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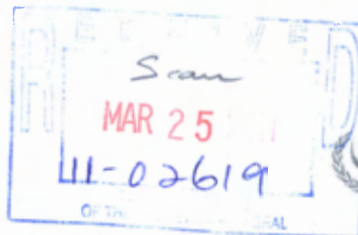
NATIONS UNIES
HAUT COMMISSARIAT AUX DROITS DE L'HOMME



UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

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MEMORANDUM



TO: Mr. Vijay K. Nambiar
Chef de Cabinet

REF: GO

DE/FROM: Navanethem Pillay
High Commissioner for Human Rights

DATE: 24 March 2011

OBJET: Sixteenth session of the Human Rights Council (28 February – 25 March 2011) ✓
SUBJECT:

Please find attached, for information, the highlights of the second week (7-11 March 2011) and the third week (14-18 March 2011) of the sixteenth session of the Human Rights Council.

Thank you.

Weekly Highlights
(2d week, 7 - 11 March 2011)

I. Interactive Dialogues with the Special Procedures

Dialogue with the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Mr. Martin Scheinin and the Special Rapporteur on Torture, Mr. Juan Mendez

Mr. Scheinin presented a compilation of ten best practices in countering terrorism while respecting human rights for which a number of delegations expressed appreciation and asked related questions. Tunisia - which was the subject of his mission report - and Egypt welcomed the work of the Rapporteur and demonstrated their commitments to take steps to comply with their human rights obligations following the recent events in their respective countries. Tunisia announced its invitation to all the mandate-holders of the special procedures. A number of speakers thanked the Special Rapporteur for his last report and work over the past six years.

Many speakers also welcomed Mr. Mendez's first report as the new mandate-holder, in particular, his victim-centered perspective that seeks an integrated long-term approach to redress and reparation, including compensation and rehabilitation. They also supported his intention to provide credible and human rights-friendly forensic and other scientific alternatives proven to achieve better results than the use of torture.

Dialogue with the Working Group on enforced or involuntary disappearances, the Working Group on arbitrary detention and the Special Rapporteur on the Human Rights of Internally Displaced Persons, Mr. Chaloka Beyani

Participants welcomed the reports presented by the WG on Arbitrary Detention. However, the WG's proposal on the application of international human rights law to the situations of armed conflict and the extension of its mandate to include the conditions of detention received mixed reactions.

Several speakers welcomed the General Comment on the right to the truth prepared by the WG on enforced or involuntary disappearances. Many speakers also expressed support to the work of the Working Group with several Latin American States highlighting the right to the truth as autonomous right. Among the four areas of concern highlighted by the Working Group on enforced or involuntary disappearances, it was recognized that the introduction of enforced disappearances as a continuous and autonomous crime, coupled with the right of victims to know the truth, would lead to a decrease in impunity.

With regard to the human rights of IDPs, many speakers noted with appreciation the intention of the new mandate-holder with regard to displacement provoked by climate

change, the mainstreaming of the human rights of IDPs, the promotion the Guiding Principles on Internal Displacement and a focus on follow-up and capacity building activities. Speakers also supported his priorities, including displacement in the context of natural disasters, the specific risks and problems faced by displaced women, as well as by internally displaced persons outside camps.

Dialogue with Special Rapporteur on the right to food, Mr. Olivier de Schutter and the Special Rapporteur on adequate housing, Ms. Raquel Rolnik

Mr. de Schutter highlighted the concept of agroecology describing it as a way to increase yields significantly and to end rural poverty. During the dialogue he agreed on the importance of capacity-building, technology transfer, South-South cooperation and the exchange of best practices. With regard to adequate housing, speakers agreed with the Special Rapporteur that housing had inherent social value of vital importance to social stability, poverty alleviation and development. The devastating impact of armed conflict and natural disasters particularly for the poor and socially disadvantaged was highlighted.

Dialogue with the SRSG on Violence Against Children, Ms. Marta Santos Pais and the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Najat Maalla M'jid

Presenting a joint report containing an overview of accessible and child-sensitive counseling, complaint and reporting mechanisms to address incidents of violence, including sexual violence and exploitation, Ms. Santos Pais and Ms. Maalla M'jid highlighted the need to establish legal safeguards to protect victims and effective and child-sensitive counseling mechanisms incorporated in national policies for the protection of children, which are accessible to all children and guarantee their privacy. During the dialogue, delegations agreed with the need to raise awareness of those mechanisms, empower children to protect themselves and the role of school in providing support mechanisms.

Dialogue with the Special Rapporteur on the Situation of Human Rights Defenders, Ms. Margaret Sekaggya, and the Special Rapporteur on freedom of religion or belief, Mr. Heiner Bielefeldt.

Ms. Sekaggya presented her report which focused on women human rights defenders and their particular vulnerabilities, including stigmatization and sexual violence. Delegations expressed concern about the use and threat of violence against human rights defenders worldwide and recognized their important role in the overall protection and promotion of human rights at the national, regional and international levels. With regard to the first report submitted by Mr. Bielefeldt as Special Rapporteur on freedom of religion or belief, delegations agreed with his conclusions that the school environment could play a crucial role in the elimination of negative stereotyping of persons based on their religion. Educational policies should aim to strengthen the promotion and protection of human rights, and eradicate preferences and conceptions incompatible with freedom of religion or belief.

Annual full day meeting on the rights of the child

This year's annual debate focused on children living and/or working on the streets, with two panels one of which included three children (two from Bangladesh and one from Benin). During the debate, participants highlighted their vulnerabilities, including violence, trafficking, child labour, sexual exploitation and HIV infection and underlined that this worldwide phenomenon should be tackled through comprehensive and human rights-based policies and programmes. There was no need to find a definition of this non-homogenous group, but rather the necessity to make children a part of the solution through a participative and gender sensitive approach. Poverty was identified as the main root causes of the phenomenon, while family dysfunction, domestic violence and HIV/AIDS were also considered among other important causes required to be addressed. International cooperation was considered indispensable and best practices should be shared. Participants highlighted that violence affecting those children was part of their daily ordeal and underlined the need of protecting basic rights of children living or working in the streets and of ending stigmatization and discrimination they face.

Panel discussion on the human rights and issues related to terrorist hostage-taking

Among the issues discussed, many speakers agreed that ransom payment in fact supported terrorist activities directly and induced further hostage-taking and human rights violations in the future, thus creating a dilemma. The views of the delegations were divided over the need of an additional protocol to the 1979 Convention Against the Taking of Hostages. In this connection, the Special Rapporteur on human rights and counter-terrorism emphasized the importance of taking a human rights-based approach to the issue of terrorist hostage-taking with the existing legal framework, rather than adopting a new instrument. Speakers also shared the view that, in order to make counter-terrorism measures more effective, conditions conducive to the spread of terrorism, such as ethnic, national and religious discrimination, socio-economic marginalization, and other human rights violations, needed to be addressed. The rights of victims and families, in particular their right to an effective remedy, including equal and effective access to justice, accountability of perpetrators, social reintegration of victims and assistance to them were emphasized.

II. Commission of Inquiry for Libya

On 11 March, the President of the Council announced the appointment of three experts for the International Commission of Inquiry for Libya (Mr. Cherif Bassiouni – as Chair, Ms. Asma Khader and Mr. Philippe Kirsch) charged with the investigation of “all alleged violations of international human rights law in Libya, to establish the facts and circumstances of such violations and of the crimes perpetrated, and, where possible identify those responsible to make recommendations, in particular, on accountability measures, all with a view to ensuring that those individuals responsible are held accountable.” As decided at the 15th special session, the Commission is due to report to the Council at its next session in June.

Weekly Highlights
(3d week, Monday 14 – Friday 18 March 2011)

I. Item 4 – Human Rights situation that require the attention of the HRC

Interactive dialogue with Special procedures:

On 14 March, the Special Rapporteur on the situation of human rights in the DPRK, Mr. Marzuki Darusman and the Special Rapporteur on the human rights situation in Myanmar, Mr. Tomás Ojea Quintana presented their annual report to the Council.

The Special Rapporteur on the DPRK expressed his concerns on the continued chronic food insecurity, high malnutrition rates and economic problems which affect millions of people in the country. While regretting the lack of cooperation by the Government, he noted that this would not deter him from attempting to gain access to it and that he would continue to work constructively with the international human rights mechanisms to address the urgent human rights concerns and needs in DPRK. Speaking as a concerned country, the DPRK reiterated its consistent position of categorical and resolute rejection of the Special Rapporteur's mandate and report – which is seen as a conspiracy by the United States, Japan and the European Union.

The Special Rapporteur on Myanmar noted the importance of the transition process and the hope that it would provide an opportunity for positive change. He urged the Government to see genuine national reconciliation through an inclusive process and to address the widespread and systematic abuse of human rights as a matter of urgency. Speaking as concerned country, Myanmar noted that the positive political developments and changes vividly showed the commitment of the Government to fulfill the aspirations of its people and have a democratic, stable and prosperous State. Myanmar however rejected the allegations contained in the SR's report which questioned the voting process of the 2010 elections in Myanmar. However, Myanmar expressed its readiness to cooperate with the SR by granting him access to visit the country, provided that his report be based on principles of independence, impartiality, objectivity and optimism.

Follow-up to special sessions

The Council considered the follow-up to the special sessions on Cote d'Ivoire and on Lybia respectively.

(a) Cote d'Ivoire

The HC's report to the Council covering developments until 31 January 2011 described the drastic deterioration of the human rights situation in the context of the crisis which had followed the elections. It referred to cases of extrajudicial killings, abductions, gender based violence, enforced disappearances, harassment and intimidation and other violations of human rights, allegedly committed by security forces and armed groups associated with Mr. Laurent Gbagbo in Abidjan and other parts of the country. Given the risk of resurgence of civil war, the HC urged all parties to show utmost restraint to prevent violence from escalating and to resolve their differences peacefully.

Speaking as a concerned country, Côte d'Ivoire informed the Council that the President and the Government of Côte d'Ivoire called for an International Commission of Inquiry to investigate human rights violations so that those responsible be brought to justice. It was imperative that the perpetrators were held accountable for their acts before the International Criminal Court. Many delegations also expressed their concerns over the worsening of the situation, including extrajudicial killings, abductions, enforced disappearances, excessive use of force by security forces and destruction of property. Many delegations supported the recommendation of the HC to establish urgently a Commission of Inquiry and called on Gbagbo to step down.

(b) Libya

The DHC reported that OHCHR continued to be extremely concerned over reports of the massive circulation of weapons throughout the Libyan territory and their potential availability to any actor including children. The human rights situation had continued to deteriorate with reports of intensified fighting and indiscriminate air strikes that resulted in numerous civilian injuries and deaths. Of utmost concern were numerous accounts received by OHCHR regarding cases of summary executions, rape, torture and disappearance. Many delegations concurred with OHCHR's concerns and welcomed the appointment of the members of the International Commission of Inquiry as well as the referral by the Security Council to the ICC. Several delegations welcomed the statement by the Arab League supporting a no-fly zone. Concerns over the humanitarian situation and violence against migrants were also expressed. Many speakers noted the unacceptable use of force against civilians who were expressing in a legitimate way their aspirations of freedom and democracy. The attention of the international community needed to focus on pressuring the Libyan Government to immediately cease the use of excessive force against demonstrators. It should be noted in this regard that some delegations (Austria and EU members) explored the possibility to table a resolution on the responsibility to protect but quickly abandoned the idea given the resistance by many delegations opposing this concept.

General debate

The statements made during the general debate referred to the situations in, inter alia, the DRC, Iran, Zimbabwe, Belarus, China, Cote d'Ivoire, Tunisia, Egypt, Yemen, Bahrain, Sudan, Sri Lanka, Syria, Pakistan, Cuba, Afghanistan, DPRK, Myanmar, Eritrea, Venezuela, Uganda, Bangladesh, OPT and Western Sahara.

A joint statement supported by 44 Member States (EU members and acceding countries, the US and Zambia) was delivered on the human rights situation in Belarus. This statement was delivered instead of a resolution which met strong opposition by the Russian Federation.

II. Item 3: Promotion and protection of all human rights

On 15 March, the Independent Expert on Minority Issues presented her annual report stressing that there was mounting evidence that some of the earliest indicators of potential violence were the chronic disregard of minority rights. Incorporating minority rights indicators into early warning systems was essential to enabling the early identification of potential conflicts.

During the interactive dialogue, speakers agreed that minorities should have the right to fully participate in economic life and this should be recognized by all Governments. In view of the increasing acts of violence against individuals belonging to religious communities around the world, speakers showed special interest in initiatives the Independent Expert could take to better promote and protect the rights of religious minorities.

III. Item 5: Human rights bodies and mechanisms

On 15 March, the Human Rights Council heard presentations from its subsidiary bodies: the Advisory Committee, the Forum on Minority Issues, the Social Forum and the Open-ended Intergovernmental Working Group on the UN draft declaration on human rights education and training.

During the general debate, speakers noted that Special Procedures play a crucial and indispensable role in the work of the Council. They also noted that the efficient functioning of Special Procedures largely depended on the level of cooperation by Member States. Speakers strongly condemned any act of intimidation or reprisal against individuals or groups that had cooperated with Special Procedures and urged all States to ensure that such acts were prevented and that these individuals or groups were adequately protected. Impunity in this field must be stopped, and the first step would be documenting of cases. It was also necessary to strengthen the level of protection for those individuals who sought to cooperate with the United Nations in the field of human rights.

IV. Item 6 – Universal Periodic Review Mechanism

Adoption of the review outcome:

From 16 to 18 March, the Council adopted the Universal Periodic Review outcomes on Liberia, Malawi, Mongolia, Panama, Maldives, Andorra, Bulgaria, Honduras, Lebanon, Marshall Island, Croatia, Jamaica, Micronesia, Mauritania and the USA. The adoption of the outcome of Libya was postponed given the current situation. Speakers regretted the US rejection of a number of recommendations made during the Working Group, including on the abolition of the death penalty, the creation of an independent human rights institution and the ratification of human rights treaties.

General debate

During the general debate on the Universal Periodic Review, delegations reiterated their recognition of the value of the review and encouraged to make good use of the interval between periodic reviews and improve performance in line with the recommendations received. A clear response by States to all the received recommendations, whether accepted or rejected, and the possibility for mid-term reporting on implementation efforts would strengthen the effectiveness of the Universal Periodic Review.

V. Tabling of draft proposals and initiatives

A total of 40 draft proposals have been tabled.

Country situations:

Under item 7 (OPT), the draft resolution on the follow-up to the fact-finding mission to Gaza conflict would recommend that the GA consider launching *an urgent discussion* on the legality of the use of certain munitions. It would also recommend that the GA 're-consider' the report of the fact-finding mission and submit it to the Security Council for its consideration and action, *including the referral to the ICC*. On Myanmar and DPRK, the draft resolutions would call for the renewing of the mandates of the Special Rapporteurs. On Guinea and Tunisia – the draft resolutions would call for enhance technical cooperation with OHCHR and the international community. The draft resolution on Cote d'Ivoire, tabled by the African Group, calls for the establishment of an international commission of inquiry to investigate the facts and circumstances surrounding the allegations of serious abuses and violations of human rights committed in Cote d'Ivoire following the Presidential elections and present its findings at the June session. The US and Sweden tabled a draft resolution on Iran establishing a Special Rapporteur who will report to the GA and the HRC. On Burundi, the African Group tabled a draft resolution requesting the postponement of the interactive dialogue with the Independent Expert which had been postponed since the 14th session. The draft resolution tabled by the African group on the DRC would discontinue the mandate of the group of experts (7 thematic Special Rapporteurs) and the HC to submit reports to the Council. The recommendation by the group of experts to establish a Special Rapporteur on the DRC had hence been rejected by the African Group.

Lastly, and given the serious concerns expressed on the situation in Bahrain, some EU members initiated consultations to call for an urgent debate of the HRC on the situation. However, it did not materialize in the absence of support from some of the Arab States and, for political considerations relating to the joint military action to enforce the no-fly zone on Libya.

Thematic issues:

South Africa tabled a new initiative calling for the establishment of an intergovernmental working group "to elaborate new concepts, such as **sexual orientation**, and others which may emerge in this regard, defining such concepts and their scope and parameters in international human rights law, prior to their integration into existing norms and standards of international human rights law". The draft text on **defamation of religion** has been refocused under the leadership of the US in close cooperation with OIC members. The draft resolution will now focus on '**Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence, and violence against persons based on religion or belief**'. The draft does not focus anymore on any particular religion and dropped the notion of defamation. Consensus is likely to be reached which will constitute a major breakthrough. Draft resolutions would also mandate the holding of panel discussions on HIV/AIDS, victims of terrorism and the 25th anniversary of the right to development. A draft President's Statement on OHCHR strategic framework and the draft resolution by the President on the **outcome** of the HRC review are currently the subject of intense discussions.