



General Assembly

Distr.
LIMITED

A/HRC/9/L.22
19 September 2008

Original: ENGLISH

HUMAN RIGHTS COUNCIL

Ninth session
Agenda item 3

PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

**Argentina, Austria*, Belgium*, Bosnia and Herzegovina, Bulgaria*,
Canada, Chile, Congo*, Croatia*, Cyprus*, Czech Republic*,
Denmark*, Ecuador*, Egypt, Finland*, Greece*, Guatemala*,
Hungary*, Iceland*, Ireland*, Italy, Liechtenstein*, Luxembourg*,
Mexico, Montenegro*, Netherlands, New Zealand*, Norway*,
Peru*, Poland*, Portugal*, Romania*, Slovakia, Slovenia,
South Africa, Sweden*, Switzerland, the former Yugoslav Republic
of Macedonia*, Timor-Leste*, Uganda* and United Kingdom of
Great Britain and Northern Ireland: draft resolution**

9/... Human rights and transitional justice

The Human Rights Council,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Geneva Conventions of 12 August 1949 and the Protocols Additional thereto of 8 June 1977, other relevant international human rights law and international humanitarian law instruments and the Vienna Declaration and Programme of Action,

* Non-member State of the Human Rights Council.

Recalling previous resolutions of the Commission on Human Rights on human rights and transitional justice (2005/70), impunity (2005/81) and the right to the truth (2005/66), General Assembly resolution 60/147 on the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law as well as Council decisions 4/102 on transitional justice and 2/105 on the right to the truth,

Recalling also the report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616), including relevant recommendations contained therein, and the report of the Secretary-General entitled “Uniting our strengths: Enhancing United Nations support for the rule of law” (A/61/636-S/2006/980), which designates the Office of the United Nations High Commissioner for Human Rights as the lead entity within the United Nations system on, inter alia, transitional justice,

Recalling further the set of principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/Sub.2/1997/20/Rev.1, annex II) and taking note with appreciation of the updated version of those principles (E/CN.4/2005/102/Add.1), as well as the report of the Commission on Human Rights on the independence of the judiciary, administration of justice and impunity (E/CN.4/2006/52),

Recalling Security Council resolution 1325 (2000) on women, peace and security and recognizing women’s contributions to conflict resolution and sustainable peace,

Welcoming the role of the Peacebuilding Commission in this regard, and recalling the necessity for the Commission to intensify its efforts, within its mandate, in cooperation with national and transitional Governments and in consultation with the relevant United Nations entities, to incorporate human rights, when advising on or proposing country-specific peacebuilding strategies for post-conflict situations in cases under consideration, where applicable,

Recognizing the role of the International Criminal Court in a multilateral system that aims to end impunity, establish the rule of law, promote and encourage respect for human rights and achieve sustainable peace, in accordance with international law and the purposes and principles of the Charter,

Welcoming the activities of the United Nations, including through its field presences, in assisting States to design, establish and implement transitional justice mechanisms and promote the rule of law as well as its conceptual and analytical work on transitional justice and human rights,

Welcoming also the increased integration of a human rights perspective, including through activities of the Office of the United Nations High Commissioner for Human Rights in cooperation with other relevant parts of the United Nations system, in the United Nations activities related to transitional justice, as well as the importance given to the rule of law and transitional justice by the High Commissioner for Human Rights and her Office, including its Rule of Law and Democracy Unit,

Stressing that the full range of civil, cultural, economic, political and social rights should be taken into account in any transitional justice context, in order to promote, inter alia, the rule of law and accountability,

1. *Welcomes* the study on human rights and transitional justice activities undertaken by the human rights components of the United Nations system (E/CN.4/2006/93) and the progress report on human rights and transitional justice (A/HRC/4/87);
2. *Underlines* the importance and urgency of national and international efforts to restore justice and the rule of law in conflict and post-conflict situations and, where relevant, in the context of transitional processes;
3. *Emphasizes* the importance of a comprehensive approach to transitional justice, incorporating the full range of judicial and non-judicial measures, including, among others, individual prosecutions, reparations, truth-seeking, institutional reform, vetting of public employees and officials, or an appropriately conceived combination thereof, in order to, inter alia, ensure accountability, serve justice, provide remedies to victims, promote healing and reconciliation, establish independent oversight of the security system and restore confidence in the institutions of the State and promote the rule of law in accordance with international human rights law;

4. *Also emphasizes* that justice, peace, democracy and development are mutually reinforcing imperatives;
5. *Stresses* the importance of a comprehensive process of national consultation, particularly with those affected by human rights violations in contributing to a holistic transitional justice strategy that takes into account the particular circumstances of every situation and in conformity with human rights;
6. *Underlines* the importance of giving vulnerable groups, including those marginalized for political, socio-economic or other reasons, a voice in these processes and to ensure that discrimination and the root causes of conflict are addressed;
7. *Recognizes* the important role played in the realization of transitional justice goals and in the reconstruction of the society, as well as in the promotion of the rule of law and accountability, by:
 - (a) Victims' associations, human rights defenders and other actors of civil society, as well as national human rights institutions created in conformity with the Paris Principles;
 - (b) Women's organizations in the design, establishment and implementation of transitional justice mechanisms, so as to ensure that women are represented in their structures and that a gender perspective is reflected in their mandates and work;
 - (c) Free and independent media in informing the public about the human rights dimension in the area of transitional justice mechanisms locally, nationally and internationally;
8. *Emphasizes* the need to provide gender-sensitive human rights training in the context of transitional justice to all relevant national actors, including police, military, intelligence and security services, prosecution staff and members of the judiciary, in dealing with victims of human rights violations, particularly women and girls;
9. *Underlines* the need for the rights of both victims and accused persons to be respected, in accordance with international standards, with particular attention paid to those most affected by conflicts and the breakdown of the rule of law, among them women, children,

migrants, refugees, persons with disabilities and persons belonging to minorities and indigenous peoples, and to ensure that specific measures are taken for their free participation and protection and for the sustainable return of refugees and internally displaced persons in safety and dignity;

10. *Calls upon* States to assist the United Nations in its ongoing work on the relevant recommendations of the report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616) and the one entitled “Uniting our strengths: Enhancing United Nations support for the rule of law” (S/2006/980), including by incorporating international human rights law, principles and best practices into the development and implementation of transitional justice mechanisms and by cooperating fully with United Nations field presences in the area of human rights and transitional justice and by facilitating the work of relevant special procedures;

11. *Calls upon* the international community and regional organizations to assist countries, who so consent, in the context of transitional justice, to ensure the promotion and protection of human rights and to incorporate best practices into the development and implementation of transitional justice mechanisms;

12. *Requests* the Office of the United Nations High Commissioner for Human Rights to continue to enhance its leading role, including with regard to conceptual and analytical work regarding transitional justice, and to assist States to design, establish and implement transitional justice mechanisms from a human rights perspective, while stressing the importance of close cooperation between the Office of the High Commissioner and other relevant parts of the United Nations as well as other international and non-governmental organizations with regard to incorporating human rights and best practices into the development and implementation of transitional justice mechanisms and to the ongoing process of strengthening the United Nations system in the area of the rule of law and transitional justice;

13. *Also requests* the Office of the High Commissioner to submit, in consultation with other parts of the United Nations system, civil society and other stakeholders, an analytical study on human rights and transitional justice which contains an overview of activities undertaken by the United Nations human rights system, including the human rights components of peace missions, an analysis of the work accomplished, a compilation of lessons learned and best

practices, an assessment of overall needs, as well as conclusions and recommendations, with a view to assisting countries in the context of transitional justice, as well as an inventory of human rights and transitional justice aspects in recent peace agreements;

14. *Requests* other parts of the United Nations system to cooperate fully with the Office of the High Commissioner in the area of human rights and transitional justice;

15. *Decides* to continue its consideration of this matter at its twelfth session or at the corresponding session in conformity with its annual programme of work.
