

HUMAN RIGHTS COUNCIL 16TH SESSION

Council marks five-year anniversary with notable success



Photo: UK Department for International Development

Displaced people cross a river border from Côte d'Ivoire to Liberia, attempting to escape fighting and political unrest. A Commission of Inquiry has been set up to investigate the circumstances surrounding human rights violations committed in Côte d'Ivoire since the presidential election.

The Human Rights Council (the Council) ended its 16th session (28 February – 25 March 2011) with the adoption of a series of resolutions that many would have thought to be out of its reach just a few months ago.¹ From the creation of a new Special Rapporteur on Iran, to the establishment of a Commission of Inquiry to investigate human rights violations in Côte d'Ivoire, and important developments on human rights defenders and the right to water, the 16th session can be considered one of the most successful to date. While there were some setbacks in relation to the continuing struggle for the universality of human rights, and potentially dangerous developments on the consideration of sexual orientation and gender identity in the UN system, the overall outcome of the session is notable.

The session thereby followed the tentative steps of positive change observed at the 15th session (September 2010), when the Council had created two key new special procedures mandates (on freedom of peaceful assembly and association, and on discrimination against women).

The 16th session followed an unusually intense period of Council deliberations in late 2010 and early 2011. In December 2010, the special session on Côte d'Ivoire, called for by the African Group, set a new standard in reacting to urgent situations in a timelier and less 'political' manner than previous special sessions. The ongoing process of the review of the Council's work and functioning – of which the Council's capacity to react to urgent and chronic situations of human rights violations was a central part – further increased the pressure on delegations in January and February.²

With all eyes turned to the gross and systematic human rights violations unfolding in Libya, via worldwide television broadcasts, the Council's swift reaction on 25 February in initiating a special session on Libya visibly influenced the mood at the beginning of the regular session. The high-level segment held during the first three days of Council meetings clearly demonstrated this, with most dignitaries focusing their comments on Libya and the wider series of protests in the Middle East and North Africa.

This article provides an overview of developments at the 16th session. It does not attempt to exhaustively discuss the session. For more detailed information see the report of the session, UN press releases and ISHR news stories published throughout each regular session.³

INSTITUTIONAL DEVELOPMENTS

As the main institutional development, and after almost one year of negotiations, the Council adopted the outcome of its review process. You can read more about this development in the article on p. 7 of this publication.

At its 15th session in September 2010, the Council adopted a controversial Presidential statement, which risks undermining the independence of the Office of the High Commissioner for Human Rights (OHCHR).⁴ It invited the High Commissioner to present

1 See <http://bit.ly/gWq0oC> for all adopted resolutions and voting records.

2 For more information, see the article on p. 7 of this publication.

3 The report of the session containing details about the proceedings and co-sponsors is available at <http://bit.ly/fzt1nM>. UNOG press releases: <http://bit.ly/hOrtRd>. ISHR stories: www.ishr.ch/council.

4 See ISHR's *Human Rights Monitor Quarterly* issue 3/2010, available at www.ishr.ch/quarterly/previous-editions.

OHCHR's human rights programme (Programme 19), part of the UN's strategic framework, to the Council, and to pass the views of States and relevant stakeholders to the Committee for Programme and Coordination in New York for its consideration. Initially, the President planned to submit a follow-up text during the 16th session.⁵ However, the initiative has been postponed until June, officially due to lack of time. During her interactive dialogue with the Council at the 16th session, the High Commissioner affirmed that 'a meeting [will] be organised with me by the (...) President', indicating her preference for a dialogue outside the formal Council agenda. It remains to be seen by whom and in what form the proposal of formalising consideration of Programme 19 by the Council will be pursued.

UN headquarters developments: Libya

On 26 February 2011, the Security Council unanimously adopted resolution 1970 referring Libya to the International Criminal Court (ICC), and imposing sanctions against Libyan leaders, including an arms embargo, travel bans and an asset freeze. Security Council Resolution 1973, adopted on 17 March, authorised enforcement of a no-fly zone over Libya and use of 'all necessary measures', including military force, to protect civilians. Ten members voted for the resolution (Bosnia and Herzegovina, Colombia, Gabon, Lebanon, Nigeria, Portugal, South Africa, France, the United Kingdom, and the United States), and five members abstained (Brazil, China, Germany, India, Russia).

On 1 March, following the adoption of the resolution by the Human Rights Council on 25 February which, *inter alia*, recommended that the General Assembly consider suspending the country's membership in the Council, the General Assembly adopted by consensus resolution 65/265, which suspended Libya's membership rights in the Human Rights Council.

IMPORTANT ACHIEVEMENTS IN RESPONSE TO COUNTRY SITUATIONS

The special session on **Libya** held just prior to the 16th session set the tone for several of the country-specific initiatives pursued. It showed how the Council can add value to the coordinated response of the international community to the situation.

In follow-up to the special session on **Côte d'Ivoire**, the Council also set up a Commission of Inquiry tasked with investigating 'the facts and circumstances surrounding the allegations of serious abuses and violations of human rights committed in Côte d'Ivoire following the presidential election of 28 November 2010'.⁶ The President of the Council appoint-

ed Mr Suliman Baldo, Ms Reine Alapini Gansou and Mr Vitit Muntarbhorn to the Commission of Inquiry.⁷ Importantly, the resolution expresses concerns about all violations committed, without prejudicing the findings of the Commission of Inquiry on who may have committed them. This stands in contrast with earlier drafts, which primarily blamed, now arrested, President Gbagbo and his followers for human rights violations. It remains to be seen if this balanced approach will prevail, particularly now that the troops of elected President Alassane Ouattara have been victorious. It will be crucial for the credibility of the Council that the Commission of Inquiry can effectively investigate all violations, even those that may have been committed by forces loyal to President Ouattara.⁸ The Council will consider an update on the situation by the High Commissioner at the 17th session in June.

UN headquarters developments: Côte d'Ivoire

The High Commissioner for Human Rights, Ms Navi Pillay, briefed the Security Council on 13 April 2011. It was the first time in several years that the High Commissioner was invited to brief the Security Council on a country situation, and she welcomed the 'growing recognition' that human rights concerns are central to the issues of peace and security.

OHCHR completed a mission to Côte d'Ivoire from 2 to 9 April, led by the Assistant Secretary-General Ivan Šimonović. Ms Pillay's briefing followed the arrest of former President Laurent Gbagbo, and the mission's discovery of evidence of large-scale human rights violations including extra-judicial killings, enforced disappearances, torture, and sexual violence in Abidjan and the rest of the country in the course of the conflict. The High Commissioner welcomed the pledge on 7 April by President Ouattara to establish a Truth and Reconciliation Commission and to punish those who committed crimes or acts of vengeance, but stressed that reconciliation would not be accomplished without 'meaningful accountability', including through bringing perpetrators to justice, regardless of their affiliation. She also voiced hope that the Commission of Inquiry, set up by the Human Rights Council, would receive full cooperation.

A press statement (SC/10224) issued by the Security Council following the briefing echoed many of the High Commissioner's calls, including encouraging the Government to cooperate closely with the Human Rights Council's Commission of Inquiry. The Security Council also welcomed President Ouattara's commitment to investigate alleged human rights abuses and reaffirmed that those responsible for the violations must be held accountable for their crimes regardless of their political affiliation. The Security Council further encouraged President Ouattara to form an inclusive, broad-based Government.

5 Notes of the Bureau meeting of 2 March 2011, available at <http://bit.ly/gDXtfN>.

6 A/HRC/RES/16/25. It is notable that, despite the general support of the Government of Côte d'Ivoire, the resolution was adopted under the Council's agenda item 4 (human rights situations that require the Council's attention).

7 See <http://bit.ly/fOqr9D> for more information.

8 This test for the Council's credibility comes at a time when the results of a previous Commission of Inquiry, that on the Gaza conflict, have been called into question by its most prominent member, Justice Richard Goldstone. See for instance <http://bit.ly/gW9yWU>.

Among the most significant outcomes of the 16th session is a **Special Rapporteur on the situation of human rights in Iran**, the first-ever, new, country-specific mandate to be created by the Council. This milestone in the Council's history is an important signal for human rights defenders that their plight is not lost on the international community, and to the Government of Iran that more scrutiny of its actions enjoys wide political support. Although the mandate was not created by consensus, support is much more significant than, for instance, the creation of the Independent Expert on the situation of human rights in the Sudan,⁹ and several States who had voted against the Independent Expert on Sudan changed their positions to abstention.¹⁰ This may indicate more readiness within the Council to use the tool of country mandates. The resolution on Iran was spearheaded by Sweden, on behalf of a broad cross-regional group of co-sponsors.¹¹

The creation of the mandate is only the first step in what is likely to be a renewed and more long-term engagement by the Council on Iran.¹² In June, the President will appoint an individual to serve in the position and, at this stage, it is doubtful whether the Government will cooperate with the mandate. It has reportedly called the new mandate 'illegal'. A visit by the High Commissioner, although agreed to in principle, has not yet been scheduled.

The Council also adopted resolutions on **Tunisia and Guinea** respectively. Both texts were adopted under Item 10 and are framed in a spirit of supporting the governments in their political transition.¹³ The texts recognise the important role the High Commissioner and her Office play in that regard, and through this provide an avenue for further follow-up. It is notable that in relation to Tunisia, States salute 'the courage of the people of Tunisia', a focus that is rarely found in resolutions of the Council.

Unfortunately, the Council has not been able to respond so constructively to the situation in the **Democratic Republic of the Congo (DRC)**. Along the lines of previous resolutions, the text adopted in March emphasises efforts by the Government to end human rights violations but does not set up a mechanism to follow the situation. The group of seven special procedures who reported to the Council had suggested the creation

of a dedicated mandate to assist the Government. Despite such clear advice, the Council decided not to prolong the mandate of the joint group of special procedures and has not created new follow-up mechanisms. This essentially ends consideration of the human rights situation in the DRC by the Council.

As expected, the Council renewed the mandates of the Special Rapporteurs on **Myanmar** and the **Democratic People's Republic of Korea (DPRK)**. Both resolutions are relatively strong in substance and enjoyed broad support. Since neither of the two States has cooperated with the respective mandates, the Council has slightly escalated its calls urging the governments to do so. However, the two resolutions also show the limits the Council currently has. Apart from reporting more regularly, including both to the Council and the General Assembly, the Special Rapporteurs do not have specific tools at their disposal to increase cooperation. Positively, while the resolution on Myanmar was adopted by consensus (with usual reservations expressed by China and Cuba), the mandate on DPRK was extended with the largest ever positive vote count.¹⁴ Even Cuba, although it voted against the resolution on grounds of its principled opposition to country mandates, was keen on showing its support for the substantive condemnation of human rights violations contained in the resolution.

MIXED RESULTS ON THEMATIC DEVELOPMENTS

In recent years, one of the most contentious topics at the Council has been the initiative by Pakistan (on behalf of the OIC) on '**defamation of religions**'. In 2010, the resolution lost a significant amount of support at the Council, a trend that continued into the General Assembly's discussion of 'defamation of religions'. Faced with such declining support, Pakistan opted for a new approach, replacing its traditional resolution on 'combating defamation of religions' with a focus on combating intolerance and discrimination.¹⁵ The Council adopted the text by consensus, sending a clear and united message against religious hatred that constitutes incitement to discrimination, hostility or violence, and in favour of measures fostering tolerance. While Pakistan was adamant that its previous resolutions 'remain valid', it seems the discourse within the Council will be less polarised. The resolution provides for the holding of a panel debate during the 17th session on 'a global dialogue for the promotion of a culture of tolerance and peace' based on human rights. A positive debate during the panel may help to cement progress on overcoming this divisive debate, and pave the way for a similarly positive approach at the General Assembly later this year.

For human rights defenders around the world, the renewal of the mandate of the **Special Rapporteur on human rights**

9 The Special Rapporteur on Iran was established by a vote of 22 in favour, 7 against (Bangladesh, China, Cuba, Ecuador, Mauritania, Pakistan, Russian Federation), with 14 abstentions. The mandate of the Independent Expert on Sudan was created with only one vote difference: 20 votes in favour, 19 against and 8 abstentions.

10 Bahrain, Cameroon, Djibouti, Gabon, Jordan, Malaysia, and Saudi Arabia.

11 Sweden, US, Moldova, Macedonia, Zambia, and Panama. This model has proven its merit in terms of building necessary political support across regional boundaries.

12 The Commission on Human Rights created (1984) and then abolished (2002) a Special Rapporteur on Iran, but the Council has never systematically dealt with this situation.

13 Item 10 of the Council's agenda approaches country situations from the angle of technical assistance and capacity building, while Item 4 on situations that require the Council's attention is sometimes perceived as more confrontational.

14 It was adopted with 30 votes in favour, 3 against (China, Cuba, Russian Federation), and 11 abstentions. In 2010, 28 voted in favour, 5 against (China, Cuba, Egypt, Indonesia, Russian Federation), and there were 13 abstentions. This was partly due to the change in membership, as Indonesia and Egypt have left the Council. It is notable that Thailand took the 'extremely difficult' decision to support the resolution.

15 *Resolution 16/18*, available at <http://bit.ly/gxUizV>.

defenders is reassuring. The consensus on this mandate is a clear acknowledgment of the important role human rights defenders play in improving the protection of human rights at the national level. Of particular significance is the addition of several co-sponsors who had never supported or had ceased to support the resolution renewing the mandate.¹⁶

Unlike in 2010, when the thematic resolution on the 'security and protection' of human rights defenders led to drawn-out negotiations,¹⁷ the simple procedural renewal of the mandate went smoothly. The cautious approach taken by Norway safeguarded the essential characteristics of the mandate but also limited the scope for improving it. The renewed mandate remains weak in terms of the cooperation it asks States to extend to the Special Rapporteur, particularly in terms of country visits.¹⁸ It also fails to recognise the increasing phenomenon of reprisals against those cooperating with the UN.

One of the key elements discussed during the negotiations was the level of recognition given to the work of Ms Margaret Sekaggya, the current Special Rapporteur. The focus of her last report was on the situation of women human rights defenders and defenders working on gender issues, including those working on the rights of lesbian, gay, bisexual and transgender (LGBT) persons.¹⁹ Although it was never openly discussed during informal negotiations on the mandate, it was clear that some States are reluctant to welcome or even appreciate this particular aspect of her work. Egypt was most concerned about this issue, wanting to merely 'note' the work of the Special Rapporteur, while Ireland (on behalf of the EU) in particular wanted a higher level of recognition.²⁰

The second key theme of negotiations on human rights defenders was the reporting line the Special Rapporteur would have to the General Assembly and to the Council.²¹ Algeria and the Russian Federation were most vocal in suggesting the Special Rapporteur should only report to the General Assembly if specifically requested by that body. Algeria later articulated its concern more clearly, by suggesting a system of informing the Council of consideration of special procedures reports by the General Assembly and vice-versa. While a better flow of information would be useful, for instance through an update prepared by OHCHR on reports

considered by each body since the last session, it will be key to avoid misuse of that system to compromise the independence of special procedures mandate holders. Mandate holders should remain free in their choice of topics to be presented to either body.

Since the renewal of the mandate was purely procedural, the negotiations remained free of the usual calls for a more restrictive definition of human rights defenders. However, in a right of reply, Nigeria raised the concept of 'human rights contractors';²² seemingly an attempt at reinvigorating debates on limitations to the right to access funding.²³ Such limitations are often used to restrict the legitimate work of human rights defenders, and have been at the centre of negotiations on previous human rights defenders resolutions.

The Council also renewed several **other special procedures mandates**, including:

- Independent Expert on minority issues
- Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights
- Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance
- Special Rapporteur on the human right to safe drinking water and sanitation
- Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
- Special Rapporteur on the sale of children, child prostitution and child pornography
- Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
- Special Rapporteur on violence against women
- Working Group on Enforced or Involuntary Disappearances

Of particular note is the resolution on the human **right to safe drinking water and sanitation**, which was adopted by consensus. It replaces the current Independent Expert with a Special Rapporteur mandate for three years, with a clearer mandate to monitor the realisation of this right. In addition the resolution marks a substantive move forward in the recognition of the right to water and sanitation. Whereas previous resolutions have framed the issue more restrictively as 'human rights obligations related to access to safe drinking water and sanitation', the latest resolution explicitly and consistently refers to the 'right to safe drinking water and sanitation.' The resolution also positively refers to the Committee on Economic, Social and Cultural Rights' General Comment 15 on the right to water. This is significant because many States are often reluctant to acknowledge in the political arena the role of the treaty bodies in interpreting the substantive content of treaties. Coupled with the growing list of co-sponsors

16 The total number of co-sponsors grew from 46 in 2008 to 64 in 2011. Although some States stopped co-sponsoring, notable additions include Jordan, Mauritius, Indonesia, Thailand, Zambia, Senegal, and Uganda. The resolution on the protection of human rights defenders at the 13th session was co-sponsored by 55 States.

17 For more information, see the ISHR article at <http://bit.ly/aBbany>.

18 The resolution only 'calls upon Governments to *give serious consideration to responding favourably* to the requests (...) to visit their countries.'

19 See the ISHR news story at <http://bit.ly/dWluoB>.

20 In the end, the Council took 'note with appreciation' of the work of the Special Rapporteur. In UN language, 'taking note' of a report is the very least the Council can do, and has a generally negative connotation, whereas 'noting with appreciation' is more positive than neutral.

21 Early drafts and the final text ask the Special Rapporteur to 'report regularly to the Council and the General Assembly'.

22 Distinguishing between those human rights defenders that work without external support, and those that receive funding and other support for their work (Nigeria referred to the latter as human rights 'contractors').

23 See <http://bit.ly/e9zc0b>.

that recognise both of these rights as being derived from the right to an adequate standard of living, this is an important achievement for the Council.²⁴

The Council also adopted the new United Nations **Declaration on Human Rights Education and Training**. Although the General Assembly still has to adopt the Declaration formally, and despite some shortcomings, it is an important step forward in setting a common standard for human rights education in all States.²⁵ Like the Declaration on Human Rights Defenders, this text has the potential to be used as a practical tool for the promotion and protection of human rights on the ground. It provides a basis for human rights defenders to demand the provision of and access to human rights education from their States, and recognises defenders' legitimate role in promoting and providing human rights education.

The consultation process leading up to the first draft of the declaration prepared by the Advisory Committee was exemplary in terms of its inclusive approach.²⁶ However, access for civil society decreased slightly when the process moved to the intergovernmental stage.

On behalf of a large group of 85 States, Colombia presented a joint statement on ending violence against persons on the basis of their **sexual orientation or gender identity**.²⁷ The current joint statement followed a statement on behalf of 66 States in the General Assembly in 2008 and a statement supported by 54 States in the Council in 2006. Notably, in the most recent joint statement, signatories came from all regions and also included South Africa.

This was significant because, despite its progressive constitution, South Africa had so far not supported initiatives around sexual orientation and gender identity at the UN. Lobbied to support the statement, South Africa tabled a surprise resolution just days before the reading of the joint statement, which would have created an intergovernmental working group with the exclusive competence to discuss 'new concepts' such as sexual orientation, and a mandate to clarify the meaning of sexual orientation in the context of international law. Attempting to use the resolution as leverage, South Africa made a last minute call for the inclusion of the need for more space for dialogue in the joint statement. Although this proposal was not taken up, South Africa eventually joined the statement.

Through a combination of domestic and international pressure, South Africa was convinced to postpone its resolution to

the June session. It is currently unclear in what form the proposal will re-emerge. According to the State, the resolution is an attempt to provide a platform for further dialogue on this issue, as many States are uncomfortable with discussing sexual orientation and gender identity.

Reactions to the joint statement clearly showed that the consideration of the rights of lesbian, gay, bi-sexual, transgender and intersex (LGBTI) persons remains contested in the Council, with several States expressing their disapproval of the joint statement. Pakistan (on behalf of the OIC) saw it as an attempt 'to shift the focus from the real issues that constitute marginalisation and exclusion'. It also argued that notions of sexual orientation and gender identity had no legal foundation in any international human rights instrument, and it was concerned about 'attempts to create new rights' or 'new standards', by misinterpreting the Universal Declaration and international treaties to include such notions that were never articulated or agreed to by the general membership'. The OIC furthermore described advocacy for decriminalisation of same-sex relations as an intervention in the domestic affairs of States, violating the principle of non-intervention contained in the United Nations Charter.

Indeed, many have recognised that the current tit-for-tat approach of statements and counter statements in the Council and the General Assembly may have hardened the lines between opposing States and not yielded the desired results.²⁸ In that context, the initiative by South Africa to create a space for dialogue, if genuine, could be a way of moving the substance of the debate forward. In pursuing this debate, it will however be important to resist calls for 'definitions', and instead ensure a focus on the protection of all persons against human rights violations.

Despite the pitfalls associated with a more formalised debate on sexual orientation and gender identity by the Council, there are signs that positive engagement can emerge. For instance, Nigeria said all citizens should be equal before the law and that 'any law [that] criminalizes sexual orientation (...) should be expunged'.

A negative development that continued through the March session is the resolution initiated by the Russian Federation on **traditional values**. Many see this as an attempt to undermine the universality of human rights. In October 2010, OHCHR organised an expert seminar on this issue. Among the conclusions of the workshop was that 'there was a danger in making something as undefined and constantly evolving as "traditional values" the standard for human rights'.²⁹ The resolution does not address this and other fundamental concerns, which were reiterated during the single public informal consultation on this resolution. Instead, it tasks the Advisory Committee with the preparation of a study on 'how a better understanding and appreciation of traditional values of dignity, free-

24 In particular, Albania, Austria, Ireland, Israel, and Sweden have co-sponsored the resolution, recognising the right to sanitation for the first time. All EU States except Czech Republic, Malta and UK co-sponsored the resolution. See also <http://bit.ly/eM6r7T>.

25 See also the ISHR news story on the adoption of the Declaration at <http://bit.ly/fmph4B>.

26 See ISHR's *Human Rights Monitor* 2009, chapter on the Advisory Committee, available at <http://bit.ly/gSUeEN>.

27 See the ISHR news story at <http://bit.ly/gJYZ3P>.

28 See also the ISHR reporting on the statements in the General Assembly the *Human Rights Monitor* 2008, available at <http://bit.ly/fSUBm7>.

29 See A/HRC/16/37 available at <http://bit.ly/dU1F7D>.

dom and responsibility can contribute to the promotion and protection of human rights'.

Unsurprisingly, the resolution was adopted by a vote.³⁰ Several countries expressed their continuing concerns with the concept of traditional values in general, and the specific values identified in the resolution.³¹ The explanations of vote will be important when the Advisory Committee commences its work. It will also be key for the Committee to pay attention to the good practices of previous initiatives with regards to consultations with all stakeholders.

During their interactive dialogue with the Council, several special procedures reiterated concern about **reprisals against persons that cooperate with them**.³² Mr El Hadji Malick Sow, the Chairperson of the Working Group on arbitrary detention, highlighted in particular the case of Venezuelan judge Afuni Mora, who has been detained since December 2009 after ordering the conditional release of an individual whose detention had been declared arbitrary by the Working Group.

At its 17th session, the Council will consider a report of the Secretary-General on reprisals. In a notable statement, Norway called on the States mentioned in the report to inform the Council of steps taken to investigate cases of reprisals.³³ The June session will be an opportunity for the Council to develop a more concrete, timely and meaningful response to cases of reprisals.

CONCLUSION AND NEXT STEPS

Several elements have influenced what may be the beginning of changing dynamics at the Council. First of all, the changing geopolitical context triggered by the protests in the Middle East and North Africa has shaped the spirit of the 16th session to a large extent. In particular, the engagement of the Tunisian and Ivorian delegation in relation to the respective resolutions has shown the Council has a legitimate and useful role to play in holding governments to account for human rights violations, and in assisting countries in efforts to improve their human rights records. In addition, the challenges to repressive governments seen in the region may over time lead to an improvement of the role of these States in multilateral human rights diplomacy. The defection of the Libyan mission in Geneva during the special session and the similar move by the Yemeni delegation towards the end of the 16th session point in that direction. Although no clear shift in the position of Egypt in Geneva is visible to date, Egyptian diplomats have referred on numerous occasions to their 'homemade revolution' to boost their legitimacy. While the

credibility of such claims is questionable, it is interesting to see these States adopt a human rights narrative.

The second element of success was the consistent and positive engagement of the US. The mixture of constructive engagement, principled positions and pressure where needed, deployed over the past two years, is beginning to pay off. In September 2009, when the US and Egypt managed to re-establish consensus on the freedom of expression resolution, it became clear that the sustained involvement of the US in the Council could bring fresh air into old debates. Prior to that, the extension of the country-specific mandate on the Sudan at the June 2009 session was also a testimony to this new role.³⁴ The consistent and inclusive cross-regional approach brought by the US to the creation of a new Special Rapporteur on the rights to freedom of peaceful assembly and of association, in September 2010, was another important milestone.³⁵

Finally, the recently concluded review has contributed its part to the changing dynamics witnessed at the March session. Although the outcome of the review process can be considered a lost opportunity for the Council, the months of thinking and discussions on how the Council could improve its response to such situations have proven useful. Perhaps it was the failure to agree on any concrete outcome to improve the Council's response to country situations, which highlighted the centrality of this issue for the Council's credibility. Throughout the review process, and particularly in its final phase, many delegations from middle-ground countries attempted to present innovative and creative solutions to this problem.³⁶ Although no agreement was reached as part of the review, the successive special sessions on Côte d'Ivoire and Libya and the positive outcome of the March session have shown what many have argued from the beginning: that given the necessary political will, the Council's institutional arrangements are largely sufficient to implement its mandate of addressing violations.

3 April 2011 marked the five-year anniversary since the creation of the Council by General Assembly *Resolution 60/251*. The direction shown by developments at the March session lend hope to those wishing to see the main UN human rights body become more effective, and may indicate that the next five years of the Council's work will be more meaningful for human rights defenders on the ground. ■

30 Adopted with 24 in favour, 14 against, and 7 abstentions. The previous resolution on this topic, A/HRC/RES/12/21 was adopted with a slightly wider margin of 26:15:6.

31 For instance, it is unclear on what basis the resolution elevates 'responsibility' as a value on an equal footing with freedom and dignity, while deliberately omitting equality, which underpins all international human rights instruments. Chile (on behalf of several Latin American countries), Hungary (on behalf of the EU), US and Switzerland made explanations of vote.

32 See the ISHR news story at <http://bit.ly/i6zIO2>.

33 See a webcast at <http://bit.ly/eTdfol>.

34 See ISHR's *Analytical overview of the 11th session of the Human Rights Council*, available at <http://bit.ly/fJ1ZCz>.

35 US, Czech Republic, the Maldives, Nigeria, Lithuania, Mexico, Indonesia, and Latvia.

36 For more information, see the article on p. 7 of this publication.