

Innspill til norsk formannskap i FNs sikkerhetsråd fra organisasjoner i NGO-forum for menneskerettigheter

Oslo 22 januar 2002

Kjære Jan Petersen

Vedlagt følger forslag fra 14 av organisasjonene i NGO-forum for menneskerettigheter til det norske formannskapet i Sikkerhetsrådet i mars 2002. Anbefalingene omhandler spørsmål av grunnleggende betydning for internasjonal fred og sikkerhet.

Første del fokuserer på tema: internt fordrevne; ikke-diskriminerende våpen; håndvåpen og sikkerhetslovgivning etter 11 september 2001.

Andre del fokuserer på geografiske områder: Sudan-Uganda; Russland-Tsjetsjenia; Israel-Palestina; Vest-Sahara og kurdernes situasjon i Irak.

Vi ønsker å understreke at norsk medlemskap i Sikkerhetsrådet gir en god anledning til å fremme debatt og kunnskap om viktige sikkerhetsspørsmål i norsk offentlighet. I valgkampen for kandidaturet til Sikkerhetsrådet ble dette understreket av norske myndigheter.

Vi oppfordrer Utenriksdepartementet til å gjøre bruk av den kompetanse som de ikke-statlige organisasjonene besitter, gjerne i form av egne møter med organisasjonene. Særlig gjelder dette i tiden frem til formannskapet.

Vennlig hilsen

Bjørn Engesland

Generalsekretær, Den norske Helsingforskomité
Koordinator for NGO-forum for menneskerettigheter

Norwegian NGO-Forum for Human Rights

Security Council 2002 - Recommendations to the Government of Norway

Norwegian NGO-forum:

Amnesty International Norway
Church of Norway Council on Ecumenical and International Relations
Human Rights House Foundation
Norwegian Bar Association, Human Rights Committee
Norwegian Humanist Association
Norwegian Organisation for Asylum Seekers
Norwegian P.E.N.
Norwegian People's Aid
Norwegian Psychological Association
Save the Children Norway
The Norwegian Confederation of Trade Unions (LO Norway)
The Norwegian Helsinki Committee
The Norwegian Refugee Council
The Norwegian Tibet Committee

Thematical recommendations

Internally displaced persons

The number of internally displaced persons (IDPs) in the world continues to grow at an alarming rate. Despite several years of increased international attention, urgent protection and

assistance needs for the 20 to 25 million persons currently estimated to be internally displaced remains inadequate. Though national governments have the primary responsibility to address the root causes of displacement and to provide protection and assistance for displaced populations on their territories, the international community also has a fundamental obligation to address this pressing humanitarian issue and support solutions for persons uprooted by conflict across the globe.

The following tools and resources available for the international community to meet this enormous challenge are;

- A normative legal framework is in place. The UN Secretary General's Special Representative for Internally Displaced Persons, Dr. Francis Deng, presented the UN Guiding Principles on Internal Displacement to the UN Human Rights Commission in 1998. Since that time, a number of key UN and regional bodies as well as international organizations have expressed their support for the Guiding Principles. Most recently, the UN General Assembly adopted a resolution in which it recognized the importance and utility of the Guiding Principles in supporting displaced populations and called for their further implementation.

- Due to a better information system, international awareness of the problem of internal displacement is growing.

- The UN has worked to provide a strengthened and coordinated response to the problem. The UN Secretary-General has explicitly directed the Emergency Relief Coordinator to take a central role in inter-agency co-ordination for internally displaced persons. The UN has taken the decision to establish a unit within the Office for the Coordination of Humanitarian Affairs (OCHA) specifically tasked recommend activities for improved UN response to assist, protect and encourage the development of internally displaced populations.

Still, given these achievements, the sad reality remains: there is a stark discrepancy between the enormous needs of IDPs and the resources made available to respond to them. The international community must, therefore, explore better ways to meet the humanitarian challenge that it faces.

Recommendations

The Security Council must take concrete steps to increase adherence to the UN Guiding Principles on Internal Displacement. Up until now, some governments faced with the problem of uprooted populations have recognized the importance of the Guiding Principles and have taken serious measures to try to implement them. Other governments, however, have been less sincere in their efforts to use the Principles. Still others completely disregard the Principles to the detriment of their own displaced citizens. Governments should make full use of the Guiding Principles, including legislative reform and training of government and civil society actors.

1. UN human rights rapporteurs and specialized agencies must be more systematic in their analysis and reporting of the problem of internal displacement. The work of the UN Special Representative on Internal Displacement, Dr. Francis Deng, has been key in raising awareness of the plight of IDPs and in undertaking dialogue with Governments to protect and assist these populations. His work should be more consistently supported by UN country and thematic rapporteurs as well as specialized agencies that also deal with internal displacement within their distinctive mandates.
2. The central role of national and international NGOs in the protection, assistance and development of IDPs must be clearly recognized and strongly supported. Given the direct geographic and cultural access of NGOs to some of the most vulnerable internally displaced populations, the international community has an obligation to provide resolute financial as well as political support to these organizations. Civil society actors have an unparalleled understanding of the needs of displaced populations and, as such, are critical to the overall social protection of IDPs in the short, medium and long-term.
3. Given the current crisis in Afghanistan and the critical humanitarian needs there, the Security Council should call on all Governments to advocate for the active adherence of the UN Guiding Principles in Afghanistan by all parties to the conflict. All actors in Afghanistan, including the transition government, ethnic factions, UN, NGOs and donor

countries should be made aware of the UN Guiding Principles and their critical role in caring for the war-affected persons of this country.

Indiscriminate weapons

During recent multilateral military interventions the intervening parties have been highly criticised for using cruel, indiscriminatory weapons. The air-force attack on Serbia and the Taliban regime in Afghanistan provide good illustrations. Despite claims about accuracy of very precise weapons, severe miscalculations led to a high number of civilian losses.

The use of cluster-bombs in military interventions is deeply regrettable. These bombs are normally used to destroy relevant infrastructure, like airports, as they are designed to explode when landing on a hard surface. However, according to several reports, cluster-bombs have been used (in Serbia) also in the terrain, and near villages. Due to soft ground on these places, the cluster-bombs did not explode as they hit the ground, but, in many cases, exploded like land-mines when stepped upon or thrown.

Such practices constitute a serious threat to the reconstruction of a country after an armed intervention. There should be an extremely high threshold for international armed interventions, and if carried out, they should be conducted in a manner that both respects the integrity of civilians during the battles and prepares for the best and most effective reconstruction after the intervention has reached its objectives.

Recommendations

1. The Security Council should address the tragic effect of indiscriminatory weapons, especially cluster-bombs, and call for a total abolition of such weapons.
2. In the event of future multilateral military interventions, there must be an open discussion on the conduct of the intervention before the decision is taken with an explicit mandate from the Security Council. The discussion should in particular consider all consequences of conducting long-distance warfare from air and sea.
3. There should be an obligation on all state parties that conduct military attacks on the territory of another state to effectively remove ammunition and explosives in the aftermath of the conflict, as well as to give other assistance to reconstruction.
4. Until agreements are reached, the precautionary principle should be applied by all parties.

Small arms

The UN Conference on Small Arms, held in New York from 7th to 17th of July 2001, ended with an agreed, but weak consensus text. One of the most important decisions made were the need for an evaluation and follow-up session no later than 2006. This gives all states a responsibility to work actively both nationally and internationally for a swift implementation of the recommendations, and move further on the areas where there is an understanding that the document from the UN Conference on Small Arms is too weak.

Still the main problem in many peace processes is that the mistrust is acute, the state authority is too weak, and that it is possible to have huge economic gains through political and territorial control. Such control can be achieved through the use of even smaller weapons, like hand guns. Collection and demolition of small arms is a precondition for a lasting peace. All weapons must then be registered nationally.

Trading with weapons must be done accordingly to strict criteria of end-use and transparency. The responsibility of such criteria must be with the exporting states. However, states which traditionally import arms could also take unilateral or multilateral efforts. The destructive effects of small arms can also be combatted by regional initiatives, like the West African Moratorium.

There appears to be a link between the availability of small arms and the use of children as soldiers, a factor which should also be kept in mind as a further argument for their reduction and control.

Recommendations

1. The Security Council should discuss how to the follow-up of the UN Conference on Small Arms, with an aim of identifying which actions that should be taken by the Security Council.
2. In the formulation and implementation of peace accords, there should always be explicit requirements on procedures of reducing the availability of small arms.
3. The Security Council should endorse the regional initiatives, especially on the African continent, to eliminate the production, deposit, sale and use of small arms, and encourage similar initiatives elsewhere.
4. The Security Council should call for a study on the access to small arms by non-state actors.

Security legislation

Since the occurrence of the shocking criminal acts which took place on 11 September 2001 in the United States of America, many states have taken steps to change their legislation in order to protect people within their territories from similar criminal acts and the consequent loss of lives.

We note that in 2000 and 2001, the UN Commission on Human Rights reaffirmed that "all measures to counter terrorism must be in strict conformity with international law, including international human rights standards." We consider human rights to be interdependent and indivisible, as well as universal. We are concerned that the definitions of "terrorism" in domestic security legislation can be excessively vague and broad, and can lead to the criminalization of peaceful activities which are entirely unrelated to politically motivated violence. Such legislation may infringe the right to freedom of expression and freedom of association, as well as a breach of the standards regarding clarity and certainty in criminal law.

Recommendations

1. The Security Council should stress that human rights standards must always govern how states treat people under their jurisdiction, and that a core group of rights are mentioned specifically in some treaties as being non-derogable, and must apply fully at all times. For example, the International Covenant on Civil and Political Rights (ICCPR) states explicitly that the right to life, the right not to be tortured, the right not to be enslaved, the prohibition of retroactive criminal legislation, the right to recognition under the law and the right to freedom of thought, conscience and religion, cannot be limited under a state of emergency.
2. The Security Council should promote the principle of non-discrimination on the grounds of race, color, ethnic, sex, language, religion, social origin and other impermissible grounds. This principle is a bedrock of international law. Reports confirm that some states are drafting new laws which allow persons of certain racial or ethnic groups, non-citizens or persons with a particular immigration status to be subject to particular controls, even to the extent of detention and deportation without a fair and satisfactory hearing. This is in contradiction to Article 4 (1) of the ICCPR.
3. The Security Council should underline that the provisions of international human rights law regarding access of a detained person to a court to rule on the legality of detention should be upheld in all situations, and that a suspect and his or her legal representative should have access to the evidence on which the state relies to justify detention. The obligation not to detain arbitrarily, and to allow effective judicial supervision, have explicitly been ruled to apply to "preventive detention" by the Human Rights Committee and the provisions of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment will also apply.
4. The Security Council should stress the need to ensure fair trials. A fundamental principle and pre-requisite of a fair trial is that the court charged with the responsibility of making decisions in a case must be competent, independent and impartial. International human rights treaty bodies have expressed concern about security legislation which allows for secret trials and "faceless judges", in violation of the right to be tried in public, which is important to ensure the fairness of the procedure. In all cases, the presumption of

innocence must apply, which means that the prosecutor must prove that the accused person is guilty beyond reasonable doubt.

Country recommendations

The Sudan-Uganda border area

For the past 16 years an Ugandan rebel force, the "Lord's Resistance Army" (LRA), based in Northern Uganda and Sudanese Government-held territory in southern Sudan, has caused widespread insecurity and massive displacement particularly among the population of districts in northern Uganda. The result has been increasing impoverishment and general underdevelopment in the whole northern area. Thousands of people are forced to live in "protected villages". The frequent cross-border raids of the LRA, almost always accompanied by abductions of children, killings and mutilation, keep the population in constant fear. During the course of this conflict, an estimated 9,000 -12,000 children have been abducted.

The UN Commission on Human Rights has made a resolution concerning abduction of children from northern Uganda (resolution 2001/74). Also relevant are UN Security Council Resolutions 1314 and recently 1379 on Children in Armed Conflict. These resolutions specify the obligations of the parties involved in the conflict, and are likely to have great effect on the regional peace and stability if implemented.

The Nairobi Agreement from December 1999 has not been sufficiently followed-up. Abductions have continued since the agreement was concluded, according to most observers because the LRA was excluded from the negotiations. It is now confirmed that the Sudanese government ceased their support (food, medicines and weapon) to the LRA from October 2000, in compliance with the Nairobi agreement. While politically speaking this was a welcome move, it has meant that the children who form a major part of the LRA are now forced to raid for food in the surrounding communities, exposing themselves to even more danger. There are reports of Sudanese militia engaging in combat with the LRA. The movement of children escaped from the LRA camps from southern to northern Sudan has also ceased in recent months due to re-location of LRA camps and attacks on escaping children from the SPLA.

Recent developments in connection with the Nairobi peace process indicate that the Ugandan government, possibly in co-operation with the Sudanese government, may attack the LRA in Sudan. This would obviously greatly endanger the lives of the abducted children and is of great concern to their parents. Urgent action is needed to stall such an event, and find peaceful means of resolving the situation.

Recommendations

1. The Security Council should bring up the humanitarian suffering related to the continued atrocities conducted by the LRA, also resulting in the years-long displacement of 400,000 persons in the northern districts of Uganda in miserable conditions. Of utmost importance is swift repatriation of children escaping from the LRA, as well as increased protection in the affected areas in Northern Uganda.
2. The Security Council should urge the Governments of Uganda and Sudan to refrain from military action which would further endanger the lives of the child hostages. Any military action should have as its objective to rescue as many of the surviving children within the LRA camps.
3. The Security Council should request the governments of Uganda and Sudan to enter into direct dialogue with LRA and with the affected Acholi community on both sides of the border.
4. The Security Council should encourage the two parties to hold an assessment of the implementation of the Nairobi Agreement, discuss what the international community can do to assist the parties, and promote strengthened cooperation between the governments of Sudan and Uganda.

5. The Security Council should consider the deployment of independent persons to monitor the safety of the children during the further implementation of the Nairobi agreement.

The Republic of Chechnya of the Russian Federation

Discussions on the situation in Chechnya is severely hampered by the Russians considering this as an "internal issue" concerning only the fight against terrorism. The international community can not ignore the fact that the human rights situation in Caucasus and Central Asia remain critical, and even deteriorating in some parts of the region. This might in effect cause increased antagonism, tensions and further destabilisation.

The situation in Chechnya seems to be a good case in point for discussing the relationship between human rights violations and destabilisation that might be a threat against regional – and international – peace and security.

According to Commission on Human Rights resolution 2001/24, there are "widespread violence against civilians, reports on forced disappearances, extrajudicial, summary or arbitrary executions, torture" and numerous other violations of human rights in Chechnya.

Norway has played an important role in promoting accountability for human rights and humanitarian law violations, i.a. by supporting the ad hoc tribunals for former Yugoslavia and Rwanda and promoting establishment of a permanent international criminal court. It has also repeatedly expressed the need for strengthening respect for international law.

Recommendations

1. The Security Council should place the situation in Chechnya on its agenda, as the human rights violations and the attempts of solving the conflict with disproportionate military means continues to be a threat to regional peace and security.
2. The Security Council should encourage addressing the underlying causes of the conflict, by asking Russian authorities to engage in a dialogue with the internationally recognized representatives of the Chechen people, led by President Aslan Maskhadov.
3. The Security Council should ask for improved access to Chechnya for international organisations and humanitarian and human rights NGOs.

The conflict between Israel and Palestine

The ongoing Palestinian Intifada is an uprising against Israel's continued occupation of Palestinian land in blatant violation of UN-Resolutions and International Law. Israel has used the Oslo-process to restructure its military, political and economic control over East-Jerusalem, Gaza Strip and the West Bank. Israel still has direct military control over more than 80 per cent of the West Bank and 40 per cent of the Gaza Strip.

The number of settlers has doubled since 1993 and reaches 200 000. This comes in addition to the 200 000 settlers in illegal settlement in East-Jerusalem. Israel has developed apartheid structures, which confine Palestinians to small enclaves. Since 1993 there has been a general closure of the occupied territories and this represents a collective punishment, which applies to Palestinians only. According to UN more than one half of the Palestinian population lives under the poverty line and the number of poor continues to increase due to the Israeli warfare and policy of closure. The brutal methods employed by Israel to quell the Intifada and halt the terrorist attacks in Israeli cities have destroyed much of the Palestinian infrastructure that was built with foreign development aid after the initiation of the Oslo Process. As is evident from the recent development in the area, lack of strong UN involvement as a third party only serves to prolong the conflict.

The majority of the Palestinians are refugees and a just solution of the refugee issue in accordance with UN Resolution 194 and International Law is the core issue in the conflict with Israel alongside with the right to self-determination. The refugees have a right to return to their homeland and to restitution of their property.

Recommendations

1. The Security Council should work with the aim to increase the involvement of UN as a third party in the resolution of the conflict.
2. The Security Council should prepare a draft resolution that calls for the sending of UN observers to monitor the implementation of the recommendations of the Mitchell Committee.
3. The Security Council should prepare a draft resolution that calls for the deployment of a UN led protection force in the occupied Palestinian territories.

Western Sahara

Western Sahara has now been under occupation by Morocco for 26 years. The UN has since 1991 been mandated to organize a referendum in Western Sahara. UN GA Res. 1514 and 1541 (1960), the ICJ advisory opinion in 1975, UN SC Res. 690 of 1991 and the 1997 Houston accords provide both the legal basis and the mechanisms for a free, fair and transparent referendum. In its resolution 1359/2001, the UN Security Council reiterated its full support for the implementation of the existing Settlement Plan. It is, however, worth noting that Morocco now refuses to allow the referendum to take place as earlier agreed and recent developments indicate that the United Nations Secretary- General is on the verge of abandoning the UN's earlier commitments and the signed agreements by promoting the so-called "third way" proposal.

An abandonment of the referendum in Western Sahara would constitute a betrayal of the inalienable right of the Saharawi people to self- determination. It would also be a defeat for the United Nations' proud history of support for decolonization and respect for international legality.

In the past, Norway supported the struggles for national liberation in Eritrea, Namibia and East Timor. In comparison, Norway has so far maintained a position of negligence of Western Sahara. In order to be coherent and consequent and in order to maintain its credibility as defender of international legality, Norway should insist that the same rules apply in Western Sahara as in those previous cases. Not to do so would undermine the ability and credibility of the United Nations as an instrument for peaceful conflict resolution.

Recommendations

1. The Security Council should defend international legality, the principle of self- determination and the credibility of the United Nations by insisting that the free, fair and transparent referendum envisaged in the 1991 settlement plan is the only path to a durable and just peace in the Maghreb.
2. The Security Council should have an open and sincere discussion that confirms the right to self-determination. The Security Council should also consider mechanisms to hold the Moroccan government accountable to this principle and the agreements Morocco has previously entered into.
3. The Security Council should contribute the necessary human, economic, political and diplomatic resources needed for the implementation of the referendum of self- determination, to be held without further delay.

Iraq and the situation of the Kurds

Ten years with Safe Haven and humanitarian assistance to Northern Iraq (Iraqi Kurdistan) has not brought the Kurds in Iraq the safe future they have been striving for. The international community's lack of willingness to look upon the situation in the area not merely as a humanitarian, but rather as a political issue has contributed to not finding a just and durable solution. UNSCR 688 (1990) condemns the Iraqi atrocities and demands protection of national minorities and Iraqi civilians and that human rights of all Iraqi citizens be respected. This resolution has how ever neither been respected by the Iraqi government nor maintained and followed up by UN Security Council. The recent threats by the Iraqi regime to reoccupy the areas under Kurdish self rule in Iraq and the continuous systematic ethnic cleansing of Kurdish

and Turkmen population from the oil rich areas of Kirkuk, illustrates the urgent need for initiatives by the International community to reach a durable political solution based on the right for self determination for the peoples and human rights covenants. The Kurdish oppositions co-operates closely with the rest of the Iraqi opposition and seeks a political solution based on federative self rule within a democratic Iraq.

The implementation of UNSCR 986(Oil for Food agreement) is securing humanitarian goods for Iraq. The implementation of 986 is based upon MOU between UN and Government of Iraq (GOI), UNSCR 986 is implemented by UN in the Kurdish region, but MOU between UN and GOI governs the implementation of 986 also in the Kurdish self ruled region. The mode of implementation demanded by GOI has severe impacts both on economical, social and political development in the region in general and on the food security situation and vulnerability of the area particular. It is reason to demand that UN takes a much stronger position in negotiating the MOU with GOI to secure the economical development and food security of the Kurdish region in Iraq.

Recommendations

1. The Security Council should address the future for the Kurdish-dominated area of Northern Iraq, stressing the need for increased international presence in order to mitigate the effects of the rule of the Iraqi regime, also stressing that international protection for Northern Iraq must be ensured, in following with UN Resolution 688.
2. The Security Council should mandate an independent expert commission to the area to assess the political perspectives and the preferences of the population.
3. The Security Council must ensure that no reunification of the Kurdish areas with the rest of Iraq will take place before a plan for such a solution has been approved by the 1992 elected parliament in Kurdish-dominated area of Northern Iraq. Under the present conditions the internal Iraqi embargo against Northern Iraq must be lifted and distribution of oil revenues to Northern Iraq guaranteed, in order to provide for improvement of living standards.
4. The Security Council must condemn the systematic policy of ethnic cleansing, arabisation and deportation that has taken place since 1991 in the oil rich Kurdish areas of Kirkuk and Khaneqin, still under Iraqi control.