

STATEMENT BY
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DENMARK

AT THE SIXTY-FIRST SESSION
OF THE COMMISSION ON HUMAN RIGHTS

Geneva, Thursday 17 March 2005

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Mr. Chairman,
Distinguished members of the Commission,
Ladies and Gentlemen

Last year on this occasion Denmark suggested transforming the Commission into a permanent body on human rights. In the meantime the report of the High-level Panel on Threats, Challenges and Change established by the Secretary General has presented a range of suggestions for structural improvements of the UN system. A number of these are directed at the Human Rights Commission. This includes the proposal to make the membership of the Commission universal - a proposal, which we support as a first step towards the longer term goal of establishing a permanent Human Rights Council.

The High Level Panel's proposals may not be on the agenda for this session of the Commission. But the report presents an interesting analysis of the work of the United Nations *inter alia* in the field of human rights.

In its analysis, the High Level Panel observes that:

“The Commission of Human Rights is entrusted with promoting respect for human rights globally, fostering international cooperation in human rights, responding to violations in specific countries and assisting countries in building their human rights capacity.”

And the High Level Panel goes on:

“In recent years, the Commission's capacity to perform these tasks has been undermined by the eroding credibility and professionalism.”

This is an important, though depressing, observation to keep in mind by all of us. The answer to the problem is not “less action” or “no action”. On the contrary, we must address human rights violations wherever they occur. And we must do so in a spirit of cooperation and

understanding. It is our common task - and indeed our common duty - to measure actual performance against the universal standards of human rights. The Commission on Human Rights should not be barred from performing its duty by politically motivated abuse of procedural devices such as no action motions.

We need to act on all serious violations of human rights. It may sometimes take the form of "naming" and even "shaming". But anything less would provide a breeding ground for a culture of impunity. Not to act in situations where human rights are violated is the same as turning a blind eye to the fate of the victims. On the contrary, they deserve our full attention and protection.

Mr Chairman,

States are accountable to the Commission on Human Rights. They are accountable to the treaty bodies set up under the human rights conventions. And they are accountable to the Special Procedures established by this Commission. My country feels very strongly about ensuring the independence and effectiveness of these mechanisms. The human rights mechanisms are not established to bother States. That is not what they intend to do. They are mandated by the international community to assist states in implementing human rights. States should cooperate with them in good faith and take their recommendations seriously. It is a mistake to believe that Governments need to be protected from them. On the contrary, they should embrace them.

Mr Chairman,

Twenty years ago this Commission established one of its first special procedures: the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. We commend the previous holders of this crucial mandate and thank them for their indefatigable efforts to combat torture. We welcome the appointment of the new rapporteur, professor Manfred Nowak, and wish to assure him of the Danish Government's full cooperation.

Torture is a dreadful weapon of human destruction, and we deeply regret that torture and ill-treatment continues to be practised in all regions of the world, despite the efforts of the Special Rapporteurs, the Committee against Torture, regional bodies, dedicated NGOs and indeed states themselves. According to Amnesty International, this includes more than half the states, which are currently members of the Commission on Human Rights.

Torture is universally condemned. It is therefore difficult to understand why only 139 out of the 191 Member States of the United Nations are parties to The International Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. We strongly urge states, which have not yet done so, to become parties to the Convention. And we urge Member States of the Convention to become Parties to its Optional Protocol aimed at the prevention of torture.

The prohibition of torture and cruel, inhuman and degrading treatment or punishment is a peremptory norm of international law. The prohibition is absolute: It cannot be suspended, circumscribed or restricted under any circumstance, be it in time of peace or during armed conflict. And not for any other reason.

Notwithstanding the absolute nature of the prohibition, attempts have been made to legitimise certain aggressive interrogation measures. Such measures have been described as “practising torture in a morally correct way”. In our view, this is a mockery of the firm prohibition against torture. Any nation, which condones the use of or allows its agents to engage in torture should be met with an unequivocal and strong reaction by the international community.

Mr Chairman,

The unconditional prohibition of torture also applies in the fight against terrorism. Obviously, it is a primary duty of any government to ensure the security of its citizens. But security should not be used as a pretext to undermine the fundamental rights enshrined in international human rights and humanitarian law. The question is not to strike a so-called “balance” between human

rights and security concerns as if the two were competing or antagonistic concepts. They are not. Security provides the environment, which enables us to enjoy our rights. Furthermore, the protection of human rights and respect for the rule of law must be at the centre of counter terrorism strategies if these strategies are to have lasting success. Of course the fight against terrorism must always be conducted in full respect of human rights and humanitarian law as set out in the relevant international instruments, and human rights must in no way be curtailed in a manner not explicitly provided for in these instruments. Their content and their wording provide ample possibility to address relevant security concerns. All of these very important aspects were stressed by the Secretary General a week ago in Madrid.

As a newly elected member of the Security Council and coming chairman of its Counter Terrorism Committee, it is a high priority for Denmark to ensure that human rights aspects in combating terrorism are addressed. The human rights expert in the CTED will play an important role in this respect. We also welcome the report by the independent expert professor Goldman, on ways and means to further ensure the protection of human rights and fundamental freedoms while countering terrorism. We look forward to discuss its implementation during this session of the Human Rights Commission.

Mr Chairman,

Human rights are under pressure. We expect the Commission on Human Rights to make full use of this session to reassert its firm commitment to the promotion and protection of these rights.

I thank you.