



General Assembly

Distr.: General
4 July 2011

Original: English

Human Rights Council

Eighteenth session

Agenda items 2 and 3

**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Summary of the Human Rights Council panel discussion on the issue of human rights in the context of action taken to address terrorist hostage-taking, prepared by the Office of the United Nations High Commissioner for Human Rights

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1–4	3
II. Statement by the Deputy High Commissioner and contributions of panellists	5–10	3-6
III. Summary of discussion	11–21	7-8
A. Primary responsibility of States to promote and protect human rights for all in their jurisdiction.....	11–16	7-8
B. Strengthening international cooperation to prevent and combat terrorism	17–18	9
C. Protection of the rights of all victims of terrorism involved in hostage-taking	19–21	9
IV. Comments and replies by the panellists.....	22	10
V. Concluding remarks by the moderator.....	23	10

I. Introduction

1. On 11 March 2011, at its sixteenth session, the Human Rights Council held a panel discussion on the issue of human rights in the context of action taken to address terrorist hostage-taking, with a special focus on the primary responsibility of States to promote and protect human rights for all in their jurisdiction, the strengthening of international cooperation to prevent and combat terrorism and the protection of the rights of all victims of terrorism involved, pursuant to its decision 15/116. In the decision, the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to liaise with the Special Rapporteur on the promotion and protection of human rights while countering terrorism and all concerned parties and stakeholders, including relevant United Nations bodies and agencies, with a view to ensuring their participation in the panel discussion.

2. The aim of the panel discussion was to increase awareness and understanding of the human rights aspects of hostage-taking when committed in the context of terrorist activities.

3. The panel discussion was moderated by the President of the Human Rights Council and opened by the Deputy High Commissioner. The panellists were the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin; the Adviser of the President of Algeria, Kamel Rezzag Bara; a commissioner of the National Human Rights Commission of the Philippines, Cecilia R.V. Quisumbing; the President of the Sahel Observatory of Geostrategy and Security of Mali, Soumeylou Maiga; and the Deputy Director of the Litigation and Legal Protection Section, Colombian Commission of Jurists, Federico Andreu-Guzmán.

4. The present summary was prepared by OHCHR pursuant to Human Rights Council decision 15/116.

II. Statement by the Deputy High Commissioner and contributions of panellists

5. In her opening statement, the Deputy High Commissioner recalled that the International Convention against the Taking of Hostages required States to make hostage-taking an offence punishable by appropriate penalties and to take all measures considered appropriate to ease the situation of hostages and to facilitate their release. She stated that hostage-taking is a crime and should be dealt with as such. She emphasized that any

measure or action of a State in response to hostage-taking, whether it be qualified as a terrorist act or not, should be consistent with international human rights standards. The Deputy High Commissioner also underlined that domestic criminal justice systems needed to ensure that effective, prompt, thorough and impartial investigations were carried out and that the alleged perpetrators were duly prosecuted and brought to justice. With reference to the United Nations Global Counter-Terrorism Strategy and Security Council resolution 1963 (2010), she underscored the need to address conditions conducive to terrorism such as the lack of rule of law, human rights violations, including discrimination, and socio-economic marginalization. The Deputy High Commissioner also stressed the State's duty to establish regulatory frameworks that ensure compliance with international human rights law in intelligence cooperation when combating and preventing terrorism. Emphasizing the need to protect the rights of victims of hostage-taking, the Deputy High Commissioner referred to the fundamental principles and rights enshrined in international human rights law, in particular the right to an effective remedy, including adequate and prompt reparation for harm suffered.

6. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism stressed that hostage-taking reduced the victims to a mere means and was morally inexcusable, irrespective of the pursued aims of the perpetrators. He elaborated on the definition of hostage-taking as contained in the International Convention against the Taking of Hostages. In this connection, the Special Rapporteur pointed to the proposed model definition of terrorism as put forward in practice 7 of his report submitted to the Human Rights Council (A/HRC/16/51). A human rights approach should guide State policies and practices to address hostage-taking. This approach should focus on the human rights of hostages and their families while recognizing the right of the alleged perpetrator to fair treatment at all stages of proceedings. In addition, such a human rights approach included an emphasis on efforts to prevent future acts of hostage-taking. In this connection, he referred to the United Nations Global Counter-Terrorism Strategy as a quantum leap forward. The Special Rapporteur underlined the fact that securing the full enjoyment of all human rights for everyone was a cornerstone in any sustainable strategy to build societies without terrorism. Lastly, he stated that existing international instruments against the financing of terrorism could be understood to prohibit the payment of ransoms.

7. The Adviser of the President of the People's Democratic Republic of Algeria stated that hostage-taking and kidnapping constituted some of the most revolting forms of terrorism. He underscored the fact that, as noted by the international community, aspects of hostage-taking related to issues of international security and the protection of human rights.

Pointing to terrorism as a major global challenge, Mr. Bara emphasized that international cooperation was imperative in the fight against terrorism, founded on the principles of non-exclusion, justice, equality, equity and human dignity. He pointed out the increase in hostage-taking and kidnapping by terrorist groups for ransom worldwide, and pointed particularly to the situation in the Sahel region, where this phenomenon had had a serious impact on regional stability, international security and the enjoyment of fundamental rights over the past decade. States responding to acts of hostage-taking by paying ransoms in order to protect the right to life of their nationals actually disregarded their duty to protect the human rights of all individuals without discrimination. As a means to avoid the recurrence of these activities, he suggested the elaboration of an additional protocol to the International Convention against the Taking of Hostages in compliance with relevant resolutions of competent United Nations bodies. Mr. Bara also called for an in-depth study into this issue by the appropriate United Nations bodies, including the Human Rights Council, its Advisory Committee and special procedures, in order to qualify the strategy of terrorist groups to increase recourse to hostage-taking and kidnapping as a particularly significant violation of human rights and to confer the victims of hostage-taking the recognized status of victims of acts of terrorism.

8. Commissioner Cecilia R.V. Quisumbing of the National Human Rights Commission of the Philippines referred to the increasing phenomenon of hostage-taking, as noted by the General Assembly, the Security Council and the Human Rights Council in their resolutions. She underlined the complexity of the issue of hostage-taking in the context of terrorism in comparison with the “ordinary” crime of hostage-taking. The State’s objective in negotiations regarding hostage-taking acts should be to protect the right to life, liberty and safety of hostages. In addressing hostage-taking in the context of terrorist acts, however, States struggled with multiple challenges, such as the concern to provide terrorist groups with recognition when entering into negotiations with them. Ms. Quisumbing also raised the question of whether a State or a third party contributed to the financial resources of terrorist groups by paying ransom for the release of hostages. Furthermore, some individuals were more targeted to be taken hostage because of their nationality. Ms. Quisumbing also referred to problematic practices of States in their efforts to counter terrorism, such as racial profiling. She emphasized that capacity-building efforts for law enforcement officials to address hostage-taking should include a human rights dimension. Lastly, Ms. Quisumbing raised the question of responsibilities of non-State actors, including the media, in relation to a possible adverse impact of their coverage of hostage-taking incidents.

9. The President of the Sahel Observatory of Geostrategy and Security of Mali focused on the impact of hostage-taking for ransom on social and economic issues for the communities in the Sahel region and the enjoyment of human rights. He stressed that hostage-taking and kidnapping for ransom were the main sources of funding of terrorism. Through these activities and the influx of significant financial resources into this region with a high level of poverty, social relations and the role of the State underwent changes. One feature of this development was that large territories were no longer under the control of the State. As a consequence, security was no longer provided by public authorities; instead, individuals had to turn to terrorist groups in order to ensure their survival. The same applied to access of individuals to basic services, since terrorist groups were the main employers and resource-holders in the region. This destroyed the local economy and led to the privatization of community resources. Lastly, Mr. Maiga expressed the need to look into a judicialization of approaches to address hostage-taking against ransom payments, including in relation to States' compliance with the Special Recommendations on Terrorist Financing made by the Financial Action Task Force on Money Laundering.

10. The Deputy Director of the Litigation and Legal Protection Section of the Colombian Commission of Jurists observed that international law clearly stated that hostage-taking was a crime and may amount to a crime against humanity if pursued in a systematic manner. He emphasized the importance of the rights of victims and of safeguarding their life and physical integrity during rescue operations. Mr. Andreu-Guzmán referred to practices in the Latin American region, where such operations focused at times more on the elimination of the captors than on the safeguarding of the physical integrity of the hostages. In this connection, he drew attention to the calls made by several United Nations bodies that all measures be taken to secure the safe release and protection of hostages. In relation to the State's obligation to combat terrorism in full compliance with human rights standards, Mr. Andreu-Guzmán referred to legal provisions and standards of the inter-American system. Discussions often focused on the right to reparation and an effective remedy as well as the right to justice and to the truth. However, he underscored the central objective to protect the right to physical integrity of hostages. In this connection, Mr. Andreu-Guzmán highlighted the fact that the State's duty in relation to this right required clarification, in particular regarding the parameters of international law that are applicable to law enforcement operations in such a context.

III. Summary of the discussion

A. Primary responsibility of States to promote and protect human rights for all in their jurisdiction

11. Several delegations made reference to the International Convention against the Taking of Hostages, which reflected a consensus among the international community against hostage-taking. It was stated that the preamble of the Convention reaffirmed the rights to life, liberty and security of everyone, as set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The importance of the ratification and implementation of the Convention and other international instruments addressing the fight against terrorism was reiterated.

12. Some delegations underlined the obligation of the State to protect the rights of all individuals in its jurisdiction. In this connection, a complementary approach was mentioned, highlighting, on the one hand, the obligation of the State to provide for the security of individuals in line with human rights standards and, on the other, the obligation to respect human rights in the fight against terrorism. The State in which an incident occurs was required to take effective measures to protect the physical integrity and safety of hostages, and should coordinate rapidly with all parties concerned to ensure that they are rescued. Furthermore, reference was also made to the State's obligation to criminalize, investigate, prosecute and punish hostage-taking and other terrorist acts.

13. Several delegations recalled that measures to combat terrorism should comply with international human rights law. In this connection, delegations referred to the role of the United Nations in combating terrorism through the United Nations Global Counter-Terrorism Strategy, which was recently reaffirmed by the General Assembly in its resolution 64/297. Several States mentioned the adoption of policies, legislation and action plans at the domestic and regional levels. With regard to the latter, the Convention on the Prevention and Combating of Terrorism, adopted by the African Union in 1999, and the 2002 Algiers Plan of Action of the African Union on the Prevention and Combating of Terrorism in Africa were highlighted. It was pointed out that the Plan promoted policies aimed at addressing the root causes of terrorism, in particular poverty, deprivation and marginalization, and encouraged coordination at the regional and international levels. Furthermore, two delegations elaborated on measures taken at the domestic level. One country underscored the adoption and implementation of a national strategy promoting economic and social development underpinned by the creation of a democratic society. Another delegation observed that a comprehensive perspective was required to combat

terrorism, referring to the need to strengthen State structures based on the rule of law, enhance the provision of basic services and increase efforts in the fight against corruption and organized crime.

14. Delegations expressed their concern at the payment of ransom in cases of terrorist hostage-taking. They underscored that these payments support terrorist activity in that were an increasingly important source of terrorist financing. One State highlighted the fact that the payment of ransom undermines the cooperation of States in combating terrorism. It was argued that ransom payments allowed terrorist groups to violate the human rights of present and future hostages, as well as of other victims. In this connection, it was recalled that the Assembly of the African Union, at its thirteenth ordinary session, in 2009, had adopted a decision to address this situation, strongly condemning the payment of ransom to terrorist groups in exchange for the release of hostages, given that such payments were a main method of financing international terrorism. In addition, it was explained that the Commission of the African Union had taken a number of follow-up actions, one of which was the elaboration and adoption of an African anti-terrorism model law. The criminalization of ransom payment was referred to as essential in order to address the growing phenomenon of hostage-taking against ransom payment. In this connection, attention was drawn to resolution 525 adopted by the Council of the League of Arab States in 2010.

15. Support was expressed for the work of multilateral and regional organizations, including the entities of the United Nations Security Council and the African Union, to discourage the practice of paying ransom in cases of terrorist hostage-taking. Two delegations made reference to Security Council resolution 1904 (2009), which would confirm that ransom payments contravened the sanctions regime in place in relation to Al-Qaida and the Taliban. In this connection, one delegation asked how it would be possible to take advantage of existing provisions of the resolution to take action, and of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities as a forum to exchange views on implementing measures to dissuade terrorist kidnapping and hostage-taking for ransom. One State suggested that the possibility of requesting the Human Rights Council Advisory Committee to shed light on this issue be explored.

16. Several delegations expressed their concern that terrorist hostage-taking against ransom constituted, among other human rights violations, a new form of human trafficking affecting a growing number of individuals.

B. Strengthening of international cooperation to prevent and combat terrorism

17. Several States mentioned the need to enhance international cooperation in order to prevent and combat terrorism. Strengthened cooperation would be required in several areas. In this connection, the need for more effective methods of prosecution and investigation of alleged hostage-takers was underscored. One State highlighted the need for strengthened international cooperation in relation to the work of security forces and judicial authorities. Furthermore, the importance of the establishment of mechanisms for intelligence-sharing was emphasized. Some delegations argued that the fight against organized and transnational crime would support the global efforts against terrorism and related criminal acts, including hostage-taking.

18. States also emphasized the need for strong economic and political cooperation and the promotion of regional and international partnerships. Reference was made to Security Council resolution 1963 (2010), in which the Council extended the mandate of the Executive Directorate of the Counter-Terrorism Committee.

C. Protection of the rights of all victims of terrorism involved in hostage-taking

19. It was highlighted that more emphasis should be placed on the human rights of victims of terrorism and their families, particularly considering that work on human rights in the context of terrorism in recent years had focused mainly on safeguarding the human rights of alleged perpetrators. It was also recalled that individuals kidnapped or taken hostage were victims of terrorism and that their protection was a paramount obligation for each State.

20. It was stated that the first obligation of the State was to secure the release of hostages and to protect their right to life and physical integrity. Delegations recalled that it was necessary to consider a range of human rights and humanitarian needs of the victims of hostage-taking after their release. In this connection, States referred to reparation through appropriate remedies, including compensation. Delegations also pointed out the importance of access to physical and medical assistance to help victims to reintegrate into society.

21. States also underscored the need to listen to the voices of victims. National and multilateral methods to support victims of terrorism, including efforts to increase international awareness, and the importance of the work of civil society groups devoted to helping victims and survivors of terrorism were highlighted. Lastly, the question was raised

with regard to the efforts that the Human Rights Council and other United Nations bodies could make to support the activities of these civil society groups.

IV. Comments and replies by the panellists

22. In his reply, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism highlighted the dilemma faced by the international community when it strove to simultaneously promote human rights, secure the lives of hostage and not pay ransom. He concluded, however, that the launching of a process towards a new protocol to the International Convention against the Taking of Hostages would be premature. Mr. Bara commented that hostage-taking was no longer an individual crime, but a strategy that needed to be addressed through a new approach. A new protocol could take this changed context into account. Mr. Maiga reiterated his call for a judicial approach to the issue of hostage-taking and the payment of ransom. Ms. Quisumbing argued against the elaboration of a new protocol at present, while underlining the importance of strengthened capacity-building programmes, in particular ones that addressed issues of accountability, transparency and other human rights dimensions of counter-terrorism activity. Mr. Andreu-Guzmán warned that the problem of hostage-taking should not be reduced to the question of the payment of ransom, arguing that hostage-taking was a complex issue. He stated that this area did not require further legal standards or instruments, but an assessment of gaps in the functioning of law enforcement and intelligence services.

V. Concluding remarks by the moderator

23. The moderator stated in his concluding remarks that the discussion had been an important opportunity to share ideas on policy action, capacity-building and specific needs with regard to the issue of hostage-taking in the context of terrorism.
