

COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

HUMAN RIGHTS COUNCIL, 2ND SESSION DAILY UPDATE, 18 SEPTEMBER 2006

Overview.....	1
Adoption of the agenda and organisation of work.....	1
Update by the High Commissioner for Human Rights	2
Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance	3
Special Rapporteur on Migrants.....	5
Working Group on people of African Descent	6
Other Practical and Procedural Issues	6

Overview

The morning session of the first day opened with the United Nations High Commissioner for Human Rights delivering a statement from the Secretary General, followed by her own update. During the afternoon session, three Special Procedures mandate holders addressed the plenary:

- Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance;
- Chairperson of the Working Group of Experts on People of African Descent;
- Special Rapporteur on the human rights of Migrants.

All the presentations were followed by an interactive dialogue with participation from States and NGOs. Informal meetings held during the lunch break included a general briefing on the Working Group on Enforced or Involuntary Disappearances, organized by the OHCHR, and two NGO events¹.

Adoption of the agenda and organisation of work

Mrs Louise Arbour, the High Commissioner on Human Rights, delivered a message from the UN Secretary General. The Secretary General's message expressed his desire to see the Council mark a new beginning,

¹ The first was "Hezbollah vs. human rights: redressing the balance", organised by the International Humanist and Ethical Union (co-sponsored by Simon Wiesenthal Center, Inc., and the Association for World Education); the second was "Exploring multicultural pedagogical approach to combating every day racism", organised by the Association of World Citizens (co-sponsored by Interfaith International and the Worldwide Organization for Women).

following the principles of objectivity, non-selectivity, and the elimination of double standards. He also expressed particular concern about the ongoing situation in Darfur, and called on the Council not to disappoint the people of the world. The Secretary General's statement concluded by urging the State delegations to use General Assembly *Resolution 60/251*² in its deliberations.

The President, Ambassador Louis Alfonso de Alba, Mexico's Permanent Representative to International Organisations in Geneva, in his brief address to the Council³ spoke of the need to not prejudice any of the processes underway in inter-sessional working groups, and for the Council to tackle issues requiring urgent attention and organisational decisions. This approach was later supported by a several delegations in their statements. There were no proposed changes to the agenda although the President asked for further discussion on the time allocated for speakers, which he hopes can be finalised by Tuesday morning (19 September 2006). However, the Council did not discuss this topic.

Update by the High Commissioner for Human Rights

Ms. Arbour⁴ applauded the progress made recently on protecting the rights for persons with disabilities through the upcoming adoption of the *Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities*⁵. She also noted important moves towards resolving the conflict in Nepal. However, Ms. Arbour brought attention to other areas of human rights concern that still need to be addressed, in particular the case of migrants' rights, and the ongoing conflicts in Darfur, Iraq, and Sri Lanka. She stressed the need for 'unflinching accountability' for Darfur and also made strong statements in relation to Iraq and Sri Lanka. She called on States to ratify the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*⁶ and for efforts to be deployed to support the work of the International Criminal Court.

She emphasised the need for universality of coverage, and equal treatment of all UN member States in the future Universal Periodic Review (UPR) function of the Council.⁷ She addressed the need for expanding the Council's work to include aspects of prior protection and preventative measures, highlighting the need to address both long-standing human rights situations and responding to situations of crisis as they arise.

Interactive Dialogue with the High Commissioner for Human Rights

Pakistan (on behalf of the Organization of Islamic Conference) began by expressing its desire to see the Council work as a collegial body and to avoid the problems of the former Commission on Human Rights. They expressed doubts about the President's proposal (made during the informal consultations) for omnibus texts regarding the Special Procedures because of possible difficulties in ensuring operational follow-up. They noted that some resolutions adopted by the Council are not being implemented and that some resolutions were not balanced. It explained that although they did not wish to see resolutions at this session, they would consider tabling resolutions on two pressing issues during the session, Palestine and occupied

² This resolution created the Human Rights Council.

³ The oral statements made at the Council can be found at www.ohchr.org/english/bodies/hrcouncil/form.htm.

⁴ Ms. Louise Arbour's opening statement is available at www.unhcr.ch/hurricane/hurricane.nsf/view01/6EED022A02137211C12571ED0034C48A?opendocument.

⁵ For ISHR's report on the negotiations, see www.ishr.ch/About%20UN/Reports%20and%20Analysis/GA/GAPWD-Contents.htm.

⁶ Philippines also called for more member states to join it in ratifying this convention.

⁷ This point was supported by a number of States in their participation in the interactive dialogue: including Pakistan (on behalf of the OIC), Democratic Republic of Korea, and the Philippines.

Arab territories and defamation of religions⁸. Pakistan also mentioned the current controversy over comments made by Pope Benedict XVI, and the hurt that this had caused to Muslims around the world. The Holy See made a statement explaining the Pope's comments trying to place them in context.

Finland (on behalf of the EU, Bulgaria, and Romania), noted the positive outcome of discussions of the Ad Hoc Committee on the draft Convention on the Rights of Persons with Disabilities. They also raised the issue of non-discrimination on the grounds of sexual orientation highlighted by the reports of the Special Procedures and Treaty Bodies. They praised the High Commissioner's efforts to strengthen implementation of human rights through country engagement, referring in particular to the OHCHR office in Colombia (underlining the importance of extending this mandate), the MOU with Uganda, the OHCHR office in Afghanistan, and the UN Independent Commission of Inquiry in Timor Leste. They called on the OHCHR to be involved in the international commission in Sri Lanka. Finally, they spoke of accountability *vis-à-vis* Darfur, reminding the Council of the genocide in Rwanda and called on delegations to learn from past failures.

A number of delegations spoke about particular country situations. Switzerland and the Democratic Republic of Korea raised the issue of Nepal and concerns linked to the end of the OHCHR's mandate in April 2007. The United States focused on the urgent action needed on the situations in Darfur and Sri Lanka. Bangladesh and the Occupied Palestinian Territories (the OPT) spoke of the need to address the situation in the OPT and Lebanon. The representative from Bangladesh added that it was the duty of the council to 'assist rather than finger point'. The representatives of Sudan, Sri Lanka, and Iraq all took the floor to briefly explain the difficulties involved in protecting human rights in their countries and called for financial and/or technical help from OHCHR. Indonesia spoke of the important role of NGOs and National Human Rights Institutions (NHRIs) and Canada emphasised the need for the Council to take greater account of the capacities and responsibilities NHRIs in the protection of human rights.

A number of NGOs also made interventions. Pax Romana and Forum Asia suggested the creation of an independent monitoring body in Sri Lanka. Amnesty International highlighted the situation in Darfur and also asked the High Commissioner to bring the situation in Eastern Chad to the attention of the Council. ISHR stressed the importance of taking a country specific approach and asked the High Commissioner for advice on how to transform rhetorical statements into real implementation and improvement on the ground.

The High Commissioner reminded delegates that there would be further opportunities to discuss many of these issues, particular on 28 and 29 September. She stated that was a need to support her office's work in monitoring the situations in Sri Lanka, Darfur, Nepal and Colombia by strengthening of field presences and increasing capacity. She called for a Commission of Inquiry on Sri Lanka, and expressed her hope that the OHCHR presence in Nepal will continue beyond Spring 2007. She was adamant that the situation in Darfur would only improve through the deployment of UN peace-keepers. Finally, she highlighted the need for a contingency fund to support the work done by OHCHR's rapid response unit.

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Mr. Doudou Diene, the Special Rapporteur, stressed that his annual report⁹ had to be read in connection with the report on the situation of Muslim and Arab peoples in various parts of the world.¹⁰ He also presented the

⁸ The issue of defamation of religion was further supported by The Holy See and Azerbaijan.

⁹ E/CN.4/2006/16, 18 January 2006. The reports are available at www.ohchr.org/english/bodies/chr/sessions/62/listdocs.htm. ISHR has produced unofficial summaries of these reports that are available at www.ishr.ch/hrm/council/SPs/specialprocedures.htm.

¹⁰ E/CN.4/2006/17, 13 February 2006.

reports on his missions to Japan¹¹, Brazil,¹² and Switzerland¹³ as well as a short oral update on his mission to the Russian Federation in which he focused on overtly racist murders.

In his presentation, Mr. Diene gave a comprehensive summary of his previous reports. He placed particular emphasis on the political expressions of racism in otherwise democratic systems but also stressed its roots in a given social, cultural and historical context. He insisted on the need for a dual strategy for combating racism; political and legal measures can only partly answer the problem and they need to be complemented by efforts to address the social, cultural and historic roots of racism.

Interactive dialogue

All four countries that the Special Rapporteur had carried out missions to were generally positive in their comments and responses. Japan however wished to emphasise that they had a legal framework in place to prevent racism. Japan also stated that discrimination against the people of Okinawa that the Special Rapporteur had linked to the presence of military base in Okinawa has nothing to do with racism but was a matter of security. They challenged the historical focus of Mr. Diene's report, stating that it 'exceeds the mandate' of the Special Rapporteur because Japan understands the mandate to include only contemporary forms of racism and xenophobia.¹⁴ The Special Rapporteur in his answer, while accepting the Japanese position, stressed again the importance of historical education, proposing that a 'common regional history' to be worked out. Brazil also recognized the value of the report, but thought that its own efforts, particularly the establishment of the Special Secretariat for the Promotion of Racial Equality, as well as their regional commitment, deserved more credit. Switzerland drew renewed attention to the Swiss government's apology concerning the UDC's statement, which was accepted by the Special Rapporteur. They also stressed the deeply federal nature of the Swiss political system. Russia declared its readiness for an open dialogue and its intention to further analyse Mr. Diene's report.

Many delegations welcomed the report on the situation of Muslim and Arab peoples and expressed their concern at the rise of racism. Pakistan, Jordan and Azerbaijan expressed particular concern about Islamophobic tendencies. Pakistan wishes to see the Council work more effectively to protect freedom of religion.¹⁵

Picking up Mr. Diene's point on 'double discrimination', Finland¹⁶ highlighted the case of discrimination based on sexual orientation and gender identity and asked the Special Rapporteur on what concrete measures could be adopted to counter this kind of discrimination.

A recurring theme was the role of intellectuals and educational institutions in combating racism.¹⁷ The issue of international cooperation was also raised briefly.¹⁸ Armenia called the effectiveness of the Special Rapporteur's mandate into question, complaining that racism was still on the rise after the 12th year of the mandate.

A number of NGOs intervened during the session, among others Amnesty International stressed the importance of follow-up mechanisms to the country visits.

¹¹ E/CN.4/2006/16/Add.2, 24 January 2006.

¹² E/CN.4/2006/16/Add.3, 28 February 2006.

¹³ E/CN.4/2006/16/Add.4, 3 February 2006.

¹⁴ See also the written statement submitted by Japan.

¹⁵ Making reference to Arts. 18-20 of the *International Covenant on Civil and Political Rights*.

¹⁶ Speaking on behalf of the EU and acceding countries Bulgaria and Romania.

¹⁷ This was raised by Finland, China and Argentina.

¹⁸ Mentioned by Uruguay. Norway asked for a compilation of 'lessons learned' and 'best practices' to be worked out.

Special Rapporteur on Human Rights of Migrants

The Human Rights Council (the Council) had before it three reports of the Special Rapporteur on the human rights of migrants, Mr. Jorge A. Bustamante.¹⁹ The reports were the annual report of the Special Rapporteur,²⁰ a report on the communications sent to governments²¹ and the report of the former Special Rapporteur on her country visit to Burkina Faso²².

In his presentation to the Council, the Special Rapporteur highlighted that no important country of destination has ratified the *International Convention for the Protection of Human Rights of all Migrant Workers and their Family Members*. He stated that this reflected the political will in some countries of destination, not unrelated to the rise of anti-immigrant ideologies and xenophobia in many of these countries. He discussed his proposal to create a new United Nations standard requesting States to produce statistical data on the areas of national economy where the domestic demands for the undocumented immigrant labour force are located. The production of such data could help to combat the rise of xenophobia and make it more difficult for anti-immigrant groups to insist on the undesirability of the presence of undocumented migrants in their country. Another important issue raised by the Mr. Bustamante was the mass displacement of persons in boats and deaths of migrants at sea. The Special Rapporteur drew states attention to the recently adopted amendments to the maritime conventions providing an obligation for states to cooperate in rescue situations, corresponding to the obligation of vessels to rescue persons at risk at sea. Special concern was expressed about incidents in the Mediterranean region. He also raised concerns about practices of ‘subcontracting’ of undocumented migrants, which further increase the vulnerability of migrant workers.

Interactive dialogue

Relating to the issue of immigrants rescued at sea, Finland²³ and Spain posed a number of questions to the Special Rapporteur. Amongst other things, Spain enquired about good practices known by the Special Rapporteur on how to deal with boats carrying undocumented immigrants in a balanced way. Finland was interested to know if the Special Rapporteur had any plans to extend the scope of his analysis to the roots of mass migration. Mexico enquired about plans to encourage countries to implement the *International Convention for the Protection of Human Rights of all Migrant Workers and their Family Members* and called for countries to ratify the convention.

The delegation of Burkina Faso noted its satisfaction with the Special Rapporteur’s report and said that it would work to implement his recommendations. The delegation also appealed for support from the international community to development programmes to help deal with problems relating to immigration.

Mr. Bustamante replied that one way of facilitating ratification would be through statistics demystifying the concept of migration in destination countries. He concluded the dialogue by reiterating again that the main problem faced in relation to migration is the fact that no destination countries have ratified the Convention.

¹⁹ The reports are available at www.ohchr.org/english/bodies/chr/sessions/62/listdocs.htm. ISHR has produced unofficial summaries of these reports that are available at www.ishr.ch/hrm/council/SPs/specialprocedures.htm.

²⁰ E/CN.4/2006/73, 30 December 2005.

²¹ E/CN.4/2006/73/Add.2, 27 March 2006.

²² E/CN.4/2006/73/Add.1, 5 January 2006.

²³ Speaking on behalf of the European Union, Bulgaria and Romania.

Working Group on people of African Descent

The Council had before it two reports of the Working Group of experts on people of African Descent, represented by the chairperson, Mr. Peter Kasanda. The reports are the annual report of the Working Group²⁴ and a report on the Working Group's mission to Belgium.²⁵

Mr. Kasanda noted in his presentation that persons of African descent find themselves in a situation of poverty and disempowerment in most parts of the world. Mr. Kasanda highlighted a number of key issues including implementation of the millennium development goals, double discrimination against girls and women of African descent and the role of politicians and political parties in shaping public opinion. There is a need to empower girls and women through various means such as integrating a gender perspective into development programmes, providing access to quality education and more generally empowering women to assert their rights. Mr. Kasanda also commented on the mission to Belgium stating that it can be looked to when establishing good practices. However, he also expressed concern on the lack of disaggregated data, de facto ethnic segregation in schools and the non-recognition of diplomas obtained in foreign countries. Mr. Kasanda concluded by stating that the Working Group would like to develop guidelines on good practices for States and continue to undertake two country visits per year.

Interactive dialogue

Belgium thanked the Working Group for a very productive visit, noted that the recommendations had been transferred to the relevant bodies, and initiatives had been taken to address the recommendations including the adoption of a complete set of methods to combat racism. Finland²⁶ highlighted the need for affirmative action programs in relation to the multiple forms of discrimination faced by women of African descent and enquired about good practices. Pakistan asked what could be done by political parties to promote integration of persons of African descent.

Mr. Kasanda replied that States, through affirmative action measures, can ensure bigger participation in the public life by persons of African descent. For instance, political parties could make place for such persons and thereby ensure equal representation. In relation to affirmative action directed towards women, measures should be taken to ensure effective access to education and financial autonomy for this group.

Other Practical and Procedural Issues

The format of grouping together the interactive dialogue for the three Special Rapporteurs' allowed states to devote their time to the special procedure most relevant to them, however there was limited time at the end of the session for the Special Rapporteur's to respond to questions and comments from delegates. During the interactive dialogue with the Special Rapporteurs, some NGOs on the speakers list were not present in the room when called on by the Chair to make their statements. With the new format for the interactive dialogues, it will be important for NGOs who have expressed a wish to participate to be present in the room at all times in case they are called upon unexpectedly.

This session of the Council is being held in Room 18, where there is less seating available than in the usual Room 17 (especially for NGOs). There are also limited rooms available for parallel events, which may lead to the cancellation or shortening of some proposed lunchtime meetings.

²⁴ E/CN.4/2006/19, 6 December 2005.

²⁵ E/CN.4/2006/19/Add.1, 9 February 2006.

²⁶ Speaking on behalf of the EU, Bulgaria and Romania.

COUNCIL MONITOR STAFF

Meghna Abraham, Program Manager, Information Program

Claire Mahon, Human Rights Officer, Information Program

Eléonore Dziurzynski, Communications Officer, Information Program

Contributors

Jay Bahadur, Intern

Maxence Delchambre, Intern

Valeria Fruzzetti, Intern

Jessica Griffiths, Intern

Michael Ineichen, Intern

Asger Kjaerum, Intern

Gergey Pasztor, Intern

Chris Sidoti, Director

Katrine Thomasen, Human Rights Officer, Liaison, Coordination and Advocacy Program

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 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/hrm/council

SUBSCRIPTION

If you wish to receive the Council Monitor Daily Updates by e-mail during the Council session, please e-mail information@ishr-sidh.ch with 'subscribe' in the subject line. Your e-mail address and personal information will not be shared or sold to any third parties. We may from time to time send you a notification about other publications in the Human Rights Monitor Series that you may be interested in downloading or subscribing to.

COPYRIGHT AND DISTRIBUTION

Copyright © 2006 International Service for Human Rights

Material from this publication may be reproduced for training, teaching or other non-commercial purposes as long as ISHR is fully acknowledged. You can also distribute this publication and link to it from your website as long as ISHR is fully acknowledged as the source. No part of this publication may be reproduced for any commercial purpose without the prior express permission of the copyright holders.