

COUNCIL MONITOR

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Overview

The Human Rights Council (the Council) held a general debate on 'situations that require [its] attention' under Item 4 on 22 September 2009. During past sessions of the Council, discussions under Item 4 were marked by the general lack of participation from African and most Asian States. These States have often claimed that the discussion of country situations would lead to 'politicisation', and that naming States that violate human rights would undermine the spirit of cooperation and dialogue the Council is supposed to be built on. In this context, it was remarkable that Nigeria delivered a statement on behalf of the African Group, and that China specifically raised the situation of Roma in 'European countries'. Making reference to the Council's mandate, Nigeria noted situations of human rights violations 'across the world', but specifically highlighted a 'consistent pattern of human rights violations linked to deportation of asylum seekers' and racism more broadly. While it refrained from mentioning specific States, the African Group's statement is a welcome and positive addition to the Council's debate on human rights violations.

Of note was also the statement by the United States, which drew attention to a large number of situations, including in the Chinese region of Xinjiang, and the situation of Roma in Europe. While the US has been shining by its absence in the Council's first three years, this strong but balanced statement was another clear indication of the seriousness of its re-engagement. Both the US and Sweden (on behalf of the EU) condemned situations of 'disruption of constitutional order' wherever they occurs, specifically mentioning Honduras, Fiji, Guinea, Madagascar and Niger.

Major attention was also given by many States and NGOs to situations in Iran, Myanmar, Sri Lanka, the Sudan and Afghanistan. Other situations raised included Belarus, China, Colombia, Cuba, the Democratic People's Republic of Korea (DPRK), the Democratic Republic of the Congo (DRC), Fiji, Guinea, Honduras, Iraq, Kenya, Madagascar, the Russian Federation, Somalia, and Zimbabwe.

General debate under item 4

Situations of primary concern

Iran

The human rights abuses occurring in Iran received the most attention under Item 4, with several delegations and NGO's commenting on the situation.¹ The excessive use of force and increased violence since the June 2009 elections was of primary concern among commenting actors. There were multiple statements regarding violence, torture and the arbitrary arrest and detention of peaceful protestors, journalists, human rights defenders and other political activists following the elections.² Israel made a particularly strong statement in this regard stressing that the Government's actions in response to the peaceful protest and the election fraud committed reflected its 'true colours.' While the use of torture was mentioned by most of the delegations that spoke, Israel was the only State to address the widespread occurrence of rape committed by authorities and the militia,³ and therefore urged that the Council address this.

There were many calls for an end to the mistreatment of detainees; including torture, being held without access to lawyers or a trial for extended periods of time, and execution.⁴ Human Rights Watch pointed out that Iran is the 'world's leader' in juvenile executions and second in general executions and urged Iran to abolish the death penalty.⁵ Sweden, on behalf of the European Union (EU), and Canada requested the immediate release of all unlawfully detained people.

The respect of religious minorities, particularly the Bahai, was addressed by several delegations.⁶ Canada and Human Rights Watch drew attention to several Bahai leaders being detained on fabricated evidence. There were multiple requests that Iran uphold various freedoms, specifically freedom of the press, association, expression, assembly and religion.⁷ Austria asked that the special procedures that have requested to visit be allowed into the country, and the International Federation of Human Rights requested a special envoy be dispatched to investigate human rights abuses in the country. Norway also strongly encouraged Iran to facilitate visits of special procedures mandate holders of the Council, while France expressed its dismay at Iran's lack of cooperation in this regard.

Iran exercised its **right of reply** by reiterating its commitment to the 'promotion and protection of all human rights, nationally and internationally, regardless of the unsubstantiated allegations and accusations made during the afore mentioned statement.'

Myanmar

The detention of Aung San SuuKyi and all other political prisoners was the most widely criticised matter in Myanmar. All of the delegations and NGOs⁸ that commented on the country's situation directly addressed this issue and, save the Czech Republic, referred directly to Aung San SuuKyi and condemned the verdict against her. The Asian Forum for Human Rights and Development (Forum-Asia) said that the arrest and detention of Aung San Suu Kyi was evidence that the State Peace and Development Council (SPDC) had a clear disregard for adhering to the rule of law⁹ and that it should serve as a reminder of the treatment and detention of all persons wishing to see 'democracy, security and human rights' within this country. Furthermore Forum-Asia

¹ Sweden (on behalf of the European Union), France, Netherlands, Norway, United Kingdom (UK), Belgium, United States (US), Canada, Austria, Ireland, Denmark, Luxembourg, Czech Republic, Germany, Israel, Human Rights Watch, International Federation of Human Rights, and Women's Human Rights International Association.

² Sweden (on behalf of the EU), Canada, Austria, Luxembourg, Czech Republic, Israel, Germany and Human Rights Watch.

³ France was concerned about the rights of women, but didn't address rape specifically.

⁴ Sweden (on behalf of the EU), UK, Canada, Austria, Denmark, Luxembourg, and Human Rights Watch.

⁵ France, Denmark, Luxembourg and the Czech Republic also asked for the abolishment of the death penalty. Luxembourg and the Czech Republic were most concerned about the execution of minors or those who had been minors when alleged crime was committed.

⁶ Austria, Ireland, Germany and the Netherlands.

⁷ Canada, Austria, Germany, New Zealand, Israel and Human Rights Watch.

⁸ Sweden (on behalf of the EU), France, Norway, UK, Japan, US, Canada, Australia, New Zealand, the International Federation of Human Rights, the Asian Legal Resource Center, and the Asian Forum for Human Rights and Development (forum-Asia).

⁹ The UK stated that without the participation of Aung San Suu Kyi the 2010 elections had no credibility.

recommended that the Special Rapporteur on Myanmar visit the county to oversee the process in preparing for the 2010 elections and ensure that the elections be conducted freely and fairly.

Sweden (on behalf of the EU) addressed the widespread violations in Myanmar, including extrajudicial killings, forced disappearances, torture and arbitrary arrest. Canada was also concerned with the ‘ongoing repressive actions of the Burmese regime’ and highlighted this point by pointing out the SPDC’s refusal of basic humanitarian assistance after Cyclone Nargis, making it the only delegation to address the Cyclone victims. The Asian Federation of Human Rights asked that the Council take action against all of the violations occurring in Myanmar and not just ‘know about them.’

Myanmar used its right of reply to assure the Council that that peace, stability and tranquillity prevailed in Myanmar and that democracy was moving forward. It pointed out that it was moving ahead in accordance with its ‘Seven-step Road Map since the Multiparty Democratic Elections’ and that the fifth step would be implemented in 2010. Myanmar defended the verdict of Aung San Suu Kyi stating it was in compliance with its judicial system and in line with its existing laws and that her eligibility to participate in the 2010 elections could only be determined by ‘Electoral Law.’ It said that it regretted the scepticism expressed of the human rights situation in the country, but that this scepticism and the false allegations against Myanmar, were bred by ‘political agendas’ and only served to thwart any ‘constructive approach toward the promotion and protection of human rights.’

Sri Lanka

Several delegations demanded that action be taken to ensure the dignified treatment and safe return home of a large number internally displaced people (IDP’s) being detained in internment camps,¹⁰ and Sweden (on behalf of the EU) insisted that the IDP camps ‘be under civilian control with unhindered access by humanitarian organizations.’ Denmark and Luxembourg expressed particular concern over the Monsoon approaching Sri Lanka and were concerned about the worsening humanitarian situation if it were to hit the camps, and therefore stressed the urgency in which IDP’s need to be granted return.

Another area of grave concern was the imposition of legal restrictions on the freedom of the media resulting in a volatile environment for journalists,¹¹ the recent disproportionate sentencing of journalist J.S. Tissainayagam to 20 years of hard labour was said to ‘raise serious concern in this respect.’¹² Journalists were not the only ones said to face such conditions, the International Commission of Jurists (ICJ) spoke of an ‘environment of intimidation and threats against lawyers and human rights defenders.’

Sri Lanka replied by saying that it appreciated the concern shown by various countries, but that there were serious causes for concern regarding its national security, and therefore the authorities had to be cautious when dealing with IDP’s. It said that at least one member of each family is recruited into a terrorist faction and that there are problems that need to be carefully considered before moving forward in this regard. It stated that NGOs presented ‘fabricated accusations’ and that the human rights record in the country was better than what was presented in the Council.

Sudan

The situation in Darfur caused particular alarm among States¹³ with continuing attacks against civilians by the Government and armed forces continuing. Austria acknowledged that conflict in Darfur had decreased but noted with concern that there were still 2 million internally displaced people and that sexual assault and attacks on

¹⁰ Sweden (on behalf of the EU), France, UK, Japan, Austria, Denmark, Luxembourg, Switzerland, Germany, and New Zealand.

¹¹ Addressed by France, Netherlands, Austria, Denmark, Luxembourg, Switzerland, Germany, US and the International Commission of Jurists (ICJ).

¹² Germany is quoted here, but France, the Netherlands, Luxembourg and the ICJ spoke of J.S. Tissainayagam.

¹³ Austria, Canada, Switzerland and New Zealand.

women still take place with impunity.¹⁴ Sweden (on behalf of the EU) and Denmark urged the Sudan and Southern Sudan to launch investigations into human rights violations and prosecute perpetrators. Switzerland also wanted perpetrators of human rights abuses to be brought to justice and therefore called on the Sudan to strengthen its justice system. Sweden (on behalf of the EU) and Austria asked for the Sudan's full cooperation with the new Independent Expert.

The Sudan stated that all of the concerns raised were based on past realities and that things had improved significantly with a few exceptions of continued looting by rebels. It spoke of fabricated evidence provided by 'victims' who had lied in order to satisfy specific parties to prove war crimes were committed, when they hadn't. Sudan ended by expressing concern over the Council's use of 'politicisation and double standards' regarding human rights situations.

Afghanistan

The focus of most of the comments regarding the situation in Afghanistan was the rights and treatment of women. Austria and Denmark acknowledged efforts by the Government to improve the rights of women, but were unsettled by the continued discrimination against them. Austria specifically stated that it was appalled by the 'widespread occurrence of rape against a backdrop of institutional failure and impunity.' New Zealand drew attention to recent Shia Personal Status Law, which it suspected of undermining women's rights, and the Netherlands requested a specific update from the Government regarding this law because it did not believe that it is in accordance with Afghanistan's international human rights obligations. Norway urged the Government to change any laws violating the Afghan Constitution or UN resolutions that it had adopted. Sweden (on behalf of the EU) stressed the importance of laws relating to family and women being in accordance with the CEDAW.

Norway was the only State to speak of the recent Afghan elections and expressed concern over allegations of election fraud and stated the importance of the Independent Election Commission and the Elections Complaint Commission to fulfil their tasks so that the outcome of the election could gain legitimacy.

Afghanistan, in its right of reply, assured that women were equal in the country and that their rights were guaranteed by the constitution and were equal to men.

Other situations of concern

Other situations that received attention from States in the Council included Belarus,¹⁵ China,¹⁶ Colombia,¹⁷ Cuba,¹⁸ the Democratic People's Republic of Korea (DPRK),¹⁹ the Democratic Republic of the Congo (DRC),²⁰ Fiji,²¹ Guinea,²² Honduras,²³ Iraq,²⁴ Kenya,²⁵ Madagascar,²⁶ the Russian Federation,²⁷ Somalia,²⁸ and Venezuela,²⁹ Vietnam,³⁰ Western Sahara,³¹ Yemen,³² and Zimbabwe.³³

¹⁴ Belgium showed similar concern and commented on the situation of impunity in the State.

¹⁵ US.

¹⁶ Sweden (on behalf of the EU), US.

¹⁷ Belgium.

¹⁸ Sweden (on behalf of the EU), US, Mexico, Czech Republic.

¹⁹ Sweden (on behalf of the EU), UK, Japan, Canada, Australia, Germany.

²⁰ Norway, UK, Belgium, Canada, Germany.

²¹ Sweden (on behalf of the EU), UK, US, Australia, New Zealand.

²² Sweden (on behalf of the EU), US.

²³ Sweden (on behalf of the EU), Argentina, US, Mexico.

²⁴ Belgium.

²⁵ Norway.

²⁶ Sweden (on behalf of the EU), US.

²⁷ US.

Further information

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

- Follow ISHR on Twitter: [@ishr_geneva](https://twitter.com/ishr_geneva).
- 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 12th session of the Human Rights Council: <http://www2.ohchr.org/english/bodies/hrcouncil/12session>. For direct access to reports considered, check <http://www2.ohchr.org/english/bodies/hrcouncil/12session/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.

²⁸ Sweden (on behalf of the EU), United Kingdom, United States, Ireland, Denmark, Israel.

²⁹ United States.

³⁰ United States.

³¹ Algeria.

³² Israel.

³³ Sweden (on behalf of the EU), Netherlands, United Kingdom, Ireland, Denmark.

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ABOUT THE PUBLICATION

The Council Monitor forms part of the Human Rights Monitor Series produced by ISHR. It provides you with information about all the key developments at the Human Rights Council, including Council Updates during the session of the Council, an Overview of the session, briefings and updates on the major issues of concern in the transition from the Commission on Human Rights to the Council and other key reports. It is currently an online publication that can be found at www.ishr.ch.

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