

COUNCIL MONITOR

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Overview

On 16 June 2009, Special Rapporteur on the situation of human rights in the Sudan, Ms Sima Samar, presented her latest report¹ to the Human Rights Council (the Council) under Agenda Item 4 on human rights situations that require the Council's attention. Although several States and non-governmental organisations (NGOs) acknowledged the ongoing seriousness of the human rights situation on the ground and recommended the extension of the mandate of the Special Rapporteur, others downplayed the continuing human rights violations, instead choosing to focus on praising the Sudan in its efforts. These States also largely argued against the extension of the mandate of the Special Rapporteur. There was also very little reference made to the issue of accountability or to the work of the International Criminal Court (ICC).

Presentation by the Special Rapporteur

Ms Samar expressed her appreciation to the Government of National Unity, the United Nations Mission in Sudan (UNMIS) and the African Union/United Nations Hybrid operation in Darfur (UNAMID), for their cooperation and support during her visit to the Sudan which took place from 25 May to 4 June 2009. She explained that her first request for a visit had to be postponed due to security reasons, and the second because the dates were unsuitable for the Government.

Positive developments since her last visit were noted in the report, these included the ratification of the *Convention on the Rights of Persons with Disabilities* (CRPD) and its Optional Protocol in April 2009, some efforts on legislative reform, the signing into force of the Southern Sudan Human Rights Commission Act, and the establishment of Human Rights Fora for Darfur and for other parts of the Sudan. The Special Rapporteur also acknowledged the efforts of the North and South Darfur State Committees on Gender-Based Violence in trying to address some of the problems of sexual and gender-based violence.

However, despite some positive steps, the Special Rapporteur insisted that 'the ultimate measure for progress should be concrete change in the human rights situation on the ground'. In this regard, Ms Samar found that the Sudan continues to face many serious challenges in attempts to ensure the rights to life, security of person, and the

¹ A/HRC/11/14, June 2009.

effective administration of justice. The Special Rapporteur remarked that since her last report to the Council in September 2008, she has continued to receive reports of arbitrary arrests, detention, and ill-treatment and torture of human rights defenders and humanitarian workers. Ms Samar also expressed concern about censorship of journalists, intimidation of human rights defenders, and restrictions on freedom of expression, association and assembly. These concerns are even more pressing in light of the fact that elections are due to be held in the Sudan in 2010.

Referring specifically to Darfur, Ms Samar claimed that the security situation remains ‘fluid and unpredictable’. She highlighted continuing sexual and gender based violence, inter-tribal clashes, direct and indirect attacks on civilians, attacks on humanitarian workers, and the killing of three UNAMID peacekeepers since her last visit.

Other issues addressed by the Special Rapporteur in her presentation included the revocation of the licences of three national non-governmental organisations (NGOs)² and continuing violations of human rights in Southern Sudan.³ Addressing the issue of attacks by the Lord’s Resistance Army (LRA) in Western Equatoria and Central Equatoria, the Special Rapporteur firmly underlined that it is the responsibility of the State to protect civilians and to provide effective policing, and that self-defence groups are no substitute for assuming this responsibility. Ms Samar drew attention to how lack of capacity, training and infrastructure are impeding the effective administration of justice in the Sudan. Finally, she regretted that a large number of recommendations of the Group of Experts on Darfur remain unimplemented, particularly in the area of protection of civilians and accountability and justice, and urged the government to build on its positive efforts while recommending the international community and Council to continue their engagement with the Sudan.

Interactive Dialogue

The Sudan, as a concerned State, claimed that the report of the Special Rapporteur failed to give a true picture of the human rights situation in the country. It highlighted the efforts of the Government of National Unity and pointed to the establishment of the two human rights fora, democratisation efforts, the establishment of an independent elections commission, and the passing of the law on elections as evidence of the Government’s commitment to human rights. The Sudan claimed that continuation of the mandate would translate as non-recognition of progress already made in the country and argued that the mandate is based on the legacy of the former Commission on Human Rights and therefore on confrontation, not dialogue. The Sudan insisted that an extension of the mandate would not be in line with the spirit of constructive dialogue in the Council and that the mandate is in fact no longer acceptable due to the unjust reports of the Special Rapporteur and the existing presence of numerous human rights monitoring mechanisms on the ground. The Sudan suggested that follow-up could be achieved through thematic special procedures and the secretariat of the Council, and declared that it would welcome such visits and cooperation. Finally, the Sudan stipulated that it is the responsibility of the Council to maintain the cooperation already shown by the Sudan, and that the Council should do so by not putting pressure on the Sudan or pursuing a political agenda.

Many States appreciated the work and the report of the Special Rapporteur. The Czech-Republic, on behalf of the European Union (EU), described her role as essential and welcomed the fact that her independent monitoring covered the entire territory of the Sudan. It also praised the Special Rapporteur for her useful collaboration and forging of positive links with the Government. However, other States expressed disappointment with and criticism of the Special Rapporteur and her report. The United Arab Emirates (on behalf of the Arab Group) claimed that the report should have clearly shown the efforts of the Sudan and acknowledged its achievements and progress. Egypt (on behalf of the African Group) and Pakistan, on behalf of the Organisation of Islamic Conference (OIC), both expressed regret at the late visit and submission of the report. Pakistan (on behalf of the OIC) argued that the late submission of the report had negatively affected the ability of States to analyse the work of the Special

² Amel Centre for the Rehabilitation of Victims of Violence, Khartoum Centre for Human Rights and Environmental Development, and the Social Development Organization.

Samar recommended an independent judicial review to hear their appeals.

³ For example, large scale killings and displacement of civilians caused by recent conflict, as well as inter-tribal clashes and the targeting of women and children.

Rapporteur and to have an informed discussion. Egypt (on behalf of the African Group) also remarked that it had expected the Special Rapporteur to assess the needs of the Sudan with a view to mobilising technical and financial support from the international community but that this part of the mandate had not been implemented.

Regarding the **extension of the mandate**, States in favour included the Czech Republic (on behalf of the EU), Norway, the United States (US), New Zealand, Canada, the United Kingdom (UK), Japan, Australia, and Slovenia. The Cairo Institute for Human Rights Studies, International Federation for Human Rights (FIDH), Human Rights Watch and Amnesty International also expressed their support for extension of the mandate. Arguments advanced included; the situation in all of the territory of the Sudan should continue to be monitored by the Council,⁴ engagement of the international community should continue until previous recommendations are implemented,⁵ extension can add value to the work of other actors,⁶ and the mandate should be extended as long as violations persist.⁷

Those opposed to the extension of the mandate included, the Sudan, the United Arab Emirates (on behalf of the Arab Group), Egypt (on behalf of the African Group), Pakistan (on behalf of the OIC), Qatar, Algeria, Syria and the League of Arab States. Egypt (on behalf of the African Group) and Pakistan (on behalf of the OIC) both declared that it is time to end the multiplicity of mechanisms on the ground. The United Arab Emirates (on behalf of the Arab Group) and Algeria highlighted the exceptional nature of the six month extension provided for by *Council Resolution 9/17* and argued that the mandate has been implemented. Qatar claimed that ending the mandate would have a positive effect on dialogue between the Sudan and the Council, and Algeria stated that progress does not result from the accumulation of mandates.

The Democratic People's Republic of Korea (DPRK), Malaysia, China and the Philippines all emphasised the necessity of considering the opinion of the country and region concerned when deliberating on the extension of the mandate.

Concerns were expressed by several States⁸ about continuing violations and the **human rights situation** on the ground, with the UK claiming that the situation is actually deteriorating in some areas. The UK asked Ms Samar to offer advice and recommendations on how all parties can ensure that the newly created human rights fora contribute to the strengthening and protection of human rights; how the Government of Southern Sudan can be assisted to tackle ongoing violence; and what more can be done to tackle sexual and gender based violence. The Czech Republic (on behalf of the EU), expressing its grave concerns, asked the Special Rapporteur about what needs to be done to ensure free and fair elections, effective policing, and the implementation of previous recommendations. Canada enquired about how to ensure that the rights of accused are upheld, and expressed concern at the trials and death sentences handed down by the terrorism courts established by the Government after the attack on Omdurman.

Others focused on **praising the efforts of the Sudan** and commended the improving human rights situation.⁹ Egypt (on behalf of the African Group) remarked that the situation is progressively improving and returning to normal. Egypt (on behalf of the African Group) and Pakistan (on behalf of the OIC) emphasised that the international community should be supportive of the Sudan's efforts.

The Special Rapporteur responded that the Government of the Sudan must remain engaged with the international community and that the mandate of the Special Rapporteur is one such bridge to do so. She also maintained that denial of existing problems will not help the situation and that problems need to be acknowledged in order to find

⁴ Czech Republic (on behalf of the EU), United States of America (US).

⁵ US.

⁶ Norway.

⁷ Amnesty International.

⁸ Czech Republic (on behalf of the EU), Norway, US, Switzerland, UK, Australia, Slovenia.

⁹ United Arab Emirates (on behalf of the Arab Group), Egypt (on behalf of the African Group), Pakistan (on behalf of OIC), Qatar, China, the Philippines.

solutions. She remarked that even if her report were very positive it will not solve the situation on the ground. Finally, she called on the Arab Group, the African Group and the OIC to really engage with and help the Sudan – and not just give ‘nice statements’.

With regard to accountability, New Zealand and the UK were the only States to refer to the work of the International Criminal Court (ICC) in the Sudan, with New Zealand expressing support for its work and the UK urging Sudan to cooperate with the Court.

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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