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IMMEDIATE RELEASE

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9th Session of the Human Rights Council: The Council gradually loosens its grip on pressing country situations such as Sudan, and fails to respond to crises in Zimbabwe and Georgia

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The International Commission of Jurists (ICJ), at the conclusion of the UN Human Rights Council's 9th session, reminded the international community and in particular the Member States of the Human Rights Council (Council) of their responsibility to meaningfully respond to human rights violations in individual countries. "Ensuring accountability for human rights violations in countries like Sudan, Zimbabwe or Georgia is by no means a matter of double standards. Neither can the response to major country crisis be made conditional on the agreement of the Government concerned. The Council is at the crossroads, as it must not continue failing the mandate given to it by the General Assembly", said Lukas Machon, ICJ Representative to the UN.

At the session, the Council adopted 24 texts and extended the monitoring, protection and assistance mandates on Sudan, Burundi, Haiti and Cambodia. It also renewed the mandates on toxic waste, the right to development and African descent, appointed new Special Procedures including the members of expert groups and requested study on the right to truth and consultations on the protection of human rights of civilians in armed conflicts. The ICJ welcomes the Council's endorsement of the recommendations of the High-Level Fact-Finding mission to Beit Hanoun in Occupied Gaza, although the Council should have urged the observance of international human rights law and international humanitarian law by all the parties to the conflict.

In her first address to the Council, the recently appointed High Commissioner for Human Rights Ms. Navanetham Pillay laid emphasis on strengthening national protection systems, and stressed the intention to expand the country presences of her Office. "The ICJ supports the High Commissioner's appeal to prevent war crimes, crimes against humanity, genocide and other gross human rights violations, while curbing impunity of their perpetrators is an essential part of such endeavour", continued L. Machon. The High Commissioner's initiative to foster the enjoyment of freedom of opinion and expression without inciting to hatred, hostility and violence is also essential. Along with the new Special Rapporteur against Racism, the ICJ is of the view that the debate on the freedom of opinion and expression and protection against incitement to hatred requires a legal approach, to prevent censorship and not to harm the freedom itself.

As in the previous sessions, the headway on thematic issues such as the transitional justice, the right to truth and the protection of human rights of civilians in armed conflicts has not served as a blueprint for addressing major crises in countries.

The striking example has been that of Sudan, where its Government, with the backing of the whole African Group, argued for the termination of the mandate of Special Rapporteur on Sudan, given the partial legislative and policy improvements on the ground. Despite the attempts by the European Union, and in contrast to the findings of the Special Rapporteur on Sudan, the Council did not point to the nature and ongoing character of human rights violations against civilians especially in Darfur, for which the Government, militia rebels and

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other non-state actors have been responsible. "The large-scale impunity in Sudan is a source of continuous violations, and must be combated by all means, including through cooperation with the International Criminal Court. So far the results of the Sudanese Special Tribunals, Investigative Committees and Special Prosecutors have been meagre", added L. Machon.

Neither did the Council respond to the call by the Special Rapporteur on Sudan to reinforce the implementation of recommendations by the Group of Experts on Darfur, most of which remain unimplemented. "Instead, and against the previous practice, the Council extended the Rapporteur's mandate only for six month and did not request other Special Procedures of the Council to assist in the implementation of outstanding recommendations on Darfur", continued L. Machon. Such a move contrasts with the overall impunity for human rights violations and persistent non-cooperation in this regard by the Government, and in fact undermines the mandate of the Special Rapporteur, whose earlier recommendations remain unaddressed.

Independent experts on Liberia, Burundi and the Special Representative on Cambodia also faced challenges, as the concerned Governments originally did not want to consent to the continuation of their mandates. Except for Liberia, the recognition of experts' further contribution to the reconciliation and the reconstruction of the rule of law prevailed, as these mandates were in the end extended, along with the mandate on Haiti.

In the future, the Council's debate on country situations under the agenda item 4 cannot be limited to exchanging critical addresses on urgent and chronic human rights situations. The UN machinery must reinforce its capacity to encourage the concerned Governments to ensure the full enjoyment of human rights, including through the cooperation with the Council's Special Procedures. From now on the interaction of the Council with the UN Security Council should become more regular, to prevent the human rights violations, which may amount to a threat to peace and security.

It was only with hesitation that the Council discussed the crisis in Zimbabwe, which did not end with the signing of the Agreement on the Transitional Government on 15 September 2008. Reestablishment of the rule of law in the country will require that the reconciliation process and the new Constitution ensure accountability for the past human rights violations, curb impunity and guarantee human rights and freedoms without impediments. Similarly, the Government of China still has not investigated the crackdown on the peaceful protests in Tibet of March 2008.

The only and indirect result of the Council's debate on countries was the gesture by the Government of Georgia to open to visits by the relevant Council's Special Procedures and agree to the UN fact-finding mission to assess the gross violations of human rights and grave breaches of international humanitarian law committed during the August 2008 armed conflict in Georgia.

The Council's new identity cannot avoid an essential focus on country situations and effective action where so merited. "So far the Council's action has not been half-full, but remains more than half-empty", concluded L. Machon.

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