

COUNCIL MONITOR

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Overview	1
Acting Special Representative for Children and Armed Conflict	2
Independent Expert on Liberia	3
Special Rapporteur on the Occupied Palestinian Territories	5
Commission of Inquiry on Lebanon.....	6
Proposals for Outcomes	6
Other Practical and Procedural Issues.....	7

Overview

During today's morning session the Human Rights Council (the Council) considered the reports of the following mandate holders:

- the acting Special Representative of the Secretary-General for Children and Armed Conflict;
- the Independent Expert on technical cooperation and advisory services in Liberia.

In the afternoon session the Council discussed:

- the report of the Special Rapporteur on the situation of human rights in Palestinian Territories Occupied since 1967;
- the letter from the members of the Commission of Inquiry on Lebanon addressed to the President of the Human Rights Council.

Each presentation was followed by an interactive dialogue with States and NGOs. During the day the President of the Council and Cuba convened public informal consultations on draft outcomes for this Council session. Informal meetings held during the day included events dealing with country situations at the Council, the human rights situation in Nepal and ethnic and religious autonomy in South Asia.¹ The Council will discuss reports of the 1503 procedure on Monday morning (2 October 2006) in a closed session. In the afternoon session, which will be open to the public, the Council will discuss the progress report of the Working Group on the Universal Periodic Review (UPR) mechanism.

¹ See *Bulletin of Informal Events*, 29 September 2006, available at www.ohchr.org/english/bodies/hrcouncil/2session/bim.htm for additional details. For informal summaries of parallel NGO events, see further the reports published by CONGO, available at <http://www.ngocongo.org/index.php?what=news&id=10320&start=2>.

Special Representative of the Secretary-General for Children and Armed Conflict

Ms Radhika Coomaraswamy, the Acting Special Representative of the Secretary-General for Children and Armed Conflict, presented her report to the Council.² Ms Coomaraswamy³ emphasised the vulnerability of children affected by war and stated that effective protection of children must be founded on a rights-based approach that recognises the responsibilities of all actors to address violations of those rights. She also highlighted the close cooperation between her office and other organisations, such as the Office of the High Commissioner for Human Rights (OHCHR), United Nations High Commissioner for Refugees (UNHCR), United Nations Children's Fund (UNICEF), local and international NGOs and member States. The Special Representative presented the strategic framework for the work of her office over the next two years, which will be launched next month. She described the four main objectives as: supporting global initiatives to end grave violations against children affected by armed conflict; promoting rights-based protection; including concerns about children and armed conflict as an integral part of peacekeeping and peace-building; and raising awareness about children and armed conflict issues. The main activities will be monitoring and reporting as well as advocacy with partners facilitating and promoting research in key areas. She explained how, in partnership with UNICEF and other UN agencies, she would conduct a multi-stakeholder study on the developments over the last ten years, which would be presented to the General Assembly. The Special Representative highlighted the efforts being made to focus the international community's attention on ensuring respect of children's rights standards on the ground. Those efforts led to the adoption of the Secretary-General's monitoring and reporting plan which involves the adoption of monitoring and reporting mechanisms in Burundi, Somalia, the Sudan, the Democratic Republic of the Congo (DRC), Cote d'Ivoire, Sri Lanka and Nepal. They have also led to the adoption of Security Council *Resolution 1612 (2005)*, which created a Security Council Working Group on children in armed conflict.⁴

The Special Representative described the situation of children's rights in some particular countries her office has worked on. She outlined the violations conducted by the security forces of the DRC and the recommendations provided by the Working Group. These included a call to the Congolese Government to take effective action against impunity and to be more proactive in arresting Laurent Nkunda, a gross violator of the rights of children. Regarding the Sudan, she highlighted the violations by State and non-State actors. In her presentation, the Special Representative highlighted the important role of other UN entities in protecting child's rights at the field level, such as United Nations Relief and Works Agency (UNRWA) and UNHCR. She called on the Council to continue incorporating specific concerns about children in armed conflict while addressing country-specific and thematic concerns. The Special Representative then focused her attention on the situation in Lebanon, where more children were killed than combatants. That situation highlighted the importance of the uphill battle to ensure the principles of proportionality, distinctions between civilians and combatants, and the prohibition on the use of civilians as human shields.

Interactive Dialogue

In responding to the Special Representative's report, some delegations⁵ emphasised the importance of the efforts to combat impunity of those responsible for the involvement of children in armed conflict. Finland, on

² E/CN.4/2006/66, 23 February 2006. The report is available at www.ohchr.org/english/bodies/chr/sessions/62/listdocs.htm. ISHR has produced unofficial summaries of reports that are available at <http://www.ishr.ch/hrm/council/SPs/specialprocedures.htm>.

³ Oral statements made at the Council can be found on the OHCHR extranet (fill out the form on the page to receive the user name and password) at www.ohchr.org/english/bodies/hrcouncil/form.htm.

⁴ The Working Group's main role would be to review monitoring reports and other relevant information and recommend concrete and targeted measures against violators.

⁵ Argentina, Sri Lanka and Finland, on the behalf of European Union.

behalf of the European Union (EU), asked the Special Representative for an evaluation of the use of monitoring and reporting measures, and requested her views on the priority concerns for the international community. In her response, Ms Coomaraswamy spoke of the current review being undertaken of the monitoring and reporting mechanisms established by *Resolution 1612* and the work her office undertakes with other partners such as UN agencies and NGOs. Several delegations expressed appreciation for the report and called for the full implementation of the recommendations.⁶ Other delegations⁷ reminded the Council of the link between the protection of women's rights and those of children. Switzerland requested information about the Special Representative's views on 'best practices' in particular regarding non-State actors. Ms Coomaraswamy focused on demobilisation of child soldiers and how to stop the cycle of children re-entering armed conflict. Switzerland also referred to the situation in the DRC and the Sudan and asked if any psychological support was included in the demobilisation programme for children who are victims of rape and sexual abuses, particularly girl children. Canada and the World Young Christian Women's Association⁸ highlighted the vulnerability of children, affected by armed conflict, to HIV/AIDS and asked why this issue was not included in *Resolution 1612* and if the Special Representative would include it in her future analysis. The Special Representative noted these concerns. Azerbaijan suggested that the monitoring and reporting measures should have a preventative role and asked the Special Representative to consider the impact of protracted conflicts, including those already on the Security Council's agenda. It also commented on the limited geographical scope of the Special Representative's work to date, to which she responded that although her aim was to be global in scope this was at times difficult due to security concerns.

The Sri Lankan delegation expressed regret not only for the situation faced by children in armed conflict but also for the fact that its action plan to deal with the Liberation Tigers of Tamil Eelam (LTTE) had not yet yielded positive results. In relation to Sri Lanka, International Educational Development, an NGO, asked for further investigation into the situation there. Ms Coomaraswamy confirmed that the situation in Sri Lanka remains of concern and outlined steps being taken to address the concerns regarding child soldiers. The delegation of the Sudan strongly rejected all the accusations contained in the report. It reminded the Council that the Sudan is the only country whose legislation expressly prohibits the recruitment and use of children in armed conflict. Ms Coomaraswamy agreed that while this was the case, in practice there was high recruitment of child soldiers and other grave violations. She stated that her upcoming missions include visits to Lebanon, the DRC and the Sudan, and expressed her hope that this would result in a constructive dialogue.

Independent Expert on Liberia

Ms Charlotte Abaka, the Independent Expert on technical cooperation and advisory services in Liberia, presented her annual report.⁹ Dr Abaka provided¹⁰ an update on the situation in Liberia as of 6 June 2006. She updated the Council on developments since her previous mission, starting with the Truth and Reconciliation Commission (TRC). She informed the Council that suitable premises to hold the session had been found, a Chairperson had been appointed and that the TRC was in the process of hiring staff. Proceedings for the Independent National Commission on Human Rights (INCHR) were also underway with a shortlist of 25 candidates to serve as Commissioners. Dr Abaka described the Government's 150 Day Action Plan that will develop the establishment of a Law Reform Commission. She regretted the fact that Liberia had failed to

⁶ Finland, on the behalf of the European Union, Australia and the World Christian Women Association.

⁷ Sri Lanka and Argentina.

⁸ In a joint statement along with World Alliance of Young Men's Christian Association, United Nations Watch, Women's International League for Peace and Freedom & World Organisation Against Torture.

⁹ E/CN.4/2006/114, 6 February 2006. The report is available at www.ohchr.org/english/bodies/chr/sessions/62/listdocs.htm. ISHR has produced unofficial summaries of reports that are available at <http://www.ishr.ch/hrm/council/SPs/specialprocedures.htm>.

¹⁰ Oral statements made at the Council can be found on the OHCHR extranet (fill out the form on the page to receive the user name and password) at www.ohchr.org/english/bodies/hrcouncil/form.htm.

submit any of its overdue reports to the treaty bodies.¹¹ Dr Abaka detailed developments in the judicial system and measures being taken to strengthen the rule of law and address impunity. She also described a new rape law, which came into force in January 2006, and some of the successes and difficulties with the law's scope and implementation. The Independent Expert spoke of the work being undertaken by the UN Mission in Liberia (UNMIL), including some of its recent reports and recommendations. She also spoke of developments in relation to orphanages, and discussed the 150 Day Action Plan, outlined in her report, which shows how Liberia is addressing economic, social and cultural rights. Dr Abaka described that as a follow-up to her mission she went again to Liberia to meet with the Government, representatives of the Liberian National Police, UN agencies, members of the diplomatic community and representatives of civil society organisations. Dr Abaka listed a number of recommendations in her statement, including the establishment of a national human rights commission, a judicial and law reform council, anti-corruption programmes, and giving effect to international human rights treaties. Dr Abaka called for greater financial, educational and technical support from the international community. She stated that this was the only way to reach sustainable peace in Liberia and strongly urged that the mandate be renewed to assist in this.

Interactive Dialogue

Liberia responded that further work was needed to add to the report by the Independent Expert. It asked for greater technical assistance to train government officials and logistical and financial support for judicial staff. In this regard they welcomed a proposal of assistance from UNMIL. Liberia highlighted areas of progress – namely the new rape law, the closure of orphanages, an increase of police stations and a taskforce that would address economic, social and cultural rights. However, it regretted to report an upsurge in killings and armed robberies. It supported the Independent Expert's recommendation that the mandate be continued.

Many States¹² praised the work of Dr Abaka and recognised the progress in the human rights situation in Liberia. Algeria¹³ and Ghana repeated Liberia's request for more financial and technical support from regional and international sources. Finland, on behalf of the EU, asked for an assessment of the TRC and the role of the Independent Expert's mandate within this. In response, Dr Abaka stated that people are committed to the success of the TRC but need technical assistance to make it a reality. Some States¹⁴ also asked for an update on the steps taken to improve the administration of justice and the proper operation of the judiciary, as well as the situation for Liberian prisoners. Dr Abaka highlighted the importance of focusing on the conditions of prisoners and protecting their rights, as well as the aid donated by the USA to improve the prison service. The United Kingdom (UK) enquired about the situation of women in Liberia and asked about measures in addition to the new rape law. Dr Abaka insisted on the importance of a gender perspective and how there had been an increase in the reports of rape but suggested this was a positive indicator as more women were prepared to report it as a crime. She described the creation of a special section in the police force for women and girls; this was assisted by UNICEF but required more investment. Dr Abaka suggested that funds should be made available to employ clinical psychologists to aid post-conflict rehabilitation. She welcomed the suggestion of the engagement of judges from outside the country and proposed a programme of scholarships for law students in Liberia. She also highlighted that legal aid did not exist in Liberia. Dr Abaka concluded by stating that she wanted to continue her work in Liberia to assist and continue the promotion of human rights. She urged the Council not to 'abandon' Liberia and that it be kept on the agenda in the future.

¹¹ Reports are due to Committee on the Elimination of Racial Discrimination, Committee on the Elimination of All Forms of Discrimination against Women, Committee Against Torture and the Human Rights Committee.

¹² Algeria (on behalf of the African Group), Finland (on behalf of the European Union), Peru, United Kingdom (UK) and the United States of America (USA).

¹³ On behalf of the African Group.

¹⁴ USA and Finland (on behalf of the EU).

Special Rapporteur on the situation of human rights in the Occupied Palestinian Territories

Mr John Dugard, the Special Rapporteur on the situation of human rights in Palestinian Territories Occupied since 1967, presented his report¹⁵ on the implementation of the Council's Special Session *Resolution S-1/1*.¹⁶ In this resolution, the Council had called for a fact-finding mission by the Special Rapporteur to the Occupied Palestinian Territories (OPT) in light of the recent escalation in violence. Mr Dugard stated¹⁷ that repeated attempts by the President of the Council and the High Commissioner for Human Rights (the High Commissioner) to obtain permission to visit Israel had been ignored by the Israeli Government. On 8 August 2006, Mr Dugard informed the President and the High Commissioner that it was "pointless to persist with the fact-finding mission" due to Israel's attitude. Mr Dugard reported that since the adoption of the Council's Resolution, the situation in Gaza had worsened dramatically due to Israeli military operations. He highlighted issues of routine Israeli shelling, sonic booms, military incursions, targeted assassinations, the destruction of infrastructure, and the arbitrary detention of Palestinian lawmakers and ministers. He noted however that on 27 September Mr Nass Al-Shaar, the Palestinian Deputy Prime Minister, was released from Israeli custody.

Interactive Dialogue

Israel condemned Mr Dugard's report and criticised Mr Dugard for his biased analysis, which did not focus on the Palestinian actions that triggered the Israeli military escalation.¹⁸ Israel suggested that the Special Rapporteur heed his own advice and refrain from using the terms 'terror' to describe Israel's actions. It accused Mr Dugard of simply rehashing the report he presented on 26 September 2006 and stated that his current report was "a complete waste of time". The delegation expressed hope that the upcoming visit to Israel by High Commissioner Louise Arbour would be more fruitful. Palestine expressed its regret that Mr Dugard had not been able to fulfil his mandate and assured him that his request would have been granted if the borders of the OPT were not under Israeli control. The Palestinian delegation accused Israel of numerous rights violations, including destruction of houses, sonic booms, the building of the Wall, shelling of Gaza, attacks on civilians, detention of ministers and the withholding of the VAT revenues and custom duties from the Palestinian authorities. Palestine stressed that the fact-finding mission must go forward to show that Israel is not above the law. The Syrian Arab Republic (Syria) raised the issue of the Golan Heights occupation, highlighting similar conditions to the OPT and stated that 500,000 Syrians had been internally displaced as a result.

Many States and NGOs¹⁹ called for the implementation of *Resolution S-1/1*, arguing that it was a key test to demonstrate the effectiveness of the Council and that its credibility was at stake if it could not implement its resolutions. Most States welcomed the approaching visit of Ms Arbour to Israel and hoped that she would have a chance to tour the OPT.²⁰ Finland, on behalf of the EU, urged both parties to refrain from any breaches of human rights or humanitarian law. It also urged Israel to remit the proceeds of VAT revenues to the Palestinian Authority. The delegation reminded Israel of its commitment to a two-State solution, and expressed concern over the expanding Israeli settlements in the West Bank.²¹ Finland also announced the

¹⁵ A/HRC/2/5, 5 September 2006. The report is available at www.ohchr.org/english/bodies/chr/sessions/62/listdocs.htm.

¹⁶ 6 July 2006.

¹⁷ Oral statements made at the Council can be found on the OHCHR extranet (fill out the form on the page to receive the user name and password) at www.ohchr.org/english/bodies/hrcouncil/form.htm.

¹⁸ Palestinian militants repeatedly launched home-made Quassam rockets into Israeli population centres, and also captured an Israeli army corporal.

¹⁹ Algeria (on behalf of the African Group), Al Haq, Bangladesh, China, Egypt, the Islamic Republic of Iran, Malaysia, Mali, Mexico, Pakistan (on behalf of the OIC), the Russian Federation, Tunisia and Yemen.

²⁰ Algeria (on behalf of the African Group), Bahrain (on behalf of the Arab Group), Finland (on behalf of the EU), Canada.

²¹ This concern was also shared by Pakistan (on behalf of the OIC) and Al Haq.

recent EU decision to expand the Temporary International Mechanism by which the EU and its member States channel substantial resources directly to the Palestinian people for three months. Bahrain urged the Council to adopt the *Arab Peace Initiative* that was recently submitted to the Security Council. Cuba announced that a *Declaration on Palestine* was recently adopted in Havana by the Non-Aligned Movement and expressed empathy for the plight of the Palestinian people and concern over the degrading economic situation and the isolation of the Gaza Strip.

Canada and the United States criticised Mr Dugard's report because of concerns about his unbalanced assessment of the situation, and the way in which he ignored the responsibility of the Palestinian Authority to prevent militants from launching attacks into Israel from the OPT. A few NGOs also attacked Mr Dugard for the one-sided nature of his mandate.²² Amnesty International and Human Rights Watch, in a joint statement, recommended that an independent team of experts be sent to examine both sides of the conflict, which should report directly to the Council. A few NGOs²³ condemned Israel for its human rights record. The International Organisation for the Elimination of All Forms of Racial Discrimination suggested that the UN deal with Israel in the same manner as it had dealt with South Africa during apartheid.

Commission of Inquiry on Lebanon

On 11 August 2006, the Council adopted *Resolution S-2/1*, which established a Commission of Inquiry on Lebanon. Paragraph 10 of the Resolution requested that the Commission report back to the Council on the progress of the mandate. A letter was sent to the Council as a progress report.²⁴ Mr De Alba, the President of the Council, summarised this letter. The Commissioners were appointed on 1 September 2006 and began their work on 11 September 2006. They met with Ms Arbour, several concerned organisations,²⁵ as well as three Special Rapporteurs who have recently visited Lebanon. The High Commissioner gave the Commissioners her full support. The Commission left on 23 September 2006 for a two-week mission to Lebanon. The President proposed that the consideration of this letter be postponed till the Council considered the joint reports of the relevant Rapporteurs on the situation in Lebanon on 4 October 2006. The Ambassador of Lebanon stated that he had no objection to leaving the discussion of this issue until the 4 October 2006.

Proposals for Outcomes

The President convened informal consultations this morning to discuss possible outcomes of the second session. The President noted that several proposals have been circulated by some States. He also announced his intention to extend the deadline for submitting proposals to Monday 2 October. He suggested that one outcome of this session could be a generic text that would allow the various parts of the human rights system to continue to function. While all of the mandates and procedures have been extended for one year some recommendations and reporting obligations that would have budgetary implications were not covered by the extension. For example, there were a small number of recommendations arising from the special procedures' reports that would require additional budgetary allocation if they were to be carried out. The Secretariat noted

²² B'nai B'rith International, Women's International Zionist Organisation and UN Watch.

²³ International Organisation for the Elimination of All Forms of Racial Discrimination, Organización de Solidaridad de los Pueblos de Africa, Asia y América Latina (joint statement with Federación de Mujeres Cubanas & Unión Nacional de Juristas de Cuba) and Tupaj Amaru (joint statement with the World Peace Council).

²⁴ A/HRC/2/4, 26 September 2006.

²⁵ United Nations Mine Action Service; the Office for the Coordination of Humanitarian Affairs; the Office of the High Commissioner for Refugees; the United Nations Education, Scientific, and Cultural Organisation; the World Health Organisation; the United Nations Environmental Programme; and the International Committee of the Red Cross.

that it would circulate a note with a list of the relevant reports. The President also informed that a copy of the proposed generic text would be circulated in the afternoon.

Several States expressed concern about the proposed generic text stating that it should not prejudice the review of mandates and that it should remain procedural in nature. Many States supported the proposal for a generic text. One State expressed reservations about the inclusion of country-specific mandates in the generic text. One delegation asked for clarification on the budgetary implications since the mandates had already been extended. One delegation was concerned about the possibility of delegations putting forward other proposals or initiatives on themes. It asked for clarification of when various themes would be discussed during the annual cycle of the Council and suggested that the third session should elaborate an agenda.

The proposed generic text distributed by the President takes note of all the reports presented at the second session and the open, fruitful and constructive interactive dialogue with mandate holders and the High Commissioner. It invites the Secretary-General, High Commissioner and the OHCHR to continue with the fulfilment of their activities under the various resolutions, decisions and statements adopted by the Commission on Human Rights. It also proposes to transmit the views of the Sub-Commission on the Promotion and Protection of Human Rights (the Sub-Commission) regarding the future system of expert advice body to the Working Group established by *Decision 2006/104*, and endorsing the draft decisions transmitted by the Sub-Commission.

Later in the day the Cuban delegation also held public informal consultations on their proposed draft decision regarding the composition of staff of the OHCHR. The consultation began with an explanation as to why the delegation believed such an action was necessary, which was to redress the imbalance in regional representation of staff at the OHCHR, which had not improved in the previous year. Some delegations made comments in support of this draft decision, while others raised concerns regarding whether this was an unnecessary form of micro-management. The Cuban delegation explained that it would take all comments on board and would submit this draft decision for consideration by the Council, as well as continue their work at the General Assembly on improving the geographical representation of staff in the OHCHR.

Other Practical and Procedural Issues

The deadline for submission of proposals for outcomes or actions has been extended until 6pm on Monday 2 October 2006. The Secretariat announced that the reports of the Special Rapporteurs on the situation in Lebanon will be distributed on Monday (unedited versions), and expressed its regrets that it has been unable to translate and distribute these sooner. Frustration was expressed by some concerned delegations about the late distribution of these reports and the lack of timely translation. The Secretariat assured delegates that it was working as hard as possible to provide the translated documents as soon as possible.

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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/hrm/council

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