

COUNCIL MONITOR

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COUNCIL UPDATE – ITEM 4 SPECIAL RAPPORTEUR ON THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA HUMAN RIGHTS COUNCIL, 10TH SESSION 16 MARCH 2009

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Overview

The Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea (DPRK), Mr Vitit Muntarbhorn, presented his annual report. The Special Rapporteur once again highlighted the lack of cooperation by the Government with his mandate. States were divided between those supporting the mandate and those opposing all country mandates, including this one.

Item 4 – Special Rapporteur on the situation of human rights in DPRK

Presentation by the Special Rapporteur

Presenting his annual report,¹ the Special Rapporteur, Mr Muntarbhorn, stated that it was regrettable that the authorities of the DPRK declined to cooperate with this mandate, despite his efforts to engage with the country in a constructive manner. He stressed that, although in recent years the DPRK opened its doors slightly to engage with the international community and it is a party to four human rights treaties², the overall human rights situation in the country is grim. He highlighted a number of issues deserving serious attention:

Food and basic necessities: Food grants based on rations provided by the Government has been reintroduced since 2005 and is used as a means of State control over its citizens. The Special Rapporteur also reported on a study by the World Food Programme, which found a serious decline in food availability, food accessibility and food consumption.

Personal security: The Special Rapporteur highlighted a large gap between criminal law and the ‘aberrations in its implementation process’, which result in grave human rights violations. Collective punishments are used, and public executions continue to take place. Although torture is prohibited by law, it is extensively practised.

¹ A/HRC/10/18.

² The *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights*, the *Convention on the Elimination of All Forms of Discrimination against Women*, the *Convention on the Rights of the Child*.

Meanwhile, the abhorrent prison conditions³ result in a myriad of abuses and deprivations, ensuring that many prisons are a ‘death trap’ for inmates. On another front, the DPRK has been involved in kidnapping a number of foreign nationals.

Freedoms: Basic freedoms associated with human rights and democracy⁴ are infringed on a daily basis. Political dissent is heavily punished and the media are strictly controlled and censored. The claim by the authorities that freedom of religion is enjoyed in the country is contradicted by the evidence available.

Asylum and migration: The Government continues to follow a policy of strict control over the movement of its citizens, including through travel permits and exit visas. People persecuted by the authorities continue to flee the country clandestinely and others leave in search of food and other necessities across the border. Over the past years, the situation facing asylum-seekers has become more stringent. There are reports of more severe sanctions imposed on those who seek to leave the country and also those who are forcibly returned to it.

Mr Muntarhorn stressed that his analysis offered a bleak picture of the state of human rights in the DPRK. There are widespread, systematic and reprehensible human rights violations, which demand attention and commitments nationally and internationally to improve the situation. He underlined that it is time to act from the angle of ‘effective prevention, protection, provision and participation’. The Special Rapporteur outlined a number of issues that should be addressed and made recommendations for short term and long term action by the Government. The Special Rapporteur specifically encouraged the Government to engage with the universal periodic review (UPR) process, dialogue constructively with the treaty bodies and cooperate with all the special procedures. The Special Rapporteur concluded by stating that the international community is invited to take more proactive measures.

Interactive dialogue

The DPRK, as a **concerned country**, declared that it did not accept the resolution by which the Special Rapporteur was appointed and that it rejected his report, criticising as a product of ‘the hostile policy of the United States against the DPRK’ and ‘the politicisation over human rights pursued by the European Union’. It added that the report was nothing more than a ‘political plot’ and stated that it did not consider the report as a subject item for any debate. The DPRK expressed that, in its view, the debate on the report in no ways helped the promotion or protection of human rights. It concluded by underlining that it has its own ‘superior’ human rights system.

During the interactive dialogue there was a clear division between two groups of States. On the one hand, there were States (from the Western Group, and Chile, Japan, and the Republic of Korea) that thanked the Special Rapporteur for his comprehensive report and supported his mandate.⁵ Canada and Australia expressed their support for a renewal of the mandate. On the other hand, some States raised their objections to country mandates in general and the mandate of the Special Rapporteur in particular.⁶

Both supporters and opponents of the mandate addressed the UPR process.⁷ They mentioned the importance of active participation of the DPRK in the UPR process later this year and stressed that it will present an important opportunity for an open and frank dialogue and international engagement. In his response, the Special Rapporteur reiterated that there are several opportunities for dialogue and engagement such as: technical cooperation through OHCHR; greater openness to engagement with the treaty bodies; and engagement with the special procedures.

A number of questions were raised during the dialogue:

- Canada asked about the Special Rapporteur’s view on the DPRK’s most recent engagement in the consideration of State reports in the Committee on the Rights of the Child (CRC). The Special Rapporteur responded that, in his report written before the session of the CRC, which referred to the report of the DPRK,

³ These include: lack of food, poor hygiene, freezing conditions in winter, forced labour and corporal punishment.

⁴ Freedom to choose one’s government, freedom of association, freedom of expression, freedom of information, privacy and freedom of religion.

⁵ Chile, Japan, Canada, Australia, Czech Republic (on behalf of the European Union), Republic of Korea, United Kingdom, Sweden, United States, New Zealand, Switzerland.

⁶ Cuba, China, Syria, Lao, Thailand, Sri Lanka, Sudan, Timor Leste, Russian Federation.

⁷ Cuba, Japan, Australia, Thailand, Sweden, the UK, Republic of Korea.

he made some comments that the DPRKs report for the CRC was rather thin on protection issues, which are very important. These concerns were raised by the CRC and its concluding observations will be ready shortly. Furthermore, it would be an easy gesture to take on the part of the DPRK to become a party to the two Optional Protocols to the *Convention on the Rights of the Child*.

- Canada also asked for the Special Rapporteur's suggestions on specific avenues for effective action by the international community. The Special Rapporteur urged the Council to reflect on the various recommendations made in the report, including: the need for an integrated approach; the need for a 'people first' policy rather than the current 'military first' policy; respect the rights of refugees; maximise dialogue with the DPRK; and the need to address impunity. Australia asked about the 'people first' policy and how the international community could work together to encourage this. The Special Rapporteur responded only to the first part of this question, stating that the DPRK should shift its military budget to the social sector. He underscored that the DPRK is not a poor country, certainly not too poor to demilitarise.
- The Czech Republic (on behalf of the European Union) asked questions on the impact of law reforms within the DPRK. The Special Rapporteur responded that there has been a formal law reform, but that the implementation lacks.

In general, most supporters of the mandate⁸ referred to the situation of asylum seekers/refugees. The Special Rapporteur responded to this issue that all should be looked at from the angle of international solidarity and that asylum countries should be well supported to offer, at least, temporary refuge and should treat asylum seekers humanely.

Responses

In his final remarks, the Special Rapporteur clarified that his approach to the DPRK is a constructive one, and a polite one, and that he did his work in the spirit of the people of the DPRK. Regarding objectivity and non-selectivity, he stressed that he never lobbied to be appointed, that he was approached by the then Chair of the Commission on Human Rights, and that he writes the reports himself, to ensure independence and objectivity.

With regard to the food situation, he highlighted that it is no longer just a question of food 'aid', but of food 'security', and the right to enjoy economic opportunity in generating ones income.

He concluded by stating that the various recommendations made in the final part of his report concerning the international community deserve strong attention. Furthermore, he urged an approach that looks at and advocates a linkage between prevention, protection, provision and participation as a constructive way forward, and that this should be the basis for 'people first' policy.

Further information

For further information on the Council, please consult the following resources:

- Web site of the International Service for Human Rights, providing up-to-date information before, during and after sessions of the Council: <http://www.ishr.ch/council>. During the session, ISHR will provide information about the Council's proceedings on a regular but not daily basis. You can subscribe to receive alerts of our publications by sending an email to information@ishr.ch.
- Web site of the Office of the High Commissioner for Human Rights (OHCHR) on the 10th session of the Human Rights Council: <http://www2.ohchr.org/english/bodies/hrcouncil/10session>. For direct access to reports considered, check <http://www2.ohchr.org/english/bodies/hrcouncil/10session/reports.htm>.
- More informal documents and draft resolutions are available on the 'OHCHR extranet' at <http://portal.ohchr.org/portal/page/portal/HRCExtranet>. Username: 'hrc extranet' Password: '1session'.

NGOs and human rights defenders seeking more specific information or individual advice on the Council session, please contact the ISHR secretariat by email or phone at +41 (0) 22 919 71 00.

⁸ Czech Republic (on behalf of the EU), Australia, Republic of Korea, UK, US.

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