

COUNCIL MONITOR

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COUNCIL UPDATE – ITEM 3, SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN HUMAN RIGHTS COUNCIL, 11TH SESSION 3 JUNE 2009

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Overview

Under item 3 the Special Rapporteur on violence against women, its causes and consequences, Ms Yakin Ertürk, presented on 3 May 2009 her final report to the Human Rights Council (the Council). The report covers in the first chapter her activities from 2008 till 2009, including the missions to Saudi Arabia, Tajikistan and the Republic of Moldova. The second chapter addresses the issue of the political economy of women's human rights. Ms Ertürk chose this theme as social and economic rights are in her view essential to women's ability to enjoy the full range of human rights, but are often not considered when analysing the causes of violence against women or when formulating policies. In addition to her final report Ms Ertürk presented a comprehensive review of the last 15 years of work of the Special Rapporteur on violence against women, its causes and consequences (1994-2009). The study, initiated by the Special Rapporteur, takes stock of the achievements of the mandate, the lessons learned and the challenges remaining in combating violence against women. Ms Ertürk also outlined her work contributing to the Group of Experts on the Democratic Republic of the Congo and on the occupied Palestinian territories. During the interactive dialogue countries generally commended the annual report and the overall work of the Special Rapporteur and posed a variety of questions on how to improve efforts to eliminate violence against women, and in particular the role the Council could play. A few countries criticised the 15 years review of the mandate by arguing that the Special Rapporteur addressed issues and made references outside of her mandate and interfered in domestic affairs. Disputed references included issues regarding sexual orientation, same sex relationships, and safe abortions. In her concluding remarks Ms Ertürk made four specific recommendations on the role the Council should play in addressing violence against women.

Special Rapporteur on violence against women

The Special Rapporteur presented her thematic report on the political economy of women's human rights.¹ This was followed by a short introduction of a study reviewing the last 15 years of the Special Rapporteur's mandate.² Thirdly, Ms Ertürk elaborated on her missions to Saudi Arabia,³ Tajikistan⁴ and the Republic of Moldova.⁵ Lastly, she informed the Council on other recent activities and developments in the area of violence against women.

The **thematic report on the political economy of women's human rights** builds partly on the report submitted in 2007 entitled *Intersections between culture and violence against women*.⁶ In her recent report Ms Ertürk states that the current neo-liberal economic order profoundly affects both the prevalence of violence against women and the efforts to eliminate it. She argues that economic and social aspects are often neglected in the analyses of women's human rights and are rarely included in the strategies to address violence against women. The report claims that global phenomena such as armed conflict, natural disasters and other crises have created new vulnerabilities for women, thus increasing the risks of violence and exploitation. Ms Ertürk outlined that the declining role of the State and the privatisation of public services in the neo-liberal era have often created a vacuum for poorer groups, who increasingly have to rely on community level survival strategies, which are mainly based on women's initiatives and labour. These developments have led to a return to communal enforcement mechanisms, which have strengthened the role of non-State actors and increased conservative interpretations of culture and religion. Such trends have posed new challenges for the rule of law and the universal application of human rights norms. Mr Ertürk further explained that unless women can develop their capabilities and achieve economic independence, the fulfilment of their human rights will remain unrealised. In the report she strongly appeals treating political and civil rights equally with economic and social rights. By focusing on the linkage between VAW and women's access to particular social and economic rights⁷ the report demonstrates that economic and social security is crucial for enhancing women's capabilities and for preventing violence against women.

With respect to the Special Rapporteur's **country visits** Ms Ertürk stated that in **Saudi Arabia** the sex-segregated structure of the society and the practice of male guardianship continue to pose major obstacles to women's autonomy, legal capacity, and ability to fully participate in activities in society and the workplace. However, many positive developments are apparent with regards to the status of women in society. Most noteworthy are developments in the area of women's access to education, which resulted in significant improvements in women's literacy rates and level of schooling. However the progress in women's education has not been accompanied by a comparable increase in women's participation in the labour force and women are largely excluded from decision-making processes. The recent appointment of a woman as deputy minister can be viewed as a step in the right direction.

Ms Ertürk argued that women in **Tajikistan** have been hard hit by the consequences of transition. She acknowledged that formal equality for women is guaranteed in law. But she noted that patriarchal practices, perpetuating women's subordinate position in the family and society, have resurfaced and thus increased their vulnerability to abuse and exploitation. The Special Rapporteur reported that domestic violence against women and girls is widespread and accepted by society. In addition, women and girls are victims of sexual violence, exploitation and trafficking. The rise of early unregistered and polygamous marriages and the lack of awareness of their rights further aggravate the situation of women. State response to these challenges has been so far insufficient and women have little or no options to escape violence.

¹ A/HRC/11/6 available at <http://www2.ohchr.org/english/bodies/hrcouncil/11session/reports.htm>

² A/HRC/11/6/Add.5.

³ A/HRC/11/6/Add.3.

⁴ A/HRC/11/6/Add.2.

⁵ A/HRC/11/6/Add.4.

⁶ A/HCR/4/34. This report argues that a viable strategy in addressing the issue of violence against women must include a political economy perspective in order to understand the material basis of certain cultural norms and determine the distribution of productive resources, goods and services-which ultimately impact on the women's access to justice and entitlements.

⁷ Such as the right to housing, land and property, food, water, health, education and the right to decent work and social security.

According to the Special Rapporteur even though women in **Moldova** are represented at the highest levels of governance and enjoy equality before the law, the majority of women suffer from subordinated status, which is exacerbated by high levels of unemployment and low paid jobs. Furthermore, patriarchal and discriminatory attitudes increase women's vulnerability to violence and abuse. Domestic violence is widespread. New laws tackling domestic violence and gender equality are positive signs, but the gap between the normative framework and practice needs to be closed. Ms Ertürk recommended to further undertake public sector reform as well as to increase international cooperation in the area of trafficking.

Ms Ertürk informed the Council that she had received an invitation from the Government of Kyrgyzstan and made requests for official country visits to Zimbabwe, Jordan, Turkmenistan and Uzbekistan.

Regarding Ms Ertürk's contribution to the Combined report of seven thematic special procedures on technical assistance to the Government of the Democratic Republic of the Congo and urgent examination of the situation in the east of the country⁸ she stated that since her last visit in July 2007 the situation of violence against women in the country remains rampant as does the lack of care and the conditions of extreme poverty for survivors of violence.

At the end of her presentation Ms Ertürk pointed to the recent developments regarding initiatives tackling violence against women. She touched upon the Secretary General's UNITE campaign and the treaty of the Council of Europe on violence against women, which will be, when adopted, the only binding instrument addressing this issue. She added that the need for the creation of a post at the Under-Secretary General level to oversee initiatives for gender equity has gained greater urgency as the fragmented initiatives need to be consolidated and coordinated.

Responses by countries concerned

Moldova responded to the Special Rapporteur that the report should have reflected the situation on the ground in a more balanced manner and that the sources regarding statistics should be disclosed. Moldova pledged to include the recommendations of the Special Rapporteur in national policy.

Saudi Arabia acknowledged the high quality of the report and accepted a number of issues addressed. However it disagreed on some findings. According to Saudi Arabia the report does not reflect truly the situation on the ground. For example, rape and sexual violence is criminalised and there is no impunity for perpetrators, and offenders can even face the death penalty. Also forced labour and sexual exploitation are punishable offences. In contrast to what is stated in the report Saudi Arabia has chosen a moderate interpretation of Sharia law and court decisions are based on balancing laws and jurisprudence. Saudi Arabia reaffirmed that it will cooperate with the Council's mechanisms in the future.

Tajikistan argued that domestic law ensures equality of women and prioritises women's rights. Tajikistan appreciated all recommendations made by the Special Rapporteur and affirmed its strong commitment to further empower women. It admitted that challenges remain as a result of the transition to market economy.

Interactive Dialogue

The majority of States thanked the Special Rapporteur for her work and the comprehensive report. They supported the call for a holistic approach, taking social and economic rights into account when analysing causes and formulating policies to address violence against women. Moreover, they agreed that the thematic report is timely and relevant in the context of the **economic and financial crisis**.⁹ Indonesia and Iceland pointed out that the current crisis is also an opportunity for restructuring existing systems and to empower women in the work force. In most interventions States elaborated on their policies to address violence against women. Cuba and the Republic of Korea underscored the finding of the report that **neo-liberal policies** affect social security services and increase the

⁸ A/HRC/10/59

⁹ Czech Republic (on behalf of the EU), Iceland, Thailand, Japan, Russian Federation, Algeria, Holy See

vulnerability of women to violence. Generally, States asked very diverse questions covering a range of areas. These included questions on the link between adequate housing and the prevention of violence against women,¹⁰ how violence against Dalit women can be addressed,¹¹ how the disparity between political and social rights and economic and social rights could be breached,¹² how the representation of women in public offices could be increased,¹³ how a gender sensitive knowledge base could be mainstreamed into policies,¹⁴ how Security Council *Resolution 1325* could be better implemented to ensure that women in post conflict situations are empowered,¹⁵ and key challenges to prosecute perpetrators of violence against women.¹⁶

Several States were interested in the role the Council should play to tackle violence against women.¹⁷ Canada was particularly interested in whether the Special Rapporteur could identify key trends regarding her work that should be addressed by the Council.

In general States agreed with the findings of the report and its recommendations; however some criticism was expressed regarding the 15 years review of the mandate. Pakistan (on behalf of the OIC), Egypt, Algeria and the Holy See expressed concerns. In their view the Special Rapporteur went beyond her mandate by addressing same sex relations, safe abortions and extending the definition of family.

In a joint statement several NGOs¹⁸ drew attention to a case regarding violence and torture committed against several women by the police and armed forces in Mexico. Mexico was criticised for not having prosecuted the crimes of the San Salvador case, which happened three years ago. The NGOs suggested in line with recommendations made by CEDAW and CAT a joint mission by the Special Rapporteur on violence against women with the Special Rapporteur on torture to Mexico. Mexico suggested in its right to reply to continue further dialogue with the civil society on this specific issue.

The Republic of Korea extended its invitation to the Special Rapporteur to visit the country.

Responses and concluding remarks by Special Rapporteur

In response to the question about what the Council can do to better address violence against women, the Special Rapporteur made four specific recommendations: Ms Ertürk argued that one main obstacle for her work is the lack of reliable and comparable data and indicators. In many countries a database on violence against women does not exist or the existing data is not sufficient. This leads to fragmented information and often to a genuine concern by States that the report of the Special Procedure does not reflect the situation on the ground. Therefore the Council should launch an **initiative on indicators and systematic data collection** on violence against women. Data is not only important to make correct assessments, but also for effective monitoring. Furthermore the Council should request OHCHR to follow up on the work of the statistical commission on indicators on violence against women, which was mandated by the General Assembly. The Council should ensure that a human rights approach is reflected in the work on developing indicators and could request a report from OHCHR on this topic. Moreover, the Council should adopt some basic guidelines on the issue of indicators to assist national governments in the development of databases.

¹⁰ Australia

¹¹ Slovenia, Denmark

¹² Finland

¹³ Maldives, Brazil

¹⁴ Austria

¹⁵ Iceland, Finland

¹⁶ Canada

¹⁷ Czech Republic (on behalf of the EU), Canada, New Zealand, USA,

¹⁸ Centro de Derechos Humanos Miguel Agustín Pro Juárez, World Organisation against Torture, Asian Pacific Forum on Women, Law and Development

Secondly, Ms Ertürk recommended that the Council should focus on **specific groups** when discussing women's rights such as the situation of Dalit women, disabled, elderly, adolescent women, and other groups, which face multiple forms of discrimination.

Thirdly, the Council should **convene a meeting in conjunction with Beijing Plus 5**¹⁹ on States' due diligence obligations. By convening the meeting it should be assessed which challenges States face with regards to the protection, prosecution, prevention and compensation of violence against women. This meeting would provide an opportunity to identify and share good practices.

Lastly, Ms Ertürk underscored the importance of the mandate as a crucial tool to address violence against women and urged the Council to strengthen the mandate. One shortcoming of the mandate, she identified, is the lack of **follow up** mechanisms. According to Ms Ertürk innovative ways for follow up need to be found. She suggested that the work on violence against women could benefit from linking it to existing funding resources. For example UNIFEM's trust fund should be tapped for the implementation of the Special Rapporteur's recommendations at the national level.

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.

¹⁹ Five year review of the implementation of the Beijing Declaration and Programme of Action

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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 Daily 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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