



DEMOCRACY  
COALITION  
PROJECT

**For immediate release  
October 9, 2009**

The Twelfth session of the Human Rights Council concluded last Friday with a mixed outcome. The Council took positive steps towards addressing serious country situations and saw the unanimous adoption of a breakthrough resolution on Freedom of Expression.

While these resolutions reflect significant achievements, other outcomes marred this progress. Notably, a deeply flawed resolution on "promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind" was adopted by a divided Council. While this resolution was pushed through by a vote, the creation of a mandate on the elimination of discrimination against women was delayed by state supporters in order to reach consensus on the subject.

Perhaps most worrisome, the Council failed to uphold the report of Justice Richard Goldstone on the United Nations fact-finding mission on the Gaza conflict of early 2009. The report found evidence of serious violations of the laws of war during the conflict by both Israeli forces and Hamas fighters and calls for international mechanisms to ensure accountability. However, in response to pressure from the United States and the European Union (EU), a vote on the report has been deferred until the March 2010 HRC session.

**Resolutions adopted on Myanmar and Honduras**

The Twelfth session saw major progress to the HRC's record of addressing human rights violations through the adoption of two country-specific resolutions. Members of the Group of Latin America and Caribbean Countries (GRULAC) joined Latin American NGOs in supporting a resolution addressing the June 2009 coup d'état in the Republic of Honduras, which drew immediate condemnation from the international community. DCP participated in a collaborative effort of global NGOs to call upon the Council to adopt a resolution that firmly condemns the human rights violations in Honduras. Additionally, Conectas Direitos Humanos and the Center for Legal and Social Studies issued a joint statement that was read at the HRC declaring, "...it is clear that the Council cannot remain inactive in the face of human rights violations taking place in Honduras. Documentation of abuse and violations, as well as the identification of recommendations to prevent any future harm to the fundamental rights are part of this Council's mandate."

The resulting resolution on Honduras marked the first time action was taken on a country that was not already on its agenda. The final text calls on Honduras to end human rights violations immediately and to restore democracy. It also requests that the UN High Commissioner for Human Rights, Navanethem Pillay, present a comprehensive report on the situation since the coup occurred at the Thirteenth HRC session.

The resolution on Myanmar, supported by many NGOs including DCP, expressed grave concern at the recent conviction and sentencing of Daw Aung San Suu Kyi, the opposition pro-democracy leader who was convicted on trumped up charges of violating the terms and conditions of her house arrest. The resolution also calls for her immediate and unconditional release and urges the release of the more than 2,100 additional political prisoners being held by the ruling junta.

"These resolutions represent an important step forward for the Human Rights Council," said Dokhi Fassihian, executive director of the Democracy Coalition Project. "The body has finally begun to address human rights violations in specific contexts during its regular sessions. The challenge now is to expand this attention to the many other situations that have gone unaddressed."

Despite the consensus on the Myanmar resolution, the Asian Forum for Human Rights and Development (FORUM-ASIA) expressed disappointment in a statement over the silence of neighboring Asian countries, particularly the member States of the Association of Southeast Asian Nations (ASEAN). "This demonstrates a serious lack of political will and effectiveness of the ASEAN as a regional body which claims to adhere to the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms," said Mr. Yap Swee Seng, executive director of FORUM-ASIA.

### **NGOs deplore no action on Goldstone report on Gaza**

Many human rights organizations and NGOs monitoring the work of the Council, including DCP, have sharply criticized the United States and EU for failing to uphold the recommendations of Justice Richard Goldstone's report to the UN.

The report, which presents evidence of human rights violations committed by both Israel and Hamas during the Gaza war in early 2009, calls for independent and impartial investigations of the conduct of the armed forces of both parties. Justice Goldstone recommended that if the UN Security Council finds that these investigations have not been administered within six months, then the matter should be referred to the International Criminal Court. Despite the evidence, the US and the EU refused to support the report's findings and recommendations. The US was particularly critical of the report by the prominent and universally-respected international jurist as "deeply flawed," and expressed confidence that Israel as a democracy would be able to carry out its own investigations into the allegations.

"This is a missed opportunity for the United States to start a new chapter at the Council," said Dokhi Fassihian, executive director of the Democracy Coalition Project. "If the US is serious about making the Council work, it should recognize that democracies have a special responsibility to uphold human rights and ensure accountability for all without selectivity."

Human Rights Watch (HRW) and the Cairo Institute for Human Rights Studies (CIHRS) issued strong statements highlighting the troubling role the US played in the report's deferred adoption, arguing that the US could be promoting impunity for war crimes committed in Gaza. "The failure of the US and European states to endorse the Goldstone report sent a terrible message that serious laws-of-war violations by allied states would be tolerated," stated HRW Middle East director, Sarah Leah Whitson.

NGOs have urged the US to uphold the report's recommendations at the March 2010 session of the HRC, if the parties do not undertake serious investigations into the alleged violations prior to the session. Jeremie Smith, director of the Geneva Office of CIHRS, observed that "Unless the Council accepts the Goldstone report in full it will lose credibility and send the wrong message that states who commit war crimes are above the law."

### **Freedom of expression resolution adopted by consensus**

Marking a major step towards reducing politicalization at the HRC, a new resolution on Freedom of Expression was adopted by consensus at the Twelfth session. The adoption of the text demonstrated the new US commitment to work across regional groups to acquire consensus.

The US had announced a week prior to the session that it would work with Egypt to sponsor a resolution that would acknowledge the need to combat discrimination and incitement of hatred and violence. At the same time, provisions of the final text make references to the importance of freedom of expression, dialogue and debate, the role of the media in combating racism, xenophobia and related intolerance, and indicate the need to protect journalists and media in armed conflict. Most notably, the text also avoids vague concepts like "defamation of religion," a deeply controversial concept advanced by the Organization of the Islamic Conference (OIC) that has drawn sharp opposition by states and human rights experts for endangering freedom of expression.

ARTICLE 19, an NGO dedicated to the promotion and protection of freedom of expression, released a statement welcoming the resolution. However, the group also expressed concern over the reference to "religious stereotyping," a concept which suggests that religions, rather than individual believers, may be protected under international human rights law. In addition, ARTICLE 19 lamented the inclusion of a reference to Resolution 7/36, which requested that the Special Rapporteur on Freedom of Expression "report on instances in which the abuse of the right of freedom of expression constitutes an act of racial or religious discrimination," by arguing that it goes against the spirit of the freedom of expression mandate.

"Unfortunately, the resolution does contain two viruses. It will be incumbent upon member states of the HRC and civil society to ensure that these viruses are not allowed to flourish, multiply and gangrene the text and commitments," said Dr. Agnes Callamard, ARTICLE 19's executive director.

Problematic "traditional values" text adopted by vote

A resolution entitled "Promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind in conformity with international human rights law" was adopted by a vote of 26 in favor 15 against and six abstentions at the Twelfth session of the HRC. The resolution, proposed by Russia and supported by the OIC and the Arab League, suggests that "traditional values" make an exclusively positive contribution to the promotion and protection of human rights but fails to recognize the many instances that harmful traditional practices are justified by invoking the "traditional values" of a group or society.

Following the passage of the resolution, the Cairo Institute for Human Rights Studies (CIHRS) issued a statement expressing deep concern over the text. In the statement, CIHRS Executive Director, Moataz El Fegiery, affirmed: "The adoption of this resolution is highly dangerous. Such a concept has been used in the Arab region to justify treating women as second class citizens, female genital mutilation, honor crimes, child marriage and other practices that clearly contradict with international human rights standards. Does this resolution now mean that such practices are acceptable under international law?"

Prior to the vote, NGOs from across the globe, including DCP, called upon their respective governments to take a strong stance against this resolution, citing that its passage would set a particularly destructive precedent affirming a concept often used to legitimize human rights abuses.

Final vote on the "traditional values" resolution:

**In favor (26 States)**

Angola, Bahrain, Bangladesh, Bolivia, Burkina Faso, Cameroon, China, Cuba, Djibouti, Egypt, Gabon, India, Indonesia, Jordan, Kazakhstan, Madagascar, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Zambia

**Against (15 States)**

Belgium, Chile, France, Hungary, Italy, Japan, Mauritius, Mexico, Netherlands, Norway, Republic of Korea, Slovakia, Slovenia, United Kingdom, United States of America

**Abstentions (6 States)**

Argentina, Bosnia Herzegovina, Brazil, Ghana, Ukraine, Uruguay

**Death threat by Gambian president ignored by HRC**

In response to an alarming statement made by the President of the Gambia, Col. A.J.J Jammeh (Rtd), DCP joined 17 other NGOs in sending a letter to the HRC President, Alex Van Meeuwen, urging him to adopt a presidential statement denouncing Col. A.J.J Jammeh's statement.

In the speech delivered by the Gambian president on national television on September 21, 2009, Jammeh announced the following threat, "I will kill anyone who wants to destabilize this country. If you think that you can collaborate with so called human rights defenders, and get away with it, you must be living in a dream world. I will kill you, and nothing will come out of it."

In the letter, the NGOs wrote, "These remarks constitute not only a threat to the right to life and physical integrity of all Gambian human rights defenders and their supporters, but may have implications for the safety of those working in and with the African Commission on Human and People's Rights. The Council has a clear duty to immediately respond to these unacceptable threats by a head of State, which endanger the lives of many human right defenders."

A statement released by the West African Human Rights Defenders Network shortly after President Jammeh's speech reveals that human rights defenders, particularly journalists, who have carried out activities in the Gambia have suffered increased threats in recent years. The statement goes on to urge the HRC of its obligation to respond affirming, "The United Nations Human Rights Council...[should] publicly condemn the statement of President Col. AJJ Jammeh and remind the Gambian government of its obligations under regional and international human rights law, especially the obligation to protect human rights defenders and their work."

Despite the Council's clear responsibility to respond to these threats by a head of State, the urgent call by NGOs was met with silence.

### **Independent Expert on Burundi urged to report to the HRC**

The East and Horn of African Human Rights Defenders Project (EHAHRDP) has urged the HRC and the Government of Burundi to allow the Independent Expert on Burundi to report to the Council in 2010. EHAHRDP said that such reporting would ensure regular monitoring of important human rights developments on the ground, and impose greater pressure for the government and the opposition to play fair during the 2010 elections. The Independent Expert's mandate was extended earlier this year until the time the Government established a National Human Rights Commission, but without specifying when the mandate holder would report again to the HRC.

EHAHRDP called for attention to the ongoing attacks on trade unionists, the new criminal code criminalizing same sex relationships, and the increasing restrictions placed on the media and members of civil society in their exercise of the right to freedom of expression.

"Burundi is often praised for its vibrant civil society.... Given the key role that independent civil society can play in the 2010 elections, these developments are of utmost concern," said Mr Shire Sheikh, executive director of EHAHRDP.