



RECOMMENDATIONS

- African HRC members should commit to fully implementing the council's mandate, including to address and prevent situations of violations and to respond promptly to emergencies.
- The African Group should revise its approach of giving the country concerned a veto over the council's action and, instead, offer it the opportunity to engage in the process without denying the council's responsibility to address situations within its mandate.
- African HRC members should not oppose action as a matter of policy, as this approach is contrary to the council's mandate, inconsistent with their responsibilities to victims, and exposes them to selectivity.
- African HRC members should base their positions on an objective assessment of the needs of victims, the international obligations of the government concerned, the actual access or lack of access to areas where violations occur, and the commitment of the government concerned to remedy and prevent atrocities.
- African countries should make the council complementary to domestic and regional initiatives, but should not block legitimate actions of the council until regional remedies are exhausted.

Africa and the Global Human Rights Agenda: The African Group at the UN Human Rights Council

Philippe Dam¹

EXECUTIVE SUMMARY

This policy briefing examines the behaviour of African countries in country-specific situations at the UN Human Rights Council (HRC), focusing specifically on developments and examples that occurred between July 2010 and July 2014. Africa is the region with the largest number of seats on the HRC. It is also one of the most organised. However, an analysis of its members' behaviour shows that there is a diversity of approaches within the group, which does not react consistently when addressing situations of grave human rights violations on the continent or in other parts of the world.

INTRODUCTION

Eight years after its establishment, the HRC is at a turning point in its history. Between 2010 and 2013 the council took bold new steps on various human rights crises occurring around the globe, including in Côte d'Ivoire, Libya, Syria, Mali and the Central African Republic (CAR), and addressed situations of chronic human rights violations in Iran, Eritrea and North Korea. However, changes in the membership of the HRC in January 2014 and, more critically, the increasing international tensions around the continued crises in Syria and Ukraine might affect the capacity of the council and its membership to maintain this positive momentum. Despite this progress, the HRC's response to country situations also remains flawed in significant ways. The council devotes little attention to some countries that face severe human rights problems and responds timidly in other cases, deepening perceptions of selectivity and double standards.

In 2013 alone the HRC in Geneva adopted a record number of 30 resolutions or decisions addressing situations of human rights violations in specific countries. Of these situations, nine were initiated or presented by either the African Group or African states; all of them dealt with situations in Africa.

With 13 out of the 47 seats on the HRC, the African Group is one of the best represented² – and also one of the most organised. African diplomats and ambassadors meet almost daily in Geneva to co-ordinate their positions on diplomatic debates, including those at the HRC. Despite this level of engagement, the African Group has also proved to be one of the most diverse when it comes to positions taken on country-specific resolutions presented for adoption to the council.

Given its large size, the African Group can either make or prevent a majority in the council. In the past the African Group did not play a leadership role in pushing for strong country resolutions, but was seen more as a pool of votes to which others would appeal for support. More recently, however, the African Group and its members have shown growing leadership in addressing human rights crises on the continent, although the quality of the resolutions presented by the African Group has at times raised concerns among human rights groups.

As countries such as Russia and China seek to reassert their leadership within the HRC, the direction that the African members take will clearly influence the HRC's future overall performance. The actions of a small number of African members of the council – such as Benin, Botswana, Burkina Faso, Côte d'Ivoire and Sierra Leone, which are seen as 'human rights-friendly' states – can help define the HRC's legacy by influencing the determination of others to keep improving the council's responsiveness to the suffering of victims and addressing the council's continued selectivity.

PRINCIPLES

The engagement of the African Group on country situations in the HRC reflects three commonly held principles. They reflect a broad normative

framework for the Africa Group's engagement in the HRC that has been commonly applied, albeit not always consistently.

The first is that country resolutions presented by the African Group should respond to the needs and receive the consent of the country concerned, and should not be imposed against the will of that particular government. This also implies that the state concerned should be given an opportunity to present its views during the informal meetings of the African Group and be fully involved in drafting resolutions presented by the group. In many cases these countries are actually given the opportunity to draft the resolution dealing with their own situation.

The second principle is that leadership in presenting resolutions on situations in Africa should remain within the African Group alone. In the African Group, sub-regional groups have often led initiatives involving states from their regions. For example, Economic Community of West African States members led the way in the HRC's responses to the 2010–2011 post-electoral crisis in Côte d'Ivoire and the 2013 crisis in Mali. More recently, members of the Economic Community of Central African States led the HRC response to the conflict in the CAR.

Third, the African Group emphasises the need for the council's response to focus on providing technical assistance to the government concerned. Provisions calling for monitoring, reporting on and investigating human rights violations are considered secondary to such assistance, and are included only when the country involved accepts such measures.

UNEVEN RESPONSES TO AFRICAN HUMAN RIGHTS CRISES

In practice these principles have resulted in an uneven response by the African Group to human rights crises affecting the continent.

In response to the post-electoral crisis in Côte d'Ivoire in December 2010, the HRC requested the Office of the High Commissioner for Human Rights (OHCHR) to report on the situation on the ground. It created an international commission of inquiry with a strong mandate

focused on accountability (in March 2011), and established an independent expert to follow up on the recommendations of the commission of inquiry (in June 2011). Similarly, the council requested the OHCHR to monitor and report on the situations in Mali and the CAR, and later established independent expert mandates to document and report on the situations and provide technical advice to the governments (in March and September 2013, respectively). The council's engagement on these three ongoing crises demonstrated the growing willingness of African Group members to make use of the council's proceedings and tools to complement the engagement of other role players such as the African Union (AU) and the UN Security Council.

The solid decisions of the council on these three situations, however, contrast with its weak engagement on other African crises. Although it adopts a resolution on the Democratic Republic of the Congo each year, the HRC has failed to develop monitoring mechanisms that are commensurate with the gravity of the situation. More strikingly, the African Group has been impotent in the face of the multiple crises affecting Sudan, providing *de facto* support for Khartoum's preference for flawed resolutions and limited monitoring. Finally, the African Group totally missed the need for a fast-evolving response to the extremely grave situation in South Sudan, where thousands of civilians have died and more than 1.5 million people have been displaced.

The inconsistency in the African Group's response to these situations is largely attributable to its insistence that the governments concerned should have the final say on any resolution. Unless the government concerned and neighbouring countries are committed to addressing the crisis, there is very little incentive for the government involved, which often bears much of the responsibility for the violations at issue, to support action by the council.

The one notable exception is the HRC's engagement on Eritrea. Since 2012, a small group of African states (ie, Somalia, Djibouti and Nigeria) has succeeded in putting forward resolutions that establish a special rapporteur and a commission of inquiry on Eritrea, steps to

which the Eritrean government strongly objected. Although Eritrea may be a unique case and has been treated somewhat exceptionally even within the AU, it raises the question of whether future Africa-led resolutions might be pursued without the green light of the governments concerned. It also shows that the African Group's principles of engagement face fundamental limitations in the face of extremely grave violations and the lack of engagement of the government involved with regional and international institutions.

VOTING PATTERNS

Human Rights Watch has examined HRC members' voting records on country-specific situations since July 2010.³ This analysis provides a clear picture of the overall performance of African states on country-specific issues beyond the African continent.

Within the African Group, Botswana and Mauritius have most consistently supported almost all resolutions presented on country-specific issues. This support also extended beyond those states' voting records to their contributions to negotiations and substantive debates at the council.

A growing number of African Group members have supported country-specific resolutions at the council. The constructive roles of Nigeria, Benin and Sierra Leone were noticeable developments. Countries such as Côte d'Ivoire, Burkina Faso and Senegal also supported most country-specific resolutions, although they abstained on some key votes. In contrast, some African Group members have refused to support any country-specific resolutions, with the notable exception of all resolutions dealing with the situation in Israel and the Occupied Palestinian Territories (OPT), which are uniformly supported by virtually all African Group members. Algeria, Uganda and Mauritania, for example, voted against one or more country-specific resolutions per year. Others, including South Africa, Namibia and Ethiopia, have systematically abstained on all country-specific resolutions brought to a vote at the council.

South Africa has justified its lack of support for country resolutions by arguing that they are

too politicised and divisive. However, the council is mandated to address situations of gross and systematic violations of human rights, and these resolutions play a key role in exposing and responding to abuses. In the face of such dire situations, taking no action not only undermines the mandate of the council but also fails to respect the needs of those who suffer violations. Human rights defenders and local civil society groups have repeatedly called on HRC members to live up to their responsibilities by responding to country situations based on the facts on the ground and an impartial assessment of whether HRC action could help address abuses.

The performance of the African Group is also influenced by countries that are non-members of the HRC. Although HRC observers are not granted voting rights, they fully participate in the deliberations within the regional groups and in HRC debates; for example, Egypt has played a prominent role within the African Group and in other cross-regional groups to which it belongs. With the exception of the period following the ouster of President Hosni Mubarak, during which it lowered its profile in the HRC, Egypt had largely opposed examination of country-specific situations of violations by the council, while supporting all resolutions on Israel and the OPT.

Overall, the voting pattern analysis contradicts conventional wisdom that African states have uniform views on country-specific resolutions. Countries from West Africa, together with Botswana and Mauritius, have emerged as the most consistent actors in favour of country-specific engagement. In contrast, East African states have shown greater resistance to the country-specific work of the council.

CONCLUSION

What does the HRC's future hold? Two recent votes raise concerns among human rights defenders. In March 2014 a resolution renewing the mandate of the special rapporteur on Iran was adopted, but it had three fewer votes within the African Group than the previous year. Similarly, a June 2014 resolution on the Syria conflict received less support from African Group members than previously, with even one 'no' vote by Algeria, for the first time since 2011. As tensions between the West and repressive governments such as Russia and China rise, moderate African Group members will face increased pressure and scrutiny at the HRC. Their consistency could be instrumental in keeping the council on the right track.

ENDNOTES

- 1 Philippe Dam is Human Rights Watch's Deputy Director in Geneva. He has represented the organisation at the HRC since 2008.
- 2 The council's membership is distributed as follows: 13 seats for Africa, 13 seats for Asia-Pacific, eight seats for Latin American and Caribbean states, seven seats for Western Europe and other Western states; and six seats for Eastern Europe.
- 3 Human Rights Watch, 'Keeping the Momentum: One year in the Life of the UN Human Rights Council', September 2011, <http://www.hrw.org/reports/2011/09/22/keeping-momentum-0>, accessed 30 September 2014; and Human Rights Watch, 'Votes Count: Monitoring the UN HRC, The UN Human Rights Council's response to human rights violations', <http://votescount.hrw.org/>, accessed 1 August 2014.

The Governance and APRM Programme is funded by the Swiss Agency for Development and Cooperation. SAIIA gratefully acknowledges this support.

© SAIIA 2014 All rights reserved. Opinions expressed are the responsibility of the individual authors and not of SAIIA.