

COUNCIL MONITOR

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Human Rights Monitor Series

HUMAN RIGHTS COUNCIL, 3RD SESSION DAILY UPDATE, 8 DECEMBER 2006

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Overview

Today's session of the Human Rights Council (the Council) was devoted to discussions on ten proposals for resolutions and decisions.¹ Three resolutions or decisions were put to vote: the draft resolution on the human rights situation in the Occupied Palestinian Territory (OPT),² submitted by Pakistan; draft resolution on preparations for the Durban Review Conference,³ submitted by Algeria; and the draft decision on global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and

¹ Draft decision on the human rights situation in the Occupied Palestinian Territory: follow up to the Council Resolution S-1/1, submitted by Pakistan, on behalf of the OIC (A/HRC/2/L.13); draft decision on the rights of indigenous peoples, submitted by Ecuador (A/HRC/2/L.43); draft resolution on preparations for the Durban Review Conference, submitted by Algeria, on behalf of the African Group (A/HRC/3/L.2); amendment to draft resolution L.2 "Preparation for the Durban Review Conference", submitted by Finland on behalf of the EU (A/HRC/3/L.8); draft decision on Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the effective implementation of the Durban Declaration and Programme of Action, submitted by Algeria, on behalf of the African Group (A/HRC/3/L.3); amendment to A/HRC/3/L.3 "Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the effective implementation of the Durban Declaration and Programme of Action", submitted by Finland on behalf of the EU (A/HRC/3/L.9); draft decision on Regional cooperation for the promotion and protection of human rights in Asian and Pacific region, submitted by China (A/HRC/3/L.4); draft decision on Report on the Commission of Inquiry on Lebanon, submitted by Pakistan, on behalf of the OIC (A/HRC/3/L.5); draft resolution on Implementation of the General Assembly Resolution 60/251: agenda, annual programme of work, methods of work and rules of procedure of the Human Rights Council, submitted by the President (A/HRC/3/L.6); and draft decision on Implementation of the GA Resolution 60/251: Conference facilities and financial support for the HRC, submitted by the President (A/HRC/3/L.7). The list of draft resolutions, text of the proposed drafts, amendments and details of voting are available at the OHCHR extranet, which can be accessed at www.ohchr.org/english/bodies/hrcouncil/form.htm (fill out the form on the page to receive the user name and password).

² A/HRC/2/L.13, 2 October 2006.

³ A/HRC/3/L.2, 1 December 2006.

Related Intolerance and the effective implementation of the *Durban Declaration and Programme of Action*.⁴ Ecuador postponed the consideration of its draft decision on the rights of indigenous people until the 4th session of the Council in 2007. They thought that this change would enable further consultations in light of the decision by the Third Committee of the General Assembly to postpone the adoption of the draft *Declaration on the Rights of Indigenous Peoples*. Finland, on behalf of the European Union (EU), withdrew its amendments⁵ to Algeria's draft resolution on Preparations for the Durban Review Conference and draft decision on global efforts for the total elimination of racism.⁶ All the other draft resolutions and decisions were adopted by consensus.

The session was adjourned around 11am this morning based on a request by the Algerian Ambassador, initially for 30 minutes but eventually for an hour and was resumed only at 3pm. After all the draft resolutions and decisions were considered, the President gave delegations an opportunity to make general comments. Most delegations took the floor to express their regret and disappointment over the delay in the adoption of the draft *Declaration on the Rights of Indigenous Peoples* by the General Assembly. The Council also adopted the report of the 3rd session.

Resolutions adopted by a vote

Human Rights situation in the Occupied Palestinian Territory

Pakistan, on behalf of the Organization of Islamic Conference (OIC), presented a draft decision on the human rights situation in the Occupied Palestinian Territory: follow-up to Human Rights Council *Resolution S-1/I*.⁷ The President informed the Council that there were seven additional co-sponsors to the draft decision. The draft decision calls for the "speedy implementation" of Council *Resolution S-1/I*⁸ and the dispatch of the urgent fact-finding mission requested in *Resolution S-1/I*. It also requests the Special Rapporteur on the situation of human rights in the Palestinian Territories occupied since 1967, to report to the Council on the implementation of the resolution at its next session. Pakistan also stressed the need for the immediate release of Palestinian ministers, civil servants and civilians who were held in detention by Israel. Pakistan urged the Council to adopt the resolution in order to be able to undertake a serious follow-up of its resolutions.

Algeria, on behalf of the African Group, welcomed the draft decision,⁹ noting the dire human rights situation faced by many Palestinians in the OPT. Algeria reminded the Council that the recent visit of the High Commissioner for Human Rights (the High Commissioner) to the OPT could not act as a substitute for the fact-finding mission's visit.

Israel expressed its doubts about how this decision could contribute to sustainable and lasting peace in the region. They wondered why the decision failed to mention the ceasefire in operation and argued that the decision's focus on Israel alone would be counterproductive to the aim of harmonious dialogue within the Council. On the other hand, Palestine emphasised Israel's continuing disregard of international law and of the Council's recommendations. This was highlighted by Israel's failure to implement *Resolution S-1/I*. Palestine urged the Council to act upon the daily killings and arrests taking place in the OPT.

⁴ A/HRC/3/L.3 and A/HRC/3/L.2.

⁵ A/HRC/3/L.8 and A/HRC/3/L.9.

⁶ A/HRC/3/L.2, 1 December 2006.

⁷ A/HRC/2/L.13, 2 October 2006.

⁸ *Resolution S-1/I*, in accordance with the First Special Session on the Occupied Palestinian Territories.

⁹ Oral statements made at the Council can be found on the OHCHR extranet (fill out the form on the page to receive the user name and password) at www.ohchr.org/english/bodies/hrcouncil/form.htm.

The Decision was adopted with 34 votes in favour, one against (Canada), and 12 abstentions.¹⁰

Finland, (on behalf of the EU, Romania and Bulgaria) explained their abstention from the vote and welcomed the recent ceasefire between Israel and Palestine. They expressed regret that the findings of the High Commissioner's visit to the OPT were not included in the decision. Finland remarked that the fact-finding mission, called for under Council *Resolution S-1/1*, did not have a mandate to investigate the actions of all the actors in the conflict. The unbalanced nature of this mandate therefore prevented Finland's acceptance of the decision. Canada, explaining its vote against the decision, expressed its commitment to the promotion of human rights in Israel and Palestine, while calling on the Palestinian Authority to take serious measures to curb terrorism. Canada also called upon Israel to display caution which exercising its legitimate right to self-defence.

Preparations for the Durban Review Conference

Algeria (on behalf of the African Group) presented a draft resolution on the Preparations for the Durban Review Conference.¹¹ Three additional co-sponsors were announced to the existing list of co-sponsors. The President also announced that there were budgetary implications associated with this resolution. Algeria explained that in light of the decision by the Third Committee of the General Assembly to convene a Review Conference in 2009 on the *Durban Declaration*, the draft resolution requests the Council to establish a Preparatory Committee for the Durban Review Conference. It also provides that the Preparatory Committee shall hold an organisational session of one week's duration in May 2007, as well as two substantive sessions of ten working days each during 2007 and 2008. Algeria also announced an oral amendment to the 6th preambular paragraph¹².

The resolution was adopted with 34 votes in favour, 12 against¹³ and one abstention (Ukraine).¹⁴

Finland (on behalf of the EU) confirmed their commitment to the fight against racism, and acknowledged the meaningful contribution of the Durban Review Conference to that endeavour. However Finland expressed their opposition to the establishment of a Preparatory Committee as the Council was already endowed with sufficient mechanisms to work on the implementation of the Durban Review Conference. In voting against the resolution, Japan pointed to their concern over possible financial implications, as well as their concern over the proposed timing and length of the Preparatory Committee's meetings. Canada also argued that the option of a global conference was not the best approach to take stock of the progress made in the elimination of racism. While noting achievements made on this front within their own country, Canada advocated the formation of regional reviews, which could implement the recommendations of the Durban Review Conference.

Peru, explaining their vote in favour, expressed support for Algeria's initiative as a constructive step in the fight against racism. The Philippines then re-stated their belief in the importance of establishing a Preparatory Committee. They noted that such a preparatory role for the Council was in keeping with the General

¹⁰ Cameroon, Czech Republic, Finland, France, Germany, Japan, Netherlands, Poland, Romania, Switzerland, Ukraine and the United Kingdom. The full voting record is available at the OHCHR extranet, which can be accessed at www.ohchr.org/english/bodies/hrcouncil/form.htm (fill out the form on the page to receive the user name and password).

¹¹ A/HRC/3/L.2, 1 December 2006.

¹² Preambular paragraph 6 of A/HRC/3/L.2 would read; "recalling the resolution of the Third Committee of the General Assembly A/C.3/61/L.53/Rev.1 adopted on 22 November 2006 by which the Third Committee recommended the Durban Review Conference convene in 2009".

¹³ Finland, Canada, Czech Republic, France, Germany, Japan, Netherlands, Poland, Republic of Korea, Romania, Switzerland and the United Kingdom.

¹⁴ The full voting record is available at the OHCHR extranet, which can be accessed at www.ohchr.org/english/bodies/hrcouncil/form.htm (fill out the form on the page to receive the user name and password).

Assembly's mandate for the Council¹⁵. Argentina regretted the lack of consensus shown towards this resolution, stressing the importance of establishing universal norms for the elimination of racism.

Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance

Algeria (on behalf of the African Group) presented the draft decision on global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the effective implementation of the *Durban Declaration and Programme of Action*.¹⁶ The President informed the Council that there were three additional co-sponsors to the decision. The resolution calls for the establishment of an ad hoc committee to derive complementary standards leading to either a new convention or an optional protocol to the *International Convention on the Elimination of all forms of Racial Discrimination* (the Convention). It recommends that this committee meet during September 2007 after the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration Programme of Action (the Working Group) holds its final session. The Working Group is also requested to have a preliminary exchange of views with the five experts appointed by the High Commissioner to identify gaps in the Convention and to transmit the report of the five experts to the Ad Hoc Committee. Algeria stressed that efforts of the international community needed to be intensified. They commended the extensive work undertaken by the Ambassador of Chile while leading the Working Group. Cuba then made a special request for Chile to be allowed to speak. Since there were no objections, the President approved this request on an exceptional basis noting that it should not constitute a precedent. The Ambassador of Chile took the floor to emphasise the importance of reaching consensus on this topic and asked for the meeting to be suspended for further consultations. The President stated that he would delay the consideration of this decision till later in the morning. When he came back to the draft decision towards the last hour of the morning session, the Algerian Ambassador requested a further postponement of half an hour to hold informal consultations. The meeting was adjourned for 30 minutes but ultimately after an hour's pause it was announced that the session would reconvene at 3pm.

At the commencement of the afternoon session, Algeria acknowledged other delegations' concerns that the work of the Ad Hoc Committee would overlap with that of the Working Group, and therefore pre-judge its outcome. They announced an amendment to the draft decision to address these concerns. In operative paragraph (b), the phrase "to draw up the requisite legal instruments and hold its first session before the end of 2007, subject to the Working Group completing its task on complementary standards by that date" was added after "...10 working days."

The draft decision was adopted with a vote of 32 for, 12 against¹⁷ and one abstention (Ukraine).

Finland (on behalf of the EU) expressed their regret that they had not been able to agree with the African Group on this draft decision. They argued that this was a particularly inappropriate moment for the creation of the Ad Hoc Committee, since the conclusions of the Five Experts were not yet available and there was no clear basis for the areas that would be covered by the new standards and identification of gaps for future work.¹⁸ Finland also commented that the explicit mention of "incitement to racial and religious hatred" pre-judged the identification of gaps that would lead to the drafting of an international instrument. Argentina and Peru explained that they had voted in favour of the draft decision because it furthered the work of the *Durban Declaration*. India stated that it would vote in favour of the resolution but that they would have preferred to

¹⁵ General Assembly Resolution 60/251.

¹⁶ A/HRC/3/L.3, 5 December 2006.

¹⁷ Canada, Czech Republic, Finland, France, Germany, Japan, Netherlands, Poland, Republic of Korea, Romania, Switzerland and the UK.

¹⁸ Japan and Switzerland shared this view

preserve the understanding reached on this issue at the 4th session of the Working Group to gather as broad a spectrum of support as possible.

The President remarked that States had been very close to reaching consensus on this issue and it was unfortunate that this had not occurred.

Resolutions adopted by consensus

Regional cooperation for the promotion and protection of human rights in the Asian and Pacific region

China presented its draft decision on regional cooperation for the promotion and protection of human rights in the Asian and Pacific region.¹⁹ The draft decision had five additional co-sponsors and calls for a workshop on regional cooperation for the promotion and protection of human rights to be held during the first half of the 2007. The decision was adopted by consensus.

Report of the Commission of Inquiry on Lebanon

Pakistan (on behalf of the OIC) presented the draft decision on the report of the Commission of Inquiry on Lebanon.²⁰ The draft decision requests that the Office of the High Commissioner for Human Rights (OHCHR) consult with the Government of Lebanon and follow up on the implementations of recommendations contained in the report of the Commission of Inquiry. The President informed the delegations that there were no budgetary implications. Algeria expressed its deep concern for the situation in Lebanon. They stated that the least that the Council could do for the civilians was to implement the relevant recommendations of the report of the Commission of Inquiry.

Finland (on behalf of the EU) expressed its full support to the Government of Lebanon but reiterated its concerns regarding the one-sided scope of the mandate of the Commission of Inquiry. They expressed their appreciation for the efforts of the Commission of Inquiry and for the comments on the conduct of all parties involved. They stressed the importance for the parties to return to the negotiating table. The United Kingdom (the UK) emphasised the importance for the Council to give a fair and balanced consideration to all issues and stated that any follow-up should be addressed in an objective and non-selective manner.

Israel reiterated its concerns regarding *Resolution S-2/1*, and the unbalanced and one-sided report of the Commission of Inquiry that resulted from it. The proposed decision would, in their view, simply further this unbalanced approach by the lack of any reference to Hezbollah and the Lebanese Government's responsibilities. They stated that it was clearly proven that Hezbollah had set up offensive positions in civilian centres, defensive positions for guerrilla actions, and logistical positions to store weapons in private homes.

Lebanon took the floor to reply to the Israeli statement, stressing that the report clearly proved the extent of violations and the suffering of civilians, and fully justified the decision proposed by Pakistan. They expressed their appreciation for the Commission of Inquiry's report and highlighted its conclusion that no country was allowed to violate international humanitarian laws.

Although the decision was adopted by consensus, a few States wanted to clarify their positions reiterating the concerns on the non-balanced nature of *Resolution S-2/1*. Argentina expressed its hope for a more balanced

¹⁹ A/HRC/3/L.4, 5 December 2006.

²⁰ A/HRC/3/L.5, 5 December 2006.

resolution and stated that the responsibility of Hezbollah had not escaped the attention of the Council. Canada dissociated itself from the decision that was adopted because they viewed it as un-balanced. They stated that the Council should assure protection to all the parties in an equitable manner.

Implementation of General Assembly *Resolution 60/251*: agenda, annual programme of work, methods of work and rules of procedure of the Human Rights Council

The President introduced his draft resolution on the implementation of General Assembly *Resolution 60/251*: agenda, annual programme of work, methods of work and rules of procedure of the Human Rights Council.²¹ The resolution proposes the establishment of another open-ended inter-sessional working group to formulate concrete recommendations on the agenda, annual programme of work, methods of work and rules of procedure of the Council. It authorises the Working Group to hold ten days of meetings and to undertake well-scheduled and inclusive consultations with the participation of all stakeholders. It also requests the President of the Council to chair the Working Group, with the assistance of facilitators if needed. The Working Group is also requested to report on its progress to the Council at its 4th session. The President explained that this document has already been discussed informally and stated that it did have budgetary and programme implications. The Russian Federation (Russia) stated that many issues of *Resolution 60/251* had not been resolved and welcomed the creation of such a working group. Japan remained flexible but expressed its opinion that the establishment of a working group was not necessary to discuss these issues. The resolution was adopted by consensus.

Conference facilities and financial support for the Human Rights Council

The President also introduced his draft decision on conference facilities and financial support for the Human Rights Council.²² The draft decision takes into account the heavy schedule of work and difficulties encountered in obtaining necessary conference services, particularly during the first institution-building year and requests the Secretary-General to report to the 61st session of the General Assembly at the earliest possible date on ways and means to guarantee the provision of conference services, particularly during special sessions, additional meetings during regular sessions and inter-sessional organisational meetings; webcasts for all the sessions of the Council; documentation in all UN languages in a timely manner; and adequate funding to provide timely financing for unforeseen extraordinary expenses arising in the implementation of the decisions of the Council, involving fact-finding missions and special commissions.

The President clarified that the issue under discussion was not providing translation for informal meetings but rather a matter of adding translation services for specific circumstances when required by the Council, namely meetings for preparation of sessions. The Secretariat also pointed out that the budgetary implications for Working Groups were provided for, so they posed no additional cause for concern.

China stressed that the key does not lie in increasing finances but rather in economising, which they suggested could be done through strengthening management and improving efficiency of the funds the Council already has. Quoting Secretariat statistics, China highlighted that the Council has had 30 weeks of meetings (seven and half months), which is a dramatic increase over the past. Though they were appreciative of the Secretariat's efforts to provide services to additional meetings, they urged the Bureau to limit meetings by eliminating meetings that had no results. They cautioned that if the General Assembly increased the budget of the Council, this should not be at cost of other important areas, such as poverty reduction. Canada emphasised that the Council should not reopen UN management reforms designed for fiscal responsibility (such as no

²¹ A/HRC/3/L.6, 5 December 2006.

²² A/HRC/3/L.7, 6 December 2006.

meetings in the evening). They also stressed that the resource needs of the Council should not be met at the expense of OHCHR's budget. Algeria reiterated the need to organise meetings efficiently, by avoiding duplication of discussions and accommodating the human resources constraints of smaller delegations.

Finland (on behalf of the EU) expressed its full support for this 'timely' resolution and its promotion of multilingualism.

General Comments

The President of the Council opened the floor for comments on previous decisions or resolutions passed by the Council. The USA deplored the one-sided resolution on Lebanon²³ and regretted that the Commission of Inquiry set up by this resolution inquired only about Israeli violations. Pakistan (on behalf of the OIC) commended the establishment of the fact-finding mission to inquire into the Israeli incursion into Beit Hanoun and welcomed the appointment by the President of the Council of Mr Desmond Tutu and Ms Chinkin to head the fact-finding mission.²⁴

Several States expressed concern that the Third Committee of the General Assembly in New York had postponed the adoption of the resolution issued by the Council on the *Draft Declaration on the Rights of Indigenous Peoples*.²⁵ Ecuador called on the Council to send a clear signal to the General Assembly and to the international community as a whole to adopt the draft declaration as soon as possible.

Adoption of the Report of the 3rd Session

Mr Burayzat, the Rapporteur of the Council, presented the draft report of the 3rd session. He commented that the report contains a procedural description of the Council's work, and that an addendum would be included on the resolutions that were adopted today. He noted that there was less substantive work than in previous sessions, but the work was perhaps more productive and less hectic and difficult. He remarked that the Council had heard a message from the Secretary-General and an update from Ms Louise Arbour, High Commissioner for Human Rights. He also referred to the presentation by Mr Juan Mendez, Special Advisor to the Secretary-General on the Prevention of Genocide. Mr Burayzat observed that the Council had made some headway in discussing the Universal Periodic Review mechanism, expert advice, the complaint procedure, special procedures, methods of work, rules of procedure and the agenda, and had created a new Working Group to deal with the last three issues. He mentioned that the Council had discussed some children's and women's rights issues, which it may take up in a future session. He also noted that the Council had followed up on its previous decisions in the areas of the draft *Declaration on the Rights of Indigenous Peoples*, enforced disappearances, Lebanon, and the OPT. He commented that the format of report is based on the agenda and revised programme of work, and should not serve as a model for future sessions of the Council.

The President of the Council expressed his satisfaction over the positive work held during this 3rd session. He stressed the importance of the work done, including institution-building work of the Council. He expressed his appreciation for the update from the High Commissioner and the report of the Special Advisor to the Secretary-General on the Prevention of Genocide. He thanked all the delegations, regional groups, members and observer States for the tremendous work achieved. He reminded the Council of the important role of the interpreters for the smooth functioning of the session. He stated that 2007 could be expected to be a busy year with a heavy workload. He welcomed the adoption of the resolution to follow-up on the *Durban Declaration*, while he expressed his concern for the postponement of the draft *Declaration on the Rights of Indigenous*

²³ A/HRC/S-2/L.1, 9 August 2006.

²⁴ Council Resolution S-3/1.

²⁵ Ecuador, Norway, Mexico, Peru, Denmark, Guatemala, Jordan, Spain and Switzerland.

Peoples by the Third Committee of the General Assembly. As the President, he had the responsibility of following up on decisions adopted the Council and therefore urged the adoption of the draft Declaration by the General Assembly to assure the credibility of the Council.

The Ambassadors of the Czech Republic, Switzerland and Morocco, who all served as facilitators for the discussions of the Council's inter-sessional working groups,²⁶ protested that their 'Preliminary Conclusions' reports were referred to as 'updates of work' in the Council's report. Mr Burayzat responded that he was bound to the decisions of the Council, and States had expressed objections to describing the reports as 'Preliminary Conclusions.' He noted that no consensus on a particular title had been reached, but that he had attempted to reflect the spirit of the Council's will. The President informed delegations that they would have a few days to submit their comments on the report.

Other procedural and practical issues

Finland announce that they were organising informal consultations on their draft resolution on the human rights situation in Darfur,²⁷ for the 4th Special Session of the Council, on 11 December 2006 at 10 am in Room 19 at the Palais des Nations.

²⁶ On the review of special procedures, complaint procedure and the Universal Periodic Review mechanism respectively.

²⁷ A/HRC/S-4/L.1, 4 December 2006.

COUNCIL MONITOR STAFF

Meghna Abraham, Program Manager, Information Program
Gareth Sweeney, Human Rights Officer, Information Program
Eléonore Dziurzynski, Communications Officer, Information Program

Contributors

Jay Bahadur, Intern
Maxence Delchambre, Intern
Valeria Fruzzetti, Intern
Michael Ineichen, Intern
Brigit Morris, Intern
Gergey Pasztor, Intern
Chris Sidoti, Director
Katrine Thomasen, Human Rights Officer, Liaison, Coordination and Advocacy Program
Una Walsh, Intern
Brennan Webert, Intern

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