



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2006/NGO/3
10 February 2006

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Sixty-second session
Items 6, 14 and 18 of the provisional agenda

**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND
ALL FORMS OF DISCRIMINATION**

SPECIFIC GROUPS AND INDIVIDUALS

EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS

**Written statement* submitted by the Association for World Education,
a non-governmental organization on the Roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[5 January 2006]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

URGENT APPEAL TO STOP CRIMES IN DARFUR BY THE GENOCIDE CONVENTION

1. Faced with the challenge of massive displacement of people in Darfur, Sudan, a destabilizing flow of refugees to Chad, the systematic and multiple rape of women, and the wide-spread destruction of villages, the UNGA voted on 23 November 2005 to take "No Action." A "No Action" motion is rarely used in the General Assembly. A "No Action" motion prevents a vote on a resolution and cuts off any debate.¹

2. A resolution on Sudan, following the resolution in April by the Commission on Human Rights, was introduced in the General Assembly's Third Committee by Britain's Ambassador Sir Emyr Jones Parry on behalf of the European Union – Britain currently holding the presidency of the EU. In introducing the resolution, Sir Emyr confirmed that *"civilians are still being killed, rape is still widespread, and the situation of hundreds of thousands of displaced people remains dire."* The resolution stressed *"the continuing climate of impunity in the Darfur region, particularly in the area of violence against women and girls."* Ms. Sima Samar, Special Rapporteur on Sudan of the Commission, had presented a very complete report, highlighting the increasingly dangerous situation and the growing danger to humanitarian workers in the Darfur area. She noted that not much had been done – the diplomatic style for saying that nothing had been done – regarding disarmament, demobilization and rehabilitation of the Janjaweed militia and other military groups.

3. For a very useful analysis of the latest reports on the situation in Darfur (December 2005) by Secretary-General Kofi Annan, Undersecretary for Humanitarian Affairs Jan Egeland, and from other sources, see the section "Darfur at Year's End" (pp.11-16) in the articles posted by Prof. Eric Reeves.²

4. Despite the fact that there are Nigerian military among the African Union's Mission in Sudan (AMIS) who know that the AU forces are unable to protect civilians, particularly those in internally displaced-persons camps, it was the Nigerian representative which moved the "No Action" motion which passed by 84 votes in favour, 79 against and 12 abstentions. Nigeria currently holds the presidency of the African Union and Sudan is proposed for that post in January 2006.³

5. The "No Action" motion is closely linked the current discussion in the General Assembly on improving the UN structures for dealing with human rights. The September 2005 Summit had agreed that the Commission on Human Rights should be replaced by a smaller, but more competent Human Rights Council, leaving the details for the GA to work out. States that do not wish to see stronger and more effective structures had to fire a warning shot without having to put it into obvious words.

6. The success of the "No Action" motion is a sign to all that any resolution from a human rights body can be shot down in the General Assembly no matter what the facts are on the ground. "No Action" has been the response of many countries to serious accusations of genocide in the past, but never before have they flown a white flag with "No Action" so boldly printed in large black letters.

7. With bloc voting in the General Assembly, is there any other avenue based on universally-recognized international law? A major possibility is the use of the Convention for

the Prevention and Punishment of the Crime of Genocide of 1948 whose commemoration fell on 9 December 2005. The 1948 Genocide Convention followed the declaration made by the General Assembly in its resolution of 11 December 1946 – *"that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world."*

8. The Genocide Convention in its Article III states that *"the following acts shall be punishable:*

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide."

9. Article IV states that: *"Persons committing genocide or any of the other acts enumerated in Article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals"* The fact that private individuals can be punished is relevant in the Darfur case as the Sudanese government claims it does not have control over the Janjaweed militias.

10. Article VIII of the Convention states: *"Any Contracting Party [Member State] may call upon the competent organs of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in Article III."*

11. The Special Rapporteurs of the UN Commission on Human Rights, staff of UN Agencies, as well as field workers of Non-Governmental Humanitarian Organizations have all reported the massive displacement of people; the refugee flows to neighbouring Chad, systematic and multiple rapes of women and girls, and other forms of torture; and the wide-spread destruction of the agricultural infrastructure of wells, livestock, and grain-storage buildings in Darfur. All observers have repeatedly reported that this destruction and rape are accompanied by verbal threats to destroy whole peoples such as the Fur, Massaliet, and Zaghawa tribal groups, among others.

12. In her final Report (2004), as CHR Special Rapporteur on extrajudicial, summary or arbitrary killings, Ms. Asma Jahangir wrote: *"A large number of people whom I met had a strong perception that the Government was pursuing a policy of 'Arabization' of the Sudan, and in particular the Darfur region, allegedly, those of Arab descent seek to portray themselves as 'pure' Muslims, as opposed to Muslims of African ethnicity."* This viewpoint has been confirmed before and since then from numerous sources.

13. The evidence of systematic actions – to quote from Article II of the Genocide Convention – *"committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such"* is clear. What is less clear is the determination of the Member States of the United Nations to act to end this violence. Until now the efforts of governments in Darfur have been inadequate as reliable reports indicate that human rights violations have grown far worse in October and November 2005. The Genocide Convention provides an adequate

framework for urgent action. Only one State needs to call on the United Nations to act under Article VIII.

14. One should not forget the unity of purpose of the 1948 Genocide Convention and the Universal Declaration of Human Rights, adopted on consecutive days (9 and 10 December). Urgent action is required to stop genocidal practices currently being carried out in the Darfur provinces of Sudan. These two anniversaries should provide the political will for rapid UN action to stop genocide in Darfur *now* – and not *after* it is all over, when that cry will go up, as in the past, “Never Again!”

1. See written statement by the Association for World Education: CHR 61st session, E/CN.4/2005/NGO/106: DAFUR, SUDAN.NON-IMPUNITY AND PROSECUTIONS FOR GENOCIDE, which includes our ‘Urgent Appeal’ of 13 May 2004 to UN Secretary-General Kofi Annan (signed by René Wadlow and David G. Littman): ‘To seize immediately the UN Security Council regarding a Grave Threat: Ongoing Genocide and Flow of Sudanese Refugees from Darfur to Chad.’

2. <http://www.sudanreeves.org/index.php?name=News&file=article&sid=83> – Eric Reeves, "Egypt Celebrates Fifty Years of Independence for Sudan, January 3, 2006" and www.sudanreeves.org "Khartoum Escalates Conflict in Eastern Sudan, Southern Sudan, and Darfur...", 14 January 2006. Professor Eric Reeves covers a number of aspects in his timely articles, confirming from several angles that the term ‘genocide’ in Sudan (Darfur and elsewhere) is fully justified.

3. On 10 December 2005 we wrote to the Representative of the African Union to the United Nations Office in Geneva, and to Ambassadors of African Union Members States, expressing our opinion that the African Union chairmanship should not go to a State whose policies and practices flout universally recognized human rights standards. We hoped that the Government of Sudan would recognize that the continued conflict in Darfur prevents it occupying that chairmanship.

Letter (2 Dec. 2005) sent by CONGO to HCHR on ‘No Action’ Darfur vote, signed by 22 NGOs

2 December 2005

Dear Ms Arbour,

Following the “No Action” vote on Darfur/Sudan on 23 November in the General Assembly, the undersigned organizations have asked CONGO to convey to you the attached letter expressing their most serious concern. I ask you therefore to give this situation your utmost priority and look into and examine alternate ways of dealing with these severe human rights violations.

I thank you in advance for your attention and look forward to our continued cooperation. With best wishes,

Yours faithfully,

Renate Bloem
President

Enclosure: letter with signatures

Dear Mme High Commissioner:

In light of the "No Action" vote of the UN General Assembly on November 23, 2005 which prevented any debate on the resolution introduced by the European Union concerning the tragic situation in Darfur, Sudan, we as nongovernmental organizations call upon you to examine alternative ways of dealing with such serious and consistent human rights violations. Many of our organizations have been involved in efforts to strengthen human rights procedures within the UN, most recently by presenting proposals for a Human Rights Council.

The Special Rapporteur on Human Rights in Sudan and other Special Rapporteurs – and you, yourself – have stressed the seriousness of the situation in Darfur, and the climate of impunity that has prevented any effective action to date against those known to have committed war crimes, crimes against humanity and other serious human rights violations in Darfur.

In introducing the resolution for the European Union, Britain's UN Ambassador Sir Emyr Jones Parry confirmed that "civilians are still being killed, rape is still widespread, and the situation of hundreds of thousands of displaced people remains dire." The resolution stressed "the continuing climate of impunity in the Darfur region, particularly in the area of violence against women and girls."

Indeed, the situation in Darfur engages the mandate of the Special Rapporteur on Violence Against Women, as systematic and multiple rape seems to be increasingly used there as a weapon of war and terror. The use of rape in such circumstances has been recognized internationally as a war crime. Increased funding and practical and political support would be needed to enable the Special Rapporteur on Violence Against Women to intervene effectively in this situation.

Returning to the blocking of the resolution in the General Assembly, we note that the "No Action" motion has been repeatedly used in the Commission on Human Rights to prevent debate on serious human rights violations. If this culture of "No Action" spreads to the General Assembly's discussion of human rights, there might be a permanent block on addressing such issues no matter what reform of the UN's human rights architecture were undertaken.

Therefore we believe that there needs to be a serious examination of alternative approaches, in particular the strengthening of the mandate and independence of the Special Procedures. Ways in which non-governmental organizations can better facilitate the gathering of information needs to be examined as well as other forms of cooperation between Special Procedures and NGOs.

We know that you are concerned with the strengthening of the Special Procedures. The "No

Action" blockage in the UN General Assembly may be the "writing upon the wall", making this concern all the more essential. We would be happy to cooperate in your further consideration of these matters.

Association for World Education
Association of World Citizens
Federation of American Women's Clubs Overseas, Inc.
Federation of Associations of Former International Civil Servants
International Association of Democratic Lawyers
International Federation of Social Workers
International Federation of University Women
International Humanist and Ethical Union
International Religious Liberty Association
Lutheran World Federation
Organisation Tunisienne de L'Education et de la Famille (OTEF)
Pan Pacific and South East Asia Women's Association International
United Nations Watch
Women's International Zionist Organization
World Federation for Mental Health
World Federation of Engineering Organization
World Federation of Methodist and Uniting Church Women
World Union for Progressive Judaism
Worldwide Organization for Women
World YWCA
3HO Foundation
World Union of Catholic Women's Association
