

# Special Report

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## African States on the UN Human Rights Council, 2006–2022

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# Abstract

This report examines the record and participation of the African Group at the UN Human Rights Council from 2006 to 2022. The study considers 450 votes and 5 850 voting decisions, with the focus on the African states' records on country-specific resolutions and civil and political rights. It uses five categories to classify the African Group's commitment to human rights. The group often tried to protect human rights-abusing African states against international scrutiny. As a result, its record on country-specific resolutions on other African countries is classified as mildly opposed to human rights, whereas its record on country-specific resolutions on non-African countries merely showed an unwillingness to defend human rights. The African Group's record on women's rights was one of mild opposition, whereas it was strongly against human rights related to sexual orientation and gender identity. Its record on the various human rights related to political participation, such as the right to protest, was mixed but overall amounted to an unwillingness to defend human rights. Its voting record on the right to freedom of expression was one of strong opposition to human rights.

# Abbreviations & acronyms

DRC	Democratic Republic of Congo
EU	European Union
HRC	Human Rights Council
NGO	non-governmental organisation
OHCHR	Office of the UN High Commissioner for Human Rights
OIC	Organisation of Islamic Cooperation
SOGI	sexual orientation and gender identity
UAE	United Arab Emirates
UN	United Nations

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## Cover image

People gather to protest against the war in Tigray, Ethiopia in Bonn, Germany on August 6, 2021 (Ying Tang/NurPhoto via Getty Images)

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## CHAPTER 1

# Introduction

This report examines the record and participation of the African Group at the UN Human Rights Council (HRC) from 2006 to 2022.<sup>1</sup>

It provides an overview of the HRC, an introduction to the African Group on the HRC, a brief explanation of the methodology used, long sections discussing the African Group's record on civil and political rights and country-specific situations, and a brief conclusion.

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<sup>1</sup> In a few places, it draws on previous reports on the African Group and the HRC published by the South African Institute for International Affairs: Eduard Jordaan (ed.) *African States at the UN Human Rights Council in 2017* (Johannesburg: SAIIA, 2019); Eduard Jordaan, *African States at the UN Human Rights Council in 2018* (Johannesburg, SAIIA, 2020); and Eduard Jordaan, *African States at the UN Human Rights Council in 2019* (Johannesburg, SAIIA, 2021).

## CHAPTER 2

# The UN Human Rights Council: Introduction and overview

In 2006, the HRC replaced the UN Commission on Human Rights. According to Kofi Annan, the UN secretary-general at the time, the commission had become a stain on the UN's reputation. It was marred by bloc voting and many countries became members 'not to strengthen human rights but to protect themselves against criticism or to criticise others'.<sup>2</sup>

During negotiations about the new HRC, the US argued for a body significantly smaller than the 53-member commission and with strict membership criteria: only states with positive human rights records should be allowed to join. However, its wishes did not come to pass. The new HRC is only slightly smaller – 47 members – and all UN member states, regardless of their human rights record, need only to win a majority in elections at the UN General Assembly to become a member.

The HRC meets for three general sessions per year in Geneva. Each session lasts three to four weeks. It can also convene brief 'special' sessions to address pressing problems. The HRC's 47 seats are distributed according to the size of the five regions of the UN. The African and Asian Groups each have 13 seats, the Latin American and Caribbean Group eight, the Western European and Others Group seven and the Eastern European Group six. Membership is for three years. Members may not be re-elected immediately after they have served two consecutive terms.

The HRC was supposed to build on the strengths of the commission and overcome its weaknesses but, initially, there was little evidence of improvement. It repeatedly criticised and authorised investigations into Israel, yet attempts to address dire human rights situations in Darfur, the Democratic Republic of Congo (DRC) and Sri Lanka accomplished little. The HRC spent its first year finalising some of its institutional details, but negotiations about these were less about building on the commission's strengths and more about preventing states with a 'negative reform agenda' from undermining these inherited strengths.<sup>3</sup> For instance, at one point there was a risk that the bar for creating country-specific investigative mandates would be set so high that they would become near impossible to establish. Moreover, the UN's human rights investigative mechanism, the special procedures, was under constant attack from states that sought to subject these

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2 Kofi Annan, *In Larger Freedom: Towards Development, Security and Human Rights for All: Report of the Secretary-General*, A/59/2005 (March 21, 2005).

3 Meghna Abraham, *Building the New Human Rights Council: Outcome and Analysis of the Institution-building Year* (Geneva: Friedrich Ebert Stiftung, 2007).

investigators to a 'code of conduct', a ploy to curtail their independence and influence.<sup>4</sup> In addition, the obstructive bloc politics of the commission had made its way into the HRC, leaving a former acting UN high commissioner for human rights, Bertrand Ramcharan, in a book published in 2011, to write that the Asian and African groups<sup>5</sup>

continue to band together to prevent discussions of situations of gross human rights violations and forthright criticism of such violations. The present majority is unlikely to give up its numerical advantage. Unless the HRC can get over this difficulty, it will continue to be constrained in its capacity to act fairly to situations of gross violations.

Despite Ramcharan's gloomy forecast, in late 2010 the HRC began to turn in a more human rights-friendly direction, a turn of which the African Group was part. Evidence of such a reorientation includes various new country-specific mandates (eg, on Belarus, Côte d'Ivoire, Iran and Syria), the suspension of Libya's membership in 2011 and the adoption of various new resolutions on civil and political rights (eg, on religious freedom, and sexual orientation).<sup>6</sup> While the breadth of the HRC's agenda and the large number of resolutions it adopts every year mean that departures from human rights do happen, the HRC has mostly managed to remain on the pro-human rights trajectory set in 2010.

In late 2010 the HRC began to turn in a more human rights-friendly direction, a turn of which the African Group was part

Wider global events have manifested themselves on the HRC. Its early years were marked by a high degree of polarisation between the global North and South. A significant reason for this was bitterness over the US invasion of Iraq in 2003 and the Bush administration's general unilateralism. Under president George W Bush, the US did not seek membership of the HRC. While the US initially remained engaged with the HRC, in June 2008 it withdrew almost completely out of protest against the HRC's disproportionate focus on Israel.<sup>7</sup> Following the election of president Barack Obama, the US joined the HRC and tried to overcome the earlier polarisation by working more closely with states from

4 Naomi Philip Alston, "Hobbling the Monitors: Should UN Human Rights Monitors Be Accountable?", *Harvard International Law Journal* 52, no. 2 (2011): 592.

5 Bertrand Ramcharan, *The UN Human Rights Council* (London: Routledge, 2011), 13.

6 Eduard Jordaan, "The African Group on the UN Human Rights Council: Shifting Geopolitics and the Liberal International Order", *African Affairs* 115, no. 460 (2016): 490–515.

7 Luisa Blanchfield, *The United Nations Human Rights Council: Issues for Congress* (Washington DC: Congressional Research Service, 2012).



the South. US re-engagement with the HRC was a significant reason for the HRC's reorientation in a more liberal, rights-friendly direction.<sup>8</sup>

The Arab Spring – the pro-democracy protests that broke out in the Middle East and North Africa in late 2010 – had two significant consequences for the HRC. The first was a (temporary) softening in resistance to human rights among some of the more recalcitrant states on the HRC, notably Egypt. A second consequence was that China became more active and assertive in order to suppress the support and platform the HRC might give to its critics.<sup>9</sup>

Another relevant trend has been the global decline of democracy and the rise of right-wing populism around the world. Freedom House's 2023 *Freedom in the World* report notes that global freedom has been in decline for 17 consecutive years.<sup>10</sup> In other words, from the beginning, the HRC has operated in an environment in which global freedom has been in decline. This decline is reflected in the overall membership of the HRC (see Figure 1). Right-wing populism is marked by opposition to the institutions of the liberal international order, such as the HRC. Many of these regimes have had terms on the HRC, among which the US under Donald Trump, Brazil under Jair Bolsonaro, Hungary under Viktor Orbán and the Philippines under Rodrigo Duterte.

The Trump administration inherited a US seat on the HRC, but from the outset made clear its displeasure with the organisation and threatened to withdraw from it. Human rights non-governmental organisations (NGOs) warned that such a move would create a vacuum for anti-human rights actors on the HRC.<sup>11</sup> In June 2018, the Trump administration nevertheless withdrew the US from the HRC, but the fallout was not as troubling as feared. For instance, with the US gone, Iceland, which replaced the US, took the lead on a joint statement expressing its concern about the suffocating political atmosphere in Saudi Arabia, the most significant reprimand of this US ally in the history of the HRC.

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8 Ted Piccone, "Assessing the United Nations Human Rights Council" (Testimony prepared for US Senate Committee on Foreign Relations, May 25, 2017).

9 Sonya Sceats and Shaun Breslin, *China and the International Human Rights System* (London: Chatham House, 2012), 31.

10 Freedom House, "Freedom in the world 2023: Marking 50 years in the struggle for democracy", 2024, 8.

11 Kenneth Roth, "UN: US Retreat from Rights Body Self-Defeating", Human Rights Watch, June 19, 2018.

## CHAPTER 3

# The African Group on the HRC: An overview

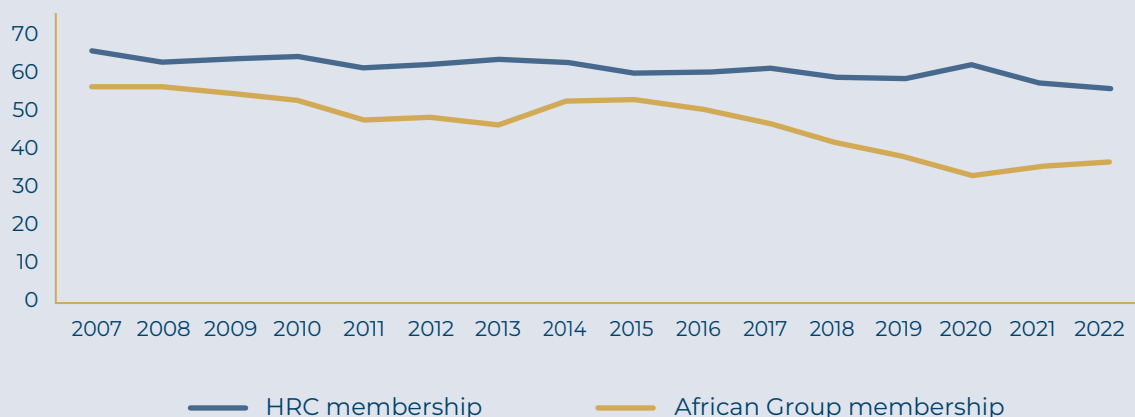
The African Group's large number of seats and its attempts to coordinate its positions make it a powerful bloc on the HRC. From 2006 to 2022, 37 African states have served on the HRC ( see Table 1).

Algeria 2006-09, 2014-16	Madagascar 2007-10
Angola, 2007-10, 2017-19	Mali 2006-08
Benin 2011-14, 2022	Malawi 2021-22
Botswana, 2011-17	Mauritania 2010-13, 2021-22
Burkina Faso 2008-14, 2019-21	Mauritius 2006-12
Burundi 2016-18	Morocco 2006-07, 2014-16
Cameroon 2006-12, 2019-22	Namibia 2014-16, 2021-22
Congo 2011-17	Nigeria 2006-12, 2015-20
Côte d'Ivoire 2013-18, 2021-22	Rwanda 2017-19
DRC 2018-20	Senegal 2006-12, 2018-22
Djibouti 2006-12	Sierra Leone 2013-15
Egypt 2007-10, 2017-19	Somalia 2019-22
Eritrea 2019-22	South Africa 2007-10, 2014-19
Ethiopia 2013-18	Sudan 2021-22
Gabon 2006-11, 2015-17	Togo 2016-21
Ghana 2006-11, 2015-17	Tunisia 2006-07, 2017-19
Gambia 2022	Uganda 2010-13
Kenya 2013-18	Zambia 2006-11
Libya 2010-13, 2020-22	

As can be seen in Figure 1, the HRC's general membership, as well as the African Group's membership specifically, reflects the overall decline in freedom in the world that Freedom House has recorded. While the average domestic human rights situations of the HRC's general members and the African Group's members specifically have both deteriorated, Figure 1 shows that this average decline has been much sharper in the case of the African Group.

What is surprising is that the African Group's overall membership profile – and indeed the HRC's on the whole – does not move in tandem with outcomes on the HRC. During the HRC's first years, when the domestic rights records of African Group members were at their most affirmative of human rights, the group was heavily resistant to human

**Figure 1 Average freedom scores of the HRC overall and African Group members**



Source: Compiled by the author based on scores available from Freedom House, <https://freedomhouse.org/>

rights at the HRC. For instance, the African Group was behind the attempt to impose a ‘code of conduct’ on the HRC’s Special Procedures mandate holders.<sup>12</sup> From 2006 to 2010, the African Group consistently tried to obstruct investigations into massive human rights violations in Darfur and elsewhere in Sudan.<sup>13</sup> Between 2008 and 2011, the group also repeatedly prevented attempts to conduct thorough investigations into the severe human rights problems in the DRC.<sup>14</sup>

The early years of the HRC were still a time of bitterness over the US invasion of Iraq and US unilateralism. In addition, the African Group remained aggrieved at the withdrawal of some Western states from the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban in 2001. Western states withdrew over the inclusion of Israel in a conference on racism, but African states interpreted this as a rejection of their concerns about racism.<sup>15</sup> A further reason for the African Group’s anti-human rights agenda early on was the overbearing leadership of Algeria and Egypt, the group’s first two coordinators.<sup>16</sup> Leaked US diplomatic cables reveal that some African states felt browbeaten by Egypt, with the US mission in Geneva reporting that Egypt’s ‘often heavy-handed approach to its Africa Group colleagues have [sic] elicited resentment from some in that group’.<sup>17</sup>

12 Alston, “Hobbling the Monitors”, 592.

13 Ramcharan, *The UN Human Rights Council*, 93–95.

14 Jordaan, “Shifting Geopolitics”.

15 In subsequent years, the casting of the HRC’s anti-racism initiatives under the umbrella of the Durban process remained a point of contention.

16 Algeria was the coordinator of the African Group during the crucial first (institution-building) year, while Egypt was the coordinator the following year.

17 US Mission in Geneva, “Egypt’s Ambassador Shoukry and His Aggressive Delegation in Geneva”, WikiLeaks, July 2, 2008.

In late 2010, the African Group became more supportive of human rights. For instance, in December 2010, the African Group and the US combined to address the escalating violence that followed the disputed presidential election in Côte d'Ivoire. In early 2011, the African Group went along with Libya's membership suspension. In 2012, three African countries (Djibouti, Nigeria and Somalia) sponsored an HRC resolution that 'strongly condemned' human rights violations in Eritrea.<sup>18</sup>

Despite the warning from a former Algerian ambassador to the HRC that failure to vote as a bloc would 'spell disaster for weaker countries',<sup>19</sup> and despite a reputation for unity and bloc voting, on the HRC the African Group has never been particularly unified. On some issues – the various economic rights resolutions, the right to development, anti-racism – African states vote the same way, but on the issues that this report focuses on – civil and political rights and country-specific resolutions – African states are divided. This study considers 450 votes and thus 5 850 voting decisions. Of those, the African Group only voted in unison (ie, all 13 members voting exactly the same) 2.4% (11 out of 450) of the time. In other words, African states were not unified 97.6% of the time. If one excludes abstentions and understands lack of unity as at least one African state voting yes and at least one African state voting no, then this happened 62.9% of the time.

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18 HRC, "Resolution 20/20, Situation of Human Rights in Eritrea", A/HRC/RES/20/20 (July 17, 2012).

19 Idriss Jazairy, "The Role of Regional Groups and Coordinators: A Case Study – The African Group", *The First 365 Days of the United Nations Human Rights Council*, ed. Lars Muller (Geneva: Baden, 2007), 129.

## CHAPTER 4

# Focus of the report and methodology

The number of HRC resolutions has increased steadily. In 2008, the HRC adopted 69 general session resolutions. In 2017, the annual number peaked at 108, dropping to 97 in 2022.

About two-thirds of all HRC resolutions are thematic. Country-specific resolutions make up about a quarter of all of them. The remainder deal with institutional matters or matters of principle, such as the staffing of the Office of the UN High Commissioner for Human Rights (OHCHR) or the appropriate extent of state cooperation with the UN.

This report focuses on African states' records on country-specific resolutions and one important sub-set of thematic resolutions: civil and political rights (inclusive of women and sexual orientation rights). Resolutions on these two broad areas are often put to a vote, allowing us to see where different African states stand on human rights, with the votes making for a relatively straightforward assessment of whether states support human rights or not.

Many resolutions are adopted without a vote, but such seeming unanimity can be misleading – it often happens that, prior to the consensual adoption of a resolution, its opponents try to undermine it with hostile amendments. These amendments, as well as other hostile actions such as proposing a motion to end consideration of an issue, are put to a vote and also need to be considered when figuring out where states stand on human rights.

This report categorises and evaluates the performance of African states on the HRC from 2006 to 2022. To manage such a large number of votes, African Group responses are placed on a ratio scale with five intervals: 'Strongly against human rights'; 'Mildly against human rights'; 'Unwilling to defend human rights'; 'Mildly supportive of human rights'; and 'Strongly supportive of human rights' (see Table 2).

Level	Actions
Strongly supportive of human rights	All or most states voted for the pro-human rights option
Mildly supportive of human rights	A significant number of states abstained while some voted for the pro-human rights option
Unwilling to defend human rights	All or most states abstained or were so inconsistent that pro- and anti-human rights votes cancelled each other out
Mildly against human rights	A significant number of states abstained while some voted for the anti-human rights option
Strongly against human rights	All or most states voted for the anti-human rights option

Source: Compiled by author

Votes are scored and categorised in the following way: consider, for example, how the 13 African Group members voted on the 2014 resolution on the right to peaceful protest: seven voted yes, two voted no, and four abstained. Each pro-human rights vote is awarded a score of 2, each abstention or absence is awarded a score of 1, and each anti-human rights vote is scored as 0. With regard to the aforementioned resolution, this means  $(7 \times 2) + (4 \times 1) + (2 \times 0)$ , with African states earning 18 out of a possible 26. As a percentage, the African Group's score is 69.2%, placing it in the 'mildly supportive of human rights' quintile. Using this approach, one can interpret single African Group votes, as in the example above. One can also interpret votes related to a particular resolution during a specific year (eg, the four amendment votes and one resolution vote on the right to peaceful protest during 2014), or for a set of resolutions over the entire period of study (eg, all amendment and resolution votes on the right to peaceful protest from 2006 to 2022), etc.<sup>20</sup> In some instances, one might want to cluster African voting on various resolutions under a broader theme. This can be done, for example, by placing resolutions on forced marriage, violence against women, discrimination against women, women in sport, etc. under the broader theme of women's rights. To prevent, say, the 24 votes related to the resolution on discrimination against women from drowning out the seven votes related to the resolution on forced marriage, the choice was made to work with averages for particular resolution sets. For instance, the African Group's average on all forced marriage resolutions (inclusive of amendment votes) is 37.4%; for maternal mortality resolutions it is 35.6%; for 'discrimination against women' resolutions it is 38.8%; and for 'violence against women' resolutions it is 45.5%. This yields an average of 39.3%, placing Africa in the 'mildly against human rights' quintile as far as women's rights are concerned.

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20 To prevent the numerous votes on, for example, Eritrea reducing the significance of single votes on, for example, Iran or Belarus, the next step was to work out the African Group's average on a particular issue so as to give each issue equal weight.

## CHAPTER 5

# The African Group and civil and political rights

This section discusses rights related to freedom of expression, women's rights, sexual orientation and gender identity (SOGI) and political participation.

## Freedom of expression

The African Group has been mildly against human rights related to the freedom of expression.

Several resolutions centre on the right to freedom of opinion and expression, most straightforwardly those that have 'the right to freedom of opinion and expression' in their titles. Other important resolutions about this right include resolutions on the defamation of religions, the internet and human rights, and the safety of journalists. The latter resolution has always been adopted without the need to vote on it or amendments.

Resolutions with 'the right to freedom of opinion and expression' in their titles express support for this right. They are also the vehicle for renewing the mandate of the special rapporteur on the promotion and protection of the right to freedom of opinion and expression every three years. The freedom of opinion and expression resolutions are adopted frequently (nine since 2008) and tend to pass through the HRC with little resistance – they are usually adopted without a vote and without the need to vote on hostile amendments.

The one exception occurred in 2008. On this occasion, the HRC had to consider a Canadian proposal to extend the mandate of the special rapporteur on free expression by the normal three years.<sup>21</sup> However, prior to the adoption of the resolution, the Organisation of Islamic Cooperation (OIC) proposed an amendment, co-sponsored by the African and Arab groups, instructing the special rapporteur to report on 'instances in which the abuse of the right of freedom of expression constitutes an act of racial and religious discrimination'.<sup>22</sup> In explaining its objection to the resolution, Pakistan complained about 'insulting caricatures' and 'offensive documentaries against Islam'. In Pakistan's view, these were examples of a 'new racist trend taking firm root in many societies'.<sup>23</sup> Defenders of the original resolution argued that Pakistan's proposal would

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21 HRC, "Draft Resolution 7/L.24, Mandate of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression", A/HRC/7/L.24 (March 25, 2008).

22 HRC, "Amendment to Draft Resolution L.24", A/HRC/7/L.39 (March 25, 2008).

23 Pakistan, "Statement to the HRC", UN webcast, March 28, 2008. One used to be able to find these statements at <http://www.un.org/webcast/HRC/archive.asp?go=080328>. However, the videos up to 2011 can no longer be downloaded or viewed. These statements are quoted in Eduard Jordaan, *South Africa and the UN Human Rights Council: The Fate of the Liberal Order* (London: Routledge, 2020).

shift the focus of the resolution from promoting the right to free expression to policing it.<sup>24</sup> All 13 African states supported the OIC's amendment.

Cuba then proposed a further subversion of the original text. To a paragraph that emphasised the importance of the media in advancing the right to free expression, Cuba proposed that it is also important for the media 'to report and to deliver information in a fair and impartial manner'.<sup>25</sup> The problem with Cuba's amendment is that an undefined 'fair and impartial' requirement creates considerable scope for silencing unwanted or critical opinions. All African states supported the hostile amendment, which was adopted. The original sponsors then declined to vote for their amended draft, but the African states all voted for it. Concerning this resolution, the African Group's actions were strongly against human rights.

The right to free expression is at the heart of the controversial and divisive 'combating defamation of religions' resolutions.<sup>26</sup> The OIC-driven resolution was first adopted in the Commission on Human Rights in 1999. At the HRC, it was adopted annually from 2007 to 2010. Pakistan and the US then negotiated for it to be replaced by the consensually adopted 'combating intolerance, negative stereotyping and stigmatisation of, and discrimination, incitement to violence and violence against, persons based on religion or belief'.<sup>27</sup> While the 'defamation of religions' resolutions expressed various concerns about the treatment of Muslims, such as religious and ethnic profiling of Muslims and Arab minorities,<sup>28</sup> at the core was a dispute between free expression and religious sensitivities. The resolutions ventured that 'respect of religions and their protection from contempt' is essential for the exercise of freedom of thought, religion and conscience.<sup>29</sup> Crucially, the resolution wanted to alter international human rights law to restrict speech about religion and religious figures and symbols. Article 19(3) of the International Covenant on Civil and Political Rights allows that the right of free expression may be limited by law for the protection 'of the rights or reputations of others, protection of national security or of public order, public health or morals'.<sup>30</sup> To this list, the sponsors of the 'defamation of religions' resolutions wanted to add 'respect for religions and beliefs'<sup>31</sup> as further grounds for restricting free expression. Over the years, support for the 'defamation of religions' resolutions dwindled, also among African states, with 10 African states voting yes in 2007 to only six in 2010. Only once did an African state vote against the 'defamation of religions' resolution – Zambia in 2010. The African Group's record on this set of resolutions has been strongly against human rights.

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24 Canada, "Statement to the HRC", UN webcast, March 28, 2008, quoted in Jordaan, *South Africa and the UN Human Rights Council*.

25 Cuba, "Statement to the HRC", UN webcast, March 28, 2008, quoted in Eduard Jordaan, *South Africa and the UN Human Rights Council: The Fate of the Liberal Order* (Routledge, 2020).

26 Amnesty International, "Letter from Civil Society Organisations to State Representatives", IFEX, March 9, 2011.

27 HRC, "Resolution 16/18, Combating Intolerance, Negative Stereotyping and Stigmatization of, and Discrimination, Incitement to Violence and Violence Against, Persons based on Religion or Belief", A/HRC/RES/16/18 (April 12, 2011).

28 HRC, "Resolution 4/9, Combating Defamation of Religions", A/HRC/RES/4/9 (March 30, 2007).

29 HRC, "Resolution 7/19, Combating Defamation of Religions", A/HRC/RES/7/19 (March 27, 2008).

30 OHCHR, *General Assembly Resolution 2200A (XXI), International Covenant on Civil and Political Rights* (Dec 16, 1966), <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

31 HRC, "Resolution 4/9, Combating Defamation of Religions", A/HRC/RES/4/9 (March 30, 2007).



The series of resolutions on human rights and the internet touches on issues such as privacy, digital divides and deliberate internet shutdowns to stifle political criticism. However, the crux is that ‘the same rights that people have offline must also be protected online, in particular freedom of expression’.<sup>32</sup> There have been five of these resolutions. The most recent, in 2021, was adopted by a vote, while the 2014 and 2016 versions were subject to hostile amendment. In 2014, China introduced a hostile oral amendment.<sup>33</sup> The draft resolution already stressed ‘the importance of combating advocacy of hatred that constitutes incitement to discrimination and violence on the internet, including by promoting tolerance and dialogue’.<sup>34</sup> China proposed expanding on what should be restricted, including ‘extremist or terrorist views’, a formulation that opened the door for suppressing a wide range of speech. China’s amendment was rejected while African states were divided on the issue, with seven voting against the proposal, five for it and one abstaining.

The 2016 draft resolution was subject to three hostile amendments. The first proposed replacing a ‘human rights-based approach’ to providing internet access with one that deferred to national legislation and ‘security concerns’.<sup>35</sup> Although the resolution already stressed ‘the importance of combating advocacy of hatred’, the second amendment wanted it to specify it as ‘racial’ hatred.<sup>36</sup> The third amendment, which Russia introduced, claimed that although the draft resolution mentioned ‘privacy’ seven times, this was insufficient, and three more mentions needed to be added.<sup>37</sup> It seems unlikely that Russia was motivated by concern over privacy, given its own ‘deeply disturbing’ privacy legislation<sup>38</sup> – rather, it is more likely that the amendment was a means for Russia to bring up Edward Snowden and so embarrass the US.<sup>39</sup> All three amendments were rejected. African states were divided in their voting. In 2021, China called for a vote on the ‘human rights and the internet’ resolution. The resolution was adopted 43-0-4 (yes-no-abstain), with two African states among those that abstained. Overall, with regard to resolutions on human rights and the internet, African states have been unwilling to defend human rights.

## Women’s rights

The African Group has been mildly against women’s rights.

The HRC has adopted various resolutions on the human rights of women. In all cases, these resolutions have been adopted without a vote. A few of these also did not face unfriendly amendments, such as those on the elimination of female genital mutilation, on menstrual

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32 HRC, “Resolution 47/17, The Promotion, Protection and Enjoyment of Human Rights on the Internet”, A/HRC/RES/47/16 (July 26, 2021).

33 China, “Statement to the HRC”, *UN WebTV*, June 26, 2014.

34 HRC, “Draft Resolution 26/L.24, The Promotion, Protection and Enjoyment of Human Rights on the Internet”, A/HRC/26/L.24 (June 20, 2014).

35 HRC, “Amendment to Draft Resolution L.20”, A/HRC/32/L.87 (June 29, 2016)

36 HRC, “Amendment to Draft Resolution L.20”, A/HRC/32/L.88 (June 29, 2016).

37 HRC, “Amendment to Draft Resolution L.20”, A/HRC/32/L.86 (June 29, 2016).

38 Human Rights Watch, “Russia: ‘Big Brother’ Law Harms Security, Rights”, July 12, 2016.

39 Russia, “Statement to the HRC”, *UN WebTV*, July 1, 2016.

hygiene management and human rights, on girls' right to education, on women and girls' human rights in humanitarian situations<sup>40</sup> and on the human rights of women and girls in conflict and post-conflict situations.<sup>41</sup> However, many other women's rights resolutions have been subject to hostile amendment.

The HRC has adopted five resolutions on child, early and forced marriage, the first in 2015. Until recently, the resolution faced little resistance. However, during the 2019 consideration of the resolution, its opponents tabled four hostile amendments. In 2021, they tabled three. Russia and Egypt figured prominently in these attacks on the resolution. Among other things, these amendments denied that women had a right to sexual and reproductive health<sup>42</sup> and denied that child, early and forced marriage increased the vulnerability of women and girls to 'intimate partner violence'.<sup>43</sup> They also claimed a greater prerogative for parents to guide girls on matters related to marriage.<sup>44</sup> In both 2019 and 2021, all the proposed amendments were rejected. African states were divided on the issue. Between four and six African states typically abstained. In six of the seven cases the majority supported the amendments, while in one instance four African states voted yes and four no. The African Group's record on this issue worsened from 2019 to 2021. In 2021, no more than two African states opposed the hostile amendments, whereas, in 2019, three or four African states voted against. With regard to the issue of child, early and forced marriage, the African Group has overall been mildly against human rights.

Resolutions on the human rights aspects of preventable maternal mortality and morbidity have also met with considerable resistance. The HRC adopted its first resolution on this theme in 2009. While some states would occasionally distance themselves from a part of the resolution, there was a surge of resistance in 2016 when the HRC adopted five hostile, Russian-sponsored amendments. In 2018, a lone hostile amendment was rejected while, in 2021, six mostly Russian-sponsored amendments were rejected. The amendments proposed changes such as deleting mention of 'sexual and reproductive health and rights'<sup>45</sup> or insisting that the term be understood narrowly and that these rights remain subject to regulation by the state.<sup>46</sup> African states offered little resistance to these amendments. Rather, in 2016, a majority of African states supported each hostile amendment. In 2018, six African states supported the single amendment while three opposed it. In 2021, the majority of African states abstained on each of the amendments, although none voted against. Overall, the African Group has been mildly against

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40 HRC, "Resolution 45/29, Promoting, Protecting and Respecting Women's and Girls' Full Enjoyment of Human Rights in Humanitarian Situations", A/HRC/RES/45/29 (October 13, 2020).

41 HRC, "Resolution 45/28, Promoting and Protecting the Human Rights of Women and Girls in Conflict and Post-Conflict Situations on the Occasion of the Twentieth Anniversary of Security Council Resolution 1325 (2000)", A/HRC/RES/45/28 (October 12, 2020).

42 HRC, "Amendment to Draft Resolution A/HRC/41/L.8/Rev.1", A/HRC/41/L.39 (July 10, 2019).

43 HRC, "Amendment to Draft Resolution A/HRC/41/L.8/Rev.1", A/HRC/41/L.42 (July 10, 2019).

44 HRC, "Amendment to Draft Resolution A/HRC/48/L.7/Rev.1", A/HRC/48/L.61 (October 7, 2021).

45 HRC, "Amendment to Draft Resolution A/HRC/33/L.3/Rev.1", A/HRC/33/L.38 (September 29, 2016); HRC, "Amendment to Draft Resolution A/HRC/33/L.3/Rev.1", A/HRC/33/L.51 (September 29, 2016).

46 Russia, "Statement to the HRC", *UN WebTV*, July 14, 2021.

human rights as far as resolutions on preventable maternal mortality and morbidity are concerned.

The HRC has adopted a resolution on the elimination of discrimination against women almost every year. The resolutions address laws that discriminate against women.<sup>47</sup> Like many other resolutions on women's rights, they have faced opposition in the form of hostile amendments. The HRC has had to vote on 24 such amendments. None was adopted. Among other things, these have opposed the provision of 'universal access to evidence-based comprehensive sexuality education'<sup>48</sup> and proposed deleting the recognition of sexual and reproductive health as a human right.<sup>49</sup> They have also tried to remove mention of 'intimate partner violence' from a paragraph condemning gender-based violence against women and girls<sup>50</sup> and sought to replace the term 'gender' with 'sex'<sup>51</sup> in a paragraph that read in part, 'Underscoring that international human rights treaties prohibit discrimination, inter alia, on the basis of gender'.<sup>52</sup> On 20 of the 24 amendment votes, more African states voted for the hostile amendment than against it. On the whole, the African Group has been mildly against human rights regarding the issue of elimination of discrimination against women.

Another regular women's rights resolution is on violence against women. These resolutions often focus on a specific aspect of violence against women, such as against women with disabilities, violence in the place of work, domestic violence, etc. Since 2015, these resolutions have been subject to hostile amendments, most of which have been proposed by Russia. The HRC has had to vote on 18 hostile amendments, all of which were rejected. Among other things, these amendments have objected to the inclusion of 'comprehensive sexuality education' as part of education to reduce gender-based violence<sup>53</sup> and have suggested that women have different human rights to men and that some gender stereotypes ('positive' ones) are acceptable.<sup>54</sup> On nine of the 18 amendment votes, more African states voted for the hostile amendment than against it. On the issue of violence against women, the African Group has been unwilling to defend human rights.

**On the issue of violence against women, the African Group has been unwilling to defend human rights**

47 HRC, "Resolution 12/17, Elimination of Discrimination against Women", A/HRC/RES/12/17 (October 12, 2009).

48 HRC, "Amendment to Draft Resolution A/HRC/38/L.1/Rev.1", A/HRC/38/L.24 (July 5, 2018).

49 HRC, "Amendment to Draft Resolution A/HRC/41/L.6/Rev.1", A/HRC/41/L.41 (July 10, 2019).

50 HRC, "Amendment to Draft Resolution A/HRC/38/L.1/Rev.1", A/HRC/38/L.35 (July 5, 2018).

51 Egypt, "Statement to the HRC", *UN WebTV*, June 22, 2017.

52 HRC, "Draft Resolution 35/L.29, Elimination of Discrimination against Women and Girls", A/HRC/35/L.29 (June 29, 2017).

53 HRC, "Amendment to Draft Resolution A/HRC/35/L.15", A/HRC/35/L.40 (June 20, 2017).

54 HRC, "Amendment to Draft Resolution A/HRC/41/L.5/Rev.1", A/HRC/41/L.43 (July 11, 2019).

## Sexual orientation and gender identity

The African Group has been strongly against rights related to sexual orientation and gender identity.

Two sets of resolutions pertain to SOGI rights. The most important are those that directly address human rights, sexual orientation and gender identity, the first of which was adopted in 2011 as Resolution 17/19. The 2011 resolution expressed ‘grave concern’ at violence and discrimination against persons because of their sexual orientation and gender identity. It requested the OHCHR to compile a report on discriminatory laws and violence against people because of their sexual orientation and gender identity.<sup>55</sup> South Africa was the sponsor of a resolution that caused deep divisions among the African Group. Prior to the adoption of Resolution 17/19, the Nigerian ambassador, speaking on behalf of the African Group, said African opposition to South Africa on this matter ‘grieved his mind’.<sup>56</sup> The resolution was adopted with one African state voting in favour, 10 against and two abstaining.

In 2014, with Latin American states having taken over leadership of the issue, the HRC considered its second SOGI resolution. The resolution asked the OHCHR for a further report on best practices to combat SOGI-based violence and discrimination.<sup>57</sup> The draft resolution was put to a vote and was subject to seven hostile amendment proposals that were sponsored by mostly African states. The 2016 SOGI resolution represented an advance on the previous two versions in that it appointed a special procedures mandate holder to submit regular reports on the issue.<sup>58</sup> This mandate was renewed in 2019 and 2022. Throughout, the SOGI resolutions have faced a barrage of resistance: from a motion to adjourn consideration of the draft resolution to votes on whether to keep the title or certain paragraphs, as well as numerous hostile amendments. Among others, these hostile amendments emphasised a state’s sovereignty to regulate sexual orientation as it sees fit<sup>59</sup> and argued that SOGI matters were ‘private’ and thus fell outside the scope of international human rights.<sup>60</sup> The HRC has had to vote on 46 of these hostile acts or amendments. Not once did more than two African states oppose these anti-human rights proposals. In 2022, the African Group was particularly strongly opposed to SOGI rights – no African state voted against any of the hostile amendments, nor did any vote for the resolution. In sum, the African Group has been strongly against the rights expressed in the ‘human rights, sexual orientation and gender identity’ resolutions.

While the above SOGI resolutions are the main focus for these rights at the HRC, it is also necessary to consider a set of resolutions Human Rights Watch has called ‘an insidious

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55 HRC, “Resolution 17/19, Human Rights, Sexual Orientation and Gender Identity”, A/HRC/RES/17/19 (July 14, 2011).

56 Nigeria, “Statement to the HRC”, UN webcast, June 11, 2011, quoted in Jordaan, *South Africa and the UN Human Rights Council*.

57 HRC, “Resolution 27/32, Human Rights, Sexual Orientation and Gender Identity”, A/HRC/RES/27/32 (October 2, 2014).

58 HRC, “Resolution 32/2, Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity”, A/HRC/RES/32/2 (July 15, 2016).

59 HRC, “Amendment to Draft Resolution A/HRC/32/L.2/Rev.1”, A/HRC/32/L.79 (June 29, 2016).

60 HRC, “Amendment to Draft Resolution A/HRC/32/L.2/Rev.1”, A/HRC/32/L.78 (June 29, 2016).

attempt to undermine the universality of human rights, and specifically the rights of women and LGBT people'.<sup>61</sup> The resolution in question is the Egyptian-led 'Protection of the family' resolution.<sup>62</sup> Egypt's definition of the family ignores the previously agreed-upon UN language that in 'different cultural, political and social systems, various forms of the family exist',<sup>63</sup> including families headed by a same-sex couple.<sup>64</sup> The protection of the family resolutions would typically be met with pro-human rights amendments that acknowledged the diversity of family forms. The HRC adopted four of these resolutions annually from 2014 to 2017. In 2014, 2016 and 2017, all 13 African states voted for the resolution, whereas in 2015 the count was 12-1, with South Africa voting against. Judging by the African Group's solid support for these resolutions, its members have been strongly against SOGI rights.

## Political participation

The African Group has been unwilling to support the human rights most directly related to political participation.

This section discusses the various HRC resolutions on political participation. Specifically, it discusses sets of resolutions on the right to peaceful protest, civil society space, democracy and the rule of law, equal participation in politics and human rights defenders.

Most resolutions on political participation are contentious. One relative exception is the resolution titled, 'The rights to freedom of peaceful assembly and of association', of which the HRC has adopted six since 2010. A closely associated resolution, and one that has elicited more opposition, is on the right to peaceful protest. In March 2012, against the backdrop of the Arab Spring, the HRC adopted the resolution titled 'The promotion and protection of human rights in the context of peaceful protests'.<sup>65</sup> The 2012 and 2013 iterations were adopted with ease, but from 2014 there was much more pushback. Only in 2014 and 2016 did the resolution go to a vote, but since 2014 there have been attempts to amend it in an anti-human rights way whenever it has been tabled for consideration. There have been 15 hostile amendments in total. Among others, these amendments have claimed that 'protests should not constitute a threat to national security and the stability of the state'.<sup>66</sup> They have also demanded that protest organisers 'cooperate fully with the authorities in order to ensure that participants of the assemblies respect the law and the human rights and fundamental freedoms of others'.<sup>67</sup> This amendment is intended to push the responsibility for securing human rights away from the state and to create grounds for suppressing protest. African states' support for these amendments

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61 Graeme Reid, "[South Africa Takes a Step Backwards](#)", Human Rights Watch, July 7, 2014.

62 HRC, "Draft Resolution 26/L.20/Rev.1, Protection of the Family", A/HRC/26/L.20/Rev.1 (June 25, 2014).

63 International Service for Human Rights, "[Urgent Action Needed on Harmful 'Protection of the Family' Resolution](#)", June 20, 2014.

64 Lester Feder, "[UN Human Rights Council Adopts Resolution on 'Protection of the Family'](#)", *Buzzfeed*, June 26, 2014.

65 HRC, "Resolution 19/35, The Promotion and Protection of Human Rights in the Context of Peaceful Protests", A/HRC/RES/19/35 (April 18, 2012).

66 HRC, "Amendment to Draft Resolution A/HRC/25/L.20", A/HRC/25/L.50 (March 26, 2014).

67 HRC, "Amendment to Draft Resolution A/HRC/44/L.11", A/HRC/44/L.25 (July 15, 2020).

has waned, but it has not been matched by their voting against the amendments. In 2020 and 2022, the vast majority of African states abstained on these amendment votes. The African Group's overall record on the right to protest can be classified as unwilling to support human rights.

Resolutions on 'civil society space' stress the importance of a pluralistic civil society in protecting various human rights and thus demand that states maintain an environment in which civil society can function unimpededly and securely.<sup>68</sup> While only two of the five civil society space resolutions went to a vote, all except the 2021 version were subjected to unfriendly amendments – 27 in total. Among others, the amendments proposed deleting 'dissenting views' from a paragraph reminding states to respect the human rights of all, 'including for persons espousing minority or dissenting views or beliefs'.<sup>69</sup> They also rejected an OHCHR report<sup>70</sup> on best practices for creating an enabling environment for civil society<sup>71</sup> and rejected a call for states to stop using legal and bureaucratic measures to obstruct and endanger civil society.<sup>72</sup> On six of the 27 amendment votes, more African states voted for the hostile amendment than against it. Despite the African Group's lack of enthusiasm for these anti-human rights amendments, they also did not defend these rights particularly strongly. For instance, in 2016 and 2018, there were more abstentions than either yes or no votes on all of the 15 relevant amendments. Overall, the African Group was unwilling to defend human rights as far as the civil society space resolutions were concerned.

On the basis of a 2012 resolution<sup>73</sup> and a 2013 panel discussion,<sup>74</sup> in 2015, the HRC created a forum to promote dialogue and cooperation on the relationship between human rights, democracy and the rule of law.<sup>75</sup> Subsequent resolutions would arrange to use this forum for discussing additional aspects of human rights, democracy and the rule of law, such as the role of parliaments<sup>76</sup> and on equal access to justice.<sup>77</sup> While many HRC members were not democratic, the sticking point was not the resolution's valorisation of democracy but the participation of NGOs in this forum. Hostile amendments to the resolution focused on NGO participation. Opponents of the initiative emphasised the statist nature of the UN, proposed that only NGOs that respected 'the sovereignty and territorial integrity' of states should be allowed to participate in the forum<sup>78</sup> and demanded that

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68 HRC, "Resolution 24/21, Civil Society Space: Creating and Maintaining, in Law and in Practice, a Safe and Enabling Environment", A/HRC/RES/24/21 (October 9, 2013).

69 HRC, "Draft Resolution 27/L.24, Civil Society Space", A/HRC/27/L.24 (September 23, 2014).

70 HRC, *Report: Practical Recommendations for the Creation and Maintenance of a Safe and Enabling Environment for Civil Society*, A/HRC/32/20 (April 11, 2016).

71 HRC, "Amendment to Draft Resolution A/HRC/38/L.17/Rev.1", A/HRC/38/L.39 (July 5, 2018).

72 HRC, "Amendment to Draft Resolution A/HRC/24/L.24", A/HRC/24/L.51 (September 25, 2013).

73 HRC, "Resolution 19/36, Human Rights, Democracy and the Rule of Law", A/HRC/RES/19/36 (April 19, 2012).

74 UN, *Report on the Outcome of the Panel Discussion on Common Challenges Facing States in their Efforts to Secure Democracy and the Rule of Law from a Human Rights Perspective*, A/HRC/24/54 (August 6, 2013).

75 HRC, "Resolution 28/14, Human Rights, Democracy and the Rule of Law", A/HRC/RES/28/14 (26 March 2015).

76 HRC, "Resolution 34/41, Human Rights, Democracy and the Rule of Law", A/HRC/RES/34/41 (April 6, 2017).

77 HRC, "Resolution 40/9, Human Rights, Democracy and the Rule of Law", A/HRC/RES/40/9 (April 5, 2019).

78 HRC, "Amendment to Draft Resolution A/HRC/34/L.20", A/HRC/34/L.52 (March 22, 2017).

states be allowed to veto the participation of non-UN-accredited NGOs.<sup>79</sup> African states were divided over whether to restrict NGO participation, but strongly supported the resolution during the two times it went to a vote. The African Group's record on the civil society space resolutions shows an unwillingness to defend human rights.

The resolutions titled 'Equal participation in political and public affairs' assert that<sup>80</sup>

the will of the people shall be the basis of the authority of government and that every citizen shall have the right and the opportunity, without any of the distinctions stipulated in the International Covenant on Civil and Political Rights and without unreasonable restrictions, to vote and to be elected at genuine periodic elections.

The resolution has always been adopted without a vote, but there have been two hostile amendment proposals against it. In May 2016, the OHCHR hosted a workshop to prepare recommendations about how to remedy existing shortfalls in the right to participate in public and political affairs. The September 2016 resolution took this further, requesting that the OHCHR draw up action-oriented guidelines for states on implementing the right to participate in public affairs.<sup>81</sup> However, a Russian hostile amendment instead wanted another workshop – one that would describe challenges to the right but not make recommendations – and further objected to the leading role of experts – it was to be state-led.<sup>82</sup> A 2018 draft resolution proposed presenting OHCHR guidelines on the effective implementation of the right to participate in public affairs as the appropriate orientation for states,<sup>83</sup> but opponents proposed an amendment that stressed the voluntary character of these guidelines.<sup>84</sup> In both instances, more African states supported the hostile amendment than voted against it, reflecting an unwillingness to defend the human rights related to equal political participation.

Resolutions on human rights defenders emphasise their important role in protecting and advancing human rights. They also draw attention to and condemn the persecution, violence and intimidation these defenders often endure in performing their duties. Of the 10 'human rights defenders' resolutions adopted between 2008 and 2022, only two went to a vote. However, the HRC had to vote on unfriendly amendments 36 times. Many of these amendment proposals tried to downplay the special role of the human rights defenders, elide the violations they suffer and prevent special protections for them.<sup>85</sup> African states have supported the two 'human rights defenders' resolutions. In 2016, nine African states voted yes on the resolution and in 2022 11 did so. In the main, African states have also

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79 ISHR, "States Should Reject Procedure that Results in Exclusion of NGOs from UN" (February 1, 2013).

80 HRC, "Resolution 24/8, Equal Political Participation", A/HRC/RES/24/8 (October 8, 2013).

81 HRC, "Draft Resolution 33/L.28, Equal Participation in Political and Public Affairs", A/HRC/33/L.28 (September 26, 2016).

82 HRC, "Amendment to Draft R 33/L.28", A/HRC/33/L.34 (September 28, 2016).

83 HRC, "Draft Resolution 39/L.14, Equal Participation in Political and Public Affairs", A/HRC/39/L.14/Rev.1 (September 28, 2018).

84 China, "Statement to the HRC", *UN WebTV*, September 28, 2018.

85 Eduard Jordaan, "Introduction", in *African States at the UN Human Rights Council in 2017*, ed. Eduard Jordaan (Johannesburg: SAIIA, 2019).

resisted the hostile amendments – in 28 of the 36 hostile amendment votes, more African states voted against the amendments than voted for them. However, it should also be noted that during 26 of these votes a majority (seven or more) African states abstained. Despite these pro-human rights actions, overall, the African Group’s position on this set of resolutions can be summarised as unwilling to defend human rights.



## CHAPTER 6

# The African Group and country-specific resolutions

This section discusses the African Group's voting on country-specific resolutions. The discussion is divided into resolutions on other African states and resolutions on the rest of the world.

There are a variety of country-specific resolutions. Most fall under items 4 ('Human rights situations that require the Council's attention') and 10 ('Technical assistance and capacity building') of the HRC's standing agenda. A growing number have appeared under item 2 ('Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General').

There is some flexibility in the way item 10 resolutions are used,<sup>86</sup> but typically they are uncontroversial and adopted without a vote. Item 10 resolutions usually imply that a government acknowledges that serious human rights problems exist within its borders, but also that these are the result of capacity and technical shortcomings rather than malice. The assumption that a government is not a wilful rights violator and is serious about improving human rights is an often-necessary pretence to secure a measure of HRC involvement in a specific country.

Item 4 resolutions are more controversial and are often adopted through a vote. These resolutions accuse the government in question of deliberately violating human rights and call on it to refrain from and address such misdeeds. Item 4 resolutions usually mandate incisive investigations into the rights situation of the country in question. Countries subject to such investigations typically deny entry to the mandated human rights investigators. Critics of item 4 resolutions argue that their proponents are trying to 'name and shame' developing countries and are selective about which countries should be investigated, as well as that such resolutions are counterproductive.

Starting with the 2011 resolution on Sri Lanka, the HRC began to adopt critical country resolutions under item 2 ('Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General').<sup>87</sup> Resolutions adopted under item 2 have asked the high commissioner for a

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86 For example, HRC, "Resolution 36/31, Human Rights, Technical Assistance and Capacity-building in Yemen", A/HRC/RES/36/31 (October 3, 2017).

87 For example, HRC, "Resolution 39/16, Human Rights Situation in Yemen", A/HRC/RES/39/16 (October 5, 2018); HRC, "Resolution 39/1, Promotion and Protection of Human Rights in the Bolivarian Republic of Venezuela", A/HRC/RES/39/1 (October 3, 2018).

report on human rights in the country in question and have sometimes paved the way for a subsequent, stronger item 4 resolution.<sup>88</sup>

In addition to items 2, 4 and 10 resolutions, the HRC devotes an entire agenda item (item 7) – there are only 10 items – to the ‘human rights situation in Palestine and other occupied Arab territories’. The singling out of Israel in this way is frequently presented as evidence of the HRC’s bias against Israel. Devoting a full agenda item to Israel means that at each of the HRC’s three general sessions there is ample opportunity to discuss and condemn Israel’s actions. Every year the HRC adopts a number of resolutions on Israel. In 2022, the HRC adopted four.<sup>89</sup> One of the ironies of Israel-related resolutions is that many of the states that support these tough resolutions oppose the international scrutiny of other countries. This disconnect means that a country’s record on Israel tells us very little about its commitment to international human rights. Resolutions on Israel are therefore excluded from the analysis below.

## Country-specific resolutions on African countries

This section discusses African states’ voting records on country-specific resolutions on other African countries. Between 2006 and 2022, the HRC voted on resolutions related to Burundi, the DRC, Eritrea, Ethiopia, Sudan and South Sudan. As far as addressing human rights problems in other African countries are concerned, the African Group has shown itself to be mildly against human rights.

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From 2007 to 2015, the HRC adopted by consensus a number of technical assistance resolutions on Burundi. In April 2015, Burundi’s president Pierre Nkurunziza announced that he would seek a third term. Protests and a coup attempt ensued. The government cracked down. Following a Constitutional Court ruling, Nkurunziza was re-elected that July in elections characterised by violence and intimidation. Regime opponents increasingly used violence after Nkurunziza’s re-election, as did regime forces. Despite

88 In the case of Venezuela, for instance, the 2018 item 2 resolution paved the way for a stronger resolution under item 4 in the following year. See HRC, Resolution 39/1, “Promotion and Protection of Human Rights in the Bolivarian Republic of Venezuela”, A/HRC/RES/39/1 (October 3, 2018); HRC, “Resolution 42/25, Situation of Human Rights in the Bolivarian Republic of Venezuela”, A/HRC/RES/42/25 (October 8, 2019).

89 A recent practice has been to adopt the annual resolution “Ensuring Accountability and Justice for All Violations of International Law in the Occupied Palestinian Territory, including East Jerusalem” under item 2 instead of item 7.

Evariste Ndayishimiye's taking over as president in 2020, extensive human rights violations have persisted and impunity has prevailed.<sup>90</sup>

The HRC has tried to address the sharp deterioration in Burundi's human rights situation. In September 2016, the HRC created a commission of inquiry to investigate possible human rights crimes committed since April 2015 with a view to holding human rights violators accountable.<sup>91</sup> Only one African country voted for this resolution while the rest abstained. Burundi subsequently refused to allow commission members into the country. The commission compiled its report by interviewing people remotely and in countries with Burundian refugees.<sup>92</sup> In its report, published in August 2017, it reported various 'extremely cruel' violations<sup>93</sup> and found that the government's defence and security forces were the 'principal perpetrators' of these violations.<sup>94</sup> The commission recommended prosecution<sup>95</sup> and proposed extending its mandate for another year to allow for further and more thorough investigations.<sup>96</sup> Burundi rejected the report.<sup>97</sup> A September 2017 resolution proposed extending the commission of inquiry's mandate. Two African states supported the resolution, while five voted against it.<sup>98</sup>

At the same HRC session, the African Group tried to undermine the commission of inquiry and to protect the government of Burundi. The African Group's ploy was to send three OHCHR experts to conduct an investigation over which the Burundian government would have the final say.<sup>99</sup> The OHCHR experts, however, could never carry out their investigation, circumscribed as it would have been, because Burundi cancelled their visas before they could start.<sup>100</sup> The commission of inquiry, on the other hand, managed to write a report, finding that violations such as summary execution, enforced disappearance, arbitrary arrest and detention, torture, sexual violence and violations of the freedoms of expression, association, assembly and movement continued into 2018. The Burundian government was behind these violations, which were occurring with impunity. In light of these facts, the commission recommended that its mandate be extended for another year.<sup>101</sup> Only one African state supported a resolution to this effect.<sup>102</sup>

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90 Human Rights Watch, "Burundi: Events of 2021", 2022.

91 HRC, "Resolution 33/24, Situation of Human Rights in Burundi", A/HRC/RES/33/24 (October 5, 2016).

92 UN, *Report of the Commission of Inquiry on Burundi*, A/HRC/36/54 (August 11, 2017), 3.

93 UN, *Report on Burundi* (2017), 4.

94 UN, *Report on Burundi* (2017), 6.

95 UN, *Report on Burundi* (2017), 19.

96 UN, *Report on Burundi* (2017), 18.

97 Burundi, "Statement to the HRC" (September 19, 2017).

98 HRC, "Resolution 36/19, Renewal of the Mandate of the Commission of Inquiry on Burundi", A/HRC/RES/36/19 (October 4, 2017).

99 HRC, "Resolution 36/2, Mission by the Office of the United Nations High Commissioner for Human Rights to Improve the Human Rights Situation and Accountability in Burundi", A/HRC/RES/36/2 (October 4, 2017).

100 HRC, "Human Rights Situation in Burundi: Note by the Secretariat", A/HRC/39/40 (August 20, 2018).

101 UN, *Report of the Commission of Inquiry on Burundi*, A/HRC/39/63 (August 8, 2018), 16–17.

102 HRC, "Resolution 39/14, Situation of Human Rights in Burundi", A/HRC/RES/39/14 (October 2, 2018).

In 2019, the commission of inquiry reported that serious human rights violations, including crimes against humanity, were continuing unabated and with impunity, and thus recommended that its mandate be renewed for another year.<sup>103</sup> The HRC renewed the commission's mandate and did so again in 2020. The report pursuant to the 2020 resolution recommended establishing an independent international mechanism capable of objectively monitoring the human rights situation in the country.<sup>104</sup> Following this recommendation, the HRC, in 2021, appointed a special rapporteur to monitor the human rights situation in Burundi.<sup>105</sup> A 2022 resolution renewed the special rapporteur's mandate.<sup>106</sup> Although the African Group has not been united on the Burundi issue, this has not translated into support for the Burundi resolution. In the seven commission of inquiry/special rapporteur resolutions, the bulk of the African Group either abstained or opposed the aforementioned resolutions. The African Group's overall position can be categorised as mildly against human rights.

Despite the DRC's dire human rights record, the African Group has provided the regime with ample and regular protection from deeper international scrutiny. The HRC inherited from the Commission on Human Rights a special procedures mandate to provide 'technical cooperation and advisory services' to the DRC.<sup>107</sup> As Amnesty International observed, a technical assistance approach was inadequate in light of the DRC government's lacklustre commitment to human rights.<sup>108</sup> In his 2007 and 2008 reports, the mandate holder on the DRC reported a lack of progress on human rights in the country.<sup>109</sup> The African Group took the opposite tack, claiming that matters were improving, blaming the special procedures mandate and suggesting its termination. As a compromise, the African Group proposed appointing seven thematic mandate holders to report and make recommendations in line with their respective areas of expertise on the situation in the DRC.<sup>110</sup> In March 2009, they reported a deteriorating human rights situation in the country.<sup>111</sup> The DRC government considered this conclusion 'diametrically opposed to the reality in the field'.<sup>112</sup> The African Group commended the DRC government for its 'unwavering' commitment to human rights.<sup>113</sup> Given their assessment of human rights in the DRC, the mandate holders recommended

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103 UN, *Report of the Commission of Inquiry on Burundi*, A/HRC/42/49 (August 6, 2019), 17–18.

104 UN, *Report of the Commission of Inquiry on Burundi*, A/HRC/48/68 (August 12, 2021), 19.

105 HRC, "Resolution 48/16, Situation of Human Rights in Burundi", A/HRC/RES/48/16 (October 13, 2021).

106 HRC, "Resolution 51/28, Situation of Human Rights in Burundi", A/HRC/RES/51/28 (October 13, 2022).

107 UN Commission on Human Rights, "Resolution 2005/85, Technical Cooperation and Advisory Services in the Democratic Republic of the Congo", E/CN.4/RES/2005/85 (April 20, 2005).

108 Amnesty International, "Human Rights Council Tenth Session: Compilation of Statements" (Amnesty International, London, 2009), 21.

109 UN, *Report of the Independent Expert on the Situation of Human Rights in the DRC*, UN Doc. A/HRC/4/7 (February 21, 2007); UN, *Report of the Independent Expert Appointed by the Secretary-General on the Situation of Human Rights in the DRC*, A/HRC/7/25 (February 29, 2008).

110 HRC, "Resolution 7/20, Technical Cooperation and Advisory Services in the DRC", A/HRC/RES/7/20 (March 27, 2008).

111 UN, *Combined Report of Seven Thematic Special Procedures on Technical Assistance to the DRC*, A/HRC/10/59 (March 5, 2009), 2.

112 DRC, "Statement to the HRC", UN webcast, March 17, 2009, quoted in Eduard Jordaan, *South Africa and the UN Human Rights Council: The Fate of the Liberal Order* (Routledge, 2020).

113 Egypt, "Statement to the HRC", UN webcast, March 17, 2009, quoted in Eduard Jordaan, *South Africa and the UN Human Rights Council: The Fate of the Liberal Order* (Routledge, 2020).

establishing a special procedures mandate focused exclusively on the DRC.<sup>114</sup> Canada and the EU tabled a resolution to this effect.<sup>115</sup> However, the African Group then introduced a counter-resolution, which was sanguine about human rights in the DRC, ignored the recommendation for a DRC-focused mandate and asked the seven thematic special procedures to submit another report.<sup>116</sup> The African Group successfully tabled a motion to make its resolution the basis of discussion. The EU responded with amendments to the African Group's draft,<sup>117</sup> but these were defeated 18-21-8. The African Group's resolution was then adopted 33-0-14. The group of seven mandate holders delivered their third and last report in March 2011. Since then, a mandate to provide technical assistance has remained in place. These resolutions have, with one exception,<sup>118</sup> always been adopted without a vote. The African Group's record on the DRC is one of strongly opposing human rights.

In July 2021, the HRC adopted a resolution on the deteriorating human rights situation in the Tigray region of Ethiopia. The resolution expressed deep concern about<sup>119</sup>

serious allegations of human rights violations and abuses and violations of international humanitarian law and international refugee law, including those involving indiscriminate shelling, extrajudicial killings, mass killings of civilians, widespread use of sexual and gender-based violence, arbitrary arrests and detention, ethnic profiling and discrimination, forced displacement, abductions and forcible returns of refugees, widespread looting and the destruction of humanitarian aid.

It further welcomed a joint investigation by the OHCHR and the Ethiopian Human Rights Commission into these allegations and asked the OHCHR to provide the HRC with an update at its September 2021 and March 2022 sessions.<sup>120</sup> Ethiopia's allies (notably, China, Eritrea, Venezuela and Somalia) introduced 16 hostile amendments to the draft. Ethiopia co-sponsored the amendments. The amendments, none of which was adopted, praised Ethiopia's conduct,<sup>121</sup> denied any wrongdoing by government forces<sup>122</sup> and asked for international assistance.<sup>123</sup>

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114 UN, *Combined Report of Seven Thematic Special Procedures on Technical Assistance to the DRC*, A/HRC/10/59 (March 5, 2009), 30.

115 HRC, "Draft Resolution 10/L.1, Technical Cooperation and Advisory Assistance in the Democratic Republic of Congo", A/HRC/10/L.1 (10 March 2009).

116 HRC, "Draft Resolution 10/L.3, Situation of Human Rights in the Democratic Republic of the Congo and the Strengthening of Technical Cooperation and Consultative Services", A/HRC/10/L.3. (March 17, 2009).

117 Germany, "Statement to the HRC", UN webcast, March 27, 2009, quoted in Eduard Jordaan, *South Africa and the UN Human Rights Council: The Fate of the Liberal Order* (Routledge, 2020).

118 In 2017, the US objected that the draft resolution on the DRC did not capture the grave human rights situation in the country and the need to hold human rights violators accountable. The US called for a vote on the resolution, which was adopted 45-1-1. See US, "Statement to the HRC", UN WebTV, September 29, 2017.

119 HRC, "Resolution 47/13, Situation of Human Rights in the Tigray Region of Ethiopia", A/HRC/RES/47/13 (July 26, 2021).

120 HRC, "Resolution 47/13, Situation of Human Rights".

121 HRC, "Amendment to Draft Resolution A/HRC/47/L.20/Rev.1", A/HRC/47/L.69 (July 12, 2021).

122 HRC, "Amendment to Draft Resolution A/HRC/47/L.20/Rev.1", A/HRC/47/L.71 (July 12, 2021).

123 HRC, "Amendments to Draft Resolution A/HRC/47/L.20/Rev.1", A/HRC/47/L.31-32 (July 12, 2021).

In December 2021, the HRC held a special session on the human rights situation in Ethiopia. The resolution tabled at the special session listed a wide range of human rights abuses and cited the recommendation from the aforementioned joint investigation that there was ‘a need for further investigation of a number of alleged violations and abuses committed by all parties’.<sup>124</sup> To this end, the resolution created an international commission of human rights experts to, among other things,<sup>125</sup>

establish the facts and circumstances surrounding the alleged violations and abuses, to collect and preserve evidence, to identify those responsible, where possible, and to make such information accessible and usable in support of ongoing and future accountability efforts.

Ethiopia decried the resolution as ‘politically motivated’, reflective of a ‘neocolonial mentality’ and an attempt to single it out.<sup>126</sup> In 2022, an EU-sponsored draft resolution proposed extending the mandate of the expert group for another year.<sup>127</sup> China countered by proposing an amendment to terminate the expert group’s mandate because it was an unwanted intrusion into Ethiopia’s sovereignty.<sup>128</sup> Although 11 African Group members voted for China’s amendment, the proposal was rejected. The African Group has been deeply resistant to the three Ethiopia resolutions and the mandate of the expert group. Seven out of the 13 African states voted against each of the 2021 resolutions, while 12 opposed the 2022 resolution. In short, with regard to the Ethiopian situation, the African Group has been strongly against human rights.

In 2016, the HRC established a three-person commission on human rights in South Sudan to monitor human rights in the country and make recommendations to improve the situation.<sup>129</sup> In 2017, the commission’s mandate was strengthened to collect evidence about responsibility for human rights violations with an eye to holding perpetrators accountable at some future point.<sup>130</sup> Initially, the resolution was adopted consensually, but in 2021 African states withdrew their assent and called for a vote on the resolution. As it went to a vote in 2021 and 2022, African states declined to vote for it. The commission’s 2021 report, released prior to consideration of the 2021 resolution on South Sudan, found ‘reasonable grounds to believe’ that government members were involved in gross human rights violations and serious violations of international humanitarian law. The commission further remarked that the lack of accountability for human rights crimes continued to threaten political stability in South Sudan.<sup>131</sup> Nevertheless, the African Group pointed to the progress South Sudan had made, warned against ‘politicising’ the HRC and

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124 HRC, “Resolution S-33/1, Situation of Human Rights in Ethiopia”, A/HRC/RES/S-33/1 (December 21, 2021).

125 HRC, “Resolution S-33/1, Situation of Human Rights in Ethiopia”.

126 Ethiopia, “Statements to the HRC”, UN Media, December 17, 2021, <https://webtv.un.org/en/asset/k14/k14a5sg62k> and <https://webtv.un.org/en/asset/k1h/k1hx5rupcf>.

127 HRC, “Draft Resolution 51/L.19, Situation of Human Rights in Ethiopia”, A/HRC/51/L.19 (September 29, 2022).

128 China, “Statement to the HRC”, *UN WebTV*, October 7, 2022.

129 HRC, “Resolution 31/20, Situation of Human Rights in South Sudan”, A/HRC/RES/31/20 (April 27, 2016).

130 HRC, “Resolution 34/25, Situation of Human Rights in South Sudan”, A/HRC/RES/34/25 (April 5, 2017).

131 UN, Report of the Commission on Human Rights in South Sudan”, A/HRC/46/53 (February 4, 2021), 15–16.

regretted that the resolution did not place enough emphasis on technical assistance to South Sudan.<sup>132</sup> Subsequently, no African state voted for the 2021 or 2022 resolution, but there were enough African abstentions for the African Group's record on South Sudan to be classified as mildly against human rights.

After Kofi Annan berated the HRC for its exaggerated focus on Israel,<sup>133</sup> the HRC, in December 2006, convened a special session on human rights in Darfur. Although the African Group was part of those who called for a special session, the group's obstructiveness evoked 'politicisation reminiscent of the commission at its worst'.<sup>134</sup> Indeed, in the previous month, the African Group had obstructed an EU attempt to get the OHCHR to report on human rights in Sudan and instead pushed through its own weak text.<sup>135</sup>

Despite the availability of a considerable amount of information about human rights abuses in Darfur,<sup>136</sup> at the special session, the African Group argued that the world's view of the Darfur conflict had been tainted by 'far-reaching propaganda campaigns where information is manipulated and the human rights situation is politicised'.<sup>137</sup> Shielding the Sudanese regime, the African Group concluded that it was necessary to send (another) fact-finding mission to Darfur<sup>138</sup> rather than push the Sudanese government to improve human rights. The African Group got its way and then further argued that the mission should consist of state representatives,<sup>139</sup> a demand that, if put in place, would undermine the mission's independence. After much bickering over the composition of the fact-finding mission, Sudan ended up blocking the mission from entering Sudan.

Consequently, the mission held interviews in Addis Ababa, Geneva, N'Djamena and refugee camps in eastern Chad. The fact-finding mission found that '[w]ar crimes and crimes against humanity continue[d] across the region'. While rebel forces were 'guilty of serious abuses of human rights... the principal pattern [was] one of a violent counterinsurgency campaign waged by the Government of Sudan in concert with Janjaweed/militia and targeting mostly civilians'.<sup>140</sup> There was little discussion of the report; instead, the focus was on whether to adopt it. The African Group was divided on the matter. Following yet another compromise between the EU and the African Group, the HRC appointed seven experts to monitor human rights in Darfur and promote the implementation of various UN resolutions and recommendations related to Darfur.<sup>141</sup>

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132 Cameroon, "Statement to the HRC", *UN WebTV*, March 24, 2021.

133 UN News, "Annan Calls on Human Rights Council to Strive for Unity, Avoid Familiar Fault Lines", November 29, 2006.

134 Patrizia Scannella and Peter Splinter, "The United Nations Human Rights Council: A Promise to be Fulfilled", *Human Rights Law Review* 7, no. 1 (2007): 62.

135 HRC, "Decision 2/115, Darfur", A/HRC/DEC/2/115 (January 9, 2007).

136 Louise Arbour, "Address to the Fourth Special Session of the HRC" (December 12, 2006).

137 Algeria, "Statement to the HRC", UN webcast, December 12, 2006, quoted in Eduard Jordaan, *South Africa and the UN Human Rights Council: The Fate of the Liberal Order* (Routledge, 2020).

138 Algeria, "Statement to the HRC".

139 ISHR, "Human Rights Council: Fourth Special Session" (2006), 7, on file with the author.

140 UN, "High-Level Mission on the Situation of Human Rights in Darfur: Report Pursuant to Human Rights Council Decision S-4/101", A/HRC/4/80 (March 9, 2007), 25.

141 HRC, "Resolution 4/8, Follow-up to Decision S-4/101 of 13 December 2006", A/HRC/RES/4/8 (March 30, 2007).

The expert group achieved a few small successes,<sup>142</sup> but in yet another ‘unacceptable compromise’, according to Human Rights Watch,<sup>143</sup> in late 2007, it was agreed to put the expert group’s mandate under that of the special rapporteur for human rights in Sudan. Under pressure from the African Group, in September 2008, the special rapporteur mandate was renewed for only nine months rather than the customary 12. In June 2009, the African Group tabled a draft resolution to end the mandate on Sudan.<sup>144</sup> In response, the EU proposed asking an ‘independent expert’ to take over the duties of the special rapporteur and to provide technical assistance to Sudan. In a victory for human rights, the EU’s amendment<sup>145</sup> and the amended resolution passed narrowly. In 2010, the African Group again tried to end the independent expert’s mandate,<sup>146</sup> but again the EU passed an amendment to have it extended,<sup>147</sup> this time by a larger margin. Since 2011, the Sudan resolution has been watered down to providing Sudan with technical human rights assistance and has annually been adopted without a vote. The African Group’s actions on Sudan can be classified as mildly against human rights.

## Country-specific resolutions on non-African countries

This section discusses the African Group’s record on country-specific resolutions on the rest of the world. Between 2006 and 2022, the HRC voted on resolutions related to North Korea, Sri Lanka, Iran, Syria, Venezuela, Nicaragua, the Philippines, Yemen, Myanmar, Afghanistan, Georgia, Ukraine and Russia. As far as addressing human rights problems in non-African countries is concerned, the African Group has shown itself to be unwilling to defend human rights.

The HRC inherited a special procedures mandate on human rights in North Korea. During the HRC’s early years, the annual resolution on North Korea was adopted through a vote. An important step in the HRC’s response was the appointment in 2013 of a three-person commission of inquiry on human rights in the country.<sup>148</sup> The commission concluded that the ‘gravity, scale and nature’ of the regime’s human rights violations ‘reveal a state that does not have any parallel in the contemporary world’.<sup>149</sup> Following the publication of this report, the annual North Korea resolution has been adopted by consensus on every occasion except in 2014 and 2015. The African Group’s record on the North Korea resolutions is one of mild support for human rights.

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142 UN, “*Situation of Human Rights in Darfur: Final Report of the Group of Experts*”, A/HRC/6/19 (November 28, 2007), 2.

143 Human Rights Watch, “UN: Unacceptable Compromise by Rights Council on Darfur”, December 15, 2007.

144 HRC, “Draft Resolution 11/L.17, Situation of Human Rights in the Sudan”, A/HRC/11/L.17 (June 16, 2009).

145 HRC, “Amendment to Draft Resolution L.17”, A/HRC/11/L.19 (June 17, 2009).

146 HRC, “Draft Resolution 15/L.3, The Situation of Human Rights in the Sudan”, A/HRC/15/L.3 (September 23, 2010).

147 HRC, “Amendment to Draft Resolution A/HRC/15/L.3”, A/HRC/15/L.35 (September 28, 2010).

148 HRC, “Resolution 22/13, Situation of Human Rights in the Democratic People’s Republic of Korea”, A/HRC/RES/22/13 (April 9, 2013).

149 UN, *Report of the Commission of Inquiry on Human Rights in the Democratic People’s Republic of North Korea*, A/HRC/25/63 (February 7, 2014), 15.



In 2009, the HRC convened a special session to address the allegations of extensive human rights violations that took place at the denouement of Sri Lanka's civil war. The African Group opposed holding the special session because the war in Sri Lanka was, in its view, 'an internal affair'.<sup>150</sup> Egregiously, Sri Lanka itself tabled a draft resolution for consideration. In the text, the Sri Lankan government defended its actions and 'welcomed' its 'continued commitment' to human rights.<sup>151</sup> An attempt by the EU to amend Sri Lanka's self-satisfied draft resolution was scuppered and the unamended resolution was adopted with support from developing countries. Only in 2012 did the HRC manage to adopt a new resolution on Sri Lanka, urging the country to investigate alleged human rights violations during the civil war such as enforced disappearances and extrajudicial executions, and to ensure justice and accountability for these crimes.<sup>152</sup> This resolution, as well as the 2013 and 2014 resolutions, was adopted against the wishes of the Sri Lankan government. However, during the presidency of Maithripala Sirisena (2015–2019), Sri Lanka consented to the various resolutions adopted during his term. With the election of Gotabaya Rajapaksa as president in late 2019, Sri Lanka again began to oppose the resolution,<sup>153</sup> which was subsequently adopted through a vote, in 2021 and 2022. Later resolutions have continued to address matters of accountability and impunity for violations committed during the civil war but have also addressed the fraught contemporary human rights situation in the country.<sup>154</sup> On Sri Lanka, the African Group's voting record reflects an unwillingness to defend human rights.

In June 2011, the HRC addressed the Belarussian government's crackdown on protests against the conduct and outcome of the December 2010 elections in the country by adopting a resolution asking for an OHCHR report on human rights violations that took place in the aftermath of the aforementioned election.<sup>155</sup> In June 2012, the HRC strengthened its response to the situation in Belarus by appointing a special rapporteur on human rights in the country.<sup>156</sup> Since 2011, the HRC has adopted an annual resolution on the general human rights situation in Belarus, but in 2020 it added a second annual resolution, one more focused on violations related to the country's 2020 presidential elections.<sup>157</sup> With regard to Belarus, the African Group has been unwilling to defend human rights.

In 2011, the HRC began to adopt an annual resolution on human rights in Iran. The purpose of the resolution is to address the human rights situation in the country and to renew the mandate of the special rapporteur on human rights in Iran. In addition, in 2022, the HRC held a special session and adopted a resolution on the 'deteriorating' human

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150 Egypt, "Statement to the HRC", UN webcast, May 26, 2009, quoted in Jordaan, *South Africa and the UN Human Rights Council*.

151 HRC, "Draft Resolution S-11/L.1/Rev.2, Assistance to Sri Lanka in the Promotion and Protection of Human Rights", A/HRC/S-11/L.1/Rev.2, (May 27, 2009).

152 HRC, "Promoting Reconciliation and Accountability in Sri Lanka", A/HRC/RES/19/2 (April 3, 2012).

153 Sri Lanka, "Statement to the HRC", UN WebTV, March 23, 2021.

154 HRC, "Resolution 46/1, Promoting Reconciliation, Accountability and Human Rights in Sri Lanka", A/HRC/RES/46/1 (March 26, 2021).

155 HRC, "Resolution 17/24, Situation of Human Rights in Belarus", A/HRC/RES/17/24 (July 14, 2011).

156 HRC, "Resolution 20/13, Situation of Human Rights in Belarus", A/HRC/RES/20/13 (July 16, 2012).

157 HRC, "Resolution 45/1, Situation of Human Rights in Belarus in the Run-up to the 2020 Presidential Election and in its Aftermath", A/HRC/RES/45/1 (September 21, 2020).

rights situation in the country, especially as it pertained to women and children.<sup>158</sup> The deteriorating situation to which the resolution referred was the government's crackdown on widespread protests, often with women at the forefront. These erupted after a young woman, Mahsa Amini, was beaten to death by the police for not wearing a hijab according to government regulations. Concerning Iran, the African Group has been unwilling to defend human rights.

In March 2011, anti-regime protests broke out in Syria. The Assad regime viciously tried to suppress Syria's 'Arab Spring'. By 2012, the conflict between the regime and its opponents had evolved into a civil war with many sides and extensive regional entanglements. In April 2011, the HRC adopted its first resolution on the dire human rights situation in Syria.<sup>159</sup> In August 2011, the HRC established a commission of inquiry on Syria with a mandate to investigate alleged violations of international human rights law in the country to ensure 'that perpetrators of violations, including those that may constitute crimes against humanity, are held accountable'.<sup>160</sup> The commission's mandate has been renewed annually since then, up to the time of writing. Except for Israel, the HRC has adopted more resolutions on Syria than any other country-specific situation – 41 resolutions from 2011 to 2022. On Syria, the African Group has shown mild support for human rights.

In two more recent series of resolutions, the HRC began to address the human rights problems in two Latin American countries – Venezuela and Nicaragua. In September 2018, the HRC adopted its first resolution on Venezuela, asking the OHCHR to report on human rights in the country.<sup>161</sup> The OHCHR 'found reasonable grounds to believe that grave violations of economic and social rights, including the rights to food and health' had been committed. It further reported a severe contraction of democratic space, including that 'thousands of people, mainly young men, have been killed in alleged confrontations with state forces during the past years', many of whom were executed extrajudicially.<sup>162</sup> On the HRC, there were two divergent responses to this report. One response was meant to shield the Venezuelan government. This protection was in the form of a 'strengthening cooperation and technical assistance' resolution, sponsored by Iran and Russia, that made hardly any mention of human rights violations in Venezuela but rather emphasised the country's sovereignty.<sup>163</sup> Another such resolution followed in 2020.

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158 HRC, "Resolution S-35/1, Deteriorating Situation of Human Rights in the Islamic Republic of Iran, Especially with Respect to Women and Children", A/HRC/RES/S-35/1 (November 29, 2022).

159 HRC, "Resolution S-16/1, The Current Human Rights Situation in the Syrian Arab Republic in the Context of Recent Events", A/HRC/RES/S-16/1 (May 4, 2011).

160 HRC, "Resolution S-17/1, Situation of Human Rights in the Syrian Arab Republic", A/HRC/RES/S-17/1 (August 23, 2011).

161 HRC, "Resolution 39/1, Promotion and Protection of Human Rights in the Bolivarian Republic of Venezuela", A/HRC/RES/39/1 (October 3, 2018).

162 UN, "Human Rights in the Bolivarian Republic of Venezuela: Report of the United Nations High Commissioner for Human Rights", A/HRC/41/18 (October 9, 2019), 15.

163 HRC, "Resolution 42/4, Strengthening Cooperation and Technical Assistance in the Field of Human Rights in the Bolivarian Republic of Venezuela", A/HRC/RES/42/4 (October 3, 2019).

A second response, sponsored by mostly Latin American states, established an independent international fact-finding mission ‘to investigate extrajudicial executions, enforced disappearances, arbitrary detentions and torture and other cruel, inhumane or degrading treatment since 2014 [in Venezuela] with a view to ensuring full accountability for perpetrators and justice for victims’.<sup>164</sup> The fact-finding mission’s mandate was renewed in 2020 and 2022. In the case of Venezuela, the African Group proved unwilling to support human rights.

Following an OHCHR report on the Nicaraguan government’s brutal suppression of protests that erupted in April 2018,<sup>165</sup> in March 2019 the HRC adopted a resolution asking the OHCHR for a comprehensive report on human rights in the country.<sup>166</sup> In 2020 and 2021, similar resolutions followed. In 2022, the HRC strengthened its response considerably by appointing three human rights experts to investigate the human rights violations that have occurred since the April 2018 crackdown to hold perpetrators of such violations accountable.<sup>167</sup> The African Group’s response has been marked by an unwillingness to support human rights.

In June 2019, the HRC finally adopted a resolution on the Philippines, three years after Philippine president Rodrigo Duterte launched an extensive campaign of extrajudicial killing of those allegedly involved in the local drug trade.<sup>168</sup> The resolution asked for an OHCHR report on the human rights situation in the country. Despite the viciousness of Duterte’s campaign, the resolution scraped through with a vote of 18-14-15. With future adoption uncertain, in 2020, the resolution was watered down to a narrow focus on the provision of technical assistance and so won adoption by consensus.<sup>169</sup> The African Group’s voting record on the Philippines indicates a mild opposition to human rights.

The Yemeni civil war began in late 2014. The UN high commissioner for human rights made repeated calls for an international, independent inquiry into violations of international human rights law and international humanitarian law committed in the conflict.<sup>170</sup> However, it was only in September 2017 that a group of countries, led by the Netherlands, tabled a draft resolution that proposed the type of investigation the high commissioner had in mind. The draft resolution proposed a commission of inquiry to identify perpetrators of human rights violations in the Yemen conflict to ensure that they ‘are held accountable’.<sup>171</sup> Saudi Arabia, whose airstrikes were the ‘leading cause of

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164 HRC, “Resolution 42/25, Situation of Human Rights in the Bolivarian Republic of Venezuela”, A/HRC/RES/42/25 (October 8, 2019).

165 UN, *Report by the Office of the United Nations High Commissioner for Human Rights: Human Rights Violations and Abuses in the Context of Protests in Nicaragua, 18 April – 18 August 2018* (Geneva: OHCHR, 2018).

166 HRC, “Resolution 40/2, Promotion and Protection of Human Rights in Nicaragua”, A/HRC/RES/40/2 (April 4, 2019).

167 HRC, “Resolution 49/3, Promotion and Protection of Human Rights in Nicaragua”, A/HRC/RES/49/3 (April 7, 2022).

168 UN, *Report of the United Nations High Commissioner for Human Rights: Situation of Human Rights in the Philippines*, A/HRC/44/22 (June 29, 2020), 5.

169 HRC, “Resolution 45/33, Technical Cooperation and Capacity-Building for the Promotion and Protection of Human Rights in the Philippines”, A/HRC/RES/45/33 (October 13, 2020).

170 UN, “Situation of Human Rights in Yemen: Report of the United Nations High Commissioner for Human Rights”, A/HRC/33/38 (August 4, 2016), 2; UN, *Situation of Human Rights in Yemen, Including Violations and Abuses since September 2014: Report of the United Nations High Commissioner for Human Rights*, A/HRC/36/33 (September 13, 2017), 17.

171 HRC, “Draft Resolution 36/L.4, Situation of Human Rights in Yemen”, A/HRC/36/L.4 (September 22, 2017).

civilian deaths',<sup>172</sup> fought against the draft resolution.<sup>173</sup> A compromise text agreed to the appointment of a group of eminent international and regional experts to, among other things, 'establish the facts and circumstances surrounding the alleged violations and abuses [in Yemen] and, where possible, to identify those responsible'.<sup>174</sup> The resolution was adopted by consensus.

Having had access to Yemen, in August 2018 the group of eminent international and regional experts delivered their report. They found that the governments of Yemen, Saudi Arabia and the United Arab Emirates (UAE) were responsible for violations such as unlawful killing, arbitrary detention, rape, torture and enforced disappearance. These governments were also answerable for violations of international humanitarian law, such as attacks in violation of the principles of distinction, proportionality and precaution.<sup>175</sup> The report included a 'mapping of actors' – an 11-page list of those involved on various sides of the conflict. The list was a tool to help readers make sense of the conflict. It was not an indictment, but with Saudi Crown Prince Mohammad Bin Salman's name on the list, Saudi Arabia opposed a 2018 resolution seeking to extend the mandate of the expert group to allow for further investigation.<sup>176</sup> In its 2019 report, the expert group found that all sides of the conflict were guilty of violations of human rights and humanitarian law and suggested that the governments of Yemen, Saudi Arabia, and the UAE were responsible for the majority of these.<sup>177</sup> A subsequent resolution, adopted by a vote, called for the renewal of the expert group's mandate for one more year, including to 'establish the facts and circumstances' surrounding the alleged human rights violations and 'to identify those responsible' where possible.<sup>178</sup> In 2020, the expert group's mandate was renewed for a final time. Regarding Yemen, the African Group's record has been mildly against human rights.

Traditionally, the HRC addressed the persecution of the Rohingya, a Muslim-minority group in Myanmar, through an annual resolution on human rights in Myanmar. In March 2017, the HRC began to narrow this focus by creating an international fact-finding mission to investigate alleged human rights abuses against the Rohingya and other groups in Rakhine State in Myanmar 'with a view to ensuring full accountability for perpetrators and justice for victims'.<sup>179</sup> At a special session of the HRC in December 2017, the high

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172 HRC, "Resolution 36/33, Situation of Human Rights in Yemen, Including Violations and Abuses since September 2014", A/HRC/36/33 (September 13, 2017), 7.

173 Patrick Wintour and Julian Borger, 'Independent Investigation Will Look into Human Rights Abuses in Yemen', *Guardian*, September 29, 2017.

174 HRC, "Resolution 36/31, Human Rights, Technical Assistance and Capacity-Building in Yemen", A/HRC/RES/36/31 (October 3, 2017).

175 UN, *Report of the United Nations High Commissioner for Human Rights Containing the Findings of the Group of Eminent International and Regional Experts and a Summary of Technical Assistance Provided by the Office of the High Commissioner to the National Commission of Inquiry*, A/HRC/39/43 (August 17, 2018), 14–15.

176 HRC, "Resolution 39/16, Human Rights Situation in Yemen", A/HRC/RES/39/16 (October 5, 2018).

177 UN, *Situation of Human Rights in Yemen, including Violations and Abuses since September 2014: Report of the Group of Eminent International and Regional Experts as Submitted to the United Nations High Commissioner for Human Rights*, A/HRC/42/17 (August 9, 2019), 16.

178 HRC, "Resolution 42/2, Human Right Situation in Yemen", A/HRC/RES/42/2 (October 2, 2019).

179 HRC, "Resolution 34/22, Situation of Human Rights in Myanmar", A/HRC/RES/34/22 (April 3, 2017).

commissioner reported acts of ‘appalling barbarity’ committed against the Rohingya.<sup>180</sup> A group of Muslim-majority countries asked the high commissioner for regular updates on the situation of the Rohingya and to monitor Myanmar’s cooperation with various UN investigative mechanisms. A March 2018 resolution criticised Myanmar for failing to cooperate with the international fact-finding mission.<sup>181</sup> In September 2018, the international fact-finding mission reported violations that ‘are shocking for their horrifying nature and ubiquity.’<sup>182</sup> It recommended ‘that named senior generals of the Myanmar military should be investigated and prosecuted in an international criminal tribunal for genocide, crimes against humanity and war crimes’.<sup>183</sup> The HRC created an Independent Investigative Mechanism for Myanmar ‘to collect, consolidate, preserve and analyse evidence... and to prepare files in order to facilitate and expedite fair and independent criminal proceedings... in national, regional or international courts or tribunals’.<sup>184</sup> Subsequent resolutions expressed concern at the ongoing human rights violations in Myanmar; called on Myanmar to stop obstructing UN human rights mechanisms; and expressed support for the Independent Investigative Mechanism for Myanmar.<sup>185</sup> Since 2021, resolutions on Myanmar have been adopted without a vote. In the case of Myanmar, the African Group’s record has been strongly supportive of human rights.

The US withdrawal from Afghanistan and the Taliban’s taking control of the entire country in 2021 resulted in the HRC taking more concrete action on human rights in the country. Two consensually adopted resolutions addressed the situation of women and girls in Afghanistan. Two further resolutions – appointing (2021)<sup>186</sup> and extending the mandate (2022)<sup>187</sup> of a special rapporteur on human rights in Afghanistan – were adopted through a vote. With regard to Afghanistan, the African Group has been unwilling to support human rights.

Finally, the HRC has adopted three sets of resolutions related to Russia: on Georgia, Ukraine, and Russia’s internal human rights situation. In 2008, Russia invaded the Georgian regions of South Ossetia and Abkhazia. Russia-backed separatists remain in control of these regions. In 2017, the HRC adopted its first resolution on human rights in Georgia. The resolution pointed out that various UN human rights monitors had been denied access to the disputed areas. It demanded access for the OHCHR and requested a report from the UN High Commissioner for Human Rights.<sup>188</sup> The OHCHR found that the ongoing refusal of the authorities in control of the disputed regions to grant it access ‘raises legitimate questions and concerns about the human rights situation of

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180 Zeid Ra’ad Al Hussein, “Special Session of the Human Rights Council on the Human Rights Situation of the Minority Rohingya Muslim Population and Other Minorities in the Rakhine State of Myanmar: Statement to the HRC”, OHCHR, December 5, 2017.

181 HRC, “Resolution 37/32, Situation of Human Rights in Myanmar”, A/HRC/RES/37/32 (April 9, 2018).

182 UN, *Report of the Independent International Fact-finding Mission on Myanmar*, A/HRC/39/64 (September 12, 2018), 19.

183 UN, *Report of the Independent International Fact-finding Mission on Myanmar*, A/HRC/39/64 (September 12, 2018), 1.

184 HRC, “Draft Resolution 39/L.22, Situation of Human Rights of Rohingya Muslims and Other Minorities in Myanmar”, A/HRC/39/L.22 (September 22, 2018).

185 HRC, “Resolution 40/29, Situation of Human Rights in Myanmar”, A/HRC/RES/40/29 (April 11, 2019).

186 HRC, “Resolution 48/1, Situation of Human Rights in Afghanistan”, A/HRC/RES/48/1 (October 13, 2021).

187 HRC, “Resolution 51/20, Situation of Human Rights in Afghanistan”, A/HRC/RES/51/20 (October 11, 2022).

188 HRC, “Resolution 37/40, Cooperation with Georgia”, A/HRC/RES/37/40 (April 9, 2018).

the population living there'.<sup>189</sup> The OHCHR also concluded that discrimination based on ethnicity was widespread in the disputed regions.<sup>190</sup> The 2019 and subsequent resolutions repeated concerns about such discrimination and about the inability of internally displaced persons to return to their homes and demanded that the OHCHR be given access to South Ossetia and Abkhazia.<sup>191</sup> The African Group has been unwilling to support human rights in Georgia.

In 2014, the HRC adopted its first resolution on Ukraine.<sup>192</sup> The resolution condemned the violence and human rights abuses in the disputed regions. It further asked the OHCHR for a report on the situation. The ensuing report noted that 'the promotion and protection of human rights in Ukraine depends... on the sovereignty and territorial integrity of Ukraine'. It added that Russian actions contravened this principle, thus hampering 'the enjoyment of human rights and fundamental freedoms' in Ukraine.<sup>193</sup> There was no Ukraine resolution in 2018, while the 2019 and 2021 resolutions were much pared back. It said little about human rights violations but noted the importance of providing technical assistance to Ukraine and asked the OHCHR to orally report on the country.<sup>194</sup> This mild approach changed with Russia's full-scale invasion of Ukraine in February 2022. The ensuing resolution condemned Russia's actions and established an independent international commission of inquiry to collect and analyse evidence of human rights violations. This was done with an eye on future legal proceedings and, specifically, to identify those responsible to hold them accountable at a future point.<sup>195</sup> The African response to Ukraine has reflected an unwillingness to defend human rights.

In October 2022, the HRC adopted its first-ever resolution on Russia's internal human rights situation. The resolution listed, and expressed concern about, a wide range of human rights violations that generally pointed to a 'significant deterioration of the situation of human rights'<sup>196</sup> in Russia. The resolution further appointed a special rapporteur to monitor, report and make recommendations on the human rights situation in the country.<sup>197</sup> On Russia, the African Group has been unwilling to support human rights.

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189 UN, *Report of the United Nations High Commissioner for Human Rights on Cooperation with Georgia*, A/HRC/36/65 (August 17, 2017), 7.

190 UN, *Report of the UN High Commissioner for Human Rights on Cooperation with Georgia*, 16.

191 HRC, "Resolution 40/28, Cooperation with Georgia", A/HRC/RES/40/28 (April 4, 2019).

192 HRC, "Resolution 26/30, Cooperation and Assistance to Ukraine in the Field of Human Rights", A/HRC/RES/26/30 (July 15, 2014).

193 UN, *Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Ukraine*, A/HRC/27/75 (September 19, 2014), 8–10.

194 HRC, "Resolution 41/25, Cooperation and Assistance to Ukraine in the Field of Human Rights", A/HRC/RES/41/25 (July 23, 2019);

HRC, "Resolution 47/22, Cooperation and Assistance to Ukraine in the Field of Human Rights", A/HRC/RES/47/22 (July 26, 2021).

195 HRC, "Resolution 49/1, Situation of Human Rights in Ukraine Stemming from the Russian Aggression", A/HRC/RES/49/1 (March 7, 2022).

196 HRC, "Resolution 51/25, Situation of Human Rights in the Russian Federation", A/HRC/RES/51/25 (October 11, 2022).

197 HRC, "Resolution 51/25, Situation of Human Rights in the Russian Federation".

## CHAPTER 7

# Conclusion

This report considered 450 HRC votes over the period 2006–2022. This amounts to 5 850 voting decisions that African states had to make. Table 3 summarises the African Group’s record on civil and political rights.

Theme	Resolution series	Record
<b>Freedom of expression</b>		<b>Mildly against human rights</b>
	Mandate of special rapporteur on freedom of expression	Strongly against human rights
	Defamation of religions	Strongly against human rights
	Human rights and the internet	Unwilling to defend human rights
<b>Women’s rights</b>		<b>Mildly against human rights</b>
	Child, early and forced marriage	Mildly against human rights
	Preventable maternal mortality	Mildly against human rights
	Discrimination against women	Mildly against human rights
	Violence against women	Unwilling to defend human rights
<b>SOGI</b>		<b>Strongly against human rights</b>
	SOGI and human rights	Strongly against human rights
	Protection of the family	Strongly against human rights
<b>Political participation</b>		<b>Unwilling to defend human rights</b>
	Right to peaceful protest	Unwilling to defend human rights
	Civil society space	Unwilling to defend human rights
	Human rights, democracy, rule of law	Mildly against human rights
	Right to equal political participation	Unwilling to defend human rights
	Human rights defenders	Mildly supportive of human rights

As should be clear from Table 3, at the HRC, African states are not defenders of civil and political rights. Indeed, the African Group is more likely to oppose and undermine these rights. The only resolution on which the African Group has a positive record is on human rights defenders. Of the four thematic areas, the group’s record is best on rights related to political participation. This is surprising considering the deteriorating ‘freedom scores’, as calculated by Freedom House, of African Group members of the HRC.

**At the HRC, African states are not defenders of civil and political rights**

As remarked before, the HRC's early years were a period of deep polarisation between North and South, as well as one in which the HRC was little better than its failed predecessor. In 2010, however, things began to turn in a more liberal, pro-human rights direction. One can get a sense of that in the African Group's votes. The discussion of civil and political rights above included very few votes from the period 2006–2009 – only those on the mandate of the special rapporteur on freedom of expression and three of the four 'defamation of religions' resolutions were from this period. As can be seen from Table 3, African states were strongly against human rights on these issues during this period. Compare this, however, with the votes on human rights and the internet in 2014 and 2016. These resolutions are also about the right to freedom of expression, but the African Group was far less vehement in its opposition to this right during this later period.

Although there has been a general deterioration in the domestic human rights profile of African Group members on the HRC, this has not translated into less support for human rights on the HRC. While one can detect weakening support for women's rights, in the case of SOGI and the 'political participation' resolutions the African Group's record is too inconsistent to detect a clear trend.

**TABLE 4 SUMMARY OF THE AFRICAN GROUP'S RECORD ON COUNTRY-SPECIFIC SITUATIONS**

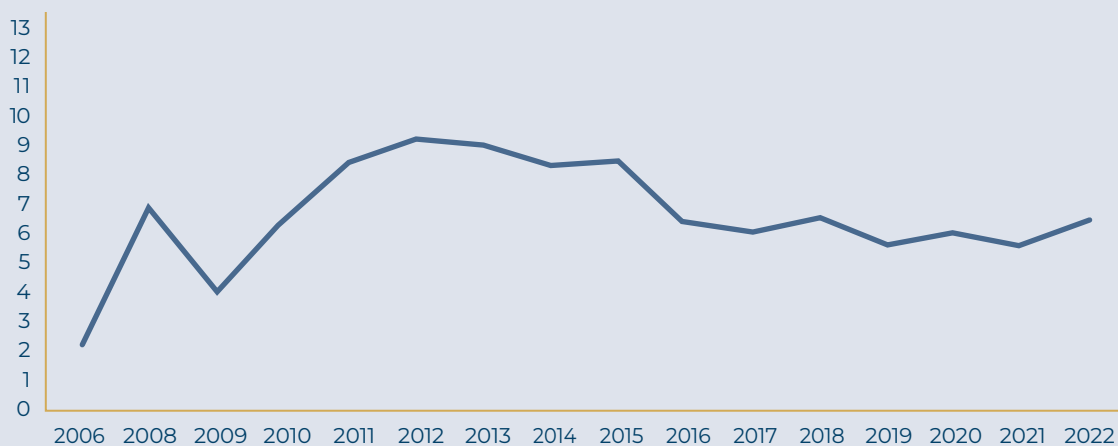
Theme	Resolution series	Record
<b>Resolutions on African countries</b>		<b>Mildly against human rights</b>
	Burundi	Mildly against human rights
	DRC	Strongly against human rights
	Ethiopia	Strongly against human rights
	Eritrea	Mildly against human rights
	South Sudan	Mildly against human rights
	Sudan	Mildly against human rights
<b>Resolutions on the rest of the world</b>		<b>Unwilling to defend human rights</b>
	North Korea	Mildly supportive of human rights
	Belarus	Unwilling to defend human rights
	Iran	Unwilling to defend human rights
	Syria	Mildly supportive of human rights
	Venezuela	Unwilling to defend human rights
	Nicaragua	Unwilling to defend human rights
	Afghanistan	Unwilling to defend human rights
	Sri Lanka	Unwilling to defend human rights
	Yemen	Mildly supportive of human rights
	Myanmar	Strongly supportive of human rights
	Russia	Unwilling to support human rights
	Ukraine	Unwilling to support human rights
	Georgia	Unwilling to support human rights
	Philippines	Mildly against human rights



Based on an average of the average of Africa’s voting record on each country situation, the African Group’s record can be classified as unwilling to support human rights. However, Table 4 shows so much variance that such a broad conclusion is not particularly helpful. When separated into country-specific human rights situations in Africa and those in the rest of the world, one can draw more confident conclusions. The first is that the African Group is against country-specific resolutions that do not have the consent of the African country concerned. Put differently, the African Group continues to protect other African states against international scrutiny and criticism. As the African Group’s record on the rest of the world shows, such opposition does not stem from principled opposition to country-specific resolutions – the African Group is quite willing to support intrusive resolutions against non-African states.

The African Group continues to protect other African states against international scrutiny and criticism

Figure 2 African Group's average annual level of support for country-specific resolutions



NOTE: The maximum score (y-axis) is 13 (that is, 13 yes votes by the 13 members of the African Group, with each yes vote scored as one). Each abstention is scored as 0.5 and each no vote as zero

Source: Compiled by the author based on voting records printed in the session reports of the HRC. The reports are available at UN Human Rights Council, <https://www.ohchr.org/en/hrbodies/hrc/home>

Another noticeable trend is African states' propensity to abstain from voting on country-specific issues. Of the African Group's 47 country-specific votes (611 voting decisions) on other African countries included in this analysis, African states abstained 48.4% of the time. This trend is even more noticeable where voting on the rest of the world is concerned (171 votes, 2 223 voting decisions), with African Group members abstaining 63.5% of the time. Such a high rate of abstention might reflect the desire of smaller states to avoid antagonising other states, but it also means that African states are not standing up for human rights.

## What has been the trend over time in Africa's voting on country situations?

Figure 2 shows the African Group's annual average willingness to support intrusive country-specific resolutions on the HRC. The line reflects developments on the HRC since 2006: the troubled early years; stronger support for human rights after the US joined the HRC; and steady support for human rights spanning the Obama and Trump presidencies. When voting on other African states, it has remained rare for an African state to vote yes on an intrusive country-specific resolution on another African country. No African country voted for intrusive HRC resolutions on Ethiopia, Eritrea or South Sudan, while resolutions on Burundi received no more than two African votes, while the most African support a Sudan resolution received was three votes. Abstention is the African Group's default position as far as voting on country situations in the rest of the world is concerned, but further patterns are hard to discern. On occasion, many African states have voted yes on country-specific resolutions, such as on Myanmar and the numerous Syria resolutions. Usually, however, at most one or two African states will vote for a country-specific resolution.



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