



Dialogue on
Globalization

CONFERENCE REPORT
FES GENEVA

Human Rights Council, 11th Session June 02 to 18, 2009, Geneva

THEODOR RATHGEBER

General remarks

The 11th session of the Human Rights Council (HRC) concluded with 13 resolutions and decisions adopted – among them a new mandate for an Independent Expert on the Situation of Human Rights in Sudan – strong verbal attacks against mandate holders of the Special Procedures and threats even to the UN Committees (Treaty Bodies) in order to make them more state orientated. Leading countries were Egypt, Cuba and China. The representative of China stipulated the idea to draft a Code of Conduct for the Treaty Bodies, too. Particularly attacked were the Special Rapporteur on Freedom of Opinion and Expression (Frank La Rue), the Special Rapporteur on Extrajudicial Executions (Philip Alston) and the Special Rapporteur on the Independence of Judges and Lawyers (Leandro Despouy). Cuba and Egypt initiated a resolution to add to the Code of Conduct a more restrictive interpretation. Fortunately, this could be avoided. Cuba and China made several statements in a frank remake of Cold War terminology.

A rather strange phenomenon continued which has started in February this year in the framework of the Universal Periodic Review (UPR): the intentions to manipulate the list of speakers either for the interactive dialogue or the adoption of the outcome. In June, hardly any Western country succeeded to be among the first ten in order to take the floor. In relation to NGOs, it was a tough fight to get three or four independent NGOs among the first ten on Cuba and China while the rest of the NGOs on the list were dominated by their governments (so called GONGOs). History's irony: as some of the GONGOs' representatives did wear high heels, they could not run that quickly to the desk for the speakers list as some NGO representatives wearing sport shoes.

The HRC made a positive step in adopting the resolution to continue with the international monitoring on Sudan. A very narrow majority (20:18) succeeded to vote for an Independent Expert who shall also implement the mandates of former resolutions A/HRC/RES/6/34, 6/35, 7/16 and 9/17. Out of 13 member states of the African Group, seven did not follow Egypt's 'leadership',

and Uganda publicly stated its disagreement with Egypt's draft text as not being agreed among the African Group. A further success has been the adoption by consensus of establishing an Open-ended Working Group to explore the possibility of elaborating an Optional Protocol to the Convention on the Rights of the Child (communications procedure).

The HRC further adopted resolutions on violence against women, trafficking in persons, the effects of foreign debt and the human rights of migrants, the promotion of the right of peoples to peace, the right to education, guidelines for the alternative care of children, preventable maternal mortality and morbidity, 'enhancement' of the system of Special Procedures, and to extend the mandate of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action for 3 years.

A number of panel discussions took place. A full day panel was dedicated to women's rights particularly considering the equality before the law. The discussion focused on non-discrimination in law, with a view to identifying concrete steps to further gender equality. The High Commissioner for Human Rights stressed – among others – the gap between international norms and national reality and underlined the special attention to be paid to circumstances as race, religion, ethnicity, poverty, disability, social status, and other forms of discrimination. In those cases of multiple discrimination, the picture was one of even greater disparity.

Half a day was dedicated to a panel on climate change and human rights, which was supported by the Friedrich-Ebert-Stiftung. The Deputy High Commissioner for Human Rights linked the issue of climate change to poverty, discrimination and unfair development. Experts on the panel conveyed the idea to establish a mandate under the Special Procedures and invited existing mandate holders to draw attention to this subject, too. In this context, the World Council of Churches together with Forum Human Rights and United Evangelical Mission conducted a side event, stressing the viewpoint of churches. Self-critically, the panellists stated the still predominant

understanding of nature being dominated by man's performance. Climate change has also to be considered in the context of justice and the option for the poor. A further panel of the HRC discussed the objectives and modalities of future panels.

Reports

A number of reports and interim reports have been presented by the Office of the High Commissioner for Human Rights: Durban Review Conference particularly considering migrants, condition of civilians in armed conflicts (A/HRC/11/31), guidelines on extreme poverty (A/HRC/11/32), the right to peace (A/HRC/11/38), women's rights in the UN system (A/HRC/11/39), the human rights situation in Afghanistan, Pakistan, Gaza strip, Columbia, Somalia, DR Congo, Sudan, Chad, Sri Lanka, Nepal. The UN Secretary General presented reports on a Workshop for promoting human rights (November 2008) and the role of regional human rights institutions (A/HRC/11/3).

The Special Procedures presented reports on Transnational Corporations and other Business Enterprises (Special Representative of the UN General Secretary; A/HRC/11/13 and Add.1), Migration (Special Rapporteur; A/HRC/11/7 and Add.1-3; visits to Mexico and Guatemala), Education (Special Rapporteur; A/HRC/11/8 and Add.1-3; visits to Malaysia and Guatemala), Independence of Judges and Lawyers (Special Rapporteur; A/HRC/11/41 and Add.1-3; visits to Russian Federation and Guatemala), Freedom of Opinion and Expression (Special Rapporteur; A/HRC/11/4 and Add.1-3; visits to Honduras and Maldives), Health (Special Rapporteur; A/HRC/11/12 and Add.1-2; visit to the pharmaceutical company GlaxoSmithKline), Extrajudicial, Summary or Arbitrary Executions (Special Rapporteur; A/HRC/11/2 and Add.1-8; visits to Brazil, Central African Republic, Afghanistan, USA, Kenya, Guatemala, Philippines), Violence Against Women its causes and consequences (Special Rapporteur; A/HRC/11/6 and Add.1-6; visits to Tachikistan, Saudi Arabia, Moldavia and a review of the last 15 years), Extreme Poverty (Independent Expert; A/HRC/11/9), effects of Foreign Debt and other related international financial obligations on the full enjoyment of all human rights (Independent Expert; A/HRC/11/10), Contemporary Forms of

Racism, Racial Discrimination, Xenophobia and Related Intolerance (Special Rapporteur; A/HRC/11/36 and Add.1-3, visits to Mauritania and USA), Sudan (Special Rapporteur; A/HRC/11/14 and Add.1); Haiti (Independent Expert; A/HRC/11/5).

UPR-Outcomes

The HRC adopted the outcomes of the Universal Periodic Review process on Germany (A/HRC/DEC/11/101), Djibouti (A/HRC/DEC/11/102), Canada (A/HRC/DEC/11/103), Bangladesh (A/HRC/DEC/11/104), Russian Federation (A/HRC/DEC/11/105), Cameroon (A/HRC/DEC/11/106), Cuba (A/HRC/DEC/11/107), Saudi Arabia (A/HRC/DEC/11/108), Senegal (A/HRC/DEC/11/109), China (A/HRC/DEC/11/110), Azerbaijan (A/HRC/DEC/11/111), Nigeria (A/HRC/DEC/11/112), Mexico (A/HRC/DEC/11/113), Mauritius (A/HRC/DEC/11/114), Jordan (A/HRC/DEC/11/115), Malaysia (A/HRC/DEC/11/116).

As on previous opportunities, the majority of like-minded states applauded the governments under review for their cooperation, good performance and willingness to properly deal with the recommendations. How far China should appreciate Uzbekistan's or Sri Lanka's certification of 'good governance' is up to China. During the general debate on UPR, many speakers stressed the intentions to manipulate the speakers' lists and missed the adequate translation of documents. The HRC also held a discussion on follow-up to the Council's ninth Special Session on the situation in the Gaza Strip.

Elections

The HRC appointed five new mandate holders (Special Procedures):

Sicilianos Linos-Alexander (Greece); Working Group on People of African Descent;

Mads Andenas (Norway); Working Group on Arbitrary Detention;

Osman El-Hajje (Lebanon); Working Group on Enforced or Involuntary Disappearances;

Gabriela Carina Knaul De Albuquerque e Silva (Brazil); Special Rapporteur on the Independence of Judges and Lawyers;

Rashida Manjoo (South Africa); Special Rapporteur on Violence Against Women, its causes and consequences.

Resolutions

Adopted by the HRC (by consensus if not otherwise detailed)

A/HRC/RES/11/1; Open-ended Working Group of the Human Rights Council to explore the possibility of elaborating an optional protocol to the Convention on the Rights of the Child to provide a communications procedure complementary to the reporting procedure under the Convention.

A/HRC/RES/11/2; accelerating efforts to eliminate all forms of violence against women, the Council requests the OHCHR to convene, in 2010, an expert workshop to discuss specific measures for overcoming obstacles and challenges that States may face in preventing, investigating, prosecuting and punishing the perpetrators of violence against women and girls, as well as measures for providing protection, support, assistance and redress for victims.

A/HRC/RES/11/3; trafficking in persons, especially women and children, the Council requests OHCHR to organize, in close coordination with the Special Rapporteur on trafficking, a two-day seminar aimed at identifying opportunities and challenges in the development of rights-based responses to trafficking in persons with a view to acknowledging emerging good practices and further promoting the practical application of the Recommended Principles and Guidelines on Human Rights and Human Trafficking.

A/HRC/RES/11/4; the right of peoples to peace, the Council reiterated its request to the UN High Commissioner for Human Rights to convene, before February 2010, a workshop on the right of peoples to peace, with the participation of experts from all regions of the world, in order to further clarify the content and scope of this right; to propose measures that raise awareness of the importance of realizing this right; and to suggest concrete actions to mobilize States, intergovernmental and non-governmental

organizations in the promotion of the right of peoples to peace.

By vote

Yes (32): Angola, Argentine, Azerbaijan, Bahrain, Bolivia, Brazil, Burkina Faso, Cameroon, Chile, China, Cuba, Djibouti, Egypt, Gabon, Ghana, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

No (13): Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Netherlands, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom;

Abstention: India

A/HRC/RES/11/5; the effects of foreign debt, the Council welcomed the report of the Independent Expert 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 and requested that he continue to explore the inter-linkages with trade and other issues, including HIV/AIDS, when examining the impact of structural adjustment and foreign debt.

By vote

Yes (31): Angola, Argentine, Azerbaijan, Bahrain, Bolivia, Brazil, Burkina Faso, Cameroon, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

No (13): Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Netherlands, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom;

Abstention (2): Chile, Mexico.

A/HRC/RES/11/6; the right to education: follow-up to Human Rights Council resolution 8/4, the Council urged all relevant stakeholders to increase their efforts so that the goals of the Education for All initiative can be achieved by 2015, including by tackling persistent inequalities based on income, gender, location, ethnicity, language, disability and other factors.

A/HRC/RES/11/7; Guidelines for the Alternative Care of Children, the Council welcomed the accomplishment of the Guidelines for the Alternative Care of Children and decided to submit the Guidelines to the General Assembly for consideration with a view to their adoption on the twentieth anniversary of the Convention on the Rights of the Child.

A/HRC/RES/11/8; preventable maternal mortality and morbidity and human rights, the Council requested OHCHR to prepare a thematic study on preventable maternal mortality and morbidity and human rights, in consultation with States, the World Health Organization, and all other relevant stakeholders, and requested that the study include: identification of the human rights dimensions of preventable maternal mortality and morbidity in the existing international legal framework; an overview of initiatives and activities within the United Nations system to address all causes of preventable maternal mortality and morbidity; identification of how the Council can add value to existing initiatives through a human rights analysis, including efforts to achieve the Millennium Development Goal on improving maternal health; and that it recommend options for better addressing the human rights dimension of preventable maternal mortality and morbidity throughout the United Nations system.

A/HRC/RES/11/9; human rights of migrants in detention centres, the Council decides to hold a panel of discussion on the matter at its twelfth session, with equitable geographic and gender participation of representatives of Governments, relevant experts and representatives of civil society including national institutions.

A/HRC/RES/11/10; the situation of human rights in Sudan, the Council calls on the Government of National Unity to continue and intensify its efforts for the promotion and protection of human rights by taking all possible concrete steps to improve the human rights situation; and decides to create the mandate of independent expert on the situation of human rights in Sudan for a period of one year, who shall assume the mandate and responsibilities set out by the Council in its resolutions 6/34, 6/35, 7/16 and 9/17.

By vote

Amendments made by the European Union

Yes (20): Argentina, Bosnia and Herzegovina, Brazil, Canada, Chile, France, Germany, Italy, Japan, Mauritius, Mexico, Netherlands, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom, Uruguay, Zambia.

No (19): Angola, Bahrain, Bangladesh, Cameroon, China, Cuba, Djibouti, Egypt, Gabon, Indonesia, Jordan, Madagascar, Malaysia, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, South Africa.

Abstention (8): Azerbaijan, Bolivia, Burkina Faso, Ghana, India, Nicaragua, Nigeria, Senegal.

Amended Resolution

Yes (20): Argentina, Bosnia and Herzegovina, Brazil, Canada, Chile, France, Germany, Italy, Japan, Mauritius, Mexico, Netherlands, Republic of Korea, Slovakia, Slovenia, Switzerland, Ukraine, United Kingdom, Uruguay, Zambia;

No (18): Azerbaijan, Bahrain, Bangladesh, Cameroon, China, Cuba, Djibouti, Egypt, Indonesia, Jordan, Malaysia, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, South Africa;

Abstention (9): Angola, Bolivia, Burkina Faso, Gabon, Ghana, India, Madagascar, Nicaragua, Senegal.

A/HRC/RES/11/11; enhancement of the system of Special Procedures, the Council recalls that it is incumbent on Special Procedures mandate holders to exercise their functions in full respect for and strict observance of their mandates, as outlined in the relevant Council resolutions providing such mandates, as well as to comply fully with the provisions of the Code of Conduct.

A/HRC/RES/11/12; Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action, the Council decides to extend the mandate of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action for a period of three years.

A/HRC/DEC/11/117; issuance of reports of the Working Group on the Universal Periodic Review in all official languages of the United Nations, the Council decided that all reports adopted by the

Working Group shall be issued as official documents in all official languages of the United Nations, in a timely manner before their consideration by the Council, and requested the Secretary-General to ensure the necessary support to that effect.

The new Presidency of HRC is executed by Belgium from June 19, 2009 to June 18, 2010. Vice-Presidents are Egypt, Slovenia, Indonesia, Chile.

The 47 member states till June 2010 are:

Angola (2010), Argentina (2011), Bahrain (2011), Bangladesh (2012), Belgium (2012), Bolivia (2010), Bosnia and Herzegovina (2010), Brazil (2011), Burkina Faso (2011), Cameroon (2012), Chile (2011), China (2012), Cuba (2012), Djibouti (2012), Egypt (2010), France (2011), Gabon (2011), Ghana (2011), Hungary (2012), India (2010), Indonesia (2010), Italy (2010), Japan (2011), Jordan (2012), Kyrgyzstan (2012), Madagascar (2010), Mauritius

(2012), Mexico (2012), Netherlands (2010), Nicaragua (2010), Nigeria (2012), Norway (2012), Pakistan (2011), Philippines (2010), Qatar (2010), Republic of Korea (2011), Russian Federation (2012), Zambia (2011), Saudi Arabia (2012), Senegal (2012), Slovakia (2011), Slovenia (2010), South Africa (2010), Ukraine (2011), United Kingdom (2011), USA (2012), Uruguay (2012).

Time Schedule

- 12th regular session of Human Rights Council; 14 September - 02 October
- Advisory-Committee; 03 - 07 August
- Expert Mechanism on the Rights of Indigenous Peoples; 10 - 14 August
- Social Forum; 31 August - 02 September
- Forum on Minorities; 03 - 04 September
- UPR round 6, 30 November - 11 December

About the author:

Theodor Rathgeber, Political Scientist (PhD), is Lecturer at the University of Kassel (Germany), and freelance consultant on human rights and development policies. Since 2003, he is official observer first to the UN Commission on Human Rights, then the UN Human Rights Council for the German NGO network Forum Human Right.

More information is available on
www.fes.de/globalization

The views expressed in this publication are not necessarily the ones of the Friedrich-Ebert-Stiftung or of the organization for which the author works.

Friedrich-Ebert-Stiftung
Hiroshimastrasse 17
10785 Berlin
Germany
Tel.: ++49-30-26-935-914
Fax: ++49-30-26-935-959
Roswitha.Kiewitt@fes.de
www.fes.de/globalization

Friedrich-Ebert-Stiftung, Genf
6 bis, Chemin du Point-du-Jour
1202 Geneva
Switzerland
Tel. 0041 22 733 3450
Fax: 0041 22 733 3545
E-mail: fes.geneva@econophone.ch
<http://www.fes.de/globalization>