

THE NEW RIGHTS WATCHDOG

In this issue

What's In A Name?	1
Indian Pledge Welcome – But More Needs Be Done	2
Praise And Exhortation For Pakistan	3
Ghana Not Exactly A Rights Haven	4
The Gap Between Nigerian Policy And Practice	5
Willing Peru Faces Formidable Obstacles	6

Voices of the South on Globalization is a monthly newsletter intended to inspire a meaningful North-South Dialogue by raising awareness for global interdependences and by offering a forum for voices from the South in the globalization debate. Each edition will present short analyses or commentaries from a Southern perspective on one particular issue of the globalization process.

Voices of the South on Globalization is published by IPS Europe with financial support from the Friedrich-Ebert-Stiftung.

For further information please contact:

IPS-Inter Press Service Europe,
Ramesh Jaura, Marienstr. 19/20, 10117 Berlin
Tel.: ++49-(0)30-28 48 23 60
Fax: ++49-(0)30-28 48 2369
rjaura@ipseuropa.org

WHAT'S IN A NAME?

Five years after the United States lost a bid for re-election to the Commission on Human Rights for the first time since its creation in 1948 the UN General Assembly will elect the new Human Rights Council on May 9 in New York. In the 47-member body, Africa and Asia will each have 13 seats, Latin American and Caribbean 8, Western Europe and other states 7 and Eastern Europe 6. Some 65 countries have fielded their candidacy.

The resolution adopted by the General Assembly on March 15, requires UN members to "take into account the contribution of candidates to the promotion and protection of human rights and their voluntary pledges and commitments made thereto". The Council members are obliged to "uphold the highest standards in the promotion and protection of human rights", and to cooperate with it, including its special investigators.

Previously ECOSOC's 54 members, themselves chosen by the General Assembly on a political basis with no particular regard for human rights, usually selected the 53 members of the Commission on Human Rights by merely rubber-stamping closed regional slates, slates that had been proposed by the five regional groups within the UN and that included only as many countries as there were seats.

The new system is different. Although regional groups may still nominate a closed slate if they choose, each individual member of that slate must win an absolute majority - 96 members - of the full UN membership, who must write in that country's name on a ballot. A regional group cannot therefore dictate the choice of members from its region. This should give supporters of human rights a much greater opportunity to build a coalition of states that will decline to support the election of candidates with a bad rights record.

The resolution establishing the new Council also contains provisions that should affirmatively discourage abusive states from wanting to join. It requires that members cooperate with the Council, including its special investigators who can go into countries and investigate human rights situations. Members of the old Commission often refused to grant such access. Further, Council members will be the first reviewed under the new system of periodic reassessment of the human rights records of all UN members.

This new system should also address the problem of double standards by ensuring that even the most powerful states, including the permanent five members of the Security Council, will now be subject to scrutiny. Yet another new provision allows for the first time the suspension of members of the Council who commit gross human rights violations during their term of membership. There is indeed much more in the new name than may be generally perceived.

– Ramesh Jaura

INDIAN PLEDGE WELCOME – BUT MORE NEEDS BE DONE

New Delhi - India sees in the decision to set up the Human Rights Council the beginning of a "new age", as the country's Permanent Representative to the UN, Ambassador Nirupam Sen told the General Assembly on March 15. The Council, he said, meets possibly in not a full measure but certainly in substantial measure the demands of the civil society of the world, and is indeed a creditable and important achievement for the United Nations itself.

The government of India has pledged "a positive contribution to make the Human Rights Council a strong, effective and efficient body capable of promoting and protecting human rights and fundamental freedoms for all". With this in view India has contributed 10 million dollars to the UN Democracy Fund. This is the largest contribution, matched by an equally large amount given by the United States.

India has voluntarily pledged to cooperate with other states in assisting them implement human rights obligations through capacity building by way of technical cooperation, human rights dialogues and exchange of experts. It will also continue to "actively participate in and support the negotiations for a new UN Convention for Persons with Disabilities". A statement of pledges and commitments to the General Assembly says that India's presence on the new 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".

While appreciating several steps taken by the government to improve the country's human rights record, civil society organisations say that the situation remains fragile and a lot more needs be done. Human rights researcher Meenakshi Ganguly refers in this context to the recent visit by Indian President, A.P.J. Abdul Kalam to Burma, a country with an appalling human rights record.

"Unsavory subjects were not raised," she says. While President Kalam waved to an enthusiastic, flag waving contingent of Burmese children that formed the welcome party, Nobel laureate Aung San Suu Kyi remained under house arrest, forced labour continued, and the Burmese Army kept up its brutal war against opposition ethnic groups. ... Indian diplomats focused carefully, instead, on the economic advantages of building relations with Burma, more interested in regional balance of power politics with China than the fate of millions of oppressed Burmese."

Asian director at Human Rights Watch Brad Adams welcomed in a letter to Prime Minister Manmohan Singh last July the efforts of his government in addressing some of the human rights issues, particularly the repeal of the Prevention of Terrorism Act and a review of the oft-abused Armed Forces Special Powers Act. But he pointed to many other critical issues that still require action.

These include threats of further sectarian violence, prevalent child labour, widespread caste discrimination, impunity for the armed forces, and judicial and legal reform. It is indeed essential that the judiciary plays its proper role in addressing the culture of unlawful "encounter killings" and other illegal summary executions of criminal suspects.

To address widespread torture by the police and other security forces, the Human Rights Watch is urging the Indian government to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which India signed in 1997. It is also stressing the need to immediately implement the recommendations by the National Police Commission that call for mandatory judicial inquiry in cases of alleged rape, death or grievous injury of individuals in police custody.

New Delhi has initiated discussions with local Dalit rights groups to address the issues of caste-based discrimination. But as a report titled 'After the Deluge, India's Reconstruction Following the 2004 Tsunami' says, caste-based discrimination remains a major problem in rural India despite over five decades of legislation banning such acts. Smita Narula, a human rights researcher, notes in another report, that although "untouchability" was abolished by the Indian constitution in 1950, some 160 million Dalits are denied access to land, forced to work in degrading conditions and routinely abused or even killed by the police and higher-caste groups that enjoy the state's protection. In what has been called India's "hidden apartheid," entire villages remain completely segregated by caste, Narula says.

The Indian government is pursuing a policy to ensure universal education for children. But those ideas need to be urgently and effectively implemented. Millions of children are going to work instead of learning at school. "The Indian government should protect children from engaging in the worst forms of child labour. Hundreds of thousands of children are bonded labourers who toil as virtual slaves, particularly in the silk industry," the Human Rights Watch says.

While acknowledging the existence and extent of bonded child labour immediate measures need be taken to enforce the Bonded Labour System (Abolition) Act, 1976, and other relevant laws regarding bonded child labour. India has yet to ratify ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. – **Amitabh Mittal**

PRAISE AND EXHORTATION FOR PAKISTAN

Lahore – While commending the government for seeking election to the Human Rights Council, a coalition of Pakistani human rights organisations has asked Prime Minister Shaukat Aziz and other senior government officials to publicly pledge and commit themselves to improving the human rights situation in the country.

The alliance consists of the Human Rights Commission of Pakistan (HRCP), Human Rights Education Forum Pakistan, Asian Forum for Human Rights and Development and National Commission for Justice and Peace - a human rights body of Catholic churches.

A joint letter published by the Daily Times pointed out a crucial paragraph of the UN General Assembly resolution establishing the Human Rights Council (A/60/251). It said: "When electing members of the council, member states shall take into contribution of candidates to the promotion and protection of human rights and their voluntary pledges and commitments made thereto. Given that Asia is the only region in the world that lacks a regional human rights mechanism, we consider it particularly important for Asian countries to publicly commit themselves to promoting and protecting all human rights."

It said: "Other candidates have issued pledges, which they will implement as a member of the council, such as: issuing standing invitations to special procedures; improving opportunities for contributions to the council by non-government organisations; ratifying additional international human rights treaties; submitting reports to the treaty bodies within the deadline and ensuring a follow-up of the recommendations and increasing cooperation with the Office of the High Commissioner for Human Rights (OHCHR)."

While describing the decision to set up the Human Rights Council "important – some say historic" in the process of United Nations reform, Pakistan's Ambassador and Permanent Representative to the UN in New York Munir Akram and the Organization of the Islamic Conference (OIC) had expressed reservations on the draft resolution but voted in favour. The OIC had proposed that provisions relating to respect for religions, prophets and cultures should be accommodated in both the preambular and operative parts of draft the resolution.

The alliance asked Aziz to commit Pakistan to promoting and protecting human rights domestically and internationally through specific commitments including but not limited to the commitments attached to the letter. It said Pakistan should demonstrate its commitment to promote and protect human rights as a member of the Human Rights Council by pledging to ratify all core international human rights treaties, in particular those that provide for individual communications and Pakistan should make the necessary declaration to accept individual communications.

"In particular, we ask the Pakistani government to consider reinstating the Juvenile Justice System Ordinance (JJSO) or introducing new legislation to protect children in the criminal justice system in line with Pakistan's obligations under the Convention on the Rights of the Child (CRC); the government must promptly reinstate JJSO of 2000, which the Lahore High Court revoked on December 6, 2004, with effect for the whole country; if the Supreme Court decides to uphold the Lahore High Court judgment, we urge the government to consider new legislation to protect children in the criminal justice system in line with Pakistan's commitments under CRC," the letter said.

The coalition urged Pakistan to ratify the optional protocol of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). "In the name of culture and tradition, thousands of women continue to be discriminated against and even murdered in Pakistan, while the majority of perpetrators go unpunished. It is therefore essential that victims of human rights violations have an international avenue for redress and recourse to justice. The Convention Against Torture (CAT) should also be ratified, given the high level of torture committed by police and other law enforcement agencies," the coalition said.

The coalition further called for ratifying all eight International Labour Organisation (ILO) conventions on fundamental human rights. It said: "We strongly urge the government to demonstrate its commitment to the promotion and protection of human rights by removing the following reservations that hamper the effective implementation of the provisions in the treaties." Presently, there is only one reservation in place, which is regarding CEDAW's Article 29 (dispute between state parties may be submitted to arbitration by the International Court of Justice).

The coalition also pushed for supporting the quick approval of the draft convention for the Protection of all Persons from Enforced or Involuntary Disappearances and the draft Declaration on the Rights of Indigenous Peoples. It also called for fulfilling the obligation to submit reports to the treaty bodies by the specified deadline.

It also pushed Pakistan to form a National Human Rights Commission in accordance with the Paris Principles; form a fully functional regional human rights mechanism and improve opportunities for contributions to the council by NGOs as well as increase cooperation with NGOs at the national, regional and international levels.

– **Mohammed Hussain**

GHANA NOT EXACTLY A RIGHTS HAVEN

Accra – Ghana has welcomed the adoption of the resolution establishing the Human Rights Council and is seeking election to the Council, convinced that the resolution is of "great importance, not only for the African continent, but also for the peoples of the world," because it reaffirms basic human rights and fundamental freedoms and places an equal emphasis on all human rights – economic, social and cultural rights as well as civil and political rights.

In a statement of voluntary pledges and commitments to the General Assembly, the country's Permanent Mission to the UN points out that "respect for human rights has constituted a strong basis of Ghana's foreign policy from independence to date and still remains a high priority". The statement recalls that during its membership for three consecutive terms, Ghana "effectively participated" in the work of the Commission on Human Rights.

According to the Human Rights Watch, Ghana has ratified ten out of 14 core Human Rights Treaties and Protocols and the two Protocols to the Geneva Conventions. The four 1949 Geneva Conventions and their two Optional Protocols form the cornerstone of International Humanitarian Law (the "laws of war"). Virtually every state has ratified the four Geneva Conventions. But not all the states have also ratified the Protocol Additional to the Geneva Conventions of August 12, 1949, and relating to the Protection of Victims of International Armed Conflicts and to the Protection of Victims of Non-International Armed Conflicts. Ghana has also ratified the Rome Statute of the International Criminal Court.

Praising Ghana's rights record, the non-governmental organisation Journalists for Human says that the Constitution of 1992 vigorously protects the right of free speech, and that the Supreme Court recently overturned the criminal libel law, which made false information a felony that was used to intimidate journalists in the past.

The Constitution of 1992 is the ultimate law of Ghana and is the principal legal text protecting the rights and freedoms of the people. Chapter 5 of the Constitution, entitled 'Fundamental Human Rights and Freedoms', is an entrenched section of the Constitution. All the laws of Ghana must conform to Chapter 5 and thus must respect the rights and freedoms protected by the Constitution.

In the case of a suspected derogation of any of the rights and freedoms protected, the Commission on Human Rights and Administrative Justice (CHRAJ), and the courts may be called upon to investigate the alleged derogation and enforce or uphold the Constitution as they see fit. The fundamental rights and freedoms provided in the Constitution apply to "every person in Ghana, whatever his race, place of origin, political opinion, colour, religion, creed or gender." The Commission is a fully autonomous agency with complete powers to investigate the government and any government body.

And yet Ghana is far from being a rights haven. Amnesty International and the Centre on Housing Rights and Evictions (COHRE) have expressed their serious concern about the recent forced eviction of hundreds of residents from the Dudzorme Island within the Digya National Park in the Tapa-Abotoase area of Lake Volta, and the planned forced eviction of thousands more.

In a statement on April 19, the two organisations said that these forced evictions have deprived residents, including women and children, of their homes and, in most cases, of their means of earning a living. The organisations are also deeply concerned about the death of more than 100 of those forcibly evicted, when a ferry forcibly removing them from the island capsized on April 8.

The Game and Wildlife Division argue that the forced evictions are necessary because the land was set aside as a forest reserve. But Amnesty International and COHRE have been informed that the forced evictions were carried out without adequate prior consultation, adequate notice and compensation or alternative accommodation. "This is in violation of Ghana's regional and international human rights obligations, including the right to adequate housing, which includes the right not to be forcibly evicted," says the statement.

The Dudzorme Island community were reportedly first threatened with evictions in June 2002. In January 2003, as a result of a campaign by local and international non-governmental organisations, including COHRE and the Center for Public Interest Law (CEPIL), against these planned forced evictions, the Minister for Land and Forestry decided to suspend the evictions. However, on February 5 this year the Government served an eviction notice on the community, with less than one month's notice. In late March and early April, officials of the Forestry Commission forcibly evicted residents from Dudzorme Island.

Sources confirmed to Amnesty International and COHRE that there was inadequate prior consultation with the community. Furthermore, insufficient notice of less than one month was given to the residents, in contrast to the 90 days absolute minimum recommended by the United Nations Special Rapporteur on the Right to Housing as a component of the right to an adequate standard of living. Evictees reported that they were forced out of their houses, subsequently forced on to the boat, and some of them were beaten with sticks. – **Kofi Danso**

THE GAP BETWEEN NIGERIAN POLICY AND PRACTICE

Abuja – While welcoming the establishment of the Human Rights Council and committing itself to the Council's purposes and objectives, Nigeria has reaffirmed its determination to strengthen and actively support the work of the National Human Rights Commission in order to make it more effective in carrying out its mandate. The Commission was established in 1995, in response to the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in Geneva.

In order to demonstrate its commitment to observance of human rights, the Federal Government of Nigeria is developing with the help of the Commission a National Action Plan for the promotion and protection of human right in Nigeria. When adopted by the Government and subsequently deposited in Geneva with the new Council, the action plan is expected to become a benchmark to measure Nigeria human rights studies

The National Human Rights Commission does not consider itself a substitute or rival to law courts. Its complaint treatment mechanism is to complement the work of the courts, whose constitutional duty it is to enforce fundamental human rights. The Commission targets the poor and vulnerable as well as the rich by offering services, which are inexpensive, non-technical, less time consuming and more accessible to the public. Its objectives are:

- a) To facilitate Nigeria's implementation of its various treaty obligations, including but not limited to, the Universal Declaration of Human Rights, the International Convention on the Elimination of all Forms of Racial Discrimination and the African Charter on Human and Peoples' Rights;
- b) To create an enabling environment for extra-judicial recognition, promotion and enforcement of all rights recognized and enshrined in the Constitution of the Federal Republic of Nigeria 1999 and under the laws of the land;
- c) To provide a forum for public enlightenment and dialogue on Human Rights issues and to limit controversy and confrontation over allegations of human rights violation by public officers and agencies and to reaffirm the sacred and inviolable nature of human and other fundamental rights.

Nigeria has ratified seven out of 14 core Human Rights Treaties and Protocols, two Protocols to the Geneva Conventions and the Rome Statute of the International Criminal Court. Besides, under President Olusegun Obasanjo, Nigeria continues to enjoy a generally positive image in the eyes of foreign governments. The country has enhanced its regional and international significance through the leading role played by Obasanjo in the African Union, his efforts to broker peace in the Darfur region of Sudan and his role in calming tension during the February 2005 political crisis in Togo.

This, combined with Nigeria's economic significance as a major oil producer, creates unwillingness on the part of key governments and intergovernmental organisations such as the African Union and the Commonwealth, to publicly criticise Nigeria's human rights record, despite abundant evidence of serious human rights problems and little action on the part of the government to address them. And yet Nigeria's most serious human rights problems remain unresolved, says the Human Rights Watch. The government has largely failed to tackle the impunity that often attaches to serious human rights abuses, particularly abuses committed by the security forces and government officials.

In recent years, Nigeria has repeatedly been shaken by devastating outbreaks of intercommunal violence that are often fuelled by government mismanagement and political manipulation. Many unresolved tensions are likely to be made even more explosive by intense political competition surrounding landmark presidential primaries in 2006 and general elections in 2007. Concerns exist that many politicians may resort to the same violent tactics in the upcoming elections that undermined the legitimacy of the last nationwide polls in 2003.

Human rights watchdogs also point to the conflict in the oil-rich Niger Delta in the south of the country, which remains the scene of recurring violence between members of different ethnic groups competing for political and economic power, and between militia and security forces sent to restore order in the area. Violence between ethnic militias often occurs within the context of clashes over control of the theft of crude oil.

A United Nations Committee last year noted with concern the inadequacies of the system of protection against racial discrimination as it currently exists. The Nigerian legal system does not provide for a definition of racial discrimination. Furthermore, constitutional guarantees against racial discrimination do not extend to non-citizens.

For example, regarding the acquisition of nationality, foreign men are unable to acquire Nigerian nationality in the same manner as a foreign woman. Also because the Nigerian Government has failed to implement the International Convention on the Elimination of all forms of Racial Discrimination into domestic law, victims of racial discrimination cannot directly invoke the provisions of the Convention. – **Richard Johnson**

WILLING PERU FACES FORMIDABLE OBSTACLES

Lima – Peru has participated in the Commission on Human Rights as a member several times over the last 20 years, and held the chair of the Commission when it was decided this March to replace it by the Human Rights Council. "We welcome the birth of this new multilateral body, the mandate of which is more robust and focuses essentially on victims of human rights violations," a Peruvian government representative told the General Assembly.

The country's commitment to human rights is also underlined by the fact that it has ratified 12 out of 14 core human rights treaties and protocols, two additional protocols to the Geneva Conventions and the Rome Statute of International Criminal Court. The country also took a pro-human rights position on ten recent resolutions in the UN General Assembly – nine country resolutions and one thematic resolution. All these are criteria laid down by human rights watchdogs to determine the eligibility of a country to be deservedly elected to the Human Rights Council.

In fact, Human Rights Watch points out that though efforts to prosecute those responsible for gross human rights violations dating from Peru's armed conflict (1980-2000) have begun to show results, they still face formidable obstacles. These include a chronic shortage of funds and resources, a lack of trained investigators, and a lack of cooperation by the armed forces. Military courts continue to investigate human rights violations committed by military personnel during the 1980-2000, even though the Constitutional Court and the Supreme Court have ruled that they lack competence to do so.

While emphasising that Peru has a diverse and vibrant range of nongovernmental human rights groups that operate without governmental or legal restrictions, human rights observers point out that some have suffered anonymous attacks, threats, and harassment. Torture is an ongoing problem. Journalists face violence and harassment, particularly in provincial cities. Human rights defenders are vulnerable to threats and intimidation.

In September 2005, Salomón Lerner, former president of the Truth and Reconciliation Commission, received death threats. While he was out of the country, his secretary received a telephone call from an individual who told her that Lerner should "consider himself dead". Previously, Lerner had received a series of insulting and anti-Semitic emails. Other commission members received insulting messages accusing them of attacking the armed forces. The threats coincided with efforts to discredit the commission following the second anniversary of publication of its report on human rights violations and abuses committed by both sides during Peru's armed conflict (1980-2000). Several critical articles appeared in the press signed by retired soldiers implicated in abuses. The commissioners faced nine lawsuits from senior retired officers who claimed that they had distorted the facts.

Also in September, COMISEDH, whose lawyers represent torture victims and relatives of the "disappeared", suffered two anonymous attacks. On September 6, someone tied a dirty lock of human hair to the door of its office in Ayacucho. A week later, unidentified armed individuals staged a nocturnal raid on COMISEDH's office in Lima, tampered with the alarm, and disabled the phone and cable connections. Before they left the building they fired shots to scare off a night-watchman. Nothing was stolen.

Prosecutors and forensic experts working on human rights cases have also received threats. Cristina Olazábal, the special human rights prosecutor in Ayacucho, received intimidating calls from anonymous callers on several occasions while she was investigating extrajudicial executions at Accomarca and the Los Cabitos military base in Ayacucho. In February and August 2005, three experts from the Medical Legal Institute (the forensic branch of the public ministry) who were participating in the Los Cabitos investigation received threatening text messages on their cell phones. Altogether, there were forty-five incidents involving attacks, threats, and intimidation against witnesses and relatives, judges, prosecutors, forensic staff, and human rights activists from January through October 2005, according to the human rights umbrella group National Human Rights Coordinating Group.

But the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights continue to consider Peruvian cases. In March 2005, the Court ordered Peru to bring to justice those responsible for the extrajudicial execution of labour leader Pedro Huilca Tecse, who was assassinated by members of the Colina death squad in December 1992. Finally admitting responsibility for his murder, the Peruvian government agreed to pay 250,000 dollars in compensation to his surviving relatives as well as undertake various measures of symbolic reparation.

The United States and several European countries provided funds in past years to support the work of the Truth and Reconciliation Commission. Money that has followed the Commission's report for office equipment, computers, transportation, and the capital cost of forensic equipment and laboratories has come almost entirely from international donors. – **Alberto Estrada**

DISCLAIMER

The views expressed in this newsletter are not necessarily those of the Friedrich-Ebert-Stiftung or of IPS Europe.