



The Global Initiative *for Economic, Social and Cultural Rights*

Economic, Social and Cultural Rights at the 26th session of the Human Rights Council 10 – 27 June 2014

The 26th session of the Human Rights Council saw States considering a broad range of economic, social and cultural rights and associated issues.

Special Procedures mandate holders in relation to the Right to Health, the Right to Education and Extreme Poverty and Human Rights all reported to the Council. One of the most hotly debated topics was the two competing resolutions on business and human rights put forward by Norway (and core group) and Ecuador (and South Africa), the latter of which proposed an inter-governmental working group to begin drafting a new treaty on transnational corporations.

Other ESC rights issues that received attention were the rights of peasants, the protection of the Roma population and human rights in post disaster and post conflict situations.

This session also involved a very welcomed number of resolutions and events on women's rights including a large event on women's economic empowerment, discussions about negative gender stereotyping, combating FGM, eliminating child early and forced marriage and the annual resolution on violence against women. However, it was concerning that the resolution on the 'Protection of the Family', which Egypt had previously proposed at the



March Council session and then withdrew for lack of support, was again put forward and passed with a disturbingly healthy 26 votes (14 No, 6 Abstentions) (A/HRC/26/L.20/Rev.1). Women's rights advocates had worked hard to highlight their concerns with this resolution which they see as attempting to elevate the interests of the family, conceived in conservative and paternalistic terms, at the expense of individual human rights, particularly those of women. LGBT groups had also pointed out the dangers of narrowly defining the family to exclude LGBT parents and ignoring abuses of LGBT persons within families. The proponents of the resolution (such as Egypt, Russia, Bangladesh, Sierra Leone, China, Cote d'Ivoire) painted it as merely a procedural text which sought to establish a panel discussion at a future session of the Council. Unfortunately this resolution seems to be part of a general pushback in the area of women's rights seen also in other fora such as the Commission on the Status of Women and the World Health Organisation.

This session was also notable for being the last Human Rights Council session for Navi Pillay as UN High Commissioner for Human Rights. She will be replaced in September by Prince Zeid Ra'ad Zeid al-Husseini of Jordan. The High Commissioner gave an excellent speech reflecting on her 6 years as



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High Commissioner ([see here](#)) including the role of human rights advocacy “to speak truth to power; to confront privilege and entrenched hierarchy with an unshakeable belief in human dignity, equality and freedom.”

Right to Education

The Special Rapporteur on the Right to Education presented his report ([A/HRC/26/27](#)) to the Council addressing the issue of a holistic, human rights-based approach to the assessment of the educational attainments of students and on skills development. The Special Rapporteur concluded:

Prevalent international assessments of the performance of students reflect an instrumental role for education, driven by the concept of educational development in mere economic terms, with excessive emphasis placed on learning outcomes in mathematical literacy and language skills. The Special Rapporteur considers that such a narrow approach is detrimental to the humanistic mission of education and undermines the essential objectives assigned to education in international human rights conventions. ... A paradigm shift is necessary to make assessment systems more broadly based so that they embody in full measure the essential objectives of the right to education, in accordance with human rights law, and are premised upon a human rights-based holistic approach.¹

A large number of States took the floor during the Interactive Dialogue with the Special Rapporteur supporting his report and raising issues such as the importance of the right to education in the post-2015 development agenda, continuing discrimination against girls in education, access for indigenous peoples and ethnic minorities and the critical role of international cooperation. Some States emphasised the role of education in preserving national languages and cultures.

A resolution (A/HRC/26/L.26) was adopted without a vote, which extended the Special Rapporteur mandate for a further 3 years. The resolution:

- urged States to give full effect to the right to education by, inter alia, developing and applying human rights compliant assessment systems;
- called upon stakeholders to urgently increase efforts to accelerate progress towards attaining the Education For All goals and the education-related MDGs; and
- strongly condemned attacks on educational institutions, staff and students and recognised efforts towards the elaboration of guidelines to protect schools from military use during armed conflict.

Also of note in relation to the Right to Education was a series of events on the issue of privatisation in education and its effects on the right to education. The GI-ESCR together with the Privatisation in Education Research Initiative and the Portuguese Mission hosted a Side Event and an Expert Meeting on this issue. A Report on these events can be found [here](#) and podcasts can be found [here](#).

¹ Report of the Special Rapporteur on the right to education, Kishore Singh, A/HRC/26/27 p 17-18 [80]



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Right to Health

Mr Anand Grover, the Special Rapporteur on the right to the highest attainable standard of physical and mental health also presented his report to the Council this session. His final thematic report ([A/HRC/26/31](#)) to the Council focused on healthy nutrition, unhealthy food and the problem of obesity, particularly for young people, which he described as a global epidemic. Mr Grover identified junk food and unprocessed foods as the cause and noted the role of globalisation in altering diets. In his recommended measures for States the Special Rapporteur pointed to national public health strategies, including regulating the food industry, food affordability and food marketing, the availability and accessibility of healthy food, and developing national food and nutrition guidelines. He also noted the role of the private sector in producing and promoting healthy foods. Mr Grover indicated that his final report to the General Assembly would provide an analysis of the interpretation of the right to health, including the issue of progressive realisation.

In the subsequent Interactive Dialogue a number of States drew attention to the continuing malnutrition in many countries and the underlying conditions of poverty. Some States highlighted the role of large food companies and suggested voluntary measures to regulate their conduct. Many States said they have or are developing nutrition and healthy food guidelines or strategies to reduce diet related non-communicable diseases. India made an interesting intervention, perhaps reflecting the recent WTO Bali negotiations, stating that regulations should not unduly burden small-scale industries or discourage the inflow of investments to developing countries. Bangladesh in a similar vein emphasised the importance of all stakeholders in the food system behaving responsibly.



The resolution on the right to health (A/HRC/26/L.29) put forward by Brazil was adopted without a vote. The resolution addressed the increasing incidence of non-communicable diseases and their serious impacts on the right to health, and called upon States to promote physical activity and sport and use sport as an opportunity to promote human rights. It also requested the Special Rapporteur to prepare a study on 'sport and healthy lifestyles as contributing factors to the right to health'.

Extreme Poverty and Human Rights

The newly appointed Special Rapporteur on Extreme Poverty and Human Rights, Mr Philip Alston, presented his first report ([A/HRC/26/28](#)) to the Human Rights Council in this role. The Report was in fact the work of his predecessor, Ms Magdalena Sepulveda whose term finished in April 2014. The Report addressed fiscal policies and human rights and Ms Sepulveda's country visits to Moldova and Mozambique. It demonstrated the many ways in which fiscal policies, and particularly taxation policies, were a major determinant in the enjoyment of human rights. It highlighted the key role of taxation in tackling inequality, generating the resources necessary for poverty reduction and the realization of human rights and for fostering stronger governance, accountability and participation in public affairs. The Report made a large number of recommendations including that States should:



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Business and Human Rights

The Working Group on the issue of human rights and transnational corporations and other business enterprises presented its 3rd Report to the Council ([A/HRC/26/25](#)) which provides a review of the strategic objectives, activities and outcomes of the first 3 years of the mandate and identifies challenges ahead. The Report identified the Strategic Priorities of the Working Group: the dissemination, implementation and embedding of the Guiding Principles on Business and Human Rights (UNGPs). The Report describes the key activities as: national action plans; tracking business uptake of the UNGPs; exploring options to promote increased access to effective remedy (including non-judicial grievance mechanisms and judicial remedies and discussions on the desirability of an international legal instrument on business and human rights); reflections on the annual Forum on Business and Human Rights; advocacy (including for the integration of the UN GPs in the post-2015 development agenda and specific situations of concern (eg: Rana Plaza)); communications (noting 16 public communications sent but not providing the number of 'private' communications sent); and capacity building and guidance on the implementation of the UNGPs. The Report's conclusion noted the growing gap between the pace of implementation and the expectations of civil society and affected stakeholders and stated that there are no easy solutions for addressing the challenges in this area but 'sustained attention and a 'smart mix' of regulatory and policy approaches and incentives' are required. The Report recommends that States: include business and human rights issues in the UPR; assist in the development of guidance on national action plans; ensure the protection of human rights defenders who raise awareness of the impacts of business activities; and review access to remedy for victims of business-related adverse human rights impacts.



During the Interactive Dialogue with the Working Group Chair, Mr Michael Addo, numerous NGOs took the floor to highlight the continuing adverse impacts of business activities on human rights, the lack of accountability of business actors, and the very high risks faced by human rights defenders working on corporate accountability issues. Many State interventions welcomed increased efforts to implement the UNGPs and to develop national action plans, but others questioned whether unenforceable principles were sufficient to address the human rights impacts of business activities. A number of States referred to the concurrent proposal for an inter-governmental process to elaborate a binding treaty on transnational corporations.

After intense lobbying and negotiations about the two resolutions proposed on the topic of business and human rights, both resolutions on business and human rights were ultimately adopted by the Council. The first to be adopted by vote (A/HRC/26/L.22/Rev.1: 20 Y, 14 Abst, 13 N) was that proposed by Ecuador (South Africa and others) which decided:

'to establish an open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, the mandate of which shall be to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises.'



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The new working group is to meet for the first time in 2015 and to report on its progress to the 31st session of the Council.

Norway & core group's resolution (A/HRC/26/L.1) was adopted later without a vote but after oral revisions removing all reference to any process to consider a treaty on transnational corporations and human rights. The adopted resolution focused on implementation of the Guiding Principles, including national action plans and extended the mandate of the Working Group for a further 3 years.

Other resolutions of note

- A (voted) resolution on the 'Promotion and protection of the human rights of peasants and other people working in rural areas' (A/HRC/26/L.13) which decided to continue the work of the Working Group towards a draft UN Declaration on the rights of peasants and other people working in rural areas.
- A resolution on the human rights of Roma people (A/HRC/26/L.11) condemning racism and discrimination against Roma people.
- A resolution establishing a new mandate on persons with disabilities (A/HRC/26/L.9).

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July 2014