

ASSESSMENT OF THE NEW UN HUMAN RIGHTS COUNCIL

The new UN Human Rights Council (Council) concluded its second regular session on October 6, 2006. Although the Council heard from over 40 reporters on issues from racism to counter-terrorism, it was forced to table almost 50 resolutions because of the large amount of work it faced in its three-week session. The Council intended to leave behind the political maneuvering and posturing by countries with poor human rights records that plagued its predecessor Commission on Human Rights. It does not appear, however, that the new body has escaped these ills.

UN Secretary-General Kofi Annan opened the Council's inaugural session with remarks underscoring his hope that the Council's work would mark a clean break from the past and lead to a full revitalization of the UN's human rights machinery. He stressed the importance of the universal periodic review mechanism whereby the Council reviews the human rights situations in Member States. Annan also encouraged the Council to confront politically thorny issues and engage in difficult discussions where necessary to remedy or prevent human rights violations, and urged the Council not to become caught up in political maneuvering. Many high-ranking representatives, UN officials, and NGOs echoed Annan's sentiments.

Despite this espousal of high ideals and hopes, the Council's activities during its first three months have not escaped criticism. The first Special Session, requested by Tunisia as the Chair of the Arab Group to address the human rights situation in the Occupied Palestinian Territories, seemed like a request based more on a desire to criticize Israel than on actual concern of abuse. This triggered concern that Member States, in the criticized tradition of the now defunct Commission on Human Rights, would continue to use the forum for political ends. It was feared that such political maneuvering would inhibit the Council's ability to look into pressing situations such as Darfur.

Concern escalated during the Council's second Special Session, also requested by Tunisia on behalf of the Group of Arab States and the Organization of the Islamic Conference. The Council adopted a resolution

to investigate Israeli violations of international humanitarian law in its conflict with Lebanon without inquiring into Hezbollah's abuses. Human Rights Watch warned that the Council's resolution "undermined its credibility and wasted an opportunity to protect civilians in the region." Amnesty International expressed disappointment that the Council's session on Lebanon "put politics before lives" and "failed to meet the principles of impartiality and objectivity expected." Other NGOs expressed disappointment that perceived political self-interest and maneuvering by countries with poor human rights records would inhibit the Council from addressing human rights crises, including in Darfur and Uzbekistan, in an impartial manner.

UPDATE ON DARFUR

Conflicting opinions about strategy, competing political interests, and a reluctance to challenge state sovereignty have precluded the UN from successfully addressing the ongoing crisis in Darfur, where at least 400,000 people have died and some 2 million have been displaced as a result of civil unrest between warring ethnic groups and government militias in the region. The conflict poses a unique opportunity for the UN to begin to implement some of the reforms it committed to last year, particularly the "responsibility to protect."

On September 28, Sima Samar, UN Special Rapporteur on the situation of human rights in the Sudan, said that Sudanese Government forces, militias, rebel factions, and opposition groups from neighboring Chad continue to kill in Sudan, particularly in the Darfur region. The independent, unpaid human rights expert cited continuing violations of the right to life, with special concern for rape and other sexual violence against women. Recently the Sudanese government conducted aerial bombings of civilian occupied villages in the rebel-controlled northern part of the region. The bombings, as reported by Human Rights Watch, were conducted using a method so inaccurate that it could not strike military targets without a substantial risk of harm to civilians.

The UN has failed to mount an effective response to the violence. The Security Council reportedly has a list of targets for

potential sanctions that includes the Sudanese president and other high ranking government officials. Yet Security Council members have resisted such action, fearing that it would impede UN negotiations with these very officials over the expansion of an African Union (AU) force trying to stem continued violence in Darfur. Such negotiations are especially important in light of the improbability that a UN force will reach Darfur. In late August the Security Council passed UN Security Council Resolution 1706, which calls for the 7,000 AU troops that have been unable to stop the violence to be replaced by 17,000 UN troops with a tougher mandate and more secure funding. Sudan, however, has blocked implementation of this resolution. UN ex-envoy to Sudan Jan Pronk does not expect Sudan to accept the UN peacekeepers, and suggested that the international community should instead strengthen the AU forces, whose mission has been extended to the end of the year.

Sudan's resistance to Resolution 1706 highlights the conflict between a critical element of UN reform — the "responsibility to protect" — and the sovereignty of African countries. At last year's UN General Assembly, world leaders unanimously endorsed a "responsibility to protect." The theory behind this responsibility is that if a country cannot or will not protect its citizens from genocide, war crimes, crimes against humanity, or ethnic cleansing, it must accept support or assistance from other nations to end the violence. While the new doctrine respects the sovereignty of countries to regulate their internal affairs, it considers this sovereignty to be conditional and not absolute. When peaceful means are exhausted and leaders of a UN Member State are "manifestly failing to protect their populations," other states have the responsibility to take collective action through the Security Council.

There is growing support for the "responsibility to protect" among African states that have traditionally embraced strong notions of sovereignty. This shift is perhaps a response to the terrible crimes against humanity perpetrated in Rwanda, Uganda, and Burundi for which state sovereignty impeded international intervention. Ghana's representative, Effah-Aptengeng, has championed this thinking,

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expressing concern that the Security Council even asked for Sudan's consent before deploying troops.

Resolution 1706, which called for a UN force in Darfur, is the first time that the Security Council has referred to the "responsibility to protect" in a specific country situation where armed UN peacekeepers are to be deployed. Implementation of Resolution 1706 under the doctrine would show a commitment to reform efforts unanimously endorsed last year, as well as evolving notions of sovereignty and collective responsibility among African nations. It would also allow the UN to take a much-needed step to help resolve an alarming and brutal humanitarian crisis.

UN SECURITY COUNCIL THREATENS NORTH KOREA WITH SANCTIONS

In response to the Democratic People's Republic of Korea's (DPRK) self-reported

nuclear test, the UN Security Council imposed harsh military and economic sanctions. Because of China and Russia's reluctant acceptance of the resolution, however, the effectiveness of enacting the resolution remains to be seen.

The resolution, adopted on October 14, 2006, under the Security Council's Chapter VII powers, ordered the DPRK to immediately recant its withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons and cease all activities related to developing a nuclear weapons program. To ensure the fulfillment of this command, the resolution bans the import into the DPRK of any materials "which could contribute to DPRK's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes." The resolution also empowers all countries to inspect cargo going into and out of DPRK for prohibited weapons, and imposes several economic sanctions, including a travel ban, a ban on luxury imports, and the

freezing of North Korean assets abroad.

While the Security Council's vote was unanimous, China and Russia resisted several provisions of the resolution. For example, the two countries successfully blocked a provision threatening military force if the DPRK failed to comply. And though they ultimately accepted the provision calling for inspection of cargo entering and leaving the DPRK, China announced after the vote that it would not participate in such searches for fear of exacerbating the already tense political situation in the region. Without the full support of these two major powers, it is unclear how successful the resolution will be. *HRB*

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