

Open Forum

CRF welcomes all contributions to Open Forum as a dialogue between our writers, readers and editorial staff. Submissions may be edited for length or clarity. Letters or e-mail should include the writer's name and contact information, although anonymity may be preserved when appropriate.

Dear Editor,

The article entitled, "China's Education System: Reading Between the Lines" quotes criticisms of my mission to China that allege improper conduct. I would like to take this opportunity to respond to these unnamed critics.

The article states that my announcement in early 2003 that I had accepted an invitation to visit China "initially met with severe criticism." I often say that verbal abuse has been constant in my work as a Special Rapporteur. None of the originators or disseminators of that criticism addressed any of it to me, however. The only criticism conveyed to me was suggestions from NGOs that I should extend my mission, both geographically and time-wise, which I was unable to do because of budget limitations.

From your article I have become aware of other criticisms, which are in fact based on fallacies requiring correction. The first of these is that I had "reportedly broken a gentlemen's agreement between the Special Rapporteurs not to accept an invitation before the Special Rapporteur on Torture was granted his fact-finding mission." No agreement of this kind actually existed.

The second criticism was of my intention to carry out my mission according to my "own rules," arguably making it harder for other Special Rapporteurs to insist on the terms of reference and weakening the institution as a whole." What is referred to as my "own rules" were adjustments I needed to make as the first Rapporteur on economic, social and cultural rights. I have followed the rules and practices established by the older mandates on civil and political rights, but introduced innovations due to the specific features of the right to education. For example, I allocate at least one full day of each mission to meetings with international organizations and bilateral donor governments, since the conditions attached to international development finance can enhance or undermine the right to education.

As it happens, the background to my mission to China was unusual. My report

says that China's invitation was sent to me through the Danish Presidency of the European Union rather than the United Nations (E/CN.4/2004/45/Add.1, para.1). Although that was a departure from the UN rules and I therefore recorded it in my report, nobody ever asked what the factual background to my mission to China had been.

Yours sincerely,

Katarina Tomasevski
Special Rapporteur on the Right to Education

The above letter was edited for space reasons.

HRIC responds:

Professor Tomasevski has focused on one paragraph of an eight-page article that discusses the Special Rapporteur's mission and report within the broader context of the multiple challenges facing China's education system. The CRF article points out that the Special Rapporteurs are "arguably the most effective mechanism of an often toothless Commission," and specifically commends Professor Tomasevski for being "utterly unwilling to compromise the independence and impartiality expected from a Special Rapporteur" and for her excellent report on her China mission, which systematically tore down the myths China had built around its achievements in the education sphere.

It is unfortunate that the criticisms HRIC alluded to in the article—from various confidential sources who did not wish to be named—were not brought to her directly. That being said, Professor Tomasevski herself admits that the background to her mission was "unusual" and involved "a departure from the UN rules." In light of the immediate history of difficult negotiations on terms of reference with China of other rapporteurs, including the Special Rapporteurs on Torture, and the attempts to intervene by the U.S. in soliciting an invitation for the Special Rapporteur on Freedom of Religion or Belief (December 2002), it is also important to recall that individual country missions by Special Rapporteurs

do not take place isolated from their impact on future missions.

The public record and Professor Tomasevski's own position also make clear that there are pressures and tensions between the Special Rapporteur and the OHCHR. Professor Tomasevski actually asked the Commission in her final report this year not to renew the mandate on the right to education, citing the fact that her mission "has proved to being an impossible task because obstacles and difficulties in the carrying out of her mandate have considerably increased each year."¹ She specifically complained about censorship pressures within the OHCHR, against whom she filed an official complaint over objections to the processing of her mission report. "Not a single report of mine has been processed by the editorial and translation service without at least one or two phone calls from the OHCHR asking me to delete one or two sentences, one or two points, because they were too critical of individual governments," she said in a subsequent interview.²

1. See Katarina Tomasevski report to the Commission on Human Rights: "The right to education, Report submitted by the Special Rapporteur, Katarina Tomasevski." Commission on Human Rights, 60th Session, E/CN.4/2004/45 26 December 2003, available at www.right-to-education.org.
2. "Education has become a traded service," interview in Human Rights Features; April 5-12, 2004, available at www.rights-to-education.org.

CORRECTION

In Issue No. 1, 2004, part of the last sentence of the article, "The World Summit on Information Society: Promises Disconnected from Reality," was inadvertently lost during layout. The sentence should read: "Building upon this foundation of existing indicators and developing effective institutional implementation and monitoring mechanisms would help move the process toward a reality beyond eloquent statements of principles and vision."