

COUNCIL MONITOR

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Overview

The Human Rights Council (Council) continued the consideration of reports by the UPR Working Group, and finished the adoption of outcome documents for the UPR. It adopted reports on:

- **Sri Lanka**, which was criticised by some Western States for its human rights situation, and for its non-acceptance of many of the Working Group's recommendations.
- **France**, which reaffirmed its commitment to fight against all forms of discrimination and vowed to promote a European agreement on migration during its upcoming European Union Presidency.
- **Tonga**, which received unanimous praise from States for being the first small Pacific island nation to successfully complete the UPR process.
- **Romania**, which was commended by an NGO for its progress in combating discrimination on grounds of sexual orientation and gender identity.
- **Mali**, which explained how it intends to combat harmful cultural practices, and asked the international community for support in implementing the recommendation emanating from the UPR.

The Council also held a general debate on the UPR. States were unanimous in praising the 'landmark moment' of completing the first two rounds of UPR. However, views significantly differ on the way forward. While some States support the process as it is and was carried out in the first two rounds, a majority seemed to see room for improvements over time. NGOs were overall quite critical of the first two rounds of UPR. While they acknowledged the positive effect the process could have at the national level, and the genuine engagement by some States, they questioned the use of political alliances to shield some States from scrutiny, and provided some suggestions on how to improve the process.

NGO comments were once again interrupted repeatedly, for allegedly going beyond the permitted scope of statements. However, it seems more likely that some States are somewhat uncomfortable with the close attention domestic stakeholders have paid to the UPR process.

The third round of informal consultations on the draft resolution to renew the mandate of the Special Rapporteur on extrajudicial executions took place and focused, as the only new issue, on a new paragraph asking the mandate holder to pay particular attention specific killings.

Adoption of UPR outcome documents

Sri Lanka

State presentation

Sri Lanka's delegation, led by Mr Rajiva Wijesingha, Secretary to the Ministry of Disaster Management and Human Rights, advised that Sri Lanka had accepted 45 recommendations, undertaken to consider 11 others, and rejected 26. Sri Lanka was 'generally in agreement' with a majority of the recommendations ranging from action against torture, to preventing the recruitment of child soldiers. It was considering its position on acceding to international instruments such as the *Convention on the Protection of All Persons from Enforced Disappearance* or the optional protocol to the *Convention against Torture*, and restated its commitment to engage with the international human rights system.

Regarding the 26 rejected recommendations, Sri Lanka noted that many of these related to establishing an expanded presence of the Office of the High Commissioner for Human Rights (OHCHR), on which it had already made its position 'very clear'. On issuing a standing invitation to special procedures, Sri Lanka stated that it had already demonstrated willingness to engage by hosting visits over the last year. Sri Lanka added that, of the rejected recommendations, 12 recommended action in relation to which initiatives were already underway. Six others were based on flawed premises.

Member and observer States

Nine States took the floor,¹ with Western States predictably offering the most critical comments. Denmark and Sweden expressed disappointment at Sri Lanka's non-acceptance of many recommendations. The former noted that a culture of impunity prevailed in Sri Lanka, and commented (with reference to the intimidation and killing of journalists) that a democracy without a free press was a 'poor democracy'. Denmark, Sweden, Japan, and Canada lamented the unwillingness of Sri Lanka to allow for an independent international monitoring presence.

Most States appreciated Sri Lanka's engagement with the UPR mechanism, and many noted its voluntary commitments. Qatar welcomed Sri Lanka's commitment to guarantee vulnerable groups access to humanitarian assistance. It urged Sri Lanka to continue its capacity-building and reform efforts. Sweden welcomed Sri Lanka's agreement to most recommendations. Canada, Sweden, and Japan reiterated the importance of investigating and prosecuting fully any allegations of human rights violations, including extrajudicial killings (such as the killing of 17 aid workers in Muttur), enforced disappearances, and the recruitment of child soldiers. Canada stressed the need to establish an independent national human rights institution.

Algeria deplored the 'politicisation of human rights' whenever Sri Lanka was concerned. Indonesia, Bahrain, and China noted good progress on human rights despite the challenges. Indonesia acknowledged that Sri Lanka had identified its capacity-building needs, while China added that it hoped the international community would provide technical assistance to meet the needs of Sri Lanka.

Other stakeholders and closing remarks

Several NGOs assessed that the human rights situation in Sri Lanka was worsening, and most made the point that impunity prevailed. In a joint statement, Amnesty International and Human Rights Watch welcomed recommendations relating to investigating and prosecuting extrajudicial killings and other violations. They

¹ Denmark, Sweden, Algeria, Canada, Qatar, China, Bahrain, Indonesia, Japan.

stressed, however, that extrajudicial killings continued at an alarming rate. The International Commission of Jurists (ICJ) called on Sri Lanka to strengthen the independence and impartiality of its judiciary. It judged that the volatile human rights situation persevered because of a lack of political will.

Most NGOs stressed the need for an independent OHCHR presence to monitor the human rights situation. Amnesty International, Human Rights Watch, and ICJ reported that essential domestic mechanisms, including the National Human Rights Commission, were ineffective. Other issues of concern raised by NGOs included sexual violence against women, the intimidation of journalists, and access for humanitarian aid providers. The International Women's Rights Action Watch (IWRAP) Asia Pacific made the point that Sri Lanka's rejection of many recommendations demonstrated a lack of accountability and transparency, and was contrary to the spirit of the UPR. It expressed its deep concern that Sri Lanka had rejected recommendations concerning impunity, disappearances, and human rights defenders.

In its concluding observations, Sri Lanka stressed that the Government did not condone torture or extrajudicial killings and refuted allegations that it had been complicit in such activities. Sri Lanka claimed that all such allegations of human rights violations were investigated comprehensively, and perpetrators (including officials) were prosecuted. Similarly, on the issue of impunity, Sri Lanka reported that every effort was being made to bring perpetrators to justice. The Government had established the necessary structures, and again appealed to the Council for technical assistance to aid in capacity building. Sri Lanka took the opportunity to request that substantial assistance be provided by the international community to stop the funding of terrorism. In referring again to the recommendations for an independent monitoring mission, Sri Lanka observed that 11 of the 12 countries recommending such a mission were European. Here Sri Lanka drew a link to many European countries' apparently inadequate support for its fight against terrorism, in particular terrorist funding. Sri Lanka added that it believed in the sincerity of countries making recommendations, but that 'continuous finger-wagging' was not helpful.

The Government stressed that it was cooperating actively with the Special Rapporteur on torture, but the Ambassador claimed that the latter had not been answering the Government's letters. Nevertheless, noting the Special Rapporteur's 2006 report, Sri Lanka indicated that it was still determined to pursue his recommendations. With regards to allegations of threats made against journalists, Sri Lanka stressed that while freedom of expression was cherished, the press needed to be sensitive to the requirements of national security. With regard to the International Independent Group of Eminent Persons (IIGEP), Sri Lanka maintained that claims about its dissolution were 'overstated'. While members had 'decided not to function as members of the IIGEP', the IIGEP was still in existence and members were invited to assist in enhancing and building capacity. The decision on Sri Lanka was adopted by consensus.

France

State Presentation

The French delegation, led by Ambassador Jean-Baptiste Mattei, reported that France had already begun broad consultations with relevant stakeholders to determine how France would follow up to its UPR. The Government was in the process of ratifying the *International Convention for the Protection of All Persons from Enforced Disappearance*. While France did not plan to accede to the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, the Government would continue to 'be attentive' to the rights of migrants. During its upcoming European Union Presidency starting on 1 July, France would promote a European agreement on migration.

France reaffirmed its commitment to the fight against discrimination, including on the basis of religion, which was explicitly prohibited by law. A constitutional revision was underway that would improve France's system of minorities protection. However, there were no plans to revisit the 2004 law which prohibited the wearing

of religious symbols in public schools. France continued to respect the *Durban Declaration*, particularly its provisions pertaining to colonialism and the slave trade.

The delegation noted recommendations it had received on the prison sector, and advised that a bill on improving prison conditions was under discussion. France had established independent monitoring mechanisms to prevent the occurrence of torture. The Government had expended considerable effort to improve the system of protection of the rights of women, and reaffirmed its commitment to incorporate a gender perspective into its UPR follow up, and its treaty body reporting.

While acknowledging that not everything was well with its human rights situation, France undertook to inform the Council of its progress ahead of its next review under the UPR in 2012.

Member and observer States

Following Mr. Mattei's presentation only three States spoke. Qatar noted with approval France's constructive and cooperative spirit in undertaking the UPR and actively striving to improve its efforts to better observe human rights. Qatar commended France's ability to accept a majority of the recommendations and for its voluntary commitment to several additional measures aimed at improving human rights. It also noted France's commitment to drafting a National Action Plan for follow up of the *Vienna Declaration and Program of Action* adopted by World Conference on Human Rights and the *Durban Declaration and Program of Action* adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Finally, Qatar noted with satisfaction that the number of recommendations adopted by France were aimed at improving the living conditions of vulnerable groups. Morocco thanked the French delegation for its rigorous and exhaustive replies to the suggestions of the UPR Working Group, and commented that the nature and scope of the replies consolidates the good practices in this first year of implementation of the UPR, thereby demonstrating the value and relevance of this mechanism. Morocco noted France's commitment to strengthen measures to protect the fundamental rights of migrants, locally as well as regionally and commented on the priority placed by France on combating all forms of discrimination. Morocco hoped that these two areas will be part of the communication between France and the Council in implementing the recommendations stated in the UPR. Algeria stated that it did not expect to make a comment, but was inspired to do so after listening to France's noble declarations. The representative had three specific comments. Firstly, he expressed regret at the fact that France was unable to accede to the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, and hoped that France would change its position in the future. Secondly, Algeria commended France for considering provocations to religious and racial hatred as crimes and not "free speech." Lastly, Algeria wanted to know whether France also recognised the suffering of Algerians under colonialism.

Other stakeholders and concluding comments

Commission nationale consultative des droits de l'homme, the national human rights institution of France, commented favourably on the involvement of civil society in preparations for the UPR. It stated that it remains committed to analysing the recommendations made by the Council and will monitor the implementation of the obligations undertaken by France in an annual report. The International Federation of ACAT (Action by Christians for the Abolition of Torture- FIACAT), in a joint statement with Human Rights Watch, was the most critical, citing the use of stun guns by authorities; the expulsion of individuals to countries where they may be exposed to torture (for the reason of combating terrorism); and prison overcrowding. The Foundation for Aboriginal and Islander Research Action (FAIRA) expressed hope that France would be more active in promoting human rights in the Asia Pacific. The final comments were made by the Islamic Human Rights Commission, which recommended that France remove the ban on head scarves and adopt a law banning incitement to religious and racial hatred. The outcome was then adopted by consensus.

Tonga

State Presentation

Mr Viliami Malolo, the Deputy Secretary of Foreign Affairs, began his presentation by acknowledging the assistance of the troika members, Mexico, Nigeria and Qatar, as well as New Zealand, the Secretariat of the Commonwealth, and other organisations who helped it prepare for the UPR. In all, 34 States contributed to the report and 31 recommendations were accepted by the Government. Mr Malolo noted that Tonga's experience had been positive and rewarding in spite of the constraints it faced due to its size and lack of permanent representation in Geneva. He voiced Tonga's willingness to share its experience with other members of the Asia Pacific region and called for the continued goodwill and good faith of the international community in achieving the objectives of the UPR. Mr Malolo acknowledged the two main criticisms against Tonga regarding decriminalisation of consensual same-sex activity and the status of women, but declined to comment further, as he recalled that these issues had already been dealt with by the Ambassador in New York during the review in the Working Group.

Member and observer States

Following Mr Malolo's presentation seven member States took the floor.² Algeria led the way in commending Tonga on its commitment to ensure the rights and freedoms of all Tongans and the continuation of public awareness campaigns and training programmes on women's rights issues. Algeria welcomed suggestions for the creation of a regional human rights institution in the Asia Pacific and a permanent representation in Geneva of the Pacific Island Forum. Morocco also noted the difficulties faced by smaller Pacific island delegations who had trouble participating in the Council, and supported the call for a permanent representation in Geneva. Morocco further commented on the importance of providing technical assistance to Tonga.

The United Kingdom and Switzerland commended the small island nation for setting a good example as the first such State to successfully complete the UPR process. The UK welcomed Tonga's decision to ratify CEDAW. The Maldives acknowledged the capacity constraints faced by Tonga and called for the international community to assist Tonga to fully implement the UPR recommendations.

New Zealand expressed the hope that Tonga would attend a seminar it planned to host in 2009 to assist governments of small island States to prepare for the UPR. Qatar praised Tonga's commitment to ratifying international covenants, furthering the right of women, and ensuring access to education.

Other stakeholders and concluding comments

Noteworthy comments by the stakeholders included: firstly, the failure of the Tongan government to decriminalise consensual same-sex practices;³ and secondly, failure to further women's rights by repealing laws regarding inheritance, land ownership, and child support.⁴ The Canadian HIV/AIDS Legal Network stated that Tonga's decision to reject the recommendation regarding the decriminalisation of consensual same-sex activities prevented all peoples from being granted equal recognition. Amnesty International praised Tonga for its leadership role as the first Pacific island nation to successfully conduct the UPR. It called on Tonga to honour all UN human rights treaties and reporting obligations, continue its active engagement with civil society, and ensure that the benefits of the UPR were disseminated to all segments of the population. The report was adopted by consensus.

² Algeria, Morocco, United Kingdom, Maldives, New Zealand, Switzerland, Qatar.

³ Canadian HIV/AIDS Legal Network; International Women's Rights Action Watch.

⁴ Joint statement issued by the International Women's Rights Action Watch (IWRAP) Asia Pacific, Action Canada for Population and Development (ACPD), Federation for Women and Family Planning, Latin American Committee for the Defence of Women's Rights (CLADEM).

Romania

State presentation

Mr Gheorghe Magheru, Director General at the Ministry of Foreign Affairs, informed the Council that Romania would accept all recommendations of the UPR Working Group report with the exception of Recommendations 1 and 18.⁵ These exceptions respectively relate to the ratification of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICRMW) and the harmonisation of legislation regarding religious freedoms with international standards. In relation to the former, Romania would consider becoming party to the ICRMW if there is an ‘added value’ for Romania of such a decision. With regard to religious freedom, Mr Magheru stated that Romania’s 2006 legislation ‘provides for a framework that ensures the non-discriminatory exercise of the freedom of conscience by all Romanian citizens’ and was therefore sufficient

Mr Magheru provided additional comments in regards to many of the recommendations made. He specifically pointed to successive legislative amendments in the public safety area generating changes in the working methods of law enforcement personnel, The National Agency for Roma’s work towards improving the condition of the Roma minority, and the application of sanctions for cases of discrimination against persons living with HIV/AIDS by the National Council for Combating Discrimination. A comprehensive document with answers to all recommendations was circulated in the room.

Member and observer States

Each of the three States commenting on the report⁶ commended Romania for action taken. China pointed towards Romania’s efforts in improving national legislation, and the establishment of its national human rights institution. The United Kingdom thanked Romania for its frank and self-critical approach to responses and for the openness in accepting challenging suggestions. Algeria appreciated Romania’s acceptance of recommendation 10 on improving women’s rights through education and inquired into the status of recommendation 14 on combating police brutality and discrimination.

Other stakeholders and concluding comments

The European Region of the International Lesbian and Gay Association (ILGA-Europe), the only stakeholder to speak,⁷ presented a joint statement with the Canadian HIV/AIDS Legal Network encouraging the Government to continue efforts in combating discrimination. They suggested additional measures such as strengthening the National Council for Combating Discrimination, adding gender identity to the non-discrimination criteria of *Ordinance 137*, raising awareness about the discrimination of lesbians, gays, bisexual, and transgender (LGBT) people in education and among health professionals, and granting homosexual couples the right to marriage. ILGA-Europe commended the Government for the new protection afforded by police officers during LGBT marches and for its repeal of *Penal Code Article 200*, which criminalised private same sex relations among consenting adults.

After informing Algeria that Romania did accept recommendation 14, Mr Magheru thanked States and NGOs and particularly commended the representatives of civil society who participated in the preparation of its report. Following these remarks, the report was adopted by consensus.

⁵ A/HRC/8/49; Accessible at: <http://www2.ohchr.org/english/bodies/hrcouncil/8session/reports.htm>. Recommendation 1 deals with the ratification of various international instruments, and recommendation 18 with bringing legislation on religious freedom in line with international standards.

⁶ China, United Kingdom, Algeria

⁷ International Commission of Jurists (ICJ) was listed to speak but not present during its allotted time

Mali

State presentation

Mr Sékou Kasse, Chargé d’Affaires of the Permanent Mission of Mali to the UN, presented the Government’s replies to the report of the Working Group.⁸ Mali had accepted 21, promised responses to five, and rejected one of the recommendations made in the Working Group. In his presentation, Mr Kasse focused on the five recommendations on which Mali had reserved its position. Several of these dealt with the need for legislation banning excision and all forms of female genital mutilation (FGM). Mr Kasse explained to the Council that excision is a profound cultural practice, and while Mali understands the need to adopt legislation banning it, it had focused on awareness-raising rather than punitive measures. According to Mr Kasse, such a ban could not be guaranteed in remote areas without an accompanying support in the society. In the medium term, he pledged, Mali hopes to move towards a ban. A similar answer was given in relation to the recommendation on combating forced labour, on which Mr Kasse said that while cultural practices persist, forced labour was on the decline and school enrolment rates rising.

Going back to the voluntary commitments and pledges made upon its election to the Council, Mali recalled that it is trying to establish better cooperation between members and non-members of the Council. Mr Kasse also assured the Council of Mali’s firm commitment to the universality of all human rights. Concluding, he called for the support of the Council and the international community, particularly in efforts to bring national legislation into compliance with international standards, to strengthen the capacity of the State and non-State actors for the promotion and protection of human rights, to train judges and legal support personnel, and to improve detention conditions.

Member and observer States

As observed during the adoption of previous outcome documents, States were full of praise for Mali’s responses and its efforts to improve human rights protection.⁹ The Philippines congratulated Mali for its efforts to strengthen compliance with international standards, particularly in the area of health and education. Algeria, responding to the call for support by Mali, invited the OHCHR to provide technical assistance to the country.

Other stakeholders and concluding comments

No other stakeholders took the floor. Mr Sékou Kasse thanked States for their support. Following these comments, the Council adopted the outcome on the UPR on Mali by consensus.

General debate on the UPR

President Costea expressed his satisfaction with the completion of the first two rounds of the UPR, and invited States and NGOs to provide ‘general comments’ under Item 6. Initially, there were only few States inscribed on the list, but the debate seemed to awaken the interest of others. Many States highlighted the landmark moment of the completion of the first two rounds of the new UPR mechanism.¹⁰ Canada pointed out that the UPR needs time to reach its potential, and that ‘each country would have to undergo two reviews before an assessment could be made’. States also noted the constructive engagement shown by members of the Working Group and the States under review, while some stressed that the real benefit of the UPR also

⁸ A/HRC/8/50.

⁹ Tunisia, Philippines, Senegal, Algeria.

¹⁰ Canada, Russian Federation, Malaysia, Switzerland, Brazil, China, Slovenia (on behalf of the EU), Egypt (on behalf of the African Group), Cuba, Turkey, New Zealand and Norway, Algeria, Morocco.

depends on the openness of States to scrutiny.¹¹ Brazil highlighted that the preparation of reports at the national level was particularly important, and Canada said the UPR should be a national process, with a moment in Geneva.

Several States positively acknowledged the contribution of civil society and national human rights institutions in the process.¹² Morocco pointed out that the UPR had also led to more cooperation and capacity building among NGOs. Slovenia (on behalf of the EU), making reference to the oral contribution of NGOs at the plenary stage of the UPR, strongly affirmed that such statements may refer to the reports of the Working Group in their entirety, and that the President should be given discretion in deciding on the pertinence of NGO statements. Egypt (on behalf of the African Group), however, regretted that there was ‘no way to verify the information provided in many [NGO] reports’.

While all States seemed to be in agreement about the successful start, this was less clear regarding the future path the UPR should take. Canada said the modalities followed so far were a ‘workable starting point’ but could be improved. In particular, it stressed that all recommendations should be listed in full in the outcome document, as provided by the institution-building text, and regretted that there was no opportunity to influence the outcome at the plenary stage. Cuba said that the lessons learned in the first 32 reviews could be taken on board to adapt the UPR over time. The Ambassador of Morocco, who had facilitated the process of elaborating the modalities of the UPR during the institution-building process, stressed that he had always seen the UPR as an ‘evolving process’, which it should remain.

These views of the UPR as a dynamic and adaptable process were contrasted by the Egyptian statement, delivered ‘on behalf of the African Group’. Egypt welcomed that the ‘foundations were laid clear for the future’ and ‘would help to avoid controversy’. It claimed that the African Group would ‘support the continuation of the process as it started and as it proceeded during the first cycle’. Egypt said it would continue to reject any attempt to use the recommendations or the discussions to ‘force any regional concepts on the entire world’ or to force States to accept ‘certain norms or concepts that are not acceptable in their societies’.¹³ Notably, Pakistan, which usually speaks on behalf of the Organisation of the Islamic Conference, did not speak during the general debate.

General comments by NGOs

As is the practice for any general debate on the Council’s agenda, NGOs were also given the opportunity to make general comments on the UPR.¹⁴ Overall, NGOs were much more critical in their assessment of the UPR than States. Among the main negative observations were:

- Lack of inclusive national consultations in the preparation of the State reports.
- The practice of States lining up during the review in the Working Group to praise their allies.
- Lack of clarity about NGO participation in the adoption of the outcome.
- Lack of response by the State under review to some of the recommendations made.
- Attempts by some States to call into question universal human rights law and principles, including the principle of non-discrimination on any grounds.

¹¹ New Zealand, Norway.

¹² Canada, Switzerland, Slovenia (on behalf of the EU), Organisation International de la Francophonie (OIF), Morocco.

¹³ Interestingly, the delegate of Egypt had asked to be moved further down on the speakers list, as he wanted to ‘walk across the room to consult with the African Group’. Shortly thereafter, Egypt reappeared on the speakers list, this time ‘on behalf of the African Group’. Approximately 12 minutes later, without having walked across the room, the delegate seemed to have secured the support of the entire African Group for a statement that seems to be at odds with the expressed views of Morocco (also member of the African Group).

¹⁴ CLADEM, ISHR (joint statement), Forum Asia, Amnesty International, Cairo Institute for Human Rights Studies, FIDH, Canadian HIV/AIDS Legal Network, CISA.

- Recommendations made which, if implemented, would lower human rights standards.
- Lack of focus on economic, social, and cultural rights, and on the rights of women and children.

Some suggestions to improve the process were also made, including a call on States already reviewed to report back to the Council at regular intervals, a suggestion that each statement in the Working Group should contain both positive points and challenges, that the role of the troika in guiding the review be strengthened, that each delegation should include an independent expert, and that a pool of experts be designated to assist the review.

The statements by NGOs were overshadowed by a protracted procedural battle. During a statement by the Cairo Institute for Human Rights Studies (CIHRS), Egypt raised a point of order. It claimed that NGOs should not refer to particular country situations as the general debate was not an opportunity to revisit the review. Yet, the delegate of the CIHRS had not referred to any particular country situation, but had raised concerns about the reviews of some States from the Arab region and the practice by other States to ‘filibuster’ these reviews with uncritical statements. This practice had been observed and criticised by NGOs from all regions, and was not limited to the four States the NGO speaker named.

After the President’s ruling that the speaker may continue, he was interrupted again by several and repeated points of order on the same grounds.¹⁵ At this stage, other States took the floor to assert that, in their view, the statement was in order.¹⁶ Switzerland pointed out that while statements in the general debate need to be ‘general’, such general situations could be illustrated by citing examples. Only a limited number of States engaged in this procedural debate by way of repeated points of order. No Latin American State and only one Asian State took the floor.¹⁷

Procedural battles on the content of statements during general debates have been observed during the discussion of other items on the Council’s agenda. In the past, the rulings by the President have been ambiguous at best, and his ruling in the current incident was rather vague. After the conclusion of the debate, President Costea simply said that ‘general debates are among the most substantive and exciting tools [the] Council has [and] of course general debates can use examples.’ He also urged States to accept that others have different opinions, and encouraged them to use their rights of reply instead of constant points of order.

Informal consultations

Special Rapporteur on extrajudicial executions

The third informal consultation on the draft resolution to renew the mandate of the Special Rapporteur on extrajudicial executions¹⁸ focused on the numerous revisions made to the draft resolution. Despite the inclusion of many proposed amendments, many delegations were disappointed that their recommendations were not incorporated into the revised draft resolution.¹⁹

¹⁵ Egypt, Tunisia, Algeria, Bahrain, Morocco

¹⁶ Slovenia, Canada, Switzerland, Germany.

¹⁷ China took the floor, but did not take a clear position. It said NGOs already had the opportunity to take the floor under the adoption of individual reports, seemingly implying that comments directed at the review of particular States should not be done during the general debate. However, it failed to mention that the same NGO, CIHRS, had already been hindered to make its statement during the adoption of individual outcome documents.

¹⁸ The text of the draft resolution is available on the OHCHR extranet.

¹⁹ Egypt, India, Philippines, Russian Federation.

The US expressed its disapproval with the inclusion of the *Geneva Convention* in the preamble, stating that the Convention ‘mixes up’ human rights law and international humanitarian law.²⁰ In response, Egypt and Mexico supported the text’s reference to the Convention, citing it as an important contribution to the draft resolution.

As in previous informal consultations, issues regarding the role, mandate and conduct of the Special Rapporteur were once again raised by numerous delegations. The Russian Federation and India expressed disapproval of the inclusion ‘preventing war crimes,’ in the Special Rapporteur’s role as a prevention mechanism.²¹ However, many States²² supported the inclusion of war crimes, and Slovenia specifically proposed the use of already agreed upon language from the 2005 World Summit: ‘genocide, crimes against humanity, ethnic cleansing and war crimes’. While some States²³ requested that the resolutions be weakened to simply ‘take note’ of rather than ‘commend’ the role of the ‘mandate of the Special Rapporteur’ in eliminating extrajudicial, numerous delegations²⁴ expressed strong reservation about this, asserting their support for the current text that talks of the role of the Special Rapporteur. It seems that some delegations are seeking to ensure that the resolution cannot be read to in any way acknowledge the contribution of the mandate holder as they continue to have reservations about the work of Mr Alston.

In addition, the Russian Federation once again requested the inclusion of a reference to ‘the code of conduct’²⁵; this view was strongly rejected by Mexico, Austria and Slovenia. Not surprisingly, India once again requested the deletion of any reference made in the draft resolution to States that did not cooperate with the Special Rapporteur.²⁶

Strong statements were made in reference to a newly added paragraph, which provides substantive elaboration on the types of killings the Special Rapporteur should pay special attention to, which include killings based on race, nationality, religion, ethnic identity, sexual orientation and ‘extrajudicial killings committed in the context of armed conflict.’ Egypt, as the African Group coordinator, stated that the inclusion of ‘extrajudicial killings committed for any discriminatory reason, including sexual orientation’ was unacceptable to the Group and asserted that its inclusion will prevent the resolution from achieving consensus.²⁷ Despite strong reservations from Egypt and Pakistan, New Zealand supported the inclusion of this reference. Much debate arose over the entire paragraph with some delegations arguing in favour of its deletion.²⁸ Egypt explained that it had wanted to include in the resolution a reference to extrajudicial killings taking place in armed conflict, killings by non-State actors, and racially motivated killings and instead it had gotten this long paragraph that it did not see the need for. The US explained its well-known position that it does not accept that human rights law applies in time of armed conflict and that it therefore found a reference to armed conflict very problematic.

In an effort to reach a consensus, Mexico proposed the deletion of the paragraph in question and the inclusion of ‘executions in all circumstances for whatever reason’ in a previous paragraph. Mexico’s recommendation was strongly supported by numerous States²⁹ and acknowledged by Egypt as a possible compromise. However, it withheld its position awaiting instructions from the Government.

²⁰ Supported by India.

²¹ Preambular paragraph 2.

²² Slovenia, Mexico, Egypt, Sri Lanka, Canada, Sweden, Pakistan.

²³ Algeria, China, Russian Federation.

²⁴ Australia, Austria, Germany, New Zealand, Slovenia, Switzerland.

²⁵ Supported by Algeria and South Africa.

²⁶ Supported by Algeria, Egypt and Singapore.

²⁷ Supported by Pakistan, on behalf of the Organisation of the Islamic Conference.

²⁸ Russian Federation, Singapore.

²⁹ Supported by Austria, Australia, India, Netherlands, Norway, Russia, Singapore, Switzerland, Turkey, US.

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