

DEMOCRACY COALITION PROJECT



# HUMAN RIGHTS COUNCIL REPORT CARD

2009-2010

*Government Positions on Key Issues*





## ABOUT THE HUMAN RIGHTS COUNCIL

July 2009-June 2010

MEMBER	COUNTRY	MEMBER	COUNTRY	MEMBER	COUNTRY
●◆	Angola	●■◆	Gabon	●■◆	Pakistan
●	Argentina	●◆	Ghana	●◆	Philippines
●■◆★	Bahrain	●*	Hungary	●■◆★	Qatar
●■◆	Bangladesh	●◆	India	●	Republic of Korea
●*	Belgium	●■◆	Indonesia	●	Russia
●◆	Bolivia	●*	Italy	●■◆★	Saudi Arabia
●	Bosnia and Herzegovina	●	Japan	●■◆	Senegal
●	Brazil	●■◆★	Jordan	●*	Slovakia
●■◆	Burkina Faso	●■	Kyrgyzstan	●*	Slovenia
●■◆	Cameroon	●◆	Madagascar	●◆	South Africa
●◆	Chile	●◆	Mauritius	●	Ukraine
●	China	●	Mexico	●*	United Kingdom
●◆	Cuba	●*	Netherlands	●	United States
●■◆★	Djibouti	●◆	Nicaragua	●	Uruguay
●■◆★	Egypt	●■◆	Nigeria	●◆	Zambia
●*	France	●	Norway		

The President of the UN Human Rights Council from July 2009-June 2010 was Mr. Alex Van Meeuwen of Belgium.

### UN Regional Groups

- African Group (13 members)
- Asian Group (13 members)
- Eastern European Group (6 members)
- Latin American and Caribbean States (GRULAC) (8 members)
- Western European and Others Group (WEOG) (7 members)

### Other Cross-regional Blocs

- Organization of the Islamic Conference (OIC) (15 members on the Council)
- \* European Union (EU) (8 members on the Council)
- ◆ Non-Aligned Movement (NAM) (26 members on the Council)
- ★ Arab Group (6 members on the Council)

## HUMAN RIGHTS COUNCIL AT A GLANCE

Spanning June 2006-December 2010

- **288 resolutions** were adopted by the Council since 2006, of which 80 were country-specific resolutions and 73 percent were adopted by consensus.
- Different approaches have been used by the Council to address serious country situations. They include **fact-finding missions** (Occupied Palestinian Territory, Darfur); **monitoring mechanisms** (Myanmar, North Korea); the provision of **technical assistance** (Cambodia, Kyrgyzstan); and **resolutions that express the concern of the Council** (Afghanistan, Aung San Suu Kyi and other political prisoners).
- **No new country mandates** were established by the Council despite calls by NGOs and states for new mandates to monitor situations in Iran, Democratic Republic of the Congo, and Afghanistan. The Council maintained existing special procedures mandates on Myanmar, North Korea, Haiti, Somalia, Cambodia, Burundi, Sudan,<sup>1</sup> and the Occupied Palestinian Territory; it discontinued the mandates on Belarus, Cuba, Liberia, Democratic Republic of the Congo, and Darfur.
- The Council did, however, engage on three new emerging country situations—Honduras, Guinea and Kyrgyzstan—requesting the High Commissioner for Human Rights to report on the situations.
- The Council created **five new thematic mandates**—the Independent Expert in the field of cultural rights; the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation; the Special Rapporteur on contemporary forms of slavery; the Special Rapporteur on the rights to freedom of peaceful assembly and association; and the Independent Expert Committee on the elimination of discrimination against women.
- **13 special sessions** have been held since 2006 to consider urgent situations in Darfur, Myanmar, Lebanon, the Occupied Palestinian Territory, the Democratic Republic of the Congo, Sri Lanka, Haiti, the world food crisis, and the global economic crisis.
- The candidacies of Belarus (2007), Sri Lanka (2008), and Azerbaijan (2009) were each defeated after **global NGO campaigns** opposed their membership to the Council on human rights grounds. Iran withdrew its bid for similar reasons in 2010.
- **144 countries** have been reviewed during the first nine sessions of the **Universal Periodic Review (UPR)** mechanism.
- Thus far, the UPR maintains a **100 percent participation rate** by states, whereas select states have skipped Treaty Body sessions or failed to submit Treaty Body reports.<sup>2</sup>
- **Iran**, with 212, and the **United States**, with 240, received more recommendations than any other state during the first nine sessions of the UPR.
- **North Korea** refused to accept any of the 161 recommendations provided at its UPR session.
- Out of the **10,262 recommendations** made in the first seven sessions of the UPR, roughly 68 percent were accepted, 13 percent rejected, and 19 percent received an unclear response or are still pending.<sup>3</sup>

<sup>1</sup> The mandate of the Special Rapporteur on the Human Rights situation in the Sudan was replaced with an Independent Expert in 2009.

<sup>2</sup> UPR-Info, "[Analytical Assessment of the UPR, 2008-2010](#)," May 2010.

<sup>3</sup> *Ibid.*

## EXECUTIVE SUMMARY

The Human Rights Council (Council) addressed a number of ongoing, deteriorating and emerging human rights situations during its fourth year of work while placing a greater emphasis on achieving consensus-based results. Certain states continued to reject the creation or continuance of country mandates, arguing that such mandates run counter to the “principles of dialogue and cooperation.”<sup>1</sup> Conversely, the international human rights community urged the Council to fulfill its mandate to address “gross and systematic” violations and take up serious situations in countries such as Iran, Sri Lanka, the Democratic Republic of Congo, the Philippines and Thailand, among others. Disappointingly, many of these calls went unheeded.

Nonetheless, this year the Council adopted more country specific resolutions that dealt with providing technical assistance in the field of human rights. These resolutions enjoyed regional leadership and acquired the support of the concerned state, thus allowing more country-related resolutions to be adopted by consensus than in previous years. However, divisive debates continued on how best to confront the human rights situations of the Democratic People’s Republic of Korea (North Korea) and Myanmar (also referred to as Burma). Strong action was taken on a number of issues related to the Occupied Palestinian Territory (OPT).

Four additional new resolutions concerning human rights violations in Afghanistan, Guinea, Honduras and Kyrgyzstan were adopted this cycle with both Afghanistan and Kyrgyzstan acting as co-sponsors of their respective resolutions. However, none of these resolutions contained the creation of new mandates to monitor or investigate human rights violations. Discussions on the human rights situations in Sudan and Burundi were scheduled to take place at the Council’s Fourteenth session, but were unfortunately delayed to the Fifteenth session.<sup>2</sup>

Substantive debates were held on a number of concepts during the fourth cycle that threaten to undermine the universality of human rights standards, including the validity of “traditional” and cultural values within a human rights framework and the

expansion of limitations to freedom of opinion and expression beyond what is provided for in international law.

The issues of “negative stereotyping of religions” and the controversial concept of “defamation of religions” were debated repeatedly in the discussion and negotiations of several resolutions, including “freedom of opinion and expression,” “combating defamation of religions,” “elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination,” and “freedom of religion or belief.” Despite diminishing support for these contentious concepts, the Organization of the Islamic Conference (OIC) worked to insert the language into as many UN documents and instruments as possible, even when it risked diverting the thrust of the resolution’s original mandate.

## METHODOLOGY

For its fourth edition evaluating government performance at the Human Rights Council, the Democracy Coalition Project (DCP) selected four resolutions debated during the Council’s fourth year of work from July 2009 to June 2010.<sup>3</sup> The chosen resolutions reflect the behavior of governments on key thematic and country-specific issues that drew divergent positions among states, but on which the human rights community generally agreed a particular position best promoted and protected human rights.

To establish the positions of governments on these issues, DCP consulted the public record through available documentation and UN webcasts.<sup>4</sup> Based on this information, each country was evaluated against the preferred position endorsed by the human rights community as the best option for the promotion and protection of human rights, and marked with a , , or  in the accompanying table. States marked with a  supported the preferred position, while states marked with a  opposed the preferred position. States marked with a  did not take a position.

Other important debates and decisions that took place during the Council’s fourth year of work are also examined in this report. During the year, governments continued to speak on behalf of regional, cross-regional, or geo-political groupings

<sup>1</sup> However, state cooperation with the Council’s special procedures continued to be problematic as many states denied in-country visits from Special Rapporteurs and refused to implement the expert recommendations of mandate holders.

<sup>2</sup> The discussion on Burundi was delayed at the request of the Government of Burundi. The Independent Expert on Sudan was unable to attend the Fourteenth session because of illness.

<sup>3</sup> The fourth year, also referred to as the fourth “cycle”, includes the Twelfth, Thirteenth, and Fourteenth regular sessions, as well as the Twelfth and Thirteenth special sessions.

<sup>4</sup> DCP also relied on the “Council Monitor” published by the International Service for Human Rights.

of states. In these cases, members of groups were assumed to support the group opinion unless they clearly disassociated themselves from the groups' position or were recorded as expressing an alternative view. Since many of the state-to-state consultations were conducted behind closed doors, it was difficult to fully ascertain the role played by all states in the decision-making process. Thus, analyzing the public statements and votes of governments was judged to be the most accurate way to hold governments accountable in a uniform manner.

## ADDRESSING HUMAN RIGHTS SITUATIONS

### *Democratic People's Republic of Korea (North Korea)*

Despite continued resistance from the world's most closed nation, the Council once again adopted a resolution on the "Situation of human rights in the Democratic People's Republic of Korea"<sup>5</sup> at the Council's Thirteenth session. The resolution, introduced by Japan and Spain (on behalf of the European Union) and co-sponsored by Croatia, Montenegro, the Republic of Korea, the former Yugoslav Republic of Macedonia and WEOG states,<sup>6</sup> expressed deep concern over the ongoing violations of civil, political, economic, social and cultural rights occurring in the country and renewed the mandate of the *Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea* for one year. The vote of 28 in favor, 5 against, and 13 abstentions reaffirmed the Council's commitment to keep the human rights situation under international scrutiny, despite North Korea's staunch refusal to cooperate with the Special Rapporteur on the human rights situation.

A shrinking group of states, including China, Cuba, Egypt, Indonesia and Russia, remained opposed to the resolution. In addition, China, Cuba and Indonesia argued that such mandates are counter-productive and that the appropriate mechanism to promote international cooperation is the Council's Universal Periodic Review (UPR) process.<sup>7</sup> Japan countered this assertion by noting North Korea's refusal to accept any of the 161 recommendations provided by other states at its UPR

working group session. Conversely, Nigeria abstained this session after opposing the resolution in 2009, while Brazil and Djibouti voted in favor this session after abstaining the previous year. The majority of the abstentions consisted of African and Asian Group members,<sup>8</sup> along with Bolivia and Nicaragua. The remaining Latin American and Caribbean Group (GRULAC) members joined a cross-regional group of states in supporting the resolution.<sup>9</sup>

### *Occupied Palestinian Territory*

Item 7 on the Council's agenda, also known as the "Human rights situation in Palestine and other occupied Arab Territories," considerably influences the political dynamics within the Council and arguably attracts more public attention than any other issue. The fourth year of the Council's work was no exception, with the primary focus directed toward the UN Independent Fact-Finding Mission on the Gaza Conflict (known informally as the "Goldstone Report"<sup>10</sup>); the follow-up to the report; and the attack by Israel against a humanitarian boat convoy on May 31, 2010.



Following the Israeli military siege on Gaza in late December 2008, the Council held its Ninth special session in January 2009, and established an urgent, high-level fact-finding mission to investigate the conflict.<sup>11</sup> The fact-finding mission

<sup>5</sup> A/HRC/RES/13/14.

<sup>6</sup> Australia, Canada, Iceland, Israel, Liechtenstein, Monaco, New Zealand, Norway, Switzerland, Turkey and the United States.

<sup>7</sup> Notably, despite its purported "principled and consistent" position against country specific resolutions, Indonesia joined the consensus on the resolution on the human rights situation in Myanmar at the same session.

<sup>8</sup> Angola, Bangladesh, Cameroon, India, Kyrgyzstan, Nigeria, Pakistan, Philippines, Qatar, Senegal, and South Africa.

<sup>9</sup> Argentina, Bahrain, Belgium, Bosnia Herzegovina, Brazil, Burkina Faso, Chile, Djibouti, France, Ghana, Hungary, Italy, Japan, Jordan, Madagascar, Mauritius, Mexico, Netherlands, Norway, Republic of Korea, Saudi Arabia, Slovakia, Slovenia, Ukraine, United Kingdom, United States, Uruguay, and Zambia.

<sup>10</sup> The name refers to the head of the fact-finding mission, Justice Richard Goldstone, who is the former member of the South African Constitutional Court and Chief Prosecutor of the International Criminal Tribunals for the former Yugoslavia and Rwanda.

<sup>11</sup> A/HRC/S-9/1 was adopted by a vote of 33 in favor, to one against and 13 abstentions.

led by Justice Richard Goldstone presented its findings at the Twelfth session in September 2009. The 575-page report concluded that Israel and Hamas had committed war crimes and possibly crimes against humanity. It recommended that unless each side conducted an independent investigation, the UN Security Council should refer the situation to the International Criminal Court. The majority of the states expressed positive views about the report, although several had reservations about the recommendations. Israel and the United States were the most vocally opposed, with Israel denouncing the report as “shameful” and the US calling the report “tainted” with “unbalanced recommendations.” During plenary discussions on the report, states held negotiations on a draft resolution that would provide follow-up to the report, including consideration of certain recommendations. Unfortunately, despite significant attention to the issue, several states were unable to agree on the best course of action and consideration of the resolution was postponed.

However, shortly after the Twelfth session concluded, 19 member states and 16 observer states requested a special session on *the human rights situation in the Occupied Palestinian Territory, including East Jerusalem*<sup>12</sup> to reopen discussion on the report. The special session—considered by some to be an inappropriate use of the mechanism—convened on October 15-16, 2009, and produced an intricate resolution endorsing the Goldstone Report by a vote of 25 states in favor, 6 votes against and 11 abstentions.<sup>13</sup> Five states refrained from voting on the resolution.<sup>14</sup> All states, apart from Israel and the US, expressed the view that the Goldstone Report warranted serious attention by the Council; however, many states also emphasized the need for independent investigations by Israel and the Palestinians into the alleged human rights violations that occurred during the Gaza conflict.

Despite concerns it would duplicate efforts underway at the General Assembly, Palestine and Pakistan (on behalf of the OIC) presented a follow-up resolution to the Goldstone Report at the Thirteenth session. It was adopted by a vote of 29 states in favor,

6 against and 11 abstentions,<sup>15</sup> establishing a Committee of Independent Experts to monitor and assess any domestic, legal or other proceedings undertaken, particularly investigations of human rights violations and war crimes by both the Government of Israel and the Palestinian side.<sup>16</sup> Israel called the resolution a “sinkhole” for UN resources and claimed it was politically motivated. Other states argued that establishing such a committee was premature and expressed concern that the fund established by the resolution would only compensate Palestinian victims. However, a larger majority than the Council’s first follow-up decision on the Goldstone Report supported the resolution, thereby indicating a growing dissatisfaction with the lack of investigative efforts by both parties. Four additional resolutions addressing the human rights situation in the OPT, the Syrian Golan, Israeli settlements in the OPT, and the right of the Palestinian people to self-determination<sup>17</sup> were also passed with strong majorities, three of which only the US voted against.<sup>18</sup>

On May 31, 2010, Israeli forces boarded six ships sailing as the “Gaza Freedom Flotilla” after the ships refused inspection, resulting in nine killed and dozens injured. The attack took place more than 20 miles from the Gaza Strip, placing the ships in international waters. Numerous non-governmental organizations (NGOs) expressed outrage at the assault and called for strong action from the Council to address the situation.<sup>19</sup> Consequently, at the Fourteenth session, the Council swiftly adopted the resolution, “**The Grave Attacks by Israeli Forces against the Humanitarian Boat Convoy**,”<sup>20</sup> by a vote of 32 States in favor, 3 against and 9 abstentions.<sup>21</sup> The resolution created an independent fact-finding mission to investigate violations of international law resulting from the Israeli attacks. The United States argued that Israel should first have the opportunity to investigate the incident before an international mechanism is created. Norway countered that the circumstances around the incident and the number of people killed requires an independent international investigation. Despite Nicaragua’s own failure in supporting attention to other serious situations at the Council, it chastised the US for its alleged politicization of the Council.

<sup>12</sup> A/HRC/RES/S-12/1.

<sup>13</sup> Hungary, Italy, Netherlands, Slovakia, Ukraine and the United States voted against the resolution. Belgium, Bosnia and Herzegovina, Burkina Faso, Cameroon, Gabon, Japan, Mexico, Norway, Republic of Korea, Slovenia, and Uruguay abstained.

<sup>14</sup> Angola, France, Kyrgyzstan, Madagascar, and the United Kingdom.

<sup>15</sup> Hungary, Italy, Netherlands, Slovakia, Ukraine, and the United States voted against the resolution. Belgium, Burkina Faso, Cameroon, Chile, France, Japan, Madagascar, Mexico, Norway, Republic of Korea, and the United Kingdom abstained.

<sup>16</sup> A/HRC/RES/13/9.

<sup>17</sup> A/HRC/RES/13/8; A/HRC/RES/13/5; A/HRC/RES/13/7; A/HRC/RES/13/6.

<sup>18</sup> Human rights in the occupied Syrian Golan, Israeli settlements in the OPT, including East Jerusalem, and the right of the Palestinian people to self-determination.

<sup>19</sup> Twenty-two NGOs from around the world voiced support at the Council for action on the situation.

<sup>20</sup> A/HRC/RES/14/1.

<sup>21</sup> Italy, Netherlands, and the United States voted against the resolution. Belgium, Burkina Faso, France, Hungary, Japan, Republic of Korea, Slovakia, Ukraine, and the United Kingdom abstained.

## Myanmar (Burma)

In light of the first scheduled elections to take place in Myanmar since the military junta seized power twenty years ago, the Council adopted two resolutions relating to the country's human rights situation during the fourth cycle. The elections, which took place in November 2010, were widely considered by the international human rights community a veiled attempt to legitimize military rule and a new Constitution that essentially guarantees its continuance.



During the Twelfth session, the Council adopted a resolution that expressed grave concern over the conviction and sentencing of Daw Aung San Suu Kyi, the head of the main opposition party, the National League for Democracy.<sup>22</sup> The resolution, “**Aung San Suu Kyi and other political prisoners in Myanmar**,”<sup>23</sup> introduced by the EU and co-sponsored by a group of cross-regional states,<sup>24</sup> called for the release of Aung San Suu Kyi and other political prisoners to create conditions for “inclusive, transparent and credible democratic elections.” Although the resolution was adopted without a vote, China, Cuba, India and Russia each disassociated from the consensus arguing that the Council has no mandate to pronounce on individual cases or decisions of the judiciaries of sovereign states.<sup>25</sup> While Indonesia and the Philippines expressed reservations in supporting a country-specific resolution, their petition for the release of political prisoners in Myanmar impelled them to support the consensus. Thailand took a stronger stance, noting great

concern at the confinement of Aung San Suu Kyi and the significant bearing it has on the elections.

At the Thirteenth session, the *Special Rapporteur on the situation of human rights in Myanmar*, Mr. Tomás Ojea Quintana, presented a report noting that the ruling junta has been implicated in numerous violations, including extrajudicial killings, torture, rape and use of child soldiers, in its conduct of military operations during Myanmar's long-running armed conflicts.<sup>26</sup> Mr. Quintana recommended that the United Nations consider establishing a UN Commission of Inquiry into possible crimes against humanity and war crimes in Myanmar.

During the debate with the Special Rapporteur, human rights organizations spoke in support of Mr. Quintana's report and recommendations. Asian Forum for Human Rights and Development, CONECTAS Direitos Humanos, and Worldview International also expressed concerns regarding the legitimacy of the upcoming elections, adding in a joint statement that the “election laws are designed to exclude Daw Aung San Suu Kyi and other prisoners of conscience from any political process ahead.”<sup>27</sup>

Member states chose not to heed Mr. Quintana's call for a commission of inquiry, but the Council did renew the Special Rapporteur's mandate for one year. In addition, the resolution on the “**Situation of Human Rights in Myanmar**”<sup>28</sup> expressed concerns that the newly adopted electoral laws are insufficient for an inclusive political process and called upon the Government of Myanmar to ensure a free, transparent and fair electoral process. It also urged the Government to address the consistent reports of torture and ill treatment of prisoners of conscience. Once again, China, Cuba, India and Russia disassociated from the text, stating that they did not consider the resolution helpful in improving the human rights situation.

## Honduras

In June 2009, Honduras suffered a constitutional crisis after President Manuel Zelaya attempted to hold a “non-binding

<sup>22</sup> In August 2009, Myanmar's junta prolonged the detention of Aung San Suu Kyi for a further 18 months under house arrest, thus preventing her participation in the 2010 elections.

<sup>23</sup> A/HRC/RES/12/20.

<sup>24</sup> Australia, Austria, Belgium, Bulgaria, Canada, Chile, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Maldives, Malta, Mauritius, the Netherlands, New Zealand, Norway, Poland, Portugal, the Republic of Korea, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.

<sup>25</sup> Pakistan (on behalf of the OIC) echoed their concerns but chose not to disassociate.

<sup>26</sup> A/HRC/13/48.

<sup>27</sup> Joint [oral statement](#) made to the Human Rights Council on March 15, 2010.

<sup>28</sup> A/HRC/RES/13/25.

referendum” that could potentially form a constituent assembly to reform the constitution. After Honduras’ Supreme Court ruled Zelaya’s poll illegal, the army ousted the President in a coup d’état. The following day, the newly declared, but internationally unrecognized, government suspended five constitutional civil liberties of the Honduran people.<sup>29</sup>



In response, the Council quickly mobilized a strong condemnatory resolution on the human rights crisis at its Twelfth session. The resolution on the “**Situation of human rights in Honduras since the coup d’état of 28 June 2009**,”<sup>30</sup> introduced by GRULAC and co-sponsored by members of WEOG and the Eastern European Group,<sup>31</sup> called for the end of human rights violations and the restoration of democracy. It also requested that the UN High Commissioner for Human Rights (High Commissioner) report on the situation at the Council’s Thirteenth session. The resolution, adopted without a vote, received the full support of the Council and the international human rights community. In the month following the session, the decree suspending human rights was officially revoked. On November 29, 2010 democratic general elections were held, with former Congressional President Pepe Lobo as the victor.

The resolution on Honduras marked the first time action was taken on a country that was not already on its agenda, as well as the first time the Latin American and Caribbean Group

collectively tabled a resolution and showed leadership on a country situation at the Human Rights Council. It also demonstrated the Council’s ability to swiftly and robustly respond to a democratic and human rights crisis.

## ADDRESSING HUMAN RIGHTS SITUATIONS – TECHNICAL ASSISTANCE

Throughout the fourth cycle, the Council adopted several other country-specific resolutions through consensus and with the support of the countries concerned, including renewals of the mandates on Cambodia and Somalia, continuance of technical assistance to the Democratic Republic of the Congo (DRC), and four new resolutions on Afghanistan, Guinea, Haiti, and Kyrgyzstan. The January 12, 2010 earthquake disaster in Haiti prompted the calling of the Council’s Thirteenth special session on *the support of the Human Rights Council to the Recovery Process in Haiti*.<sup>32</sup> The session received resounding support from Council members and allowed for constructive dialogue on the human rights aspect of the disaster.<sup>33</sup>

Contrary to the resolutions on North Korea, Myanmar and Honduras, which were adopted under the Council’s agenda Item 4, “Human rights situations that require the Council’s attention,” these resolutions were tabled under agenda Item 10, “Technical assistance and capacity-building,” which focuses heavily on providing technical assistance to the country concerned to resolve the human rights situation.<sup>34</sup> Technical assistance often consists of the Office of the High Commissioner for Human Rights (OHCHR) aiding in the development of key human rights priorities in a host country, typically encompassing rule of law, fundamental freedoms and civil society, and access to education, training and public information.<sup>35</sup>

### Cambodia

During the Twelfth session, the *Special Rapporteur on the situation of human rights in Cambodia*, Mr. Surya Subedi, presented his first report to the Council. Many states that spoke

<sup>29</sup> Personal liberty, freedom of expression, freedom of movement, habeas corpus and freedom of association and assembly.

<sup>30</sup> A/HRC/RES/12/14.

<sup>31</sup> Austria, Australia, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, France, Finland, Germany, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Spain, Sweden, Switzerland, and the United Kingdom.

<sup>32</sup> A/HRC/S-13/1.

<sup>33</sup> The resulting resolution expressed concern over the consequences of the disaster on the enjoyment of human rights. It also invited the UN High Commissioner for Human Rights, in collaboration with special procedures, to identify and present areas for technical assistance with Haiti at the Fourteenth session of the Council.

<sup>34</sup> Resolutions related to OPT fall under a separate agenda item devoted to the “Human rights situation in Palestine and other occupied Arab territories.”

<sup>35</sup> UN Secretary-General. “[Technical Assistance and Capacity-Building: Role and achievements of the OHCHR in assisting the Government and people of Cambodia in the promotion and protection of human rights](#),” August 5, 2009.

expressed support for improvements in Cambodia,<sup>36</sup> but several states and civil society members expressed alarm about restrictions on freedom of expression and ongoing “land grabbing.”<sup>37</sup> In general, members from the Association of South-east Asian Nations (ASEAN) were far less critical of Cambodia than Western states and NGOs, although all states welcomed the Special Rapporteur’s report.<sup>38</sup> Human Rights Watch said Cambodia risked becoming an authoritarian, one-party state with its increased suppression of civil society and repressive tactics and called for the renewal of the mandate. Japan sponsored a resolution for “**Advisory services and technical assistance for Cambodia**,”<sup>39</sup> which extends the mandate of the Special Rapporteur for one year. The resolution, co-sponsored by Australia, Canada, Israel, New Zealand and Norway, requested that Mr. Subedi report on the situation at the Fifteenth session in September 2010. While the Government of Cambodia supported the resolution, it called for Mr. Subedi to focus more of his work on “advisory services and technical cooperation,” seemingly to divert attention away from government accountability for human rights violations.

In a sign of a potentially worsening situation in the country, in November 2010, Cambodian Prime Minister Hun Sen threatened to shutter the High Commissioner’s office in Phnom Penh, unless the UN removes its chief human rights representative in Cambodia, Christophe Peschoux. Officials have accused Mr. Peschoux of favoring opposition politicians after he spoke out on threatened political and economic rights, including the beating of protesters and the illegal seizing of poor Cambodians’ land for the use of politically well-connected people or foreign companies.<sup>40</sup>

## Somalia

The dire human rights situation in Somalia was addressed multiple times throughout the Council’s fourth cycle. At the Twelfth session, the *Independent Expert on the situation of*

*human rights in Somalia*, Mr. Shamsul Bari, presented his report to the Council, which described the situation as “one of the worst humanitarian crises in the world today.” He emphasized the need for collaboration between the international community and the Government of Somalia. Council debate focused on Somalia’s security situation, the need to combat the high level of impunity, and the need for multi-faceted financial assistance. The Council renewed the mandate of the independent expert for a period of one year, thus reinstating the Council’s compliance with its own rules on country mandates.<sup>41</sup> The resolution, sponsored by Nigeria (on behalf of the African Group), also requested Mr. Bari to address the Council with reports at the Thirteenth and Fifteenth sessions.

During the Council’s Thirteenth session, states reiterated the importance of the mandate on Somalia. Several NGOs made statements calling for the UN to outline past and present human rights violations to help decrease impunity; to hold a special panel event or session in June 2010; and to establish an independent commission of inquiry to investigate serious crimes.<sup>42</sup>

At the Fourteenth session, a decision on “**Assistance to Somalia in the Field of Human Rights**”<sup>43</sup> was adopted by consensus. The decision, also sponsored by Nigeria (on behalf of the African Group) and supported by Somalia, called for a debate to be held with the High Commissioner, Mr. Bari and other stakeholders at the Fifteenth session. The resulting dialogue was the first country-specific panel attended at a very high level by the Somali Government and UN officials. The panel focused on assessing the effectiveness of technical cooperation and UN support in the promotion and protection of human rights.<sup>44</sup> Despite calls by NGOs for the establishment of an independent and impartial commission of inquiry to investigate international human rights and humanitarian law violations, no clear strategy emerged to combat impunity.<sup>45</sup> However, the Council decided by consensus to extend the mandate of the Independent Expert for another year.

<sup>36</sup> Japan, Sweden (on behalf of EU), Singapore, Canada, Indonesia, Malaysia, Ireland, Lao People’s Democratic Republic, Myanmar, United Kingdom, Nepal, Australia, United States, Thailand, Philippines, and China.

<sup>37</sup> Human Rights Watch, Asian Legal Resource Centre, Asian Forum for Human Rights and Development, and the International Federation of Human Rights Leagues. States that raised concerns included Japan, Sweden (on behalf of the EU), Malaysia, Canada, Lao Peoples Democratic Republic, Ireland, Australia, United States, United Kingdom, and Thailand.

<sup>38</sup> ASEAN members include Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

<sup>39</sup> A/HRC/RES/12/25.

<sup>40</sup> The Nation, “[Khmer Rouge Tribunal in Jeopardy](#),” Barbara Crossette, November 15, 2010.

<sup>41</sup> In March 2009, the Council extended the mandate of the Independent Expert on Somalia, Mr. Shamsul Bari, for only six months.

<sup>42</sup> The Cairo Institute for Human Rights Studies, Human Rights Watch and the International Federation of Journalists made statements.

<sup>43</sup> A/HRC/DEC/14/119.

<sup>44</sup> Suggestions for improvement included additional international community support, greater coordination within the UN, the continuation of human rights and humanitarian law training, and the strengthening of partnerships with local religious groups and leaders to increase security within internally displaced persons camps.

<sup>45</sup> Amnesty International and Cairo Institute for Human Rights Studies, in collaboration with the East and Horn of Africa Human Rights Defender Project. NGOs also drew attention to continued attacks against civilians and called on states and UN agencies to enhance logistical, political and financial support to human rights defenders in Somalia and to investigate violations of human rights.

### *Democratic Republic of the Congo*

Despite serious, ongoing human rights violations in the Democratic Republic of the Congo (DRC), including mass rape, the Council passed a weak resolution on the human rights situation in the country during the Thirteenth session. The resolution, “**Situation of human rights in the Democratic Republic of the Congo and the strengthening of technical cooperation and consultative services**,”<sup>46</sup> was introduced by Nigeria (on behalf of the African Group) and co-sponsored by select WEOG and Eastern European Group states.<sup>47</sup> The resolution called upon the international community and OHCHR to enhance cooperation and support for the government of the DRC, and welcomed the DRC’s cooperation to improve the situation. It also requested that the DRC “continue efforts” to ensure protection of journalists and human rights defenders, to fight against sexual violence, and to prosecute the perpetrators of serious human rights violations. The text invited seven thematic special procedures to once again report jointly on how best to assist the DRC to address the situation.<sup>48</sup>



France (on behalf of EU members of the Council) stated that the resolution contains positive features, but regretted that the resolution did not reflect the extremely alarming human rights situation in the DRC. The EU also noted that only a very small number of recommendations have been implemented in the country. The EU joined the US in asserting that an Independent Expert on the situation of human rights in the DRC (a mandate that was terminated in 2008) would be the best way to address the DRC’s problems. In general, human rights groups were dissatisfied with the resolution’s scope and called on the government to implement the Special Rapporteur’s recommendations, abolish discriminatory laws and hold perpetrators of sexual violence accountable.

### *Guinea*

At the Thirteenth session, a resolution entitled, “**Strengthening of technical cooperation and consultative services in the Republic of Guinea**,”<sup>49</sup> was adopted by consensus. The resolution condemned the massacre and rapes of unarmed civilians protesting the 2009 military coup d’état in Conakry. The resolution, introduced by Nigeria (on behalf of the African Group) and subsequently co-sponsored by WEOG and select Eastern European states,<sup>50</sup> invited the Guinean authorities to consider implementing the recommendations on combating impunity, protection for and the granting of assistance and appropriate reparation to the victims of acts of violence, and reform of the justice and the security sectors. It also strongly appealed to the international community to provide the transitional authorities with assistance, including establishing a UN human rights office in Guinea. In a public statement, Human Rights Watch applauded the resolution for reaffirming the Council’s relevance and ability to address recent crises and longstanding human rights abuse.<sup>51</sup>

### *Kyrgyzstan*

At the Fourteenth session, the Council adopted by consensus a resolution co-sponsored by Kyrgyzstan and the United States on “**Technical Assistance and Cooperation on**

<sup>46</sup> A/HRC/RES/13/22.

<sup>47</sup> Australia, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Israel, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, the United Kingdom and the United States.

<sup>48</sup> The Special Rapporteurs on violence against women, independence of judges and lawyers, right to the highest attainable standard of physical and mental health and human rights defenders; and the Special Representatives of the Secretary-General on human rights of internally displaced persons, transnational corporations and other business enterprises and children and armed conflict.

<sup>49</sup> A/HRC/RES/13/21.

<sup>50</sup> The Eastern European states on the Council that co-sponsored the resolution include Slovakia, Slovenia, and Hungary.

<sup>51</sup> Human Rights Watch, “[UN Human Rights Council: Positive Action on Burma, Guinea, North Korea: Support Ebbing in Rights Body for Problematic ‘Defamation of Religions’ Resolution](#),” March 26, 2010.

**Human Rights in the Kyrgyz Republic,**<sup>52</sup> following the April 2010 overthrow of Kyrgyzstan's government. The resolution strongly condemned the human rights violations committed during the protests surrounding the change of government, called on Kyrgyzstan's government to uphold its commitment to internationally recognized human rights and to carry out a full and transparent investigation of the ethnic violence following the shift in government.

Russia stated that the resolution should be considered under agenda Item 4, rather than Item 10, arguing that it contained almost no elements related to providing technical assistance to Kyrgyzstan and instead was "ripe" with calls for "political action." Russia also stressed that the adoption of the resolution under Item 10 should not set a precedent for the Council, thus suggesting that countries should be brought up more frequently under Item 4. Although China argued the issue was internal, it joined the consensus. Some members of civil society urged the Council to call a special session on the situation, and later expressed disappointment that the resolution did not create a mandate or investigate gross human rights violations. However, Human Rights Watch characterized the Council's resolution on Kyrgyzstan as a positive step in addressing human rights emergencies.<sup>53</sup>

### ***Addressing attacks on Afghan school children***

In a March 2010 letter sent to UN member states,<sup>54</sup> Human Rights Watch called for the creation of a Special Rapporteur on Afghanistan, citing the High Commissioner's Thirteenth session report describing wide scale violations in the wake of reconciliation initiatives in Afghanistan. The group asserted that the United Nations, foreign military powers and donors are not prioritizing the problem of impunity in the country and that a Special Rapporteur could provide the necessary

reporting and advice to prevent further deterioration of the situation.

At the Fourteenth session, the Council adopted a new resolution on Afghanistan that focused on the targeting of innocent school children. The resolution, "**Addressing attacks on school children in Afghanistan,**"<sup>55</sup> sponsored by Afghanistan, the United States and a cross-regional group of states,<sup>56</sup> condemned the attacks and expressed solidarity with the Government of Afghanistan in its effort to provide protection to school children, while also reaffirming that governments have the primary responsibility to protect their citizens. It also requested that the High Commissioner increase the focus on the situation of girl school children in her reports on Afghanistan to the Council.



The resolution neglected to address the full range of rights violations in Afghanistan or to call for accountability for the attacks on children. The US noted that the resolution was intentionally kept short and designed for consensus. However, the US strategy, while successful in addressing an ongoing concern in Afghanistan, failed to heed the call for more robust action on the situation as a whole.

<sup>52</sup> A/HRC/RES/14/14.

<sup>53</sup> Human Rights Watch, "[UN: Rights Council Condemns Violations in Kyrgyzstan](#)," June 21, 2010.

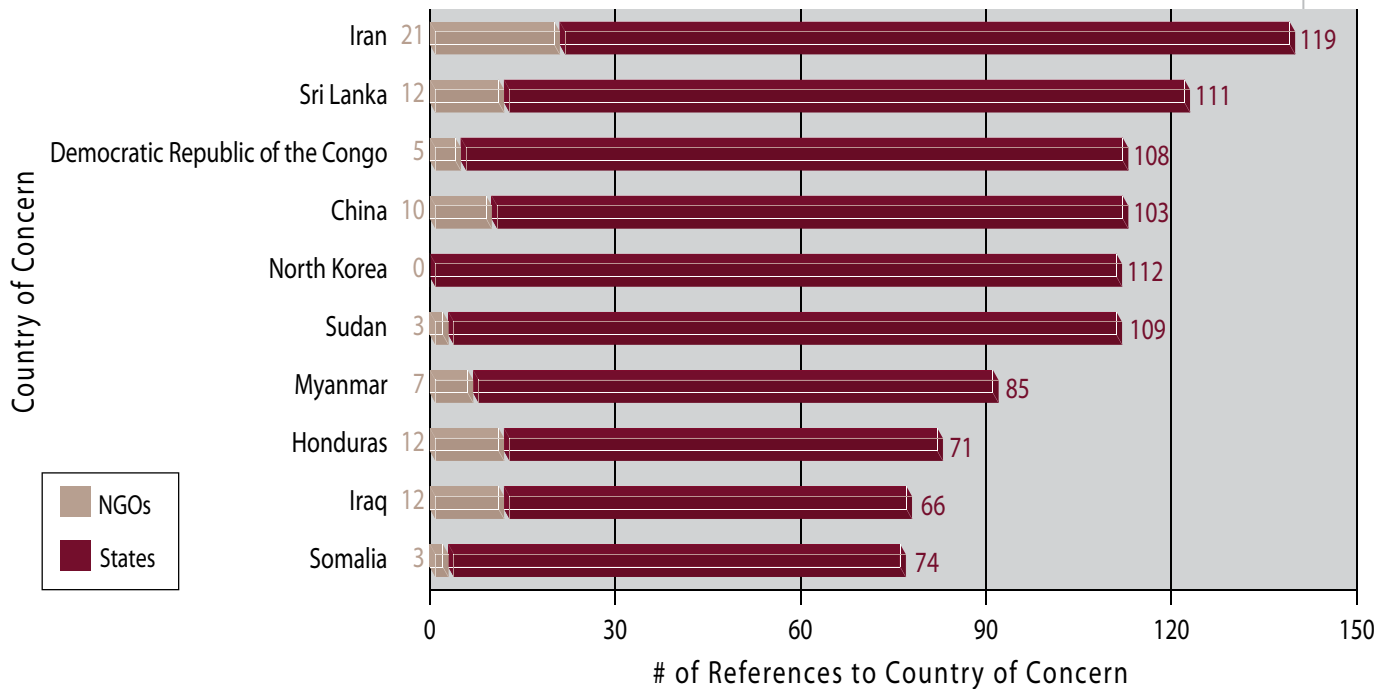
<sup>54</sup> Human Rights Watch, "[Letter: The situation of Human Rights in Afghanistan](#)," March 18, 2010.

<sup>55</sup> A/HRC/RES/14/15.

<sup>56</sup> Australia, Austria, Belgium, Bulgaria, Canada, Chile, Costa Rica, the Czech Republic, Denmark, Estonia, France, Finland, Germany, Greece, Hungary, Latvia, Lithuania, Iceland, India, Italy, Japan, Luxembourg, Nepal, the Netherlands, New Zealand, Poland, Portugal, Romania, Serbia, Singapore, Slovakia, Slovenia, Somalia, Spain, Sweden, Switzerland, Turkey and the United Kingdom.

SITUATIONS REQUIRING COUNCIL ATTENTION

July 2009 - June 2010



ITEM 4 ANALYSIS

From July 2009-June 2010, the Human Rights Council heard statements by states and NGOs on many alarming human rights situations around the world requiring the Council’s attention.<sup>1</sup> The top ten countries with the highest number of references (NGOs and states combined) were Iran, Sri Lanka, the Democratic Republic of the Congo, China, North Korea, Sudan, Myanmar, Honduras, Iraq and Somalia.<sup>2</sup> Despite calls for action on all these situations, only half were addressed by the Council—and less were dealt with adequately.

Iran ranked as the highest country of concern by states and NGOs, with 140 references total. Shockingly, the Council failed to adopt a resolution condemning violations in the country or heed the call to establish a special rapporteur to monitor the situation. Although Sri Lanka ranked second with 123 references, the High Commissioner’s calls for an independent investigation into possible laws of war violations in the country also went unheeded. With 113 references, the situation in the DRC came in third; however the resultant resolution did not reflect the seriousness of the situation and failed to establish a mandate to monitor the situation.<sup>3</sup>

Among the top 10 situations reflecting the combined priorities of states and NGOs, the situation that received the strongest action was the comprehensive and regionally-led resolution on Honduras (8th), passed in response to the events surrounding the 2009 coup d’état. The situations in Myanmar (7th), North Korea (5th), and Somalia (10th) were also addressed by the Council, with resolutions extending the special procedure mandates on each country; however, calls for a commission of inquiry into violations of international law in Myanmar did not materialize. Meanwhile, China (4th), and Iraq (9th) saw no serious attention in the form of a resolution or otherwise by the Council, while consideration on the situation in Sudan (6th) was postponed.

NGOs separately ranked Iran as the most significant country of concern (with 21 references); followed by Western Sahara and India (with 16 references); Pakistan, Sri Lanka, Honduras, and Iraq (with 12 each); and China (with 10). The pattern shows that NGOs are focused on the chronic and emerging situations not already on the Council’s agenda, but which demand the attention of the body.

<sup>1</sup> For the purpose of this analysis, statements were only tracked during the General Debate under the Council’s Agenda Item 4, “Human rights situations that require the Council’s attention.” During Council sessions, country situations already on the agenda of the Council are also referenced separately under Item 10 on “Technical assistance and capacity building”, Item 7 on “Human rights situations in Palestine and other occupied Arab territories” and during the Interactive Dialogue following countries’ Special Rapporteurs’ reports; however, these meetings were not referenced in the creation of this analysis.

<sup>2</sup> The next five countries scoring the highest in combined NGO and state references were Cuba, Zimbabwe, Pakistan, Afghanistan and Guinea.

<sup>3</sup> Notably, the Occupied Palestinian Territory was only referenced a total of nine times during the cycle by NGOs and states, most likely because Israel and OPT have their own agenda item (Item 7).

## THEMATIC ISSUES

Resolutions dealing with the protection of vulnerable persons, such as civilians and journalists in armed conflict, human rights defenders, victims of torture, counter-terrorism measures, and human trafficking found sweeping support from the Council and, as a result, were all passed by consensus.<sup>57</sup> Unfortunately, this willingness to reach across regional divides with genuine cooperation and dialogue in order to reach a consensual outcome was not extended to resolutions that included controversial concepts on “defamation or negative stereotyping of religions” and “traditional values” in a human rights framework.

### *Traditional values and respect for cultural diversity*

At the Twelfth session, the Council adopted a divisive resolution that attempted to frame the concept of “traditional values” in a human rights context. The resolution, “**Promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind**,”<sup>58</sup> was sponsored by Russia and co-sponsored by members of the African and Asian Groups,<sup>59</sup> in addition to Bolivia and Cuba. The text asserted that, “all cultures and civilizations in their traditions, customs, religions and beliefs share a common set of values that belong to humankind in its entirety,” but failed to specify these values. It also requested that the High Commissioner convene a workshop on how a better understanding of “traditional values” can contribute to the promotion and protection of human rights.

Russia initially introduced the resolution at the Eleventh session but withdrew it after resistance from several states and human rights organizations that viewed it as an attempt to undermine the universality of human rights. Russia reintroduced the text at the Twelfth session arguing that the initiative was aimed at strengthening human rights protection by building a “more common and universal approach” to human rights values. States opposed to the resolution countered that the text suggests that “traditional values” makes an exclusively positive contribution to human rights and fails to recognize that many harmful traditional practices are justified by invoking the

“traditional values” of a group or society. Australia (on behalf of Canada and New Zealand), Argentina, Chile, France (on behalf of the Council’s EU member states), Japan and the United States expressed disappointment that the main sponsors of the text chose not to clarify what is meant by “traditional values”, despite calls for them to do so during negotiations. They noted that without reaffirming in the text that “traditional values” must be in keeping with international human rights law, the concept runs the risk of undermining the rights of women, minorities and other vulnerable groups. Mexico echoed this concern adding that the resolution could introduce cultural relativism and a re-interpretation of established universal human rights standards.

The Cairo Institute for Human Rights Studies issued a statement asserting that the adoption of the resolution is highly dangerous. The group argued that “Such a concept has been used in the Arab region to justify treating women as second class citizens, female genital mutilation, honor crimes, child marriage and other practices that clearly contradict with international human rights standards.”<sup>60</sup>

The polarizing resolution was adopted by a vote of 26 in favor, 15 against, and six abstentions, contradicting the sponsors’ stated goal of broadening the consensus base for human rights values. Members of each regional group withheld support for the resolution with Chile, Japan, Mauritius, Mexico and the Republic of Korea joining WEOG states in voting no, while Argentina, Bosnia and Herzegovina, Brazil, Ghana, Ukraine and Uruguay abstained. All OIC members of the Council, along with other select states,<sup>61</sup> voted in favor of the text.

In contrast, a resolution on the “**Promotion of the enjoyment of the cultural rights of everyone and respect for cultural diversity**”<sup>62</sup> was adopted at the Fourteenth session without a vote. The resolution, introduced by Cuba and cosponsored by 22 members of the Non-Aligned Movement (NAM),<sup>63</sup> along with Armenia, China, El Salvador, Mexico, Russia, Serbia and Uruguay, reaffirmed that cultural rights are an integral part of human rights and called upon all governments to cooperate with and assist the Independent Expert in the discharge

<sup>57</sup> A/HRC/RES/12/5; A/HRC/RES/13/24; A/HRC/RES/13/13; A/HRC/RES/13/19; A/HRC/RES/13/26; A/HRC/DEC/13/117.

<sup>58</sup> A/HRC/RES/12/21.

<sup>59</sup> Algeria, Bangladesh, Belarus, Burundi, Cameroon, Chad, China, Djibouti, Egypt, Ethiopia, Gabon, Iran, Kazakhstan, Kyrgyzstan, Lebanon, Madagascar, Malaysia, Morocco, Myanmar, Nigeria, Pakistan, Singapore, Sri Lanka, Syrian Arab Republic, Tunisia, Vietnam and Zambia.

<sup>60</sup> Cairo Institute for Human Rights Studies, “[HRC Revives Freedom of Expression But Imposes ‘Traditional Limitations’ on Rights & Allows Impunity for Gaza War Crimes](#),” March 10, 2010.

<sup>61</sup> Angola, Bolivia, China, Cuba, India, Madagascar, Nicaragua, Philippines, Russian Federation, South Africa and Zambia.

<sup>62</sup> A/HRC/RES/14/9.

<sup>63</sup> Bangladesh, Belarus, Bolivia, Burkina Faso, Congo, Côte d’Ivoire, the Dominican Republic, Ecuador, Indonesia, the Islamic Republic of Iran, Lao People’s Democratic Republic, Nicaragua, Nigeria, Pakistan, Panama, the Philippines, Senegal, the Sudan, the Syrian Arab Republic, Venezuela and Vietnam.

of her mandate. As with the “traditional values” resolution, France (on behalf of the Council’s EU member states) and the US expressed concern that the concept of “cultural diversity” may introduce cultural relativism and be used to justify human rights abuses. However, unlike the “traditional values” resolution, negotiations on the “cultural diversity” text led to the inclusion of language that notes that “no one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope,” allowing the resolution to be adopted by consensus.

### **Freedom of opinion and expression**

At the Twelfth session, the Council saw the unanimous adoption of a breakthrough resolution on “**Freedom of opinion and expression**.”<sup>64</sup> The recently divisive resolution achieved consensus after the main sponsors of the text, Egypt and the United States, worked together in an effort to depolarize the issue of limitations to freedom of expression. The resolution, which enjoyed co-sponsorship from members of each regional group,<sup>65</sup> recognized the moral and social responsibilities of the media to combat discrimination and incitement to hatred and expressed concern over “negative racial and religious stereotyping.” At the same time, the text references the importance of freedom of expression, open dialogue and debate in combating racism and intolerance. Most notably, the text also avoided reference to the OIC favored concept of “defamation of religions”, a controversial concept often used by governments to repress freedom of expression and discriminate against minorities.

The hard won compromise was not entirely welcomed by both sides. Pakistan (on behalf of the OIC) continued to assert that “defamation” extends not only to individuals, but also to religions and belief systems and emphasized the need to combat such instances. South Africa and Cuba argued that the text represents a major step back, asserting their preference for stronger language that would have condemned “negative stereotyping of religions” rather than *religious* stereotyping. In contrast, the EU expressed concern regarding the resolution’s use of the term “negative stereotyping”; fearing that the language may be used to protect belief systems. The EU also

opposed the notion of a “moral and social responsibility of the media,” which it felt goes well beyond the “special duties and responsibilities” of persons exercising the right to freedom of expression as stated in Article 19 of the International Covenant on Civil and Political Rights (ICCPR).



ARTICLE 19, an NGO dedicated to the promotion and protection of freedom of expression, welcomed the resolution but also expressed concern that the language on “religious stereotyping” attempts to protect religious ideas.<sup>66</sup> The group also lamented the inclusion of a reference to reporting requirements of the *Special Rapporteur on Freedom of Expression*, arguing that it goes against the spirit of the freedom of expression mandate to monitor violations against the positive exercise of the right.<sup>67</sup>

The passage of the resolution gave hope to opponents of “defamation of religions” that the OIC was moving toward a position more in line with the international legal standards. However, the concept reemerged along the familiar divide at the following session.

### **Defamation of religions**

At the Thirteenth session, the Council adopted two controversial resolutions under the agenda item on “racism, racial discrimination, xenophobia and related forms of intolerance” that dealt with the divisive concept of “defamation of religions.”

<sup>64</sup> A/HRC/RES/12/16.

<sup>65</sup> Albania, Algeria, Angola, Argentina, Australia, Botswana, Brazil, Burkina Faso, Burundi, Canada, Colombia, Costa Rica, Côte d’Ivoire, Djibouti, El Salvador, Guatemala, India, Indonesia, Israel, Japan, Kazakhstan, Kyrgyzstan, Lebanon, Malaysia, Maldives, Mauritius, Mexico, Monaco, Morocco, New Zealand, Nigeria, Palestine, Peru, Republic of Korea, Rwanda, Senegal, Serbia, Somalia, Sri Lanka, Sudan, Switzerland, Tunisia, Turkey, Uganda, Ukraine, Yemen and Zambia.

<sup>66</sup> Article 19, “[United Nations: ARTICLE 19 Cautiously Welcomes New Resolution on Freedom of Expression](#),” October 2, 2009.

<sup>67</sup> The resolution makes reference to Resolution 7/36, which requests the Special Rapporteur to “report on instances in which the abuse of the right of freedom of expression constitutes an act of racial or religious discrimination.”

The issue has been polarized between those, mostly OIC, states that believe the existing international legal framework should be extended to provide protection against “defamation of religions” and those states, as well as UN and human rights experts, which argue that the focus remain on the rights of individuals and groups against racial and religious intolerance.

The resolution on “**Combating defamation of religions**,”<sup>68</sup> was once again tabled by Pakistan on behalf of the OIC (with the exception of Cameroon) and co-sponsored by Bolivia and Venezuela. The resolution urged all states to provide adequate protection against acts resulting from “defamation of religions” and deplored the use of the media to target religious symbols and venerated persons. The text largely singled out Islam as the target of defamation, drew particular attention to Islamophobia and specifically condemned the ban on the construction of minarets. It also requested the *Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance* to report on all manifestations of “defamation of religions” at the Council’s Fifteenth session.

The United States stated that “defamation of religions” is commonly used by governments to justify violations of civil liberties and attacks on political and racial minorities. Argentina, Brazil, Chile and France (on behalf of the Council’s EU member states) rejected the text’s unequal emphasis on Islam noting that increased discrimination is not limited to only some regions, some religions, and some beliefs. Brazil, France and the US asserted that framing the debate on religious discrimination under the concept of “defamation of religions” has proved unsuccessful at the Council. The US added that the resolution has become an “instrument of division” and has failed to provide real solutions for victims of racial and religious intolerance.

Although the resolution was passed by a vote of 20 in favor, 17 against, and eight abstentions, state support for the resolution continued to decline, resulting in its lowest margin of adoption to date.<sup>69</sup> A cross-regional group of states, including Argentina, Mexico, the Republic of Korea, Uruguay and

Zambia, shifted their votes to oppose the resolution at this session, while some African, Asian and GRULAC members<sup>70</sup> continued to abstain along with Bosnia and Herzegovina. Only Burkina Faso changed from abstention in 2009 to voting in favor in 2010. The majority of the OIC, along with Bolivia, China, Cuba, Nicaragua, the Philippines, Russia, and South Africa, continued to support the resolution.

Efforts by the African Group to draft additional legally binding norms in the area of racism and discrimination also met with strong opposition from states and the international human rights community. During the Thirteenth session, two competing resolutions concerning the utilization of proposals submitted to the *Ad Hoc Committee on the Elaboration of Complementary Standards to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)*<sup>71</sup> were put forward to the Council. One text, submitted by the US, requested that a determination be made by the Committee on which proposals enjoy state consensus for successful implementation. An alternative resolution, tabled by Nigeria (on behalf of the African Group), requested that the Committee elaborate additional protocols to ICERD, which could include proposals that were not supported by all UN member states.

In a letter to member states of the Council, 47 NGOs, including the Democracy Coalition Project, warned that the African Group text could allow for the development of a legally binding instrument that includes the concept of “defamation of religions.” “We strongly believe that any attempt to codify ‘defamation of religions’ in international law will have highly damaging and longterm implications for the international protection of the right to freedom of expression,” the letter states.<sup>72</sup>

The US withdrew its own text in exchange for substantial edits to the African Group version, which allowed it to be adopted by consensus.<sup>73</sup> The final resolution, “**Elaboration of complementary standards to ICERD**,”<sup>74</sup> is largely procedural and simply takes note of the views expressed during the second session of the Ad Hoc Committee. The Ad Hoc Committee has decided to adjourn its third session until an undetermined date in 2011.

<sup>68</sup> A/HRC/RES/13/16.

<sup>69</sup> In 2009, the resolution was adopted with 23 states in favor, 11 against, and 13 abstentions.

<sup>70</sup> Brazil, Cameroon, Ghana, India, Japan, Madagascar and Mauritius.

<sup>71</sup> The Ad Hoc Committee was mandated by the Council to fill existing gaps in ICERD and to provide new normative standards aimed at combating all forms of contemporary racism. The request for contributions was adopted by the Committee on December 19, 2008 and endorsed by the Human Rights Council in its resolution 10/30.

<sup>72</sup> “[Letter from Civil Society Organizations to State Representatives: ‘Defamation of Religion’ at the 13th Session of the United Nations Human Rights Council](#)” March 11, 2010.

<sup>73</sup> Notably, the EU disassociated itself from the consensus, stating that the mandate of the Ad Hoc Committee to form new normative standards to ICERD is “too restrictive” and that the EU is not convinced of the necessity to draft such standards.

<sup>74</sup> A/HRC/RES/13/18.

## Freedom of religion or belief

The issue of “stereotyping and incitement to religious hatred” resurfaced at the Fourteenth session during heated negotiations on the renewal of the *mandate of the Special Rapporteur on freedom of religion or belief*. Pakistan (on behalf of the OIC) sought additional provisions that would refocus the resolution toward the protection of religious ideas and beliefs.<sup>75</sup> Specifically, it sought to require the mandate holder to examine instances of incitement to religious hatred “manifested in particular by derogatory stereotyping,” involving the use of the media or any other means, and to recommend “appropriate remedial measures.”<sup>76</sup>

The OIC provisions met with strong opposition from states, particularly the EU, which rejected shifting the focus of the Special Rapporteur away from impediments to freedom of religion or belief suffered by individuals. A compromise was struck that removed the reporting requirements to the mandate holder and instead expressed concerns regarding incitement to religious hatred and derogatory stereotyping against persons rather than religion per se in the perambulatory section of the text. In addition, the OIC won the inclusion of a provision that called upon the Special Rapporteur to work with mass-media organizations “to promote an atmosphere of respect and tolerance for religious and cultural diversity.” The successful negotiations led to the re-establishment of a consensual adoption of the resolution.<sup>77</sup>

The final resolution, “**Freedom of Religion or Belief: Mandate of the Special Rapporteur on Freedom of Religion or Belief**,”<sup>78</sup> introduced by Spain and co-sponsored by a large cross-regional group of states,<sup>79</sup> extended the mandate of the Special Rapporteur for a further three years. After the text’s adoption, Egypt reiterated its concern at the “negative stereotyping of religions, insults to religious personalities, holy books, scriptures and symbols” and urged the Council to adopt measures that address this trend.

## Right to Development

At the Twelfth session, a resolution on the “**Right to Development**”<sup>80</sup> was introduced by Egypt (on behalf of NAM) and co-sponsored by Brazil and Cameroon. The concept of this right entails full sovereignty over natural resources; self-determination; popular participation in development; equality of opportunity; and the creation of favorable conditions for the enjoyment of other civil, political, economic, social and cultural rights.<sup>81</sup> The resolution seeks to develop a set of standards for the implementation of the Right to Development, with the intent to develop an international convention that would legally bind states to implement the right. In addition, it attempts to elevate the Right to Development to the same level as other human rights and fundamental freedoms, as well as requests OHCHR to allocate adequate resources for the implementation of the resolution. The resolution was adopted by a vote of 33 states in favor, zero against and 14 abstentions. The Western European and Others Group, select Eastern European Group states,<sup>82</sup> Japan and the Republic of Korea abstained from the vote. In a welcome and historic change, the United States chose to abstain on the resolution rather than vote no. The United States expressed its willingness to engage in the working group on the Right to Development, but said it still had reservations about giving the right legally binding status. The EU joined the US in abstaining on the resolution, despite having joined consensus the previous year, citing similar opposition to the development of a legally binding status on states.

## Protection of Human Rights Defenders

During the Twelfth session, the President of the Gambia delivered a speech on national television where he announced, “I will kill anyone who wants to destabilize this country. If you think that you can collaborate with so-called human rights defenders, and get away with it, you must be living in a dream world. I will kill you, and nothing will come out of it.”<sup>83</sup> Human rights organizations from around the world rapidly sent a joint

<sup>75</sup> A/HRC/14/L.21.

<sup>76</sup> The OIC also sought an amendment that would require the mandate holder to focus his/her report on the implementation of its suggested provisions.

<sup>77</sup> HRC Resolution 6/37, which renewed the mandate of the Special Rapporteur in 2007, was adopted by a vote of 29 in favor, zero against, and 18 abstentions.

All OIC states, as well as China, South Africa, and Sri Lanka abstained, refusing to endorse the resolution’s guarantee of the fundamental right to change one’s religion or belief, preferring language that urged “respect for norms about the right to change one’s religion.”

<sup>78</sup> A/HRC/RES/14/11.

<sup>79</sup> Albania, Andorra, Australia, Austria, Belgium, Bulgaria, Canada, Chile, Colombia, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Montenegro, the Netherlands, New Zealand, Norway, Poland, Peru, Portugal, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Switzerland, Turkey, Ukraine, the United Kingdom, Uruguay, the former Yugoslav Republic of Macedonia.

<sup>80</sup> A/HRC/RES/12/23.

<sup>81</sup> A/RES/41/128, UN Declaration on the Right to Development, December 4, 1986.

<sup>82</sup> Bosnia and Herzegovina, Hungary, Slovakia, Slovenia and Ukraine.

<sup>83</sup> Kimberly Curtis, “[The Future of Human Rights in Africa](#),” September 29, 2009.

letter to the Council President, stating that these remarks constitute not only a threat to the right to life and physical integrity of Gambian human rights defenders and their supporters, but may have implications for the safety of other human rights workers whose headquarters are in the Gambia.<sup>84</sup> The group urged him to adopt a presidential statement denouncing the Gambian President's statement. However, this urgent call was met with silence.

It was not until the Thirteenth session that the Council shed light on this issue with the consensual adoption of a resolution entitled, "**Protection of Human Rights Defenders**,"<sup>85</sup> which urged states to prevent and protect against attacks on human rights defenders. Although the mandate on human rights defenders is not up for renewal until 2011, several states, including Bangladesh, China, Egypt, Iran, Morocco, Pakistan (on behalf of the OIC), Russia, and Sri Lanka, attempted to dilute the mandate by altering the definition of human rights defenders, arguing that individuals wrongly use the term for their own gain.



In response, several prominent human rights organizations issued a joint statement noting with concern the attempt by some states to create new restrictions and undermine the UN Declaration on Human Rights Defenders<sup>86</sup> a trend which was also reflected in Ms. Sekaggya's second annual report.<sup>87</sup> Sadly, the importance of protection for human rights defenders was reinforced with the murder of prominent human rights

defender, Floribert Chebeya Bahizire, who was killed in the DRC in early June 2010. Throughout the Fourteenth session, numerous NGOs and states publicly expressed their grief upon hearing of his death and called on the Council to investigate his murder.<sup>88</sup>

## CONCLUSION

In its first full year since the United States joined the Council, the body has seen significant improvements in addressing human rights violations in countries that have chosen to cooperate with the body. However, states remained divided on how to address serious human rights situations in countries that refused cooperation. Bangladesh, Cuba, China, Egypt, Indonesia, Pakistan and Russia espoused a "principled position against country resolutions," arguing that such resolutions that do not enjoy the consent of the state are counter-productive in advancing human rights issues. The Philippines and Russia expressed particular reservation to the adoption of two resolutions concerning Myanmar, arguing that the frequency of such resolutions would not promote dialogue with the country. Notably, contrary to their own position on this point, these same states supported the numerous country resolutions concerning the OPT, even though Israel has consistently opposed their adoption.<sup>89</sup>

Such broad support on issues related to the Occupied Palestinian Territory allowed the Council to adopt robust resolutions that contained strong language against violations and concrete follow-up mechanisms, such as the resolution on the Israeli attacks on the humanitarian boat convoy, which quickly dispatched a fact-finding mission to investigate the incident. The Council's action on Honduras served as an important model of successful and swift action by the body. States in the Latin American and the Caribbean region not only took leadership on this serious situation, they mobilized the countries of the region to successfully reverse an assault on democratic governance. On the other hand, the resolution pertaining to Aung San Suu Kyi and other political prisoners in Myanmar did not enjoy the collective support of the Asian region despite general agreement that their continued imprisonment prevents

<sup>84</sup> The group of 24 NGOs, consisting largely of African organizations, sent the letter to the Council President on September 28, 2009.

<sup>85</sup> A/HRC/RES/13/13.

<sup>86</sup> Human Rights Watch, International Service for Human Rights, Cairo Institute for Human Rights Studies, Canadian HIV/AIDS Legal Network, Asian Forum for Human Rights and Development, Baha'i International Community, International Federation for Human Rights, and CIVICUS. In addition, Arc International and the Egyptian initiative for Personal Rights said they share the views expressed in this statement.

<sup>87</sup> Sekaggya's report notes several troubling trends including a growing characterization of human rights defenders as "terrorists", "enemies of the state" or "political opponents" by state officials and state-controlled media. Sekaggya also noted that there had been no improvement in the level of violence against human rights defenders since the adoption of the Declaration on Human Rights Defenders in 1998.

<sup>88</sup> The Government of the DRC has initiated an investigation, the results of which have yet to be announced at the publishing of this report.

<sup>89</sup> In addition, Bangladesh, Egypt and Indonesia joined the consensus on the resolution on the human rights situation in Myanmar.

inclusive and credible democratic elections in the country. On Guinea and Kyrgyzstan, positive action by the Council set up reporting mandates by the UN High Commissioner for Human Rights to keep the international community apprised of the situations in these countries.

Resolutions that focused largely on providing technical assistance to a country drew greater support from the Council and increased access to the concerned state, but in some cases, did not reflect the gravity of the human rights situation or the need for accountability such as the Democratic Republic of the Congo and Cambodia.

Unfortunately, many serious and emerging human rights emergencies throughout the world received limited or no attention despite numerous calls from member states and NGOs for action by the Council. Throughout the year, human rights organizations repeatedly urged UN member states to support a robust response to the ongoing post-election crackdown on human rights defenders, civil society and peaceful protestors in Iran since its disputed 2009 Presidential elections.<sup>90</sup> Over the year, states raised the situation in Iran more than any other country during the general debate on human rights situations requiring the Council's attention.<sup>91</sup> The US and Norway led a cross-regional group of more than 50 states in a statement expressing concern over mounting violations in Iran despite a coordinated effort by Iran, Pakistan, Nigeria, Egypt, Sudan, Cuba, Nicaragua, and Malaysia to block the statement from being read at the Council. Regardless of numerous appeals over the year-long crisis, the Council missed successive opportunities to adopt a resolution and establish a special rapporteur mandate to monitor the situation. The Council also ignored similar petitions for the creation of mandates on the grave human rights situations in the DRC, Sri Lanka, and Afghanistan.

Despite its commendable efforts to improve the Council's approach toward country-situations, the United States remained the only state that voted against all OPT related resolutions, including those on Israeli settlements in the OPT and the right of the Palestinian people to self-determination, despite the Obama Administration's support for a two-state solution to the conflict.<sup>92</sup>

The Council's unbalanced response to serious human rights violations indicate the need for improvements to the body's functioning. The ongoing five-year review provides governments, NGOs, and human rights experts a critical opportunity to re-examine the body's effectiveness in promoting and protecting human rights since its creation in 2006. Sixteen NGOs, including the Democracy Coalition Project, presented a paper that seeks to strengthen the Council's response to human rights violations based on the level of genuine cooperation offered by governments.<sup>93</sup> The paper challenges a growing contention among some states that the work of the Council should solely be based on the principles of cooperative dialogue. The groups assert that in order for cooperative approaches to yield results, it is important to draw an objective distinction between governments that engage in genuine cooperation with the Council and its mechanisms, and those that do not.<sup>94</sup> They argue that if such distinctions are not drawn, there is a risk that some governments will use the idea of cooperation as a way of avoiding scrutiny or accountability rather than to address real human rights challenges. To enhance the Council's ability to address a broader range of situations, the authors have urged UN member states to support the establishment of new tools that allow independent actors such as the UN High Commissioner for Human Rights, the UN Secretary General, and UN Special Procedures to bring urgent country situations to the Council's attention for discussion.

<sup>90</sup> Under President Mahmoud Ahmadinejad the situation has deteriorated dramatically in Iran. Hundreds of ordinary citizens have suffered serious violations including death, arbitrary detention, show trials, torture, and persecution of family members to silence dissent.

<sup>91</sup> See the section of this report entitled, "Item 4: Human Rights Situations Requiring the Attention of the Council."

<sup>92</sup> Speaking at a May 2009 Security Council meeting aimed at reviving peace talks, US Ambassador Susan Rice [repeated calls](#) by the Obama Administration for a Palestinian state, an end to violence and a halt to Israeli settlements.

<sup>93</sup> "[Tailoring the Human Rights Council's response to situations of violations of human rights](#)," October 15, 2010.

<sup>94</sup> A concerned state should meet three basic requirements: 1) acknowledge the violations; 2) allow unhindered access to information by independent actors; and 3) demonstrate a verifiable commitment to remedy these violations through concrete action.

KEY RESOLUTIONS ADOPTED BY THE UN HUMAN RIGHTS COUNCIL

July 2009 – June 2010

RESOLUTION	POSITIONS	OUTCOME
Mandate on the Democratic People's Republic of Korea (North Korea)	<input checked="" type="checkbox"/> Favored the renewal (28) <input type="checkbox"/> Abstained (13) <input checked="" type="checkbox"/> Against the renewal (5)	During the Thirteenth session, the resolution on the human rights situation in North Korea was passed by a vote of 28 states in favor, five against, and 13 abstentions. The resolution deplored the grave, widespread and systematic human rights abuses in North Korea and extended the mandate on North Korea for one year. It also urged the Government of North Korea to cooperate fully with the Special Rapporteur and to permit him unrestricted access to visit the country.
Resolution on the grave attacks by Israeli forces against the humanitarian boat convoy	<input checked="" type="checkbox"/> Voted in favor (32) <input type="checkbox"/> Abstained (9) <input checked="" type="checkbox"/> Voted against (3)	During the Fourteenth session, a resolution condemning the attack by Israeli forces against the humanitarian flotilla of ships was adopted by a vote of 32 states in favor, three against and nine abstentions. The resolution requested that the International Committee of the Red Cross provide information on the condition of the detained and injured persons. It also decided to dispatch an international fact-finding mission to investigate violations of international law resulting from the Israeli attacks.
Resolution on "traditional values of human kind"	<input checked="" type="checkbox"/> Voted against (15) <input type="checkbox"/> Abstained (6) <input checked="" type="checkbox"/> Voted in favor (26)	During the Twelfth session, a resolution on "traditional values" was adopted by a vote of 26 states in favor, 15 against and six abstentions. The resolution asserted the importance of "traditional values" but failed to reaffirm that no state has the right to invoke "traditional values" to counter, limit or avoid their international human rights law obligations. It also failed to reference the harmful impact of some traditional practices on human rights. Furthermore, it requested that the High Commissioner convene a workshop on how a better understanding of "traditional values" can contribute to the promotion and protection of human rights.
Resolution on "combating defamation of religions"	<input checked="" type="checkbox"/> Voted against (17) <input type="checkbox"/> Abstained (8) <input checked="" type="checkbox"/> Voted in favor (20)	During the Thirteenth session, the Council once again adopted a resolution on "combating defamation of religions" by a vote of 20 states in favor, 17 against and eight abstentions. The resolution urged all states to provide adequate protection against "defamation of religions", a controversial concept which aims to extend protection to religious ideas, beliefs and symbols and to limit freedom of expression. In addition, the resolution largely singled out Islam as the target of defamation and drew particular attention to Islamophobia.

RESOLUTION	Voted in Favor of Resolution on the Democratic People's Republic of Korea	Voted in Favor of Resolution on the Grave Attacks by Israeli Forces against the Humanitarian Boat Convoy	Voted Against Resolution on Traditional Values of Humankind	Voted Against Resolution on Combating Defamation of Religion
COUNCIL SESSION	13th Session	14th Session	12th Session	13th Session
<b>MEMBER STATES</b>				
Angola	⊘	✓	✗	Absent
Argentina	✓	✓	⊘	✓
Bahrain	✓	✓	✗	✗
Bangladesh	⊘	✓	✗	✗
Belgium	✓	⊘	✓	✓
Bolivia	⊘	✓	✗	✗
Bosnia and Herzegovina	✓	✓	⊘	⊘
Brazil	✓	✓	⊘	⊘
Burkina Faso	✓	⊘	✗	✗
Cameroon	⊘	Absent	✗	⊘
Chile	✓	✓	✓	✓
China	✗	✓	✗	✗
Cuba	✗	✓	✗	✗
Djibouti	✓	✓	✗	✗
Egypt	✗	✓	✗	✗
France	✓	⊘	✓	✓
Gabon	Absent	✓	✗	Absent
Ghana	✓	✓	⊘	⊘
Hungary	✓	⊘	✓	✓
India	⊘	✓	✗	⊘
Indonesia	✗	✓	✗	✗
Italy	✓	✗	✓	✓
Japan	✓	⊘	✓	⊘
Jordan	✓	✓	✗	✗
Kyrgyzstan	⊘	✓	✗	✗
Madagascar	✓	Absent	✗	⊘
Mauritius	✓	✓	✓	⊘
Mexico	✓	✓	✓	✓
Netherlands	✓	✗	✓	✓
Nicaragua	⊘	✓	✗	✗
Nigeria	⊘	✓	✗	✗
Norway	✓	✓	✓	✓
Pakistan	⊘	✓	✗	✗
Philippines	⊘	✓	✗	✗
Qatar	⊘	✓	✗	✗
Republic of Korea	✓	⊘	✓	✓
Russia	✗	✓	✗	✗
Saudi Arabia	✓	✓	✗	✗
Senegal	⊘	✓	✗	✗
Slovakia	✓	⊘	✓	✓
Slovenia	✓	✓	✓	✓
South Africa	⊘	✓	✗	✗
Ukraine	✓	⊘	⊘	✓
United Kingdom	✓	⊘	✓	✓
United States	✓	✗	✓	✓
Uruguay	✓	✓	⊘	✓
Zambia	✓	Absent	✗	✓



## ABOUT DEMOCRACY COALITION PROJECT

The Democracy Coalition Project is a nongovernmental organization that conducts research and advocacy relating to the advancement of democracy and human rights internationally, particularly through the UN Human Rights Council and other multilateral organs. Begun in June 2001 as an initiative of the Open Society Institute, the Democracy Coalition Project (DCP) focuses its work on advocacy, research, and coalition-building toward the goal of democratic development as an essential element of international peace and human development.

DCP plays a leadership role in building an international coalition of organizations to monitor the foreign policies of governments as they relate to human rights and democracy promotion. DCP also works to encourage a more transparent and active Community of Democracies and an active Democracy Caucus at the United Nations. As of July 2009, DCP enjoys consultative status with the United Nations ECOSOC, which allows for more direct engagement with UN bodies and mechanisms.

### THE DEMOCRACY COALITION PROJECT'S POLICY AGENDA INCLUDES:

- Strengthening the work of the United Nations in the area of human rights and democratic development
- Monitoring the foreign policies of governments as they relate to human rights and democracy promotion
- Promoting reform and strengthening of the United Nations through civil society participation and coalition-building
- Improving international responses to democratic crises

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### CONTACT US

Democracy Coalition Project  
1730 Pennsylvania Ave, NW, 7th Floor  
Washington, DC 20006, U.S.A.  
Ph. +1 202.721.5630  
Fax +1 202.721.5658  
[info@demcoalition.org](mailto:info@demcoalition.org)



Democracy Coalition Project  
1730 Pennsylvania Ave, NW, 7th Floor  
Washington, DC 20006, U.S.A.  
[www.demcoalition.org](http://www.demcoalition.org)