc.ca/world/story/2009/07/07/report-g20-protests.html (last accessed on 31 August 2010).
675 *Time*, "Britain's expense scandal claims its first big victim" (19 May 2009) at http://www.time.com/time/world/article/0,8599,1899626,00.html (last accessed on 3 September 2010).
676 *Wall Street Journal*, "U.K. Expenses Scandal Claims Political Casualties" (15 May 2009) at http://online.wsj.com/article/SB124234217266321317.html (last accessed on 3 September 2010).
677 Euronews, "Four charged over UK expenses scandal" (5 February 2010) at http://www.euronews.net/2010/02/05/four-charged-over-parliamentary-expenses-scandal/ (last accessed on 3 September 2010).
678 *The Observer*, "English Defence League is a bigger threat than the BNP" (10 October 2010) at http://www.guardian.co.uk/uk/2010/oct/10/john-cruddas-english-defence-league (last accessed on 26 October 2010).
679 *The Herald* Scotland, "Race, repatriation and denying the Holocaust – the truth about the BNP" (13 June 2009) at http://www.heraldscotland.com/race-repatriation-and-denying-the-holocaust-the-truth-about-the-bnp-1.827008 (last accessed on 26 October 2010).
680 BBC News, "UK Border Agency asylum case target 'unachievable'" (26 February 2010) at http://news.bbc.co.uk/2/hi/uk_news/8537987.stm (last accessed on 31 August 2010).
681 BBC News, "'Asylum has become a dirty word'" (16 February 2010) at http://news.bbc.co.uk/2/hi/uk_news/scotland/8518285.stm (last accessed on 31 August 2010).
682 BBC News, "Whistleblower's claims about Cardiff asylum office" (3 February 2010) at http://news.bbc.co.uk/2/hi/uk_news/wales/south_east/8496759.stm (last accessed on 31 August 2010).
683 *The Scotsman*, "UK condemned for 'forcibly repatriating' at-risk Iraqis" (27 April 2010) at http://news.scotsman.com/world/UK-condemned-for-39forcibly-repatriating39.6255156.jp (last accessed on 31 August 2010); BBC News, "Campaigners fight DR Congo removals" (29 January 2009) at http://news.bbc.co.uk/2/hi/uk_news/7857857.stm (last accessed on 31 August 2010).
684 BBC News, "Row on asylum children detention" (8 March 2009) at http://news.bbc.co.uk/2/hi/uk_news/wales/7930973.stm (last accessed on 31 August 2010).
685 BBC News, "UK child asylum rules flouted" (10 March 2009) at http://news.bbc.co.uk/2/hi/uk_news/7933885.stm (last accessed on 31 August 2010).

686 *Y (Sri Lanka) v Secretary of State for the Home Department* [2009] EWCA Civ 362
687 *HJ (Iran) and HT (Cameroon) v Secretary of State for the Home Department* [2010] UKSC 31.
688 *The Guardian*, "UK policy on gay and lesbian asylum seekers challenged in supreme court" (9 May 2010) at http://www.guardian.co.uk/world/2010/may/09/supreme-court-gay-lesbian-asylum-seekers (last accessed on 26 October 2010).
689 BBC News, "Asylum seekers living in poverty" (14 May 2009) at http://news.bbc.co.uk/2/hi/uk_news/scotland/8048637.stm (last accessed on 31 August 2010).
690 BBC News, "Stars make refugee cash protest" (5 October 2009) at http://news.bbc.co.uk/2/hi/uk_news/8289553.stm (last accessed on 31 August 2010).
691 BBC News, "Failed asylum seekers denied NHS" (30 March 2009) at http://news.bbc.co.uk/2/hi/uk_news/7972374.stm (last accessed on 31 August 2010); BBC News, "Asylum seekers living on handouts" (14 May 2009) at http://news.bbc.co.uk/2/hi/uk_news/8049300.stm (last accessed on 31 August 2010).
692 *New Statesman*, "Chagos: A year from now the right of return will have been restored" (1 April 2010) at http://www.newstatesman.com/human-rights/2010/04/160-mauritius-british-chagos (last accessed on 27 August 2010).
693 Times Online, "Law lords ruling stops return of families from Chagos Islands" (22 October 2008) at http://www.timesonline.co.uk/tol/news/uk/article4991511.ece (last accessed on 27 August 2010).
694 Times Online, "Law lords ruling stops return of families from Chagos Islands" (22 October 2008) at http://www.timesonline.co.uk/tol/news/uk/article4991511.ece (last accessed on 27 August 2010).
695 Times Online, "Law lords ruling stops return of families from Chagos Islands" (22 October 2008) at http://www.timesonline.co.uk/tol/news/uk/article4991511.ece (last accessed on 27 August 2010).
696 Times Online, "Chagossians fight for a home in paradise" (6 March 2010) at http://www.timesonline.co.uk/tol/news/environment/article7052088.ece (last accessed on 27 August 2010).
697 Times Online, "Chagossians fight for a home in paradise" (6 March 2010) at http://www.timesonline.co.uk/tol/news/environment/article7052088.ece (last accessed on 27 August 2010).
698 *New Statesman*, "Chagos: A year from now the right of return will have been restored" (1 April 2010) at http://www.newstatesman.com/human-rights/2010/04/160-mauritius-british-chagos (last checked 26 August 2010).
699 *R (on application of Michael Misick) v Secretary of State for Foreign and Commonwealth Affairs* [2009] EWCH 1039.
700 Reuters, "Councils failing women victims of domestic violence" (30 January 2009) at http://uk.reuters.com/article/idUKTRE50T1UA20090130 (last accessed on 20 August 2010).
701 Reuters, "Police fear recession could boost domestic violence" (4 March 2009) at http://uk.reuters.com/article/idUKLNE50601520090304 (last accessed on 30 August 2010).
702 Sify news, "1 in 3 teenage girls has suffered sexual abuse by their boyfriends" (1 September 2009) at http://sify.com/news/1-in-3-teenage-girls-in-uk-has-suffered-sexual-abuse-by-their-boyfriends-news-international-jjbmubgibii.html (last accessed on 30 August 2010).
703 One India, "One in seven female students in UK suffers serious assault" (18 March 2010) at http://news.oneindia.in/2010/03/18/onein-seven-female-students-in-uk-suffers-seriousassault.html (last accessed on 30 August 2010).
704 *The Guardian*, "Pledge to cut EU gender gap after 15 years without progress" (5 March 2010) at http://www.guardian.co.uk/world/2010/mar/05/europe-gender-pay-gap (last accessed on 30 August 2010).
705 Amnesty International "Trafficking: Convention ratification welcomed but more protection needed" (17 December 2008) at http://www.amnesty.org.uk/news_details.asp?newsId=17992 (last accessed on 25 October 2010).
706 The Anti-Trafficking Monitoring Group, "Wrong kind of victim: An analysis of UK Measures to protect trafficked persons" (June 2010) at http://www.amnesty.org.uk/uploads/documents/doc_20461.pdf (last accessed on 25 October 2010).
707 UPI.com, "Britain confronts forced marriage" (8 January 2010) at http://www.upi.com/Top_News/International/2010/01/08/Britain-confronts-forced-marriages/UPI-29311263001563/ (last accessed on 30 August 2010).
708 DNA India, "Britain to raise age limit for marriage visa applicants" (4 November 2008) at http://www.dnaindia.com/world/report_britain-to-raise-age-limit-for-marriage-visa-applicants_1203461 (last accessed on 30 August 2010).
709 BBC News, "South Asian 'slave brides' causing concern in UK" (14 March 2010) at http://news.bbc.co.uk/2/hi/8566102.stm (last accessed on 30 August 2010).
710 Reuters, "UK Parliament panel calls for reform of libel laws" (23 February 2010) at http://www.reuters.com/article/idUSLDE61M28V20100224 (last accessed on 26 October 2010).
711 *The Guardian*, "Ministers to consider bolstering press freedom after 'super-injunction' debate" (21 October 2009) at http://www.guardian.co.uk/uk/2009/oct/21/press-freedom-super-injunction-debate (last accessed on 26 October 2010).
712 *The Guardian*, "Simon Singh and the threat to science" (1 April 2010) at http://www.guardian.co.uk/commentisfree/2010/apr/01/simon-singh-libel-brooke-magnanti (last accessed on 30 August 2010).
713 *The Guardian*, "Libel tourism is a risk to public health" (11 March 2010) at http://www.guardian.co.uk/commentisfree/libertycentral/2010/mar/11/libel-tourism-bad-science (last accessed on 30 August 2010).
714 *The Sunday Times*, "Time to pick up the pace on libel reform" (30 May 2010) at http://www.timesonline.co.uk/tol/comment/

leading_article/article7140422.ece (last accessed on 26 May 2010).

715 Alex Deane "The Coalition and Civil Liberties" Critical Reaction (14 October 2010) at http://critical-reaction.co.uk/2775/13-10-2010-the-coalition-and-civil-liberties (last accessed on 26 October 2010).

716 *S and Marper v UK* (2008) (Application nos. 30562/04 and 30566/04).

717 See India country section for further comment on Adivasi issues in India.

718 MeriNews.com, "Orissa: Tribals come together to save God-Mountain" (30 January 2009) at http://www.merinews.com/article/orissa-tribals-come-together-to-save-god-mountain/15708900.shtml (last accessed on 30 August 2010).

719 *Ecologist*, "Vedanta told to 'change behaviour' by UK government" (12 October 2009) at http://www.theecologist.org/News/news_round_up/336135/vedanta_told_to_change_behaviour_by_uk_government.html (last accessed on 30 August 2010).

720 *The Guardian*, "Tribal mining protests continue" (24 February 2010) at http://www.guardian.co.uk/world/2010/feb/24/india-vedantaresources (last accessed on 30 August 2010).

721 Amnesty International, "Indian government must stop mine and refinery expansion until human rights are addressed" (9 February 2010) at http://www.amnesty.org/en/news-and-updates/report/vedanta (last accessed on 30 August 2010).

722 *The Hindu*, "UK investor pulls out of Vedanta" (19 February 2010) at http://beta.thehindu.com/news/national/article109251.ece (last accessed on 30 August 2010).

Zambia

Easier Said
than Done

1. Background

1.1. Context

Formerly Northern Rhodesia, Zambia became independent in 1964. At independence, the country had an abundance of copper resources and significant economic potential. By the 1970s, Zambia's support for nationalist movements in Rhodesia (now Zimbabwe), South Africa, Angola and Mozambique led to tensions and the closure of its borders. In parallel, world copper markets slumped, with a devastating effect on an increasingly politically insular Zambia. By the mid-1990s, Zambia was burdened with an increasing rate of per capita foreign debt and associated socio-economic problems. In recent years, it has been on the verge of a food crisis and the country received significant debt relief. From 1972 to 1991, Zambia endured a long period of single-party rule, which ended with the adoption of the 1991 Constitution. Corruption has proved to be a major problem in Zambia after its democratic resurrection. The country faced a failed coup in 1997. Coup leaders used corruption of the existing regime as a pretext to justify their actions. Following a change of leadership after the 2002 elections, there was a massive anti-corruption drive mainly targeting the earlier regime.

In August 2008, Zambian President Levy Mwanawasa died of natural causes while in office. Following his death, elections were held on 30 October 2008. These resulted in a narrow victory for Rupiah Banda of the Movement for Multi-Party Democracy (MMD) over the opposition Patriotic Front leader, Michael Sata. President Banda had served as Vice-President under Mwanawasa and acting President after his death. Following the elections, Sata alleged that the vote was rigged but independent monitors declared the election free and fair.

1.2 UN Treaties

Zambia is party to the International Covenant on Civil and Political Rights (ICCPR) and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of Persons with Disabilities (CPD), the Convention Against Torture (CAT) and the Convention on the Rights of the Child (CRC). Zambia signed the International Convention for the Protection of All Persons from Enforced Disappearance (CED), the Optional Protocols to CEDAW, CAT and CPD, and the two Optional Protocols to the CRC.

Zambia is not yet a party to the Convention on the Protection of the Rights of All Migrants Workers (CMW), the Second Optional Protocol to ICCPR, or the Optional Protocol to ICESCR.

1.3 UN Reporting History

Zambia has fulfilled most of its reporting obligations under international treaties.

The country does not have any reports overdue under CAT, ICCPR or CEDAW. Despite sixteen successful rounds of reporting under ICERD, Zambia still owes three reports. It has completed one round of reporting under CESCR, but owes one report for 2010. The 2009 CRC report has not yet been submitted.

Zambia has recently extended an open invitation to the UN Human Rights Council's Special Procedures.

1.4 UN Voting Patterns and Performance at the Council

Eighth Session of the UN Human Rights Council

On 18 June 2008, Zambia voted in favour of a resolution on the promotion of the right of peoples to peace. Slovenia called for a vote on behalf of the EU, on the basis that the issues contained in the resolution were best dealt with in other fora and that the resolution failed to state that the absence of peace did not justify breaches of human rights.

On 18 June 2008, Zambia voted in favour of a resolution on the promotion of a democratic and equitable international order. The resolution rejected a unilateral approach in favour of a multilateral one when addressing international issues. Slovenia called for a vote on behalf of the EU, on the basis that the resolution addressed issues that were beyond the mandate of the Council. For example, it focused on relations between States rather than relations between States and their citizens.

Ninth Session of the UN Human Rights Council

On 12 September 2008, Zambia expressed support for the renewal and extension of the mandate on toxic waste.

On 16 September 2008, Zambia took a different stance to that of the African Group and expressed numerous concerns regarding the situation in Sudan. It urged the Sudanese government to speed up the implementation of the recommendations of the Expert Group.

On 19 September 2008, Zambia referred to the Independent Expert on Liberia's report and asked whether there was a lack of political will on the part of the Liberian government to meet human rights standards.

On 24 September 2008, Zambia voted in favour of a resolution on human rights and international solidarity. The resolution emphasised the need for international cooperation to tackle human rights issues in a manner that distributes costs and burdens fairly. France called for a vote on behalf of the EU, on the basis that international solidarity was a moral principle not a human right defined in legal terms.

On 24 September 2008, Zambia voted in favour of a resolution on human rights and unilateral coercive measures. The resolution requested States to stop using or implementing unilateral, coercive measures not in accordance with international law, particularly those creating obstacles to trade relations between States. It also condemned the use of unilateral coercive measures to assert political or economic pressures, especially on developing countries.

On 24 September 2008, Zambia voted in favour of a resolution on the follow-up to Resolution S-3/1 on the Assault on Beit Hanoun. The resolution welcomed the report of the High-Level Fact-Finding Mission dispatched to assess the situation in Beit Hanoun. It called for full implementation of all the recommendations made in the report and expressed regret for the delay caused by Israel's non-cooperation.

On 24 September 2008, during the interactive dialogue with the Special Rapporteur on Sudan, Zambia expressed concern regarding the human rights situation in the country.

Ninth Special Session of the UN Human Rights Council

On 12 January 2009, Zambia voted in favour of a resolution on the grave violations of human rights in the OPT. The resolution strongly condemned the Israeli military operation in the OPT, stating that this had caused grave violations of the human rights of Palestinian civilians. It accused Israel of collective punishment of the Palestinian people and called on the international community to act.

Tenth Special Session of the UN Human Rights Council

On 23 February 2009, Zambia was absent for the vote on a resolution on the impact of the global economic and financial crisis on the universal realisation and effective enjoyment of human rights. The resolution expressed deep concern at the effect of the economic and financial crisis on human rights and called for increased participation by developing countries in international decision-making.

Tenth Session of the UN Human Rights Council

On 12 March 2009, Zambia engaged substantively with the report of the Special Rapporteur on Human Rights Defenders by responding to a criticism of the treatment of human rights defenders in Zambia. The Special Rapporteur alleged that Zambia "restricted the freedom of expression of human rights defenders, and that women human rights defenders were specifically targeted and that there was an inefficient institutional infrastructure for human rights defenders in Zambia". In its reply, Zambia pointed out that the Zambian Constitution guaranteed freedom of expression and that human rights defenders regularly expressed themselves through their work in non-governmental organisations.

On 26 March 2009, Zambia voted in favour of a resolution expressing serious concern over the human rights situation in DPRK and extending the mandate of the Special Rapporteur on DPRK for a further year. On 26 March 2009, Zambia voted in favour of a resolution on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.

On 26 March 2009, Zambia voted in favour of a resolution on human rights in the Occupied Syrian Golan which expressed deep concern for the suffering of the Syrian civilian population and referred to the systematic and continuous violations of fundamental and human rights by Israel.

On 26 March 2009, Zambia voted in favour of a resolution on Israeli settlements in the OPT, including East Jerusalem, and in the Occupied Syrian Golan. The resolution strongly condemned the Israeli announcement that it would build further settlements in the Occupied Palestinian Territory.

On 26 March 2009, Zambia voted in favour of a resolution which condemned human rights violations emanating from the Israeli military attacks and operations in the OPT.

On 26 March, Zambia voted in favour of a resolution on the follow-up to Council Resolution S-9/1 on the grave violations of human rights in the OPT, particularly due to the then recent Israeli military attacks against the Occupied Gaza Strip. The resolution regretted that Resolution S-9/1 had not been fully implemented yet and demanded that Israel cooperate with the international community.

On 26 March 2009, Zambia voted in favour of a resolution calling for the achievement of better geographical representation and gender balance in the staff of the OHCHR.

On 26 March 2009, Zambia abstained from voting on a resolution on combating defamation of religions.

On 27 March 2009, Zambia voted in favour of a resolution on the elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination.

On 27 March 2009, Zambia voted in favour of a resolution on torture and the role and responsibility of medical and other health personnel. In an additional vote, Zambia voted in favour of including a paragraph in the resolution which took note of the report of the Special Rapporteur on torture. On 10 March 2009, the Special Rapporteur on torture had presented his report in which he considered whether the death penalty amounted to cruel, inhuman or degrading treatment or punishment. Several States had accused the Special Rapporteur of going beyond his mandate and noted that there was no international consensus on the status of the death penalty as a breach of human rights.

On 27 March 2009, Zambia abstained from voting on a decision on the publication of reports completed by the Sub-Commission on the Promotion and Protection of Human Rights. The resolution provided for all reports by the Sub-Commission that had previously been mandated by the Commission on Human Rights and submitted to the OHCHR, to be published as UN documents.

On 27 March 2009, Zambia abstained from voting on a resolution on discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights. The resolution was introduced by the EU. The Czech Republic, on behalf of the EU, explained that the resolution was in response to the report of the Special Rapporteur on freedom of expression and that this was an important, sensitive issue. The resolution was criticised by some other States for failing to adequately address contemporary forms of religious discrimination.

During the Tenth Session, two draft resolutions on the human rights situation in DRC were tabled, one by the EU and the other by the African Group. The resolution drafted by the EU expressed serious concerns regarding the human rights situation there while the African Group's draft was less critical of the issue and called on OHCHR to enhance its technical assistance activities in the country. Following the adoption of the African Group's resolution by vote, the EU proposed amendments to the resolution reflecting serious concerns. Zambia voted in favour of the original resolution drafted by the African Group and abstained from voting on the amendments proposed by the EU.

Eleventh Special Session of the UN Human Rights Council

On 27 May 2009, Zambia voted in favour of a resolution on assistance to Sri Lanka in the promotion and protection of human rights. Before the vote, Germany, on behalf of the EU, proposed oral amendments to the draft resolution, as it made no mention of the need to conduct investigations into alleged violations of international human rights law or the need to prosecute perpetrators. Cuba, on behalf of a number of countries, requested that no action be taken on Germany's proposed oral amendments. The request was put to a vote and the Zambia abstained from voting.

Eleventh Session of the UN Human Rights Council

On 5 June 2009, the Independent Expert on the question of human rights and extreme poverty thanked Zambia for its official invitation for a country visit. Zambia expressed support for the mandate.

On 5 June 2009, Zambia agreed with the view of the Independent Expert on the effect of foreign debt that the global response to the financial crisis should be viewed from a human rights perspective. Zambia expressed support for the drafting of general guidelines on human rights and foreign debt.

On 17 June 2009, Zambia voted in favour of a resolution for the promotion of the right of peoples to peace. The resolution recognised States' obligations to improve the protection of human rights by ensuring peace. Germany, on behalf of the EU, stated that while it recognised some of the principles set out in the resolution, the issues set out in the draft were more comprehensively dealt with in other fora. Furthermore, Germany, on behalf of the EU, noted that the resolution dealt with relationships between States, not the relationship between States and their citizens.

On 17 June 2009, Zambia voted in favour of a resolution on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.

On 18 June 2009, Egypt on behalf of the African Group, and the Czech Republic, on behalf of the EU, introduced competing draft resolutions on the mandate on Sudan. The draft proposed by the African Group did not renew the mandate of the Special Rapporteur or create a mandate for any international monitoring. It referred positively to the efforts of the government. The EU resolution replaced the mandate of the Special Rapporteur with that of an Independent Expert with some monitoring and reporting functions. The EU later accepted the African Group's draft but with proposed amendments providing for the mandate of an Independent Expert. Zambia did not take the stance of the African Group and voted in favour of these amendments, and once they were accepted, in favour of the entire text as amended. In an explanation after the vote, Zambia commended Sudan on its gains but emphasised the need for the extension of the mandate.

Twelfth Session of the UN Human Rights Council

On 1 October 2009, Zambia voted in favour of a resolution on human rights and international solidarity.

On 2 October 2009, Zambia voted in favour of a resolution on the right to development.

Zambia co-sponsored a resolution on promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind and on 2 October 2009, voted in favour of it.

Twelfth Special Session of the UN Human Rights Council

On 16 October 2009, Zambia voted in favour of a resolution that focused on continuing violations of human rights by Israel in the OPT, particularly in East Jerusalem. It endorsed the recommendations set out in the reports of the Fact-Finding Mission to Gaza led by Justice Goldstone and by the High Commissioner for Human Rights, and called for their implementation.

Thirteenth Session of the UN Human Rights Council

On 2 March 2010, Zambia stated that it was committed to participate in the Universal Periodic Review and pledged to strengthen human rights nationally and internationally, through different international fora.

On 10 March 2010, Zambia expressed its commitment towards the Convention on the Rights of the Child and showcased the country's previous implementation of laws, policies and programmes relating to child rights. Zambia was open to suggestions from Council members on how to best enhance its efforts.

On 24 March 2010, Zambia voted in favour of a resolution on the composition of the OHCHR that asked for the implementation of measures to ensure a better representation of geographic diversity among the staff.

On 24 March 2010, Zambia voted in favour of a resolution on human rights in the occupied Syrian Golan. The resolution strongly condemned the occupation of Syrian Golan by Israel.

On 24 March 2010, Zambia voted in favour of a resolution on the right of the Palestinian people to self-determination. The resolution emphasised the value of self-determination and supported Palestine and Israel in their process towards peace and security. It encouraged the international community to aid the Palestinians in their right to self-determination.

On 24 March 2010, Zambia voted in favour of a resolution on Israeli Settlements in the OPT, including East Jerusalem, and the occupied Syrian Golan. The resolution asked the Government of Israel to reverse controversial announcements about new settlements and to respect legal obligations concerning access to food and supplies, the halting of impunity, the prevention of violence, etc.

On 24 March 2010, Zambia voted in favour of a resolution on grave human rights violations by Israel in the OPT, including East Jerusalem. The resolution strongly condemned the military attacks and operations in the OPT, which it said caused grave violations of human rights. It asked for the end of the occupation and for the establishment of an independent sovereign state through a peace process.

On 25 March 2010, Zambia voted in favour of a resolution on the follow-up to the report of the United Nations Independent International Fact-Finding Mission on the Gaza Conflict. The resolution asked for independent and credible investigations regarding the violations of international humanitarian and international human rights law during the Gaza Conflict.

On 25 March 2010, Zambia voted in favour of a resolution on the situation of human rights in DPRK. The resolution asked for the mandate of the Special Rapporteur on DPRK to be extended and for the government's participation in addressing human rights violations.

On 25 March 2010, Zambia voted against a resolution on combating defamation of religions. The resolution urged the international community to promote a culture of tolerance and peace, especially concerning the wrongful association of Islam with human rights violations and terrorism.

2. Pledge

2.1 Election to the Council

Zambia was one of 13 African countries that contested the May 2006 elections to the Council. The number of candidates was the same as the number of seats reserved for Africa, meaning that the election results were pre-determined. Zambia came second among the African Group with 182 votes.

In its re-election bid on 21 May 2008, Zambia was the most successful candidate in the African Group. It came first with 182 votes.

2.2 Pledge Made

In its pre-election pledge in 2006, Zambia committed to respecting provisions of protocols relating to human rights in both the regional and global spheres. It also promised to "accelerate the process" of signing the two Optional Protocols to CRC and the Optional Protocol to CEDAW. The country committed to submit on time its reports to the treaty bodies. Finally, Zambia highlighted its important role in the liberation struggles in Africa and its continuous assistance to countries emerging from conflict in the sub-region.

In its pre-election pledge in 2008, Zambia reiterated its past human rights achievements and made new commitments for its second term on the Council. Zambia stated in its pledge that it would continue to respect the provisions of protocols relating to human rights both regionally and globally. Zambia pledged to cooperate with UN treaty bodies by submitting reports on time and acting on their concluding observations and recommendations. It noted that the government was already undertaking programmes targeted towards the promotion of civil and political rights; economic, social and cultural rights; and also specific rights of vulnerable groups including women, children and the disabled. Zambia pledged to continue to work with civil society and NGOs in the promotion and implementation of human rights programmes. It claimed to have amended the electoral act with the intention of ensuring that political parties participating in elections "desist from corrupt practices".

3. Compliance

3.1 Human Rights During the Reporting Period

Before the presidential elections in October 2008, concern was expressed about the potential for violence as a result of tensions among the political parties. Small-scale riots occurred in the Copperbelt and in some Lusaka townships in response to reports that the leader of the Patriotic Front, Michael Sata was likely to lose the election. Following incidents in Lusaka, where opposition supporters were reported to have set fires, looted shops and stoned cars, 14 opposition party members were arrested.[723] Since the last presidential election, there were concerns about political violence between the supporters of the main parties and during the reporting period there were several reports of clashes between party cadres. Incidents occurred during by-elections in Solwezi Central in October 2009,[724] and at the Lusaka courts in August 2009, while the case of a journalist accused of distributing obscene materials was in session.[725] There were also several reported incidents of party cadres intimidating and using violence against opponents.[726] On 29 July 2009, MMD Lusaka Youth Chairperson, Chris Chalwe, assaulted two journalists at Lusaka airport where they were attempting to cover the President's return

from Angola.[727] In January 2010, Chalwe publicly threatened Edith Nawakwi, the President of the Forum for Democracy and Development, with gang rape, in an attempt to stop her from making critical comments about the President.[728]

Freedom of expression, freedom of assembly, and press freedoms were consistently under attack throughout the reporting period. Denials of permission to protest, threats of legal action and arrests by the police were all employed to restrict the holding of peaceful demonstrations. In October 2009, a consortium of 17 civil society organisations called on people to blow their car horns in protest over the acquittal of former President Chilluba on corruption charges, and many Zambians engaged in the practice. On 9 October, nine people, including two opposition MPs, were arrested for blowing their horns. The two MPs were charged with blowing their horns unnecessarily under the Traffic Act and disorderly conduct at a police station.[729] On 16 October 2009, planned demonstrations were called off because the police did not grant permission on the basis that demonstrations would constitute contempt of court as the corruption case was ongoing.[730] In early 2010, a "red card" campaign was initiated by an outspoken priest, Father Frank Bwalya. The campaign called on the people of Zambia to denounce unacceptable levels of corruption and the lack of accountability in the current government. The campaign urged people to flash a red card for any action which they deemed a wrongdoing that would result in depriving the people of Zambia a good life. The red card was to complement the existing blowing of car horns every Friday.[731] Father Bwalya was arrested, detained for three days and charged with conduct likely to cause a breach of the peace after he distributed red cards at Youth Day celebrations.[732] In March 2010 government officials stated that it was illegal for NGOs to advocate the removal of a democratically elected government.[733] Several days later, a group of NGOs was refused permission to conduct a planned protest in Mandevu township.[734]

The government demonstrated hostility towards civil society throughout the reporting period. In August 2009, the President assented to an act regulating and restricting the activities of NGOs. The NGO Act, 2009 required all NGOs operating in Zambia to be registered. Failure to do so resulted in a fine and/or imprisonment of up to three years. The Act allowed the government to reject an application if the NGO's activities were deemed not to be in the public interest. It also allowed an NGO's registration to be cancelled for various reasons, including exceeding the mandate provided for by the registration certificate.[735] The law's aim was to disempower the activities of NGOs and turn them, in effect, into another branch of government.[736] Late in the reporting period, more than eight NGOs were brought under investigation for alleged illegal activities. The allegations included claims that the NGOs had exceeded their mandates and that some organisations were misusing funds.[737] In March 2010, Transparency International Zambia (TIZ) criticised the appointment of the new Attorney-General. The Zambian Vice-President responded to the criticism by asserting that the TIZ's objection was based on misinformation and falsehood. He commented that such organisations should not be invited to contribute to committees and that it was an offence to deliberately present false and misleading information to committees.[738] In March 2010, the High Court upheld the decision taken in 2004 to deregister the Southern African Centre for Constructive Resolution of Disputes (SACCORD) on the basis that it was a danger to state security.[739]

The reporting period also saw steps taken to increase government regulation of the media. At the end of the reporting period, the government was in the process of introducing a Media Bill. The Bill would allow ministers

to appoint a media council board, require journalists to be licensed and force editors to be registered with a board subject to ministerial approval.[740] There is concern that the Act would be used to restrict press freedom inappropriately, given previous examples of government hostility towards critical members of the press. The Bill has been opposed by media groups who propose a system of self-regulation instead.[741] In April 2010, the Media Institute of Southern Africa spoke out in support of media self-regulation. The organisation noted that a voluntary non-statutory media council, such as the proposed Zambia Media Council, would be the only form of media regulation which corresponds with international best practices.[742]

Members of the press also faced harassment during the reporting period. In July 2009, Chansa Kabwela, the news editor for the Post, was arrested and charged after sending pictures to government ministers of a woman giving birth in the street to highlight the consequences of a health sector strike.[743] She would have faced five years in jail if convicted but was acquitted in November 2009.[744] The charges were seen by many as politically motivated as the Post has been critical of the government. During the course of the trial, the chief editor of the Post, Fred M'membe, and a columnist for the Post were charged with contempt of court for publishing an article in support of Kabwela.[745]

Freedom of expression of non-journalists also came under attack. In March 2010, a man was sentenced to 18 months with hard labour for defaming the President by saying, "What is this fool saying, he has failed to govern the country and should not be lying to the people," in response to a radio broadcast. The Magistrate stated that citizens have a duty to defend and uphold the Office of the President and there was a need for a deterrent sentence to avoid anarchy.[746] In November 2009, a man was arrested by the police after MMD cadres complained that he insulted the President.[747] In March 2009, the Special Rapporteur on human rights defenders said in her report to the UN Human Rights Council that Zambia "restricted the freedom of expression of human rights defenders, and that women human rights defenders were specifically targeted and that there was an inefficient institutional infrastructure for human rights defenders in Zambia".[748]

The National Constitutional Conference (NCC) was established in 2007 to debate on and draft a new Constitution for Zambia. The NCC was the target of considerable criticism and was boycotted by several political parties, NGOs, church groups and other stakeholders.[749] One serious criticism related to the NCC's rejection of economic, social and cultural rights after an unopposed presentation by a former Chief Justice in which he argued that these were not rights which the courts should be empowered to enforce.[750] At the conclusion of the reporting period, no draft of the Constitution had yet been produced.

In February 2010, the NCC determined that the constitutional provision permitting the death penalty would be retained.[751] This announcement came despite the fact that Zambia has not carried out any executions since 1997 and showed signs of moving towards abolition. On 16 January 2009, President Rupiah Banda commuted 53 death sentences to custodial sentences[752] and in April 2009, declared that he would not sign any more death warrants.[753]

Media groups continued to call for the enactment of the Freedom of Information Bill which was repeatedly stalled in its progress through parliament.[754] The fight for the right to information was further hampered when the NCC rejected a proposed constitutional clause that would have allowed access to information held by the government.[755]

In 2009, the annual statement of the Chairman of Zambia's Human Rights Commission expressed concern regarding the continuing problems of extrajudicial killings by police and unexplained deaths in custody.[756] Throughout the reporting period, media reports detailed incidents in which the police shot suspects while attempting to apprehend them.[757] The Commission also expressed concern about other examples of police misconduct including the collection of un-receipted fines, abuse of suspects and their relatives,[758] and illegal detention.[759] In September 2009, the Southern Water and Sewerage Company (SWASCO) accused the police of unprofessional behaviour after a SWASCO vehicle was impounded, reportedly in retaliation to SWASCO disconnecting the water supply to the police station for non-payment of bills.[760] The Zambian Human Rights Commission further expressed a belief that the Zambian police used torture in many cases to extract information from suspects.[761] In September 2009, allegations of police torture were made when a suspect was admitted to hospital with severe injuries to his buttocks and legs after being detained by the police.[762]

Reports of incidents of mob justice in which suspected criminals were beaten to death or narrowly rescued by police occurred throughout the reporting period.[763] It was stated that in Mazabuka, people were being immersed continuously in dirty water and beaten as punishment before being called to a traditional court.[764]

The Zambian Human Rights Commission stated in its 2008 report that there were many prisoners held on remand for bailable offences in Zambia. It found that 11 of 284 inmates in Ndola Central Prison were juveniles and that 90 were imprisoned for bailable offences. Many of those charged with bailable offences could not afford bail, provide sufficient sureties or had no permanent residence.[765] The Commission also highlighted the problem of delays in hearing cases. This problem was confirmed by Chief Justice Sakala in a media report in December 2009 in which he referred to the large number of complaints he received about delayed judgements and frequent adjournments. It was reported that it often took more than one month to appear before a judicial officer following an arrest, while cases before the High Court could take up to a year. The same report highlighted the case of Harry Mubita, who was detained for over a year before his trial was completed, despite eventually being sentenced to only six months in jail.[766]

These judicial delays and the continued detention of people for bailable offences contributed to the problem of overcrowding in Zambia's prisons. Lusaka Central Prison, which had an intended capacity of 300, reportedly housed approximately 1,800 inmates. Consequently, prisoners were forced to sleep in shifts or sleep on top of one another. In November 2009, police cells at the Siavonga police station were shut down following an inspection by the Siavonga District Community-Led Total Sanitation Programme. The police cells were found to be too small for the number of inmates, and had no water or adequate toilet facilities.[767] In February 2010, a High Court Judge commented on the poor condition of Zambia's prisons referring to overcrowding, poor food and lack of access to water.[768] Many prisons suffered from a lack of access to medical care, and, in some cases, prisoners died as a result.[769] On 27 April 2010, three NGOs – Prisons Care and Counselling Association (PRISCCA), AIDS and Rights Alliance for Southern Africa (ARASA) and Human Rights Watch – released a damning joint report on the state of the Zambian prison system. Beyond enduring long delays before trials start, Zambian prisoners suffered from malnutrition, overcrowding, grossly inadequate medical care, and high risks of rape and torture. "Children and adults, remand, immigration, and convicted detainees all are held together in spaces so tight that at some prisons, they are forced to sleep seated or in shifts. Food provided by the government is so inadequate that food has become a commodity traded for sex. Water is unclean, no soap is provided, and

bathing facilities are squalid. Many prisoners are not provided with uniforms and wear rags. Blankets crawl with lice." Drug-resistant TB is a major problem and a ban on condoms in prisons makes the prevention of HIV transmission impossible.[770]

The Zambian Human Rights Commission has existed since 1997, but civil society organisations noted that the commission was still in need of improvement. Commissioners were appointed by the President, which threatened the body's independence. Additionally, the low budget allocation prevented the Commission from fulfilling its widest mandate, while the need for express presidential permission for other funding kept the Commission from seeking out other funding sources.[771] The Commission itself noted that the police often viewed it as an adversary rather than as a partner.[772]

Discrimination against women, gender violence and abuse of children all continued to be major problems in Zambia. Women remained poorly represented in politics, with only three women in a Cabinet of 25 ministers, and 22 women MPs in a legislature of 158 members. Only seven per cent of councillors countrywide were women.[773] In early 2010, the government introduced measures to help tackle gender violence including tougher penalties and legislation allowing for protection orders and compensation for victims.[774] A Victim Support Unit was set up by the government, although concern was expressed that the initiative did not have the required support from the government and had to seek funds from elsewhere in order to operate effectively. A number of Coordinated Response Centres were also set up, but these were initiated and funded by civil society. The Centres enabled victims of gender violence to receive medical treatment, counselling and police assistance in one place. However, high-levels of gender violence persisted despite the establishment of these new resources.[775] The Young Women's Christian Association reported that from January to June 2009, it received 253 cases of spouse battery; 212 cases of sexual offences such as rape, incest and defilement; and 951 cases of other marital problems such as husbands failing to bring money home or disappearing for long periods of time.[776]

In 2009, the Office of the Commissioner for Children was set up by the Human Rights Commission to promote and protect children's rights. The Inspector of the Victim Support Unit reportedly stated in 2009 that the unit recorded three to five defilement cases every week.[777]

Attitudes towards homosexuals did not improve during the reporting period. Homosexuality was described by a Zambian Anglican Church leader as being un-African,[778] while a political party called it "alien".[779] An international human rights organisation called on the Zambian government to condemn the comments, as it was feared that they could hamper the fight against HIV/AIDS in the country.[780]

3.2 Compliance with the Pledge

In its pledge document, Zambia noted that it had prioritised the promotion and protection of human rights. It claimed that government programmes were already targeted towards the improvement and promotion of civil and political rights; economic, social and cultural rights; and the rights of vulnerable groups, including women, children and the disabled. Unfortunately, Zambia made little progress in most of these areas. The police were allegedly involved in cases of extrajudicial killing, torture, corruption and illegal detention. The justice sector experienced major delays, and as a result, the prison system was severely overcrowded. Prison conditions were reportedly dire and the death penalty was retained. Freedom of expression, freedom of the press and freedom

of assembly were all threatened during the reporting period. Protests were cracked down on, new steps toward greater government regulation of the media were taken, and people were charged with "insulting the President". Economic, social and cultural rights were deemed not to be human rights by the National Constitutional Conference. Violence against women and gender inequality persisted, as did child abuse, while adult and juvenile prisoners were housed together.

Zambia pledged to continue to work with civil society and NGOs in the promotion and implementation of human rights programmes, but in reality the government passed legislation to hamper NGO activity and investigated some for exceeding their mandates. Zambia further pledged that amending the Electoral Act was intended to empower the Electoral Commission to ensure that political parties desisted from corrupt practices. Despite this pledge, party cadres were responsible for numerous acts of violence and intimidation directed at opponents.

Although Zambia pledged to continue to support the Council and help it to develop into a strong body, it was largely silent except for a few occasions when it engaged with Special Procedures by expressing support for their mandates. It also engaged with the Special Rapporteur on human tights defenders, who criticised Zambia's treatment of human rights defenders.

Zambia's voting and comments on country-specific resolutions were generally positive, with a few exceptions. On Sudan, Zambia repeatedly voted differently from the African Group by voting in favour of greater international scrutiny, and expressed several concerns about the human rights situation in the country. Zambia's voting was similarly positive on DPRK. On the human rights situation in DRC, however, Zambia voted with the African Group in favour of a weak resolution and on Sri Lanka, it voted against international scrutiny. Zambia voted in favour of resolutions which criticised human rights violations by Israel.

On controversial thematic mandates, Zambia largely voted with the African Group and allied voting blocs, although there were some exceptions. Zambia voted in favour of resolutions on the right of peoples to peace, human rights and international solidarity, a democratic and equitable international order, unilateral coercive force, complementary standards to ICERD, torture and the role and responsibility of medical and other health personnel, foreign debt, and traditional values. Zambia abstained from voting on resolutions on defamation of religions, and on discrimination based on religion or belief.

Zambia pledged to cooperate with UN treaty bodies by submitting reports on time, but had not completed all its reports by the end of the reporting period. Its reports under ICERD, CESCR and CRC remained overdue. In a positive development, Zambia extended an open invitation to the Council's Special Procedures in July 2008.

---

723 Human Rights Watch, "World report 2008 – Zambia – Events of 2008" (2009) at http://www.hrw.org/en/node/79215 (last accessed on 24 October 2010).

724 *Times of Zambia*, "Violence mars Solwezi Central nominations" (30 October 2009) at http://www.times.co.zm/news/viewnews.cgi?category=all&id=1256880873 (last accessed on 24 October 2010).

725 *Times of Zambia*, "Court summons Post editor-in-chief, columnist Ndulo" (1 September 2009) at http://www.times.co.zm/news/viewnews.cgi?category=all&id=1251783113 (last accessed on 24 October 2010).

726 *Times of Zambia*, "Police caution 5 PF officials" (7 January 2010) at http://www.times.co.zm/news/viewnews.cgi?category=all&id=1262852600, Times of Zambia, "PF leadership questioned" (12 June 2009) at http://www.times.co.zm/

news/viewnews.cgi?category=all&id=1244787373 (last accessed on 24 October 2010); *Times of Zambia*, "RB condemns violence" (5 January 2010) at http://www.times.co.zm/news/viewnews.cgi?category=all&id=1262680189; *The Post*, "MMD cadres attack Sata's convoy at Solwezi Airport" (15 November 2009) at http://www.postzambia.com/post-read_article.php?articleId=1903 (last accessed on 24 October 2010).

727 *Times of Zambia*, "Scribes narrate how they were assaulted" (18 September 2009) at http://www.times.co.zm/news/viewnews.cgi?category=all&id=1253252326 (last accessed on 24 October 2010).

728 *The Lusaka Times*, "MMD Lusaka Youth Chairman threatens Ms Nawakwi with gang rape" (20 January 2010) at http://www.lusakatimes.com/?p=23259 (last accessed on 24 October 2010).

729 *Times of Zambia*, "MPs' conduct was chaotic—Cop" (30 March 2010) at http://www.times.co.zm/news/viewnews.cgi?category=all&id=1269926825 (last accessed on 24 October 2010); *Times of Zambia*, "Join politics, Ronnie tells vocal NGOs" (1 October 2009) at http://allafrica.com/stories/200910010466.html (last accessed on 5 December 2010).

730 *Times of Zambia*, "NGOs call off demos" (17 October 2009) at http://allafrica.com/stories/200910190161.html (last accessed on 24 October 2010).

731 Email correspondence Mary Mutupa, Coordinator, African Women's Millennium Initiative Zambia.

732 *Lusaka Times*, "Riot breaks out in Kitwe as Fr Bwalya is released" (15 March 2010) at http://www.lusakatimes.com/?p=24732 (last accessed on 24 October 2010).

733 *Times of Zambia*, "Mangani warns NGOs" (24 March 2010) at http://allafrica.com/stories/201003240689.html (last accessed on 24 October 2010).

734 *Times of Zambia*, "NGOs rally called off" (26 March 2010) at http://allafrica.com/stories/201003260478.html (last accessed on 24 October 2010).

735 *Times of Zambia*, "NGOs seeking amendments to new bill" (9 December 2009) at http://www.times.co.zm/news/viewnews.cgi?category=all&id=1260347693 (last accessed on 24 October 2010).

736 Email correspondence Mary Mutupa, Coordinator, African Women's Millennium Initiative Zambia.

737 *Times of Zambia*, "NGOs under probe" (18 March 2010) at http://allafrica.com/stories/201003180535.html (last accessed on 24 October 2010).

738 *Times of Zambia*, "TIZ objection of Shonga's appointment not sincere" (20 March 2010) at http://allafrica.com/stories/201003221113.html (last accessed on 24 October 2010).

739 *Times of Zambia*, "SACCORD wins stay of execution" (11 March 2010) at http://allafrica.com/stories/201003110073.html (last accessed on 24 October 2010).

740 *Times of Zambia*, "2009 review - Media regulation debate" (31 December 2009) at http://allafrica.com/stories/200912310359.html (last accessed on 24 October 2010).

741 *Times of Zambia*, "Media regulation draft bill ready" (14 November 2009) at http://www.times.co.zm/news/viewnews.cgi?category=all&id=1258183079 (last accessed on 24 October 2010); *Times of Zambia*, "Media self-regulation achievable" (15 May 2009) at http://allafrica.com/stories/200905150247.html (last accessed on 5 December 2010).

742 *Times of Zambia*, "Statutory media regulation not an option for Zambia" (3 May 2010) at http://fesmedia.org/african-media-news/detail/datum/2010/05/04/zambia-statutory-media-regulation-not-an-option-for-zambia/ (last accessed v17 August 2010).

743 BBC News, "Zambia prosecutes editor of the Post" (15 July 2009) at http://news.bbc.co.uk/2/hi/africa/8153003.stm (last accessed on 24 October 2010).

744 BBC News, "New charges at Zambia porn trial" (31 August 2009) at http://news.bbc.co.uk/2/hi/africa/8230619.stm (last accessed on 24 October 2010); International Press Institute, "Court throws out Chansa Kwabela obscenity case" (16 November 2009) at http://allafrica.com/stories/200911161853.html (last accessed on 5 December 2010).

745 BBC News, "New charges at Zambia porn trial" (31 August 2009) at http://news.bbc.co.uk/2/hi/africa/8230619.stm (last accessed on 24 October 2010).

746 *Times of Zambia*, "Man jailed for insulting RB" (18 March 2010) at http://allafrica.com/stories/201003180544.html (last accessed on 24 October 2010).

747 *The Post*, "Solwezi police arrest Zamtel worker for 'insulting' Rupiah" (11 November 2009) at http://www.postzambia.com/post-read_article.php?articleId=1706&highlight=police (last accessed on 24 October 2010).

748 UN Human Rights Council, "Human Rights Council hold interactive dialogue on reports on freedom of religion of religion or belief and on human rights defenders" (12 March 2010) at http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=9398&LangID=E (last accessed on 25 October 2010).

749 *The Post*, "The struggle for a legitimate, democratic constitutional order" (27 April 2010) at http://www.postzambia.com/post-print_article.php?articleId=8621 (last accessed on 17 August 2010).

750 *The Post*, "Rejecting socioeconomic rights from constitution is worst insult" (12 May 2010) at http://maravi.blogspot.com/2010/05/rejecting-socioeconomic-rights-from.html (last accessed on 17 August 2010).

751 *Times of Zambia*, "NCC maintains death penalty" (4 February 2010) at http://www.times.co.zm/news/viewnews.cgi?category=all&id=1265260492.

752 Amnesty International Public Statement, "Missed Opportunity to Join Worldwide Trend Towards Abolition of the Death Penalty" (10 February 2010) at http://www.amnesty.org/en/library/asset/AFR63/001/2010/en/373cadcd-d4e8-4c1b-ba65-8cb2bb518320/afr630012010en.pdf (last accessed on 25 October 2010).
753 *Times of Zambia*, "Rupiah vows never to sign any death warrant" (4 April 2009) at http://www.times.co.zm/news/viewnews.cgi?category=all&id=1238826670 (last accessed on 25 October 2010).
754 *The Post*, "Media bodies optimistic about FOI Bill" (8 March 2009) at http://maravi.blogspot.com/2010/03/media-bodies-optimistic-about-foi-bill.html (last accessed on 24 October 2010).
755 *Lusaka Times*, "NCC rejects clause guaranteeing citizens the right of access to information held by Government" (18 February 2010) at http://www.lusakatimes.com/2010/02/18/ncc-rejects-clause-guaranteeing-citizens-the-right-of-access-to-information-held-by-government/ (last accessed on 25 October 2010).
756 Zambia Human Rights Commission, HRC Chairperson's statement on 2009 human rights situation in Zambia (21 January 2010) at http://www.hrc.org.zm/media/chairpersons_statement_on_2009__human_rights_situation_in_zambia.doc (last accessed on 25 October 2010).
757 *Times of Zambia*, "Police kill 5 suspected criminals" (6 February 2010) at http://www.times.co.zm/news/viewnews.cgi?category=all&id=1265446507; Times of Zambia, "Lusaka cops slay armed robber" (29 June 2009)http://www.times.co.zm/news/viewnews.cgi?category=all&id=1246253553 (last accessed on 25 October 2010).
758 *The Post*, "Human Rights Commission's response on 'killings by cops'" (18 February 2010) at http://www.postzambia.com/post-read_article.php?articleId=6030&highlight=police (last accessed on 25 October 2010).
759 Zambia Human Rights Commission, "HRC Chairperson's statement on 2009 human rights situation in Zambia" (21 January 2010) at http://www.hrc.org.zm/media/chairpersons_statement_on_2009__human_rights_situation_in_zambia.doc (last accessed on 25 October 2010).
760 *The Post*, "SWASCO threatens to cut water supply to Mazabuka police camp" (23 September 2009) at http://www.postzambia.com/post-read_article.php?articleId=5&highlight=police (last accessed on 25 October 2010).
761 Zambia Human Rights Commission, HRC Chairperson's statement on 2009 human rights situation in Zambia (21 January 2010) at http://www.hrc.org.zm/media/chairpersons_statement_on_2009__human_rights_situation_in_zambia.doc (last accessed on 25 October 2010).
762 *The Post*, "Ndola lawyer demands justice for soldier tortured by police" (29 September 2009) at http://www.postzambia.com/post-read_article.php?articleId=18&highlight=Human%20Rights%20Commission (last accessed on 25 October 2010).
763 *The Post*, "Police in Mazabuka arrests 4 for murder" (7 March 2010) at http://www.postzambia.com/post-read_article.php?articleId=6754&highlight=extrajudicial%20killing; *Times of Zambia*, "Police release 17 CBU students" (29 July 2009) at http://www.times.co.zm/news/viewnews.cgi?category=all&id=1248846401; *Times of Zambia*, "Instant Justice Mob Beats Thieving Resident to Death" (25 November 2008) at http://allafrica.com/stories/200811250153.html (last accessed on 25 October 2010).
764 *The Post*, "Mazabuka's water dipping punishment" (4 April 2010) at http://www.postzambia.com/post-read_article.php?articleId=7734&highlight=Human%20Rights%20Commission (last accessed on 25 October 2010).
765 Zambia Human Rights Commission, "2008 State of Human Rights Report in Zambia" at http://www.hrc.org.zm/media/annual_state_human_rights_in_zambia_2008_report.pdf (last accessed on 25 October 2010).
766 IPS, "Justice Delayed becoming justice denied" (15 December 2009) at http://ipsnews.net/news.asp?idnews=49690 (last accessed on 25 October 2010).
767 *The Post*, "Siavonga sanitation watchdog shuts down dirty police cells" (10 November 2009) at http://www.postzambia.com/post-read_article.php?articleId=1664&highlight=police (last accessed on 25 October 2010).
768 *The Post*, "Deplorable state of prisons worries Judge Lengalenga" (2 February 2010) at http://www.postzambia.com/post-read_article.php?articleId=5258&highlight=police (last accessed on 25 October 2010).
769 Email correspondence Mary Mutupa, Coordinator, African Women's Millennium Initiative Zambia.
770 Human Rights Watch, "Zambia: Prison Conditions Endanger Inmates - Criminal Justice Failures, Overcrowding, and Poor Care Exacerbate Spread of TB, HIV" (27 April 2010) at http://allafrica.com/stories/201004271041.html (last accessed on 15 August 2010).
771 Office of the High Commissioner of Human Rights, "Universal Periodic Review, Summary of stakeholders' information, A/HRC/WG.6/2/ZMB/3" (3 April 2008) at http://www.upr-info.org/IMG/pdf/A_HRC_WG6_2_ZMB_3_E.pdf (last accessed on 25 October 2010).
772 Zambia Human Rights Commission, HRC Chairperson's statement on 2009 human rights situation in Zambia (21 January 2010) at http://www.hrc.org.zm/media/chairpersons_statement_on_2009__human_rights_situation_in_zambia.doc (last accessed on 25 October 2010).
773 *Times of Zambia*, "Local Women Commemorated Their Day Attacking Issues On Womenfolk" (9 March 2010) at http://allafrica.com/stories/201003090611.html (last accessed on 25 October 2010).
774 *Times of Zambia*, "State gets tough on Gender Violence" (4 March 2010) at http://allafrica.com/stories/201003040451.html (last accessed on 25 October 2010).
775 Email correspondence with Zambian activist.

776 *The Post*, "YWCA records 951 marital problems in 6 months" (29 December 2009) at http://www.postzambia.com/post-read_article.php?articleId=3782&highlight=sexual%20offences%20and%20gender%20violence%20bill (last accessed on 25 October 2010),

777 *The Daily Mail*, "Curbing gender violence with A Safer Zambia" (23 March – 6 April 2009) at http://www.daily-mail.co.zm/media/news/viewnews.cgi?category=19&id=1238489213 (last accessed on 25 October 2010),

778 *Times of Zambia*, "Homosexuality against African norms – Anglicans" (6 May 2010) at http://allafrica.com/stories/201005060318.html (last accessed on 15 August 2010),

779 *Times of Zambia*, "Gay rights have no place in Zambia" (8 May 2010) at http://allafrica.com/stories/201005100015.html (last accessed on 15 August 2010),

780 Times Live, "Rights group fears for Africa's gays" (22 May 2010) at http://www.timeslive.co.za/africa/article463703.ece/Rights-group-fears-for-Africas-gays (last accessed on 15 August 2010),

Recommendations

CHRI reminds all Commonwealth Council members of their solemn commitments to the United Nations to make the Human Rights Council a strong and effective body. CHRI urges them to strengthen the Council's Special Procedure mechanisms and to guarantee their independence and impartiality. It also calls on Commonwealth members to support and strengthen the Universal Periodic Review mechanism.

CHRI stresses that in the spirit of the people's participation required by the Harare Declaration, the Commonwealth Council members should support civil society participation in all of the Council's activities. Furthermore, if the Commonwealth is not to be undermined, Commonwealth members of the Council must urgently bring their stances and voting in line with their Council voluntary pledges and with their Commonwealth commitments.

In this context CHRI makes the following recommendations:

1. Governments of Commonwealth Council Members

- CHRI calls on the governments of Commonwealth Council members to comply with their commitments to support the UN as enshrined in the Harare Declaration, the Singapore Declaration, the Nassau Declaration and the Trinidad and Tobago Affirmation of Commonwealth Values, and to make the Human Rights Council a strong and effective body. CHRI reminds Commonwealth countries that the Harare Declaration has a universal application and applies beyond Commonwealth fora, including at the Council.

- CHRI urges Commonwealth Council members to base their participation in the Council solely on human rights considerations and to abjure other considerations, which have the effect of weakening adherence to human rights, impugning and dishonouring commitments made at Commonwealth fora.

- CHRI advocates that Commonwealth Council members to support strong country-specific initiatives and Special Procedure mandates which allow the Council to focus on and scrutinise human rights situations that require close and consistent attention from the international community.

- CHRI notes the failure of the Council during the reporting period to act effectively on several serious human rights situations around the world. It also observes that Commonwealth Council members were partially culpable for the lack of action, because of ineffective stances taken at the Council. It urges Commonwealth Council members to take strong positions on emergencies and chronic situations related to human rights. It further recommends that Commonwealth Council members work towards formulating a strong, independent mechanism or arrangement that could trigger urgent Council action on such matters.

- CHRI urges Commonwealth Council members to support the Office of the High Commissioner for Human Rights and other affiliated mechanisms, such as the Special Procedures, the Advisory Council,

the Complaints Procedure and the Universal Periodic Review, and to desist from trying to limit their scope and functions.

- CHRI recommends that Commonwealth Council members to extend open invitations to the Council's Special Procedures, ratify all core international human rights treaties, and submit timely reports to treaty bodies.

- CHRI advocates Commonwealth Council members to be accountable for their cooperation with Council mechanisms, such as the Special Procedure Mechanisms.

- CHRI calls on all Commonwealth Council members to support human rights defenders who engage with the Council and to desist from undertaking any form of reprisal for such engagement.

- Finally, CHRI urges Commonwealth Council members to actively participate at the Council and minimise absences during regular and special sessions.

2. Commonwealth Reform and the Commonwealth Eminent Persons Group (EPG)

- CHRI appeals to the EPG to consider the Commonwealth-level recommendations of this report and incorporate them into their recommendations to the Commonwealth Secretariat and Commonwealth Heads of Government Meetings (CHOGM).

- CHRI calls on the EPG to recommend the establishment of a Commonwealth Independent Expert Advisor on Human Rights and the Rule of Law who could work in close coordination with human rights-related bodies at the UN level.

- CHRI further recommends that the mandate of such an Independent Expert should, among other functions, include a Human Rights Council monitoring function. The Independent Expert should be responsible for evaluating the performance of Commonwealth countries at the UN Human Rights Council and reporting to CHOGM. Furthermore, the Independent Expert should engage with and assist Commonwealth countries at the Council practically to promote responsible and positive stands at the Council. The Independent Expert should also work closely to engage with the Office of the High Commissioner for Human Rights.

- Finally, the EPG should recommend the establishment of stronger formal linkages between United Nations Human Rights mechanisms and the Commonwealth.

3. The Commonwealth Heads of Government and Secretariat

- CHRI urges Commonwealth members to meet their obligation under the Harare Declaration to "focus and improve Commonwealth co-operation in" human rights by coordinating their interventions and positions with the sole objective of upholding the promotion and protection of human rights. To that end, CHRI calls on the Commonwealth Heads of Government to state clearly in their next CHOGM

communiqué practical steps for strengthening the Commonwealth's engagement with the Council. This is a vital step to implement Heads of Government's past promises to support the UN and to build positive international consensus on human rights issues.

- CHRI advocates that the Heads of Government direct the Commonwealth Secretariat to periodically identify human rights areas where a Commonwealth consensus exists.

- CHRI counsels Heads of Government to issue clear policy directions to set up a system of intergovernmental consultations before each Council session to adopt common Commonwealth positions where a consensus has been identified and in accordance with their commitments under the Harare Declaration.

- CHRI recommends that foreign ministerial meetings be held to follow up on the holding of the above consensus-building consultations.

- CHRI urges a close partnership between the Commonwealth Ministerial Action Group, the Commonwealth Secretary General's Good Offices and the Council's country-specific processes, including the Special Procedure mechanisms.

- The Human Rights Unit of the Commonwealth Secretariat is expected to provide technical assistance to Commonwealth countries to fulfil their obligations under the UPR process. However, CHRI notes that the Unit's level of resources is quite low and calls on Commonwealth Heads of Government to provide necessary resources, mandates and directions to the Human Rights Unit, so that it can build on its current efforts towards more comprehensive results.

- CHRI calls on the Commonwealth Heads of Government to unequivocally welcome and support civil society involvement at the Council and in the Special Procedures. This would honour their own commitments made at several Commonwealth Heads of Governments meetings, which privilege the participation of civil society in governance at home and in the international arena.

- CHRI urges the Commonwealth Secretariat to assist countries in forging effective and transparent civil society-friendly national human rights action plans. CHRI stresses that the Commonwealth's model national action plan should include a component to measure implementation and progress of both the voluntary pledges undertaken by Commonwealth Council members and obligations under the UPR.

4. At the National Level

- CHRI advocates that the Commonwealth members of the UN Human Rights Council take demonstrable and quantifiable steps in their domestic jurisdictions to implement their voluntary commitments to the UN and the Commonwealth.

- Recalling the spirit of public participation enshrined in the Harare Declaration and the many commitments made in CHOGM communiqués, CHRI calls on Commonwealth members of the Council to develop, resource and implement national human rights action plans that are inclusive of a wide range of civil

society. The national action plans should include measures for the implementation of voluntary human rights pledges and commitments to the UN as well as obligations under UPR.

- CHRI recommends that the Commonwealth Council members should put in place credible national monitoring and oversight bodies that benchmark and report independently on their progress towards upholding the highest standards in the promotion and protection of human rights – criteria on which States are elected to the Council.

- CHRI calls on Commonwealth Council members to adopt, or strengthen and implement legislation that promote human rights and public participation, and in particular, access to information, freedom of speech, expression and association laws that enables citizens to effectively participate in human rights policy-making processes associated with the Council.

- CHRI urges Commonwealth Council members and all Commonwealth countries to ensure that human rights defenders do not face reprisals for engaging with the Council and it mechanisms.

Annexure I

The Human Rights Council Sessions: 2008-2010

This report covers sessions eight through thirteen, which took place between 2 June 2008 and 26 March 2010.

Regular Sessions

Eighth Session of the Human Rights Council: Geneva, 2-18 June 2008

The Human Rights Council voted on and adopted two resolutions: on a democratic and equitable international order and the right of peoples to peace. The Council also adopted 12 resolutions without a vote, including resolutions on migrant rights, human trafficking, discrimination against persons with leprosy, an Optional Protocol to ICESCR, extreme poverty, extrajudicial killings, the right to education, independence of judges and lawyers, torture, TNCs, and human rights in Myanmar. It adopted the outcomes of 32 Universal Periodic Reviews, including those of the United Kingdom, India, South Africa, Ghana, Pakistan, Zambia, Sri Lanka and Tonga.

Ninth Session of the Human Rights Council: Geneva, 8-24 September 2008

The Human Rights Council voted on and adopted three resolutions – on international solidarity, unilateral coercive measures, and human rights in the Occupied Palestinian Territory. The Council also adopted 17 resolutions without a vote, including resolutions on toxic waste, the right to development, migrants, the food crisis, indigenous peoples, implementation of human rights instruments, civilian rights during conflict, transitional justice, a right to the truth, voluntary human rights goals, alternative child care, human rights in Sudan, a working group on people of African descent, and advisory services and technical assistance for Cambodia, Liberia and Burundi.

Tenth Session of the Human Rights Council: Geneva, 2-27 March 2009

The Human Rights Council voted on and adopted 12 resolutions: on religious discrimination and ESC rights, complementary standards to ICERD, mercenaries, torture and the role of health personnel, defamation of religions, the composition of OCHCR staff, human rights in the Democratic Republic of Congo and North Korea and four resolutions on human rights in East Jerusalem, the Occupied Palestinian Territory, the Syrian Golan and the Gaza Strip. The Council also adopted 21 resolutions without a vote, including resolutions on enforced disappearances, realisation of ESC rights, the right to food, arbitrary deprivation of nationality, implementation of CRC and its Optional Protocols, countering terrorism and human rights protection, administration of justice, the right of the Palestinian people to self-determination, an expert on cultural rights, forensic genetics, human rights in Myanmar, the Social Forum, action against racism, assistance to Somalia, international cooperation, climate change, persons with disabilities, arbitrary detention and two resolutions on human rights education. It adopted the outcomes of 16 Universal Periodic Reviews, including those of the Bahamas, Barbados, Botswana and Tuvalu, and a decision on the publication of reports of the Sub-Commission on the Promotion and Protection of Human Rights.

Eleventh Session of the Human Rights Council: Geneva, 2-19 June 2009

The Human Rights Council voted on and adopted three resolutions: on human rights in Sudan, the effect of foreign debt on human rights, and the right of peoples to peace. The Council also adopted ten resolutions without a vote, including resolutions on violence against women, human trafficking, special procedures, foreign debt and human rights, the right to education, alternative care of children, maternal mortality, migrant detention and resolutions on two working groups: one on an Optional Protocol to CRC for a communications procedure and another on implementation of the Durban Declaration. It adopted the outcomes of 12 Universal Periodic Reviews, including those of Bangladesh, Cameroon, Canada and Nigeria.

Twelfth Session of the Human Rights Council: Geneva, 14 September-2 October 2009

The Human Rights Council voted on and adopted four resolutions: on international solidarity, the traditional values of humankind, unilateral coercive measures, and the right to development. The Council also adopted 24 resolutions without a vote, including resolutions on cooperation with the UN, assistance to Cambodia and Somalia, HIV and AIDS, the global financial crisis, independence of the judiciary, human rights education, civilian rights during armed conflict, migrant rights, discrimination against persons affected by leprosy, water and sanitation, the food crisis, transitional justice, right to the truth, indigenous peoples, human rights in Honduras, regional arrangements and human rights, freedom of expression, discrimination against women, toxic waste, Aung San Suu Kyi and political prisoners, access to medicine, poverty, and a working group on the HRC. It adopted the outcomes of 16 Universal Periodic Reviews, including those of Belize, Malta, New Zealand and Vanuatu, and decisions on missing persons, human rights education, and the effect of foreign debt on human rights.

Thirteenth Session of the Human Rights Council: Geneva, 1-26 March 2010

The Human Rights Council voted on and adopted eight resolutions, including resolutions on the composition of OCHCR staff, the right of the Palestinian people to self-determination, human rights in North Korea, defamation of religions and four resolutions on human rights in East Jerusalem, the Occupied Palestinian Territory, the Syrian Golan and the Gaza Strip. The Council also adopted 19 resolutions without a vote, including resolutions on arbitrary deprivation of nationality, a working group on an Optional Protocol to the CRC for a communications procedure, the right to food, adequate housing and mega-events, persons with disabilities, the rights of minorities, protection of human rights defenders, human rights education, complementary standards to ICERD, torture and the role of judges and lawyers, sexual violence against children, cooperation with Guinea, international cooperation, journalists during armed conflict, countering terrorism and human rights protection, racism in sport, the Social Forum, and human rights in the Democratic Republic of Congo and Myanmar. The Council also adopted the outcomes of 16 Universal Periodic Reviews, including that of Cyprus, and a decision on human trafficking.

Special Sessions

Eighth Special Session of the Human Rights Council: "The Situation of the Human Rights in the East of the Democratic Republic of the Congo" – Friday 28 November 2008

Ninth Special Session of the Human Rights Council: "The Grave Violations of Human Rights in the

Occupied Palestinian Territory Including the Recent Aggression in the Occupied Gaza Strip" – 9 January 2009

Tenth Special Session of the Human Rights Council: "The Impact of the Global Economic and Financial Crisis on the Universal Realization and Effective Enjoyment of Human Rights" – 20 February 2009

Eleventh Special Session of the Human Rights Council: "The Human Rights Situation in Sri Lanka" – 26 and 27 May 2009

Twelfth Special Session of the Human Rights Council: "The Human Rights Situation in the Occupied Palestinian Territory and East Jerusalem" – 15 and 16 October 2009

Thirteenth Special Session of the Human Rights Council: "Support to Recovery Process in Haiti: A Human Rights Approach" – 27 January 2010

Annexure II

Voting Records of Commonwealth Members of the United Nations Human Rights Council for the Eighth to the Thirteenth Regular Sessions and the Ninth to the Twelfth Special Sessions

Resolution	Asian Group				African Group						WEOG[781]	
Eighth Session	BAN	IND	MAL	PAK	CAM	GHA	MAU	NIG	SA	ZAM	CAN	UK
Promotion of a democratic and equitable international order	F[782]	F	F	F	F	AB[783]	F	F	F	F	A	A
Promotion of the right of peoples to peace	F	AB	F	F	F	F	F	F	F	F	A	A
Ninth Session	BAN	IND	MAL	PAK	CAM	GHA	MAU	NIG	SA	ZAM	CAN	UK
Human rights and international solidarity	F	F	F	F	F	F	F	F	F	F	A	A
Human rights and unilateral coercive measures	F	F	F	F	F	F	F	F	F	F	A	A
Follow-up to Resolution S-3/1 on the Assault on Beit Hanoun	F	F	F	F	AB	F	F	F	F	F	A	A
Ninth Special Session	BAN	IND	MAL	PAK	CAM	GHA	MAU	NIG	SA	ZAM	CAN	UK
Grave human rights violations in the OPT	F	F	F	F	AB	F	F	F	F	F	A	AB
Tenth Special Session	BAN	IND	MAL	PAK	CAM	GHA	MAU	NIG	SA	ZAM	CAN	UK
The impact of the global economic and financial crisis on the universal realization and effective enjoyment of human rights	F	F	F	F	F	F	F	F	F	–	A	A

781 Western European and Others Group
782 Legend: "F" = Vote in Favour, "A" = Vote Against, "AB" = Abstention, "-" = No Vote.
783 The representative of Ghana subsequently stated that her delegation had intended to vote in favour of the draft resolution.

Tenth Session	BAN	IND	MAL	PAK	CAM	GHA	MAU	NIG	SA	ZAM	CAN	UK
The human rights situation in the DPRK; extending the mandate of the Special Rapporteur	AB	AB	AB	AB	F	F	F	A	AB	F	F	F
Human rights in the occupied Syrian Golan	F	F	F	F	AB	F	F	F	F	F	A	AB
Israeli settlements in the OPT, including East Jerusalem, and in the Occupied Syrian Golan	F	F	F	F	F	F	F	F	F	F	A	F
Human rights violations emanating from the Israeli military attacks and operations in the OPT	F	F	F	F	AB	F	F	F	F	F	A	AB
Follow-up to Council Resolution S-9/1 on the grave violations of human rights in the OPT	F	F	F	F	AB	F	F	F	F	F	A	AB
The use of mercenaries as a means of violating human rights	F	F	F	F	F	F	F	F	F	F	A	A
Combating defamation of religions	F	AB	F	F	F	AB	AB	F	F	AB	A	A
Better geographical representation and gender balance in the staff of the OHCHR	F	F	F	F	F	F	F	F	F	F	A	A
Torture and the role and responsibility of medical and other health personnel	AB	AB	AB	AB	F	AB	F	F	F	F	F	F
The elaboration of complementary standards to ICERD	F	F	F	F	F	F	F	F	F	F	A	A
Discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights	AB	F	AB	AB	AB	AB	F	AB	A	AB	F	F
The human rights situation in the DRC (draft proposed by the African Group)	F	F	F	F	F	F	F	F	F	F	AB	AB
Amendments to the draft resolution on the human rights situation in the DRC (proposed by the EU)	A	A	A	A	A	AB	AB	A	A	AB	F	F

Decision on the publication of reports completed by the Sub-Commission on the Promotion and Protection of Human Rights	F	A	AB	F	AB	AB	A	AB	AB	AB	F	F
Eleventh Special Session	BAN	IND	MAL	PAK	CAM	GHA	MAU	NIG	SA	ZAM	CAN	UK
Assistance to Sri Lanka in the promotion and protection of human rights	F	F	F	F	F	F	AB	F	F	F	A	A
Vote to take no action on oral amendments to the above resolution which would have called for alleged war crimes in Sri Lanka to be investigated thoroughly	F	F	F	F	F	F	A	AB	F	AB	A	A
Eleventh Session	BAN	IND	MAL	PAK	CAM	GHA	MAU	NIG	SA	ZAM	CAN	UK
The promotion of the right of peoples to peace	–	AB	F	F	F	F	F	F	F	F	A	A
The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights	–	F	F	F	F	F	F	F	F	F	A	A
The replacement of the mandate of the Special Rapporteur on Sudan with that of an Independent Expert	A	AB	A	A	A	AB	F	A	A	F	F	F
Amendments to the above resolution on the Sudan mandate, which would ensure continued scrutiny	A	AB	A	A	A	AB	F	AB	A	F	F	F
Twelfth Session	BAN	IND	MAL	PAK	CAM	GHA	MAU	NIG	SA	ZAM	CAN	UK
Human rights and international solidarity	F	F		F	F	F	F	F	F	F		A
The right to development	F	F		F	F	F	F	F	F	F		AB
Promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind	F	F		F	F	AB	A	F	F	F		A

Human rights and unilateral coercive measures	F	F		F	F	F	F	F	F	–		A
Decision on the effect of foreign debt on the enjoyment of human rights	F	F		F	F	F	F	F	F	–		A
Twelfth Special Session	BAN	IND	MAL	PAK	CAM	GHA	MAU	NIG	SA	ZAM	CAN	UK
Violations of human rights by Israel in the OPT; implementation of the recommendations of the Fact-Finding Mission to Gaza led by Justice Goldstone and by the OHCHR.	F	F		F	AB	F	F	F	F	F		–
Thirteenth Session	BAN	IND	MAL	PAK	CAM	GHA	MAU	NIG	SA	ZAM	CAN	UK
A better representation of geographical diversity among OHCHR staff	F	F		F	F	–[784]	F	F	F	F		A
Human rights in the Occupied Syrian Golan	F	F		F	AB	F	F	F	F	F		AB
The right of the Palestinian people to self-determination	F	F		F	–	F	F	F	F	F		F
Israeli Settlements in the OPT, including East Jerusalem, and in the Occupied Syrian Golan	F	F		F	F	F	F	F	F	F		F
Grave human rights violations by Israel in the OPT, including East Jerusalem	F	F		F	–	F	F	F	F	F		A
Follow-up to the Report of the United Nations Independent International Fact-Finding Mission on the Gaza Conflict	F	F		F	AB	F	F	F	F	F		AB
The situation of human rights in the DPRK	AB	AB		AB	AB	F	F	AB	AB	F		F
Combating defamation of religions	F	AB		F	AB	AB	AB	F	F	A		A

784 On 26 March 2010, Ghana expressed regret at its absence, and stated that it would have voted in favour of the resolution had it been present.

Annexure III
Pledges Made

Easier Said
than Done

PERMANENT MISSION OF BANGLADESH TO THE UNITED NATIONS

227 East 45th Street, 14th Floor, New York, NY 10017
Tel: (212) 867-3434 • Fax: (212) 972-4038 • E-mail: bangladesh@un.int
web site: www.un.int/bangladesh

No. PMBNY/Elections/HRC/06

The Permanent Mission of the People's Republic of Bangladesh to the United Nations presents its compliments to the Permanent Mission of all Member States to the United Nations and with reference to the General Assembly resolution A/60/L.48 has the honour to inform that the Government of Bangladesh has decided to present its candidature for membership of the **Human Rights Council (HRC)** for the term 2006-2008, elections for which will be held on 09 May 2006 during the 60th session of the General Assembly.

The Permanent Mission of Bangladesh, while seeking support for this candidature, has the further honour to highlight the following:

a. Bangladesh is currently a member of the Commission of Human Rights for the term 2006-2008;

b. Bangladesh's deep commitment to the promotion and protection of human rights of all its citizens emanates from its constitutional obligation;

c. Bangladesh has been at the forefront of promotion and protection of all human rights at national, regional and international levels. This has been reflected in Bangladesh's adherence to all major human rights instruments;

d. Bangladesh has actively and constructively participated in the work of the CHR. During her membership of the Commission from 1983 to 2000, Bangladesh fully cooperated with the Commission in fulfilling its mandate. She underscored the importance of genuine dialogue and cooperation among nations as well as of capacity building of the Member States as essential elements towards promotion and protection of human rights;

e. As Vice-Chair of the Bureau of the Human Rights Commission in 1998, Bangladesh was actively involved in the review process aiming at enhancing the efficiency of the working methods of Commission and rationalize its work;

f. Bangladesh also hosted several Special Rapporteurs in the recent years in further demonstration of her willingness to cooperate with UN human rights machinery;

g. At the national level, Bangladesh, a democratic and pluralistic polity, is fully committed to the principles of good governance, democracy, rule of law and promotion and protection of human rights and fundamental freedom of all her citizens, with particular attention to the rights of women, children and minorities.

b. If elected to the Council:

I. Bangladesh would fully cooperate with the Council in its work of promotion and protection of all human rights through dialogue, cooperation and capacity building;

II. Bangladesh would remain prepared to be reviewed under the universal periodic review mechanism.

III. Bangladesh would endeavour to further integrate the promotion and protection of human rights into her national development policy with special attention to the rights of women, children, minorities and persons with disabilities;

In view of the above and given the excellent bilateral relations and cooperation between our governments and peoples, the Government of Bangladesh would be grateful for the valuable support of your Governments to the candidature of Bangladesh for election to the Human Rights Council for the term 2006-2008.

The Permanent Mission of the People's Republic of Bangladesh to the United Nations avails itself of this opportunity to renew to the Permanent Mission of all Member States to the United Nations the assurances of its highest consideration.

PERMANENT MISSION OF BANGLADESH TO THE U.N. NEW YORK

New York, 21 March 2006

Permanent Missions of all Member States
to the United Nations
New York

BY FAX/SPECIAL MESSENGER

PERMANENT MISSION OF BANGLADESH TO THE UNITED NATIONS

227 East, 45th Street, 14th Floor, New York, NY 10017
Tel: [text] 867-3434 • Fax: (212) 972-4038 • E-mail: bangladesh@un.int
web site: www.un.int/bangladesh

No. PMBNY/Elections/HRC/06

The Permanent Mission of the People's Republic of Bangladesh to the United Nations presents its compliments to the Department of General Assembly and Conference Management of the United Nations in New York and has the honour to refer to our Note Verbale of even number dated 21 March 2006 announcing candidature of Bangladesh to the Human Rights Council for the term 2006-2008, the elections to which are scheduled for 09 May 2006 during the 60th session of the General Assembly.

The Permanent Mission has the further honour now to elaborate on Bangladesh's voluntary pledges towards human rights in the form of an Aid-Memoire.

The Permanent Mission would deeply appreciate if the Aid-Memoire is posted in the website as an additional element to the two pages posted already.

The Permanent Mission of People's Republic of Bangladesh to the United Nations avails itself of this opportunity to renew to the Department of General Assembly and Conference Management of the United Nations in New York the assurances of its highest consideration.

New York, 13 April 2006

The Department of General Assembly and Conference Management
of the United Nations
General Assembly Affairs
Room #S-2925A
New York

(Attention: Mr. Ion Botnaru, Chief of Branch, Phone:212 963-2336
Fax: 212 963 4230)

AIDE MEMOIRE ON BANGLADESH'S VOLUNTARY PLEDGES TOWARDS HUMAN RIGHTS

INTRODUCTION

Bangladesh is committed to ensuring all human rights—civil, political, economic, social and cultural rights, including the right to development—and fundamental freedoms to all its citizens and without any discrimination.

Bangladesh is committed to building a society free from exploitation in which the fundamental human rights and freedom, equality and justice, political, economic and social rights, are secure.

Bangladesh believes in indivisibility, universality, non-selectivity and interdependence of human rights. We favour a holistic approach in this respect with particular emphasis on the right to development.

It is because of her commitment to the promotion and protection of human rights and fundamental freedoms of all its citizens that Bangladesh actively and constructively participated in the negotiations leading up to the creation of the Human Rights Council.

Bangladesh served the Commission on Human Rights, with distinction, during 1983—2000, and was elected to the Commission for the term 2006—2008.

HUMAN RIGHTS IN THE CONSTITUTION OF BANGLADESH

The constitution of Bangladesh, which embodies the principles and provisions of the Universal Declaration of Human Rights, is the supreme law of the Republic. It guarantees the following rights, among others, to all its citizens without any discrimination:

- **Democracy and human rights**: The Republic shall be a democracy in which fundamental human rights and freedoms and respect for the dignity and worth of the human person shall be guaranteed and in which effective participation by the people through their elected representatives in administration at all levels shall be ensured.

- **Provision of basic necessities**: The provision of the basic necessities of life, including food, clothing, shelter, education and medical care are responsibilities of the State.

- **Free and compulsory education**: The State shall adopt effective measures for the purpose of establishing a uniform, mass-oriented and universal system of education and extending free and compulsory education to all children.

- **Non-discrimination**: (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth. (2) Women shall have equal rights with men in all spheres of the State and of public life. (3) No citizen shall, on grounds only of religion, race, caste, sex or place of birth be subjected to any disability, liability, restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution. (4) Nothing in this article shall prevent the State from making special provision in favour of women or children or for the advancement of any backward section of citizens.

- Equality of opportunity.
- Equality before law.
- Protection of right to life and personal liberty.
- Prohibition of forced labour.
- Freedom of movement, of assembly, of association, of thought and conscience, of speech, of profession or occupation, and of religion.
- Rights to property.

ACHIEVEMENTS OF BANGLADESH IN FULFILLING HER CONSTITUTIONAL OBLIGATIONS

Bangladesh has been endeavouring to meet its constitutional obligations as well as its international commitments towards promoting and protecting human rights of its citizens through, among others, enacting legislations and adopting administrative measures to implement them, as well as through implementation of several socio-economic development programmes. Some of the steps taken by Bangladesh are:

- Bangladesh has, through legislative and executive measures, ensured freedom of speech and expression, freedom of the press, and freedom of thought and conscience. Every citizen enjoys the right to religion, education, association, assembly, occupation, trade, etc. without any discrimination. Bangladesh has one of the most independent print and electronic media in the world.
- Bangladesh has established itself as a democratic and pluralistic polity through its unwavering commitment to the principles and practices of good governance, democracy, rule of law, and promotion and protection of all human rights and fundamental freedoms of all her citizens with particular attention to the rights of women, children, minorities, disabled and other vulnerable sections of her population.
- Bangladesh has made significant progress in economic emancipation of her people in terms of sustained economic growth, improvement of per capita income, increasing food security, enhanced disaster management capability, and high achievements in social sector particularly women empowerment and health care including reduced maternal and child mortality rates. Indigenous concepts such as micro-credit and non-formal education have played significant role for these achievements. A vibrant civil society including the NGOs played a complementary role.
- Bangladesh believes that ensuring the right to education is an essential step in providing her people with the right to development. "Education for All" is, therefore, the highest priority of the Government of Bangladesh, particularly of the girls. Education for girls up to 12th grade is free in Bangladesh.

- Bangladesh is committed to its fight against corruption, which she considers an obstacle to ensuring a better living standard of her people. We have established an Independent Anti-Corruption Commission headed by a retired High Court judge. The Commission can conduct investigations into the offences under Anti Corruption Act 2004 and for the punishable offences under Prevention of Corruption Act 1947 through its own investigation unit. It can also initiate *suo moto* investigation into any case of malpractice.

- Bangladesh, in fulfilling its obligation to furthering the promotion and protection of human rights has decided to establish an independent National Human Rights Commission. Much work in this regard has already been done and the Commission is expected to be functional soon.

- Bangladesh is convinced that independence of judiciary is critical in ensuring good governance and rule of law, and by extension protection of human rights and fundamental freedoms of its citizens. The separation of the Judiciary from the Executive is currently under active process.

- Bangladesh believes that terrorism is antithetical to promotion and protection of human rights. In fulfilling her commitment to combat terrorism, she has ratified twelve of the thirteen UN Conventions on terrorism, and is contemplating constitutional procedure for the remaining one. She is also a party to SAARC (South Asian Association for Regional Cooperation) Regional Convention for Terrorism.

- Bangladesh has put in place appropriate legislative measures to promote the rights of children and women, focusing mainly on their protection from violence, abuse, and discrimination. A National Advisory Committee has been established to combat trafficking. Stringent laws have been enacted to protect the women and children, in particular girls, from being trafficked and abused. These include the Suppression of Immoral Trafficking Act of 1993, the Suppression of Violence Against Women and Children Act 2000, which was amended in 2003, Acid Crimes Control Act 2002 and Speedy Trial Tribunal Act 2002.

- Bangladesh is one of the few countries that have a separate Ministry solely devoted to the welfare of women and children.

- Both the Prime Minister and the Leader of the Opposition in the National Parliament of Bangladesh are women. In addition, we have 45 women members in the 345-member unicameral national legislature.

- The nation also has in its credit some 12,000 women elected members in the local government bodies.

- At the regional level, Bangladesh adheres to the Kathmandu understanding on children.

- Bangladesh has ratified the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution in 2002.

BANGLADESH'S CONTRIBUTION TO THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AT GLOBAL LEVEL

- In different international fora, particularly at the UN, Bangladesh plays a constructive role through the promotion of cooperation and dialogue as well as a consensus-builder.

- Bangladesh is a State Party to more than 18 major international human rights instruments, including:

1. International Covenant on Civil and Political Rights;
2. International Covenant on Economic, Social and Cultural Rights;
3. The Convention on the Rights of the Child (CRC); and its two optional protocols;
4. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); and its optional protocol;
5. International Convention on the Elimination of All Forms of Racial Discrimination (CERD);
6. Convention for the Suppression of the Trafficking in Persons and of the Exploitation of the Prostitution of Others;
7. Convention on the Prevention and Punishment of the Crime of Genocide;
8. International Convention on the Suppression and Punishment of Crime of Apartheid;
9. Slavery Convention of 1926 and subsequent protocols.
10. Convention on the Political Rights of Women;
11. Convention on Consent to Marriage, Minimum Age for and Registration of Marriage; and
12. Convention Against Torture and other Cruel Inhuman or Degrading Treatment or Punishment.

- Bangladesh is contemplating constitutional procedures to adhere to the remaining international human rights instrument.

- Bangladesh has always actively and constructively participated in the work of the Commission on Human Rights (CHR).

- During her membership in the Commission from 1983 to 2000, and in 2006, Bangladesh made significant contribution to the Commission's work in fulfilling its mandate. She attached particular importance to the necessity of genuine dialogue and cooperation among nations as well as capacity building of Member States as essential elements towards the promotion and protection of all human rights for all.

- Bangladesh has always extended full cooperation to the human rights treaty bodies, and made good use of their advices in improving her human rights situations.

- Bangladesh's significant contribution to the work of the Commission on Human Rights has earned laurels. She has hosted, and extended full cooperation to, several special rapporteurs in recent years in further demonstration of her willingness to cooperate with the UN human rights machinery.

- Bangladesh has fully cooperated with the Commission's special procedures and mechanisms. Some of the recent interactions were with:

I. The Special Rapporteur on the independence of judges and lawyers;
II. The Special Representative of the Secretary-General on the situation of human rights defenders;
III. The Special Rapporteur on freedom of religion or belief;
IV. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression;
V. Working Group on Enforced or Involuntary Disappearances;
VI. The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;
VII. Working Group on Arbitrary Detention;
VIII. The Special Rapporteur on the question of torture;
IX. The Special Rapporteur on the sale of children, child prostitution and child pornography;
X. The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people;
XI. The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living; and
XII. The Special Rapporteur on the right to food.

- Bangladesh is a leader in UN peacekeeping. Our soldiers are working in difficult circumstances to protect the lives and human rights of peoples in conflict situations, particularly women and children. The UN Secretary-General has rightly said that Bangladesh is a model member of the UN providing leadership among the least developed countries and other forums and contributing substantially to peacekeeping and humanitarian operations.

VOLUNTARY PLEDGES

It is from this perspective that Bangladesh has proposed her candidature for election to the newly created Human Rights Council. She hopes that through cooperation and dialogue as well as through promoting capacity building of the States, Bangladesh will be able to build on the past achievements and contribute more and more to the mandated task of the Council. Bangladesh would utilise the opportunity to further promote and protect all human rights both at home and abroad.

If elected to the Human Rights Council, Bangladesh would:

I. Extend its fullest cooperation to the Council in its work of the promotion and protection of all human rights and fundamental freedoms for all without distinction of any kind and in a fair and equal manner.

II. Support the Council in its work guided by the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation.

III. Emphasise on meaningful dialogue and cooperation with the Member States, as well as on advisory services, technical assistance and capacity building required to fulfil their human rights obligations.

IV. Actively participate in the Council's work to review and rationalise and improve the Commission's mandates, mechanisms, functions and responsibilities.

V. Remain prepared to be reviewed under the universal periodic review mechanism during its tenure in the Council under terms, conditions and modalities to be developed by the Council.

VI. Continue its journey towards development of its entire people with particular attention to empowerment of women and other vulnerable sections of the population, primarily through the application of indigenous concepts.

VII. Strengthen its fight against corruption and also against terrorism. She would continue to ensure independence of the Anti-Corruption Commission.

VIII. Intensify its efforts, while framing its national policies and strategies, to uphold the fundamental principles enshrined in the constitution, those of the Universal Declaration of Human Rights, as well as those of the international and regional human rights instruments to which she is a party.

IX. Strengthen its efforts to meet its obligations under the treaty bodies to which she is a party.

X. Contemplate adhering to the remaining international and regional human rights instruments.

XI. Continue to cooperate with the special procedures and mechanisms of the Council with a view to further improve its human rights situations.

XII. Continue to promote the constructive role of the NGOs in the work of the Council, and would strive to promote effective participation of the NGOs from developing countries in the work of the Council.

XIII. Endeavour to further integrate the promotion and protection of human rights and fundamental freedoms into her national policies, including that on development and poverty eradication, with special focus on the rights of women, children, minorities and persons with disabilities.

XIV. Continue to work towards further strengthening and consolidating the institutional structures that promote good governance, democracy, human rights and rule of law.

XV. Continue to endeavour, through its national development policies, to ensure provision of the basic necessities of her people including food, clothing, shelter, education and primary health care.

XVI. Establish the National Human Rights Commission as soon as possible.

XVII. Separate the judiciary and the executive as soon as feasible.

****

United Nations A/63/842

General Assembly

Distr.: General
5 May 2009

Original: English

Sixty-third session
Agenda item 104 (c)
Elections to fill vacancies in subsidiary organs and other elections: election of eighteen members of the Human Rights Council

Letter dated 4 May 2009 from the Chargé d'affaires a.i. of the Permanent Mission of Bangladesh to the United Nations addressed to the President of the General Assembly

I have the honour to state that Bangladesh has floated its candidature to the Human Rights Council for the term 2009-2012. I enclose an aide-memoire on the voluntary pledges made by Bangladesh towards the promotion and protection of human rights in accordance with General Assembly resolution 60/251 (see annex).

The Permanent Mission of Bangladesh would be grateful if the present letter and its annex could be circulated as a document of the General Assembly, under agenda item 104 (c).

(*Signed*) Abdul **Alim**
Counsellor

09-32543 (E) 070509

Annex to the letter dated 4 May 2009 from the Chargé d'affaires a.i. of the Permanent Mission of Bangladesh to the United Nations addressed to the President of the General Assembly

Aide-memoire on Bangladesh's voluntary pledges towards human rights: Human Rights Council elections, May 2009

Introduction

Bangladesh is strongly committed to the promotion and protection of all human rights and fundamental freedoms. Its commitment to promoting and protecting human rights flows from the realization that the well-being of the people can only be ensured through effective enjoyment of all human rights by all.

Bangladesh has been endeavouring to build a society that is free from all forms of exploitation and in which human rights, fundamental freedoms, equality and justice are secured. Bangladesh holds that all human rights are universal, indivisible, interdependent and mutually reinforcing. However, for a country like Bangladesh, economic, social and cultural rights, and, most importantly, the right to development, are of paramount importance. It believes that the realization of these rights will help ensure enjoyment of a whole range of human rights, including civil and political rights. With this conviction, Bangladesh participated actively and constructively in the negotiations leading up to the creation of the Human Rights Council and subsequently became one of its founding members.

Bangladesh is seeking re-election to the Human Rights Council for the term 2009-2012.

If elected, Bangladesh will continue its efforts, together with others, to make the Council an effective, efficient and credible defender of human rights worldwide.

Constitutional framework

The Constitution of Bangladesh, which embodies the principles and provisions of the Universal Declaration of Human Rights, is the supreme law of the Republic. It guarantees human rights to all its citizens without any discrimination.

The fundamental rights envisaged in the Constitution of Bangladesh reflect the human rights prescribed by international human rights law. They include, among others, the right to equality before the law and equal protection of the law; prohibition of discrimination on grounds of race, religion, caste or sex; the right not to be detrimentally affected in respect of life, liberty, body, reputation or property; freedom of movement, of assembly, of association, of thought and conscience, of speech, of profession or occupation, and of religion; prohibition of forced labour; and equal opportunity in public employment.

The Constitution also sets out the fundamental principles of State policy. It requires the State to be a democracy. It also requires the State to ensure, inter alia, women's participation in national life, free and compulsory education, public health, equality of opportunity, work as a right and duty, rural development and the promotion of local government institutions, and respect for international law. The Supreme Court of Bangladesh has, on a number of occasions, upheld these fundamental principles in protecting the rights of the citizens of Bangladesh.

In terms of affirmative action, the Constitution of Bangladesh states that the State is allowed to make special provision in favour of women or children or for the advancement of any backward section of citizens.

Achievements/progress made in the area of human rights

Bangladesh, despite its varied constraints, is determined to fulfil its constitutional obligations and its international commitments through a variety of legislative and administrative measures as well as socio-economic development programmes. It has also made sincere efforts to fulfil the pledges it made during Bangladesh's election to the Human Rights Council in 2006, including in the areas of poverty eradication; socio-economic development; women's empowerment; education, particularly of girl children; anti-corruption measures; separation of the judiciary from the executive; and the establishment of the National Human Rights Commission. Some of the accomplishments are enumerated below:

Fundamental rights: Bangladesh has, through legislative and executive measures, ensured freedom of speech and expression, freedom of the press, and freedom of thought and conscience. Every citizen enjoys the right to religion, education, association, assembly, occupation and trade. It has one of the most independent print and electronic media in the world, which has been playing a critical role in promoting and protecting the human rights of the citizens of Bangladesh as well as in ensuring good governance.

Good governance: Bangladesh has established itself as a democratic and pluralistic polity through its deep commitment to good governance, democracy, the rule of law, and the promotion and protection of all human rights and fundamental freedoms for all citizens, with particular attention to women, children, minority communities, persons with disabilities and other vulnerable sections of the population. The parliamentary elections of December 2008, local government elections, the separation of the judiciary from the executive, the strengthening of the Election Commission and of the Anti-Corruption Commission, the enactment of the Right to Information Act and the establishment of the National Human Rights Commission are some of the measures adopted by the Government in establishing a culture of accountability and transparency in governance.

Socio-economic development: Bangladesh has made significant progress towards the socio-economic emancipation of the people in terms of sustained economic growth, per capita income, food security, disaster risk reduction capability, and high achievements in the social sector, particularly women's empowerment, the education of girl children, infant and maternal mortality rates, and access to safe drinking water as well as to primary health care. Home-grown concepts such as micro-credit and non-formal education have played a significant role in overcoming the resource constraints that Bangladesh regularly faces in the implementation of its development programmes. A large community of non-governmental organizations and a vibrant civil society have been playing a significant complementary role by way of working in an ever-stronger partnership with the Government.

Education: Bangladesh believes that access to education for all is an essential step in the direction of the enjoyment of human rights by all. "Education for All", with particular emphasis on girl children's education, has always been an important tool in Bangladesh for ensuring the unhindered enjoyment of human rights by its

people. The Government has made primary education free and compulsory for all children. It provides free education for girls up to class 12, the stipend for girls in rural secondary schools and free books for all children at the primary level. The Government runs a Food-for-Education/Cash for Education Programme providing food rations to poor primary-school children in rural areas.

The Government is now working to reduce school dropout rates, with a target of reaching a 100 per cent net enrolment rate by 2010, and to rid the country of the curse of illiteracy by 2013. The Government will also make education up to degree level (tertiary) free.

Empowerment of women: Women in Bangladesh are increasingly assuming leadership roles at both the national and the local levels. The new Government is headed by a woman Prime Minister, and her cabinet includes women ministers with important portfolios — foreign affairs, home affairs, agriculture and labour. The leader of the opposition, who happens to be a former Prime Minister, is also a woman. Nineteen women candidates were elected to the Parliament through a direct vote in the December 2008 general elections. With the 45 reserved seats, women representatives occupy more than one fifth of the Parliament.

Women occupy one third of the reserved seats for direct election in all local bodies, including municipal corporations. They also have reserved but directly elected representation in Upazilla (subdistrict) Councils. Women in Bangladesh enjoy 10 per cent job quotas in Government services. The participation of women in the formal labour market has significantly increased owing to changes in livelihood patterns and economic expansion. The labour force in the ready-made-garment industry is constituted almost exclusively of women workers.

Combating violence against women and children: Bangladesh has enacted appropriate legislative measures to promote the rights of women and children and to protect them from violence, abuse and discrimination. Bangladesh has a separate Ministry devoted to the welfare of women and children. It is a party to the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution.

The Government has undertaken policy measures to implement the Beijing Platform for Action. The National Policy for the Advancement of Women and the National Action Plan for the Advancement of Women are two significant initiatives. The principal focus has been to eliminate gender disparities in the areas of law, economics, politics and the family.

Bangladesh has taken resolute action to stop violence against women. One-Stop Crisis Centres (OCCs) have been established in all six Divisions for victims of violence. These centres provide victims with emergency medical treatment, police assistance, legal aid and shelter facilities. Non-governmental organizations are working closely with the Government in raising awareness on preventing violence against women.

Bangladesh is one of the early signatories to the United Nations Convention on the Rights of the Child. Bangladesh has a National Plan of Action against the Sexual Abuse and Exploitation of Children, including Trafficking. A draft has been prepared on the National Social Policy on Alternative Models of Care and Protection for Children, aimed at harmonizing national laws on juvenile justice with the Convention.

Pursuant to its commitment to eradicate child labour, the Government is finalizing the National Child Labour Policy. Bangladesh has eliminated child labour from the ready-made-garment sector, the country's largest industrial sector. It has now embarked on a Time-Bound Programme (TBP), which is primarily a plan of action for eliminating the worst forms of child labour.

Social safety net: A wide range of social safety net programmes have been put in place to address the multidimensional challenges faced by the poor and the vulnerable. Special measures have been taken to address the feminization of poverty. These include the Allowances Programme for Widowed, Deserted and Destitute Women; a pilot programme on Allowances for Poor Lactating Mothers and a Maternal Health Voucher Scheme; and a Community Nutrition Programme. The Vulnerable Group Development (VGD) Programme, one the most successful development initiatives, has a nationwide outreach, covering nearly 750,000 poor rural women.

National Human Rights Commission: In fulfilment of the pledge it announced during the 2006 Human Rights Council election, Bangladesh established an independent National Human Rights Commission in 2008 following the guidelines of the Paris Principles. The three-member body is presently headed by a former Supreme Court judge and includes a woman from civil society as well as a representative from the minority community. The Commission receives and investigates allegations of human rights violations from individuals and groups. It will also monitor the overall human rights situation in the country and make appropriate recommendations.

Separation of judiciary from executive: Bangladesh is convinced that independence of the judiciary is critical in ensuring good governance and the rule of law, and by extension, the protection of human rights and fundamental freedoms. The Supreme Court of Bangladesh has always enjoyed independence in its functioning. However, the subordinate judiciary has been criticized for being under executive influence.

In order to ensure the independent functioning of the judiciary, and in fulfilment of the pledge made during the 2006 Human Rights Council election, Bangladesh recently completed the process of the full separation of the judiciary from the executive. It is expected that an independent judiciary will have far-reaching implications in terms of improving the human rights situation in the country.

Fight against corruption: Bangladesh is committed to its fight against corruption, which it considers an obstacle to ensuring a better living standard for its people. As pledged during Bangladesh's 2006 election to the Human Rights Council, the Rules of Procedure of the Anti-Corruption Commission have recently been reformulated, providing the Commission with greater independence and authority. The Commission is equipped to conduct investigations and take legal and other measures for preventing corruption. Bangladesh is also a party to the United Nations Convention against Corruption.

Right to information: Bangladesh believes that exercise of the right to information by its citizens is an essential element in ensuring good governance by way of making the Government accountable for its actions or inaction. It has recently adopted the Right to Information Act empowering people to seek

information from relevant Government agencies on matters of public interest. A focal point has also been designated in each organization in this regard.

Fight against terrorism: Bangladesh believes that terrorism and extremism are anathema to the enjoyment of human rights and that terrorism is the worst form of human rights violation. It, therefore remains resolute in its relentless campaign against international extremism and terrorism. Bangladesh is party to all 13 terrorism-related United Nations conventions, a testament to its commitment to fighting terrorism in all its forms and manifestations. At the national level, Bangladesh has undertaken several legislative and administrative measures to curb this menace and has ensured their effective implementation. At the regional level, Bangladesh is a party to the SAARC Regional Convention on Suppression of Terrorism as well as to its Additional Protocol.

Contribution at the global level

Bangladesh plays a constructive role in the international arena through promoting cooperation and dialogue, particularly at the United Nations. Bangladesh's constructive and cooperative role at the Human Rights Council has earned laurels from all quarters. It strives to build consensus on important issues in different international forums. Some of its undertakings are as follows:

Human rights instruments: Bangladesh is a State party to all major international human rights instruments, including the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child and its two optional protocols; the Convention on the Elimination of All Forms of Discrimination against Women and its optional protocol; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Prevention and Punishment of the Crime of Genocide; the International Convention on the Suppression and Punishment of the Crime of Apartheid; the Slavery Convention of 1926 and subsequent protocols; the Convention on the Political Rights of Women; and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.

Bangladesh has also become party to the United Nations Convention against Corruption and to the Convention on the Rights of Persons with Disabilities and its optional protocol.

Human Rights Council: Bangladesh is a firm supporter of the United Nations. In the area of human rights, it attaches high importance to the Human Rights Council, the Office of the United Nations High Commissioner for Human Rights, the treaty bodies, the special procedures and other human rights mechanisms.

Bangladesh, as a current member of the Human Rights Council, participates actively in its work. It is cooperating with other United Nations Member States, civil society representatives and special procedures in order to make the Human Rights Council an effective, efficient and credible human rights body.

Bangladesh was actively engaged in the negotiations leading up to the establishment of the Human Rights Council. Later, it made significant contributions

to the institution-building process of the Council and in the reform of the United Nations human rights machinery. It contributed to developing the terms of reference and modalities for the universal periodic review. Bangladesh also made contributions to the review, rationalization and improvement of the system of special procedures and other expert mechanisms of the Council.

Human Rights Council mechanisms: As pledged during its 2006 election to the Human Rights Council, Bangladesh has undergone its first-ever universal periodic review in the Council on 3 February 2009, during its tenure in the Council.

Bangladesh has been cooperating with the human rights treaty bodies and made good use of their advice on improving the human rights situation in the country. Bangladesh has so far hosted several special rapporteurs, demonstrating its willingness to cooperate with the United Nations human rights machinery. Some of them have included the Special Rapporteur on the independence of judges and lawyers; the Special Representative of the Secretary-General on the situation of human rights defenders; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Working Group on Arbitrary Detention; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on the sale of children, child prostitution and child pornography; the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; and the Special Rapporteur on the right to food.

Dialogue for promotion and protection of human rights: Bangladesh has been advocating dialogue as the most effective means to promote harmony, tolerance, mutual respect and solidarity among different faiths and cultures. It has been submitting, for many years now, an annual resolution on "Culture of peace" in the General Assembly, with huge support from the United Nations membership.

Bangladesh and United Nations peacekeeping: Bangladesh is a leader in United Nations peacekeeping. Its commitment to United Nations peacekeeping flows from Bangladesh's commitment to contribute to the maintenance of international peace and security as well as to uphold the values on which the United Nations was founded. Its soldiers are working in difficult circumstances in many post-conflict situations to protect the lives and human rights of peoples, particularly of women and children.

Voluntary pledges towards human rights

Bangladesh makes the following pledges:

At the domestic level, Bangladesh will:

- Intensify its efforts, while framing its national policies and strategies, to uphold the fundamental principles enshrined in the Constitution of Bangladesh as well as those of the Universal Declaration of Human Rights and other international and regional human rights instruments to which it is a party

- Continue with its agenda for the overall development of its people, with particular attention to the eradication of poverty, the provision of universal primary education, the curbing of corruption and the empowerment of women, children and other vulnerable sections of the population, primarily through the application of home-grown concepts
- Enhance efforts to ensure the provision of basic necessities to its people, including food, clothing, shelter, education and primary health care as a means of effectively enjoying all human rights
- Intensify efforts for the implementation of the Beijing Declaration and Platform of Action, the Copenhagen Declaration and Plan of Action, and the outcomes of other major United Nations international conferences and their follow-up meetings
- Ensure that no extrajudicial or extra-constitutional methods are applied in dealing with persons accused of any criminal activities, and follow a policy of zero tolerance for any extrajudicial or extra-constitutional methods
- Work towards further strengthening and consolidating the institutional structures, including the National Human Rights Commission, the Anti-Corruption Commission, the Election Commission and the local government institutions, which promote good governance, democracy, human rights and the rule of law
- Preserve and further the independence of the judiciary and freedom of the press
- Strengthen further the capacity-building and training programmes in the field of human rights for law enforcement officials, judges, public prosecutors, lawyers, journalists, parliamentarians and the media
- Enhance efforts to eradicate child labour and adopt a national policy on eliminating child labour
- Consider adhering to the remaining international and regional human rights instruments through developing consensus within the society
- Strengthen efforts to meet its obligations under the treaty bodies to which it is a party through the effective implementation of relevant national programmes
- Continue to cooperate with the special procedures and mechanisms of the Council with a view to further improving its human rights situation
- Invite some Special Rapporteurs to visit Bangladesh at mutually convenient times
- Remain prepared to undergo its second review under the universal periodic review mechanism, as and when it becomes due
- Strengthen further the partnership of the Government with non-governmental organizations and civil society in the promotion and protection of human rights for all.

At the international level, Bangladesh will:

- Continue to extend its fullest support to the Human Rights Council in its work for the promotion and protection of all human rights and fundamental freedoms without distinction of any kind and in a fair and equal manner
- Continue to support the Council in its work, guided by the principles of universality, impartiality, objectivity, non-selectivity and international dialogue and cooperation
- Strengthen further its constructive engagement and cooperation with other members of the Human Rights Council as well as with the observer member States to make it an effective body for the promotion and protection of human rights
- Continue to support the work of the Office of the United Nations High Commissioner for Human Rights in fulfilling its mandate
- Continue to support United Nations agencies, programmes and funds that can facilitate the promotion and protection of human rights
- Continue to promote the realization of the right to development as an inalienable right of all peoples and support ongoing efforts to further develop the concept and its operationalization.

Ipmf.

Mission Permanente de la
République du Cameroun
auprès des Nations Unies

No 167/PM/NY

Permanent Mission of the
Republic of Cameroon
to the United Nations

APR 19 2006
New York, Le

22 East 73rd Street
New York, N.Y. 10021
Tel. (212) 794-2295
Fax: (212) 249-0533

La Mission Permanente de la République du Cameroun auprès des Nations Unies à New York présente ses compliments au Secrétariat Général des Nations Unies et a l'honneur de porter à sa connaissance que le Gouvernement camerounais a décidé de présenter la candidature du Cameroun au Conseil des Droits de l'Homme dont les élections auront lieu le 9 mai 2006.

Attaché aux droits de l'homme, le Cameroun est conscient des actions importantes à consolider pour bâtir une véritable société de droit et pour accélérer l'avènement d'une culture des droits de l'homme voulue, partagée et vécue par tous. Il œuvre sans relâche à cet égard, aux niveaux national, régional et international.

- Au niveau national, le préambule de sa Constitution qui en est une partie intégrante, proclame la reconnaissance à tout être humain sans distinction de race, de religion, de sexe ou de croyance, des droits inaliénables et sacrés ; il affirme l'attachement du peuple camerounais aux libertés fondamentales inscrites dans la Déclaration universelle des droits de l'homme, la Charte des Nations Unies, la Charte africaine des droits de l'homme et des peuples et toutes les conventions internationales y relatives.

Fort de ce qui précède, le Cameroun a ratifié la quasi-totalité des instruments juridiques internationaux relatifs aux droits de l'homme. Le 9 novembre 1990, il a été créé un Comité National des droits de l'homme et des libertés chargé d'assurer les droits du peuple camerounais, son éducation aux droits de l'homme et de coordonner l'action des ONG dans ce secteur ainsi que de protéger les minorités et les populations autochtones. A ce titre, il reçoit toute dénonciation des cas de violations de ces droits et libertés et procède à cet effet à des enquêtes et investigations. Il étudie toute question qui se rapporte à la défense et à la promotion des droits de l'homme, et vulgarise les instruments relatifs à ces droits.

Il convient de souligner également que bien que la Loi n° 65/LF/24 du 12 novembre 1965 et la Loi n° 97/009 du 10 janvier 1997 modifiant certaines dispositions du Code Pénal prévoient la peine capitale (tout comme le nouveau code de procédure pénale du 12 juillet 2005), celle-ci, dans les faits, n'a pas été mise à exécution depuis 1984.

Toute cette action sur le plan national procède de la conviction que seule la pratique quotidienne du respect des droits et des libertés fondamentales de l'homme peut assurer la paix.

- Sur le plan sous-régional, le Cameroun est co-initiateur du projet du Centre Sous-régional pour les Droits de l'Homme et la Démocratie en Afrique Centrale. Ce Centre qui a été créé en 2001 et qui a son siège à Yaoundé, a pour objectif de contribuer au renforcement des capacités pour la promotion et la protection des droits de l'homme et d'appuyer la création d'institutions nationales et leur renforcement ; il œuvre également en faveur du développement d'une culture des droits de l'homme et de la démocratie en Afrique Centrale afin de prévenir les conflits et de promouvoir une paix et un développement durables.

- Sur le plan africain, le Cameroun est partie à la Charte africaine des droits de l'homme et des peuples qu'il a du reste, intégrée dans sa Constitution.

- Au niveau international, comme souligné plus haut, le Cameroun est partie à la quasi-totalité des instruments juridiques internationaux relatifs aux droits de l'homme. C'est le lieu de rappeler que selon l'article 45 de la Constitution, "les traités et accords internationaux régulièrement approuvés ou ratifiés ont, dès leur publication, une autorité supérieure à celle des lois".

Par ailleurs, le Cameroun, membre de la Commission des droits de l'homme depuis le 1er Janvier 2006 a apporté sa contribution tant à Genève qu'à New York à la création du Conseil des droits de l'homme ; il s'engage à poursuivre avec détermination son action pour l'exercice effectif et la pleine jouissance par tous de tous les droits fondamentaux et des droits civiques, politiques, économiques, sociaux et culturels et à se conformer en tous points à la Résolution A/RES/60/251 du 15 mars 2006 sur le Conseil des droits de l'homme.

Le Secrétariat Général des Nations Unies voudrait bien trouver en annexe, l'aide-mémoire (en Français et en Anglais) relatif à la candidature camerounaise.

La Mission Permanente du Cameroun serait reconnaissante au Secrétariat Général de bien vouloir en assurer la diffusion.

La Mission Permanente de la République du Cameroun auprès des Nations Unies remercie le Secrétariat Général des Nations Unies pour sa collaboration habituelle et saisit cette occasion pour lui renouveler les assurances de sa très haute considération.

Secrétariat Général de
L'Organisation des Nations Unies
New York

AIDE-MEMOIRE

LE CAMEROUN ET LES DROITS DE L'HOMME

« Dans le monde d'aujourd'hui qui a tendance à reléguer l'homme au second plan, notre Organisation se doit de relever le défi des valeurs éthiques... Grâce à elles, la centralité de l'Homme dans nos politiques et actions sera consacrée »

(Discours du Président Paul BIYA au Sommet du Millénaire)

1 Le Cameroun qui est membre de la Commission des Droits de l'Homme depuis le 1er janvier 2006 a décidé de présenter sa candidature au nouveau Conseil des droits de l'homme lors des élections qui auront lieu le 9 mai 2006, au cours de la 60e session de l'Assemblée Générale.

2 Pays épris de paix et défenseur des droits de l'homme, le Cameroun a apporté son soutien actif à la création par les Nations Unies du nouveau Conseil des droits de l'homme, tant lors des négociations à Genève qu'à New York.

3 C'est donc tout naturellement qu'il a joint sa voix à celle des autres Etats membres le 15 mars 2006 à l'Assemblée Générale pour la création de ce Conseil.

4 Cette position participe des idéaux humanitaires auxquels le Cameroun a très tôt adhéré et pour la réalisation desquels il œuvre sur les plans national, sous-régional et mondial.

I – POLITIQUE NATIONALE DE PROMOTION DES DROITS HUMAINS

5 L'engagement du Cameroun en faveur des droits de l'homme qui trouve son fondement dans la Constitution se traduit par la mise en place d'un cadre juridique et institutionnel et l'adoption des mesures qui en assurent la protection.

A/ Au plan constitutionnel

6 Depuis son accession à la Magistrature suprême, le Président Paul Biya n'a eu de cesse de multiplier des mesures politiques pour l'avènement d'une culture des droits de l'homme au Cameroun. Ces actions trouvent leur couronnement dans la Constitution du 18 janvier 1996. Avec l'adoption de celle-ci, on assiste en effet, au sacre des droits de l'homme.

6.1°) Tout d'abord cette Constitution leur confère un caractère constitutionnel grâce à l'incorporation explicite de la Déclaration Universelle des droits de l'homme dans le bloc de constitutionnalité.

Le préambule pose que :

« Le peuple camerounais,

Proclame que l'être humain, sans distinction de race, de religion, de sexe, de croyance, possède des droits inaliénables et sacrés ;

Affirme son attachement aux libertés fondamentales inscrites dans la déclaration universelle des droits de l'homme, la Charte des Nations Unies, la Charte

africaine des droits de l'homme et des peuples et toutes conventions internationales y relatives et dûment ratifiées, notamment aux principes suivants :

- l'égalité des hommes en droits et devoirs,
- l'obligation pour l'Etat d'assurer à tous les citoyens les conditions nécessaires à leur développement,
- la protection des minorités et des droits des populations autochtones,
- la liberté et la sécurité des individus dans le respect des droits d'autrui et de l'intérêt supérieur de l'Etat,
- la liberté de mouvement,
- l'inviolabilité du domicile, et le secret de la correspondance,
- la non rétroactivité de la loi
- le droit de se faire rendre justice,
- la présomption d'innocence
- le respect des droits de la défense,
- le droit à la vie et à l'intégrité physique,
- le respect des origines, des opinions ou croyance en matière religieuse, philosophique ou politique,
- la laïcité de l'Etat, sa neutralité et son indépendance vis é vis de toutes les religions,
- la liberté du culte et le libre exercice de sa pratique,
- la liberté de communication, la liberté d'expression, la liberté de presse, de réunion, d'association, la liberté syndicale et el droit de grève,
- la protection et l'encouragement de la famille,
- la protection de la femme, des jeunes, des personnes âgées et des personnes handicapées,
- le droit à l'instruction de l'enfant,
- l'enseignement primaire obligatoire,
- le droit de propriété,
- le droit à un environnement sain,
- la défense et la promotion de l'environnement,
- le droit et le devoir de travailler,
- la participation aux charges publiques en proportion des capacités,
- la défense de la patrie ».

6.2°) Cette Constitution facilite aussi l'intégration des conventions internationales dans l'ordre juridique interne et leur accorde une place qui en assure la transcendance. Aux termes de l'article 45 en effet, «les Traités ou Accords internationaux régulièrement approuvés ou ratifiés ont dès leur publication une autorité supérieure à celle des lois... ».

6.3°) Enfin grâce à la réforme constitutionnelle du 18 janvier 1996, la justice camerounaise a vu accroître sa capacité à garantir les droits de l'homme et les libertés fondamentales et à sanctionner les violations.

B/ Aux plans pénal et institutionnel

B.1. Code camerounais et droits humains

7 Le code pénal camerounais prévoit et réprime les infractions portant atteinte aux droits fondamentaux de l'homme.

8 Tout acte discriminatoire à l'égard des personnes ou de groupes ou d'organisations est réprimé.

9 Le code pénal, le code d'instruction criminel, le code civil et le code de procédure civil assurent l'égalité d'accès devant les tribunaux à tous les citoyens.

B. 2. Divers comités mis en place

10 Depuis Juin 1998, il a été institué ***un Comité technique*** chargé de suivre des instruments internationaux relatifs aux droits de l'homme et libertés. Ce Comité facilite et prépare la signature desdits instruments et veille à la mise en œuvre des obligations conventionnelles qui en découlent. Il s'agit d'une structure de premier plan en vue de l'acceptation et du respect du droit international. Cette instance vient compléter et appuyer le Comité National des Droits de l'Homme et des Libertés.

11 ***Un Comité national des droits de l'homme et des libertés*** a été créé par décret n°90/1459 du 8 novembre 1990 ; il a pour mission la défense et la promotion des droits de l'homme et des libertés. A ce titre, il reçoit toute dénonciation des cas de violations de ces droits et libertés et procède à cet effet à des enquêtes et investigations. Il étudie toute question qui se rapporte à la défense et à la promotion des droits de l'homme, et vulgarise les instruments relatifs à ces droits.

C/ Mesures de renforcement du respect des droits humains

12 D'autres importantes mesures sont prévues qui viennent, au quotidien, renforcer le respect et la protection des droits de l'homme.

- Le multipartisme institué au Cameroun depuis 1990 est intégral. Plus d'une centaine de partis politiques fonctionnent en toute liberté sur l'ensemble du territoire national.
- La liberté de presse est garantie et le pays compte à ce jour plus d'une centaine de titres de journaux privés et plusieurs stations privées de radio et télévision.
- L'Etat camerounais assure la protection des minorités et préserve les droits des populations autochtones.
- Les efforts déployés par le Cameroun en faveur de la promotion et de la protection des droits de l'homme sont appréciés par les nombreux étrangers vivant au Cameroun et dont le nombre ne cesse d'augmenter.
- Le Cameroun en vertu de cette politique d'accueil et de respect des droits de l'homme constitue pour les nombreuses populations qui fuient les pays africains en conflits une terre de prédilection.
- Par ailleurs, le Cameroun participe activement aux travaux du Comité des droits de l'homme à qui il adresse régulièrement les rapports requis. Son engagement en faveur du respect des droits de l'homme lui a valu à maintes reprises les félicitations du Comité contre la torture, et les recommandations dudit comité constituent des principes directeurs pour les autorités camerounaises en la matière.
- Bien que prévue dans le Code pénal de 1965 (tout comme dans le nouveau Code de procédure pénale du 12 juillet 2005), la peine capitale, dans les faits, n'a pas été mise à exécution depuis 1984.
- Depuis plusieurs années, le Cameroun développe une campagne de vulgarisation des instruments internationaux relatifs aux droits de l'homme, à travers des séminaires, conférences et ateliers, la formation des policiers, gendarmes et militaires.
- Dans les différents niveaux d'enseignement, sont prévus des cours sur les droits de l'homme et sur le droit humanitaire. L'objectif visé est l'acquisition par tous les camerounais de cette véritable culture du droit et surtout des droits de l'homme dont les fondements ont été patiemment et obstinément mis en place par le Président Paul Biya.

II - POLITIQUE DE COOPERATION EN MATIERE DES DROITS HUMAINS

13 Fort de cette expérience, le Cameroun conjugue ses efforts avec les Etats de la région et ceux membres des Nations Unies pour hâter l'avènement d'une société respectueuse de la personne humaine et de ses droits.

14 Sur le plan sous-régional, le Cameroun est co-initiateur du Centre Sous-régional pour les Droits de l'Homme et la Démocratie en Afrique Centrale. Ce Centre qui a été créé en 2001 et qui a son siège à Yaoundé, a pour objectif de contribuer au renforcement des capacités pour la promotion et la protection des droits de l'homme et d'appuyer la création d'institutions nationales et leur renforcement ; il œuvre également en faveur du développement d'une culture des droits de l'homme et de la démocratie en Afrique Centrale afin de prévenir les conflits et de promouvoir une paix et un développement durables.

15 Sur le plan continental africain, le Cameroun est partie à la Charte Africaine des droits de l'homme et des peuples qu'il a du reste intégrée dans sa Constitution. Par ailleurs, il est partie à la Cour Africaine des droits de l'homme.

16 Au niveau mondial, le Cameroun, qui est attaché à la primauté du droit dans les relations entre les Etats et entre les peuples, est fier d'avoir ratifié la quasi-totalité des instruments internationaux de protection des droits de l'homme.

16.1°) ***Il est partie aux conventions ci-après :***

- La Déclaration Universelle des droits de l'homme
- La Convention internationale sur l'élimination de toutes les formes de discrimination raciale, adoptée à New York le 7 mars 1966 ;
- Le Pacte international relatif aux droits économiques, sociaux et culturels adopté, à New York le 16 décembre 1966 ;
- Le Pacte international relatif aux droits civils et politiques, adopté à New York le 16 décembre 1966 ;
- Le Protocole facultatif se rapportant au pacte international relatif aux droits civils et politiques, adopté à New York le 16 décembre 1966 ;
- La Convention sur l'imprescriptibilité des crimes de guerre et des crimes contre l'humanité, adoptée à New York le 26 novembre 1968 ;
- La Convention internationale sur l'élimination et la répression du crime d'apartheid, adoptée à New York le 30 novembre 1973 ;
- La Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes, adoptée à New York le 18 décembre 1979 ;
- Le Protocole facultatif à la convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes, adoptée à New York le 6 octobre 1999 ;
- La Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants, adoptée à New York le 10 décembre 1984

- La Convention relative aux droits de l'enfant adoptée à New York le 20 novembre 1989 ;
- Le Protocole de 1953 amendant la convention relative à l'esclavage de 1926 ;
- La Convention relative au statut des réfugiés ;
- La Convention supplémentaire relative à l'abolition de l'esclavage, de la traite des esclaves et des institutions et pratiques analogues à l'esclavage ;
- La Convention pour la répression de la traite des êtres humains, de l'exploitation et de la prostitution d'autrui ;
- L'amendement au paragraphe 2 de l'article 43 de la convention relative aux droits de l'enfant adopté à New York le 12 décembre 1995.

16.2°) En attendant leur ratification, ***le Cameroun a déjà signé les instruments ci-après :***

- La Convention internationale contre l'apartheid dans les sports, adoptée à New York le 10 décembre 1985 ;
- le Protocole facultatif à la convention relative aux droits de l'enfant, concernant l'implication d'enfants dans les conflits armés, adopté à New York le 25 mai 2000 ;
- le Protocole facultatif à la convention relative aux droits de l'enfant concernant la vente d'enfants, la prostitution des enfants et la pornographie mettant en scène des enfants, adopté à New York le 25 mai 2000.

16.3°) Le Cameroun est fier d'avoir très tôt plaidé et œuvré en faveur de la création de ***la Cour Pénale internationale*** dont il est l'un des premiers signataires.

III – LES ENGAGEMENTS FUTURS DU CAMEROUN A L'EGARD DES DROITS HUMAINS

17 En décidant de présenter sa candidature aux élections au Conseil des Droits de l'Homme, le Cameroun entend confirmer sa détermination à poursuivre résolument sa politique d'épanouissement de la personne humaine ainsi que de la promotion et du respect de ses droits et libertés. Pour le Cameroun, en effet, la centralité de l'homme doit être consacrée dans nos politiques et actions. C'est cette conviction qu'avec force le Chef de l'Etat du Cameroun S.E. Paul BIYA, a défendue et a voulu faire partager à la Communauté internationale lors du Sommet du millénaire.

18 Le 07 septembre 2000 en effet, le Chef de l'Etat déclarait à la Tribune des Nations Unies ce qui suit :

« Dans le monde d'aujourd'hui qui a tendance à reléguer l'Homme au second plan, notre Organisation, pour remplir sa mission de façon efficiente, se doit de relever le défi des valeurs éthique. Si la mondialisation ne s'accompagne pas d'un nouvel ordre moral, si elle manque de ce supplément d'âme que constitue la solidarité entre les Nations et les peuples, elle risque de mettre en danger la paix si chère à notre temps.

A la vérité, notre monde a besoin d'éthique. En tant qu'ensemble de valeurs morales, elle constitue une attente essentielle de l'ensemble de la communauté humaine. Grâce à l'éthique, la centralité de l'Homme dans nos politiques et actions sera consacrée : En effet, comment parler des Droits de l'Homme sans Droit au développement ? Quelle démocratie et quelle bonne gouvernance sans une éthique de solidarité internationale n'est-elle pas nécessaire dans le traitement de la dette des pays pauvres.

Nous en appelons à la création au sein du Secrétariat Général de l'ONU d'un comité ou d'un observatoire international d'éthique chargé précisément, de promouvoir entre les nations et à l'intérieur de celles-ci, les valeurs humaines fondamentales universelles. »

19 Le Cameroun, qui respectera les obligations prévues dans la résolution constitutive du Conseil des Droits de l'Homme, s'engage à:

- œuvrer pour l'effectivité des droits de l'homme, civils, politiques, économiques, sociaux et culturels, y compris le droit au développement ;
- coopérer à cet effet avec les organisations régionales, les organismes nationaux des droits de l'homme et la société civile;
- œuvrer par le dialogue et la coopération constructive à l'échelle internationale en vue de la jouissance et du rayonnement effectifs des droits de l'homme
- poursuivre ses efforts en vue de rendre effectif le respect intégral des obligations découlant des instruments juridiques internationaux en matière des droits de l'homme ;
- coopérer pleinement avec les Etats membres de l'ONU et particulièrement ceux membres du Conseil des droits de l'homme pour que ce nouvel organe remplisse avec efficacité les tâches qui découlent

de ses missions, et cela dans le respect des principes d'universalité, d'impartialité, d'objectivité et de non sélection.

- Œuvrer inlassablement pour la crédibilité du Conseil des droits de l'homme./

United Nations A/63/816*

General Assembly

Distr.: General
1 May 2009
English
Original: French

Sixty-third session
Agenda item 104 (c)
Elections to fill vacancies in subsidiary organs and other elections: election of eighteen members of the Human Rights Council

Note verbale dated 30 March 2009 from the Permanent Mission of Cameroon to the United Nations addressed to the Secretariat of the United Nations

The Permanent Mission of Cameroon to the United Nations presents its compliments to the United Nations Secretariat and has the honour to inform it that the Government of Cameroon has decided to present the candidature of Cameroon for re-election to the Human Rights Council at the election to be held in May 2009.

In accordance with General Assembly resolution 60/251, the Secretariat will find annexed hereto Cameroon's declaration of pledges and commitments relating to its re-election to the Human Rights Council.

The Permanent Mission of Cameroon would be grateful if the Secretariat could circulate the said document.

The Permanent Mission of Cameroon to the United Nations takes this opportunity to convey to the United Nations Secretariat the renewed assurances of its highest consideration.

* Reissued for technical reasons.

09-29925* (E) 010509

Annex to the note verbale dated 30 March 2009 from the Permanent Mission of Cameroon to the United Nations addressed to the Secretariat of the United Nations

[Original: English and French]

Candidature of Cameroon to the United Nations Human Rights Council

Statement of commitments

Cameroon, deeply committed to the promotion and protection of human rights at the national, as well as the regional and international levels, has been a member of the Commission on Human Rights and played an active role in the creation of the Human Rights Council.

Cameroon's commitment to human rights is reflected in the establishment of an appropriate legal and institutional framework and the adoption of measures that guarantee the respect of human rights. It is in this regard that fundamental rights are incorporated into the constitutional instrument and that the Constitution facilitates the integration of conventions into domestic laws by providing precedence over national standards. Consequently, the main human rights conventions to which Cameroon is a party at the international level (the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women etc. ...) and at the regional level (the African Charter on Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child, the Protocol establishing the African Court of Human Rights etc. ...) have precedence in national laws and regulations.

At the institutional level, Cameroon has an independent judiciary and a Constitutional Council whose structures are being set up progressively. The National Commission on Human Rights, established in 1990, was transformed into the National Commission on Human Rights and Freedoms in July 2004 so as to ensure better compliance with the Paris Principles. A Department of Human Rights and International Cooperation was also created in the Ministry of Justice by a decree of 15 April 2005. This Department is responsible for monitoring human rights issues in general, monitoring the implementation of international conventions on human rights; providing information and sensitizing staff of judicial services and the prison administration on standards of human rights protection. Finally, it should be noted that in 2005 the prison administration was attached to the Ministry of Justice and a Special Division in charge of Police Control created.

Cameroon is co-initiator of the United Nations Subregional Centre for Human Rights and Democracy in Central Africa, the headquarters of which is also in Cameroon. Cameroon cooperates with this Centre in the promotion of human rights in the subregion.

Since 2006, Cameroon has taken relevant measures to fulfil the commitments it made during its election into the Human Rights Council.

1. Implementation of the 2006 Statement of Commitment

For its election to the Human Rights Council in 2006, Cameroon took the commitment to carry out the obligations contained in the constitutive resolutions of the Human Rights Council and to:

– Work to ensure the effectiveness of civil, political, social and cultural rights, including the right to development;

– Cooperate to this end with regional organizations, national human rights bodies and the civil society;

– Work through dialogue and cooperation for the effective enjoyment and reinforcement of human rights;

– Pursue its efforts to ensure total compliance with international legal instruments on human rights;

– Cooperate fully with the United Nations Member States, and especially with those of the Human Rights Council, so that this new body effectively performs the duties arising from its missions and in accordance with the principles of universality, impartiality, objectivity and non-selectivity;

– Work tirelessly to ensure the credibility of the Human Rights Council.

To this end, Cameroon has:

(a) Worked towards reinforcing protection and promotion of:

– Civil and political rights: by organizing transparent and democratic elections, implementing decentralization, arresting and prosecuting elements of the forces of law and order guilty of violations of human rights (administrative and judicial sanctions were taken against 47 elements of the forces of law and order, from all the corps, just for the year 2006), ensuring the effective entry into force in 2007 of the new Criminal Procedure Code, which contains provisions that reinforce the protection of human rights, notably the right to a fair trial, improvement of detention conditions and the organization of education campaigns for human rights whose primary purpose is to assist in instilling a culture of human rights in Cameroon.

At the international level, Cameroon signed in 2007 the International Convention against Forced Disappearances and in 2008 the Convention on the Rights of Persons with Disabilities. At the national level, an independent body responsible for organizing and monitoring elections, Elections Cameroon (ELECAM) was created and in December 2006, a law to organize the judiciary was passed.

– Economic, social and cultural rights including the right to development: the recovery of the national economy, reflected in the adoption of budget measures for streamlining public finances had as the main objective the improvement of living conditions of Cameroonians. In this area, the Government placed special emphasis on social sectors such as education, health, youth employment, in terms of improving the quality of supply in these areas.

In order to address the problem of unemployment and the precarious nature of young people, the Government of Cameroon initiated a far reaching programme of

recruitment into the public service. Since the launch of this recruitment exercise, 18,800 part-time teachers of general education in 2007 and 5,825 in 2008 were absorbed into the Cameroonian public service. Also falling within this framework, is the authorized recruitment of 1,000 lecturers in State universities, the absorption of 10,000 temporary staff and the admission, by competitive entrance examination, of about 4,500 youths in the fields of diplomacy, health, computer sciences, statistics, civil engineering and the military.

In 2006, Cameroon adopted two important instruments aimed at improving national governance and management of public affairs. These are: Law No. 2006/3 of 25 April 2006 on the Declaration of Assets and Decree No. 2006/88 of 11 March 2006 to establish the National Anti-corruption Commission.

(b) Cameroon has remained committed to the promotion and realization of the right to development, which it considers, in accordance with the Vienna Declaration, as a value equal to other rights.

(c) Cameroon has cooperated with the United Nations, other regional organizations and civil society to ensure the promotion and respect of human rights: in 2006, Cameroon submitted its periodic report to the Committee on the Rights of the Child and in 2008, it finalized and submitted its periodic reports to all other organs of the human rights treaties to which it is party. It defended, in January 2009, its report before the Committee on the Elimination of Discrimination against Women. Following correspondence G/SO 214 (53-21) of 4 September 2007 of the Special Rapporteur of the Human Rights Council on torture, Mr. Manfred Nowak, correspondence which contained a number of recommendations and observations, the Government of Cameroon provided some answers on the level of implementation of the Convention against Torture in its legal system. An invitation was also extended to Mr. Ambeyi Ligabo, Special Rapporteur on the promotion of the right to freedom of opinion and expression in May 2008, and to Amnesty International. Cameroon made efforts to reply to communications, questionnaires and urgent appeals directed to it by various special procedures.

(d) In the process of preparing its reports, the Government involved the civil society and thus maintains a constant link with it in the promotion and protection of human rights as concerns in particular specific rights.

(e) Cameroon provided support to the Human Rights Council for it to carry out its mission. In this regard, it took part in all regular and special sessions of the Council and in the deliberations of the Advisory Committee. It was a member of the troika of four countries and was itself subjected to the periodic universal examination on 5 February 2009.

2. New commitments of Cameroon

During its second term of office in the Human Rights Council, Cameroon is pledging to continue its efforts for the promotion and defence of human rights. It will work towards attaining the following objectives:

(a) To be a party to major international instruments on human rights in which it is not yet participating, notably:

– Endorse the Optional Protocols to the Convention on the Rights of the Child: one on trafficking, trade and child pornography and the other on children in armed conflicts;

– Endorse the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

– Ratify and implement the Convention on the Rights of Persons with Disabilities, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the Protection of Persons against Forced Disappearances and the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education.

(b) Promote the rights of women by:

– Fostering programmes aimed at improving the status of women;

– Adopting legislation against female genital mutilation and the organization of awareness campaigns against this practice;

– Taking into account the observations of the Committee on the Elimination of Discrimination against Women in order to ensure that women actually enjoy all their rights;

– Pursuing efforts already made towards combating all forms of discrimination against women.

(c) Take action to strengthen the protection of children's rights by:

– Taking into account the rights of the child in programmes designed to improve on the living conditions of the people;

– Implementing recommendations of the Committee on the Rights of the Child on children without shelter;

– Preventing child trafficking and child labour and improving on measures of protecting victims;

– Improving on the treatment of minors in places of detention.

(d) Boost efforts already made in the area of prison administration by:

– Ensuring that places of detention meet international standards;

– Facilitating access to prisons to national and international humanitarian organizations;

– Accelerating reforms of the penitentiary system, including the construction of new prisons;

– Strengthen the independence and authority of the national judicial system;

– Respecting the rights of detainees.

(e) Guarantee within available resources the economic, social and cultural rights, mostly the:

– Right to health: intensifying HIV/AIDS control programmes and reinforcing the health system as a whole;

– Right to education: Cameroon will continue with its efforts aimed at improving on the quality of education, providing free primary education and improving on the implementation of the Plan of Action of the World Programme for Education on Human Rights;

– Fight against corruption and improve on governance.

(f) Continue with actions aimed at promoting the respect for civil and political rights, especially freedom of the press, transparency of elections, including the provision of sufficient resources to ELECAM, the national election managing body.

(g) Reinforce measures to guarantee and protect the rights of minorities, the disabled and other vulnerable groups.

(h) Intensify Cameroon's action to promote peace, preserve ecosystems within the subregion, through greater involvement in peacekeeping operations, on the one hand, and subregional structures for the protection of the environment and promotion of sustainable development (Central African Forests, the Lake Chad Basin Commission etc. ...) on the other hand.

(i) Work with the National Commission on Human Rights and Freedoms and civil society to improve the general situation of human rights in Cameroon and to popularize human rights culture.

(j) Enhance Cameroon's cooperation with treaty bodies and special procedures and continue to work with other Member States for the credibility of the Human Rights Council.

The Permanent Mission of Canada to the United Nations

La Mission permanente du Canada auprès des Nations Unies

Note 0168

The Permanent Mission of Canada to the United Nations presents its compliments to the President of the 60th Session of the General Assembly and, following its note no. 1050, dated 4 April 2006, announcing Canada's candidacy to the Human Rights Council, and in accordance with resolution A/RES/60/251, has the honour to enclose herewith a document detailing Canada's contribution to the promotion and protection of human rights and its voluntary pledges and commitments made thereto.

The Government of Canada is committed to making a positive contribution to ensuring that the Human Rights Council becomes an effective body for the promotion and protection of human rights.

The Permanent Mission of Canada to the United Nations avails itself of this opportunity to renew to the President of the 60th Session of the United Nations General Assembly the assurances of its highest consideration.

NEW YORK, 10 April, 2006

Permanent Mission of Canada to the United Nations
La Mission permanente du Canada auprès des Nations Unies
New York

Human Rights Council
Canada's Commitments and Pledges

The promotion and protection of human rights is an integral part of Canada's foreign and domestic policy. Canada is a strong supporter of the UN human rights system.

Canada's engagement with the Human Rights Council

The Human Rights Council will be at the heart the UN human rights architecture and thus, Canada pledges:

- to work with all stakeholders to put in place an *efficient and effective Human Rights Council* that builds on the strengths and lessons learned of the Commission on Human Rights;
- to give effect to the Council's *mandate to promote and protect human rights*, including by responding appropriately to human rights violations, by contributing to its work on norm development, and by encouraging cooperation and dialogue;
- to engage with all UN member states to find new and creative ways to ensure that the Council's work has a *direct, concrete, and positive impact* on promotion and protection of the rights of people around the world;
- to participate constructively *in the mandate review process and in developing modalities of a universal periodic review mechanism*, and to submit itself to periodic review;
- to ensure that the Council benefits from the *involvement and contributions of civil society*, including non-governmental organizations and national institutions;
- to work with all stakeholders for a *system of special procedures*, which is essential for the Council's emphasis on the implementation of human rights obligations;
- to re-extend its *open invitation to special procedures* to visit Canada.

In 1999, Canada was one of the first countries to give an open invitation to special procedures of the Commission on Human Rights. Since that time, the Special Rapporteurs on Toxic Waste, the Rights of Migrants, Indigenous Peoples, Racism, the Right to Health and, most recently in 2005, the Working Group on Arbitrary Detention have made official visits.

Canada was re-elected to the Commission on Human Rights for the 2005-2007 term. During its tenures, Canada played a leadership role in the establishment and implementation of *norms and standards* on key human rights issues including the rights of indigenous peoples, violence against women, freedom of expression, mass exoduses, the work of treaty bodies, as well as rights of the child.

Canada has also taken a leading role in the fight against *impunity*, including by becoming a party to the Rome Statute of the International Criminal Court and strongly supporting various international and hybrid criminal tribunals. Its commitment to international humanitarian law and the protection of refugees is unwavering.

Support for the Office of the High Commissioner for Human Rights and international cooperation

Canada's strong support to the important work of the OHCHR was re-affirmed recently when we increased our unearmarked funding for the Office, making Canada one of the top donors. We have also supported efforts to double the funds available to the Office from the UN regular budget. Canada pledges:

- to provide the OHCHR with additional *unearmarked contributions* for its work;

- to pursue *international cooperation programs* on human rights, gender equality, child protection, democracy, good governance, and the rule of law - this, in response to the interest expressed by many states for dialogue and cooperation

Canada and UN human rights instruments

Canada has ratified key UN human rights instruments: International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); International Convention on the Elimination of all Forms of Racial Discrimination (CERD); Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT); Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW); and Convention on the Rights of the Child (CRC), and its Optional Protocol on Children in Armed Conflict. As well, Canada *recently ratified* the Second Optional Protocol of the ICCPR aimed at the abolition of the death penalty and the Optional Protocol to the CRC on the Sexual Exploitation and Sale of Children. Canada has agreed to the jurisdiction of the *individual complaint mechanisms* established by the First Optional Protocol to the ICCPR, CAT and the Optional Protocol to the CEDAW.

Canada is one of only six States that is fully up-to-date in its reporting to the treaty bodies and, by May 2006, Canada will have presented its reports before all six of these Committees in the past four years. Consultation mechanisms are in place to ensure that federal, provincial and territorial governments are aware of, and give serious consideration to, the recommendations of treaty bodies, and further, that such recommendations are available to Canadians.

As regards UN human rights instruments, Canada pledges:

- to submit its *reports to the treaty bodies* in a timely fashion and to participate in meaningful dialogue with the treaty body members;
- to work with the treaty bodies and key stakeholders on the *renewal and reform* of the UN treaty body system;
- to consider signing or ratifying *other human rights instruments*, such as the Optional Protocol to the CAT.

Human Rights in Canada

At the domestic level, human rights and gender equality are promoted and protected through the Canadian Charter of Rights and Freedoms. At the federal, provincial, and territorial levels, there are also human rights codes and human rights bodies, such as the Canadian Human Rights Commission, which play a key role in furthering equality rights in Canada.

Canada has a vigorous civil society, which plays an important role in the promotion of human rights, both at the national and international level. The government and civil society engage on a range of issues relating to human rights, in a spirit of cooperation and dialogue.

All governments in Canada carry out public education programs in the area of human rights, including through formal education curricula.

Based on this solid institutional and legislative background, Canada commits to actively pursue the *implementation of human rights domestically*, including with respect to racism, indigenous people and the protection of children.

The Permanent Mission of Canada to the United Nations

La Mission permanente du Canada auprès des Nations Unies

Note n° 0168

La Mission permanente du Canada auprès des Nations Unies présente ses compliments au Président de la soixantième session de l'Assemblée générale des Nations Unies et suite à sa note no. 1050 du 4 avril 2006, annonçant la candidature du Canada aux élections au Conseil des droits de l'homme, et conformément à la résolution A/RES/60/251, a l'honneur de transmettre un document explicitant le concours que le Canada a apporté à la cause de la promotion et de la défense des droits humains et les contributions volontaires qu'il a annoncées et les engagements qu'il a pris en la matière.

Le gouvernement du Canada s'engage à contribuer d'une manière positive pour s'assurer que le Conseil des droits de l'homme devienne un organe efficace pour la promotion et la défense des droits humains.

La Mission permanente du Canada auprès des Nations Unies saisit cette occasion pour renouveler au Président de la soixantième session de l'Assemblée générale des Nations Unies les assurances de sa très haute considération.

NEW YORK, le 10 avril 2006

Permanent Mission of Canada to the United Nations
La Mission permanente du Canada auprès des Nations Unies
New York

Conseil des droits de l'homme
Engagements du Canada

La promotion et la protection des droits de la personne fait partie intégrante des grands objectifs poursuivis par le Canada tant au plan national qu'en matière de politique étrangère. Le Canada est un ardent promoteur du système des droits de la personne des Nations Unies.

Action du Canada en faveur du Conseil des droits de l'homme

Le Conseil des droits de l'homme est une pièce maîtresse de l'appareil onusien relatif aux droits de la personne et, à ce titre, le Canada s'engage à :

- mettre en place, avec le concours de tous les intéressés, un *Conseil des droits de l'homme efficient et efficace*, qui met à profit les points forts et les enseignements de la Commission des droits de l'homme;
- réaliser le *mandat du Conseil* en matière de promotion et de protection des droits de la personne, et ce, par une action adéquate face aux violations des droits de la personne, par l'élaboration de normes, ainsi que par un accent sur la coopération et le dialogue;
- collaborer avec tous les États membres des Nations Unies à la recherche de méthodes nouvelles et inédites pour que les travaux du Conseil aient une incidence *directe, concrète et constructive* sur la promotion et la protection des droits de la personne dans le monde;
- participer de façon constructive *à l'examen des mandats ainsi qu'à l'élaboration des modalités d'un mécanisme d'examen périodique à caractère universel*, et à se soumettre à un tel examen;
- faire en sorte que le Conseil bénéficie de la *participation et de la contribution de la société civile*, y compris des organisations non gouvernementales et des institutions nationales;
- œuvrer, avec le concours de tous les intéressés, à la mise en place d'un régime de *procédures spéciales* essentiel à la réalisation d'un objectif prioritaire du Conseil, à savoir la mise en œuvre des obligations en matière de droits de la personne;
- renouveler son *invitation permanente à toutes les procédures spéciales* de visiter le Canada.

En 1999, le Canada a été l'un des premiers pays à émettre une invitation permanente aux procédures spéciales de la Commission des droits de l'homme. Depuis, il a reçu la visite des rapporteurs spéciaux chargés des déchets toxiques, des droits des migrants, des droits des peuples autochtones, de la lutte contre le racisme et du droit à des soins de santé, y compris, en 2005, celle du Groupe de travail sur les détentions arbitraires.

Le Canada a été réélu à la Commission des droits de l'homme pour la période de 2006 à 2007. Pendant tous ses mandats, le Canada a joué un rôle d'impulsion dans la création et la mise en œuvre de *normes et standards* face à des enjeux cruciaux liés aux droits de la personne, y compris les droits des peuples autochtones, la violence contre les femmes, la liberté d'expression, les exodes massifs, les organes créés par les traités internationaux, ainsi que les droits de l'enfant.

Le Canada joue un rôle de premier plan dans la lutte contre *l'impunité*. C'est ainsi qu'il est devenu partie au Statut de Rome de la Cour pénale internationale et qu'il appuie fermement différents tribunaux pénaux internationaux et hybrides. Par ailleurs, le Canada demeure résolument attaché au respect du droit humanitaire international et à la protection des réfugiés.

Soutien au Haut Commissaire des Nations Unies aux droits de l'homme et à la coopération internationale

Le Canada appuie le travail important réalisé par le Haut Commissariat des Nations Unies aux droits de l'homme. Le Canada a récemment augmenté sa contribution financière au profit du Haut Commissariat, de sorte qu'il est désormais l'un de ses principaux donateurs. Notre pays a en outre appuyé les efforts visant à doubler les crédits consentis au Haut Commissariat, au titre du budget ordinaire des Nations Unies. Le Canada s'engage à:

- fournir des *contributions financières* additionnelles, sans condition, au Haut Commissariat;

- appuyer des programmes de coopération internationale en matière de droits de la personne, égalité entre les sexes, protection des enfants, démocratie, bonne gouvernance et primauté du droit – le tout à suite de l'intérêt manifesté par de nombreux États envers le dialogue et la coopération.

Le Canada et les instruments de droits des la personne des Nations Unies

Le Canada a ratifié d'importants instruments des Nations Unies dans le domaine des droits de la personne: le Pacte international relatif aux droits civils et politiques (PIDCP); le Pacte international relatif aux droits économiques, sociaux et culturels (PIRDESC); la Convention internationale sur l'élimination de toutes les formes de discrimination raciale (CEDR); la Convention contre la torture et autres peines ou traitements, cruels, inhumains ou dégradants (CCT); la Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes (CEDEF); la Convention relative aux droits de l'enfant (CDE), et son Protocole facultatif concernant les enfants dans les conflits armés. De même, le Canada *a récemment ratifié* le Deuxième Protocole facultatif au PIDCP qui vise à abolir la peine de mort, ainsi que le Protocole facultatif à la Convention relative aux droits de l'enfant, contre l'exploitation sexuelle et la vente des enfants. Le Canada souscrit en outre aux compétences dévolues au titre des *mécanismes de plaintes* institués en vertu du Premier Protocole facultatif annexé au PIDCP et à la Convention relative aux droits de l'enfant, et aux termes du Protocole facultatif à la CEDEF.

Le Canada fait en outre partie des six pays dont les rapports à l'intention des organes institués en vertu des traités sont à jour. En mai 2006, le Canada aura ainsi complété, sur une période de quatre ans, la présentation de tous les rapports prévus aux six comités institués en vertu des traités. Des mécanismes de consultation ont été mis sur pied pour s'assurer que les gouvernements fédéral, provinciaux et territoriaux prennent connaissance des recommandations formulées par les organes institués en vertu des traités et les examinent attentivement. Les recommandations des comités sont également accessibles au public.

S'agissant des instruments des droits de la personne des Nations Unies, le Canada s'engage à:

- présenter, dans les délais appropriés, ses *rapports* aux organes créés en vertu d'instruments internationaux, et à participer à un dialogue constructif avec les membres de ces mêmes instances;
- oeuvrer, avec le concours de ces instances et des principaux intéressés, au *renouvellement et à la réforme* du système onusien au regard des organes conventionnels;
- envisager la signature ou la ratification ultérieure *d'autres instruments* des droits de la personne, tel que le Protocole facultatif à la Convention contre la torture.

Droits de la personne au Canada

Au plan national, le Canada s'attache à promouvoir et à protéger les droits de la personne et l'égalité entre les sexes par l'application de la *Charte canadienne des droits et libertés*. Les pouvoirs publics fédéraux, provinciaux et territoriaux ont aussi mis en place des normes de droits de la personne et des instances chargées de les faire appliquer, telles que la Commission canadienne des droits de la personnes qui joue un rôle crucial dans la promotion du droit à l'égalité au Canada.

Le Canada compte en outre une société civile très dynamique qui joue un rôle important dans la promotion des droits de la personne, tant au niveau national qu'international. Le Canada collabore avec la société civile en ce qui concerne de nombreux aspects des droits de la personne, et ce, dans un esprit de coopération et de dialogue.

Tous les gouvernements au Canada mettent en oeuvre des programmes d'éducation publique reliés aux droits de la personne, y inclus dans le système d'éducation formel.

S'appuyant sur cette solide base législative et institutionnelle, le Canada s'engage à travailler activement à la *mise en oeuvre des droits de la personne au niveau national*, incluant en matière de racisme, peuples autochtones, et protection de l'enfant.

United Nations A/62/771

General Assembly

Distr.: General
28 March 2008

Original: English

Sixty-second session
Agenda item 113 (d)
Elections to fill vacancies in subsidiary organs and other elections: election of fifteen members of the Human Rights Council

Note verbale dated 14 March 2008 from the Permanent Mission of Ghana to the United Nations addressed to the President of the General Assembly

The Permanent Mission of the Republic of Ghana to the United Nations presents its compliments to the President of the General Assembly at its sixty-second session and has the honour to inform him that the Government of Ghana has decided to present its candidature to the Human Rights Council for the term 2008-2011 in the elections to be held in May 2008, during the sixty-second session of the General Assembly, in New York.

In accordance with General Assembly resolution 60/251, an aide-memoire on Ghana's achievements, voluntary pledges and commitments towards the universal promotion and protection of human rights is attached (see annex).

08-28894 (E) 020408

Annex to the note verbale dated 14 March 2008 from the Permanent Mission of Ghana to the United Nations addressed to the President of the General Assembly

Aide-memoire

Voluntary pledges and commitments of Ghana in accordance with resolution 60/251

Ghana's Membership of the Human Rights Council

- Ghana has since the formation of the Human Rights Council participated actively in its debates and participated in other activities of the Council, thereby contributed effectively to the Councils collaborative effort to build the consensus necessary for the promotion and protection of human rights around the world.

- Ghana has pursued a consistent policy of non-politicisation of the work of the Council, and worked to ensure objectivity in the Councils debates and decisions. Consequently, she has consistently urged the Council to focus on the enhancement of international cooperation for the promotion and protection of human rights.

- As a member of the Council, she has articulated and pursued the interests of victims of human rights abuses around the world. Through active participation, she has also followed a policy of cooperation and engagement even during periods of disagreement to ensure decisions in favour of human rights promotion.

International commitments

- Ghana was among the first members of the African Union to subscribe to the African Peer Review Mechanism to be peer reviewed. In the same vein, it welcomed the system of Universal Periodic Review (UPR) of the Human Rights Council and stands ready to be reviewed in May 2008 during the second session of the first cycle of the UPR.

- Ghana fully cooperates with human rights treaty bodies by duly submitting its periodic reports and endeavour to implement their concluding observations and recommendations.

- In cooperation with the United Nations Special Procedures, the Special Rapporteur on Violence Against Women, its Causes and Consequences, Ms. Yakin Erturk, undertook a mission to Ghana from 7 to 14 July, 2007 and enjoyed the invaluable support and cooperation of the competent Ghanaian authorities and civil society organizations.

Ghana is party to key international human rights instruments including:

- **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**
- **International Covenant on Civil and Political Rights**
- **Optional Protocol to the International Covenant on Civil and Political Rights**
- **Convention on the Elimination of All Forms of Discrimination against Women**
- **Convention on the Elimination of All Forms of Racial Discrimination**
- **International Covenant on Economic, Social and Cultural Rights**
- **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**
- **Convention on the Rights of the Child**
- **Rome Statute of the International Criminal Court**

Ghana has also signed the following:

- **Convention for the Protection of All Persons from Enforced Disappearance**
- **Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women**
- **Convention on the Rights of Persons with Disabilities**
- **Optional Protocol to the Convention on the Rights of Persons with Disabilities**
- **Optional Protocol to the Convention on the Rights of the Child on children in armed conflict**
- **Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography**

- In March 2007, Ghana was one of the first countries to sign the Convention on the Rights of Persons with Disabilities which is a clear demonstration of its solidarity and belief in a life with dignity for all and that all human beings are equal. The competent Ghanaian authorities are working to facilitate domestic procedures for ratifying the Convention as early as possible. Moreover, domestic laws related to the disabled have been revised to fall in line with the newly adopted Convention.

- Ghana is also party to the Convention relating to the Status of Refugees and the 1967 Protocol, the Geneva Conventions of 12 August 1949, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) and the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the

Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity.

- Ghana is a party to the African Charter on Human and Peoples' Rights and to the Protocol Establishing the African Court on Human and Peoples' Rights (ACHPR).

- Measures are being taken at the national level to ratify or accede to all international human rights instruments to which Ghana is not yet party.

- Ghana's commitment to the tenets of democracy, human rights and the rule of law and good governance have carved for her the image of a highly democratic African country. It has fulfilled its obligations in respect of international human rights and humanitarian law and has over the last decade worked closely with the UNHCR to offer a home away from home for refugees in the West Africa sub-region.

Human rights at home

- The Government of Ghana is fully committed to the promotion and protection of human rights. In consonance with that commitment, Ghana has made an open-ended provision in the 1992 Constitution of the Republic of Ghana in Article 33(5) of Chapter 5 on fundamental human rights and freedom as follows:

> *The rights, duties, declarations and guarantees relating to the fundamental human rights and freedoms specifically mentioned in this chapter shall not be regarded as excluding others not specifically mentioned which are considered to be inherent in a democracy and intended to secure the freedom and dignity of man.*

- The Constitution of Ghana also guarantees respect for the economic, cultural and social rights of her citizens. In this spirit, Ghana has implemented extensive legislation provisions that protect human rights in an open and democratic political culture.

- A conducive environment that does not tolerate violations of the rights of all Ghanaians has been created. The Commission for Human Rights and Administrative Justice, a constitutional body monitoring human rights and dealing with violations and educating the public on human rights, is in place.

- As an eloquent manifestation of our commitment to and the protection of children and gender balance, the Ministry of Women and Children's Affairs with Cabinet status continues to pursue various programmes and projects for women's empowerment and gender equality and child rights.

- Ghana is committed and responding to the calls to implement the Declarations and Plans of Action towards Africa Fit for Children and the World Fit for Children. An Early Childhood Development/HIV/AIDS as well as Orphans and Vulnerable Children (OVC) policies have been developed and community based organizations (CBOs) working on HIV/AIDS have been trained and equipped with skills to respond to the special needs of children infected and affected by HIV and AIDS.

- Annual national campaigns on integrated child health comprising immunization, distribution of free insecticide treated bed nets and Vitamin 'A' supplementation have been institutionalized and no child in Ghana has died from measles disease in the last four years and we are on course to be certified as a polio free country.

- Having conducted a research into violence against children, Ghana has started the process towards developing a National Plan of Action on violence against children. On this note, Ghana fully supports the General Assembly's decision in December 2007 appointment of a Special Representative on violence against children, for a period of three years, to act as a high-profile and independent global advocate for the prevention and elimination of all forms of violence against children.

- Ghana enacted legislation against Human Trafficking in 2005 and has developed a comprehensive National Plan of Action to implement the legislation. A cross sectoral Human Trafficking Management Board and a Human Trafficking Fund have been established to facilitate execution. In addition, Ghana has entered into multilateral and bilateral cooperation agreements with neighbouring countries to effectively combat trafficking in persons especially children across our borders.

- The Government of Ghana recognizes the threat that violence against women poses to women's empowerment, and thus, for many years, has exhibited strong political will and enacted laws that are needed to truly end such atrocities and ensure equal rights for women in all aspects of life.

- Several pieces of legislation are in place to prohibit negative cultural practices which impede the development of women such as ritual servitude and FGM, harmful widowhood rites, early marriages, violence and sexual exploitation and abuse, discriminatory food allocations and taboos and practices relating to health and well being of women and children.

- Domestic Violence and Victim Support Units (DOVVSU) of the Ghana Police Service have been established throughout the country to promote protection of women and children from domestic violence, abuse and neglect. The Units activities have brought into scrutiny some pertinent issues in both the domestic setting and the workplace.

- To provide the requisite legal framework for the activities of DOVVSU, the Parliament of Ghana in February, 2007, passed the Domestic Violence Act 2007, (Act 732) marking yet another milestone in our commitment to human rights and specifically the rights of women. The Government now is developing a comprehensive National Domestic Violence Action Plan to ensure its implementation.

- Further legislative reforms to ensure equal rights between women and men culminated in the enactment of a law on the property rights of spouses that give both spouses equal access to property acquired during marriage in situations of divorce or separation.

- Ghana fosters an environment that allows space for and encourages the work of human rights defenders and journalists for human rights.

- Ghana has over the last decade worked closely with UNHCR to serve as an oasis of peace, security and stability for refugees in the West Africa sub-region and fulfilled its obligations in respect of international human rights and humanitarian law.

- Ghana has also provided training on the prevention of violence and response to sexual and gender based violence to the refugee community, police personnel and members of the neighbourhood watch teams under the auspices of the UNHCR programme.

- Additionally, police and military institutions and Women Constituencies are engaging to develop Ghana's Plan of Action on implementation of Security Council Resolution 1325 on Women Peace and Security.

Ghana and human rights in the future

The Government of the Republic of Ghana reiterates its longstanding resolve that human rights should be approached in a dialogue-based and constructive manner and voluntarily commits itself to the following:

- **to continue to participate actively in the work of the Human Rights Council;**
- **to continue to strengthen policies for the advancement of women to eliminate laws that continue to discriminate against women;**
- **reiterates its commitments to the survival, development, protection, of children in issues that affect their well being and above all in their best interest;**
- **to maintain a standing invitation to all United Nations Special Procedures;**

- **to continue to cooperate fully with UN human rights treaty bodies and promptly submit its periodic reports to treaty bodies;**
- **to remain committed to strengthening the Council to enable it achieve its aims and objectives.**

NEW YORK, 10 MARCH, 2008

United Nations A/61/718

General Assembly

Distr.: General
29 January 2007

Original: English

Sixty-first session
Agenda item 105 (e)
Elections to fill vacancies in subsidiary organs and other elections: election of fourteen members of the Human Rights Council

Note verbale dated 1 December 2006 from the Permanent Mission of India to the United Nations addressed to the Secretariat

The Permanent Mission of India to the United Nations presents its compliments to the Secretariat of the United Nations and has the honour to state that on the expiry of its one-year term, India has decided to present its candidature for re-election to the Human Rights Council for a three-year term, at elections to be held in New York in 2007. This information was conveyed to the Secretariat on 6 October 2006. In this connection, the Permanent Mission of India further has the honour to enclose a copy of the voluntary pledges and commitments by India for the information of the Secretariat (see annex).

07-22470 (E) 060207

Annex to the note verbale dated 1 December 2006 from the Permanent Mission of India to the United Nations addressed to the Secretariat

Voluntary pledges and commitments by India

India is seeking re-election to the Human Rights Council at the elections to be held at the UN General Assembly in New York in May 2007.

India has a long tradition of promoting and protecting human rights. It was privileged to be in the forefront of the struggle against apartheid since even before India's independence. India's commitment to promoting and protecting human rights flows from the realization that in a truly pluralistic society, the growth and well being of citizens can only be guaranteed through a culture of protection and promotion of human rights.

The Indian Constitution enshrines India's commitment to human rights by guaranteeing to its citizens fundamental political and civil rights. Special provisions for the progressive realization and enforcement of economic, social and cultural rights have also been provided for constitutionally. India has taken an important initiative for the empowerment of women by reserving one-third of all seats for women in urban and local self-government, thus bringing over one million women at the grassroots level into political decision making. With the launch of the National Rural Employment Guarantee programme on February 1, 2006, the right to work has been operationalized in India. The Protection of Women from Domestic Violence Act enacted by the Indian Parliament in 2005 provides immediate and emergency relief to women in situations of domestic violence. Reflective of India's commitment to eliminate child labour, a ban on employment of children under-14 years as domestic help or at eateries came into force in India with effect from 10 October 2006.

The independent and impartial Indian judiciary has delivered far-reaching pronouncements on the protection and promotion of human rights. Far-reaching measures taken by the Supreme Court of India include Public Interest Litigation, by which the Supreme Court can be moved by any individual or group of persons highlighting the question of public importance for invoking this jurisdiction. The Supreme Court of India has recognized the justiciability of some economic and social rights as an extension of the Right to Life. The National Human Rights Commission, a powerful and independent body, monitors human rights developments in India and shares its experience and expertise with its counterparts in other countries. The free and independent media in India plays a crucial role in promoting respect for and monitoring of human rights. Civil society in India is among the most vibrant anywhere the world.

India is a committed supporter of the UN human rights system and the promotion and protection of human rights is ingrained in its domestic and foreign policy. It has been active in deliberations on human rights in international fora and in the development of widely accepted international norms. India is a large, democratic, multi-ethnic, multi-religious, multi-lingual, and multi-cultural society, whose continued presence on the Human Rights Council would bring a perspective of straddling all divides of pluralism, moderation and balance from a country that has consistently demonstrated in practice its commitment to human rights and

fundamental freedoms. Against this backdrop, India voluntary makes the following pledges and commitments:

- India will abide by its national mechanisms and procedures to promote and protect the human rights and fundamental freedoms of all its citizens.
- India will maintain the independence, autonomy as well as genuine powers of investigation of national human rights bodies, including the National Human Rights Commission, National Commission for Women, National Commission for Minorities, National Commission for Scheduled Castes and Scheduled Tribes, and National Commission for Backward Classes, as mandated by Indian constitution and laws.
- India will foster a culture of transparency, openness and accountability in the functioning of the Government, as enacted in the Right to Information Act.
- India will continue to encourage efforts by civil society seeking to protect and promote human rights.
- India will continue to work towards the progressive realization of the right to work.
- India will expand the implementation of its Rural Employment Guarantee Programme, which provides for 100 days of assured employment annually to every rural household in the country.
- India will continue to promote the social, economic and political empowerment of women in India by affirmative actions, gender mainstreaming in national planning, gender budgeting and formation of women self-help groups. India will work towards elimination of discrimination and violence against women through legislative measures as well as effective implementation of existing policies.
- A National Commission for the Protection of Child's Rights would be set up for the speedy trial of offences against children or of violation of child's rights.
- India will work to make the Human Rights Council a strong, effective and efficient body capable of promoting and protecting human rights and fundamental freedoms for all.
- India will engage constructively in the evolution of modalities and mandates of the Human Rights Council, and in the reform of the UN human rights machinery.
- India will participate actively in the work of the Human Rights Council in norm-setting in the field of human rights.
- India will participate constructively in developing modalities for universal periodic review by the Human Rights Council and in reviewing and strengthening the system of Special Procedures and other expert mechanisms of the Council.
- India will continue to support the Office of the UN High Commissioner of Human Rights, including through regular voluntary contributions.

- India will strive for the full realisation of civil, political, economic, social and cultural rights, including the right to development.
- India will continue to support UN bodies such as UNICEF, UNIFEM, UNFPA, UN Democracy Fund, etc., that have a role in contributing to the protection and promotion of human rights.
- India will work with UN Member States and relevant UN bodies for reform of the UN treaty-body system.
- India will work for the world-wide promotion and protection of human rights, based on the principles of cooperation and genuine dialogue.
- India will cooperate with States, upon request, in their implementation of human rights obligations through capacity building by way of technical cooperation, human rights dialogues and exchange of experts.
- India will continue to actively support domestic and international processes that seek to advance empowerment of women and women's rights and gender equality.
- India will continue to actively support domestic and international processes that advance the rights of the child.
- India will work for the implementation of the Beijing Declaration and Platform of Action, the Copenhagen Declaration and Plan of Action, and the outcomes of other major UN international conferences.
- India will continue to support efforts directed at the adoption of a Declaration on the Rights of Indigenous Peoples.
- India will support the adoption of the Convention on the Rights of Persons with Disabilities during the 61st Session of the UN General Assembly.

HA 24/06

The Permanent Mission of Malaysia to the United Nations presents its compliments to the secretariat of the United Nations and, with reference to its note no. HA 20/06 dated 12 April 2006 informing the Secretariat of the candidature of Malaysia to the Human Rights Council, has the honour to enclose herewith an Aide Memoire detailing Malaysia's voluntary pledges and commitments in accordance with Resolution A/RES/60/251 of 15 March 2006.

The Permanent Mission of Malaysia highly appreciates the kind assistance of the Secretariat in posting the enclosed Aide Memoire on Malaysia's candidature to the Human Rights Council on the General Assembly website.

The Permanent Mission of Malaysia to the United Nations avails itself of this opportunity to renew to the Secretariat of the United Nations the assurances of its highest consideration.

New York, 28 April 2006

Secretariat of the United Nations
New York

Attn: Department of General Assembly
and Conference Management
Room: S-2925A
Fax: (212) 963 2155

MALAYSIA'S CANDIDATURE TO THE UNITED NATIONS HUMAN RIGHTS COUNCIL

AIDE-MEMOIRE

Malaysia, a member of the Commission on Human Rights prior to it being dissolved, is seeking election to the new Human Rights Council (HRC) at the elections to be held by the United Nations General Assembly on 9 May 2006.

2. Malaysia, since attaining independence in 1957, upholds that the promotion and protection of all human rights as an indispensable aspect in the process of nation building. Consistent with the Universal Declaration of Human Rights (UDHR), successive Malaysian Governments have made the guarantee of the individual's fundamental rights and liberties, as enshrined in the Constitution, the cornerstone of its policies and programmes, while noting that all individuals have duties and responsibilities to the community to ensure the continued enjoyment of peace, stability and prosperity.

3. The respect that the Malaysian Government has for each individual's rights is clearly manifested in the fact that free, fair and peaceful General Elections have been held consistently without fail since independence for the people to elect their representatives to the various branches of Government within the nation's democratic system. Universal suffrage has been a principal feature in each election.

4. Another manifestation of the importance that the Government attaches to the enjoyment of all human rights and fundamental freedoms is the promotion of a free media, including in cyberspace, as well as the encouragement of vibrant and active civil societies.

5. As a nation with a multi-ethnic and multi-religious society, Malaysia is confident that its experience in managing a plural society would bring an important dimension to the work of the new Human Rights Council. Malaysia recognizes that the stability of any multiethnic society depends on a spirit of mutual tolerance and respect for diversity which is based on an inclusive and responsive political and legal system, which balances civil and political rights such as the freedom of expression and opinion and the wider needs of such a society.

6. Laws, regulations and institutions related to human rights in Malaysia continue to evolve in step with the increasing aspirations of a democratic society. One of the measures was the establishment of the National Commission on Human Rights (SUHAKAM) in 1999. SUHAKAM monitors human rights developments in Malaysia and is entrusted *inter-alia* with powers to investigate complaints regarding alleged human rights violations. Over and above its investigative function, SUHAKAM is also active in promoting a culture of human rights, particularly through education not only in schools but also within government institutions, such as the police force. SUHAKAM is also involved in activities at the regional and international levels.

7. The increasing threat posed by terrorism worldwide has highlighted the importance of balancing security concerns with the preservation of individual liberties. Malaysia believes that it has achieved this balance, drawing on its experience in combating the armed insurgency by forces aiming to dismantle the democratic government in the early years of its independence. The events of September 11 have also given rise to the misperception that democracy and human rights are incompatible with Islam and countries in which Islam is the dominant religion. Malaysia's record in this regard disproves this misperception. These achievements would not have been possible if individual rights and freedoms are not respected.

8. Beyond civil and political rights, the Malaysian Government has also sought to fulfill its responsibilities with regard to economic, social and cultural rights. As an example of this commitment, the Malaysian Government has consistently allocated the largest proportion of the annual budget to education. Having achieved many of the goals set out in terms of primary education, the Government is now endeavoring to expand the tertiary education system, not only as a means of strengthening the right to education but also in order to better equip Malaysians to meet the challenges posed by globalisation.

9. Malaysia is fully aware that good governance, integrity in the public sector and transparency in the Government's activities are essential if the goals of full enjoyment of human rights and fundamental freedoms are to be achieved. Towards this end, the National Integrity Plan (PIN) was launched on 23 April 2004, which is aimed at, among others, to:

9.1 Continuously and effectively combat and reduce the incidence of corruption, malpractices and abuse of power;
9.2 Enhance efficiency in the delivery system of the civil service and to reduce unnecessary inefficiencies;
9.3 Improve corporate governance and business ethics; and
9.4 Strengthen the family institution.

10. To ensure that these aims are achieved, the Government formed the Malaysian Integrity Institute, whose functions include to:

10.1 Undertake research and conduct training and education pertaining to community and institutional integrity;
10.2 Develop a database on ethics and integrity;
10.3 Formulate policies to enhance ethics and integrity as well as advising the Government on programmes to enhance integrity; and
10.4 Continuously monitor and ensure the implementation of the Plan.

11. Malaysia will continue to take proactive and innovative measures to further promote and protect human rights and fundamental freedoms in the country.

12. At the international level, Malaysia has been a member of the Commission on Human Rights (CHR) for four terms, and was a member of that body for the term 2005-2007 when the Commission on Human Rights was dissolved, to be replaced by the Human Rights Council. As an active and committed member of the Commission, Malaysia has contributed constructively in its deliberations. Malaysia is determined to continue to do so in the work and activities of the newly established Human Rights Council if elected to the membership.

13. Malaysia believes that the new Human Rights Council has an important role to play in the universal promotion and protection of human rights and in ensuring the effective enjoyment by all of all human rights. In order to achieve these lofty goals, the Human Rights Council needs to be made strong, fair, effective and efficient, and free of acrimony and undue politicization.

14. Towards this end, Malaysia pledges to:

14.1 Engage constructively in evolving modalities of work of the Human Rights Council with the aim of making it a strong, fair, effective, efficient and credible vehicle for the promotion and protection of human rights worldwide;

14.2 Support the work of the Office of the High Commissioner for Human Rights;

14.3 Continue to participate actively in the norm-setting work of the Human Rights Council;

14.4 Work towards fostering a spirit of cooperation in the Human Rights Council, free from acrimony and politicization, based on the principles of mutual respect and dialogue;

14.5 Promote greater coherence between the work of the Human Rights Council with other United Nations agencies and actors in achieving internationally agreed targets and goals, such as the Millennium Development Goals and those contained in the Vienna Declaration and Plan of Action, the Beijing Declaration and Platform of Action, the Copenhagen Declaration and Plan of Action as well as the Cairo Declaration and Programme of Action;

14.6 Actively support international action to advance the rights of vulnerable groups such as women, children and the disabled.

.....

PERMANENT MISSION OF THE REPUBLIC OF MAURITIUS TO THE UNITED NATIONS

MISSION PERMANENTE DE LA REPUBLIQUE DE MAURICE AUPRES DES NATIONS UNIES

Note No. 7394/06 (Ref: NY/UN/957/E) 6 April 2006

The Permanent Mission of the Republic of Mauritius to the United Nations presents its compliments to the President of the 60th Session of the United Nations General Assembly and has the honour to inform that the Government of the Republic of Mauritius has decided to present its candidature for membership to the United Nations Human Rights Council at the elections to be held during the General Assembly of the United Nations session in New York on 9 May 2006.

Mauritius attaches the utmost importance to the promotion and protection of human rights and supports all international and regional efforts aimed at the advancement of human rights and fundamental freedoms, democracy and good governance and rule of law.

Mauritius is a party to all major international human rights instruments and always upholds the primary role of the United Nations in the promotion and protection of human rights. The establishment of the Human Rights Council strengthens further the human rights system within the United Nations and in seeking membership in the newly created Council, Mauritius underscores its firm commitment to contribute effectively in the work and activities of the Council.

The Government of the Republic of Mauritius is also deeply committed to uphold the highest standards in the promotion and protection of human rights and will shortly submit its voluntary pledges and commitments in accordance with resolution A/RES 60/251.

The Permanent Mission of the Republic of Mauritius to the United Nations avails itself of this opportunity to renew to the President of the 60th Session of the United Nations General Assembly the assurances of its highest consideration.

MAURITIUS MISSION TO THE UNITED NATIONS NEW YORK

President of the 60th Session of the
United Nations General Assembly
New York

211 East 43rd Street • New York, N.Y. 10017 • Tel: (212) 949-0190 • Fax: (212) 697-3829

PERMANENT MISSION OF THE REPUBLIC OF MAURITIUS TO THE UNITED NATIONS

MISSION PERMANENTE DE LA REPUBLIQUE DE MAURICE AUPRES DES NATIONS UNIES

Note No. 7526 /06 (Ref: NY/UN/957/I)

21 April 2006

The Permanent Mission of the Republic of Mauritius to the United Nations presents its compliments to the President of the 60th Session of the United Nations General Assembly and with reference to the Note No. 7394/06 of 6 April 2006, regarding the candidature of the Republic of Mauritius to the United Nations Human Rights Council, has the honour to forward herewith its voluntary pledges and commitments in accordance with Resolution A/RES/60/251.

The Permanent Mission of the Republic of Mauritius to the United Nations avails itself of this opportunity to renew to the President of the 60th Session of the United Nations General Assembly the assurances of its highest consideration.

MAURITIUS MISSION TO THE UNITED NATIONS NEW YORK

The President of the 60th Session
of the United Nations General Assembly
New York

211 East 43rd Street • New York, N.Y. 10017 • Tel: (212) 949-0190 • Fax: (212) 697-3829

MAURITIUS

Voluntary Pledges and Commitments in accordance with Resolution A/RES/60/251

The Republic of Mauritius has always been committed to the promotion and protection of Human Rights at national, regional and international levels. The Government of Mauritius strongly believes that citizens should be at the core of all forms of human rights including the right to economic, cultural and social development and that the people should enjoy all their political and civil rights indiscriminately and irrespective of their status. Mauritius is party to most of the core international human rights instruments and has enacted comprehensive legislation for the protection and promotion of human rights and fundamental freedoms and ensures their implementation.

National Level

- The respect and protection of human rights is enshrined in the Constitution of Mauritius and since its independence, the Republic of Mauritius remains deeply committed to building a civil society based on democracy, good governance, rule of law and protection of human rights and fundamental freedoms.

- The National Human Rights Commission was set up in April 2001 under the Protection of Human Rights Act 1998 in line with the United Nations guidelines governing such institutions.

- The Commission ensures that there is compliance with the fundamental rights and freedoms of the individual enshrined in Chapter II of the Constitution. It also has the power to enquire into any written complaints from any person alleging that any of his human rights has been, is being or is likely to be violated by the act of omission of any other person acting in the performance of any public function conferred by any law or otherwise in the performance of the functions of any public office or any public body. The Commission can equally enquire into any other written complaint from any person against an act or omission of the police force in relation to him. Visits can be effected to any police station, prison or other place of detention under the control of the State to study the living conditions of the detainees and the treatment afforded to them. In 2003, a Sex Discrimination Division was

created within the National Human Rights Commission under the Sex Discrimination Act 2002 to deal with cases of sex discrimination and sexual harassment. The Sex Discrimination Division also has the power to deal with complaints within the private sector as well.

- The Office of the Ombudsperson for children was established under the Ombudsperson for Children Act in 2003. The Ombudsperson for Children has the duty of promoting compliance with the Convention on the Rights of the Child (CRC) and investigating possible violations of the rights of a child.

- In December 2005, the Child Protection Act was amended in order to provide for the offences of 'child trafficking', 'abandonment of child' and 'abducting child'.

- Regarding the issue of child abuse and child prostitution, Mauritius signed in 2001 the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. Mauritius also acceded to the United Nations "Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime" in September2003.

- Mauritius is currently considering the following legislative measures to promote Human Rights :

  (i) The Equal Opportunities Bill;

  (ii) A Draft Bill for the Family Court;

  (iii) An amendment to the law on custodial sentences for civil debtors;

  (iv) A Disability Discrimination Bill which will include inclusive education for disabled children;

  (iv) An HIV/AIDS Bill;

  (v) Reform of the law dealing with administration of juvenile justice;

  (vi) A Children's Act which will review all legislations pertaining to children.

- With the help of UNDP, Mauritius has developed a national human rights strategy on 10 December 2005. There is provision for setting up a HUMAN RIGHTS CENTRE with regional sub-centre all over the island and one in Rodrigues. The Centre will be a Resource Centre to sensitize people about Human Rights and International Instruments.

Regional Level

- Mauritius has signed the African Charter of Human and People's Rights and ratified the said Charter on 19 June 1992. Mauritius has equally signed the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa at the Abuja AU Meeting in January 2005. Mauritius has, however, made reservations on Articles 6(b), 6(c), 10(2)(d), 11 and 14(2) (c). Mauritius has further ratified the African Charter on the Rights and Welfare of the Child and the Protocol to the African Charter on Human and People's Rights on the establishment of the African Court on Human and People's Rights.

- Mauritius has hosted a series of conferences/meetings on human rights issues. In relation to the African Court of Justice, Mauritius hosted both the meeting of Experts/Judges and Permanent Representatives from 4 – 6 June 2003 and the First Ministerial Meeting of Ministers of Justice of the African Union from 7 – 8 June 2003 at the Grand Bay International Conference Centre. A seminar was organized on « *Sensibilisation sur la ratification et la mise en oeuvre du statut de Rome de la Cour Pénale internationale* » from 27 – 29 May 2002 jointly by the Attorney-General's Office and the « Agence Intergouvernementale de la Francophonie ».

  From 10 – 12 September 2003, the Office of the United Nations High Commissioner for Human Rights in collaboration with the Attorney General's Office, organised a Regional Workshop on Human Rights and Good Governance.

  Mauritius has also hosted the "Rencontre Conjointe du Bureau du Comité de Suivi de la Conférence des Structures Gouvernementales Chargées des droits de l'Homme dans l'Espace Francophonie et des Réseaux Institutionnels de la Francophonie » from 19 – 21 July 2005.

- Mauritius is one among the first African countries to have volunteered to be reviewed under the NEPAD Peer Review Mechanism.

International Level

- Mauritius pursues a policy of active cooperation with international organizations and their respective bodies and institutions in the field of human rights and fundamental freedoms. It is deeply committed to uphold the highest standards in the promotion and protection of human rights.

- Mauritius upholds the primary role of the United Nations in the promotion and protection of human rights.

- Mauritius was a member of the Commission on Human Rights in 1971-1973, 1993-1995 and 1999-2001.

- Mauritius is party to six of the seven core international human rights treaties as follows -
  (i) The International Convention on the Elimination of All Forms of Racial Discrimination;
  (ii) International Covenant on Civil and Political Rights;
  (iii) International Covenant on Economic, Social and Cultural Rights;
  (iv) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and
  (v) Convention on the Rights of the Child (CRC).
  (vi) Convention on the Elimination of All Forms of Discrimination against Women.

- Mauritius has ratified the Optional Protocol of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

- Mauritius is also party to the Rome Statute of the International Criminal Court.

- Despite its limited resources, Mauritius has consistently fulfilled its reporting obligations by submitted regularly periodic reports to the various human rights treaties. Mauritius has also submitted reports to the various Committees monitoring the international treaties.

If elected to the Human Rights Council,

the Government of Mauritius undertakes to -

- continue to uphold the primacy of democracy, good governance and development as key tenets in the promotion of human rights of its citizens and strengthen national institutions that guarantee best these rights;

- continue to play a constructive role in the advancement of human rights and fundamental freedoms and further contribute to the enhancement of United Nations human rights activities;

- participate actively in the work of Council for the promotion and protection of all human rights in a spirit of impartiality, objectivity and non-selectivity, constructive dialogue and cooperation;

- be reviewed under the universal periodic review mechanism; and

- support international efforts to enhance inter cultural dialogue and understanding among civilizations, cultures and religions with a view to facilitate the universal respect for all human rights given that Mauritius is a multi-racial and multi-ethnic country.

United Nations A/63/794

General Assembly

Distr.: General
30 March 2009

Original: English

Sixty-third session
Agenda item 104 (c)
Elections to fill vacancies in subsidiary organs and other elections: election of eighteen members of the Human Rights Council

Letter dated 5 March 2009 from the Permanent Representative of Mauritius to the United Nations addressed to the President of the General Assembly

I have the honour to forward herewith the voluntary pledges and commitments of the Government of the Republic of Mauritius to the promotion and protection of human rights in accordance with resolution 60/251 in respect of the candidature of the Republic of Mauritius for re-election to the United Nations Human Rights Council.

(*Signed*) Somduth **Soborun**
Ambassador
Permanent Representative

09-28526 (E) 060409

Annex to the letter dated 5 March 2009 from the Permanent Representative of Mauritius to the United Nations addressed to the President of the General Assembly

Updated voluntary pledges and commitments

This document has been prepared in accordance with General Assembly resolution 60/251 in the context of the candidature of Mauritius for re-election to the Human Rights Council for the period 2009-2012.

1. The Republic of Mauritius has always been committed to the promotion and protection of human rights at the national, regional and international levels. The Government of Mauritius strongly believes that citizens should be at the core of all forms of human rights, including the right to economic, cultural and social development and that the people should enjoy all their political and civil rights indiscriminately and irrespective of their status.

2. Mauritius is party to the major international human rights instruments. It has enacted comprehensive legislation for the protection and promotion of human rights and fundamental freedoms and ensures their implementation.

National level

3. The respect for and protection of human rights is enshrined in the Constitution of Mauritius. Since its independence, the Republic of Mauritius has been deeply committed to building a society based on democracy, good governance, rule of law, and protection of human rights and fundamental freedoms.

(a) National Human Rights Commission

4. The National Human Rights Commission was set up in April 2001 under the Protection of Human Rights Act in line with the United Nations guidelines governing such institutions. It mainly enquires into any written complaints from any person alleging that any of his human rights has been, is being or is likely to be violated by the act or omission of any other person acting in the performance of the functions of any public office or any public body. It can equally enquire into any other written complaint from any person against an act or omission of a member of the police force. The National Human Rights Commission may, of its own motion, enquire where it has reason to believe that the act or omission is occurring or likely to occur.

5. In 2003, a Sex Discrimination Division was created within the National Human Rights Commission under the Sex Discrimination Act to deal with cases of sex discrimination and sexual harassment, including those cases in the private sector.

6. Amendments to the Protection of Human Rights Act are being contemplated with regard to the structure and composition of the National Human Rights Commission.

(b) The Judiciary

7. The Government of Mauritius is committed to making or supporting far-reaching reforms to the judicial sector with a view to improving the delivery of justice, as per the recommendations made by the Presidential Commission chaired by Lord Mackay of Clashfern. Amendments are to be made to the Constitution shortly to provide for a separate Court of Appeal and a first instance Court within the Supreme Court of Mauritius. Since January 2008, two Judges have been hearing criminal cases and two others have been hearing family law cases on a full-time basis with a view to clearing the backlog. As from January 2009, two Judges are hearing commercial cases on a full-time basis.

8. The Judicial Committee of the Privy Council sat for the first time in Mauritius in September 2008, in line with the ongoing reforms to the judicial system aimed at providing better access to justice to citizens of Mauritius.

(c) Office of the Ombudsperson for Children

9. The Office of the Ombudsperson for Children was established under the Ombudsperson for Children Act 2003. The Ombudsperson for Children has the duty of promoting compliance with the Convention on the Rights of the Child and investigating possible violations of the rights of the child.

(d) The Human Rights Centre

10. The Human Rights Centre which was inaugurated in August 2007 aims to be the main platform for the promotion of human rights in Mauritius. The Centre also acts as a channel for information and aims at making the public aware of existing institutions and laws so that they may better avail themselves of such.

11. In addition to its numerous tasks in matters of education and sensitization, the Centre also serves as one of the main human rights forum where:

(i) non-religious groups and associations, clubs and even political parties from all spheres are welcome to organize debates and meetings on human rights related issues;

(ii) foreign visitors in the field of human rights can hold conferences and talks on a regular basis. The members of the United Nations Subcommittee on Prevention of Torture met Mauritian stakeholders for discussions on the premises of the Human Rights Centre;

(iii) proper training can be given to various people from NGOs and trade unions who will in turn assist in empowering citizens at grass-roots level; and

(iv) all year round sessions can be held by local guest speakers, on a voluntary basis, from different spheres of society on different topics in the human rights area.

12. The Human Rights Centre initiates human rights campaigns and the publication of brochures and pamphlets on human rights issues.

13. The main Human Rights Conventions ratified by Mauritius and especially the rights contained therein will be widely disseminated to the general public.

(e) National Action Plan on Human Rights

14. Mauritius is at present finalizing a National Action Plan on Human Rights. This National Action Plan seeks to develop a strong culture of human rights in Mauritius by providing better protection for individuals, creating more effective programmes that enhance the quality of life for all, particularly vulnerable groups, and by improving national harmony. It also aspires to achieve promotion of greater awareness of human rights, both in the general public and in specific sectors. The overarching objective of the National Action Plan is to bring about tangible improvements in the observance of all categories of human rights.

15. The National Action Plan has been developed on the basis of realistic objectives and clear targets and covers a broad range of areas. It includes an overview of the international and national legal framework, a description of the different categories of human rights enjoyed by Mauritians, the role of national institutions and civil society and lays emphasis on the need for human rights education. It describes the actions taken so far in each field and the shortcomings which need to be overcome, and proposes measures to address these shortcomings. The National Action Plan also proposes specific time frames for the achievement of its objectives, with short, medium and long-term implementation of the measures. The provision of a time frame will ensure that those involved in realizing the targets of the Action Plan have a deadline to structure their activities and should ultimately facilitate monitoring and final evaluation.

(f) Legal aid

16. The legal aid system is being reviewed. In this context, proposals have been made by a working committee in a Green paper on legal aid in Mauritius. The Green paper addresses among other issues the new concept of legal aid, the application of legal aid, the eligibility test, the expansion and extension of legal aid services, the establishment of a Legal Aid Board and corporate social responsibility.

(g) Media law

17. The Government of Mauritius intends to review the media landscape and to bring about reform in media law. In this context, Geoffrey Robertson, Q.C., a well-known authority on media law in Commonwealth States, was invited by the Government in May 2008 to advise on the appropriate media framework for the benefit of both the public and the Government. During his visit, he interacted with media organizations and other stakeholders.

(h) Gender

18. Mauritius has developed a National Gender Policy Framework (2008) to provide broad guidelines for the implementation of gender mainstreaming strategies. The Gender Unit within the Ministry of Women's Rights, Child Development and Family Welfare monitors the implementation of gender mainstreaming strategies for the empowerment of women and the promotion of gender equality and equity. It conducts outreach activities at grass-roots level through 15 Women Centres, the National Women's Council, the National Women Entrepreneur Council, the National Women Development Centre and some 1,200 Women's Associations with respect to capacity-building, service delivery and sensitization campaigns for the empowerment of women, as well as gender mainstreaming at policy, programming

and output level with Ministries, Departments and other stakeholders in line with the National Gender Policy Framework and the recent reforms geared towards effective public financial management and performance management.

19. As from July 2008, the Gender Unit has been offering technical assistance to three pilot Ministries, namely the Ministry of Education, Culture and Human Resources, the Ministry of Youth & Sports and the Ministry of Labour, Industrial Relations & Employment to help them formulate their sectoral gender policies, so that programmes and performance indicators are gender-responsive and adequately reflected in the budget.

20. Concurrently, the different units of the Ministry of Women's Rights, Child Development and Family Welfare have also been involved in this exercise. The Ministry of Women's Rights, Child Development and Family Welfare and the above-mentioned three pilot Ministries have already finalized their sectoral policies.

21. The Ministry of Women's Rights, Child Development and Family Welfare is now in the process of replicating this exercise in four other Ministries, namely the Ministry of Agro-Industry, Food Production and Security, the Ministry of Finance and Economic Empowerment, the Ministry of Civil Service and Administrative Reforms and the Ministry of Social Security, National Solidarity and Senior Citizens Welfare & Reform Institutions.

(i) Legislative measures

22. **The Protection from Domestic Violence Act** which was enacted in 1997 and amended in 2004 and 2007 affords protection to the spouse of, as well as other persons living under the same roof as, a violent person. The Act provides for the issue of protection orders, occupation orders and tenancy orders by a Magistrate and affords protection against physical, emotional, sexual violence and even threatened violence. A person who has wilfully failed to comply with an order made under the Act may, in appropriate cases, be ordered to attend counselling sessions.

23. **The Protection of Elderly Persons Act 2006** provides for the protection of the elderly against abuse; persons who wilfully subject elderly persons to ill-treatment or wilfully fail to provide elderly persons under their care with adequate food, medical attention, shelter and clothing are liable to be prosecuted. The Welfare and Elderly Persons' Protection Unit of the Ministry of Social Security, National Solidarity and Senior Citizens Welfare & Reform Institutions organizes public awareness and sensitization campaigns on elderly persons' rights, receives complaints from elderly persons in need of protection and may apply to the Court for a protection order on their behalf.

24. **The HIV and AIDS Act** which was passed in 2006 provides for a rights-based approach to HIV and AIDS-related issues, and aims in particular at protecting persons living with HIV and AIDS from discrimination. One of the objects of the Act is to respond to the escalating HIV/AIDS epidemic being witnessed in Mauritius through enhanced HIV prevention programmes and scaled up national mechanisms for voluntary counselling and testing. Provision is made for the introduction of risk minimization interventions, namely the Needle Exchange Programme. The Civil Status Act was amended in order to allow marriages between a Mauritian citizen and a non-citizen who is HIV positive or has AIDS.

25. **The Truth and Justice Commission Act** which was passed in August 2008 provides for the setting up of the Truth and Justice Commission. The mandate of the Commission is to conduct inquiries into slavery and indentured labour during the colonial period in Mauritius, determine appropriate measures to be extended to descendants of slaves and indentured labourers, enquire into complaints made by persons aggrieved by dispossession or prescription of any land in which they claim to have an interest and prepare a comprehensive report of its activities and findings based on factual and objective information and evidence. The Commission is expected to complete its assignment and submit its report within 24 months from the start of its operations.

26. In order to reform the industrial relations framework, promote effective tripartism and strengthen dialogue with social partners, a **new Employment Relations Act** was passed in August 2008. The Act focuses on, inter alia, the protection and enhancement of the democratic rights of workers and trade unions, the simplification of the procedures for registration and recognition of trade unions, the promotion of collective bargaining, the promotion of voluntary settlement and peaceful resolution of disputes, the strengthening of the disputes and conflict resolution procedures and institutions to ensure speedy and effective settlement, the right to strike as a last resort after conciliation and mediation have failed and the building of a productive employment relationship.

27. **The Employment Rights Act** which was passed at the same time aims at achieving the flexibility needed for creating demand for labour, together with security needed to protect the worker as he or she switches between jobs. The object of the Act is to revise and consolidate the law relating to employment, contracts of employment or service, the minimum age for employment, hours of work, payment of remuneration and other basic terms and conditions of employment with a view to ensuring appropriate protection of workers. Both the Employment Relations Bill and the Employment Rights Bill were widely discussed with national stakeholders and experts from the International Labour Organization before they were introduced in the National Assembly.

28. **The Equal Opportunities Act** was passed in December 2008. It prohibits discrimination on grounds of age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex and sexual orientation in various spheres of activities, namely employment; education; the provision of accommodation, goods, services and other facilities; sports; the disposal of immovable property; companies, partnerships, "sociétés" or registered associations; admission to private clubs and premises open to members of the public. The Act also provides for the establishment of an Equal Opportunities Division within the National Human Rights Commission and an Equal Opportunities Tribunal.

29. **The Judicial Provisions Act** was passed in November 2008. One of the objects of the Act is to abolish fixed sentences and other mandatory sentences and to restore to the Courts their sentencing discretion in respect of all offences.

30. It is also intended to introduce a **Police Complaints Bill** in Parliament shortly. The Bill will provide for the setting up of an independent body which will deal with complaints made against police officers in respect of acts done in the execution of their functions. Consultations were held with the National Human Rights Commission and other stakeholders as well as with experts from the Independent Police Complaints Commission of the United Kingdom, the Office of the United

Nations High Commissioner for Human Rights and the United Nations Office on Drugs and Crime.

31. **A DNA Identification Bill** is currently being fine-tuned in consultation with all stakeholders. With the enactment of this legislation, criminal investigation will be operationally driven with intelligence generated by a DNA Database. The impending DNA Bill will allow the instant search for a match to the DNA fingerprint of each and every known criminal in the land. Appropriate safeguard measures will be taken in the drafting of the legislation to ensure an appropriate balance between the enhancement of security and the need to protect individual liberties.

32. **A Sexual Offences Bill** was referred to a Select Committee in 2007 for further study and consultation. The object of the Bill is to make further and better provision for sexual offences. In that context, a new definition of the offence of rape is provided, new categories of offences of sexual assaults are created in order to cover various acts of sexual perversions committed by offenders and provision is made for decriminalizing of sexual activities among consenting adults.

33. It is proposed to review the **Data Protection Act 2004** to harmonize it with the EU Directives on data protection. The Government held consultative meetings with stakeholders to consider proposed amendments to the Act.

34. Further to the latest recommendations of the Committee on the Rights of the Child, action has been initiated for the drafting of a **Children's Bill** to consolidate the various pieces of legislation covering all aspects of children's rights. Opportunity will be taken to, inter alia, review the law on juvenile justice and prosecution and detention of juveniles.

35. With a view to adopting a holistic approach to the problem of trafficking in persons and clustering the different provisions pertaining to trafficking under a comprehensive legislation, the **Combating of Trafficking in Persons Bill** is being finalized with the assistance of the United Nations Office on Drugs and Crime.

Regional level

36. Mauritius is party to the African Charter on Human and Peoples' Rights, the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights and the African Charter on the Rights and Welfare of the Child.

37. Mauritius has also signed the African Charter on Democracy, Elections and Governance and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

38. Mauritius has acceded to the African Peer Review Mechanism in July 2003 and was among the first countries to start the review process which covers four substantive thematic areas, namely Democracy and Political Governance, Economic Governance and Management, Corporate Governance and Socio-Economic Development. The National Economic and Social Council, an independent body, has been designated as the national focal point to oversee the process in Mauritius. Mauritius is currently finalizing its self-assessment report and is expected to be peer reviewed in the course of 2010.

39. Mauritius recognizes that the fight against poverty, development and human rights are interlinked and mutually reinforcing. It is in this spirit that Mauritius hosted the SADC International Conference on Poverty and Development in April 2008. The Conference agreed, inter alia, to work towards the establishment of a Regional Poverty Observatory to monitor progress made in the implementation of actions in the main priority areas of poverty eradication.

International level

40. Mauritius pursues a policy of active cooperation with international organizations and their respective bodies and institutions in the field of human rights and fundamental freedoms. It is deeply committed to upholding the highest standards in the promotion and protection of human rights.

(a) International commitments

41. Mauritius is party to the major international human rights treaties, namely:

(i) International Convention on the Elimination of All Forms of Racial Discrimination;

(ii) International Covenant on Civil and Political Rights;

(iii) International Covenant on Economic, Social and Cultural Rights;

(iv) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(v) Convention on the Rights of the Child; and

(vi) Convention on the Elimination of All Forms of Discrimination against Women.

42. Mauritius has withdrawn its reservation to article 22 of the Convention on the Rights of the Child following the concluding observations of the Committee on the Rights of the Child.

43. Mauritius ratified on 31 October 2008 the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and on 12 February 2009 the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

44. Mauritius, which became a party to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2005, was chosen, by a drawing of lots, as the first country to be reviewed under the Optional Protocol. It received the visit of the Subcommittee on Prevention of Torture from 10 to 18 October 2007.

45. During the course of their visit, members of the Subcommittee visited the Police facilities, Police Detention Centres, prisons and other institutions such as the Rehabilitation Youth Centre at Beau Bassin and the Shelter for Children and Women in Need. A National Preventive Mechanism, as provided for under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, has been set up administratively pending amendments to be brought to existing legislation to establish the legal framework under which the

National Preventive Mechanism is to operate. The Subcommittee submitted its report on its visit in Mauritius in July 2008. A High-Level Committee is looking into the implementation of the findings, observations and recommendations in the report. The **National Preventive Mechanism Bill** is in the process of being finalized.

46. Mauritius signed the Convention on the Rights of Persons with Disabilities on 25 September 2007 and is committed to upholding and applying its provisions. The Government has come up with a Policy Paper and Plan of Action on Disability which contains a series of measures relating to health, education, training, employment, human rights, sports, leisure, transport, communication and accessibility. In this context, an Implementation and Monitoring Committee has been set up to work on the implementation of the recommendations of the Action Plan and early ratification of the Convention.

47. Mauritius is determined to continue to cooperate with the various treaty bodies and to follow up closely on their concluding observations/recommendations.

(b) Membership of the Human Rights Council

48. As a founding member of the Human Rights Council, elected in 2006 for a three-year term, Mauritius has worked with the international community in a spirit of dialogue, cooperation, and objectivity to build the institutional architecture of the Council and also to promote and protect the universal enjoyment of all human rights.

49. It has engaged constructively in the deliberations of the Council, its subsidiary bodies and mechanisms and has supported important initiatives aimed at strengthening the human rights normative framework and addressing human rights challenges. A Mauritian national is also currently serving on the Human Rights Council Advisory Committee.

50. During its membership of the Council, Mauritius has consistently pursued a policy of non-politicization and non-confrontation to help ensure that each human rights issue or situation is addressed in the most effective and efficient manner and in the interest of the victims.

51. At the same time, Mauritius has made every effort to honour the pledges it made in 2006 while seeking membership of the Human Rights Council. It believes that it has lived up to and continues to honour these pledges through the action it has undertaken at domestic and international levels.

52. As a supporter of the United Nations human rights system and in view of its firm commitment to upholding the highest standards of human rights, Mauritius is seeking re-election to the Council to contribute further to the promotion and protection of human rights worldwide.

53. **If re-elected to the Human Rights Council, Mauritius pledges to:**

(i) maintain an active and constructive engagement in the work of the Human Rights Council and its mechanisms as well as continue to play its role as a consensus-builder in norm-setting in the field of human rights;

(ii) remain committed to strengthening the Council to enable it to achieve its aims and objectives;

(iii) fully cooperate with the Universal Periodic Review mechanism as well as United Nations human rights treaty bodies;

(iv) support international efforts to enhance intercultural dialogue and understanding among civilizations, cultures and religions with a view to facilitating the universal respect of all human rights;

(v) continue to uphold the highest standards of human rights and to strengthen the national human rights framework;

(vi) continue to support the Office of the United Nations High Commissioner for Human Rights in its mandate to promote and protect human rights; and

(vii) continue to work with United Nations Member States and relevant bodies for worldwide promotion and protection of human rights based on the principles of cooperation and dialogue.

Note No.125/06

The Permanent Mission of the Federal Republic of Nigeria to the United Nations presents its compliments to the President of the General Assembly and further to its Note No.85/06 of 11 April 2006 by which the Government of Nigeria announced its candidacy to the Human Rights Council, has the honour to forward herewith, as indicated in the said Note, text of the Pledges and Commitments of the Government of the Federal Republic of Nigeria in support of its candidacy to the Human Rights Council at elections to be held in New York on 9 May 2006 and to request that the text be publicized.

The Permanent Mission of the Federal Republic of Nigeria to the United Nations avails itself of this opportunity to renew to the President of the General Assembly the assurances of its highest consideration.

New York, 24 April 2006

Office of the President of the General Assembly
United Nations
New York

PERMANENT MISSION OF NIGERIA TO THE UNITED NATIONS NEW YORK

HUMAN RIGHTS COUNCIL:
NIGERIA'S VOLUNTARY PLEDGES AND COMMITMENTS

The Government of the Federal Republic of Nigeria

Strongly welcomes the establishment of the Human Rights Council;

Commits itself to the purposes and objectives of the Human Rights Council;

Undertakes to cooperate fully with the Human Rights Council and through active participation in the work of the Council, and in cooperation with members of the Council, non-members as well as regional organizations and civil society, to make the Council a credible, strong, fair and effective United Nations human rights body;

Expresses its readiness to submit itself to the universal periodic review mechanism;

Pledges to cooperate with the treaty monitoring bodies of the Council, including through submission of timely periodic reports and the implementation of concluding observations and recommendations;

Pledges to contribute actively to the development of human rights culture and the integration of human rights into United Nations activities as well as regional organizations such as the African Union and the Economic Community of West African States;

Reaffirms its determination and commitment to continue to promote and protect human rights at home by strengthening and actively supporting the work of the National Human Rights Commission, in order to make it more effective in carrying out its mandate;

Expresses its determination to continue to play, at regional and international levels, a responsible and leading role in the promotion and protection of peace, stability and democracy;

Commits itself to the promotion and protection of all human rights, particularly civil and political rights, and economic, social and cultural rights including the right to development;

Reaffirms its commitment to work for the strengthening of the Office of the United Nations High Commissioner for Human Rights;

Reaffirms its commitment to the maintenance of an open door policy on human rights issues and to this end, reaffirms its preparedness to welcome human rights inspectors, special rapporteurs and representatives to visit Nigeria in order to carry out their respective mandates without hindrance;

Reaffirms its commitment to cooperate fully with other special procedures of the Council and to work towards upholding the rule of law and to encourage constructive dialogue and international cooperation in the field of human rights;

Reaffirms its commitment to uphold the principles of non-discrimination and the protection and promotion of the human rights of all its citizens and to this end, to accelerate the process of full domestication of relevant international human rights conventions including the African Charter on Human and Peoples' Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child;

Reaffirms its commitment to the following international human rights instruments which it has ratified without any reservations:

- ✓ International Covenant on Civil and Political Rights;
- ✓ International Covenant on Economic, Social and Cultural Rights;
- ✓ Convention on the Elimination of All Forms of Racial Discrimination;
- ✓ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- ✓ Convention on the Rights of the Child;
- ✓ ILO Convention 182 on Elimination of Child Labour;
- ✓ Convention on the Elimination of all forms of Discrimination Against Women;
- ✓ African Charter on Human and Peoples' Rights;
- ✓ Convention Against Transnational Organized Crimes ;
- ✓ Protocol Against the Smuggling of Migrants by Land, Sea and Air;
- ✓ Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children;
- ✓ Protocol Against Manufacture, Sale and Trafficking in Firearms and their parts;
- ✓ Convention Against Corruption;
- ✓ Rome Statute of the International Criminal Court;

Undertakes to accede, as soon as practicable, to the International Convention on the Protection of all Migrant Workers and Members of their Family and to examine the possibility, in the near future, of signing, ratifying or acceding to human rights instruments to which Nigeria is not yet a signatory, including the Convention on the Prevention and Punishment of the Crime of Genocide;

Undertakes to continue to uphold the provisions of the Conventions, Protocols or Covenants to which it has ratified and pledges to regularly report on their implementation to the treaty monitoring bodies of the Human Rights Council.

United Nations A/63/851

General Assembly

Distr.: General
8 May 2009

Original: English

Sixty-fourth session
Agenda item 104 (c)
Elections to fill vacancies in subsidiary organs and other elections: election of eighteen members of the Human Rights Council

Letter dated 7 May 2009 from the Permanent Representative of Nigeria to the United Nations addressed to the President of the General Assembly

I have the honour to forward herewith the voluntary pledges and commitments of the Federal Republic of Nigeria to the protection and promotion of human rights in accordance with resolution 60/251 in respect of the candidature of Nigeria for re-election to the United Nations Human Rights Council (see annex).

It will be highly appreciated if you could assist in forwarding it to the appropriate quarters for maximum dissemination, as a document of the General Assembly.

(*Signed*) U. Joy **Ogwu**
Ambassador
Permanent Representative

09-33281 (E) 110509

Annex to the letter dated 7 May 2009 from the Permanent Representative of Nigeria to the United Nations addressed to the President of the General Assembly

Aide-memoire on the candidature of Nigeria for re-election to the Human Rights Council

Candidature

1. The Government of the Federal Republic of Nigeria, after consultations with its regional and international allies, and upon the endorsement by the African Union, has decided to put forward its candidature for re-election to the United Nations Human Rights Council for 2010-2012.

2. Nigeria has been playing a major role in Council since joining it in 2006, using its influence and commitment to advance the work of the Council, especially during the institution-building process. It is a mark of the recognition of Nigeria's key role that it was elected President of the Human Rights Council last June and member of the Advisory Council.

3. Nigeria's re-election would not only advance the work of the Council, but would also afford the country the opportunity to continue to share best practices with other members in a way that promotes the enjoyment of human rights in the country and around the world.

Background

4. Nigeria's large population of about 140 million, coupled with its wide cultural, religious and legal diversity, presents the country with enormous human rights challenges. Furthermore, long years of military rule had undermined the development of a viable human rights tradition. However, since the return to democratic rule in 1999, great strides have been made to enhance the enjoyment of human rights in the country. The Yar'Adua administration's "rule-of-law" policy, with emphasis on the due application of the law and respect for the rights of all citizens, is at the heart of the country's new human rights strategy.

Commitment to human rights

5. Nigeria has signed and ratified all the majority regional and international human rights and humanitarian law instruments. In fulfilment of its pledges and commitments upon admission to the Council in 2006, Nigeria signed the instruments of accession to the following human rights instruments:

- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- International Convention for the Protection of All Persons from Enforced Disappearance.
- Convention on the Prevention and Punishment of the Crime of Genocide.
- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

It has also ratified the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

Advancing human rights at the national level

6. In accordance with its determination to enhance the enjoyment of fundamental and human rights as stipulated in the Constitution of the Federal Republic of Nigeria, the Government has embarked on various institutional and structural initiatives, including:

- Bill submitted to the National Assembly to, among others, review the status and role of the National Human Rights Commission in accordance with the Paris Principles.
- Various bills with the intent to reform the administration of justice system, the police and prison services are before the National Assembly. In addition, the Government has set up a national committee to review the activities of the Nigeria Police with a view enhancing their efficiency.
- The preparation and endorsement by the Federal Government of a National Action Plan on Human Rights, as a road map for the effective fulfilment of human rights obligations and the overall improvement in the enjoyment of human rights in the country.
- The convening of a National Consultative Forum in fulfilment of the recommendation of the Human Rights Council in the preparation for the Universal Periodic Review. The Government has decided to make the National Consultative Forum an annual event for improving dialogue on human rights among all stakeholders.
- The establishment of a National Committee on the Death Penalty.
- The intensified fight against corruption and economic crimes through the strengthening of the various bodies set up in this regard.
- The considerable success (recognized by many international bodies) of the National Agency for the Prohibition of Traffic in Persons in curbing the traffic in persons, especially women and children.

Advancing human rights at the international level

7. In accordance with the pledges and commitments made to the Council prior to its admission in 2006, Nigeria continues to play a very active role in the activities of the Human Rights Council, as well as subjecting itself to the various special procedures of the Council and the treaty bodies — many of which have commended the country for its cooperation, assistance and efforts during visits.

8. Nigeria's preparation, compilation and presentation of its national report under the Universal Periodic Review is another example of Nigeria's commitment, not only to international efforts on human rights, but also to a genuine determination to enhance the promotion and protection of human rights in the country. The format and outcome of Nigeria's National Consultative Forum is a best practice which Nigeria has shared with the international community.

Voluntary pledges and commitments

9. Nigeria stands by, and rehashes, all of the commitments it made in 2006, and reiterates, in particular, its commitment to:

- Engage actively with the Human Rights Council to promote human rights in and outside Nigeria.
- Contribute to efforts to improve the effectiveness of the Human Rights Council.
- Cooperate with all treaty bodies, especially in the timely submission of periodic reports.
- Cooperate with all special procedures of the United Nations aimed at improving the promotion and protection of human rights.
- Intensify efforts to ensure the ratification and/or domestication of all outstanding human rights instruments.
- Implement all the recommendations accepted by the country contained in the Universal Periodic Review report, as well as give active consideration to those noted for further examination by virtue of constitutional, cultural or other implications.
- Continue to make its best effort to enhance the protection and promotion of human rights in Nigeria.

United Nations A/62/808

General Assembly

Distr.: General
18 April 2008

Original: English

Sixty-second session
Agenda item 113 (d)
Elections to fill vacancies in subsidiary organs and other elections: election of fifteen members of the Human Rights Council

Letter dated 15 April 2008 from the Permanent Representative of Pakistan to the United Nations addressed to the President of the General Assembly

It gives me great pleasure to inform you that Pakistan has announced its candidature for the Human Rights Council for the term 2008-2011 in the elections to be held in May 2008.

The candidature of Pakistan for the Human Rights Council is a reflection of its deep commitment to the cause of human rights and fundamental freedoms.

In the context of Pakistan's candidature to the Human Rights Council, and in accordance with the provisions of General Assembly resolution 60/251, I am enclosing a record of the voluntary pledges and commitments made by Pakistan for the promotion and protection of human rights (see annex).

(*Signed*) Munir **Akram**

08-31088 (E) 230408

Annex to the letter dated 15 April 2008 from the Permanent Representative of Pakistan to the United Nations addressed to the President of the General Assembly

Contribution, commitments and voluntary pledges of Pakistan to promote human rights

In accordance with General Assembly resolution 60/251

Pakistan has decided to present its candidature for re-election to the Human Rights Council (HRC) for one of the four (4) Asian seats for the term 2008-20011, elections for which will be held in May 2008.

In accordance with the provisions of General Assembly Resolution 60/251, following is a brief of Pakistan's contribution, voluntary pledges and commitments to promote human rights:

Contribution to the promotion of human rights

- Pakistan played a leading role in the establishment of the Human Rights Council as a body that should promote dialogue, cooperation, capacity building and technical assistance for the promotion of human rights with due regard to historic, cultural and religious values of Member States and their specific socio-economic conditions.

- As a founding member of the Human Rights Council, Pakistan has worked hard, in collaboration with other members, to provide a firm and consensual basis in creating the new architecture of the Human Rights Council. Through effective coalition building, Pakistan played a constructive role in the first year of the Council and helped craft critical agreements on Modalities of the Universal Periodic Review (UPR); Review of the System of Special Procedures and Review of Confidential Complaint Procedure (1503);

- The Pakistan delegation actively contributes to the work of the Council through its knowledge of human rights issues, norms, standards, as well as of the intricate history of the agreements that now form the foundation of the work within the Council.

- Pakistan continues to serve as the chair of the OIC Working Group on Human Rights in Geneva (Pakistan is also the current chair of the Islamic Conference of Foreign Ministers). In this respect, Pakistan has endeavoured to overcome the divergences and misunderstandings that have appeared in approach of the Islamic World and the West. To this

end, Pakistan has been a part of all major initiatives to promote inter-cultural dialogue and harmony among diverse societies and cultures and has run resolutions in the General Assembly and the Human Rights Council to promote inter-religious and inter cultural cooperation for peace.

Progress on past pledges and future commitments

- Pakistan has fulfilled most of its pledges made at the time of its election to the Human Rights Council in 2006. The Federal Cabinet has decided to (a) ratify the International Covenant on Economic, Social and Cultural Rights, (b) sign the International Covenant on Civil and Political Rights and (c) sign the Convention against Torture. The ratification and signature formalities are being finalized.

- The establishment of Pakistan's National Human Rights Commission is on the anvil.

- Pakistan is already a party to the International Convention on the Elimination of Racial Discrimination (CERD), International Convention on the Elimination of all forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC), and to the core ILO Conventions 100, 138, 182 and 111. Pakistan is also a signatory to Convention against Transnational Organized Crime and to the two optional Protocols to the Convention on the Rights of the Child.

- Special attention is being given to the social and economic emancipation of women and protection of the rights of other vulnerable groups including children and minorities. Human rights mass awareness campaigns through media & education programme have been launched to promote respect and observance of human rights in the society.

- Pakistan has remained a consistent supporter of the Human Rights Council and firmly believes in its importance as a major body of the United Nations Human Rights system. Pakistan was amongst the first countries to support the *Universal Periodic Review* mechanism as an innovation for the Council to examine human rights globally and effectively and to eliminate concerns about selectivity. Pakistan will be among the first countries to be reviewed in the UPR process.

- Pakistan has repeatedly underscored the critical role played by the human rights special procedure system.

- Pakistan also supports the active role of civil society and the Non-Governmental Organizations in the work of the Council.

- Pakistan is committed to ensuring that the Council is empowered to make full use of its potential.

- If re-elected to the Human Rights Council for the term 2008-2011, Pakistan would continue to make its active contribution to the normative and operational work of the Human Rights Council and would support activities aimed at promoting the highest standards of human rights in other fora.

United Nations A/61/889

General Assembly

Distr.: General
1 May 2007

Original: English

Sixty-first session
Agenda item 105 (e)
Elections to fill vacancies in subsidiary organs and other elections: election of fourteen members of the Human Rights Council

Note verbale dated 26 April 2007 from the Permanent Mission of South Africa to the United Nations addressed to the President of the General Assembly

The Permanent Mission of the Republic of South Africa presents its compliments to the Permanent Missions of the States Members of the United Nations and with reference to the forthcoming elections of the members of the United Nations Human Rights Council scheduled for 17 May 2007 in New York, has the honour to inform the latter that the Government of the Republic of South Africa has decided to present its candidature for re-election to the Human Rights Council for the period 2007-2010.

South Africa is currently serving as a member of the Human Rights Council and has played a leading role in all the ongoing institution-building processes of the Council, which mark a critical transition from the Commission on Human Rights to the new Council.

The Permanent Mission of the Republic of South Africa to the United Nations herewith encloses an aide-memoire outlining South Africa's voluntary commitments with respect to the promotion and protection of human rights in accordance with General Assembly resolution 60/251 of 15 March 2006 (see annex).

The Government of the Republic of South Africa would appreciate the valuable support of the States Members of the United Nations for its candidature to the Human Rights Council.

07-32713 (E) 020507

Annex to the note verbale dated 26 April 2007 from the Permanent Mission of South Africa to the United Nations addressed to the President of the General Assembly

Aide-memoire in support of South Africa's candidature to the Human Rights Council

Following the first democratic elections in 1994, South Africa returned to the international community in 1995 to assume its rightful place among the community of nations. The experience in this relatively short period has been richly rewarding and South Africa has played a key role in the shaping of the international human rights agenda including the constant development of international human rights and humanitarian law. A central consideration in South Africa's foreign policy is the commitment to the promotion, protection and fulfilment of human rights and fundamental freedoms and the advancement of democracy.

South Africa's Constitution and Bill of Rights

The first democratic elections of 1994 placed South Africa firmly on the path of constitutional democracy. The Republic of South Africa Constitution Act 108 of 1996 is the supreme law of the land. In keeping with the international Bill of Human Rights, the South African Constitution entrenches and constitutionally guarantees all the universally recognized human rights and fundamental freedoms.

Whereas the South African democracy is relatively young, the heroic struggle by South Africans for democracy, social justice and human rights and fundamental freedoms is very old and extends over a period of 350 years. During this period South Africans were subjected to successive repressive regimes ranging from conquests, colonialism and the worst form of institutionalized racism and racial discrimination, namely, apartheid.

The 1994 democratic elections in South Africa created a political space for all the rights enumerated in the Constitution to be practically enjoyed. In this regard, the political vision of the democratic government in South Africa is predicted on a fundamental principle which affirms the inextricability between economic, social and cultural rights on the one hand, and the civil and political rights on the other. Also consistent with the fundamentals of the international human rights law, South Africa strongly upholds the notion of i) promotion, ii) protection and iii) fulfilment of all human rights and fundamental freedoms. South Africa's human rights value system is founded on this notion. South Africa has lodged its National Action Plan for the Promotion and Protection of Human Rights at the United Nations on 10 December 1998.

The South African Constitutional Court decisions have produced significant judgements and adjudications which underline the justiciability of the economic, social and cultural rights. The South African case law is currently being used at the international level to give impetus and momentum to the strengthening of the international human rights instruments dealing with economic, social and cultural rights.

Between 1995 and 2006 South Africa has been a member of the Commission on Human Rights on three occasions. In this regard, South Africa chaired the 54th Session of the Commission on Human Rights in 1998, became a Vice-Chair to the 58th Session in 2002 and acted as Co-ordinator on Human Rights issues on behalf of the African Group during the 59th Session in 2003.

Institutions supporting South Africa's democracy

National institutions, established in terms of the constitutional provisions to support constitutional democracy in the country, are actively involved in the monitoring of South Africa's compliance with respect to the implementation of international human rights instruments of which South Africa is a party.

The South African Constitution of 1996 makes provision, through its Chapter 9, for the establishment of the following state institutions to strengthen constitutional democracy in the Republic of South Africa. These institutions are independent and subject only to the Constitution and Parliament:

the Public Protector,
the South African Human Rights Commission,
the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities,
the Commission for Gender Equality,
the Auditor-General, and
the Electoral Commission.

UNDERTAKINGS/PLEDGES

It should be underlined that South Africa by its very nature and for historical reasons is among the countries within the United Nations that takes the international human rights agenda very seriously. As a member of the new Human Rights Council, the South African Government undertakes to abide by the following principles:

continue to receive the HRC's Special Procedures and Mechanisms (consistent with its decision of 22 October 2002) wishing to visit the country in keeping with their various mandates. Since the issuance of this open invitation, the following mechanisms have visited South Africa without any restrictions or impediments;

Special Rapporteur on the Situation of Human Rights and Fundamental of Indigenous Peoples,
Working Group on Arbitrary Detentions, and
Special Rapporteur on the Sale of Children, Child Pornography and Child Prostitution, and
Special Rapporteur of the African Commission on Human and People's Rights (ACHPR) on the Conditions of Prisons and Detention in Africa,

respect for the integrity and dignity of the Office of the High Commissioner for Human Rights. The South African Government will work to ensure that the High Commissioner for Human Rights (HCHR) and her personnel are above the manipulation and influences of States,

continue contributing financially to the OHCHR. Such contributions shall not be in any way earmarked, as the earmarking of funding to the OHCHR has a limiting effect on the operations of the OHCHR,

continue to support important funds and programmes within the OHCHR aimed at advancing the cause of human rights globally, such as the Voluntary Fund for Victims of Torture, the Voluntary Fund for Victims of Contemporary Forms of Slavery and the recently established United Nations Democracy Fund (UNDEF),

continue with its unwavering position to advocate for a balanced Sustainable Development Programme within the human rights framework as underlined in the Vienna Declaration and Programme of Action (VDPA) as well

as the United Nations General Assembly resolution 48/141. In this regard South Africa will be one of the chief proponents of a balanced agenda of the HRC which reflects, among others, the primacy of achieving the realisation of the right to development as well as moral human rights issues such as the eradication of poverty and underdevelopment. As it will be recalled, South Africa hosted the World Summit on Sustainable Development in Johannesburg in November 2002 whose Programme of Action is globally regarded as an instructive document for achieving sustainable development,

work to ensure that one of the first preoccupations of the substantive sessions of the HRC will be to update the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), through an amendment protocol, placing the right to development on par with all other rights enumerated in these instruments,

work to promote, within the Human Rights Council, a common understanding that human rights can only be practically enjoyed through an effective partnership with all the relevant stakeholders at all levels,

continue to submit country reports to human rights Treaty Monitoring Bodies. To this end, South Africa will present its country reports to the CERD and the CAT during 2006. South Africa has also presented, during 2005, its country report to the African Commission on Human and Peoples' Rights, and

undertake to submit in the near future a National Action Plan (NAP) exclusively covering the area of racism and racial discrimination as required by the Durban Declaration and Programme of Action (DDPA). As it will be recalled, South Africa hosted the World Conference Against Racism, Racial Discrimination, Xenophobia and Related (WCAR) on 31 August to 08 September 2001.

INTERNATIONAL INSTRUMENTS TO WHICH SOUTH AFRICA IS A STATE PARTY

The South African Government signed most of the international human rights instruments on 10 December 1995, and have since ratified/acceded to the following instruments:

the International Covenant on Civil and Political Rights (ICCPR)
the Rome Statute of the International Criminal Court (ICC)
the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
the Convention on the Rights of the Child (CRC)
Optional Protocol to the ICCPR
Second Optional Protocol to the ICCPR
Optional Protocol to the CRC on the Sale of Children, Child Pornography and Child Prostitution
Optional Protocol to the CRC on the Use of Children in Armed Conflict, and
Optional Protocol to the CEDAW.

REGIONAL INSTRUMENTS TO WHICH SOUTH AFRICA IS A STATE PARTY

South Africa is also a State Party to the following regional (African) human rights instruments:

the African Charter on Human and Peoples' Rights

the African Charter on the Rights and Welfare of the Child, and
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

South Africa has volunteered and is next in line to be peer reviewed under the African Peer Review Mechanism on the New Partnership for Africa's Development (NEPAD).

Commitment to international human rights instruments

South Africans are serving or have served on the following Treaty Monitoring Bodies:

the Committee on the Elimination of Racial Discrimination (CERD),
the Committee on the Rights of the Child (CRC), and
the Committee on the Elimination of Discrimination Against Women (CEDAW), and
the African Commission on Human and Peoples' Rights (ACHPR).

South Africa plays a key role in advocating the agenda for development through intergovernmental structures of the Non- Aligned Movement (NAM) and the Group of 77 and China (G77).

INSTRUMENTS IN THE PROCESS OF RATIFICATION

The South African Government is in the process of ratifying the following important human rights instruments:

the International Covenant on Economic, Social an Cultural Rights (ICESCR)
the International Covenant on the Protection of the Rights of All Migrant Workers and Members of Their Families, and
the Optional Protocol to the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (OPCAT)

United Nations A/62/730

General Assembly

Distr.: General
10 March 2008

Original: English

Sixty-second session
Agenda item 113 (d)
Elections to fill vacancies in subsidiary organs and other elections: election of fifteen members of the Human Rights Council

Letter dated 29 February 2008 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the General Assembly

I would like to inform you that the Government of the United Kingdom of Great Britain and Northern Ireland has presented its candidature for re-election to the Human Rights Council for the term 2008-2011 at the elections to be held on 16 May 2008 during the sixty-second session of the General Assembly.

I have attached a copy of the United Kingdom's voluntary pledges and commitments (see annex).

(*Signed*) John **Sawers**

08-26668 (E) 120308

Annex to the letter dated 29 February 2008 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the General Assembly

United Kingdom campaign for re-election as a member of the Human Rights Council

Pledges and commitments in human rights

1) Commitment to work in partnership to reinforce human rights at the heart of the UN

i. The UK will continue to work to strengthen the UN Human Rights Council, promoting universality, transparency, objectivity in all its work.
ii. The UK will continue to support the unique contribution of the UN General Assembly's Third Committee.
iii. The UK reaffirms the commitment from the World Summit in 2005 to human rights mainstreaming.
iv. The UK is committed to the continued effective contribution of regional organisations, national human rights institutions and civil society.
v. The UK will continue to work in a spirit of openness, consultation and respect for all, on a foundation of genuine dialogue and cooperation.

2) Commitment to continue support to UN bodies

i. The UK will continue to support the Office of the UN High Commissioner for Human Rights (OHCHR). In addition to our regular budget contribution, the UK contributes multi-annual, un-earmarked funding. We are currently providing £2.5 million annually as a voluntary contribution through a 3 year institutional agreement.
ii. The UK will continue to cooperate fully with the UN's human rights mechanisms, including by maintaining a standing invitation to all Special Procedures. The UK will continue to endeavour to meet its obligations to the UN Treaty Monitoring Bodies fully.
iii. The UK will continue its voluntary institutional support to UN bodies, including those whose work contributes to the better promotion and protection of human rights. In 2007-2008, the Department for International Development is providing over £150 million core funding to UN agencies. In addition, it is providing funding in 2007-8 for specific programmes that promote fulfilment of human rights, including: the Action 2 Global Programme (£300,000); OHCHR's programme on rights and HIV/AIDS (£60,000); UNIFEM's women, peace and security programme (approx £1.5 million); and UNDP's Millennium Development Campaign (£750,000)

3) Commitment to work for progress on human rights internationally

i. The UK will continue to encourage ratification of UN human rights instruments to which it is a party and, through development and other assistance programmes, their successful implementation by governments.
ii. Recognising that development and human rights are interlinked and mutually reinforcing, the UK will continue to support country-led development strategies that integrate human rights. The UK Government is committed to the Millennium Development Goals (MDGs) and is working hard to promote sustainable development and reduce poverty. We aim to develop effective partnerships with governments based on a shared commitment to: poverty reduction and reaching the MDGs; respecting human rights and other international obligations; and strengthening financial management and accountability.

iii. The UK will continue to seek to advance human rights themes, developing international thinking and consensus. For example:

- The UK Government is committed to tackling all forms of gender-based violence. Domestic work is guided by Action Plans on Domestic Violence, Sexual Violence and Abuse, Trafficking, and Forced Marriage; and by a national strategy on prostitution. The Association of Chief Police Officers has recently issued a draft Honour-Based Violence Strategy and 2-year Action Plan that sets out proposals for improving police response to honour-based violence including honour killings and female genital mutilation. Internationally, we remain committed to the full implementation of UN Security Council Resolution 1325 on Women, Peace and Security, and are one of the few UN member states to have drawn up a National Action Plan for its implementation.
- Torture. The UK is committed to combating torture wherever and whenever it occurs. Domestically, establishment of the UK's National Preventive Mechanism under Optional Protocol to the Convention Against Torture (OPCAT) is expected during 2008. Internationally, we will continue to encourage ratification of the Convention and its Optional Protocol, and provide assistance for their successful implementation by governments. The UK fully supports the recently-established OPCAT Subcommittee and will continue to provide support and assistance to it where appropriate.
- Contemporary forms of slavery: The UK is committed to learning the lessons of its own past, and to tackling modern-day slavery. We have pledged £20,000 to a UN memorial for the victims of the slave trade, and led the creation of a new UN Special Rapporteur on contemporary forms of slavery at the Human Rights Council in 2007. The UK became a signatory to the Council of Europe Convention on Action Against Trafficking in Human Beings, and launched a national Action Plan on Human Trafficking, in March 2007. We are committed to their full implementation and intend to ratify the Convention by the end of 2008. We are playing a leading role against trafficking within the European Union including leading an initiative on Human Trafficking. This is linked to a national police-led anti-trafficking operation that was launched in October 2007 and is on-going. So far the operation has led to more than 300 arrests and over 600 premises have been visited. In excess of £400,000 has been seized in cash with a number of money laundering investigations taking place. The UK Human Trafficking Centre, established in 2006, is playing a key role in the operation. The UK fully supports the UN Office on Drugs and Crime's Global Initiative to Fight Human Trafficking and Modern-Day Slavery, and played an active role in the Vienna Forum in February 2008.
- Right to education. The UK Government announced in 2006 that we will spend £8.5 billion in support of education over the next 10 years, mostly in sub-Saharan Africa and South Asia. This long-term commitment will provide governments with predictable funding against which they can prepare ambitious 10-year investment plans to achieve their education goals. Promoting gender equality in education is a key focus for the UK.
- Health. The UK is committed to the containment and progressive elimination of the spread of HIV/AIDS, and prioritises the needs of those groups most at risk of HIV/AIDS. The UK is the second largest bilateral donor to combating AIDS and committed £1.5 billion over the period 2005-2008, of which around 10% will be spent on programmes for children.
- The UK will continue to engage business as a positive force for the promotion of human rights through its leading work on Corporate Social Responsibility. The Foreign and Commonwealth Office's Corporate Social Responsibility Strategy, published in February 2007, reaffirms UK support for voluntary multi-stakeholder initiatives including the UN Global Compact, and for the Voluntary Principles on Security and Human Rights.
- The UK works to promote human rights in our international relations. We are committed to the fundamental values of the Commonwealth, including tolerance, respect, democracy, good governance, human rights, gender equality and the rule of law. We will continue to work with Commonwealth partners to share best practice and learn from the experience and heritage of our fellow members. We also engage with other international and regional organisations, such as the World Bank and the European Union, to promote better integration of human rights in their work.

4) Commitment to uphold highest standards of human rights at home

i. The UK Government will endeavour to maintain full implementation of all its obligations under the international Covenants, Conventions and Optional Protocols to which it is party.

ii. The UK Government is committed to tackling inequality and discrimination, to ensure that every individual is able to fulfil their potential through the enjoyment of equal opportunities, rights and responsibilities. For example:

- We are committed to modernising British equality legislation into an Equality Bill, combining legislation against discrimination on the grounds of sex, race, disability, religion or belief and sexual orientation. The Government has also consulted on potential measures to expand protection against discrimination on the grounds of age to the provision of goods and services. The new Commission for Equality and Human Rights began work on 1 October 2007, as an independent and influential champion for the reduction of inequality, elimination of discrimination, protection of human rights and strengthening of good relations between individuals.
- The UK was one of the first to sign the new UN Convention on the Rights of Persons with Disabilities on 30 March 2007. We are committed to ratification without undue delay.
- Through its dedicated 3 year strategy to increase race equality and community cohesion ("Improving Opportunity, Strengthening Society") the Government has brought together practical measures to improve opportunities for all, helping to ensure that a person's racial or ethnic origin is not a barrier to success. Looking forward, the Government has embedded commitments to reduce inequalities for people from minority ethnic backgrounds into its key public service targets for the next 3 years in areas like employment, education, health and the criminal justice system. These targets, and the funding that will follow them, demonstrate the Government's continuing commitment to tackling inequalities.
- Where the responsibility for these matters is transferred to, or where matters are specific to Northern Ireland, we will also review equality legislation and in addition support the Equality and Human Rights Commissions and the Commissioners for Children and Young People and Victims and Survivors.

iii. Protection of children's rights remains a key priority for the UK government and its devolved administrations. We have put in place a substantial body of legislation, which serves further to enshrine in law the well-being of children. Encompassing the principles of the UN Convention on the Rights of the Child, this creates an effective national framework to support positive outcomes for children. We continue to strengthen our focus on the needs of children and their families in a holistic and integrated way, ensuring that every child gets the best possible start in life, and receives the ongoing support and protection they need to allow them to fulfil their potential. We have established Commissioners for Children and Young People across the UK.

iv. The UK Government will continue to pursue human rights goals in a spirit of consultation, openness and accountability. To this end, we will continue actively to seek out the expertise and experience of civil society, and will maintain a dialogue on our human rights work with NGOs and Parliament.

United Nations A/62/838

General Assembly

Distr.: General
9 May 2008

Original: English

Sixty-second session
Agenda item 113 (d)
Elections to fill vacancies in subsidiary organs and other elections: election of fifteen members of the Human Rights Council

Note verbale dated 5 May 2008 from the Permanent Mission of Zambia to the United Nations addressed to the President of the General Assembly

The Permanent Mission of the Republic of Zambia to the United Nations presents its compliments to the President of the General Assembly at its sixty-second session and has the honour to inform him that the Government of the Republic of Zambia has decided to present its candidature to the United Nations Human Rights Council for the term 2008-2011 in the elections to be held on 21 May 2008 in New York.

In accordance with General Assembly resolution 60/251, an aide-memoire on Zambia's achievements, voluntary pledges and commitments towards the universal promotion and protection of human rights is attached herewith (see annex).

08-33538 (E) 140508

Annex to the note verbale dated 5 May 2008 from the Permanent Mission of Zambia to the United Nations addressed to the President of the General Assembly

Aide-memoire: voluntary pledges and commitments of the Republic of Zambia on human rights in accordance with resolution 60/251

1. The Republic of Zambia remains committed to promoting universal respect for the advancement of all human rights and fundamental freedoms for all. Zambia is also committed to the promotion of the effective coordination and the mainstreaming of human rights within the United Nations system.

2. Zambia's Constitution recognizes and declares that every person in Zambia has been and shall continue to be entitled to the fundamental rights and freedoms of the individual regardless of race, place of origin, political opinion, colour, creed, sex, or marital status. The main guiding principle of Zambia's Foreign policy which relates to human rights also clearly states that there can be no meaningful development without the full protection of fundamental human rights and freedoms. Furthermore true peace can only be achieved when these rights and freedoms are fully protected and promoted and enjoyed by all. These fundamental principles have shaped Zambia's development in the socio-economic, political and cultural spheres and indeed Zambia's engagement in international affairs.

Zambia's International Human Rights Record

3. As a member of the Human Rights Council, Zambia remains committed to the promotion and Protection of human rights and this can be seen from the measures taken in ensuring that Government meets its international human rights obligations. It should be stated that Zambia is up to date with its international and regional state party reporting obligations.

4. Zambia has played an active role in key human rights organizations at the United Nations. As a member of the Human Rights Commission, which has since been abolished, in 1980-1982, 1991-1993, 2000-2002 respectively; and a founding member of the Human Rights Council in 2006, Zambia participated and continues to participate in major deliberations on various aspects of human rights and took important decisions which contributed to advancing human rights globally.

5. Zambia is party to the following United Nations human rights treaties namely:

- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Convention on the Elimination of All Forms of Racial Discrimination
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

- Convention on the Elimination of All Forms of Discrimination against Women
- Convention on the Rights of the Child

6. *Other related Human Rights Instruments to which Zambia is Party*

- African Charter on Human and People's Rights (ACHPR)
- United Nations Convention relating to the Status of Refugees
- United Nations Protocol relating to the Status of Refugees
- Four Geneva Conventions of 1949
- Protocols to the Geneva Conventions
- Seven International Labour Organization Fundamental Human Rights Conventions
- Rome Statute of the International Criminal Court (ICC)

7. Zambia is also a party to regional initiatives aimed at promoting gender equality and empowerment of women such as the Southern African Development Community (SADC) Declaration on Gender and Development and its addendum on the Prevention of Violence against Women and Children.

Zambia's Domestic Human Rights Record

Legislative and Administrative Measures

8. The Government of Zambia is pleased to report some of the Legislative and Administrative Measures that have been undertaken in enhancing human rights as follows:

9. At the national level, the National Plan of action for Human Rights for the period 2002 to 2009 was adopted in 1999. This plan of action shall continue to provide guidance and a framework for the effective promotion and protection of human rights in Zambia.

10. A number of Institutions have been instrumental in promoting human rights in Zambia:

I. Human Rights Commission

The human Rights Commission was established in 1996 specifically to focus on protection and promotion of human rights. The Commission whose mandate includes the investigation of human rights violations; mal-administration of justice and proposes effective measures to prevent human rights abuses, has since its inception enhanced its accessibility through a decentralization programme which has seen the establishment of provincial offices; thematic Committees on gender equality rights, children's rights, civil and political rights, economic, social and cultural rights and the committee against torture; partnership and collaboration with various stakeholders; establishment of a prohibited immigrant's fund and a complaints data base. The Commission, whose services are free, publishes its report annually. The report is a public document which is also tabled before Parliament and gives the state of human rights in the country.

II. **Police Public Complaints Authority**

The Police Public Complaints Authority (PPCA) which commenced its operations in 2002, addresses public complaints against police misconduct in order to secure individual fundamental human rights and freedoms and achieve professionalism in the Zambia Police Service.

III. Other Institutions such as the Law Association of Zambia and the Civil Society and Non Governmental Organizations (NGOs) have partnered with Government in advocating and ensuring that human rights are promoted and respected.

Other Legislative and Administrative Measures

I. In the area of Discrimination against women, Zambia has finalized the 5th and 6th periodic report on the CEDAW and will soon present the report to the CEDAW Committee for its consideration.

II. In the area of gender based violence, especially against women and children, the penal code has been amended to introduce stiffer penalties for perpetrators of gender violence including sexual offences. Zambia has also domesticated in part the provisions of CEDAW as they relate to violence against women.

III. Government has ratified the Optional Protocol of the African Charter on Human and Peoples Rights on the Rights of Women.

IV. The Government has also constituted the Victim Support Unit (VSU) and the Sex Crimes Unit within the police service to address reports on gender violence and particularly violence against women and children.

V. Zambia also wishes to facilitate debate on the Gender Based Violence Bill through the Law Development Commission.

VI. The Citizenship Empowerment Act of 2006, prohibits discrimination on grounds of gender. The Act has also facilitated the establishment of the Economic Empowerment Commission which provides for gender equality in accessing, owning, controlling, managing and exploiting economic resources.

VII. Zambia Development Agency Act of 2006 mandates the Agency to recommend, to the Minister responsible for Trade, coherent trade and industry development strategies which promote gender equality in accessing, owning, managing, controlling and exploiting economic resources. It also encourages, supports and facilitates the creation of micro and small scale business enterprises and promotes women's participation in trade and industry. Through this Act, it is recognised that, women who form a large part of the informal sector and predominantly reside in rural areas shall benefit from the initiatives contained therein.

VIII. The establishment of the Parliamentary Committee on Legal Affairs, Governance, Human Rights and Gender Matters is an effective tool in monitoring the actions of central Government with regard to the rights of women and children. The recommendations of the Parliamentary Committee are given full board and attention because of the impetus that they add in assisting central Government in the implementation of women and children's rights. The Committee in 2006, recommended that there was need to strengthen the legislation on human trafficking.

IX. Zambia ratified the protocol to prevent and Suppress and Punish Trafficking in Persons especially women and Children (Palermo Protocol) Supplementing the United Nations Convention Against Trans-national Organized Crime.

X. In the Area of Disabilities, the government intends to formulate and implement inclusive policies programmes and legislation in order to promote the full participation, equality and empowerment of persons with disabilities.

XI. Zambia has ratified the ILO conventions granting the right to just and favourable conditions of work and the right to form and join a trade union. The said conventions were domesticated through a 1997 legislative amendment to the Industrial and Labour Relations Act.

XII. Zambia recognizes the right of everyone to social security including social insurance and has ratified ILO convention NO. 103 and has in existence the National Pensions Scheme Act and the Workers Compensation Fund Control Board Act which are the national legislation on social security and protection against occupational hazards meant to secure the right to social security for all concerned.

XIII. The Employment of Young Persons Act, prohibits the employment of a child under the age of 14 years in any public or private industrial undertaking and makes it an offence for any one to do so.

XIV. The National Food & Nutrition Commission Act, establishes the Nutrition Commission to address the issues of disseminating knowledge of the principles of nutrition in furtherance of affording the right to food and adequate standard of living.

XV. The Education Act and other provisions relating to corporal punishment were amended in 2003 abolishing corporal punishment in schools and other places.

XVI. The Commission for Investigation (Commission for Investigation No. 2 of 1991) was established with the function to receive and investigate complaints from the public against acts of injustice or mal-administration perpetrated by senior Government officials, heads of parastatal institutions and local authorities. The Commission ensures fairness by promoting social justice in the administration of public institutions.

XVII. Through the Societies Act NGOs have been registered to among other things sensitize and educate members of the public on issues of human rights and also offer legal assistance to the vulnerable.

XVIII. The Constitution recognizes the right of persons to legal representation of their choice and in this regard the Government has established the Legal Aid Department which provides free legal services to people facing serious criminal offences who can not afford to pay for a private lawyer.

PLEDGES AND COMMITMENTS IN HUMAN RIGHTS

11. ***International Commitments***

I. Zambia as a member of the Human Rights Council will continue to support the Council and work closely with other members of the Council and Observers to safe guard and promote the universal respect for the protection of human rights and fundamental freedoms for all and promote the effective coordination and mainstreaming of human rights within the United Nations system.

II. Zambia is committed to the institutions that have been created by the Council including the Universal Periodic Review Mechanism.

III. Zambia will continue to work in the Council towards strengthening these structures to ensure that the Council develops into a strong body that is transparent, non selective and promotes dialogue and cooperation with Member States. It should be noted that Zambia will be reviewed in May 2008 and therefore pledges to fully cooperate with the Universal Periodic Review Mechanism during and after the review process.

IV. Zambia will continue to support the Office of the High Commissioner on Human Rights (OHCHR), which represents the world's commitment to universal ideals of human rights. We welcome in that regard the increased funding to the office to enable it carry out its mandate of promoting and protecting human rights.

V. Zambia will continue to respect the provisions of protocols relating to human rights both regionally and globally.

VI. Zambia undertakes to ratify the Convention on the Rights of Persons with Disabilities and shall endeavour to also sign and ratify the Optional Protocol thereto that was adopted by the General Assembly on 13 December 2006 and was open for signature on 30 March, 2007.

VII. Zambia will accelerate the process of signing the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

VIII. Zambia will also speed up the process of signing the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women.

Zambia having been host to refugees for four decades shall continue to work closely with the UNHCR in supporting refugees and performing its international protection responsibilities, thereby ensuring that its obligations are met with regard to international human rights and humanitarian law.

Zambia having supported the United Nations in the maintenance of International Peace and Security will continue to contribute to United Nations Peace-keeping Operations by providing military, police and civilian personnel to Peace-keeping Operations around the world, including in Darfur (UNAMID), Democratic Republic of the Congo (MONUC), Ethiopia/Eritrea (UNMEE), Kosovo (UNMIK), Liberia (UNMIL), Sierra Leone (UNIOSIL), Southern Sudan (UNMIS) and Timor- Leste (UNMIT).

12. ***Domestic Commitments***

I. Zambia has developed a Fifth National Development Plan for the period 2006-2010 which has prioritized the promotion and protection of human rights. One of the activities that will be undertaken in order to achieve this objective is the domestication of international human rights treaty provisions which are not already part of Zambian legislation.

II. Zambia will continue to cooperate with United Nations human rights treaty bodies by meeting deadlines for submission of periodic reports and acting on their concluding observations and recommendations. As earlier indicated Zambia is up to date with its international and regional State party reporting obligations. Zambia will also continue to participate in the discussions on the reform of treaty bodies in ensuring a more effective monitoring system.

III. Zambia has endeavoured to undertake human rights programmes that balance the different dimensions of human rights. For instance Government programmes are targeted towards the promotion of civil and political rights, economic social and cultural rights, and also specific rights of vulnerable groups including women children and the disabled.

IV. At the national level, the Government embarked on Constitutional and Electoral reforms by constituting the Constitutional Review Commission (CRC) and the Electoral Reform Technical Committee (ERTC) which have since submitted their reports to the Government. With regard to the CRC, Government has established a National Constitutional Conference to consider and deliberate the provisions of the draft Constitution. As far as the Electoral Act is concerned, the Government has moved further to amend the electoral act which regulates the conduct of elections in Zambia. The principal measure in this Act was that the Electoral Commission was explicitly empowered by law to ensure that parties participating in elections desist from corrupt practices. It is envisaged

that this measure will encourage citizens including women to participate freely in elections as voters and candidates.

V. Zambia will continue to work with civil society and NGOs in the promotion and implementation of human rights programmes.

VI. Zambia as a developing country faces numerous challenges in meeting various human rights obligations and development challenges particularly in the areas of poverty reduction, eradication of diseases such as malaria, tuberculosis and HIV/AIDS; and meeting national and internationally agreed development goals. Zambia is however committed to addressing these challenges and with the assistance and cooperation of the international community particularly in the areas of building capacities of its national institutions and legal systems and developing human resources in the field of human rights, will strive to ensure that it provides for its citizens.

NOTES

NOTES

NOTES

CHRI PROGRAMMES

CHRI's work is based on the belief that for human rights, genuine democracy and development to become a reality in people's lives, there must be high standards and functional mechanisms for accountability and participation within the Commonwealth and its member countries. CHRI furthers this belief through strategic initiatives and advocacy on human rights, access to information and access to justice. It does this through research, publications, workshops, information dissemination and advocacy.

Strategic Initiatives

CHRI monitors member states' compliance with human rights obligations and advocates around human rights exigencies where such obligations are breached. CHRI strategically engages with regional and international bodies including the Commonwealth Ministerial Action Group, the UN, and the African Commission for Human and Peoples' Rights. Ongoing strategic initiatives include: Advocating for and monitoring the Commonwealth's reform; Reviewing Commonwealth countries' human rights promises at the UN Human Rights Council and engaging with its Universal Periodic Review; Advocating for the protection of human rights defenders and civil society space; and Monitoring the performance of National Human Rights Institutions in the Commonwealth while advocating for their strengthening.

Access to Information

CHRI catalyses civil society and governments to take action, acts as a hub of technical expertise in support of strong legislation, and assists partners with implementation of good practice. It works collaboratively with local groups and officials, building government and civil society capacity as well as advocating with policy-makers. CHRI is active in South Asia, most recently supporting the successful campaign for a national law in India; provides legal drafting support and inputs in Africa; and in the Pacific, works with regional and national organisations to catalyse interest in access legislation.

Access to Justice

Police Reforms: In too many countries the police are seen as oppressive instruments of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In East Africa and Ghana, CHRI is examining police accountability issues and political interferences.

Prison Reforms: CHRI's work is focused on increasing transparency of a traditionally closed system and exposing malpractices. A major area is focused on highlighting failures of the legal system that result in terrible overcrowding and unconscionably long pre-trial detention and prison overstays, and engaging in interventions to ease this. Another area of concentration is aimed at reviving the prison oversight systems that have completely failed. CHRI believes that attention to these areas will bring improvements to the administration of prisons as well as have a knock-on effect on the administration of justice overall.

Commonwealth Human Rights Initiative

B-117, 1st Floor, Sarvodaya Enclave, New Delhi - 110 017
Tel.: +91 (0)11 4318 0200, 4318 0225 – 299 Fax: +91 (0)11 2686 4688
info@humanrightsinitiative.org www.humanrightsinitiative.org