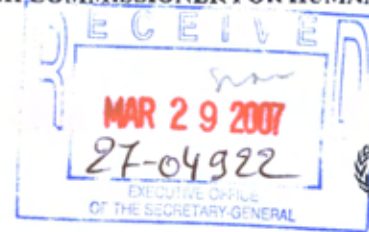


NATIONS UNIES
HAUT COMMISSARIAT AUX DROITS DE L'HOMME



UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

MEMORANDUM



ATO: Mr. Vijay Nambiar
Chief of staff

REF: Memo

DE/FROM: Ms. Kyung-wha Kang *KS*
Deputy High Commissioner for Human Rights

DATE: 29 March 2007

OBJET: Human Rights Council – Fourth session 12-30 March 2007- Summary of the second
SUBJECT: week (19-23 March 2007)

Please find attached, the summary of the second week of the Fourth session of the Human Rights Council, for further distribution, as appropriate.

Thank you.

HUMAN RIGHTS COUNCIL
Fourth session 12-30 March 2007
Summary of the second week
19-23 March 2007

Last week, the Council:

- considered situation in countries being examined under the 1503 mechanism;
- held a special event on violence against children;
- held an interactive dialogue after presentation of some thematic reports and a related debate;
- held a meeting on the follow-up of its decisions (OPT and Beit Hanoun);
- held an interactive dialogue after presentation of some reports concerning the human rights situation in some countries;
- adopted a decision and a resolution;
- organized informal meetings on its institution building.

1503 mechanism

On Monday 19 March (morning), the Council held a closed meeting on the situation of human rights in countries being examined under the 1503 mechanism.

Special event on violence against children

This event is the first panel organized by the Council in the framework of using new platforms on themes related to the promotion and protection of human rights. This thematic debate on violence against children was held on Monday 19 March (afternoon) and based on the study of Mr. Paulo Sérgio Pinheiro, independent expert for the UN study on violence against children submitted to the General Assembly (A/61/299).

During the debate, Ms. Kyung-wha Kang, Deputy High Commissioner, underlined that the follow-up of recommendations of the study was fundamental. Ms. Khattab, Member of the Committee on the Rights of the Child, stressed that States should lay down legal framework to penalize violence against children. Mr. Pinheiro emphasized that the implementation of the study's recommendations depended upon States, UN organs and civil society organizations, and affirmed the necessity to ensure a wide dissemination of the study's conclusions and recommendations. In this context, Mr. Bacre Ndiaye, Director of the Human Rights Procedures Division of OHCHR, affirmed that OHCHR would continue to support Mr. Pinheiro's recommendations by integrating them in its activities both in Geneva and in the field and that these recommendations should also be incorporated in other UN mechanisms, such as treaty bodies or special procedures mechanism. The Panellists also comprised representatives from UNICEF, WHO, ILO and Advisory Group on violence against children. A movie produced by "Save the Children" was also shown.

The special event was well received by delegations as a new platform of dialogue and interaction, and an opportunity to renew commitment to the recommendations of the study.

Interactive dialogue after presentation of some thematic reports and related debate

The Council held an interactive dialogue with special procedures by considering reports presented by some mandate-holders.

Ms. McDougall, independent expert on minority issues, stressed the necessity to include minorities in measures to fight poverty. She reported on the impact of her missions in Hungary and Ethiopia. The report on Hungary underlined the particular situation faced by Roma communities, victims of discrimination and living in poverty. In Ethiopia, ethnic conflicts were undermining the regional stability.

Mr. Bustamante, Special Rapporteur on the human rights of migrants, drew the attention of delegations to the Global Forum on Migration and Development to be held in July in Brussels. He also reported on his mission to the Republic of Korea, noting the important work accomplished by Korean civil society organizations regarding human rights of the migrants. He finally reported on his mission in Indonesia, where domestic workers' situation was very precarious.

Mr. Stavenhagen, Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, pointed out the existing gaps in national and international levels between the adoption of new norms, the creation of new institutions and their implementation. His mission to Ecuador enabled to highlight the conflict of jurisdiction between the traditional legal system of indigenous peoples and national tribunals. In Kenya, the situation of pastoralist communities was a matter of concern. He finally called for the adoption by the GA of the Declaration on the Rights of Indigenous Peoples.

Mr. Kälin, Representative of the Secretary-General on internally displaced persons, emphasized three essential elements for the protection of IDPs namely legal framework, political will, and protection capacity. He insisted on the necessity to act upon real causes of displacement and was concerned about current conflicts including situation in Central African Republic, Iraq and Sri Lanka. He reported on his missions to Côte d'Ivoire, Colombia, Georgia, Turkey and Uganda, and summarized his previous missions to Nepal, Montenegro and Kosovo (Serbia).

Ms. Ertürk, Special Rapporteur on violence against women, its causes and consequences, reported on her mission to Turkey, the Netherlands and Sweden. She pointed out that culture should not be used to justify or explain violence against women.

Mr. Petit, Special Rapporteur on the sale of children, child prostitution and child pornography focused on the issue of illegal trafficking of children's organs, recalling the existence of "transplant tourism". He also mentioned disappearances of children and reported on his mission to Ukraine.

Mr. Del Prado, Chairman of the Working Group on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination, called for the organization of a conference at high level to debate on the fundamental question

regarding States' monopoly of the use of force. He also mentioned the use of mercenaries by many Latin American States recently visited by the Working Group.

Mr. Villalobos, Special Rapporteur on the right to education, highlighted the concept of inclusive education which recognized that every child has specific characteristics, interests, abilities and learning needs. He also identified some impediments to the realization of the right to education, including negative prejudgement against persons with disabilities, few attention devoted to the needs of women with disabilities and the lack of training of teachers on disability issues.

Mr. Mudho, independent expert on the effects of economic reform policies and foreign debt on the full enjoyment of human rights, particularly economic, social and cultural rights, underlined the shared responsibility of creditors and borrowers with regard to poor countries' current and future debt burden. He also advocated that a debt could be considered as unsustainable if the concern State cannot afford a certain ratio of debt payments while striving to meet MDGs.

Mr. Corcuera, Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, indicated that the Working Group was gravely concerned about increasing reports of disappearance of human rights defenders. He underlined the difficult task of recording cases of disappearances due to lack of appropriate means but also to impunity practiced in many countries. Mr. Corcuera also reported on the visits to Guatemala, Honduras, and El Salvador. He welcomed the adoption of the International Convention for the Protection of All Persons from Enforced Disappearances.

More generally, concerned States welcomed the reports related to visits undertaken by mandate-holders in their countries. Nonetheless, some opposite reactions were noted. For example, Ukraine declared that Mr. Petit used "doubtful methodology" and made emotive declarations. Serbia criticized Mr. Kälin for his reference to the possible impact on IDPs of the separation of Kosovo from Serbia arguing that Mr. Kälin was prejudging on political negotiations. Kenya rejected most of the points of Mr. Stavenhagen's report. While welcoming Mr. Bustamante's report, the Republic of Korea deplored that some information on the report was not well balanced.

The Council held a related debate on the aforementioned reports of special procedures.

Follow-up to some decisions (OPT and Beit Hanoun)

The Council considered reports presented by Mr. John Dugard, Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 and Ms. Christine Chinkin, member of the High-Level Fact-Finding Mission to Beit Hanoun, in the context of the follow-up of decisions adopted during special sessions on these issues.

Resolution S-1/1

Mr. Dugard reported that he was not able to fulfil the mandate of undertaking a fact-finding mission pursuant to Council resolution S-1/1 of 6 July 2006 due to the non-cooperation of Israel; this mission was decided in order to investigate alleged human

rights violations after the 'Operation Summer Rains' by the Israeli Defence Forces in Gaza.

Mr Dugard then presented his annual report on the situation of human rights in the Palestinian territories occupied since 1967. He mentioned that economic sanctions have had a major impact on populations in Gaza; that the West Bank has also experienced serious human rights violations resulting from the construction of the Wall, frequent military incursions, house demolitions and checkpoints. He recalled the humanitarian crisis in the OPT resulting from the withholding of funds owed to the Palestinian Authority by the Government of Israel and from the economic isolation of the territory decided by the Quartet in response to the election of the Hamas Government. He affirmed that Israel was clearly in military occupation of the OPT and that some elements of the occupation constituted forms of colonialism and of *apartheid*, which are contrary to international law. He concluded by declaring that the West cannot expect developing countries to address situations like Darfur, Zimbabwe, and Myanmar if it does not show a commitment to addressing the human rights situation in the OPT.

During the interactive dialogue, the representative of Israel affirmed that the Council had other priorities than this very politicized and selective mandate. He also affirmed that the report was one-sided, biased and asked the Council to review objectively and impartially this mandate.

The Palestinian representative welcomed the work accomplished by the Special Rapporteur and stressed that Palestine was considering seeking an advisory opinion of the ICJ regarding Israel occupation. The representative also expressed the wish that the Council would work for the implementation of resolution S-1/1.

Most of delegations who spoke welcomed the report condemning Israel non-cooperation with the HRC mechanisms and asked Israel to end violations of human rights and fundamental freedoms of the Palestinian people. They emphasized the need for the Council to act firmly to implement its decisions. It was also argued that the situation in Palestine was an opportunity for Western countries to show that their commitment to the protection of human rights worldwide was sincere.

Resolution S-3/1

Ms. Christine Chinkin reminded that the mandate of the high-level fact-finding mission to Beit Hanoun was to assess the situation of the victims, address the needs of survivors, and make recommendations on how to protect Palestinian civilians against any further Israeli assaults. The mission directed by Archbishop Desmond Tutu could not be undertaken as Israel did not grant visas to the delegation, therefore it could not fulfil its mandate nor make any recommendation. Nevertheless, Ms. Chinkin mentioned that several human rights violations' allegations were brought to their attention pertaining to life, health, food, housing, etc. She expressed the view that it was still important to carry on the mission.

The Israeli delegate stated that his country was subjected to an unbalanced interest without precedent. He underlined the lack of coordination between the Council and the General Assembly and indicated that Israel accepts visits which have a minimum

degree of neutrality and impartiality. Difficulties occurred when these visits are politicized. He noted that since the creation of the Council, Israel was the only State condemned and in many instances.

The Palestinian delegate welcomed Ms. Chinkin's report and stressed that the lack of cooperation of Israel was predictable as it would never accept that the war crimes committed in Beit Hanoun be made public. He also stated that the absence of reaction from the UN to Israeli non-cooperation undermines the credibility of the UN as to the protection of human rights.

Many delegations thanked Ms. Chinkin for her statement, noted the difficulties faced by the mission and regretted the lack of cooperation of Israel. Several delegations agreed that Beit Hanoun's events constituted grave violations of human rights and humanitarian laws. It was argued that the lack of cooperation of a State should not prevent the Council to implement its decisions and follow-up on them.

Interactive dialogue after presentation of some reports concerning the human rights situation in some countries and related debate

The Council considered reports concerning the human rights situation in some countries.

Mr. Muntarbhorn, Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea (DPRK), pointed out that the situation of human rights in the DPRK still remained a matter of concern and regretted the DPRK's persistent non-cooperation with his mandate. He underlined that the country has been suffering from a severe food shortage caused by both natural disasters and mismanagement on the part of the authorities. He affirmed that progress made in the legal field has had a positive impact on security of persons; on the contrary fundamental freedoms were under constraints due to the repressive nature of the State.

The delegate of the DPRK rejected the report by indicating that his country did not recognized neither the resolution nor the mandate of the Special Rapporteur, both politicized and biased.

Mr. Pinheiro, Special Rapporteur on the situation of human rights in Myanmar, stressed that the situation of human rights in Myanmar necessitated the continuous attention of the Council. He regretted that 2006 was marked by the arrest of 79 political militants. He also expressed his concern about the prevailing impunity and about military campaigns in ethnic areas of eastern Myanmar and their human rights consequences.

The delegate of Myanmar underlined the progress realized by his country in stabilizing the situation and the efforts made by his Government in drafting a Constitution, granting amnesty to political prisoners and cooperating with UN mechanisms on human rights, including ILO, special procedures, treaty bodies, etc. He reaffirmed the commitment of his country to human rights protection and called for non-selectivity and impartiality.

Mr. Akich Okola, independent expert appointed by the Secretary-General on the situation of human rights in Burundi, stated that despite the cease-fire, human rights violations were still occurring in some areas under rebels' control. He mentioned that food security was still an issue of great concern and informed on the progress made regarding free primary education and medical care for children under 5 years, as well as for pregnant women in Burundi. He also emphasized the necessity to reform the legal system to avoid interference of the Government and corruption.

The delegate of Burundi welcomed the report of the independent expert by indicating that it reflected globally the reality and reaffirmed the willingness of her country to cooperate with the mandate-holder. She finally mentioned the progress made by her Government in the promotion and protection of human rights and affirmed that authors of violations of human rights will be brought to justice.

Ms. Charlotte Abaka, independent expert on technical cooperation and advisory services in Liberia, mentioned the progress achieved by Liberia to promote and protect human rights and to reinforce its institutions. She insisted *inter alia* on the necessity for Liberia to reinforce its legal framework for the protection of women and girls. She commended the decision of some States to cancel the debt of Liberia and underlined the political will of this country to go forward.

In the context of related debate, many States and NGOs reaffirmed their concern regarding human rights situation in some countries, including DPRK and Myanmar. The non-cooperation of these States was condemned and many delegations reiterated the importance of geographic mandates and hence the necessity to preserve them, while other delegations pointed out the politicization and selectivity which characterized this category of mandates.

Adoption of decisions and resolutions

The Council adopted by consensus a decision (A/HRC/4/L.36) on transitional justice. By this decision, the Council commended OHCHR for its efforts in developing the issue of transitional justice and human rights, and encouraged OHCHR to continue strengthening its important analytical and practical work regarding this issue.

The Council also adopted by consensus a resolution (A/HRC/4/L.9) related to the realization in all countries of economic, social and cultural rights.

Informal meetings on institution building

The Council organized informal meetings chaired by Facilitators of Working Groups in charge of institution building. These meetings were means to carry on with dialogue and interactions related to non-papers presented by Facilitators in connection with the six processes, namely Universal periodic review; Expert advice; Complaints procedure; Agenda and annual programme of work; Methods of works and rules of procedures; Review of mandates.