United Nations and NGO Updates

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Countries participating in the review recommended that Iran take measures to prevent human rights abuse by security forces, guarantee freedom of expression, and limit capital punishment and torture. These recommendations are nonbinding, and while the international community may assist, the country under review is free to implement changes as it sees fit. The review process requires the country to report on its progress, but according to critics, there are few repercussions for failing to comply.

Some nations are more receptive to the process than others. Following its session during the January and February 2009 UPR, Saudi Arabia pledged reform in a host of areas, including the rights of women, domestic workers, and religious minorities. Not all of the promised changes have occurred, but human rights groups say that nonetheless the UPR has produced commitments and agreements they can use to hold countries accountable.

While Iran appears at a post-UPR standstill, the process has produced some positive results. Iran invited UN Human Rights Commissioner Navi Pillay to visit the country, and negotiations are underway to bring another UN delegation to Iran. Human rights groups such as Amnesty International criticized Iran’s response as “blanket denials and a lot of cynicism;” however, Iran’s refusal to engage may pave the way for further action and undermines its bid to join the Council, already in jeopardy. Human rights groups remain skeptical that the UPR will have a meaningful impact on human rights in Iran, but still hope that by participating in the process, they can convince Iran to drop its rejectionist stance and embrace real change in the future.

STOPPING DIAMOND-FUNDED WARS: UN ACTION

On December 1, 2000, the UN General Assembly unanimously adopted Resolution 55/56 with the goal of limiting sales of conflict diamonds. Conflict diamonds not only fund wars, but are also often their object. Also known as blood diamonds, the stones are mined in conflict zones and sold to finance militias or private armies. In Angola, Liberia, Cote d’Ivoire, the Democratic Republic of the Congo, and Sierra Leone, diamond sales have prolonged civil wars and contributed to thousands of deaths.

Although Resolution 55/56 is an important recent step, the UN has been taking action for decades. Beginning in 1994, the UN Security Council passed a series of resolutions aimed at ending the conflict in Angola by imposing restrictions on Angolan international trade. Among the resolutions passed were two in 1998 prohibiting UN Member States from directly or indirectly importing Angolan diamonds that are not government certified. Subsequently, direct bans were levied against other conflict diamond countries such as Sierra Leone and Liberia.

As most diamond-rich nations now export mostly conflict-free diamonds, the UN has lifted most embargos, leaving only Cote d’Ivoire under a direct UN ban. This success, however, is difficult to directly attribute to UN intervention. Some civil wars, like those in Liberia and the Democratic Republic of Congo, have simply come to an end.

Additionally, efforts by the diamond industry have contributed to a reduction in conflict diamonds on the market. Just before the UN passed Resolution 55/56, governments and representatives from the diamond industry met in Kimberley, South Africa to create a system to ensure that diamonds did not originate in conflict zones. These negotiations resulted in the Kimberley Process Certification Scheme, ratified and adopted by 52 states in 2002 and fully implemented in 2003. Supporters of the Process claim that over 99 percent of diamonds on the worldwide market are from conflict-free sources.

 Critics, however, point to flawed implementation, weak regulation, and a lack of genuine oversight in the Kimberley Process. Regarding direct bans, critics say that UN action has been limited. For example, in Cote d’Ivoire, UN monitoring of diamond mining has been weak and
ineffuctual. While it collected data and observed, illegal exportation continued. The UN mission in Cote d’Ivoire has been reluctant to dispatch forces to guard diamond zones, allowing local rebel leaders to generate large sums from illegally trading diamonds.

Thus, it is clear that much still needs to be done. Human rights defenders are urging the UN, the leadership of the Kimberley Process, and civil society to come together to create stronger mechanisms and enforcement so that millions more do not lose their lives because of conflict diamonds.

U.S. TREATMENT OF NATIVE AMERICANS AND THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

The UN General Assembly adopted the Declaration on the Rights of Indigenous Peoples on September 13, 2007, with 144 states voting in favor and eleven abstaining. Australia, Canada, New Zealand, and the United States were the only votes against the Declaration. In the last year, however, Australia has explicitly endorsed the Declaration, and both the Canadian and New Zealand governments have signaled that they were changing their stance. Only the United States retains strong opposition to the non-binding Declaration.

The Declaration’s goal is to provide protections for the rights of an estimated 370 million native people worldwide. To that end, the Declaration enumerates individual and collective rights, such as the right to political self-determination, the right to education, and the right to maintain cultural institutions.

The United States, however, is critical of what it perceives as the document’s shortcomings. According to Robert Hagen, U.S. Advisor at the United Nations, the Declaration is “confusing, and risks endless conflicting interpretations and debate about its application.” The United States rejects the notion that the rights included in the Declaration are or can become customary international law and is also extremely wary of the Declaration’s definition of self-determination. The United States prefers a right to self-governance within the nation-state rather than a right to self-determination, which in limited circumstances under international law may be exercised through secession. Finally, it claims that the Declaration’s language is confusing and easily conflated with legal obligations in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

Now, as the United States begins its UPR process, the U.S. stance is drawing increased attention and criticism. At a March 16, 2010 “listening session” held at the University of New Mexico Law School, the U.S. State Department heard from native leaders, legal scholars, and human rights activists, urging the United States to adopt the Declaration.

Some Native American activists are also participating directly in the UPR process. The American Indian Rights and Resources Organization (AIRRO) is collecting testimony on the issue of disenrollment, the process by which Native American tribal governments remove people from tribal membership. This controversial process is increasingly important with the growth of the gambling industry and related issues of control over proceeds. After unsuccessfullly petitioning the U.S. 9th Circuit Court of Appeals, AIRRO hopes submitting information to the UN Human Rights Commission will help bring pressure on the United States to resolve the issue.

International criticism of U.S. treatment of indigenous rights is not unprecedented. In 2008, the UN Committee on the Elimination of Racial Discrimination formally criticized the United States for failing to adequately prevent and punish violence against Native American women. This criticism comes not long after the Inter-American Commission on Human Rights became the first international body to formally recognize that the United States had violated the rights of Native Americans in a case concerning the Western Shoshone tribe. The Commission found that the United States illegitimately gained control of ancestral Shoshone lands and may have mismanaged millions of acres of land under the Indian Claims Commission.

The Declaration on the Rights of Indigenous Peoples, while not adopted by the United States, still provides the UN and the international community with strong standing to criticize the United States — as does the United States’ failure to adopt the Declaration itself. As the United States’ UPR nears, this criticism is certain to increase.


NGO UPDATES

Haitian NGOs Call for Inclusion on Reconstruction Plans

Haitian NGOs and community organizations would like to be granted greater access to the earthquake reconstruction planning process. Since the January 12, 2010 earthquake struck Haiti, the United States, the United Nations, and some 10,000 international NGOs (INGOs) have been working to secure the devastated region and to deliver life-saving humanitarian aid. However, Haitian NGOs are now asking to play a larger role in both planning and implementing strategies for their country’s recovery.

For decades, Haiti has relied largely on foreign aid. As the poorest nation in the western hemisphere, Haiti lacks many basic services. Foreign aid from the United States, the UN, and INGOs flows into Haiti to help provide residents with food, water, medical facilities, and education. However, it is international actors who make policy decisions regarding which projects to fund and how to distribute this aid, not Haitian organizations or the Haitian government. This is partially due to paternalistic tendencies of foreign aid institutions, fear of government corruption, and a lack of communication between Haitian NGOs and international donors. By circumventing Haitians in the decision-making process, the government has been marginalized as citizens have stopped looking to the administration to provide services. Even before the earthquake, most schools and hospitals were run by INGOs rather than the government or local organizations. In the wake of the earthquake, the international community has been galvanized to assist Haiti, but Haitian NGOs worry that without changes to the development model, this could lead to greater foreign dependency.

The Haitian government has launched a Post Disaster Needs Assessment (PDNA) that will develop a comprehensive plan for Haiti’s reconstruction and will include

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NGOs, says, "reexamination of the Haitian government’s foreign aid. A statement released by the Help Haiti representatives say their exclusion from the PDNA planning conference. The group vocally opposed Help Haiti" held a joint protest and press conference. The government is deaf. streets to say that they are hungry, the attention of the state, which must respond to their demands and needs.

Many hope that the international focus on the disaster in Haiti will provide for a more responsive government and lead to the localization of redevelopment decisions, eventually breaking the cycle of foreign dependency.

**CHINA SUSPECTED OF USING TECHNOLOGY TO SUPPRESS NGOs**

In January 2010, Google announced that the email servers at its corporate headquarters in the United States had been the target of a sophisticated cyber attack, and that dozens of accounts belonging to human rights activists and NGOs had been compromised. Google also revealed that these incidents originated in China, which led to worldwide speculation that the Chinese government played a role in the attacks. However, Chinese authorities have adamantly denied responsibility.

Google has struggled for a number of years to strike a balance between its operations in China and concerns about human rights. In 2006, human rights groups and members of the U.S. Congress publicly criticized Google and other U.S.-based companies for working with the Chinese government to create an internet infrastructure that severely limits access to information within China. They thought this infrastructure would become an engine to further limit the free flow of information and allow the Chinese government to more easily identify and persecute human rights defenders. At the time, Google acknowledged the challenges of creating an infrastructure in China, but voiced its hope of preventing large-scale cyber attacks by placing its servers in the United States. As evidenced by this year’s attacks, that effort was unsuccessful in protecting Google users. Google has recently refocused its tactics, and is redirecting its Chinese users (Google.cn) to their Hong Kong server (Google.hk). Accordingly, users’ search results will no longer be censored.

U.S. authorities believe they have traced the source of the cyber attacks to Shanghai Jiaotong University and Lanxiang Vocational School, but have been unable to identify the individuals responsible. Finding the hackers would require an investigation from inside China, but the Chinese government has been unwilling to assist in any investigation. Although the two identified schools have denied any involvement, the students at each have garnered an international reputation for hacking.

The recent attack on Google’s system is the most high profile to date, but there are reports that human rights defenders and NGOs using different platforms in China, Tibet, and the United States have been victims of similarly aggressive hacking. As a result, wide ranges of NGO servers, websites, and individual e-mail accounts have been compromised. Human rights advocates are understandably concerned about the Chinese government’s access to their e-mail and internet-based information. For instance, in 2005, a Chinese journalist was jailed after Yahoo disclosed his e-mail account information to authorities.

While China has been angered by Google’s attempt to circumvent their censorship laws, China has little incentive to stop censoring websites or to prosecute the individual hackers in January’s attacks. Google is not the leading search engine in China, and other companies such as Microsoft and Apple have been unwilling to raise any concerns with the Chinese government on internet freedom or security issues. However, U.S. Secretary of State Hillary Clinton has called for governments to promote a censorship-free global internet and stated that U.S. businesses are crucial to that effort. “American companies need to make a principled stand. This needs to be part of our national brand. I’m confident that consumers worldwide will reward companies that follow those principles,” Clinton said. Until more international companies follow Google’s lead and demand cooperation from the Chinese government, NGOs and human rights activists may continue to be the targets of censorship and cyber attacks.

**HUMAN RIGHTS COUNCIL UPR MOTIVATES EGYPT TO PROMISE NGO REFORM**

On February 17, 2010, the United Nations Human Rights Council (HRC) released its first Universal Periodic Review (UPR) addressing Egypt’s human rights record. Every four years, the HRC deliv-
ers a comprehensive review of the human rights records of all 192 UN Member States. States then accept or reject each individual recommendation or request further review with the HRC. Of the HRC’s 165 recommendations, Egypt accepted 119, rejected 14, and requested further review with the HRC of the remaining 32 recommendations.

Among those accepted is the recommendation that Egypt amend its laws governing NGOs. Egypt has a history of limiting the scope and freedom of NGO activities. For example, Egyptian Law Number 84 of 2002 governs the creation and regulation of NGOs in Egypt and allows the government to dissolve NGOs or imprison workers for any political activity or threat to “national unity.” The HRC was specifically concerned with Egypt’s past abuse of this law to imprison human rights defenders.

Egypt appears to be taking the UPR process seriously, particularly given the large number of recommendations it accepted. “You can’t go to the Universal Periodic Review and reject all recommendations. There’s a natural pressure and governments have to engage,” said Heba Morayef, an Egypt and Libya specialist with Human Rights Watch. NGOs and political parties in Egypt are now using the UPR process as a forum to present their proposed amendments to the Egyptian government. The Egyptian Organization for Human Rights has submitted a new bill to replace Law 84 of 2002, requiring instead that the government obtain a court order to monitor or dissolve NGOs. The bill would also limit penalties, expand the range of acceptable activities, and allow NGOs to join international networks or coalitions.

The UPR process has been met with international criticism, particularly from the United States and Israel, who claim it has been politicized and that states with poor human rights records use it as a platform to publicly defend their abuses. However, if Egypt follows through on its promises to implement many of the UPR recommendations, it will demonstrate that the HRC can be a constructive forum for advancing human rights and improving Egyptian NGOs’ ability to be independent human rights monitors in between UPR sessions.

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