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REPORT ON THE 16TH REGULAR SESSION OF
THE UN HUMAN RIGHTS COUNCIL

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1. Introduction

During its 16th regular session (28 February to 25 March 2011), the UN Human Rights Council (HRC) adopted 40 resolutions and debated upon a large variety of reports from the Office of the High Commissioner for Human Rights (OHCHR), various mandate holders of Special Procedures and the UN Secretary-General (UNSG). Given the limited space, only some selected issues will be presented by highlighting and commenting major outcomes.

An almost revolutionary step did the HRC just before its 16th session by asking the UN General Assembly (UNGA) to suspend Libya as member of the HRC; and it so happened. As usual, the HRC started its work – after the High Level Segment – with the annual report by the High Commissioner for Human Rights, Navi Pillay, on the work of her Office. As thematic priorities, she presented the issues of discrimination, migrants, especially those in irregular situations, violence and abuse against women and girls, the commemoration of the 25th anniversary of the Declaration on the Right to Development and the 20th anniversary of the Durban Declaration and Programme of Action. Navi Pillay reported further that her Office had convened a high-level panel to go to the Democratic Republic of the Congo to hear directly from and engage in a dialogue with victims of sexual violence regarding their needs and their perceptions of remedies and reparations available to them.

2. A New Country Mandate and other Situations

A next 'first time' within the HRC was the adoption of a resolution which establishes a

country mandate on Iran. It was the first country-specific mandate created by the HRC since its establishment in 2006. Remarkable was also, that the main sponsors of the resolution comprised countries from different regions: Sweden, Moldova, Panama, Zambia, the former Yugoslav Republic of Macedonia and the USA. In the past, country resolutions were presented almost exclusively by Western countries. The majority was relatively vast: 22 countries voted in favour, 7 with no and 14 abstentions. The mandate of the Special Rapporteur runs for one year and requests reports on the situation of human rights in Iran to be presented as interim report to UNGA at its sixty-sixth session and to the HRC for consideration at its 19th session. While the resolution calls upon the government of Iran to cooperate and to permit access to visit the country, there is low hope that this will happen. Anyway, one of the cruellest regimes in terms of human rights violations, underlined by the report of the UNSG of March 2011, at least received an appropriate response by the appropriate political body at the UN system.

Unfortunately, the dynamic to generate new country mandates was not sufficient to also include Belarus although the government there deserves such attention and the European Union, particularly Poland and Germany, had prepared a draft text. Nevertheless, for many countries supporting the mandate on Iran, a second country mandate was too much verve within one HRC session. At least, a joint statement was read out. By tradition, the country mandate was extended on the situation of human rights in the Democratic People's Republic of Korea and in Myanmar. On both countries, the HRC strongly condemned the ongoing systematic violations of human

rights and fundamental freedoms of the people.

Within the framework of country situations, but not exactly as a country mandate, the HRC decided to dispatch an independent international commission of inquiry to Côte d'Ivoire. Its major tasks are to investigate facts and allegations of serious abuses and violations of human rights committed following the presidential elections of November 2010. The members of the commission will be appointed by the HRC President and it shall present its findings at the 17th session in June 2011. A country report on Burundi will be presented to the 17th session, too.

Given the political changes in the North of Africa, the OHCHR could reach an agreement with the new government of Tunisia, to assist the transitional process, supporting in coordination with Tunisian authorities the mobilisation of resources to tackle the economic and social challenges faced by Tunisia. A similar agreement on technical cooperation and consultative services was found with Guinea, in order to support the national bureau of the OHCHR in Guinea. Less successful were the endeavours to properly address the human rights situation in the Democratic Republic of the Congo. Although the resolution on DR Congo invites the OHCHR to increase its direct collaboration with the government, no follow-up procedure was established any more.

Cynical business as usual reigned over the human rights situation in Palestine, Israel and so called Other Occupied Arab Territories. Cynical, because beyond any reasons and truths in some of the resolutions on this subject, the main approach is guided rather by geopolitical than by human rights concerns. There is low chance that any of the mechanisms established to end the violations of human rights might work. Nevertheless, with

exception of the USA, all other members of HRC demanded that Israel immediately reverse its decisions on settlements and stop to demolish Palestinian houses in East Jerusalem. The HRC confirmed the right of the Palestinian people to self-determination and reaffirmed its support for the solution of two States. Less support met the resolution on the follow-up to the report of the Fact-Finding Mission on the Gaza Conflict (known as Goldstone Report).

3. Cross-regional Initiatives

Noteworthy was the phenomenal increase of draft resolutions with cross regional main sponsors as the USA and Egypt on freedom of expression, France, Morocco and Argentine on enforced or involuntary disappearances, New Zealand and Mexico on the rights of persons with disability, Switzerland, Maldives, Slovenia, Costa Rica, Uruguay, Morocco and New Zealand on environment. There is some hope, that the bloc approach can slowly be perforated and the cooperation becomes a lasting phenomenon. A propos environment: the resolution requests the OHCHR to conduct a detailed analytical study on the relationship between human rights and the environment, to be submitted to the HRC prior to its 19th session (March 2012).

4. From "Defamation of Religion" to "Combating Intolerance"

A third 'first time' relates to the traditional resolution on Defamation of Religions, introduced by Pakistan on behalf of the Organisation of Islamic Conference (OIC). Already last year, it became obvious that the majority for this resolution was shrinking. As now in March 2011, the Maldives ostentatiously dissented from the OIC, and Zambia from the African Group, there was room for a different approach to

the topic of stereotyping and stigmatisation e.g. Muslim communities. Just the title of the new resolution substantially differs from the former one (defamation of religion). Now it is titled "*Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence, and violence against persons based on religion or belief*". In addition, did the former text seek to protect the religion and its institution as such – what runs contrary to the individual right of freedom of religion or belief – the text in March 2011 contains a substantial reference to exactly the individual right and mentions further that freedom of religion or belief cannot hamper the freedom of expression and opinion. The HRC also decided to convene a panel discussion on this issue at its 17th session.

5. "Traditional Values" and "Emerging Issues"

Turning to rather negative aspects, the resolution on traditional values and human rights, introduced by the Russian Federation, revealed its worrying aspects. A majority of HRC members argues that there are traditional values that contribute to the advancement of human rights, while the European Union and others regard this discourse as undermining the universality of human rights. As a kind of compromise, the resolution requests the HRC Advisory Committee to prepare a study on how a better understanding and appreciation of traditional values of dignity, freedom and responsibility could contribute to the promotion and protection of human rights, and to present that study to the Council before its 21st session (September 2012). Stressing the harmful effects of this resolution, the EU and USA called for a vote. The HRC adopted the resolution by a vote of 24 in favour and 14 against.

A bit surprising was the emerging strong reluctance on the issue of sexual orientation. Although a record number of 85 states delivered by Colombia a joint statement – supported by a NGO statement of 119 signatories and a cross-regional joint statement of National Human Rights Institutions – which urges the HRC to contribute ending acts of violence and related human rights violations based on sexual orientation and gender identity. This joint statement includes the support of South Africa, while in parallel, the same country tabled an initiative, attempting to defer the subject into an intergovernmental working group and to exclusively keep it there. The delegation of South African argued that the meaning of sexual orientation must be clarified in the context of international law. Nigeria on behalf of the African Group supported this position saying that African leaders had decided during the Kampala summit in July 2010 that they would not accept the integration of an undefined concept into international law. In its national capacity Nigeria blamed the Special Procedures for reducing Africa's problems to issues of sexual orientation and gender identity. Pakistan on behalf of the OIC strongly condemned the 'systematic efforts by a group of States' to introduce the notion of "sexual orientation" into the UN system in general and in the human rights framework in particular. Finally, the draft resolution by South Africa was deferred to the HRC June session.

6. Further Mandates and a Decision on the HRC Review

The Council further extended the mandate of the Special Rapporteur on the right to safe drinking water and sanitation, opened Cuba the chance to deal with the right to food, and appointed Mr. Maina Kiai (Ex-Chairman of the National Human Rights

Commission in Kenya) as Special Rapporteur on the rights to freedom of peaceful assembly and of association. A rather harsh confrontation characterised the informal discussions on the outcome of the Review process. Western countries were not happy with the substance and neither with the procedure taken in the last steps. Cuba and other like-minded countries threatened to obstruct in future any further resolution by calling for a vote if the European Union and others would not accept the outcome and its wording, and thus, frustrate the needed consensus. Finally, the HRC adopted the "*Outcome of the review of the work and functioning of the United Nations Human Rights Council*" and decided that the outcomes shall be a supplement to the Institution-Building Package.

Lastly, the HRC adopted the draft for a UN Declaration on Human Rights Education and Training and recommended that the General Assembly may also adopt it. On the right to development, the HRC decided to hold a panel during the 18th session on "*The way forward in the realization of the right to development: between policy and practice*".

As of parallel events to the HRC, the Geneva Office of the Friedrich-Ebert-Stiftung (FES), and partner NGOs hosted a parallel event on Climate Change and Human Rights, giving insights into current developments under the UNFCCC and the

human rights bodies and discussed what will be necessary in achieving greater coherence between both processes. Key issues were whether the establishment of a Special Procedure on Climate Change and Human Rights might be a promising avenue and if such a procedure could consolidate the voices of the human rights system, clarify legal issues and undertake fact finding missions into concrete violations. The political changes in the North of Africa and the Middle East mentioned above were also the issue for many NGO parallel events, like the Cairo Institute for Human Rights (CIHRS) which discussed the Human Rights Situation in the Arab Region. Human rights activists and members of civil society reported from the recent political processes of change and system shifting in Bahrain, Egypt and Tunisia and the actual human rights situation in the field. Aside of the anniversaries of the Declaration of the Right to Development and the Durban Declaration and Program of Action, there was also the International Day of Remembrance of the Victims of Slavery to commemorate. The African Group and the World against Racism Network invited speakers from UN-Organizations, African missions and representatives of civil society to remember of the Transatlantic Slave Trade and its effects reaching deep into present world society and context.

The 17th regular HRC session will be held from 30 May to 17 June 2011.

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