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Overview

The Third Committee's (the Committee) consideration of economic, social and cultural rights this session was distinguished by greater collaboration and cooperation amongst States than in recent years. This was due in part to the session occurring against the backdrop of the world crises in relation to fuel, food and finance, which forged a more cooperative spirit amongst States. In addition, Cuba as the main sponsor of some of the key resolutions, took a more constructive approach than in recent years. Several States expressed their appreciation to Cuba for its efforts to reach consensus on resolutions that had been a traditional battle ground along the North-South divide, such as the right to development, which came close to being adopted by consensus this year. The United States (US) however, remained the lone voice in opposition to resolutions such as this and the right to food, preventing their adoption by consensus. Nonetheless, the Committee was able to breathe new life into some resolutions, such as the right to food, which now, as a result of its strong call for States to take a human rights-based approach to the global food crisis, is more in line with recent Council resolutions on this matter.

Adding a new spin to the Committee's consideration of economic, social and cultural rights this year was its interactive dialogue with three newly-appointed special procedures (right to food, health and foreign debt), as well as its interaction for the first time with three mandates (right to education, adequate housing and transnational corporations). Although this resulted in a broader consideration of human rights issues, it was more the exception than the rule that a 'dialogue' between the Committee and the special procedures developed. One exception here was the interactive dialogue with the Special Rapporteur on the right to food, which was welcome, given the currency of the global food crisis. The special procedures on the right to adequate housing, health and extreme poverty also impressed upon States the need for a human rights-based approach to be adopted if progress were to be made. All three emphasised the need for the most vulnerable rights holders to participate in a meaningful way in the development, implementation and monitoring of public policies that impacted on them, and undertook to work closely with these groups.

The other significant development this year was the GA's adoption of the Optional Protocol to the *International Covenant on Economic, Social and Cultural Rights*. Although this new legal instrument required adoption in the Third Committee, ISHR's analytical report on its passage is published separately.¹

Please refer to the technical annex to this report for more information about the special procedures who addressed the Third Committee and for a list of the key reports and resolutions the Committee considered in relation to economic, social and cultural rights.

The right to food

Presentation by the Special Rapporteur²

¹ See ISHR's *New York Alert* on the outcomes of the 63rd session of the GA, available at http://www.ishr.ch/index.php?option=com_content&task=view&id=131&Itemid=192 and the chapter entitled 'Major developments in international human rights law' in ISHR's *Human Rights Monitor 2008*, forthcoming on our website, www.ishr.ch

² Further information on this special procedure is available at <http://www2.ohchr.org/english/issues/food/index.htm>

The Special Rapporteur on the right to food, **Mr Olivier de Schutter**, was newly appointed in March 2008 at the 6th Session of the Human Rights Council (the Council). In his presentation to the Third Committee, the Special Rapporteur explained that the global food crisis had had a profound impact on millions of households, with food prices doubling between 2002 and 2008. As a result, close to 100 million people were driven into extreme poverty in 2008, 'leading to irreparable damage to the health and education of millions of children.' The Special Rapporteur thus called upon individual States and the international community to:

- Ground their responses to the crisis in the human right to food, thereby ensuring that the needs of those most vulnerable were prioritised. At the national level this required governments to provide social safety nets (such as cash-for-work or food-for-work programmes) for the urban poor, and to assist small-scale farmers and other food producers to continue and boost their levels of production. The income levels of the most vulnerable needed to increase to ensure they could afford food in adequate quantities and of adequate quality.
- Take advantage of the opportunity provided by the food crisis to reform international trade and the global governance related to the provision of food aid. Governments had a responsibility to assess trade agreements and the provision of food aid against their likely impact on the right to food, and whether they would undermine food security. This needed to occur urgently and in parallel with reforms at the national level to ensure that the return to a 'business as usual' approach was resisted.
- Warned against simplistic 'solutions', such as simply boosting global food production, arguing this would further marginalise small-scale farmers and benefit only the very large agricultural producers.
- Outlined his work programme over the coming years, which was intended to assist States to undertake the necessary reforms to fulfil the right to food under their jurisdiction. This would include:
 - a) reviewing possible solutions to the well-known deficiencies of the 1967 *Food Aid Convention*;
 - b) undertaking a mission to the World Trade Organisation to examine reforms to agricultural trade that would improve enjoyment of the right to food (subject of March 2009 report to the Council);
 - c) examining intellectual property rights in agriculture. This could include an examination of the adverse impacts the extension of patents to plant and seed varieties has had on food production in developing countries, as well as a review of intellectual property instruments in light of the *International Covenant on Economic, Social and Cultural Rights*³ (the subject of his next report to the GA in 2009); and
 - d) other issues, such as the impact of climate change on the right to food, the responsibilities of the agribusiness sector in the realisation of the right to food (an expert meeting is planned in June 2009 in Berlin), and strengthening rights related to the use of land and women's rights.

Interactive dialogue⁴

A large number of States from a variety of geographical and political groups participated in the dialogue, with many expressing their support for the Special Rapporteur and the Council's efforts to address the human rights dimensions of the food crisis. Among the questions put to the Special Rapporteur were the following:

- France (on behalf of the EU) asked how States should respond to the food crisis in human rights terms, and how the international community could address women's increased vulnerability. *The Special Rapporteur commented that the Comprehensive Framework of Action (CFA) of the High Level Taskforce on the Global Food Crisis did not sufficiently incorporate a human rights-based approach to the food crisis. The CFA failed to adequately address rights to land, women's rights and the obligation of States to put in place national strategies to protect the right to food. Discrimination against women*

³ Article 15 of ICESCR recognises the right of everyone to 'enjoy the benefits of scientific progress and its applications', and was the subject of a General Comment (No.17) of the Committee in 2005.

⁴ The UN press release that covers the dialogue is available at <http://www.un.org/News/Press/docs/2008/gashc3928.doc.htm>

in the context of the food crisis was considered in his latest report to the Council, particularly in South Asia, and he recommended legal reforms to remove gender discrimination.

- Switzerland asked how to ensure that States followed up on their commitments to resolve the food crisis. *The Special Rapporteur said he was developing a template to track State compliance with their commitments. He would report to the Council in September 2009 on this matter and work with other actors, including the High Level Taskforce of the Secretary General, to follow up the CFA.*
- In contrast to most other States, the USA took issue with several aspects of the Special Rapporteur's presentation and report. Although it agreed that more needed to be done at the national and international levels to combat food insecurity, the US criticised his 'erroneous assertions of law', including his point that States had a legal, rather than moral obligation, to assist other States in need of food. The US also disagreed there was any need to shift from in-kind food aid to cash transfers, and argued that free trade would reduce tariffs and increase food availability, not the reverse. *The Special Rapporteur responded equally forcefully, labelling arguments about the benefits of in-kind food aid as 'passé'. He argued the primary beneficiaries were food producers in industrialised countries. He stressed that trade liberalisation was no 'talisman', and could either benefit food security or threaten it. What was needed at the international level was more careful monitoring and effective safeguards to protect the right to food. Trade regulation needed to afford States enough flexibility to respond to price and import surges which threatened local producers and the ability of people to purchase food.*
- Malaysia, Cuba and China asked for further information about the impact of the Doha Round of trade talks and trade liberalisation on the right to food. They were also interested in how to create an enabling environment to increase long-term food security. *In addition to his comments above, the Special Rapporteur advised that measures to reduce the volatility of food prices were needed. These could include food reserve systems at the national and regional level which would allow individual States to intervene in the market as required. Further, he had recommended to the Council that it consider establishing a global food reserve system, whereby States would contribute a certain volume of food at pre-determined prices, which could be drawn upon during an emergency. To ensure long-term food security, food production had to become both socially and environmentally sustainable, and small-scale farmers supported.*
- Malaysia requested information on the link between land liberalisation and increased production of agro-fuels, and how this was affecting small farmers. *The Special Rapporteur emphasised that he was not hostile to the production of agro-fuels and recognised their potential benefits in terms of energy independence. However he was concerned about how they were produced. The US and EU had 'not been responsible' in introducing subsidies and other incentives that resulted in big price increases for agro-fuels, as they failed to consider the impacts on food security. His recent report to the Council called for the development of international guidelines to coordinate the production of agro-fuels.*
- Other questions related to the scope of the Special Rapporteur's future work on land reform (Ireland and Switzerland), food sovereignty (Venezuela), right to food in Zimbabwe (UK) and the Occupied Palestinian Territory (Palestine), agricultural subsidies and biofuels (Brazil), and the impact of country debt on food security (Belgium).

Resolution⁵

As opposed to previous years, this year's annual resolution on the right to food enjoyed strong cross-regional support. Introducing the resolution, the main sponsor, Cuba, explained that the text was drafted in the context of the global food, fuel and financial crises. It had been updated to incorporate the negative impacts of the food crisis, as well the work of the High-level Task Force on the Global Food Crisis and the outcomes of the Council's Special Session on this issue in May. Cuba emphasised that the goal of the resolution was not to simply reflect the current crisis, but to assume a holistic and longer-term view of how to realise the right to food. It therefore reaffirmed the need to improve food security and expand agricultural production, the

⁵ A/C.3/63/63L.42/Rev.1, available at <http://www.un.org/ga/third/63/documentation.shtml> The UN press release that covers Cuba's introduction of the resolution is available at <http://www.un.org/News/Press/docs/2008/gashc3936.doc.htm>

importance of South-South co-operation and, taking into account the recommendations contained in the Special Rapporteur's report, stressed that States parties to the WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPs) Agreement should be mindful of their obligation to promote and protect the right to food.

As was the case last year, the resolution was subject to only one informal negotiation involving interested States, and then developed by Cuba through a series of bilaterals and one concluding multi-lateral discussion. This made for a less than transparent process for States and prevented NGOs from following the negotiations. However, negotiations amongst a group of about 10 States resulted in the incorporation of important new language:

- New operative paragraph (OP)12 referred to the GA's 'resolve' to 'ensure that the human rights perspective is taken into account at the national, regional and international levels in measures to address the current world food crisis'. This was a significant addition because the GA had not previously so clearly articulated its commitment to a human rights-based approach to the realisation of the right to food. It was language lifted from the Council's most recent resolution on this issue.⁶
- New OP 14 'noted' that concepts including 'food sovereignty' and its relationship with food security and the right to food needed further examination. Initially, Cuba had proposed a stronger reference to 'food sovereignty', referring to it as 'important for achieving food security and the realisation of the right to food'. However, given the absence of an internationally accepted definition, Cuba opted for this weaker reference as a trade-off for ensuring the incorporation of strong language on the need for a human rights-based approach to the food crisis.
- OP 5 incorporated new language proposed by the EU about the need for State action to achieve the equal realisation of the right to food between men and women. States were 'encouraged' to include measures to ensure women's 'equal access' to '*ownership*' [emphasis added] of income, land and water. At the suggestion of Canada, States were also encouraged to 'ensure' women's 'equal access to education, science and technology' to enable them to feed themselves and their families. This new language reflected the recommendation in the Special Rapporteur's report that States strengthen women's rights in national strategies for the realisation of the right to food.
- OP 25 'stressed' that States Parties to the TRIPs Agreement 'should consider' implementing it 'in a manner supportive of food security while mindful of the obligation of Member States to promote and protect the right to food'. Again, Cuba had initially proposed stronger language, calling for the TRIPs Agreement to be 'reconciled with the requirements of food security' and States' obligation to promote and protect the right to food. However in an effort to address the concerns of the EU and other States and avoid a situation where the GA might be seen to be analysing the worth of the TRIPs Agreement, Cuba agreed to soften the text.
- OP 9 introduced new language proposed by Venezuela to 'recognise' advances in 'South-South cooperation in relation to food security and the development of agricultural production.
- New preambular paragraph (PP) 17 'acknowledged' the High-level Taskforce on the Global Food Security Crisis established by the Secretary-General' and 'supported' the Secretary-General to continue his engagement with the Special Rapporteur and Member States on the issue. This rather weak reference to the existence of the Taskforce, and the lack of any reference to the Comprehensive Framework of Action on the Global Food Crisis (CFA) it developed, was indicative of the criticisms levelled at the CFA by both the Special Rapporteur on the right to food and the Council, namely its failure to embrace a human rights-based approach to the food crisis.
- New PP 11 built on language from the Council's two most recent resolutions on the right to food, referring to the complex character and causes of the global food crisis. Recognising that developing and least developed countries were particularly impacted by the crisis, the GA extended this list to include 'small island developing States'.

⁶ PP4 of Council Resolution 9/6.

During 2008, the Council passed three resolutions dealing with the right to food in the context of the world food crisis.⁷ The text of the general resolution on the right to food from the Council's session in March 2008 was almost identical to that presented to the Third Committee at its previous (62nd) session. The other two resolutions were prompted by the Council's Special Session on the world food crisis and follow-up thereto, and introduced strong language on the need for States 'to ensure the realisation of the right to food as an essential human rights objective.' These resolutions went beyond the immediate imperatives of the food crisis, calling on States to 'mainstream the human rights perspective in building and reviewing their national strategies' on the right to food, and to consider reviewing any policy measures that could negatively impact on this right.⁸ Some, but not all, of this strong new language from the Council was incorporated into this year's GA resolution on the right to food.

The vote⁹

In contrast to the three Council resolutions on the right to food which were adopted by consensus, the resolution before the Committee went to vote, at the request of the USA. The vote reflected the almost universal support for the text as 180 States voted in favour, the US voted against and no country abstained. Last year the resolution on the right to food was adopted along similar lines in the Third Committee (176:1:0).

Following the adoption of the resolution, a number of States explained their interpretation of certain provisions. Although the US agreed with the general sentiment expressed in the resolution, it was unable to support the text for a number of reasons. Its main concern was that the attainment of the 'right to food' or the 'right to be free from hunger' was a goal that should be realised progressively, meaning these rights had no immediate legal effect. It reminded States that it remained the largest donor of international humanitarian food aid and expressed a desire to find consensus on next year's text.

Canada also noted that it interpreted the text as articulating a right to the progressive realisation of the right to food, as a component of to everyone's right to an adequate standard of living. Canada went on to take issue with the paragraph dealing with the TRIPs Agreement, arguing there was nothing in the Agreement to stop States pursuing the right to food and food security; nor was there any established link between the right to food and the TRIPs Agreement. Therefore, the reference to the TRIPs Agreement did not constitute an instruction on how Member States were to implement this agreement, but merely encouraged them to do so in a way that supported the right to food.

The UK placed on record its concerns about operative paragraph 12, which referred to indigenous people's right to food in the context of the UN *Declaration on the Rights of Indigenous Peoples*. The UK reminded the Third Committee that it did not support collective rights in international law, apart from the right of self-determination. In contrast, Finland explained that it had withdrawn its co-sponsorship of the resolution due to the weak reference to the rights of indigenous peoples being retained, rather than strengthened.

Colombia and France (on behalf of the EU) both noted that there was no definition of 'food sovereignty' at the international level and that greater clarity of the concept was needed. France noted that some interpretations of the concept placed undue emphasis on the needs of large-scale food producers, to the detriment of small-scale producers, and could impact adversely on food security. Although France accepted the need for differentiated treatment of developing countries, it advised that this paragraph did not allow countries to implement policies that were not in accordance with internationally accepted rules, and food

⁷ Resolution 7/14 was adopted at the Council's 7th session, March 2008. Resolution S-7/1 was adopted at the Council's 7th Special Session, May 2008. Resolution 9/6 was a follow-up to the 7th Special Session, adopted at the Council's 9th session, September 2008.

⁸ OP3 of Resolution 9/6 and OP3 of Resolution S-7/1 respectively.

⁹ The UN press release that covers the adoption of the resolution is available at <http://www.un.org/News/Press/docs/2008/gashc3941.doc.htm>

security must be upheld. Switzerland appealed to Cuba to host more informal negotiations on next year's resolution to foster greater transparency.

On 18 December 2008 the resolution was considered in the GA plenary and adopted (184:1:0). Last year's vote in the GA was very similar (186:1:1). The Democratic Republic of Korea did not explain why it changed its vote from one of abstention last year to support this year.

Right to development

Presentation by the Chairperson-Rapporteur¹⁰

On 27 October 2008, the Chairperson-Rapporteur of the Working Group on the right to development, **Mr. Arjun Sengupta**, presented his oral report to the Committee. The Chairperson-Rapporteur:

- Summarized the accomplishments of the Working Group and the high-level task force on the implementation of the right to development, most notably in the development of a set of criteria to evaluate the performance of several international development partnerships as identified in Millennium Development Goal 8 (MDG 8).
- Elaborated on the three-phase roadmap adopted by the Working Group in 2007 that set out how the task force would progressively develop and refine the right to development criteria by 2010. During the third phase commencing in 2009-2010, the task force will study debt relief and technology transfer.
- Noted that the Working Group was considering the possibility of the criteria evolving into a comprehensive set of international standards that would be legally binding.
- Emphasised that the evolution of a practical and sustainable right to development would require time to further refine workable criteria, and to foster the necessary political will and commitment of Member States.

Interactive dialogue¹¹

A limited group of Member States participated in the interactive dialogue with the Chairperson-Rapporteur. They sought clarification of or expressed concern about the following:

- Cuba inquired whether the Chairperson-Rapporteur considered it valuable to move toward a convention on the right to development and how it could impact the countries of the South. Sudan asked how the Working Group was addressing the responsibility of Member States in relation to the debt burden and technology transfer, and what it was doing to foster political will to support its work. *The Chairperson-Rapporteur acknowledged that while all human rights must be recognized in a legally binding instrument, the right to development and its evaluation criteria must first be more clearly defined and tested. To that end, he noted that the Working Group had developed a proper definition of the right to development, established criteria, and was in the process of testing the criteria through several partnerships. He appealed to Member States for their cooperation and political will in assisting the Working Group to complete its technical work and expressed confidence that the international community would eventually establish an international standard for the right to development.*
- The US recognised that while individuals had a right to development to be achieved through the full exercise of their civil and political rights, it did not agree that it was either appropriate or constructive

¹⁰ Further information on the Working Group is available at <http://www2.ohchr.org/english/issues/development/groups/index.htm>

¹¹ The UN press release that covers the interactive dialogue is available at <http://www.un.org/News/Press/docs/2008/gashc3928.doc.htm>

for the Working Group to move toward the development of a legally binding standard on the right to development. *While the Chairperson-Rapporteur commended the US for its cooperation with the Working Group, he expressed hope that the US would at some point realise that the international community had moved toward a human rights system, including the right to development, tied to obligations. The Chairperson-Rapporteur cautioned Member States to concentrate their present discussion on refining the right to development through international cooperation, rather than confrontation about whether a legal entitlement to this right existed. He concluded by noting that the right to development was similar to all other human rights, and as such, it should be incorporated into an international legally binding instrument, but only at the appropriate time.*

Resolution¹²

Sponsored by Cuba (on behalf of the Non-Aligned Movement or NAM), this annual resolution mirrored last year's text in several respects.¹³ It reiterated the GA's commitment to the right to development as a universal and inalienable human right 'on par with all other human rights'. It stressed that the eradication of poverty was critical to the realisation of the right to development, and continued to support the mandates of the Working Group and high-level task force on the right to development. As in previous years, the resolution also requested that the Secretary-General submit a report to the next session of the GA on the implementation of the resolution, and the Chairperson of the Working Group update the next session on its progress. The only significant new addition to this year's resolution was operative paragraph 22, which expressed the GA's 'deep concern' at the negative impact of the ongoing international energy, food and financial crises on developing countries.

However, the manner in which the Committee took up this year's resolution was distinctly different from last year as a result of Cuba's efforts to forge consensus on the text from the very beginning and throughout the informal negotiations. This contrasted with last year's resolution, which the EU and other States felt undermined decisions they had taken at the Council, and proposed the elaboration of a convention on the right to development as one of the 'ways and means to ensure the operationalisation' of the right.¹⁴ Although this year's text continued to advocate for 'an international standard of a binding nature', it did not refer to the possibility of a 'convention' as such. Instead, it retained the more gradualist approach that was contained in last year's GA resolution, which also featured in the most recent Council resolution on this matter that was adopted by consensus.¹⁵ The text referred to the 'importance' of the Working Group taking 'appropriate steps' once it completed the roadmap to ensure the 'practical application' of the standards it had developed, and suggested that 'this could take various forms, including guidelines on the implementation of the right to development'. Further, the guidelines could 'evolve into a basis for consideration of an international legal standard of a binding nature, through a collaborative process of engagement'.¹⁶ This evolutionary approach, premised on all States agreeing to the guidelines and any subsequent steps, also met with broad approval at the Third Committee.

¹² A/C.3/63/L.30/Rev. 1, available at <http://www.un.org/ga/third/63/propslist.shtml>

¹³ General Assembly Resolution A/RES/62/161 available at <http://www.un.org/ga/62/resolutions.shtml>

¹⁴ See ISHR's report on Economic, Social and Cultural Rights from the 62nd session of the GA, available at http://www.ishr.ch/index.php?option=com_content&task=view&id=131&Itemid=192

¹⁵ A/HRC/RES/9/3, available at http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_9_3.pdf The Council resolution was considerably more streamlined than the text considered by the Third Committee. Its main purpose was to renew the mandates of the Working Group and the high-level task force, endorse the work plan of the task force, and support the development of standards for the implementation of the right to development.

¹⁶ OP 8 of A/C.3/63/L.30/Rev. 1.

The vote¹⁷

Marking a significant departure in voting patterns, this year's resolution on the right to development came close to universal support in the Third Committee. It was adopted by 177 votes in favour, 1 opposed (US) and 2 abstentions (Canada and Israel), in contrast to last year's vote (121:52:1). This was due to improvements in the text and more constructive informal negotiations, which enabled the EU, other Western States and some Asian States to change their vote from one of abstention, to support.¹⁸ For the EU, this was the first time it had voted in favour of the resolution in the Third Committee, although it had recently supported the consensus adoption of the Council's resolution on the right to development.

The subsequent vote on the resolution in the GA plenary on 18 December was very similar (182:4:2)¹⁹, and also in marked contrast to last year's vote in the GA (136:53:0) when Western States opposed the resolution.

The US explained that its motivation for calling the vote in the Third Committee was based on its belief that the right to development was an individual fundamental right that was achieved through the full exercise of civil and political rights. It objected to the text's presentation of this right as both an individual and a collective right. As in years past, the US also opposed the future consideration of a legally binding international standard on the right to development, but reaffirmed its commitment to support other States in the achievement of the right to development.

Concern about this aspect of the text was also expressed by other States. In explanation of its decision to abstain,²⁰ Canada advised that the text should focus more on the primary responsibility of each State to promote and protect the right of its citizens, rather than the premature consideration of a legally binding international standard. Echoing their concerns at the Council's 9th session, France (on behalf of the EU) and Switzerland explained that their votes in favour of the resolution should not be interpreted as support for a legally binding international standard. France went on to explain that it would be a matter for the Council to determine whether there is any follow-up to the work of the former Sub-Commission on the Promotion and Protection of Human Rights regarding the right to development (as suggested in OP 11), however the EU saw no value in establishing a third body to work on the matter.

Presentations by other special procedures

Independent Expert on extreme poverty²¹

Dr Magdalena Sepúlveda Caroma, the Independent Expert on the question of human rights and extreme poverty, delivered her first report to the Committee on 22 October 2008. Appointed in March 2008, the Independent Expert assumed her functions in May 2008. In her first presentation to the Committee, the Independent Expert:

- Emphasised that the fight against poverty required greater cooperation among States at the international level, as well as within States, to ensure that all key groups, including those living in poverty, were involved in its eradication. In the context of the global food crisis, she reminded States

¹⁷ The UN press release on the introduction of the resolution at the Third Committee is available at <http://www.un.org/News/Press/docs/2008/gashc3937.doc.htm>. The UN press release on the adoption of the resolution at the Third Committee is available at <http://www.un.org/News/Press/docs/2008/gashc3941.doc.htm>.

¹⁸ Australia, New Zealand, Norway, Switzerland, Japan, Republic of Korea.

¹⁹ Marshall Islands, Palau, Ukraine and US voted against the resolution. Israel and Canada abstained.

²⁰ Canada reminded the Committee that it had joined consensus on the most recent resolution on the right to development in the Council, and supported the most recent outcomes of the Working Group meeting.

²¹ More information on the special procedure is available at <http://www2.ohchr.org/english/issues/poverty/expert/index.htm>

that “now, more than ever, we must be clear that the fight against poverty is not a luxury we can abandon.”

- Pointed out that States were obligated by human rights treaties and UN resolutions to take a human rights-based approach to addressing extreme poverty.
- Outlined the issues and conceptual framework that would shape her work over the next three years:
 - a) Examine the impact of discrimination and social exclusion on people living in extreme poverty. As patterns of discrimination work to perpetuate poverty and reinforce other discriminatory attitudes, equality and the elimination of discrimination must be essential elements in the fight against poverty.
 - b) Promote the full participation of the most vulnerable groups in the development, implementation and monitoring of poverty reduction policies; they must be considered “essential allies”.
 - c) Identify and analyse best practices and innovative policies that reduce and eliminate poverty at the national level, beginning with the cash-transfer programmes in Ecuador, Colombia and Brazil. Then make recommendations on those programs from a human rights perspective.
 - d) Enhance international co-operation and assistance: examine best practice examples and identify how overseas development assistance can help build the capacity of recipient States to more effectively combat poverty.
 - e) Raise awareness of poverty as a human rights issue – not a matter of charity. This would include increasing awareness among States of their legal obligations to eliminate poverty, and to do so in a manner that respected the principles of equality, non-discrimination, participation, transparency and accountability.

Interactive dialogue²²

During the interactive dialogue some States from developing countries made reference to the impact of the food and financial crises on the fight to eradicate poverty.²³ Other States took part in the interactive dialogue by asking for advice and commenting on the following issues:

- France (on behalf of the EU) and Venezuela asked for further information about how States could effectively involve poor people in the development of public policies. *The Independent Expert explained that States were not required to involve vulnerable groups in technical discussions. Rather, as a minimum, they should be involved in deliberations to set benchmarks and indicators, as well as monitoring strategies. States had an obligation to create an enabling environment for participation, for example by providing information in accessible languages. Further, those living in poverty had the knowledge about how best to address their situation, and States needed to be guided by this.*
- Chile asked for the Independent Expert’s views on gender-focused financing. *The Independent Expert noted that women were disproportionately underrepresented in critical areas that affected financial well-being, including in access to property, employment and adequate wages. She advised that she would conduct an in-depth study on gender-focused financing over the next three months, particularly as it related to cash-transfer programmes.*
- Indonesia noted States’ obligation to create an ‘enabling environment for poverty eradication’ and suggested the Independent Expert needed to include ‘empowerment’ as one of the principles underpinning her mandate. *The Independent Expert agreed that States and other actors had obligations in relation to reducing poverty, which included human rights obligations, commitments under the Millennium Development Goals, provision of overseas development assistance of no less than 0.5 percent of their GDP, fair and equitable trade policies etc. States must consistently take into account their human rights obligations when making decisions domestically, bilaterally and multilaterally, and ‘take reasonable measures’ to ensure that their transnational corporations do likewise. She agreed that the principle of ‘empowerment’ would also guide her mandate.*

²² The UN press release that covers the interactive dialogue is available at <http://www.un.org/News/Press/docs/2008/gashc3925.doc.htm>

²³ Cameroon, Peru and Brazil.

- Cameroon asked about the Independent Expert's major priorities during the UN's Second Decade for the Eradication of Poverty (the Second Decade), and how to ensure it would be more effective than the First Decade. *The Independent Expert said she saw herself as a 'bridge' between New York and Geneva in relation to the Second Decade, expressing her hope that it would help to put human rights and poverty concerns 'hand in hand'.*
- Switzerland observed that there was link between the work of the Independent Expert and the Commission on the Legal Empowerment of the Poor (CLEP), and asked whether its latest report would inform her future work regarding participation by the poor and their access to justice. *The Independent Expert was aware of the work of the CLEP and noted that its latest report was released after the publication of the report before the Committee. She agreed that the issue of access to justice was important and would consider incorporating the CLEP findings in her future reports.*
- Guatemala questioned why indigenous peoples were almost absent from the Independent Expert's report, particularly in light of the adoption of the UN Declaration on the Rights of Indigenous Peoples and the fact that they made up 15 percent of the world's most poor. *The Independent Expert noted that her mandate required her to focus on women and children, rather than indigenous peoples or other groups. Nonetheless, she agreed that indigenous peoples warranted particular attention given their vulnerability to poverty.*

Although South Africa did not participate in the interactive dialogue, it raised a number of significant concerns in relation to the work of the Independent Expert at the time the Third Committee took action on the resolution on extreme poverty.²⁴ South Africa expressed concern over the terms of reference of the Independent Expert to assess the implementation of the Second Decade,²⁵ arguing that she had no framework by which to do so, nor a set of clear goals or a programme of action. It was also concerned by attempts to locate the mandate of the Independent Expert in processes peripheral to the Human Rights Council, which was tantamount to 'mandate creep' and something South Africa found 'unacceptable'.

On 17 October 2008, the Independent Expert participated in the the International Day for the Eradication of Poverty, which had as its theme 'Human Rights and Dignity of People Living in Poverty'. This side event enabled people living in poverty from around the world to present personal testimonies of their experience. In addition, the Secretary-General and the Independent Expert delivered statements to commemorate the day.²⁶

Special Rapporteur on adequate housing²⁷

On 23 October 2008, the Committee considered the oral report of, and held an interactive dialogue with, **Ms Raquel Rolnik**, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context. This was the first time the Special Rapporteur had addressed the Committee following her appointment by the Council in March 2008. She informed the Committee that when the Council recently renewed the mandate, it decided that more interaction with the GA was needed to help achieve its goals, and this brought about the first presentation by the mandate holder to the Committee since its establishment in 2000. The Special Rapporteur then:

²⁴ The Third Committee took action on the resolution (A/C.3/63/L.27) on 11 November 2008.

²⁵ The Independent Expert's mandate is contained in Council Resolution 8/11, available at http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_8_11.pdf It authorises her to 'Participate in the assessment of the implementation of the Second United Nations Decade for the Eradication of Poverty' (OP2(f)) but does not indicate what form her participation should take.

²⁶ The Secretary-General's statement and programme for the day is available at <http://www.un.org/esa/socdev/social/intldays/IntlDay/2008intliday.html>

²⁷ More information on the special procedure is available at <http://www2.ohchr.org/english/issues/housing/index.htm>

- Expressed concern that in the face of the global financial crisis there was little discussion of its impact on the right to adequate housing or the need to address increasing homelessness. Developing and developed countries needed to view the home as a right and not 'a commodity'.
- Reassured the Committee that she would build on the achievements of the previous mandate holder and continue to favour a constructive dialogue with all concerned parties. She would develop guidelines and other practical tools to assist States to implement their obligations, and collect 'reliable statistics on adequate indicators' to assess States' progress.
- Emphasised her overarching objective of more systematic dissemination of the concept of adequate housing to ensure that decision-makers (particularly urban planners and policy makers) and rights holders were more aware of their legal obligations and entitlements.
- Outlined the new themes she would pursue, and explained that she would focus on one or two each year and link them to relevant country visits:
 - a) Mega-events such as international sports events: encourage States to embrace sustainability and ensure that housing rights were protected and enhanced by the development process;
 - b) Post-disaster and post-conflict reconstruction: work with multilateral and bilateral agencies to close the gap between the humanitarian and development phases in post-conflict or post-disaster reconstruction, and integrate human rights standards into prevention, relief and rehabilitation efforts;
 - c) Climate change: debate was needed about the actual impact of climate change on human settlements and housing. Further, a human rights-based approach to climate change was needed to ensure the most vulnerable participated in decision-making and were empowered;
 - d) Integration of migrants: urban planning needed to include measures to facilitate the social integration of migrants and ensure their access to public services; and
 - e) Social inclusion: land management and urban planning were public policy tools that should be used to rein in rising rental and home prices. This would ensure adequate housing was accessible to the most vulnerable, and provide greater options to prevent social conflict.

Interactive dialogue²⁸

In a brief interactive dialogue, States asked the Special Rapporteur for her views on the following issues:

- Cuba asked for more information about developing a concrete climate change response that was linked to the right to adequate housing. *The Special Rapporteur responded that climate change would affect all countries, but for small island States, it could result in their complete disappearance. This would set off 'a gigantic migratory wave' and the international community needed to plan ahead to prevent precarious living situations like tent camps developing in the more vulnerable areas. Equally, States needed to develop prevention strategies in collaboration with those communities that were at risk and provide them with information about the prevention/mitigation options available to them.*
- Brazil pointed to the need to take country-specific situations and resource availability into account when discussing adequate housing. *The Special Rapporteur agreed, disparaging the 'one size fits all' model that many multilateral agencies had advocated, which had promoted private home ownership as the 'solution'. She urged States to develop multiple approaches, including a variety of tenure and rental systems, and to view housing not just a market issue, but as a public issue requiring a variety of forms of State intervention, as well as a collective response from the community at large.*
- Thailand and France (on behalf of the EU) asked for more information about the Special Rapporteur's intention to organise her reports and country visits around select thematic issues. *Given the complexity of the mandate, the Special Rapporteur explained that focussing on one or two different themes would draw attention to the most critical issues. Although she might only visit one or two countries, the themes she explored would be relevant to all countries. Information would also be exchanged with a*

²⁸ The UN press release that covers the dialogue is available at <http://www.un.org/News/Press/docs/2008/gashe3926.doc.htm>

broad network of other actors (such as academics) working on the same theme each year. She did not indicate which countries she intended to visit.

- Thailand welcomed the Special Rapporteur's intention to prioritise the dissemination of information about the right to adequate housing, but expressed concern that UN reports were inaccessible to most people, given they were written in 'UN language'. It urged her to 'translate' her message to a much wider audience as a means of 'operationalising' her recommendations. *The Special Rapporteur agreed it was essential to make UN work on the issue available and comprehensible to a wider audience. To operationalise her recommendations, it was critical that the right to adequate housing be incorporated into national and local legislative instruments to prevent violations and offer the most vulnerable an avenue to seek redress through the courts. It would also "take the issue out of the hands of States and give it back to the people to implement."*
- Other questions concerned: the impact of the Optional Protocol to the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) on the right to adequate housing (France on behalf of the EU); and how to address the impact of the global financial crisis on the right to adequate housing (China).

The Special Rapporteur also participated in a side event on 22 October 2008 entitled 'The Price of Dignity: Human Rights and Global Economics'²⁹ which sought to highlight the impact of the global financial crisis on human rights. In her presentation, the Special Rapporteur criticised the mindset that housing was a 'commodity' rather than a basic right to be provided by the State. Over the last 20 years, this had led many governments to dismantle their public housing policies and subsidised rental schemes, in the belief that most people could finance their own home using credit. As a result, many low income people became homeless, and now, many others who were forced into debt, faced losing their home as the world financial crisis worsened. The Special Rapporteur encouraged governments to use the financial crisis as an opportunity to re-instate housing policies and related legislation, to re-think their approach to urban planning and energy, and to ensure everyone was able to access affordable and adequate housing that would allow them to live in dignity.

Special Rapporteur on the right to education³⁰

The presentation of **Mr. Vernor Muñoz Villalobos**, the Special Rapporteur on the right to education, took place on 24 October 2008. This was the first time the Special Rapporteur had been invited to address the Third Committee since the establishment of the mandate in 1998. The Special Rapporteur:

- Affirmed his intention to continue the work of his predecessor and build on the themes of his initial reports, including the development of a conceptual framework to better understand the right to education, the need for free universal education, girls' right to education and the need for inclusive education for people with disabilities.
- Stressed the need for the right to education to be upheld in the case of war or other emergencies, such as armed conflict and natural disasters.
- Encouraged States to increase allocation of total humanitarian resources for education from 1.7 percent to at least 4.2 percent and to develop contingency plans for the provision of education during emergency situations.
- Called on donors to include education in all humanitarian programs.
- Discussed his focus on equality, non-discrimination and diversity during his visits to Botswana, Germany, Morocco, Malaysia, Bosnia and Herzegovina, and Guatemala and his future visits to Senegal and Paraguay.

²⁹ The event was co-hosted by the Office of the High Commissioner for Human Rights, the UN Department of Public Information and the NGO Committee on Human Rights.

³⁰ More information on this special procedure and their mandate is available at <http://www2.ohchr.org/english/issues/education/rapporteur/index.htm>

Interactive dialogue³¹

Only a few states spoke during the interactive session with a notable focus on obstacles to the right to education in emergency situations. Among the main themes and questions raised were:

- Qatar, Nicaragua and France (on behalf of the EU) asked how the UN could act to better implement the right to education in emergencies. *The Special Rapporteur stressed the importance of a holistic three-part approach to integrating education in humanitarian responses. Firstly, any approach must acknowledge the right to education as a basic right, like the right to food or housing. Second, any education programme should include information about dealing with the challenges that people might face during an emergency situation. Third, States unable to fund such programmes themselves needed donor assistance, and recipient countries needed to ensure responsible financial management of these funds to ensure they contributed to improved education outcomes. This would help reduce illiteracy amongst refugees and internally displaced persons.*
- Iran suggested standard criteria were needed to categorise different countries according to their efforts to provide education in emergency situations, especially when those efforts included providing education to refugees. *The Special Rapporteur stated that the development of such standard criteria would be useful, particularly in light of the current lack of sufficient data on violations of the right to education in emergency situations.*
- Burundi asked how the scientific criteria were developed to determine that humanitarian assistance for education should increase from 1.7 percent to 4.2 percent. *The Special Rapporteur stated that ‘an integrated group of experts’ had devised the 4.2 percent figure based on a ‘principle of progressivity.’ He described the current assistance allocation of 1.7 percent as a “shameful” and “unacceptable”.*
- France (on behalf of the EU) asked how to increase participation of women in the efforts to further the right to education. *The Special Rapporteur emphasised the need for women and girls to be at the centre of all development strategies. He commented that an educated woman was more likely to know of and be able to assert her human rights.*

Independent Expert on the effects of foreign debt³²

On 27 October 2007, the Committee considered the oral report of, and held an interactive dialogue with the Independent Expert 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, **Dr. Cephias Lumina**. The Independent Expert was newly appointed in May 2008 and in his first presentation to the Committee he:

- Outlined his approach to the mandate, including his intention to consult with all relevant stakeholders and hold multi-stakeholder regional consultations; undertake a thematic study on foreign debt and human rights; and identify best practices concerning foreign debt and human rights through the development of the general guidelines.
- Indicated that the opposition of developed (mainly creditor) States in the Council to the concept of foreign debt as a human rights issue was a key challenge to the implementation of his mandate.
- Stated that the impact of foreign debt on human rights was irrefutable, as shown by the example of heavily indebted countries that were spending so much on debt servicing that they were not able to realise basic economic and social rights, such as the delivery of adequate health services.

³¹ The UN press release that covers the interactive dialogue is available at <http://www.un.org/News/Press/docs/2008/gashc3927.doc.htm>

³² More information on this special procedure and their mandate is available at <http://www2.ohchr.org/english/issues/development/debt/overview.htm>

- Emphasised that the *United Nations Charter* and the *Universal Declaration of Human Rights* placed a responsibility on all States to promote human rights by assisting low-income States to alleviate their foreign debt obligations.
- Asked States to consider making extra-budgetary allocations to the Office of the High Commissioner for Human Rights to support the proposed thematic study mentioned above.

Interactive dialogue³³

A limited group of Member States used the interactive dialogue session to raise issues relating to economic, social and cultural rights or express disagreement with the views of the Independent Expert:

- Cuba requested that the Independent Expert expand on the impact of the global financial crisis on the external debt commitments of countries of the South. *The Independent Expert conveyed his strong desire that the current debt crisis not be used as an excuse by those in a position to help to reduce their assistance to those in need.*
- The US argued that the link between debt forgiveness and human rights was tenuous. The US was of the view that countries were primarily responsible for their own debt, and encouraged States to access private markets and private financial flows as a way to manage and transition out of their own debt. The US reaffirmed its commitment to work with developing countries, but suggested that foreign debt was not an issue for a human rights forum, but better dealt with by the Second Committee and the Financing for Development process. *The Independent Expert expressed his concern that debt sustainability often excluded those in developing countries. He suggested that a human rights-based approach should be infused into the debt system rather than it having a purely economic focus.*
- China and Kuwait inquired about practical collaborations among United Nations, the Working Group, and debtor and creditor countries to reduce debt for countries of the South and to implement the Working Group's guidelines. *The Independent Expert encouraged debtor and creditor States to work together to manage the debt process more efficiently and to review and comment on his existing draft guidelines that will be submitted to the Council in 2010.*

Special Rapporteur on the right to health³⁴

The presentation of **Mr. Anand Grover**, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, took place on 27 October 2008. He addressed the Committee for the first time since he assumed the post on 1 August 2008 and:

- Paid tribute to his predecessor, Mr. Paul Hunt, whose report he presented to the Committee.³⁵
- Outlined his preliminary views on the mandate for the next three years, stating his intention to continue his predecessor's work on: accountability, maternal mortality and health indicators. He indicated the possibility of work on health systems, intellectual property rights, the effect of the Trade Related Intellectual Property (TRIPs) Agreement and TRIPs-plus standards on the ability of States to implement the right to health, violence against women, and the health of indigenous peoples.
- Referred to his 20 year history working as an HIV/AIDS advocate in India, and his intention to apply the lessons learned from HIV to the right to health. He planned to hold regional consultations with States, non-State actors, civil society organizations, affected communities and individuals (rights holders). Among the vulnerable groups he believed should be involved in the mandate were HIV

³³ The UN press release that covers the interactive dialogue is available at <http://www.un.org/News/Press/docs/2008/gashc3928.doc.htm>

³⁴ More information on this special procedure is available at <http://www2.ohchr.org/english/issues/health/right/overview.htm>

³⁵ Mr. Paul Hunt last reported to the 7th session of the Human Rights Council on 11 March 2008. The report is available at <http://www2.ohchr.org/english/issues/health/right/annual.htm>

patients, drug users, sex workers, men who have sex with men, women, children, disabled people and indigenous peoples.

- Identified the Human Rights Guidelines for Pharmaceutical Companies annexed to the report as a key tool providing a framework to help pharmaceutical companies integrate human rights, including the right to health, into their policies and operations. He identified the need to clarify controversial issues, such as the extent to which non-State actors may be bound by international law.

Interactive dialogue³⁶

A handful of Western States dominated the interactive session, showing particular interest in the Human Rights Guidelines for Pharmaceutical Companies in relation to Access to Medicines (the guidelines). Only Brazil and New Zealand raised concerns of the global South, such as access to affordable medicines and maternal mortality respectively. The key themes and questions raised included:

- France sought clarification on the future application of the guidelines and Canada asked about the scope for ongoing dialogue with pharmaceutical companies. Although the US acknowledged that the guidelines had the potential to encourage pharmaceutical companies to be good corporate citizens, it emphasised the inadequacy of a 'one-size-fits-all' approach and its preference for voluntary corporate social responsibility. *As his predecessor intended, the Special Rapporteur would continue dialoguing with relevant stakeholders to develop a more formal set of guidelines 'with a firm foundation'. However, rather than a doctrinal approach, he would take an evidence-based approach to their finalisation, paying particularly attention to the impacts on the most marginalised communities.*
- Brazil raised several principles that it hoped the Special Rapporteur would promote in the course of his mandate: the right to health should prevail as a principle in trade deals; intellectual property rights should stimulate innovation and not hinder people's enjoyment of their right to health; and, as well as providing aid for the purchase of pharmaceuticals by developing countries, donors should assist these countries to build their capacity to produce and distribute their own medicines. *The Special Rapporteur noted that ongoing dialogue was needed to resolve complex issues, such as how trade agreements impacted on people's right to health. He believed there was now little dispute in the legal community that the right to health, as a fundamental human right, had to prevail in trade agreements. Further, with the development of the guidelines, it was clear that non-State actors had to take the right to health into account in the course of their operations.*
- France asked about the right to health being subject to maximum available resources. *The Special Rapporteur was not able to make a firm commitment to address this issue but hoped it would be amongst his priorities, following consultations with a range of stakeholders.*
- New Zealand expressed concern about maternal mortality in the Pacific region and asked the Special Rapporteur to elaborate on how this issue related to the right to health. *The Special Rapporteur noted this was a critical issue that he intended to address. At the June 2009 session of the Human Rights Council he would present the report of his predecessor's visit to India that focussed on maternal mortality.*

SRSO on Transnational Corporations³⁷

This was the first occasion that **Professor John Ruggie**, the Special Representative of the Secretary-General on Human Rights and Transnational Corporations and Other Business Enterprises, had been invited to present to the Third Committee since the mandate was established in 2005. The Special Rapporteur's new mandate from the Council authorised him to 'operationalise' his proposed policy framework (see below), and in so

³⁶ The UN press release that covers the interactive dialogue is available at <http://www.un.org/News/Press/docs/2008/gashc3928.doc.htm>

³⁷ Further information on the special procedure is available at http://www2.ohchr.org/english/issues/trans_corporations/index.htm

doing, to provide concrete guidance to States and businesses on how to close the 'governance gaps' that lead to human rights violations. In his presentation, the Special Representative:

- Noted that his policy framework of 'protect, respect and remedy' had been endorsed by both the main international business associations and leading international human rights organisations. This indicated that 'a new consensus' had developed and that key stakeholders had moved on from the divisive debate that was triggered by the release of the draft Norms on Transnational Corporations prior to the establishment of his mandate.³⁸
- Outlined the work he would undertake to elaborate the three core principles of his policy framework:
 - a) the State duty to protect: governments needed to actively encourage a corporate culture respectful of human rights at home and abroad. The Special Representative would explore the use of corporate law tools as a means of promoting 'rights-respecting corporate cultures', and examine the human rights challenges faced by businesses operating in conflict zones;
 - b) the corporate responsibility to protect human rights (do no harm): develop a set of practical guiding principles for companies on due diligence and accountability measures to prevent and address adverse human rights impacts; and
 - c) access to remedy: explore how to overcome obstacles to judicial remedy, and develop a web-based platform to showcase best practice non-judicial grievance mechanisms from around the world.
- Recalled the key achievements of the mandate to date, highlighting the recent establishment of a Global Leadership Group to provide strategic and substantive advice for the future exercise of the mandate. Among its 15 eminent members were former Secretary-General, Kofi Annan, and former High Commissioner for Human Rights, Mary Robinson.
- Assured the Committee he would continue his consultative, inclusive, evidence-based approach to the mandate. He noted that he had established working relationships with other special procedures, UN treaty bodies, the Global Compact and the OECD amongst others.

Interactive dialogue³⁹

The dialogue with the Special Representative was relatively brief and dominated by a handful of Western States, all of which responded positively to his intended approach. They posed the following questions:

- Norway asked about the State's duty to protect its citizens from corporate abuse in conflict zones, given the Special Representative's recent visit to the Democratic Republic of the Congo (DRC). *The Special Representative advised that discussions were still underway to facilitate this visit. However, if it eventuated, he planned to use the experience to formulate policy recommendations on business operations in conflict zones for consideration by the international community. He noted that human rights could not function in conflict zones and urged the international community to develop clarity on how corporations should deal with the challenges they faced when operating in such situations.*
- The US noted its continuing preference for voluntary approaches to corporations' responsibilities in relation to human rights. It asked for the Special Representative's view on the concern of some States that the incorporation of human rights principles in the economic sector could harm their economic development. *The Special Representative disagreed that respect for human rights would limit economic development, noting that social and economic rights were a strong indicator of a country's development success. Social and economic rights and economic development were inextricably linked.*
- France (on behalf of the EU) asked the Special Representative to elaborate on the membership of the Global Leadership Group, whether he would hold multilateral consultations on the guidelines he was developing, and to provide further information about his cooperation with the International Labour

³⁸ The draft Norms on Transnational Corporations and Other Enterprises were developed by the former Sub-Commission on Human Rights, but not adopted by the former Commission on Human Rights. The hostile reception the draft Norms received from States and much of the corporate sector contributed to the creation of the special procedure in 2005.

³⁹ The UN press release that covers the interactive dialogue is available at <http://www.un.org/News/Press/docs/2008/gashc3928.doc.htm>

Organisation (ILO). *The Special Representative responded that the Global Leadership Group was not a UN entity, but intended to provide him with strategic and political advice. Its members were drawn from the highest levels of the UN, corporations, national governments, NGOs and human rights organisations, and as such, it was intended to provide recommendations to progress the mandate and avoid any major mistakes. He planned to organise regional consultations and expert workshops, including with international experts in corporate law. In relation to the ILO, the Special Representative said he had no intention of rewriting labour standards, but would draw from its work.*

- Canada requested the Special Representative's views on what the international community could do to build capacity in States where human rights protections were fragmented and incoherent. *The Special Representative observed that corporate lawyers needed to understand human rights law and its relevance to their work. This required that the business and human rights agenda be taken out of its narrow institutional box and extended to those who shape commercial policy. In order to increase the global capacity to deal with the business and human rights agenda it was important to clarify the international standards and disseminate best practices in this area.*

Looking Forward

It remains to be seen whether the Third Committee will enjoy a similar level of constructive engagement when it convenes next year to consider economic, social and cultural rights. However it is clear that the Committee will maintain its close interest in the work of the Special Rapporteur on the right to food, and take an interest in his report reviewing intellectual property instruments in light of General Comment No.17 of the Committee on the Economic, Social and Cultural Rights.⁴⁰ It is also anticipated that the Committee will continue to engage with a broader range of special procedures, as the Council looks set to continue its new practice of encouraging more interaction between the special procedures and the GA. Among the special procedures with mandates relevant to economic, social and cultural rights that are expected to report to the Committee in 2009 are: the right to food, right to development, foreign debt, and health. The Independent Expert on extreme poverty is next expected to report to the GA in 2010.

Background

The General Assembly is the main deliberative organ of the UN. It is composed of representatives of all Member States and has a general mandate to discuss and make recommendations on any matters within the scope of the *United Nations Charter*. Under Article 13 of the Charter, the General Assembly is specifically mandated to 'initiate studies and make recommendations for the purpose of ...assisting in the realisation of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion'. The regular session of the General Assembly runs from the beginning of September to the end of December. Each year the GA addresses over 150 agenda items, which are considered either in the plenary or in one of its six committees.⁴¹ The Third Committee (Social, Cultural, and Humanitarian) addresses most agenda items relevant to human rights defenders, including advancement of women, children's rights, the rights of indigenous peoples, the elimination of racism, and human rights questions. Numerous special procedures also report to the Third Committee on a number of these issues and engage in an interactive dialogue with States. The Fifth Committee (Administrative and Budgetary) is also particularly relevant to human rights defenders since it evaluates and approves the budgetary requirements arising out of the work of the other five committees. After completing their work, the Third and the Fifth Committee, as well as the other four main committees, submit draft resolutions to the General Assembly for final adoption.

⁴⁰ This General Comment relates to the right of everyone to benefit from any scientific, literary or artistic production of which they are the author (Art.15(1)(c) of the *International Covenant on Economic, Social and Cultural Rights*).

⁴¹ For further information on the main committees of the GA, refer to the ISHR's General Assembly Fact Sheet: the General Assembly's main committees, available at http://www.ishr.ch/index.php?option=com_content&task=view&id=131&Itemid=192

Technical Annex

Reports⁴²

- Note by Secretary General transmitting the report of the Special Rapporteur on the *right to food* (A/63/278)
- Report of the Secretary-General on the *right to development* (A/63/340)
- Note by the Secretary-General providing information on the work of the Human Rights Council Advisory Committee relating to the *right to development* (A/63/318)
- Note by the Secretary-General transmitting the report on the question of *human rights and extreme poverty* by the independent expert on human rights and extreme poverty (A/63/274)
- Note by the Secretary General transmitting the report by the Special Rapporteur on *adequate housing* as a component of the right to an adequate standard of living, and of the right to non-discrimination in this context (A/63/275)
- Note by the Secretary-General transmitting the interim report of the Special Rapporteur on the *right to education* (A/63/292)
- Note by the Secretary-General transmitting 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 (A/63/289)
- Note by the Secretary-General transmitting the report of the Special Rapporteur on the *right to health* (A/63/263)
- Note by the Secretary General transmitting the report by the Special Representative on the issue of *human rights and transnational corporations* and other business enterprises (A/63/279).

⁴² All reports to the Third Committee are available at <http://www.un.org/ga/third/63/docslist.shtml>

Special procedures

Special procedure	Date for renewal of mandate	GA report number	Date of presentation of report to Third Committee	Date of last presentation of report/s to Human Rights Council	Next report to Human Rights Council due
Special Rapporteur, right to food	2011	A/63/278	27 Oct 2008	9 th session, September 2008 ⁴³ (A/HRC/9/23)	10 th session, March 2009
Chairperson-Special Rapporteur, Working Group on the right to development	2010	na	27 Oct 2008	9 th session, September 2008 ⁴⁴ (A/HRC/9/17)	10 th session, March 2009
Independent Expert, human rights and extreme poverty	2011	A/63/274	22 Oct 2008	8 th session, June 2008 ⁴⁵ (A/HRC/7/15)	Not scheduled
Special Rapporteur, adequate housing	2011	A/63/275	23 Oct 2008	7 th session, March 2008 ⁴⁶ (A/HRC/7/16)	10 th session, March 2009
Special Rapporteur, right to education	2011	A/63/292	24 Oct 2008	8 th session, May 2008 (A/HRC/8/10) ⁴⁷	11 th session, June 2009

⁴³ Mr de Schutter made recommendations to the Council about how it could respond to the food crisis within a human rights framework. A report on the interactive dialogue of the Council with the Special Rapporteur is available at http://www.ishr.ch/index.php?option=com_content&task=view&id=115&Itemid=176#1 under ‘September 10’.

⁴⁴ Mr Arjun Sengupta presented the Working Group’s report to the Council. A report of the interactive dialogue with the Council is available at http://www.ishr.ch/index.php?option=com_content&task=view&id=115&Itemid=176 (under 12 September).

⁴⁵ Dr Magdalena Sepúlveda Carmona presented the final report of her predecessor, Mr Arjun Sengupta. A report on the interactive dialogue of the Council with Independent Expert is available at: http://www.ishr.ch/hrm/council/dailyupdates/session_008/3_june_2008.pdf and http://www.ishr.ch/hrm/council/dailyupdates/session_008/4_june_2008.pdf

⁴⁶ Mr Miloon Kothari presented his final annual report and the reports from his country visits to Spain, South Africa and Canada to the Council. A report on the interactive dialogue of the Council with Special Rapporteur is available at: http://www.ishr.ch/hrm/council/dailyupdates/session_007/13_march_2008.pdf

⁴⁷ Mr Vernor Munoz presented his report to the Council. A report on the interactive dialogue with the Council is available at http://www.ishr.ch/hrm/council/dailyupdates/session_008/3_june_2008.pdf and http://www.ishr.ch/hrm/council/dailyupdates/session_008/4_june_2008.pdf

Independent Expert, effects of foreign debt	2011	A/63/289	27 Oct 2008	7 th session, March 2008 ⁴⁸ (A/HRC/7/9)	10 th session, March 2008
Special Rapporteur, right to health	2011	A/63/263	27 Oct 2008	7 th session, March 2008 ⁴⁹ (A/HRC/7/11)	11 th session, June 2009
SRSG, Transnational corporations	2011	A/63/270	27 Oct 2008	8 th session, June 2008 ⁵⁰ (A/HRC/8/5 and A/HRC/8/16)	11 th session, June 2009

⁴⁸ Mr. Bernards Andrew Nyamwaya Mudho, the former Independent Expert, presented his annual and final report, as well as his country report from his mission to Burkina Faso. A report of the interactive dialogue of the Council with Mr. Mudho is available at http://www.ishr.ch/hrm/council/dailyupdates/session_007/12_march_2008.pdf

⁴⁹ Mr Paul Hunt presented his final report to the Council which outlined a right-to-health approach to strengthening health systems. A report on the interactive dialogue of the Council with Mr Hunt is available at http://www.ishr.ch/hrm/council/dailyupdates/session_007/11_march_2008.pdf

⁵⁰ Professor John Ruggie presented his final report as per the 2005 mandate. Reports on the interactive dialogue of the Council with Independent Expert and the renewal of his mandate are available at: http://www.ishr.ch/hrm/council/dailyupdates/session_008/3_june_2008.pdf and http://www.ishr.ch/hrm/council/dailyupdates/session_008/4_june_2008.pdf and http://www.ishr.ch/hrm/council/dailyupdates/session_008/5_june_2008.pdf

Key resolutions⁵¹

Initial resolution number/final number	Main Sponsor	Title	Previous GA resolution	Action
A/C.3/63/L.42/Rev.1 and A/63/187	Cuba (national capacity)	The right to food	A/RES/62/164 ⁵² annual	Adopted by C3 24 Nov 08 180:1:0 Adopted by GA 18 Nov 08 186:01:00
A/C.3/63/L.30/Rev.1 and A/RES/63/178	Cuba (NAM)	The right to development	A/RES/62/161 ⁵³ annual	Adopted by C3 24 Nov 08 177:01:02 Adopted by GA 18 Dec 08 182:04:02
A/C.3/63/L.27 and A/RES/63/175	Peru	Human rights and extreme poverty	61/173 ⁵⁴ biennial	Adopted by C3 11 Nov 08 By consensus Adopted by GA 18 Dec 08 By consensus

⁵¹ All Third Committee resolutions are available at <http://www.un.org/ga/third/63/proplist.shtml> and all GA plenary resolutions from the 63rd session are available at <http://www.un.org/ga/63/resolutions.shtml>

⁵² See ISHR's report on Economic, Social and Cultural Rights from the GA's 62nd session, available at http://www.ishr.ch/index.php?option=com_content&task=view&id=131&Itemid=192

⁵³ See ISHR's report on Economic, Social and Cultural Rights from the GA's 62nd session, available at http://www.ishr.ch/index.php?option=com_content&task=view&id=131&Itemid=192

⁵⁴ See ISHR's report on the GA's 61st session, available at http://www.ishr.ch/hrm/archive/GA/GA61/GA61_Contents.htm

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