

COUNCIL MONITOR

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Overview

On 17 March 2009, the Human Rights Council (the Council) held a follow-up to its 8th special session on the human rights situation in the East of the Democratic Republic of the Congo (DRC). The Deputy High Commissioner for Human Rights, Ms Kyung-Wha Kang, presented the report of the High Commissioner for Human Rights on the situation of human rights and the activities of her Office in the DRC.¹ Mr Walter Kälin, Representative of the Secretary-General on the human rights of internally displaced persons, then presented the combined report of seven thematic special procedures on technical assistance to the Government of the DRC and urgent examination of the situation in the east of the country. Following both presentations, States and NGOs engaged in an interactive dialogue with Mr Kälin.

Presentation of the reports

Ms Kang's presentation on behalf of the Office of the High Commissioner for Human Rights (OHCHR) focused on the deteriorating human rights situation in the DRC and the activities of the OHCHR, the UN Joint Human Rights Office in the DRC and the UN Mission to the DRC (MONUC). Widespread violence and impunity continue to plague the DRC, she explained, and the situation cannot improve unless the Government, with the active assistance of the international community, tackles these problems.

In his presentation of the combined report of the seven thematic special procedures,² Mr Kälin also expressed concern about the gravity of the situation in the DRC. He thanked the Government of the DRC, and in particular the minister for human rights, for their cooperation with the seven rapporteurs. He explained that the biggest issues in the State are forced and arbitrary displacement, violence against women and girls, rape and gang-rape, and intimidation of human rights defenders, lawyers, and judges. While the Government is not the perpetrator of these crimes, it is responsible because it routinely fails to protect its people. Perpetrators of violent crimes can expect impunity. Based on their assessment, the seven special procedures identified eight priorities for government action and international assistance: to fight impunity and strengthen law enforcement and justice sectors; to reform the

¹ A/HRC/10/58

² A/HRC/10/59

security sector; to prevent the recruitment of children by armed groups and socially reintegrate children associated with armed groups; to protect women's rights and ensure gender equality; to address economic root causes of human rights violations; to protect the rights of the displaced and minorities; to provide access to health care, especially for marginalised groups; and to strengthen state and civil society structures to protect and promote human rights. Finally, Mr Kälin, on behalf of the seven thematic special procedures, called upon the Council to establish a special procedure mechanism on the human rights situation in the DRC and to establish benchmarks to measure human rights progress in the DRC, in consultation with the Government, civil society, and donors.

Interactive Dialogue

The DRC countered the problems identified in the reports by listing its achievements and underscoring the reforms conducted by the new Government in coordination with the OHCHR and other UN bodies. The DRC more controversially, called some of the statements by some of its partners in the Council 'diametrically opposed to the situation in the field'.

The interactive dialogue was marked by a polarisation of regional groups. Most States were complimentary of the DRC's cooperative efforts. But while the African Group States focused on the DRC's positive achievements, the Government's successes, and the need for greater technical assistance from the international community, States from the Western European and Others Group (WEOG) and a few other States³ expressed deep concerns about the deteriorating human rights situation on the ground in the DRC and the need for serious judicial and legislative reforms, and voiced strong support for the creation of a **special procedure on human rights in the DRC**.

The need for such a special procedure was voiced by the Czech Republic (on behalf of the European Union), the Netherlands, Canada, Norway, Luxembourg, the United Kingdom, the United States, Switzerland, and New Zealand. Human Rights Watch, Amnesty International, the International Federation of Jurists, the World Organization against Torture, and the International Federation of Human Rights Leagues also called for the establishment of such a special procedure. Human Rights Watch was particularly critical of the Council, stating that many of the recommendations made in the report are recommendations that have been made previously and have not been implemented or followed up on by the Council. The States of the African Group did not mention the creation of a special procedure with the exception of Algeria which reiterated what it called 'the common position of the African Group' that the establishment of a country mandate or special procedure can only be with the express agreement of the country concerned.

The other recommendations of WEOG States and the NGOs participating in the dialogue focused on a range of issues making up what Luxembourg termed the 'social tsunami'. Those issues included: violence against women and girls,⁴ sexual violence,⁵ widespread impunity,⁶ the social acceptance of violence and the normalisation of war-related crimes,⁷ attacks on human rights defenders and journalists,⁸ and the need for reintegration of child soldiers into society.⁹

Responses

In his brief responses, Mr Kälin reiterated that the report acknowledges that progress in the DRC has been made. However, he explained, the situation is still very volatile and while important measures have been taken, they are not yet sufficient. As evidence, he cited a statistic that still less than one percent of cases of rape in the DRC are

³ During this dialogue, Japan, Chile expressed similar views to those expressed by WEOG States.

⁴ Chile, the Netherlands, the United Kingdom, Switzerland.

⁵ The Czech Republic (EU), Canada, Norway, UK.

⁶ Japan, Chile, Luxembourg, UK, Switzerland, New Zealand.

⁷ The Czech Republic (EU), US.

⁸ Chile, Norway, UK, New Zealand.

⁹ Canada, Japan, Switzerland.

brought to justice. Measures have been put into place, he allowed, but they have as yet a very limited impact on the ground. Justice is not yet accessible at a grass-roots level and widespread impunity undermines the progress that has been made. In conclusion, he emphasised the need for an independent expert to monitor the situation. Different opinions exist as to the degree of progress made, he acknowledged, but that merely reinforces the need for human rights indicators to be developed as part of a special procedures mandate.

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