

SPECIAL SESSION OF THE HUMAN RIGHTS COUNCIL (Geneva, 11 August 2006)

The Human Rights Council (the Council) held its second special session on 11 August 2006 in response to a request from the Arab Group¹. This request was supported by 23 member States. The special session, held in accordance with General Assembly *Resolution 60/251*, was called to “consider and take action on the gross human rights violations by Israel in Lebanon, including the Qana massacre, the country-wide targeting of innocent civilians and the destruction of vital civilian infrastructure”². A draft resolution was proposed by the Organisation of the Islamic Conference (OIC) and circulated prior to the session³. This resolution formed the basis of discussions during this special session of the Council. Many of the issues debated during this second special session of the Council were similar to those raised in the first special session, which focused on the subject of human rights violations in the occupied Palestinian territories (held on 5-6 July 2006)⁴.

Overview

- ❑ The United Nations High Commissioner for Human Rights (the High Commissioner), Louise Arbour, made an opening statement supporting the role of the Council in intervening “to impress upon the parties to the conflict the urgent need to comply with their obligations under international human rights and humanitarian law”⁵.
- ❑ The session progressed in two stages. In the first stage, delegations and NGOs made comments on the draft resolution. In the second stage, amendments were considered and the resolution was voted on.
- ❑ All delegations expressed their concern at the deteriorating human rights situation in the Middle East. Although most comments focused on the situation in Lebanon, many also expressed their concern for the suffering of civilians in Israel.
- ❑ Many delegates expressed their concern that the draft resolution was one-sided as it only addressed human rights violations committed by Israel, without also mentioning Hezbollah.
- ❑ The draft resolution was adopted with two amendments. The resolution condemned Israel for grave violations of human rights and breaches of international humanitarian law; reminded all parties to the conflict to respect international humanitarian law; and called for the immediate establishment of a high-level commission of inquiry to be dispatched to the region.

Key Issues

Council’s mandate

- In light of the degrading situation in the Middle East, the vast majority of delegations, in particular all Arab delegations, applauded the holding of a special session and saw this as an occasion for the Council to prove itself as an effective human rights body.
- Conversely, several delegations, notably Israel, the USA, Canada, and Australia, criticised the holding of a special session on this topic, arguing that it was outside of the Council’s mandate, proposing instead that the Security Council resolve the issue.
- Those delegations opposed to the session explained that in their view the Council should be impartial, and that the one-sided nature of the draft resolution against Israel made the subject too political to be taken up by the Council.
- The Sudan accused the Council of exercising double standards in upholding its mandate, pointing to the way in which the Council had involved itself in what the Sudanese Government viewed as essentially a domestic issue (the crisis in Darfur), and comparing

¹ The request was made by the permanent representative of Tunisia on behalf of the Group of Arab States and the Organisation of the Islamic Conference (OIC). The request is available at:

http://www.ohchr.org/english/bodies/hrcouncil/docs/specialsession/A.HRC.S-2.1_en.pdf.

² http://www.ohchr.org/english/bodies/hrcouncil/docs/specialsession/A.HRC.S-2.1_en.pdf.

³ *Resolution A/HRC/S-2/L.1*.

⁴ (http://www.ohchr.org/english/bodies/hrcouncil/docs/specialsession/A.HRC.S-2.L.1_en.pdf)

⁵ <http://www.ohchr.org/english/bodies/hrcouncil/specialsession/index.htm>

[http://www.ohchr.org/english/bodies/hrcouncil/docs/specialsession/Special%20Session%20ME%20Aug
ust%2010%202006%20draft%20LA.pdf](http://www.ohchr.org/english/bodies/hrcouncil/docs/specialsession/Special%20Session%20ME%20August%2010%202006%20draft%20LA.pdf)

First Impressions

this to the Council's alleged reluctance to act against a flagrant violation of human rights by Israel.

Human rights and the humanitarian situation

- All delegations deplored the deteriorating humanitarian situation in Lebanon and the immense loss of life resulting from the current conflict. Although most concerns were expressed in relation to the suffering of Lebanese civilians, the targeting of Israeli civilian centres by Hezbollah was also a point of discussion.
- The New Zealand delegation, while deploring Hezbollah's kidnapping of soldiers, made clear its opinion that Israel's retaliation and use of force had been disproportionate given the situation.
- While no official statistics were provided, several delegations cited counts of over 1,000 dead in Lebanon, with over a million people displaced, and thousands injured. The Israeli delegation talked of over 3,000 Israelis injured by Hezbollah rocket attacks.
- In response to criticism of civilian deaths in Lebanon, the USA and Israeli delegations referred to Hezbollah's use of human shields, and launching of attacks from civilian areas.
- In addition to the direct human suffering, several delegations expressed their concern at the destruction of civilian infrastructure in Lebanon, which is particularly problematic given that Lebanon has still not recovered from years of civil war and a previous Israeli occupation.
- Criticism was also made of Israel because of its destruction of the main airports and land routes to neighbouring countries, which has seriously hampered efforts to bring aid and relief to the millions of civilians trapped in the war zone. The Cuban delegation proposed that these actions constituted a deliberate attempt by Israel to prevent the supply of aid.

Violations of international law

- In its opening statement, the Pakistani delegation (on behalf of the OIC) accused Israel of violating numerous international laws. Israel was criticised for not respecting the *Geneva Conventions*, particularly the *Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War*. Israel's targeting of civilian centres, including specific incidents such as the Qana massacre⁶, were referred to as examples of violations of the *Geneva Conventions*. Furthermore, the Pakistani delegation, as well as numerous other delegations, claimed that Israel was in violation of the *United Nations Charter*, the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, and the *Convention on the Rights of the Child*.
- Several States called for the dispatching of an urgent commission of inquiry. Suggested topics to be investigated included the use of unconventional or illegal weapons such as "phosphorous bombs"⁷.
- The delegate from Argentina stated that the targeting of civilian infrastructure constituted collective punishment, a violation of the *Fourth Geneva Convention*.

Resolution of the crisis and the peace process

- Discussion on the resolution of the crisis and the peace process was a major topic of disagreement as several delegations, notably the USA, Israel, and Australia, saw the resolution of the conflict as outside of the Council's mandate.
- Several delegations expressed their fear that this was part of a generalised conflict in the region, and linked this crisis with the ongoing occupation of Arab lands by Israel.
- The Uruguayan delegation called on Israel to clearly define its borders in order to be able to work towards peace with its neighbours.
- The delegations of the Democratic People's Republic of Korea (DPRK) and Cuba blamed foreign support for Israel as the reason for Israel's apparent impunity, and called on this to stop in order to be able to resolve the ongoing crisis in the region. The US and Israeli delegations pointed to Iran's support of Hezbollah as a source of the conflict.
- The Finnish delegation (on behalf of the European Union) made clear its opinion that there could be no military solution to the conflict, and that a resolution needed to be passed.

⁶ 30 July 2006.

⁷ This was mentioned by the United Arab Emirates (UAE) delegation.

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NGO participation

- 14 NGOs were given the floor to express their views on the humanitarian crisis in southern Lebanon.
- Most NGOs condemned the illegality of actions taken by Israel and deplored the humanitarian situation in the region.
- A number of NGOs requested the Council to take immediate measures towards guaranteeing the safety of civilians and the return of refugees to the affected areas.
- Amnesty International called upon all parties to the hostilities to respect their obligations under international law and asked the Council to prove itself by rising above the temptations of political advantage and make a real contribution to ending the current violations of human rights and humanitarian law.
- A number of NGOs, such as Human Rights Watch, expressed concern that the draft resolution did not address both sides of the conflict, and asked the States to also take into consideration Hezbollah's international humanitarian law violations.
- A few NGOs, such as UN Watch, echoed the US delegation's opinion that the current session fell outside the Council's mandate.

The resolution

Draft resolution on the grave situation of human rights in Lebanon caused by Israeli military operations (A/HRC/S-2/L.1)

- Strongly condemns the grave violations of human rights and breaches of international humanitarian law in Lebanon, and the massive bombardment of Lebanese civilian populations and infrastructure (including the massacres in Qana and others) causing death, injury, and displacement.
- Calls on Israel to immediately stop military operations against civilian populations and to abide by its obligations under human rights law and humanitarian law.
- Decides to dispatch an urgent high-level commission of inquiry to investigate the humanitarian situation in Lebanon and report back to the Council by 1 September 2006.
- Calls on the international community to urgently provide humanitarian and financial assistance to Lebanon.

Amendments

- The way in which the draft resolution criticised only Israel was the source of much dispute in the Council's special session. Accordingly, several States suggested that reference to Hezbollah should be included in the resolution. Switzerland was the first to propose this, with several other States, notably Finland, echoing this sentiment.
- The OIC refused to make any reference to Hezbollah in the text. As a result of closed informal meetings between OIC members, they decided to incorporate their own amendments into the draft resolution.
- The Pakistani delegation orally presented the newly finalised draft resolution before the vote took place.
- The final draft resolution inserts one sub-section to operative paragraph 4, thus making an indirect reference to the Lebanese militia "(...) urges all concerned parties to respect the rules of international humanitarian law, to refrain from violence against the civilian population and to treat under all circumstances all detained combatants and civilians in accordance with the Geneva Conventions". Further, a new operative paragraph 6 was also added to the text, calling for the urgent establishment of "a high level commission of inquiry comprising eminent experts of human rights law and international humanitarian law including the possibility of inviting the relevant UN special procedures to be nominated to the Commission".

The resolution in the plenary

Voting Records: Adopted (27 – 11 – 8)

Voting trends

- The majority of States from the African and Arab Group, as well as from the OIC voted in favour of the resolution. States from the European Union (EU) and Romania, as well as Ukraine, Canada, and Japan voted against the resolution. The majority of States from the Group of Latin American and Caribbean countries (GRULAC) also voted in favour of the resolution.

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General comments/explanations of votes

- The representative of Israel called on the Council to reject the resolution.
- The representative of Lebanon emotionally appealed for support of the resolution. They reminded the Council of the disproportionate use of violence and the grave humanitarian crisis currently affecting civilians in Lebanon.
- The Canadian delegation claimed the resolution was one-sided and asked the Council not to use double standards and to base its decisions on objectivity.
- The Swiss delegation reminded the Council of their proposal to make the resolution more equitable and deplored the lack of communication resulting from amendments made in a closed informal meeting. The delegation stated that the Council appeared to be following the same politicised approach existent in the former Commission on Human Rights.
- The delegation from the Republic of Korea expressed their doubt that the resolution would substantively contribute to ending the violations of human rights in the area, as it failed to address all the aspects and sides of the conflict. They argued that the situation is primarily a matter related to international peace and security, and thus that the Security Council should deal with it first. As a result of these beliefs, the Republic of Korea delegation decided to abstain.
- The delegation of Finland, speaking on behalf of the EU and Romania, regretted that no genuine collaborative discussion took place in the Council meeting. The delegation believed that the resolution only addressed one aspect of the conflict and, consequently, the EU and the Romanian delegations voted against.
- The delegation of Guatemala articulated its dissatisfaction in relation to the lack of open negotiations on the resolution and decided to abstain.
- The Peruvian delegate, speaking on behalf of the delegations of Argentina, Brazil, Ecuador and Uruguay, expressed support for the resolution. They asked all parties to ensure the safeguarding of humanitarian corridors on both sides of the Israel-Lebanese border. The delegations asked for dialogue and diplomatic solutions in order to guarantee the respect of humanitarian law in the region. Peru, Argentina, Brazil, Ecuador and Uruguay voted for the resolution.
- The delegation of Japan expressed their regret for not being able to support the resolution. The delegation praised the efforts taken by the OIC in improving the text. However, the proposed resolution was in their view far from being the one that would improve the situation, and so Japan voted against it.
- The representative of France regretted that the resolution was not adopted by consensus. France voted against because the draft resolution did not satisfactorily include most of the concerns expressed by their delegates.
- The delegation of Mexico indicated that they would have preferred a resolution that included a clause referring to the Hezbollah attacks. Nevertheless, Mexico voted for the resolution.
- The delegation of Pakistan, speaking on behalf of the OIC, expressed its special gratitude towards the member States that supported the resolution. The representative asked for immediate implementation of the resolution. He hoped that the Security Council would follow up with its own resolution, which would put an end to the civilian killings and suffering in Lebanon.

Conclusions/Recommendations

- The President of the Council, Mexican Ambassador Luis Alfonso de Alba, affirmed the full commitment of the High Commissioner and of the Office of the High Commissioner for Human Rights (OHCHR) with regards to the immediate implementation of the resolution adopted by the Council.
- President de Alba appealed to delegates to increase their efforts to cooperate in future decision-making in order to enhance the credibility and future strength of the Council.
- Finally, the President asked for an immediate halt to hostilities in Lebanon and Israel, and expressed his hope that the Security Council would intervene in the matter.