



General Assembly

Distr.: Limited
19 March 2012

Original: English

Human Rights Council

Nineteenth session

Agenda item 3

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

**Albania^{*}, Argentina^{*}, Australia^{*}, Austria, Belgium, Bulgaria^{*}, Canada^{*}, Chile,
Colombia^{*}, Costa Rica, Croatia^{*}, Cyprus^{*}, Denmark^{*}, Dominican Republic^{*}, Estonia^{*},
Finland^{*}, France^{*}, Georgia^{*}, Germany^{*}, Greece^{*}, Guatemala, Hungary, Iceland^{*},
Ireland^{*}, Israel^{*}, Italy, Latvia^{*}, Lithuania^{*}, Luxembourg^{*}, Maldives, Malta^{*}, Mexico,
Montenegro^{*}, Morocco^{*}, Netherlands^{*}, Norway, Peru, Poland, Portugal^{*}, Qatar,
Republic of Moldova, Romania, Saint Kitts and Nevis^{*}, San Marino^{*}, Slovakia^{*},
Slovenia^{*}, Spain, Sweden^{*}, Switzerland, the former Yugoslav Republic of Macedonia^{*},
Timor-Leste^{*}, Tunisia^{*}, Turkey^{*}, Ukraine^{*}, United Kingdom of Great Britain and
Northern Ireland^{*} : draft resolution**

19/... Human rights, democracy and the rule of law

The Human Rights Council,

Recalling General Assembly resolutions 55/96 of 4 December 2000 on promoting and consolidating democracy, 57/221 of 18 December 2002 on strengthening the rule of law, and 59/201 of 20 December 2004 on enhancing the role of regional, subregional and other organizations and arrangements in promoting and consolidating democracy, all relevant resolutions of the Commission on Human Rights, in particular resolutions 1999/57 of 27 April 1999 on the promotion of the right to democracy, 2000/47 of 25 April 2000 on promoting and consolidating democracy, 2001/41 of 23 April 2001 on continuing dialogue on measures to promote and consolidate democracy, 2002/46 of 23 April 2002 on further measures to promote and consolidate democracy, 2003/36 of 23 April 2003 on interdependence between democracy and human rights, 2004/30 of 19 April 2004 on enhancing the role of regional, subregional and other organizations and arrangements in promoting and consolidating democracy, 2005/32 of 19 April 2005 on democracy and rule of law, and Human Rights Council resolution 18/15 of 29 September 2011 on the incompatibility between democracy and racism,

Reaffirming that democracy, development and respect for all human rights and fundamental freedoms are interdependent and mutually reinforcing and that priority should be given to national and international action aimed at their promotion and strengthening,

^{*} Non-Member State of the Human Rights Council.

Reaffirming also that democracy is based on the freely expressed will of people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives,

Recalling that States are responsible for the promotion of all human rights, including the right to development, and the elimination of poverty and extreme poverty, all of which can contribute substantially to the promotion and consolidation of democracy and constitute a common and shared responsibility of States, and that good governance, including through transparency and accountability, is indispensable for building peaceful, prosperous and democratic societies,

Welcoming the adoption by various regional, subregional and other organizations and initiatives of institutional rules and structures that recognize the interdependent relationship between democracy and the protection of human rights, and the adoption of mechanisms designed to promote it, to prevent situations which affect or threaten democratic institutions or to implement measures for the collective defence of democracy in the event of a serious disturbance or disruption of the democratic system,

Recognizing that democracy and the rule of law are strengthened when States work to eliminate discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status and when they strive to ensure gender equality in decision-making,

Encouraged by the wish of an increasing number of countries all over the world to devote their energy, means and political will to the building of democratic societies where individuals have the opportunity to shape their own destiny,

Welcoming the democratization processes taking place in various regions of the world, which are motivated by the aspirations of peoples for justice, democracy and respect for human rights,

Welcoming also General Assembly resolution 65/32 of 6 December 2010, in which the Assembly decided to convene a high-level meeting on the rule of law at the national and international levels during the high-level segment of its sixty-seventh session,

Reaffirming that, while democracies share common features, as laid out in the present resolution, there is no single model of democracy and that democracy does not belong to any country or region, and reaffirming also the necessity of due respect for sovereignty and the right to self-determination,

1. *Stresses* that democracy includes respect for all human rights and fundamental freedoms, inter alia, freedom of association and of peaceful assembly, freedom of expression and opinion, freedom of thought, conscience, religion or belief, the right to be recognized everywhere as a person before the law and the right to take part in the conduct of public affairs, directly or through freely chosen representatives, and to vote in a pluralistic system of political parties and organizations and to be elected at genuine, periodic, free and fair elections by universal and equal suffrage and by secret ballot guaranteeing the free expression of the will of the people, as well as respect for the rule of law, the separation of powers, the independence of the judiciary, transparency and accountability in public administration and decision-making and free, independent and pluralistic media;

2. *Reaffirms* the right of every citizen to vote and be elected at genuine periodic elections without discrimination of any kind, such as race, color, sex, language, religion or belief, political or other opinion, national or social origin, property, birth or other status, and stresses that persons entitled to vote must be free to vote for any candidate for election and free to support or to oppose government, without undue influence or coercion of any kind that may distort or inhibit the free expression of the elector's will, and that the results

of genuine elections should be respected and implemented by all parties and stakeholders concerned;

3. *Stresses* that everyone must be able to express their grievances or aspirations, including through public and peaceful protests without fear of being injured, beaten, arbitrarily arrested and detained, tortured or killed or subjected to enforced disappearance;

4. *Reaffirms* that democracy is vital for the promotion and protection of all human rights;

5. *Recalls* that the interdependence between a functioning democracy, strong and accountable institutions, transparent and inclusive decision-making and effective rule of law is essential for a legitimate and effective Government that is respectful of human rights;

6. *Emphasizes* the crucial role played by political parties in opposition in the proper functioning of a democracy;

7. *Calls upon* States to ensure a conducive environment for free and independent media;

8. *Urges* States to acknowledge publicly the important contribution of human rights defenders to the promotion of human rights, democracy and the rule of law, and to create a safe and enabling environment for their work;

9. *Stresses* the need for the international community to assist and support countries emerging from conflict or undergoing democratization, as they may face special challenges in addressing legacies of human rights violations during their transition and in moving towards democratic governance and the rule of law;

10. *Welcomes* the encouraging developments in countries on all continents where free elections have taken place for the first time, positive constitutional changes have been enacted and democratic institutions have been strengthened, thus building confidence in representational governance and contributing to greater national and regional peace and stability;

11. *Recalls* that democratization can be a fragile process and that the respect of human rights and the rule of law are essential for the stability of democratic societies, including in the context of using information and communication technologies such as the Internet, mobile networks and social media tools;

12. *Also recalls* that States are guarantors of democracy, human rights, good governance and the rule of law and bear responsibility for their full implementation;

13. *Reaffirms* that any form of impunity condoned by public authorities for crimes motivated by racist and xenophobic attitudes plays a role in weakening the rule of law and democracy and tends to encourage the recurrence of such acts;

14. *Condemns* political platforms and organizations based on racism, xenophobia or doctrines of racial superiority and related discrimination, as well as legislation and practices based on racism, racial discrimination, xenophobia and related intolerance, as incompatible with democracy and transparent and accountable governance;

15. *Acknowledges* the fundamental importance of human rights education and training in contributing to the promotion, protection and effective realization of all human rights;

16. *Emphasizes* the importance of effective, transparent and accountable legislative bodies, and acknowledges their fundamental role in the promotion and protection of human rights, democracy and the rule of law;

17. *Calls upon* States to make continuous efforts to strengthen the rule of law and promote democracy by:

(a) Upholding the separation of powers by taking appropriate constitutional, legislative, judicial and other institutional measures;

(b) Ensuring that a sufficient degree of legal certainty and predictability is provided in the application of the law, in order to avoid any arbitrariness;

(c) Taking active and consistent measures aimed at increasing awareness among the population of their human rights and of their possibilities of resorting to remedies, as established by law and international human rights instruments and mechanisms, when their rights are infringed;

(d) Engaging with civil society organizations and institutions and enabling them to participate in the public debate on decisions that may lead to fuller implementation of the human rights and the rule of law and of any other decisions that affect the lives of citizens;

(e) Ensuring public access to information in a manner that can be understood by people and groups in society regarding the exercise of their rights;

(f) Guaranteeing that no individual or public or private institution is above the law, by ensuring that:

(i) The principles of equal protection before the courts and under the law are respected within their legal systems;

(ii) Impunity is not tolerated for violations of human rights law and international humanitarian law, and that such violations are properly investigated and appropriately sanctioned, including by bringing the perpetrators of any crimes to justice, through domestic mechanisms or, where appropriate, regional or international mechanisms, in accordance with international human rights obligations and commitments;

(iii) All government agents, irrespective of their positions, are promptly held fully accountable for any violation of the law that they commit;

(iv) The administration of justice is free from any form of discrimination;

(v) Comprehensive anti-corruption strategies and measures are adequately developed and applied in order to maintain the independence and impartiality of the judiciary, and to ensure the moral integrity and accountability of the members of the judiciary, legislative and executive powers;

(vi) The military remains accountable to civilian Governments and democratically elected parliaments;

(vii) Military courts or special tribunals are independent, competent and impartial, and that such courts or tribunals apply established procedures of due process of law and guarantees of a fair trial, in accordance with international obligations;

(g) Respecting equal protection under the law, by:

(i) Ensuring the right to life and the right to liberty and security of person without discrimination;

(ii) Ensuring access to information regarding their rights and equal access to justice, including through non-judicial measures;

(iii) Taking active measures to improve the access to justice of members of disadvantaged and vulnerable groups, including ethnic, linguistic and religious

minorities, whose full exercise of human rights is impeded by, inter alia, the lack of information and/or resources;

- (iv) Incorporating the principle of equality of men and women under the law;
- (v) Guaranteeing the right to a fair trial and to a due process of law without discrimination, including the right to be presumed innocent until proven guilty in a court of law;
- (vi) Promoting continuously the independence and impartiality of the judiciary;
- (vii) Guaranteeing the right to effective remedies, including reparation to victims of human rights violations;
- (viii) Encouraging the continuous training of public servants, military personnel, parliamentary experts, lawyers, judges at all levels and the staff of the courts, as appropriate to their area of responsibility, on international obligations and commitments in the field of human rights, in particular with respect to legal aspects and procedures related to the equality under the law;
- (ix) Supporting inclusive and democratic approaches in the elaboration and revision of fundamental texts that underpin democracy and the rule of law, human rights and fundamental freedoms, such as constitutions and electoral laws;
- (x) Taking active measures to provide equal access to persons with disabilities by such means as removing barriers in order to ensure their full participation in all aspects of democratic processes;

18. *Calls upon* Member States to enhance social cohesion and solidarity, as important elements of democracy, by:

- (a) Developing and strengthening institutional and educational capabilities at the local, regional and national levels to mediate conflicts, resolve disputes peacefully and prevent and eliminate the use of violence in addressing social tensions and disagreements;
- (b) Improving social protection systems and working towards ensuring social protection floors, including appropriate and necessary services for persons with disabilities;
- (c) Encouraging social dialogue and tripartism with regard to labour relations among government, trade unions and employer organizations, as reflected in the basic documents of the International Labour Organization;
- (d) Encouraging the political and economic empowerment of women, including by increasing their representation in parliaments, cabinets and the work force, thereby reflecting gender equality;

19. *Encourages* Member States to continue to strengthen their cooperation with the United Nations system and relevant intergovernmental regional, subregional and other organizations and arrangements, as well as with relevant non-governmental organizations in the field of electoral assistance and support for the promotion of democratization, and to initiate networks and partnerships for the dissemination of knowledge and information about the role of democratic institutions and mechanisms in facing the political, economic, social and cultural challenges in their respective societies;

20. *Invites* intergovernmental regional, subregional and other organizations and arrangements, as well as relevant non-governmental organizations, to engage actively in work at the local, national, subregional and regional levels to constantly promote and consolidate democracy and the rule of law, and to initiate exchanges with the United Nations system on their experiences by, inter alia:

(a) Identifying and disseminating best practices and experiences at the regional, subregional and cross-regional levels in promoting and protecting democratic processes, including in the field of electoral reform;

(b) Establishing and supporting regional, subregional and national civic education programmes that provide access to information on democratic governance and the rule of law, and stimulate dialogue on the functioning of democracy;

(c) Encouraging the study, in schools and universities, of democracy, the rule of law, human rights and good governance, as well as the functioning of public administration, political institutions and civil society organizations;

(d) Elaborating and widely distributing reports, assessments, training materials, handbooks, case studies and documentation on various types of democratic constitutions, electoral systems and administration in order to assist populations in making more informed choices;

(e) Encouraging the use of democratic consultative mechanisms in decision-making processes and disputes as an opportunity for parties involved to advance their interests and reach well-informed decisions within institutional frameworks;

21. *Invites* States members of intergovernmental regional organizations and arrangements to include or reinforce provisions of the constitutive acts of their organizations and arrangements that aim at promoting democratic values and principles and at protecting and consolidating democracy in their respective societies;

22. *Encourages* the Secretary-General to give priority to improving the capacity of the United Nations system as an effective partner for Member States in the process of building democratic societies based on the rule of law, where individuals and peoples have the opportunity to shape their own destiny;

23. *Encourages* the Office of the United Nations High Commissioner for Human Rights, the United Nations Development Programme, the United Nations Entity for Gender Equality and the Empowerment of Women and other relevant United Nations structures to make a concerted effort to integrate and mainstream democracy and the rule of law into their work and policy planning;

24. *Acknowledges* that the Human Rights Council, by promoting the normative content and the realization of the human rights enshrined in various international instruments, can play a role in developing and promoting the fulfilment of the principles, norms and standards that are the basis of democracy and the implementation of the rule of law;

25. *Requests* the Office of the High Commissioner, in consultation with States, national human rights institutions, civil society, relevant intergovernmental bodies and international organizations, to draft a study on common challenges facing States in their efforts to secure democracy and the rule of law from a human rights perspective, as well as on lessons learned and best practices in the engagement of States with the international community to support such processes and to present the study to the Human Rights Council at its twenty-second session;

26. *Urges* the Office of the High Commissioner to further develop, in close cooperation with other relevant United Nations funds and programmes, its assistance programmes in the area of the promotion and consolidation of democracy and the rule of law, and to include more training for members of the executive, legislative and judicial bodies of interested Member States;

27. *Requests* the Office of the High Commissioner to organize a panel discussion, during the twenty-third session of the Human Rights Council, on common

challenges facing States in their efforts to secure democracy and the rule of law from a human rights perspective, as well as lessons learned and best practices in the engagement of the State with the international community to support such processes;

28. *Also requests* the Office of the High Commissioner to prepare a report on the outcome of the panel discussion in the form of a summary.
