The Human Rights Council: recent achievements, challenges, and a look ahead

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(Geneva - 27 June 2013) - The two sessions held by the Human Rights Council so far this year have seen the continuation of the improved dynamic observed at recent sessions of the Council. At these sessions the Council adopted, amongst others, resolutions on the situations in Sri Lanka, North Korea, Myanmar, Belarus, Eritrea, and three resolutions on Syria.

Turnaround on Sri Lanka

The Sri Lanka resolution in some ways epitomises the turnaround in the effectiveness of the Council. Four years ago, in 2009, the Council held a shockingly biased emergency debate on the situation in Sri Lanka that turned into a forum to praise the government’s efforts to protect human rights and resettle internally displaced people. This debate took place immediately after the ending of the country’s 26 year civil war, with the UN estimating between 40 – 70,000 civilian deaths.

It was two years later, in 2011, that Canada made an attempt to bring a resolution on Sri Lanka, withdrawing the text in the face of strong opposition from Sri Lanka. It was not until 2012 that the US’s political clout enabled it to successfully lead a resolution to adoption by the Council. The US followed up this success with a further resolution in March 2013. The resolutions are framed around the recommendations that came from Sri Lanka’s own Lessons Learnt and Reconciliation Commission, that is, the text is fairly moderate. The 2013 text calls for the Sri Lankan Government to carry out an independent and credible investigation into allegations of violations of international human rights law and humanitarian law.

Although relatively moderate, the Council’s eventual response to the situation in Sri Lanka boosted its credibility, by finally closing the gap between what human rights defenders around the world had long been calling for, and the action the Council had, or had not, been taking.

Continued attention on Syria

A similar boost to credibility has come generally from the way the Council responded and continues to respond to the events of the so-called Arab Spring. The situation in Syria, for example, has not been off the Council’s agenda since the violence there broke out, and in June the Council adopted two resolutions on this situation - the 9th and 10th to have been adopted since 2011. The Commission of Inquiry established by the Council in 2011 reports to every session of the Council. The Council has also held 5 emergency debates on the subject, three of which were held outside its regular sessions.
Perhaps it speaks to the impotency of the Council that after so much attention the situation is worse rather than better. However it is only because of regular reporting to the Council that the world knows that 93,000 people have been killed in the fighting in Syria. The debates also provide a platform for human rights defenders from Syria to bring their own findings and cases in an international forum. At the latest session of the Council, in June, ISHR brought 5 Syrian defenders to Geneva in the context of a training course – these defenders used this opportunity to put their own findings and perspectives before States.

**Acknowledgement of the work of human rights defenders**

Another recent success from the Council, and one in which ISHR had a key role, was the adoption in March, by consensus, of a landmark resolution on the protection of human rights defenders that calls for an end to the use and abuse of national law to restrict and criminalise the work of human rights defenders. Again this reflects what is an increasing trend and is another sign that the Council is increasingly on the ball recently.

The final text is a good example of how strong resolutions result when States work closely to ensure that the concerns of human rights defenders are heard and reflected.

We were particularly pleased that the final text includes reference to reference to the threats faced by women human rights defenders – this reflects another of ISHR’s advocacy goals, to ensure that human rights laws and mechanisms protect women human rights defenders, aware of the specific vulnerabilities that women human rights defenders face. ISHR has worked hard to ensure that States pay due attention to this issue. At the June session similar language was included in a resolution on violence against women and another text on discrimination against women.

The resolution on human rights defenders points to the increasing acknowledgement and recognition by the Council of the importance of the work of human rights defenders.

In addition, the increased responsiveness on country situations points to a far better match between the calls from human rights defenders and the action of the Council – this speaks to a generally improved space and potential for defenders to engage with the Council.

**Backlash against NGO space**

Nevertheless there are challenges, not the least of which is a corresponding backlash from some States against NGO space. Seeing that NGOs are increasing their influence, these States are resorting to often desperate measures to close down that space.

One of the most evident signs that Sri Lanka really had something to hide and was desperate to keep the situation in the country off the Council’s agenda, was the way it reacted to human rights defenders who had travelled to Geneva to participate in the Council’s debates. Defenders reported being stopped in the corridors by members of the Sri Lankan delegation and they and their families threatened. At the same time a Government minister back in Colombo was reported by the BBC as saying that he would ‘break the legs’ of those he labelled ‘traitors’ who were criticising Sri Lanka in Geneva.

Similar threats were faced by human rights defenders who came from Bahrain to draw the Council’s attention to events unfolding there. At least one of these defenders received death threats on his mobile phone after making a statement in the Council, and since returning to Bahrain has faced a campaign of judicial harassment. He was again back in court last week on charges of “participation in illegal protests”.

ISHR takes the issue of safety of defenders who cooperate with the UN human rights system extremely seriously – we see it as a fundamental threat to the space for HRDs at the UN. Further, if human rights defenders do not have the space to present their cases to the Council and in other human rights fora, the UN is deprived of the information it needs to take the informed decisions that it is starting to make more regularly.

States are now responding to concerns on this issue. Hungary led the adoption by the Council of the first resolution to address reprisals against human rights defenders who cooperate with the UN system – which resulted in the Council holding a debate to discuss the issue and ways forward. Hungary will bring another resolution on this issue in September and ISHR will again work closely with them to ensure the strongest text
possible.

Of course this harassment is much wider spread than just in Geneva - in the June session the Special Rapporteur, or UN expert, on freedom of association and assembly, Maina Kiai, reported on restrictions faced by NGOs – he cited examples from Egypt and Russia of attempts to restrict the funding of NGOs, noting that the right to receive funding is an integral part of the right to association and assembly, and that attempts to restrict it are attempts to suppress the voice of civil society.

The promotion of ‘traditional values’

Another challenge is the push by some States towards fundamentally regressive goals. One of these challenges is organised around the concept of so-called ‘traditional values’. The Council has adopted several resolutions on this subject, led by Russia, the thrust of which has been to attempt to establish traditional values as a legitimate way to interpret human rights. We see this as a serious and insidious attempt to undermine the universal human rights framework, and it has particular repercussions for those who challenge societal ‘norms’ particularly women and LGBT defenders, but also any group whose views or identities lie outside mainstream society.

At the March session earlier this year, the latest iteration of this push showed itself in a draft resolution tabled by Egypt on protection of the family. This text made no reference to diverse family forms, and no reference to potential violations of rights inside the family. It treated the family as a unit to be protected, without regard to the rights of those individuals within it. The protection of the family, without consideration of the rights of the individual members, is not a human rights issue.

This resolution was eventually withdrawn in the face of Latin American, and western States’ opposition, and it did not re-emerge at the June session. However in the September session Russia is again due to bring its resolution on traditional values. And with next year the 20th anniversary of the year of the family it seems certain that Egypt will find some way to capitalise on this to bring its text again at a future session.

Sexual orientation and gender identity

Looking ahead for the Council – what’s on the agenda? The rights of lesbian, gay, bisexual, and transgender persons is one of the biggest issues due to be addressed by the Council. States adopted the first Council resolution on this issue in 2011 – a real breakthrough, all the more so because the negotiations were led by South Africa. This broke the typical dynamic on this issue whereby African States in particular criticise the imposition of ‘western values’ on their societies.

The June session marked two years after the 2011 resolution was adopted, and in Council terms it marked the point at which follow-up would naturally be expected. Unfortunately nothing was forthcoming from South Africa which announced its preference for moving extremely cautiously. States will certainly be discussing over the coming months whether South Africa’s lack of strong leadership warrants another State taking the issue over - something that needs to be carefully calculated to avoid feeding the still prevalent dynamic of the west against Africa (in particular). Looking further ahead to the possibility of bringing some moderate African States on board, States should be careful not to damage that possibility and push those States further away by having a western State take this over.

The way in which the Council handles the issue of sexual orientation and gender identity will certainly be one of the big themes to watch for in coming sessions.

Human rights defenders and business

Likewise the business and human rights agenda is gaining traction. The Council had appointed an expert, Mr John Ruggie, to develop guiding principles on business and human rights, and subsequently appointed a group of experts to push forwards on the implementation of those principles once they were developed.

This group of experts presented its second report to the Council in June – and one issue it raised was that of the targeting of human rights defenders as a result of their protesting against the activities of corporations and trying to assist the victims of violations to access remedies. If the Council really wants to promote
implementation of the guiding principles, it must ensure that those who are drawing attention to the violations committed by corporations have the space to have their voices heard.

This crucial issue is one that ISHR will work to promote in the future. We have already seen a promising response in that the group of experts held a public discussion on the Rana Plaza tragedy just last week to draw out what lessons can be learnt - thereby ensuring that they take the time and create the space for human rights defenders to be heard. By working closely with Norway, the lead State on the issue of business and human rights, we envisage great potential to move this issue forwards.

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