

COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

COUNCIL UPDATE – ITEM 3 HUMAN RIGHTS COUNCIL, 11TH SESSION 5 AND 8 JUNE 2009

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Reports of the Secretary General and High Commissioner for Human Rights

As has been the practice in the past, the Deputy High Commissioner kept her presentation of reports by the Secretary General and the High Commissioner extremely brief. Concerning the request for an expert consultation on civilians in armed conflict by the Human Rights Council, she stated that the report¹ of the Council provides a summary of the discussion that took place in Geneva on 15 April 2009, although she did not expand on any of the content contained therein. She provided some detail on the report on draft guiding principles on extreme poverty and human rights², stating that it looked at their added value and 'practical utility and technical merit from a legal perspective'. She noted that although consensus is broadly evident, further work needs to be done in a number of elements.

Concerning the report of the Secretary General on regional arrangements for the protection and promotion of human rights, the Deputy explained that a workshop held on 24-25 November 2008 invited the High Commissioner to appoint a high level focal point to facilitate networking between the Human Rights Council (the Council), regional and sub-regional human rights mechanisms. She also stated that OHCHR will organise such meetings on a regular basis. The Deputy concluded by simply listing the other reports on the right to development,³ the right of peoples to peace,⁴ and the integration on the rights of women throughout the system.⁵

¹ A/HRC/11/31

² A/HRC/11/32

³ A/HRC/11/33

⁴ A/HRC/11/38

⁵ A/HRC/11/39

General debate on Item 3

Delegations didn't focus much on the reports presented by the Deputy High Commissioner, choosing to address other items. The debate was generally smooth, though four States used their rights of reply to criticize concerns expressed by NGOs.⁶ It was noteworthy that interventions of European States referred in mainly to civil and political rights, while the remainder tended to focus on economic, social and cultural rights.

The Czech Republic (on behalf of the EU) was the only State to provide a detailed statement addressing a long list of thematic issues. This was founded on the fight against discrimination and began with the hope that the first meeting of the Committee on the Rights of Persons with Disabilities would raise awareness and assist governments in including disabilities on their agendas.⁷ The Czech Republic then expressed serious concern at discrimination against religious minorities worldwide, including arbitrary detention, torture and denial of economic, social and cultural rights, and recalled that this non-derogable right to religious belief included the right to change ones religion. The Czech Republic also identified human rights defenders as suffering from discrimination, including access to jobs, unfair trials, torture and arbitrary executions. It claimed that it would continue to 'support and protect those who strive for improvement'.

Other highlights of the general debate on Item 3 addressed the following matters.

High Commissioner's reports

Chile, Brazil and the Russian Federation took the floor to thank the High Commissioner for her report on extreme poverty, referring to the draft guiding principles as vital for the eradication of extreme poverty. Nevertheless, Brazil regretted that the current version of the text failed to grasp the central role of South-South cooperation for poverty alleviation. Chile and Brazil also called upon States to abide by their commitments to dedicate 0.07% of their gross domestic product to the elimination of extreme poverty. In this regard, Nord Sud 21 suggested that all special procedures and the High Commissioner consider focusing their work on the achievement of the Millennium Development Goals.⁸

The issue of civilians in armed conflicts was touched upon by Brazil and Egypt. The first expressed its support to for the conclusion of the expert consultation of need for complementarities between international human rights laws and human rights in situations of armed conflicts. Egypt expressed its appreciation for the efforts made by OHCHR in organising the expert consultation and welcomed the thorough discussion, although it announced that due to the lack of documentation it wished to postpone its resolution on civilians in armed conflict.

The International Coordinating Committee of National Human Rights Institutions (ICC) also welcomed the report of the High Commissioner on regional arrangement for the protection and promotion of human rights, and in particular its recognition of the potential role of NHRIs in this regard.⁹ The ICC took stock of the improving collaboration between regional mechanisms and NHRIs. It also expressed its satisfaction regarding the decision of proposal of the High Commissioner to appoint a focal point for regional mechanisms within the OHCHR and asked that its mandate include concrete recommendations on the linkage between NHRIs and other UN bodies in the implementation of human rights norms.

Human rights of migrants

⁶ In this regard, it is interesting to note that the right of replies was given to States after NGOs' interventions.

⁷ This issue was also touched upon by Turkey calling to eliminate prejudices against persons with disabilities and increase efforts in that area.

⁸ This suggestion was reiterated by Franciscan International.

⁹ The usefulness of this very report was also raised by Brazil.

The rights of migrant workers and their families dominated the debate. Many States and some NGOs expressed concerns over the violations to which they are exposed, particularly migrant children with or without their families and undocumented migrants in detention or in the process of repatriation.¹⁰ Chile, the Philippines (on behalf of the twenty-one State parties to the *Convention on the Protection of the Rights of All Migrant Workers and the Members of their Families*) (CMW) and Turkey paid tribute to the High Commissioner's statement of 2 June and her comments on the detrimental effects of policies of closed frontiers and the potential of the current global crisis to exacerbate racism and xenophobia and decrease the welfare of migrants.¹¹ Philippines called on all States to ratify the CMW.¹² Egypt suggested the organisation of panel discussions with relevant experts on this matter.¹³ The Quakers favoured such a panel as a means to also tackle the issue of excessive of detention of irregular or unlawful immigrants. Human Rights Advocates shared the opinion that detention should be used as a last resort, and denounced the violation of the rights of migrants to be free from interference with their families and proposed concrete to address the stigmatisation suffered in such cases.¹⁴

Right to self-determination

The right to self-determination was raised by Pakistan, Algeria and a number of NGOs. Pakistan referred to the non-respect of the right to self-determination as an international crime, specifying that the fight for self-determination of Palestine and Kashmir remain unheard.¹⁵ Algeria accused the international community of applying double standards as this right is denied though its absence from the Council's agenda.

Freedom of expression

Turkey, the Netherlands and many NGOs raised issues relating to freedom of expression. Turkey chose to address the right to freedom of expression in relation to the Durban Conferences stating that it wished to see similar consensus reached on freedom of expression within the Council as had occurred in the Durban Review Conference. The Netherlands and other NGOs expressed strong concern regarding the increase of attacks on the freedom of press.¹⁶ Forum Asia drew the attention of the Council to threats and intimidation encountered by journalists, for instance in Mongolia, Sri Lanka and Malaysia. The World Organisation against Torture also raised concerns relating to the freedom of the press in the Basque Region.

Mandates of special procedures

Though Germany and the US expressed their strong support for the added values that special procedures bring to the work of the Council and called upon States to respect their independence, this did little to offset the numerous personal attacks reiterated by traditional detractors. Germany had been particularly aggrieved at the harsh attacks on the Special Rapporteur on extrajudicial, summary or arbitrary executions, but this did not prevent Egypt on behalf of the African group from dedicate its statement to criticizing to the M. Alston's report on Kenya. Claiming that the report was almost identical to a recent report by the Kenyan Commission on Human Rights, it accused the Special Rapporteur of violating the code of conduct of the special procedures and therefore the African Group 'has no other choice then to evoke the presidential statement of June 2008 concerning the renewal of the mandate of

¹⁰ Chile, Philippines, Egypt on behalf of the African Group and Turkey.

¹¹ The Chilean delegation quoted the following statement from the high commissioner: "Policies against migrants which are based on frontier control regulations...have given rise to the violations of the rights of migrant workers".

¹² This appeal was also made by the Federation of Associations for the promotion and Defence of Human Rights on behalf of 142 other NGOs.

¹³ Its aims could be to elaborate on how to reduce the time in detention, discuss the current challenges and identify best practices as well as other solutions then detention.

¹⁴ The Quaker also recalled that this issue is not a new one as the Working Group on Arbitrary Detentions called for the finding of alternative solution 10 years ago in its General Comment Number 5.

¹⁵ Kashmir was also addressed by International Human Rights Association of American Minorities and the World Muslim Congress.

¹⁶ UN watch, the International Humanist and Ethical Union and Forum Asia.

Special Procedures. We kindly request registering this statement as an official rejection of the African Group of the renewal of the mandate of Mr Alston'. Provided the Mr Alston's second term ends in June 2010, the meaning of Egypt's statement was not clear.

The Cairo Institute for Human Rights Studies, on the other hand, defended the report of the Special Rapporteur on freedom of opinion and expression, Mr La Rue Lewy, who had also previously been accused of operating outside of his mandate during the interactive dialogue for addressing the question of defamation of religion. CIHRS deplored the extraordinary attack on his reports, as well as the use of the code of conduct to undermine the mandates of special procedures.

Other issues

Other issues raised by States and NGOs included: violence against women and girls,¹⁷ and a call from Femmes Africa Solidarité for a Special Representative for women in armed conflict; summary executions;¹⁸ the right to health, whereby World Trade Organization requested that the Special Rapporteur on the right to health consult with them on issues of relevance to both parties; independence of the media, violence and the 'unacceptably high global rate of preventable maternal mortality and morbidity', criticism of the number of States worldwide that continue to criminalise same-sex relations and violations of the rights of human rights defenders.¹⁹

Only the Russian Federation addressed the functioning of the Human Rights Council calling for the creation of an open-ended working group to start analyzing the adjustment needed with the view of the 2011 Council review. It also deplored what it saw as an increase in politicization in its work.

¹⁷ Czech Republic (on behalf of the EU), the General Federation of Iraqi Women, the European Union of Public Relations, the International Institute for Peace, the International Institute for Non-Aligned Studies, Femmes Africa Solidarité, the Al-Hakim, the Mbororo Social Cultural Development Association, the Women International League for Peace and Freedom and the Hawa Society for Humanity.

¹⁸ Amnesty International referring to executions of juvenile in Iran and Saudi Arabia and the Helsinki Foundation for Human Rights addressing the arbitrary detention of a Chinese woman in Tibet.

¹⁹ All the Czech Republic (on behalf of the EU).

Further information

For further information on the Human Rights 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.
- Oral statements made at the Council, as well as other 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'.
- Web site of the Office of the High Commissioner for Human Rights (OHCHR) on the 11th session of the Human Rights Council: <http://www2.ohchr.org/english/bodies/hrcouncil/11session>. For direct access to reports considered, check <http://www2.ohchr.org/english/bodies/hrcouncil/11session/reports.htm>.

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.

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