

# COUNCIL MONITOR

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## HUMAN RIGHTS COUNCIL 4<sup>TH</sup> SPECIAL SESSION, 12-13 DECEMBER 2006

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### Overview

The 4th special session of the Human Rights Council (the Council) was convened to assess the human rights situation in Darfur, Sudan. The request to convene the session was co-sponsored by more than 30 nations, portraying strong cross-regional support for action on Darfur. After a weak resolution on Darfur was accepted by the Council with a vote of 22 in favor during its 3rd session, the special session was seen as a chance for the Council to provide a credible response to the situation.

A large number of non-governmental organisations (NGOs) attended the special session, of which 18 were given time to take the floor. Considering the short notice given, NGOs were able to coordinate quickly and demonstrate significant strength at the session. As noted by Human Rights Watch (HRW) their statement, it was quite remarkable that a large number of local NGOs were able to participate. A parallel event titled “Voices from Darfur: relaying the victims' account”<sup>1</sup> included two panel speakers from Darfur, and one other from the region. In addition, the majority of those who spoke during the event were locals. During the special session itself, two NGO statements<sup>2</sup> were read out by Sudanese citizens, and two NGO interventions<sup>3</sup>

<sup>1</sup> Organised by Amnesty International (AI), International Federation of Human Rights Leagues (FIDH) and Human Rights Watch.

<sup>2</sup> Amnesty International and Interfaith International.

<sup>3</sup> World Jewish Congress (in a joint statement with European Union of Jewish Students) and North South XXI.

included personal testimonies delivered by inhabitants of Darfur. In addition, Amnesty International (AI) read out a personal testimony from a Sudanese victim.

## Background

Ms Louise Arbour, the UN High Commissioner for Human Rights, made an address at the Council's 3rd session to update member States on her recent visit to Darfur<sup>4</sup>. In her assessment of the situation, she stated that the Government of Sudan, and militias aligned with them, continued to be responsible for "serious breaches of international humanitarian and human rights law". To illustrate this assessment, she took note of the report from the UN Humanitarian Coordinator, Jan Egeland, on 22 November 2006. Mr. Egeland found that 4 million people are now in need of assistance. Ms. Arbour also referenced a statement made by the Chief Prosecutor of the International Criminal Court (ICC) on 23 November 2006, which highlighted the direct killings of thousands of civilians. In light of these findings, Ms. Arbour urged all parties to cease the conflict. She also recommended in strong terms, that the government of Sudan end the practice of impunity for those found guilty of serious breaches of international humanitarian and human rights law. She stressed that the situation warranted serious consideration by the Council. A report by the International Commission of Inquiry on Darfur to the UN Secretary-General<sup>5</sup> in January 2005, noted the 'large scale destruction' in the Darfur region committed by armed groups, including government forces. The Special Rapporteur on Sudan also conducted a visit to Darfur from 11 to 17 August 2006. She found that immediate action by the international community was necessary to prevent further attacks against civilians.

The issue of Darfur was rigorously debated during the resumed 2<sup>nd</sup> session of the Council on 29 November 2006. Discussion centered around two resolutions, one proposed by Algeria<sup>6</sup>, on behalf of the Africa Group, and the other by Finland<sup>7</sup> on behalf of the European Union (EU). The Africa Group's draft resolution "noted with concern the seriousness of the human rights and humanitarian situation in Darfur and called for an immediate end to the continuing violations of human rights and international humanitarian law".<sup>8</sup> However the resolution did not set up any kind of operational mechanism to follow-up on the situation. In contrast, the EU resolution noted the situation in Darfur "with deep concern", and emphasised the "primary obligation of the Government of Sudan to protect civilians". The resolution also called for "all parties to put an effective end to all acts of violence",<sup>9</sup> as well as allow "unfettered access for OHCHR monitors in Darfur".<sup>10</sup> The EU also tabled a series of amendments<sup>11</sup>. The amendments suggested adding the extra elements that were contained in the EU resolution, to the provision of the African draft resolution. The amendments were put to a vote and defeated by 20 votes in favor, 22 against and 2 abstentions. Subsequently the EU resolution was not tabled for voting, and Algeria's resolution was put to a vote being adopted with 25 votes in favor, 11 against and 10 abstentions. Of particular note, there was some dissension among the Africa Group as to the outcome of the final African resolution, with Ghana and Zambia abstaining from the vote and Cameroon not present in the Council to participate in the vote.

In a statement read to the 3<sup>rd</sup> session of the Council on 29 November 2006, Mr Kofi Annan, the UN Secretary-General, stated that after three special sessions of the Council focusing on the situation of the Occupied Palestinian Territories (OPT), there were surely "other situations, besides the one in the Middle

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<sup>4</sup> International Service for Human Rights (ISHR) *Council Monitor Daily Update*, 29 November 2006. Available at: [http://www.ishr.ch/hrm/council/updates/29\\_November\\_06.pdf](http://www.ishr.ch/hrm/council/updates/29_November_06.pdf)

<sup>5</sup> The report was pursuant to Security Council Resolution 1564 of the 18th September 2004.

<sup>6</sup> Resolution A/HRC/2/L.44. See *Council Monitor Daily Update*, 28 November 2006. Available at: [http://www.ishr.ch/hrm/council/updates/28\\_November\\_06.pdf](http://www.ishr.ch/hrm/council/updates/28_November_06.pdf)

<sup>7</sup> Resolution A/HRC/2/L.45. See *Council Monitor Daily Update*, 28 November 2006, available at: [http://www.ishr.ch/hrm/council/updates/28\\_November\\_06.pdf](http://www.ishr.ch/hrm/council/updates/28_November_06.pdf)

<sup>8</sup> Operative paragraph 2 of A/HRC/2/L.44.

<sup>9</sup> Operative paragraph 2 of A/HRC/2/L.45.

<sup>10</sup> Operative paragraph 4 of A/HRC/2/L.45.

<sup>11</sup> A/HRC/2/L.48.

East" which warranted a special session.<sup>12</sup> Mr Annan suggested that the human rights situation in Darfur was "a glaring case in point" which "merited the convening of special session".

On 30 November 2006, in view of all of these concerns, Finland requested the convening of a special session to address the situation in Darfur. In order for a special session to be convened, it must carry the support of one-third of the Council's membership. There were 33 co-sponsors<sup>13</sup> of the resolution to convene the session.

## Discussions of the Day

### Address by the UN Secretary-General

On the first day of the special session, the UN Secretary-General Kofi Annan made a short presentation via video. Mr Annan reported on the "tragic and deplorable crimes" being committed in Darfur. He gravely stated that after three years of escalating violence, 4 million people in Darfur were dependent upon aid; 2 million had been internally displaced; and the violence had spread to the neighboring states of Chad and the Central African Republic. The Secretary-General called on the Council to send a strong message to all concerned parties that the current situation is unacceptable. He called on the Council to urgently dispatch a fact-finding mission to the Darfur region to then report to the Council.

### Address by the UN High Commissioner for Human Rights

Ms Louise Arbour, the High Commissioner for Human Rights, addressed the Council by speaking strongly on the need to end the ongoing violence in Darfur. She spoke of the continued targeting of civilians by armed militias, in coordination with Sudanese Government forces. In her assessment, she noted the use of murder, rape and torture, the destruction of villages, as well as arbitrary arrest and detention, by rebels against civilians. She called for the signing and implementation of the *Abuja Peace Agreement* of 5 May 2006, by all relevant parties to the conflict. Referencing the primary responsibility of the Sudanese Government to protect its citizens, Ms Arbour called for the Government to immediately implement the recommendations of the 2004 Report from the Commission of Inquiry on Darfur. The implementation of recommendations from the International Criminal Court (ICC) for the prosecution of those responsible for crimes against civilians was another necessary step she outlined to be taken by the Government. In a direct appeal to the Council, the High Commissioner called for a "credible response" for the victims of Darfur.

### The severity of the human rights and humanitarian situation

There was considerable debate amongst States as to the reality of the situation on the ground. This debate centered around the request by Sudan for more accurate and credible information concerning the scale of atrocities committed in Darfur. This request was in keeping with the statement of the Sudanese delegation in response to OHCHR findings presented during the 3<sup>rd</sup> session of the Council. Sudan then spoke of an "international campaign to disseminate false information."<sup>14</sup>

Finland (on behalf of the EU) as well as many individual EU States painted a grave picture of the crisis in Darfur. Finland drew attention to recent attacks on villages in the Jebel Moon Area, as well as clashes around El Fasher in northern Darfur, which it termed as clear violations of the *Abuja Peace Agreement*. They referred to the situation in Darfur as "a severe and large-scale human rights and humanitarian crisis." Finland also

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<sup>12</sup> Oral statements can be found on the OHCHR website (fill out the form on the page to receive the user name and password) at [www.ohchr.org/english/bodies/hrcouncil.form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm).

<sup>13</sup> Algeria, Brazil, Canada, Czech Republic, Cuba, South Africa, Ecuador, Finland, Gabon, France, Ghana, Guatemala, Germany, Indonesia, Republic of Korea, Tunisia, Ukraine, Poland, Peru, Morocco, Romania, Russian Federation, Canada, Ecuador, Uruguay, Netherlands, Nigeria, Mauritius, Brazil, Azerbaijan, Bangladesh, United Kingdom and Zambia.

<sup>14</sup> *Council Monitor Daily Update*, 29 November 2006, available at: [http://www.ishr.ch/hrm/council/updates/29\\_November\\_06.pdf](http://www.ishr.ch/hrm/council/updates/29_November_06.pdf)

expressed alarm over the recent extension of the conflict into Chad; many other States<sup>15</sup> shared the fear of spillover into Chad and the Central African Republic. Some NGOs<sup>16</sup> also expressed concern about the spillover of the conflict into these neighboring countries.

Jordan and Libya pointed out the need to cut off arms trafficking into Sudan. Numerous States<sup>17</sup> reminded Sudan that it had the primary obligation to protect its civilians from human rights violations. Canada announced that if Sudan could not or would not protect its civilians, the international community was obliged to step in.

Most NGOs were also very critical of the Government of Sudan and deplored the escalation of violence in Darfur.<sup>18</sup> Human Rights Watch argued that situation had been worsened by government attacks on rebel factions who had not signed the *Abuja Peace Agreement*. A few NGOs<sup>19</sup> drew attention to the obstruction and harassment of humanitarian workers in Darfur. Union des Juristes Arabes and Indian Movement of Tupaj Amaru attributed the current crisis in Sudan to the legacy of colonialism, and called for an end to western intervention in Sudanese affairs. The specific plight of women and girls in Darfur was also raised by Femmes Africa Solidarité and the Worldwide Organization for Women (in a joint statement),<sup>20</sup> calling for an end to impunity and for the Government of Sudan to be held accountable. The Worldwide Organization for Women stated that there had never been such a large scale of sexual violence in the history of conflict, and called for an immediate action plan centered around women. Femmes Africa Solidarité stressed the importance of increased security around the internally displaced persons' camps.

Several inter-governmental agencies also spoke on the numerous human rights violations being committed in Darfur. The UN Population Fund focused on the worrying trend of gender-based violence, including the lack of access for women to reproductive health services, and the proliferation of HIV Aids due to rape. An African Union representative expressed major concern regarding the threat to peace and security that the Darfur conflict posed to its region, and the African continent. The UN Children's Fund (UNICEF) focused on the problem of access for humanitarian aid agencies to civilians requiring medical vaccinations and food supplies.

Many States<sup>21</sup> commented that there was confusion about the facts of the situation on the ground, while others<sup>22</sup> argued that the facts had been sufficiently established by a wide variety of impartial observers. Quoting the report of the Chairman of the Commission of the African Union, Sudan asserted that 80% of Darfur is now stable, while 73% of people have access to potable water. It also commented that acts of violence against women and girls had been greatly exaggerated. Algeria (on behalf of the African Group) claimed that the conflict was accompanied by "far-reaching propaganda campaigns," which have distorted information. They referred to the report of the Chairman of the African Union Commission, which described the situation as one of "contrasted developments...improving slightly in some parts of the region while deteriorating in others," arguing that this report was proof of the exaggerated claims about Darfur. They also noted the report's reference that seasonal worsening of the conflict at this time of year was not uncommon. A few countries<sup>23</sup> spoke of a media bias in reporting on Darfur. On behalf of the Organization of the Islamic Conference (OIC), Pakistan argued that there was "conflicting information about everything"<sup>24</sup> to do with the human rights situation in Darfur.

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<sup>15</sup> USA, Canada, France, Chad and Nicaragua.

<sup>16</sup> Human Rights Watch, FIDH and Franciscans International.

<sup>17</sup> Germany, Argentina, Poland, Russian Federation, Canada and Hungary.

<sup>18</sup> Franciscans International also attributed blame to rebel groups.

<sup>19</sup> Norwegian Refugee Council and Lutheran World Federation.

<sup>20</sup> Pan Pacific & South East Asia Workers Association International, Women's World Summit Foundation, International Federation of University Women, Association of World Citizens, Women's World Summit Foundation and Interfaith International.

<sup>21</sup> Algeria on behalf of the Africa Group, Pakistan on behalf of the OIC, Ghana, Saudi Arabia on behalf of the Arab League, Indonesia, Malaysia, Morocco, Russian Federation, Cuba, Bahrain, Ecuador, Uruguay, Bangladesh, Democratic People's Republic of Korea and Yemen.

<sup>22</sup> Finland (on behalf of the EU), France, the United Kingdom, the Netherlands and Ireland.

<sup>23</sup> Sudan, Democratic People's Republic of Korea, Yemen, Algeria on behalf of the Africa Group and Bahrain.

<sup>24</sup> Pakistan's statement on behalf of the OIC is available on the OHCHR Extranet.

Israel condemned in the harshest terms the violations of human rights being carried out in Darfur. Their strong support for greater international action was coupled by a clear analogy with the lack of international responsiveness to the Holocaust committed against Jews and other minorities during World War II. In response, Palestine indicated that the actions of the Israeli state in the OPT were also tantamount to a Holocaust. Palestine also noted the alarming inconsistencies between this special session, compared with the previous three sessions, which focused on the plight of the Palestinian people. These discrepancies included the lack of an address by the UN Secretary-General at previous sessions; the previous lack of advocacy work by the OHCHR; and Israel's co-sponsoring of the resolution to convene the session.

### **Response of the Sudanese Government and the African Union to the situation**

States disagreed extensively over the facts of the situation on the ground, including the extent to which Sudan and the African Union were effectively dealing with the crisis. Delegations held vastly different views on the success of the efforts of the Government of Sudan and the African Union peacekeeping force in Sudan (AMIS). According to the Sudanese delegation, the root cause of the conflict in Darfur is economic, related to the competition for depleting resources in the context of increasing desertification. The Sudanese delegation claimed that the reports of human rights mechanisms have failed to note the achievements and positive developments since the *Abuja Peace Agreement*.<sup>25</sup> They also argued that the High Commissioner for Human Rights and other international actors as well as the media have failed to hold armed rebel groups accountable, in particular the Redemption Front (RF). Sudan stressed that a political solution was the only way to resolve the conflict, specifically through the implementation of the *Abuja Peace Agreement*. It added that the agreement was the only peace agreement in place and should not be re-negotiated, and urged outside actors to not interfere in its implementation.

Many other delegations<sup>26</sup> shared Sudan's evaluation of the importance of the *Abuja Peace Agreement*. Saudi Arabia (on behalf of the Arab League), Russia, Morocco and Nigeria argued that the *Abuja Peace Agreement* itself contained sufficient provisions for the promotion and protection of human rights. Pakistan (on behalf of the OIC) commended the "strenuous efforts" of the Sudanese Government to implement the *Abuja Peace Agreement*, the *Comprehensive Peace Agreement* and the *N'djamena Humanitarian Agreement*. Sudan and many other States<sup>27</sup> encouraged the Council to fully lend its support to the *Abuja Peace Agreement*. Conversely, Ms Arbour pointed to an apparent lack of political will to implement the agreement. She criticised the Sudanese Government for allegedly re-arming militias and creating ineffective mechanisms to ensure accountability. The Netherlands also strongly accused Sudan of violating the *Abuja Peace Agreement*. Zambia was notable among African countries for its declaration that Sudan had exhibited a lack of political will with respect to the agreement. States<sup>28</sup> also urged member States to provide capacity-building assistance to Sudan to help further its efforts.

Sudan also reiterated that the African Union remained the lead actor in the process of implementing the *Abuja Peace Agreement*, stating that the organisation has been "honest and true to itself." Pakistan (on behalf of the OIC) called for the international community to strengthen AMIS.<sup>29</sup> South Africa highlighted the African Union's establishment of structures to deal with the crisis, including the Peace and Security Council's Commission on Darfur, its peacekeeping mission, and the Preparatory Committee. Delegations<sup>30</sup> praised the work of AMIS, and some<sup>31</sup> welcomed the recent extension of the mission for another six months. Other

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<sup>25</sup> Pakistan (on behalf of the OIC), Saudi Arabia (on behalf of the Arab League), Morocco, Russia, Azerbaijan, Jordan, Albania and the Islamic Republic of Iran and Nicaragua all acknowledged the efforts of the Sudanese government to seek and end to the conflict.

<sup>26</sup> Algeria (on behalf of the African Group), Pakistan (on behalf of the OIC), South Africa, Saudi Arabia (on behalf of the Arab League), Indonesia, China, Malaysia, Morocco, Tunisia, Russia, India, Bahrain, Nigeria, Japan, Senegal, Azerbaijan, Bangladesh, Egypt, African Union, Oman, Portugal, New Zealand.

<sup>27</sup> Saudi Arabia (on behalf of the Arab League), Cuba, Malaysia, Bahrain, Senegal, Egypt.

<sup>28</sup> Pakistan (on behalf of the OIC), Russia, Brazil, Azerbaijan, Nicaragua.

<sup>29</sup> Saudi Arabia (on behalf of the Arab League), South Africa, Nigeria and the Syrian Arab Republic also called for support for AMIS.

<sup>30</sup> Malaysia, Tunisia, Yemen.

<sup>31</sup> South Africa, Malaysia, Nigeria, AU.

delegations<sup>32</sup> welcomed the high-level consultation of 16 November between the UN, the African Union and Sudanese Government,<sup>33</sup> which provided for a hybrid UN/AU peacekeeping force.

Sudan highlighted its "pioneer experience" in humanitarian and cooperation with the UN and its agencies. It gave the example of Operation Life-Line Sudan as a program that had achieved great success, and listed other government efforts to facilitate humanitarian assistance to Darfur. Pakistan (on behalf of the OIC) praised Sudan's cooperation with humanitarian organisations, stating that Darfur contained the highest per capita presence of NGOs in the world.<sup>34</sup> Other States<sup>35</sup> expressed grave concern over recent harassment and attacks on humanitarian workers and agencies in Darfur. The UN Population Fund (UNPA), the UN High Commissioner for Refugees (UNHCR) and a few States<sup>36</sup> highlighted the plight of internally displaced persons (IDPs), especially women and girls. UNPA, UNHCR and the United Kingdom (UK) called for a increase in AMIS' 'firewood patrols' around IDP camps. UNHCR stated that IDPs had enjoyed no benefits as a result of the *Abuja Peace Agreement*.

Sudan affirmed that it would continue to be open to dialogue and cooperation to promote human rights in the country. In contrast many EU States noted the reluctance of the government to cooperate with UN mechanisms and monitoring teams in the past. Many African and OIC States noted the cooperation of Sudan with the Council,<sup>37</sup> other human rights mechanisms,<sup>38</sup> and the international community in general.<sup>39</sup> The Netherlands, Slovakia and Belgium urged Sudan to cooperate with the International Criminal Court (ICC), which had recently been given authority by the Security Council to investigate crimes in Darfur. Some delegations<sup>40</sup> lauded Sudan's invitation to Council members to visit Darfur, which was carried out last month. Algeria (on behalf of the African Group), Cuba and Malaysia commented that recent *Decision 2/215*<sup>41</sup> aptly demonstrated the Council's deep concern for the situation in Darfur.

The issue of the capacity of the African Union peacekeeping mission of 7,000 currently deployed in Sudan was also discussed by some States. Sudan argued that African Union forces were the only legitimate group who could operate within Sudan. Several States<sup>42</sup> advocated that the AU force be strengthened by providing technical and financial assistance to the Sudanese Government. These States also called on all financial pledges to aid agencies, the AU force and the Sudanese Government by donors, to be honored.

Many States highlighted the lack of resources available to the AU forces, which compromises their work in Darfur.<sup>43</sup> Zambia advocated that the current AU presence is too limited to be effectual, and supported the involvement of a UN force<sup>44</sup> similar to that which has been used in parts of the Middle East and the Democratic Republic of Congo. France, New Zealand and the United States of America (USA), also supported the deployment of a UN force, as was recommended by the high-level talks in Addis Abbaba on 16 November 2006. China also referenced these talks, as part of their support for a joint AU-UN force. Malaysia noted the importance of the extension of the AU's mandate for six months from January 2007. International Federation of Human Rights Leagues (FIDH), Franciscans International, Consultative Council of Jewish Organisations and B'nai B'rith International called for an immediate UN peacekeeping mission to Sudan.<sup>45</sup> Amnesty International and FIDH commented on the lack of AMIS capacity to deal with the situation due to its small size.

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<sup>32</sup> South Africa, China, Republic of Korea, Azerbaijan, USA, Senegal, Azerbaijan, Albania.

<sup>33</sup> With observers from the five permanent members of the Security Council.

<sup>34</sup> Indonesia shared this view.

<sup>35</sup> Finland (on behalf of the EU), Algeria (on behalf of the African Group), Switzerland, Poland, the Netherlands, Brazil, Luxembourg, Italy, Norway, UNPA, UNICEF, OCHA, UNHCR.

<sup>36</sup> Switzerland, Indonesia, Malaysia, UK, Senegal, UNPA, UNHCR.

<sup>37</sup> Indonesia, Russia, Uruguay, Azerbaijan, Iran.

<sup>38</sup> Pakistan (on behalf of the OIC), Malaysia, India, Iran.

<sup>39</sup> Ghana, Morocco, Republic of Korea, Azerbaijan, Jordan, Oman, New Zealand.

<sup>40</sup> Zambia, Saudi Arabia (on behalf of the Arab League), Indonesia, Bangladesh, Lebanon.

<sup>41</sup> A/HRC/2/L.44, 3 October 2006.

<sup>42</sup> Pakistan, Nigeria and Azerbaijan.

<sup>43</sup> South Africa, Senegal, as well as the IGO, the UN Population Fund.

<sup>44</sup> This UN force can only be requested by the Security Council.

<sup>45</sup> FIDH was in favour of the Security Council enacting Chapter 7 of the UN Charter, in order to form a joint UN-AU mission.

## Action to be taken by the Human Rights Council

The primary objective of the special session was to consider dispatching a fact-finding mission to Darfur in order to assess the situation. Such a mission would then report back to the Council at its 4<sup>th</sup> session. As a consequence of the concern expressed by many States as to the credibility of information on the ground in Darfur, such a mission was deemed to be highly necessary.

The differing views on the composition of such a mission were reflected in the draft resolutions of Algeria<sup>46</sup> (on behalf of the Africa Group) who suggested dispatching a mission headed by the President of the Council and including members of the Bureau and regional group co-coordinators of Council member States<sup>47</sup>; as compared with Finland (on behalf of the EU)<sup>48</sup> who favoured a mission of independent experts headed by the Special Rapporteur on Darfur.<sup>49</sup>

In explaining their resolution, Algeria spoke of the need for an objective diagnosis of the human rights situation, in order to assist the Council in formulating an effective roadmap to end the violence. Jordan and the Syrian Arab Republic spoke of their support for such a mission.

Ireland and Belgium spoke of their support for the dispatching of the Special Rapporteur to Darfur, as favored by their EU proposal. The UK and the Netherlands stated their personal opposition to dispatching government representatives to Darfur as part of the mission, claiming their independence would be jeopardised. They also claimed that this would lead to the kind of politicisation that many States, including those who now supported the mission composed of State representatives, claimed led to the failure of the former Commission on Human Rights. Uruguay and Estonia both supported sending a mission comprised of the Special Rapporteur on Darfur, to be assisted by a team of experts. Several other States<sup>50</sup> also supported sending a team of independent, established experts. Norway argued that the mission should not be allocated a purely fact-finding role, as in their view, the facts are clear. Rather, Norway argued for the mission to be granted a monitoring role.

Many States also stressed the need for cooperation by the Sudanese Government with the body, in order to guarantee freedom of movement and access to all parts of the affected region.<sup>51</sup>

Many NGOs<sup>52</sup> also discussed the assessment mission to be sent to Darfur. UN Watch (in a joint statement) and B'nai B'rith International suggested that the mission be headed by the Special Rapporteur on Sudan, while the Indian Movement of Tupaj Amaru urged the President to lead the mission, as per the resolution of the African Group. The Lutheran World Federation called for a professional and expert assessment team<sup>53</sup> of the type sent pursuant to the resolutions<sup>54</sup> of the previous special sessions of the Council. The Norwegian Refugee Council recommended that the assessment mission meet with IDPs without Sudanese officials, assess government obstructions to humanitarian organizations, and ensure that the Government create the

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<sup>46</sup> A/HRC/S-4/L.2

<sup>47</sup> Operative paragraph 6, A/HRC/S-4/L.2

<sup>48</sup> A/HRC/S-4/L.1

<sup>49</sup> Operative paragraph 3, A/HRC/S-4/L.1

<sup>50</sup> Japan, Brazil, Bangladesh, Australia and Chile.

<sup>51</sup> Zambia, Finland, Tunisia and Uruguay.

<sup>52</sup> UN Watch (in a joint statement with Freedom House, TRP, IMSCO, France Libertés – Fondation Danielle Mitterrand, BBI, CBJO, IFSW, FAWCO, EUJS, Agir ensemble pour les droits de l'homme, WEP, CLEF, CIHRS, WIZO, IARF, 3HO FOUNDATION, Inc., LI, WFWPI, LICRA, IAW, Maryknoll Sisters of St. Dominic, Inc., IFUW, CPSR, VIDES, Becket Fund for Religious Liberty, ICJW, American Psychological Association and ICP), Femmes Africa Solidarité, Worldwide Organization for Women, Norwegian Refugee Council, Lutheran World Federation, B'nai B'rith International (in a joint statement with Coordinating Board of Jewish Organizations) and Indian Movement of Tupaj Amaru.

<sup>53</sup> Consultative Council of Jewish Organisations and International Humanist and Ethical Union also supported the idea of an assessment mission composed of independent experts.

<sup>54</sup> A/HRC/S-1/L.1/Rev.1, 4 July 2006, A/HRC/S-2/L.1, 9 July 2006, A/HRC/S-3/L.1, 14 November 2006.

necessary conditions for AMIS to protect civilians, especially around IDP camps. Femmes Africa Solidarité (in a joint statement)<sup>55</sup> insisted that the assessment mission include a gender perspective and gender balance.

Certain organisations<sup>56</sup> praised the Council for diversifying its choice of human rights situations to consider. The Consultative Council of Jewish Organisations urged the Council to help "avert the occurrence of another genocide". B'nai B'rith International criticised the Council for the harsh tone of its resolutions directed at Israel, compared to the "tame language" used in relation to Sudan.

### Draft resolutions proposed to the special session

Prior to the commencement of the special session, member States were presented with two competing draft resolutions to be tabled for adoption.<sup>57</sup> The draft resolution tabled by Finland (on behalf of the EU) set out in its preambular paragraphs that the Council should address "situations of violations of human rights, including gross and systematic violations" and recognised the need of the Council "to continue to be provided with clear, accurate and substantiated information on the human rights situation in Darfur".<sup>58</sup> It expressed its 'grave concern' regarding the seriousness of the human rights and humanitarian situation in Darfur and called for an immediate end to the ongoing violations of human rights and international humanitarian law and for all parties to ensure there is no impunity.<sup>59</sup> The draft also welcomed the cooperation established by the Government of Sudan with the Special Rapporteur on Sudan, and called upon the Government to continue and intensify its cooperation with the Council, its mechanisms, and the Office of the United Nations High Commissioner for Human Rights (OHCHR).<sup>60</sup> The EU draft resolution also decided to dispatch an urgent assessment mission to Darfur headed by the Special Rapporteur on the situation of human rights in the Sudan and requested the mission to report to the Council at its 4th session.<sup>61</sup> In this way EU States favoured a mission comprised of independent experts, led by the Special Rapporteur, to encourage transparency and avoid the politicisation which many States claimed had plagued the former Commission on Human Rights.

The Algerian draft resolution, in its preambular paragraph, recognised the need for the Council "to be provided with clear, accurate and substantiated information on the human rights situation in Darfur". It also noted 'with concern' the seriousness of the human rights and humanitarian situation in Darfur despite the conclusion of the *Abuja Peace Agreement*, which it noted, some parties have yet to sign.<sup>62</sup> Similar to the EU draft, it welcomed the cooperation established by the Government of Sudan with the Special Rapporteur on Sudan, and called upon the Government to continue and intensify its cooperation with the Council, its mechanisms, and the OHCHR.<sup>63</sup> The Algerian draft also called upon the parties who did not sign the *Abuja Peace Agreement* to do so and all parties to observe the ceasefire.<sup>64</sup> It welcomed the initiative of the Government of Sudan who invited officials and members of the Human Rights Council to obtain first-hand information on the human rights situation in Darfur.<sup>65</sup> The Algerian draft resolution also called upon the international community, donor countries and peace partners, to honour their pledges of support inter alia to the African Union Mission in Sudan; and to provide urgent and adequate financial technical assistance to the Government of Sudan and to the relevant State and non-State agencies in the promotion and protection of human rights.<sup>66</sup> While also calling for the dispatch of an assessment mission, it preferred that it be "headed by the President of the Council" and that it would "include members of the Bureau and the regional group

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<sup>55</sup> Association of World Citizens, Worldwide Organisation for Women and International Federation of University Women.

<sup>56</sup> Consultative Council of Jewish Organisations, World Jewish Congress and B'nai B'rith International.

<sup>57</sup> Algeria, on behalf of the Africa Group proposed A/HRC/S-4/L.2; and Finland on behalf of the EU proposed A/HRC/S-4/L.1.

<sup>58</sup> Preambular paragraph 2 of A/HRC/S-4/L.1.

<sup>59</sup> Operative paragraph 1 of A/HRC/S-4/L.1.

<sup>60</sup> Operative paragraph 2 of A/HRC/S-4/L.1.

<sup>61</sup> Operative paragraph 3 of A/HRC/S-4/L.1.

<sup>62</sup> Operative paragraph 2 of A/HRC/S-4/L.2.

<sup>63</sup> Operative paragraph 1 of A/HRC/S-4/L.2.

<sup>64</sup> Operative paragraph 3 of A/HRC/S-4/L.2.

<sup>65</sup> Operative paragraph 5 of A/HRC/S-4/L.2.

<sup>66</sup> Operative paragraph 4 of A/HRC/S-4/L.2.

coordinators members of the Council".<sup>67</sup> Like the EU draft, it also requested the mission to report at its 4th session.<sup>68</sup>

In the statements made by member and observer States of the Council throughout the course of the special session, an obvious rift between those States supporting the two resolutions was clear. This disagreement predated the special session. However, most States and importantly the President of the Council recognised the importance of reaching a consensus decision on the draft to be adopted at this session.

The President proposed a compromise resolution<sup>69</sup> in the spirit of consensus. The resolution expressed its 'concern' regarding the seriousness of the human rights and humanitarian situation in Darfur.<sup>70</sup> It welcomed the signing of the *Abuja Peace Agreement*, urged its full implementation and called upon parties who had not signed it to do so, as well as all parties to observe the ceasefire.<sup>71</sup> Similar to both the EU and Algerian drafts it welcomed the cooperation established by the Government of Sudan with the Special Rapporteur on the situation of human rights in Sudan and called upon the Government "to continue and intensify its cooperation" with the Human Rights Council, its mechanisms, and the High Commissioner for Human Rights.<sup>72</sup> The final decision of the President provided for the dispatch of a high-level mission to assess the human rights situation in Darfur. Regarding the composition of the mission, the compromising elements of the President's draft included that it would comprise of "five highly qualified persons, to be appointed by the President of the Human Rights Council following consultation with the members of the Council, as well as the Special Rapporteur on the situation of human rights in Sudan".<sup>73</sup> The final draft also requested that the Secretary-General and the High Commissioner for Human Rights provide all administrative, technical and logistical assistance required to enable the high-level mission to fulfill its mandate promptly and efficiently, in coordination with the President of the Human Rights Council, and also requested the latter to consult as appropriate with the concerned country.<sup>74</sup> Finally this draft requested the high-level mission to report to the Council at its 4th session.<sup>75</sup>

### **Outcome of the consensual adoption**

Statements from member and observer States highlighted a wide division in support for the resolutions, even amongst regional groupings. Most notably was the appearance of some dissent within the African Group as Zambia<sup>76</sup> alluded to the fact that there were 'divisions' on the accuracy of reports emanating from Darfur. While the Zambian delegation expressed its strong support for the proposal to send a team to Darfur to assess the human rights situation there, it also expressed that it was divided on the composition of such a team. On the other hand, States such as Brazil in the Latin American and Caribbean Group (GRULAC) were determined to avoid a condemnatory tone towards the Government of Sudan. Brazil favoured a resolution which "built confidence", rather than "apportioned blame".

The President's compromise resolution was able to strike a balance between the requests of the European and African resolutions on the issue of the composition of the high-level mission. The resolution decided to dispatch "five highly qualified persons, to be appointed by the President of the Human Rights Council following consultation with the members of the Council, as well as the Special Rapporteur on the situation of human rights in Sudan".<sup>77</sup> After private, informal consultations between States on the President's compromise resolution a consensus was achieved.

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<sup>67</sup> Operative paragraph 6 of A/HRC/S-4/L.2.

<sup>68</sup> Operative paragraph 6 of A/HRC/S-4/L.2.

<sup>69</sup> S-4/101.

<sup>70</sup> Operative paragraph 1 of S-4/101.

<sup>71</sup> Operative paragraph 2 of S-4/101.

<sup>72</sup> Operative paragraph 3 of S-4/101.

<sup>73</sup> Operative paragraph 4 of S-4/101.

<sup>74</sup> Operative paragraph 5 of S-4/101.

<sup>75</sup> Operative paragraph 6 of S-4/101.

<sup>76</sup> 12<sup>th</sup> December

<sup>77</sup> Operative paragraph 4 of S-4/101.

The President of the Council was highly commended by many delegations for his tireless efforts in finding a consensual solution. In this role he was referred to as 'the alchemist' by the Pakistan delegation (on behalf of the OIC). His joint efforts with the regional groups, the Sudanese Government and all members of the Council were acknowledged. In his closing speech, President de Alba pointed out that the decision reached in the 4th special session carried with it 'enormous responsibility' for the Presidency. Acknowledging this, he promised to conduct wide-ranging consultations before choosing members of the high-level mission.

The President concluded that the 4th session of the Council would provide an excellent opportunity for the Council to take further steps in tackling the plight in Darfur, in line with the report of the high-level mission. The task of the high-level mission, he said, would not be easy or small, but would have direct and serious effects for the country of Sudan. Thus all efforts would be made to ensure a balanced, accurate and neutral mission. The President confirmed the importance of 'overcoming our differences' and 'building a new culture of human rights'. The delegation will be named and dispatched shortly, and will report on its findings to the 4<sup>th</sup> regular session of the Council to be held from 12 March to 5 April 2007.

### Concluding comments

In arriving at a consensual solution, this 4th special session resulted in a historical landmark for the new Council. This consensus, as described by the British delegation, was a 'rare and valuable' decision, which was not of the classic type which would condemn and criticise States, but rather provided for practical action on the ground. The Council fulfilled its mandate by 'rising to its responsibilities'<sup>78</sup>, 'putting people before politics'<sup>79</sup> and thus cementing its credibility.

Pakistan (on behalf of the OIC) pointed out that the lesson to be learned was that increased consultations could yield consensus. Tunisia highlighted the strong message this consensus would send to the world. The Dutch delegation expressed their trust in the cooperation of the Sudanese Government in the implementation of the draft decision. The Zambian delegation expressed hope that there would be an immediate end to the atrocities in Darfur, and that all rebel groups would sign and enforce the *Abuja Peace Agreement*.

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<sup>78</sup> Comment by the Algerian delegation, on behalf of the African Group.

<sup>79</sup> Ibid.

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