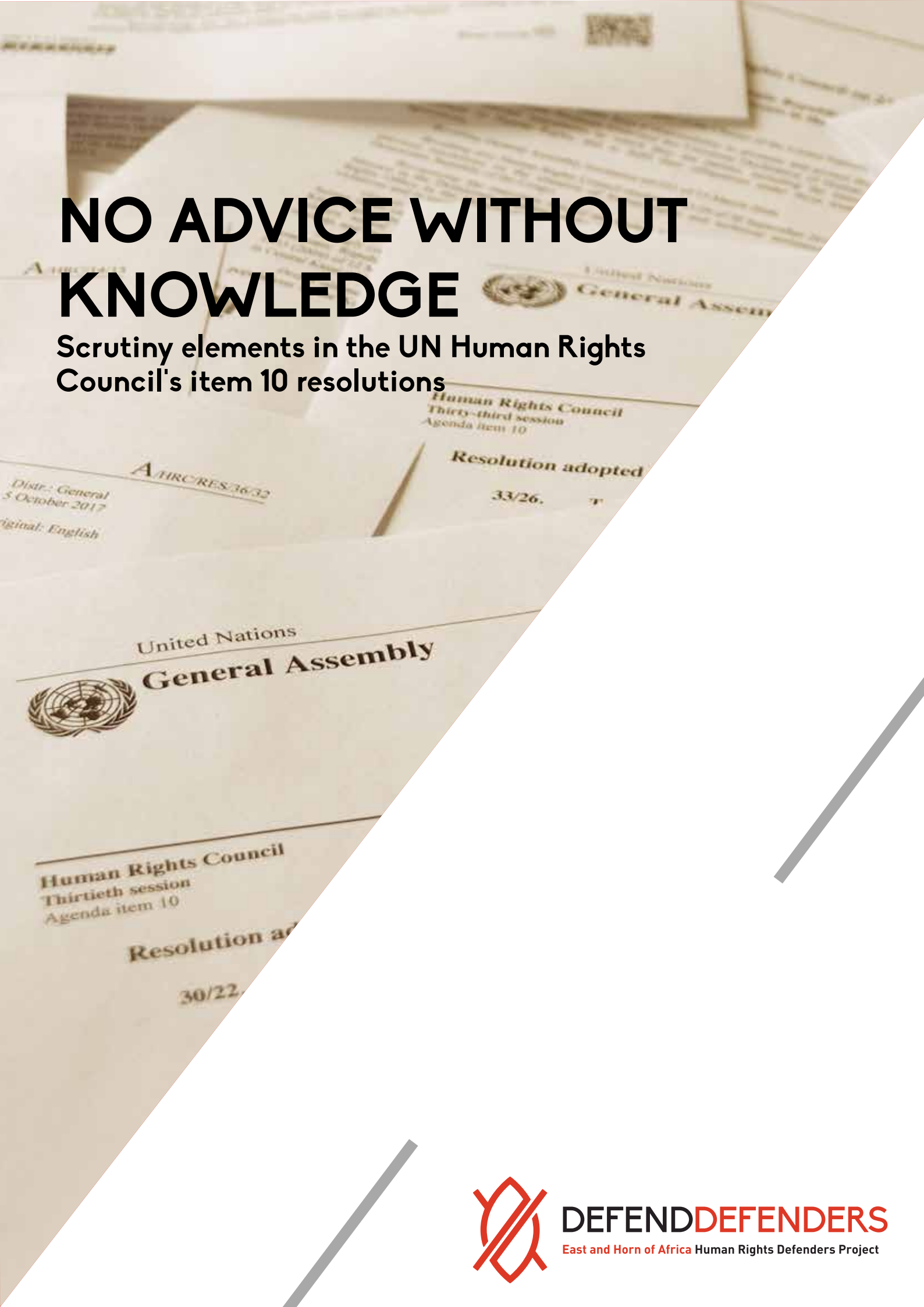


NO ADVICE WITHOUT KNOWLEDGE

Scrutiny elements in the UN Human Rights
Council's item 10 resolutions



DEFEND DEFENDERS

East and Horn of Africa Human Rights Defenders Project

No Advice without Knowledge

Scrutiny elements in the UN Human Rights Council's item 10 resolutions

Published June 2019

DefendDefenders (the East and Horn of Africa Human Rights Defenders Project)
| Human Rights House | Plot 1853 | John Kiyingi Road
Nsambya | P.O. Box 70356 | Kampala | Uganda |

Phone: +256 393 265 820 | +256 393 265 821
Email: program@defenddefenders.org | executive@defenddefenders.org
Web: www.defenddefenders.org

The publication is available online in PDF format at www.defenddefenders.org/our-publications.

Report by Nicolas Agostini, with contributions from David Meffe, Estella Kabachwezi, Siri Berge Engerud, Memory Bandera, and Hassan Shire.

Attribution should be made to DefendDefenders (the East and Horn of Africa Human Rights Defenders Project).

This report is distributed at no charge.

This work is licensed under the Creative Commons Attribution 4.0 International License.

You are free to share, copy, distribute, and transmit the work under the following conditions:

- Attribution: you must attribute the work in the manner specified by the author or licensor (but not in a way that suggests they endorse you or your use of the work);
- Non-Commercial: you may not use this work for commercial purposes;
- No Derivatives: you may not alter, transform, or build upon this work.





DEFENDDEFENDERS

East and Horn of Africa Human Rights Defenders Project

No Advice without Knowledge

Scrutiny elements in the UN Human Rights Council's item 10 resolutions

Table of Contents

About DefendDefenders	6
Foreword	7
Executive Summary	8
Introduction: Why Study Council Resolutions?	10
Methodology: How to Analyse Resolutions?	12
Item 10 Resolutions: Contents and Evolution	20
• Dimension 1: Monitoring, Prevention, and Documentation	20
• Dimension 2: Reporting, Advocacy, and Visibility	25
• Dimension 3: Advisory Services (Technical Assistance and Capacity Building)	34
• A typology of item 10 resolutions	39
• Strengths of the Council's practice in the framework of item 10	41
• Space for improvement	42
• State behaviour in relation to item 10	43
Conclusion: No Advice without Knowledge	46
Recommendations	48
Annex 1: Indicators and Coefficients Used	52
Annex 2: Summary of Data Obtained	63
Annex 3: Agenda of the Human Rights Council	66

Abbreviations

CAR	Central African Republic
CoI	Commission of Inquiry
CSO	Civil society organisation
DDR	Disarmament, demobilisation, and reintegration
DRC	Democratic Republic of the Congo
GD	General debate
HC	UN High Commissioner for Human Rights
HRC	UN Human Rights Council
HRC35	(etc.) 35 th session of the UN Human Rights Council (HRC35, HRC36, etc.)
HRD	Human rights defender
IBP	“Institution-Building Package” of the Human Rights Council
ICC	International Criminal Court
IDP	Internally displaced person
IE	Independent Expert
ID	Interactive dialogue
NGO	Non-governmental organisation
NHRI	National human rights institution
NISS	National Intelligence and Security Service (Sudan)
OHCHR	Office of the UN High Commissioner for Human Rights
OP	Operative paragraph
PKO	Peacekeeping operation
PP	Preambular paragraph
SP	Special procedure
SR	Special Rapporteur
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNGA	UN General Assembly
UNIIB	United Nations Independent Investigation on Burundi
UNSC	UN Security Council
UPR	Universal Periodic Review

About DefendDefenders

Established in 2005, DefendDefenders (the East and Horn of Africa Human Rights Defenders Project) seeks to strengthen the work of human rights defenders (HRDs) throughout the sub-region by reducing their vulnerability to the risk of persecution by enhancing their capacity to effectively defend human rights. DefendDefenders focuses its work on Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia (with Somaliland), South Sudan, Sudan, Tanzania, and Uganda.

DefendDefenders serves as the secretariat of the East and Horn of Africa Human Rights Defenders Network, which represents hundreds of members consisting of individual HRDs, human rights organisations, and national coalitions that envision a sub-region in which the human rights of every citizen as stipulated in the Universal Declaration of Human Rights are respected and upheld.

DefendDefenders also serves as the secretariat of AfricanDefenders (the Pan-African Human Rights Defenders Network). AfricanDefenders aims to coordinate activities in the areas of protection, capacity building, and advocacy across the African continent, supporting the five sub-regional networks: the North Africa Human Rights Defenders Network (hosted by the Cairo Institute for Human Rights Studies in Tunis, Tunisia), the West African Human Rights Defenders Network (Lomé, Togo), the Southern Africa Human Rights Defenders Network (hosted by the International Commission of Jurists in Johannesburg, South Africa), the Central Africa Human Rights Defenders Network (Douala, Cameroon), and the East and Horn of Africa Human Rights Defenders Network (hosted by DefendDefenders in Kampala, Uganda).



Foreword

Discussing the United Nations (UN) Human Rights Council's ("HRC" or "the Council") agenda items sounds like something that should remain in the "Geneva bubble." For nearly all of the world's citizens, "item 10" or "item 4" do not ring any bells. For the overwhelming majority of international affairs specialists, they sound like esoteric UN language. And they are irrelevant even to most human rights defenders (HRDs). However, item numbers reflect possible, alternative approaches to situations of human rights violations. Behind "item 10" or "item 4" is a fundamental, almost philosophical, question: how does the international community tackle domestic human rights situations? Should the Council use public or quiet diplomacy? Should it go hard or soft on governments? Should it condemn, or encourage, violators?

Item 4 ("Situations that require the Council's attention") is the tough approach. It is based on exposure and condemnation. It is used to address serious violations, including situations of gross and systematic violations that may involve international crimes. Item 4 is based on the premise that the countries under consideration lack political will to bring violations to an end, and that public pressure must be exerted on the governments that are responsible. Item 10, entitled "Technical assistance and capacity-building," is the soft approach. It is used with the consent of the country concerned and is based on the assumption that the recipients lack not political will, but advice and resources.

This research project stems from a shared frustration by DefendDefenders and its partners over the way some governments have used the Council's item 10. While the latter claim that they need assistance, they in fact lack the political will required to improve their record. Some of them also claim that item 10 resolutions should not contain any condemnation of – or even public reporting on – their human rights situation.

As this report shows, their position is mistaken and weakens the value of item 10, which can be a great tool for improving the situation in countries that lack advice and capacity but have the will to advance human rights. The behaviour of States that wish to deprive item 10 of scrutiny elements may even constitute a form of self-indictment: by rejecting the spirit and practice of item 10, they act in bad faith and prove that the assumption in which item 10 is grounded is sometimes erroneous. A rational observer may conclude that the Council should use other approaches to tackle these country situations.

We are pleased to publish this report, which demonstrates that scrutiny is part and parcel of item 10. It will provide diplomats, UN officials, observers, researchers, and human rights advocates with a long overdue evidence-based analysis of the Council's item 10 resolutions.

We hope that it will contribute to enhancing the quality of the Council's resolutions, paving the way for more research and reflection on the use of agenda items, and holding states to account. DefendDefenders, whose mandate covers 11 countries (five of which are currently on the Council's agenda), stands ready to do its part.

Yours in solidarity,



Hassan Shire
Executive Director, DefendDefenders
Chairperson, AfricanDefenders

Executive Summary

Resolutions of the Council are often discussed; yet, they are rarely analysed. Focusing on 121 resolutions the Council adopted in the framework of its agenda item 10 (“technical assistance and capacity-building”) from 2006 until the end of 2018, this report analyses both their contents and their evolution. Using an original research method, it focuses on the presence of scrutiny (i.e., monitoring and public reporting) elements in the Council’s item 10 resolutions.

The report has several objectives, including: (i) providing those who work on and at the Council with better knowledge of item 10 resolutions, (ii) serving as a database for those who conduct research, and (iii) serving as a guidebook for diplomats, human rights advocates, and staff members of the Office of the UN High Commissioner for Human Rights (OHCHR) ahead of, during, and after the adoption of HRC resolutions. To support these objectives, the report formulates a number of recommendations to stakeholders, including the Council and states.

In order to make claims about Council resolutions, the report examines the latter’s characteristics in a systematic manner, relying on both quantitative and qualitative methods. It uses a statistical meta-analysis and draws inspiration from linguistic methods, including textual analysis. It aims to address the following questions: what is in item 10 resolutions and how has item 10 evolved over time? To what extent is the assumption that “scrutiny elements” belong in the Council’s item 4 true? Is the claim that under item 10, the Council acts as a service provider, valid? Are states justified in criticising the presence of scrutiny elements in item 10 resolutions?

Analysis is carried out using a three-dimensional spreadsheet. Dimension 1 (monitoring) measures to what extent HRC resolutions contain elements of monitoring, investigation, prevention, and protection. Dimension 2 (reporting) measures the extent to which the resolutions contain elements of public reporting, condemnation, justice/accountability, and advocacy/pressure. Dimension 3 (advisory services) focuses on the presence of scrutiny elements in relation to these services.

Each dimension is assessed with sub-dimensions and indicators that measure the degree of scrutiny involved. “Scores” are thus obtained for each dimension, and an “Overall Scrutiny Score” is obtained for each resolution. Each resolution falls within one of the four categories of this report’s typology, namely “light scrutiny,” “moderate scrutiny,” “strong scrutiny,” or “intense scrutiny.” A second spreadsheet tracks the occurrence of key words and expressions in resolutions. It is basically a term-frequency matrix.

Research findings show that scrutiny is part and parcel of item 10. Resolutions adopted in the framework of item 10, and the mandates they have created, are much more than “technical.” They cover much more than “advisory services,” and the Council itself is much more than a mere service provider. Scrutiny is one of its core functions, and as the report demonstrates, item 10 resolutions have included more and more scrutiny elements over time.

About a third of all resolutions (35 percent) are scrutiny-intensive. This result is largely due to resolutions adopted in the Council’s latest period (2014-2018, and particularly 2016-2018). Overall, 60 percent of all item 10 resolutions are either “intense” or “strong” in terms of scrutiny. This percentage has continuously increased. Only 13 percent of all item 10 resolutions to date score “light,” and their share has decreased over time.



Identifying criteria to help the Council better distinguish between item 10 and other approaches to country situations should be an objective for all those who wish to enhance the Council's effectiveness. This report, however, is not the place to do so. Nevertheless, it points to evidence of "good" and "bad" state behaviour with regard to item 10, and paves the way for more research on this topic. Good faith behaviour in line with the spirit, tools, and practice of item 10 means that the state concerned engages in constructive action and demonstrates its political will to address the main human rights issues, improve the situation, and bring violations to an end. Conversely, a state's bad faith can be identified through a range of corroborating evidence ("faisceau d'indices").

Ultimately, if a government has the political will to improve its human rights situation, then it will accept a minimal degree of scrutiny, in line with the spirit and practice of item 10. Governments that reject minimal elements of monitoring or public reporting show that they are not committed to effective advisory services. The latter require access, cooperation, voice (including speaking out on violations and abuses and on risks), action (on recommendations), and respect (for all stakeholders). Technical assistance and capacity-building can only be successful if based on an in-depth, ongoing analysis of the situation and patterns of violations and abuses.

Introduction: Why Study Council Resolutions?

Resolutions of the Council are often discussed; yet, they are rarely analysed. Those who work with the Council, including diplomats, UN officials, and human rights advocates, all have their own views about what a “good resolution” and a “bad resolution” look like. Surprisingly, however, there have been very few attempts at analysing the textual contents of country-specific resolutions adopted under the Council’s various agenda items.¹

Behind agenda item numbers is the fundamental issue of how the Council tackles domestic situations. Dichotomies (“public vs. quiet diplomacy,” “‘naming and shaming’ vs. encouragement”) are often used, but they can be misleading. Ideal-types are myths; in practice, they are nowhere to be found. Myths need to be debunked, and this report aims to do just that.

The last few years have witnessed an increase in the number, and percentage, compared to other country-specific items, of resolutions adopted in the framework of item 10 (“Technical assistance and capacity-building”). This item is widely seen as consensual. Although exceptions exist, the general rule is that item 10 resolutions are adopted by consensus (i.e., without a vote) and with the consent of the country concerned. This is logical, as in order to provide advisory services, the Council and other stakeholders need to enter into a dialogue with the authorities of, and have access to, the country concerned.

The large number of item 10 resolutions adopted to date makes it possible to conduct a meaningful, detailed analysis of their contents. More precisely, this report looks at the contents and evolution of item 10 resolutions over time, with a focus on “scrutiny elements” (see the methodology section below). This focus is justified by the need to test common knowledge about item 10, namely that it is a technical, consensual item that is used to support the countries concerned (traditionally, item 4, which includes more substantive language on violations and government conduct, including attribution of responsibilities, is reserved for condemnation).

This report has several objectives. Firstly, it aims to provide those who work on, and at, the Council with better knowledge of item 10 resolutions. The quantitative and qualitative methods used in this report provide fact-based evidence of the contents and evolution of these resolutions, and insights about what they mean in practice. Then, the report and the tables used to analyse resolutions (see below) can serve as a database for those who conduct research, either on the Council or on international responses to specific country situations.

The report also presents a set of recommendations, and can thus serve as a guidebook for diplomats ahead of, and during, negotiations of HRC resolutions. It may help them keep in mind, and refer to, precedents, and it could evolve into a “checklist” for diplomats and human rights advocates working to improve HRC resolutions.² OHCHR staff members may also find it useful in

¹ Standing agenda items that are dedicated to, or make possible the adoption of resolutions on, country situations include 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”), item 4 (“Human rights situations that require the Council’s attention”), item 7, (“Human rights situation in Palestine and other occupied Arab territories”) and item 10 (“Technical assistance and capacity-building”). Item 1 (“Organizational and procedural matters”) may be used for the adoption of President’s statements.

² A “checklist” for each resolution could be considered, including questions such as “Is this element necessary?,” “Does it add value to the text?,” “What language is more precise?,” “Are there internal inconsistencies in the resolution?,” etc. Research was also conducted with calls to reflect on and improve the quality of HRC resolutions in mind. For instance, operative paragraph



their post-HRC work (i.e., implementation of resolutions), in particular when drafting reports on human rights in, advisory services for, and cooperation with, the countries concerned.



2 (OP) of HRC resolution 33/28 reads: “[The Council] [e]ncourages States, relevant international organizations, intergovernmental bodies and civil society, including non-governmental organizations, to reflect on the achievements made and obstacles faced in their past efforts pertaining to technical cooperation and capacity-building in the field of human rights, and to deepen their dialogue and collaboration with a view to bolstering efforts to promote the enjoyment of human rights by all” (HRC resolution 33/28, “Enhancement of technical cooperation and capacity-building in the field of human rights,” 30 September 2016, available at: ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/33/28 (accessed on 9 November 2018)).

Methodology: How to Analyse Resolutions?

Analysing resolutions and texts³ produced by diplomatic bodies such as the Council is challenging. Indeed, constructing the body of texts the Council has adopted under its item 10 throughout its 13 years of existence as an object of research requires both (a) paying attention to their conditions of production (they are the outcomes of political negotiations) and the categories they employ (words, expressions, mechanisms, references, format, etc.), and (b) analysing their main features, with due reference to international human rights standards, discourses, and practices. An analysis of item 10 resolutions is all the more challenging since scrutiny elements, which are the focus of the present report, are not supposed to belong in these resolutions – they are rather regarded as belonging in resolutions adopted under other items.⁴

To be able to make claims about the Council's item 10 resolutions, one must study their characteristics in a systematic manner, using categories of analysis consistently. In order to identify and assess the presence of scrutiny elements in resolutions, this report will rely on both quantitative and qualitative methods. It will use a statistical meta-analysis, and will draw inspiration from linguistic methods, including textual analysis, to study individual resolutions.

Research questions and hypotheses

The main questions this report seeks to address are the following. Firstly, what is in item 10 resolutions? What elements can one identify in the 121 resolutions the Council adopted in the framework of its item 10 from its creation to its 39th regular session? Has there been an evolution over time?

Secondly, to what extent is the assumption that scrutiny elements belong in the Council's agenda item 4 true? Common sense among Geneva-based diplomats, UN officials, observers, and human rights advocates is that the “strongest” (meaning: the most condemnatory) resolutions are those adopted under item 4. Item 2 resolutions are supposed to be focused on reporting, while item 10 is supposed to deal with the countries concerned in a technical, non-condemnatory manner. In the last few years, the focus on specific agenda items has decreased; however, the distinction between items still exists at the political, discursive/symbolic (item 4 is the item no state wants to find itself in!), and analytical levels. With this caveat in mind, to what extent are scrutiny elements present in item 10 resolutions?

Thirdly, is the claim that under item 10 the Council acts as a mere service provider, valid? This question is intimately linked to the second. To answer it, this report will examine to what extent the Council, using item 10, acts as a body that contents itself with providing advisory services (technical assistance and capacity-building) or to what extent it does not content itself with providing services but speaks out on violations, monitors and reports on the situation of the countries concerned.

Lastly, this report will attempt to address the issue of whether states are justified in criticising the

³ Throughout this report, for the sake of clarity, the word “resolution” is used to refer to the 121 texts adopted by the Council in the framework of its agenda item 10, from its creation to the end of 2018. From a formal perspective, some of these texts are “decisions” or “President's statements,” which does not modify the analysis.

⁴ NB: Before the sixth session of the Council (HRC6), no item numbers are formally indicated on resolution sheets; however, their wording provides indications that make it possible to attribute them to item 10.



presence of scrutiny elements in item 10 resolutions, and whether there are “good” and “bad” examples of state behaviour with regard to item 10.

Initial hypotheses are that:

- (i) First, item 10 is not item 4. The two items represent two different approaches, which can be summarised by “cooperation and support” on the one hand, and “exposure and pressure” on the other. These are of course ideal-types; in practice, things are more blurred. However, this is a working hypothesis, which will be tested.
- (ii) Second, logic requires that to be able to provide technical advice to a recipient country effectively, the Council must possess a good knowledge of the situation in that country. This somehow goes against Hypothesis (i), according to which scrutiny is a feature of item 4. However, common sense has it that technical assistance and capacity-building, which are provided through item 10, do not occur in a vacuum. To be effective, they must be based upon an analysis of the situation in the country concerned.⁵ This hypothesis will also be tested.

Definitions

“Scrutiny” includes both monitoring and (public) reporting. Scrutinising a country situation means (a) being able to gather information on human rights violations, abuses, patterns, issues and challenges, monitor the situation and developments, and document cases of violations; and (b) being able to publicly report on the situation and advocate for progress. In short, it means bringing relevant information to the attention of decision-makers and stakeholders.

“Investigation” is the documentation of a human rights situation (in particular, individual instances of violations and abuses), including by verifying the information gathered, establishing the facts and circumstances of these violations and abuses, and possibly identifying those responsible and collecting and preserving relevant evidence. It relies on primary sources, including interviews with victims, survivors and witnesses, direct observation, and established methods of evidence-gathering, which are often similar to prosecutorial and criminal investigation methods (even if the standards of proof and evidentiary requirements may differ). Investigation relies on prime, first-hand information. For instance, OHCHR gathers information through direct field work. In some cases (when evidence has been properly collected and preserved, and perpetrators have been identified), criminal responsibility can be attributed. Investigation is more inquisitive or accusatory than “monitoring” (see below). However, since neither the Council nor the mechanisms it sets up are judicial bodies, attribution of responsibility is done with a view to preserving the presumption of evidence – typically, the phrasing used relies on the conditional (phrasing found in UN reports includes “acts that ‘may amount to...’ international crimes” or similar, cautious phrasing).

“Investigative mechanisms” are accountability mechanisms. They may prepare the ground for prosecution by building criminal case files, especially when national (police, justice) mechanisms are unable or unwilling to fulfil their functions.

“Monitoring” (“assessment,” “evaluation,” or the action of “following” a country situation) does not involve the entirety of methods investigation relies upon. Secondary sources may suffice, which brings monitoring closer to a “review of literature” in social science: it gives a decent idea of the state of play/situation, but it is not information gathered through direct research based on primary sources and materials. The person/body/mechanism conducting monitoring may be

⁵ Conversely, Item 4 resolutions contain elements of technical assistance, even if they are minimal (for instance, calls for a review of legislation and recommendations to repeal laws or amend them to bring them in line with international standards are elements of technical advice).

more in a neutral, observer role than an investigator. Monitoring usually focuses on the macro-level or the “bigger picture,” while investigation deals with the micro-level (delving into the details of individual cases of violations and abuses).⁶ With monitoring, attribution of responsibility is rather of a political or moral nature, as the evidentiary requirements used by judicial bodies are usually not met.

These are ideal-types. In practice, monitoring and investigative activities are often intertwined, depending on capacity (in terms of human resources or access to the relevant places and persons) and the fact that the mandate given to the body or mechanism in charge may contain mixed elements.

“Advisory services” means technical assistance and capacity-building (i.e., the official focus of the Council’s agenda item 10). They encompass the full range of technical support the international community can provide to a recipient country. Technical assistance may involve the review of laws, regulations, policies, and practices in order to bring them in line with international standards; advice on compliance with state obligations; or assistance in the drafting of legislation. Capacity-building may involve the provision of training to state agents; awareness-raising campaigns; or the organisation of workshops with representatives of various segments of society (the state, civil society, private sector, etc.).

“Special procedures” are the expert mechanisms set up by the Council to independently work on specific issues or countries. In the context of this report, country-specific special procedure mandates will be discussed.

According to the Cambridge Dictionary, a **“resolution”** is “an official decision that is made after a group or organisation has voted” on a topic. In the UN context, a resolution is a document outlining a collective position on a particular theme or country (or “country situation,” in the UN language). Typically, a UN resolution contains a statement of purpose, references to previous resolutions or texts on the same topic, an analysis of the situation that justifies the adoption of a resolution, and action points with recommendations and requests from various stakeholders, including governments concerned as duty-bearers. A resolution is divided into a “preambular” part and an “operative” part. *Per se*, HRC resolutions are not legally binding, although they do reference binding instruments and resolutions, for instance, international treaties and UN Security Council (UNSC) resolutions. However, they are endowed with moral and political authority as resolutions adopted by the UN’s main human rights body.

A comprehensive list of indicators, together with explanations of their use and rationale within this research project, is featured in the annex.

Three-dimensional table

For the purpose of this report, a three-dimensional Excel® spreadsheet was designed to make the handling and analysis of indicators easier. The three dimensions measured by the spreadsheet are the following. **Dimension 1** is the monitoring dimension. It is designed to measure to what extent the resolutions considered contain elements of monitoring, investigation, and documentation with regard to the domestic situation of the country concerned. It also contains elements of prevention, i.e. how the Council acts at an early stage to prevent a deterioration of the situation in the country concerned. **Dimension 2** is the reporting dimension. It measures to

⁶ In practice, things are more blurred. In particular, OHCHR field offices conduct research into specific issues or incidents and meet with primary sources of information (victims, survivors, witnesses, grassroots communities, NGOs). At the same time, they carry out monitoring of the situation in the country concerned.



what extent resolutions contain elements of public reporting, condemnation, visibility/exposure, and advocacy/pressure. **Dimension 3** focuses on scrutiny elements in the realm of/in relation to advisory services. It measures to what extent technical assistance and capacity building elements go beyond the technical level and provide for scrutiny, i.e., knowledge, of the country concerned.

Each dimension is assessed with **sub-dimensions** and **indicators** (see Annex 1 for a detailed explanation of each indicator) that measure the degree of scrutiny involved. If the element we seek to measure is present, the relevant cell is marked with “1.” If the element is absent, the cell is marked with “0.” Thus, after a textual analysis of each resolution, each cell in the spreadsheet is given a binary coding (1/0). This makes it possible to compile meta-data about the 121 resolutions included in this research project.

Allocation of 1s and 0s is done through three readings of each resolution. **Harmonisation** is ensured through a fourth reading of each resolution, and then through a fifth reading, which was conducted after the adoption of new resolutions at HRC39 (September 2018). These resolutions are included in the analysis. The same words and expressions are thus interpreted – and coded – the same way for all resolutions, ensuring objectivity and consistency.

This report focuses on item 10 resolutions. Therefore, resolutions that mark the move of a country situation from this item to another (for instance, to item 4) are omitted. For instance, HRC resolution 30/27 on Burundi is included in this report, but since Burundi was later moved to item 4, the following resolutions on the country are not. Conversely, while resolutions adopted under 2 or 4 are not included in this report, if the countries concerned are then moved to being considered in the framework of item 10, the relevant resolutions are included. This was the case for Côte d’Ivoire and Sudan. Since resolutions adopted during special sessions are not attributed any item number, they are not included in this report. Lastly, thematic resolutions adopted in the framework of item 10⁷ are left out of the spreadsheets, as they are not country-specific. However, some of their elements may be useful in understanding the Council’s practice. Therefore, they were read and factored into reflections in relation to the overall research.

The next step involves **coefficients**. As all indicators do not carry the same weight in terms of scrutiny (some of them indicate a higher degree of scrutiny than others), different coefficients (1, 2, or 3) are attributed to each indicator. An indicator that shows an intense level of scrutiny (for instance, Indicator 1.a.2.: “Resolution confers a mandate to investigate violations and abuses, inquire, and/or establish, verify or determine the facts”) will be associated with a stronger coefficient (here: 3) than an indicator that reflects a limited level of scrutiny (for instance, Indicator 3.d.2. (“Resolution refers to the UPR of the country concerned”), which is associated with a weak coefficient (1)). This way, each indicator, if satisfied, results in giving the relevant resolution a more or less significant “scrutiny score.” The annexes present a rationale for all coefficients attributed to indicators.

Scores are obtained for each dimension (Dimension 1, Dimension 2, and Dimension 3) and for the resolutions in their entirety. To obtain an **Overall Scrutiny Score** for each resolution, additional coefficients are applied. For each resolution, 40 percent of the overall score comes from Dimension 1 (monitoring), 40 percent comes from Dimension 2 (reporting), and another 20 percent comes

⁷ The Council has adopted thematic item 10 resolutions on “Enhancement of international cooperation in the field of human rights” (or “Enhancement of technical cooperation and capacity-building in the field of human rights,” or “Enhancement of technical cooperation and capacity-building in the field of human rights”), “Regional cooperation for the promotion and protection of human rights [in the Asia-Pacific Region],” “National policies and human rights,” “Technical cooperation for the prevention of attacks against persons with albinism,” or “Promoting international cooperation to support national human rights follow-up systems and processes.”

from Dimension 3 (scrutiny elements in relation to advisory services).⁸

Categorisation is then possible, qualifying resolutions according to their overall scrutiny score. Each resolution falls within one of the four categories of the report's central typology, namely "light scrutiny," "moderate scrutiny," "strong scrutiny," or "intense scrutiny." This process brings about scrutiny scores for each resolution under each dimension. All scores are available on a dedicated page on DefendDefenders' website.⁹ Data is available for each resolution in a transparent manner, allowing the reader to both verify the satisfaction/non-satisfaction of each indicator and obtain detailed information about resolutions.

A detailed explanation of all indicators and coefficients attributed to them is available in Annex 1. A note on the **typology** of resolutions is also included in the annex. The Overall Scrutiny Score for a resolution (x) is as follows:

Intense scrutiny:	$x \geq 18$	Moderate scrutiny:	$12 > x \geq 6$
Strong scrutiny:	$18 > x \geq 12$	Light scrutiny:	$6 > x \geq 0$

The scores for each dimension (x = score for a resolution) are as follows:

Dimension 1:

Intense scrutiny:	$x \geq 18$	Moderate scrutiny:	$12 > x \geq 6$
Strong scrutiny:	$18 > x \geq 12$	Light scrutiny:	$6 > x \geq 0$

Dimension 2:

Intense scrutiny:	$x \geq 27$	Moderate scrutiny:	$18 > x \geq 9$
Strong scrutiny:	$27 > x \geq 18$	Light scrutiny:	$9 > x \geq 0$

Dimension 3:

Intense scrutiny:	$x \geq 18$	Moderate scrutiny:	$12 > x \geq 6$
Strong scrutiny:	$18 > x \geq 12$	Light scrutiny:	$6 > x \geq 0$

The four groups (Intense, Strong, Moderate, Light) correspond to value-based quartiles (Q4, Q3, Q2, Q1) that were calculated on the basis of the range comprised between the maximum and minimum values (scores) for each dimension. The maximum and minimum values are as follows:

Dimension 1:	Max = 24; Min = 0	Dimension 3:	Max = 23; Min = 0
Dimension 2:	Max = 36; Min = 0	Overall Scrutiny Score:	Max = 26.6; Min = 0

⁸ Given that this last dimension only measures what goes beyond the technical aspect of advisory services.

⁹ Webpage : <https://www.defenddefenders.org/publication/no-advice-without-knowledge/>



Here is an example (HRC resolution 33/17, which is entitled “Assistance to Somalia in the field of human rights”):

Dimension 1

1.a. Mandate given by the resolution

1.a.1. Yes (= 1); 1.a.2. No (= 0); 1.a.3. Yes (= 1)

1.b. Prevention and protection aspect

1.b.1. No (= 0); 1.b.2. Yes (= 1); 1.b.3. Yes (= 1)

1.c. Actions requested by the resolution

1.c.1. No (= 0); 1.c.2. Yes (= 1); 1.c.3. No (= 0); 1.c.4. No (= 0)

Score for Dimension 1 (coefficients (2; 3; 2 (for 1.a.); 3; 3; 2 (for 1.b.); and 2; 2; 3; 2 (for 1.c.), respectively) having been attributed to each indicator) = 11 (“Moderate”)

Dimension 2

2.a. Public reporting aspect

2.a.1. Yes (= 1); 2.a.2. No (= 0); 2.a.3. No (= 0)

2.b. Condemnatory aspect

2.b.1. Yes (= 1); 2.b.2. Yes (= 1); 2.b.3. Yes (= 1); 2.b.4. Yes (= 1); 2.b.5. Yes (= 1); 2.b.6. Yes (= 1)

2.c. Length of the resolution

2.c.1. = 8; 2.c.2. = 21; 2.c.3. = 29

2.d. Accountability and justice aspect

2.d.1. Yes (= 1); 2.d.2. Yes (= 1); 2.d.3. Yes (= 1)

2.e. Actions requested by the resolution

2.e.1. Yes (= 1); 2.e.2. Yes (= 1); 2.e.3. Yes (= 1)

2.f. Ongoing consideration by the HRC

2.f.1. No (= 0); 2.f.2. No (= 0); 2.f.3. No (= 0); 2.f.4. Yes (= 1)

Score for Dimension 2 (coefficients (2; 3; 3 (for 2.a.); 2; 3; 2; 3; 3; 2 (for 2.b.); 2; 3; 3 (for 2.d.); and 2; 3; 3 (for 2.e.) respectively) having been attributed to each indicator) = 33 (“Intense”)

Dimension 3

3.a. Quality and scope of advisory services

3.a.1. Yes (= 1); 3.a.2. Yes (= 1); 3.a.3. Yes (= 1)

3.b. Title of the resolution

3.b.1. No (= 0); 3.b.2. No (= 0); 3.b.3. Yes (= 1)

3.c. Main stakeholder

3.c.1. Yes (= 1); 3.c.2. Yes (= 1)

3.d. Coordination and cross-fertilisation aspect: is the intervention of the HRC holistic?

3.d.1. Yes (= 1); 3.d.2. Yes (= 1); 3.d.3. Yes (= 1); 3.d.4. No (= 0); 3.d.5. Yes (= 1); 3.d.6. Yes (= 1)

Score for Dimension 3 (coefficients (3; 3; 3 (for 3.a.); 1; 2 (for 3.c.); and 3; 1; 3; 3; 2; 2 (for 3.d.), respectively) having been attributed to each indicator) = 23 (“Intense”)

Overall Scrutiny Score = 22.2 (Category = “Intense”)

For each indicator, **percentages** (except for Indicator 2.c.: “Length of the resolution”) are obtained by dividing the column’s total by 121 (the total number of resolutions). The row entitled “Total” indicates how many resolutions (in absolute terms) fulfil the indicator in each column. Percentages indicate how many resolutions, in relative terms (in percent), fulfil the indicator shown in each column. To refine the analysis, sums and percentages are also calculated for successive periods in the Council’s existence, namely:

- 2006-2011 (from HRC2 to HRC18) (37 resolutions);
- 2012-2015 (from HRC19 to HRC30) (51 resolutions); and
- 2016-2018 (from HRC31 to HRC39) (33 resolutions).

(For these periods, in each column the percentage is obtained by dividing the sum for the period by 37, 51, and 33, respectively.) And:

- 2006-2013 (from HRC2 to HRC24) (63 resolutions); and
- 2014-2018 (from HRC25 to HRC39) (58 resolutions).

(For these periods, in each column the percentage is obtained by dividing the sum for the period by 63 and 58, respectively.)

Table of occurrences

The second Excel® spreadsheet tracks the occurrence of key words and expressions in the resolutions. It is a term-frequency matrix based on a strict textual analysis of the 121 resolutions included in the report. This table is used to refine the analysis.

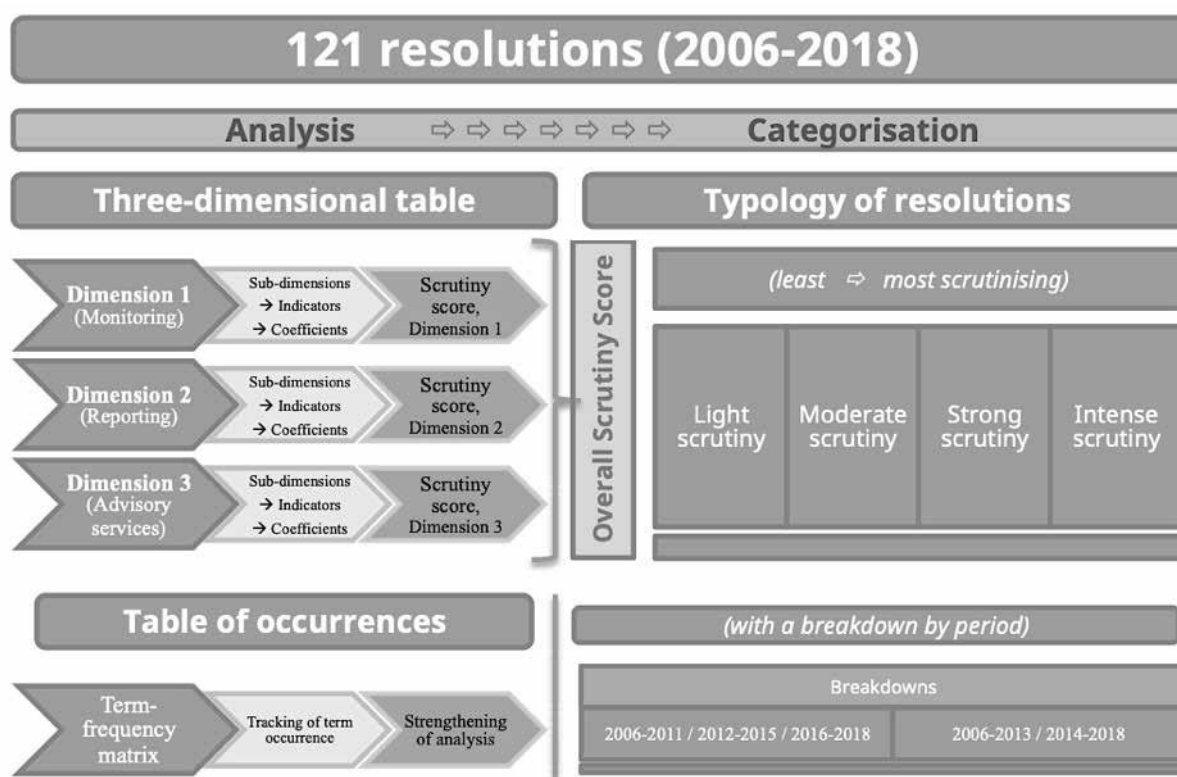


Figure 1: Methodology chart

Methodological caveats

This research project is based on an original method to analyse Council resolutions. This report aims to be as objective, transparent, and accurate as possible, while acknowledging limitations and margins of human error. It is hoped that analysis of Council resolutions and dynamics will be refined over time with a view to helping stakeholders enhance the quality of the Council's outcomes.

The indicators used are “quantitative” insofar as they are expressed in figures and percentages. However, the analysis is both quantitative and qualitative, as it involves an interpretation of the data obtained. In line with social-scientific methods, the indicators contained in the tables are “objective” as they translate facts or events that can be observed and verified (namely, the presence in, or absence from, a resolution of a specific element, or the number of paragraphs in a resolution) into figures.

These indicators aim to objectively measure what this research project focuses on: scrutiny elements in item 10 resolutions. They rely on categories that are widely used in the human rights sphere, particularly by actors who work on and at the Council (diplomats, UN officials, researchers, members of non-governmental organisations (NGOs) or civil society organisations (CSOs), and advocates). “Monitoring” is measured by the mandates given to OHCHR or the dedicated mandate-holders; prevention and protection aspects; and actions requested by the resolutions, in particular cooperation, the granting of access, and preventative measures. The public reporting aspect of resolutions; condemnatory elements; the accountability aspect of resolutions measures “Reporting”; and the actions requested. “Advisory services” (that go beyond purely technical aspects) are measured by the quality and scope of the technical assistance and capacity-building services provided; the issue of which stakeholders are involved; and cross-fertilisation with other human rights bodies and mechanisms.

Other indicators could have been added. However, DefendDefenders believes that the indicators used in this report accurately measure to what extent a specific resolution contains “scrutiny” elements. Only three item 10 resolutions (those adopted at the Council's 40th regular session (25 February-22 March 2019)) have been left out, due to the research time frames.

Research for this report was conducted between September 2018 and February 2019. Full tables are available online on DefendDefenders' website and upon request. In the next section, which sets out findings and analysis, results are presented for each indicator with a breakdown by period. Data from the table of occurrences are used to refine the analysis of item 10 resolutions, including their evolution since the Council's creation in 2006.

Item 10 Resolutions: Contents and Evolution

The main question this report seeks to address is that of the contents of item 10 resolutions. Common sense would assume that since the official title of agenda item 10 is “technical assistance and capacity-building,” resolutions adopted in its framework focus on advisory services and say little about the human rights situation in the country concerned. In a nutshell, under item 10, the Council would act as a service provider.¹⁰

However, each paragraph of UN General Assembly (UNGA) resolution 60/251 should be read in conjunction with others. Furthermore, as this report will show, the Council’s practice is as important as the texts to understand how it interacts with governments and what it seeks to achieve. The following sections present and discuss the findings of this research project. They identify key scrutiny characteristics of the 121 resolutions considered, patterns, and evolution over time. They paint a picture that is somewhat different from common sense assumptions regarding the provision of technical assistance and capacity-building.

Dimension 1: Monitoring, prevention, and documentation

The first dimension measures the presence of monitoring elements, as components of “scrutiny,” in the resolutions. There are three sub-dimensions in the table. They focus on (a) the mandate created/given to specific actors (does this mandate contain monitoring/investigative elements? Is a special mechanism created or extended?); (b) the prevention and protection aspect (elements in this sub-dimension indicate that particular attention should be paid to the country’s situation as it could become more serious); and (c) actions requested from the state concerned to facilitate monitoring work (cooperation, granting of access, preventative measures, facilitation of meetings with independent actors).

1.a. Mandate given by the resolution

The first sub-dimension contains three indicators. **Indicator 1.a.1.** examines whether the resolution considered confers a mandate to monitor, assess, or follow the human rights situation, developments, and/or issues. That is, 1.a.1. measures whether the resolution considered provides for monitoring of the situation and/or gives a body or mechanism (OHCHR, a special procedure mandate-holder, or an ad hoc mechanism) a mandate to monitor the situation in the country concerned.

Research findings show that an overwhelming majority of resolutions under item 10 provide for some degree of monitoring. This is achieved either through OHCHR monitoring (when a report is requested or a debate is organised on the country concerned – these quasi-systematically include a discussion of the human rights situation and/or developments) or through a special mechanism (special procedure mandate or similar mechanism). Overall, 88 percent of the resolutions fulfil this

¹⁰ In the Council’s founding resolution, UN General Assembly (UNGA) resolution 60/251, provisions on advisory services are found in paragraphs 4 (“[...] constructive international dialogue and cooperation [...]”), 5(a) (“Decides that the Council shall, inter alia: [...] Promote human rights education and learning as well as advisory services, technical assistance and capacity-building, to be provided in consultation with and with the consent of Member States concerned”), and 5(h) (“Work in close cooperation in the field of human rights with Governments, regional organizations, national human rights institutions and civil society”).



indicator. The percentage has risen from 81 percent for 2006-2011 to 88 percent for 2012-2015, and up to 94 percent for 2016-2018.

Indicator 1.a.2. examines whether the resolution considered confers a mandate to investigate violations and abuses, inquire, and/or establish, verify, or determine the facts. In short, this indicator measures whether the resolution provides for investigation (through OHCHR, a special procedure mandate-holder, or another mechanism). It only examines direct investigative mandates and does not measure whether the Council extends technical assistance to the state concerned so the latter can itself improve its investigation methods or capacity.¹¹

Research indicates that 1.a.2. is satisfied in a minority of resolutions under item 10. Initially low (8 percent of resolutions adopted between 2006 and 2011), the figure grew to 14 percent for the 2012-2015 period, and reached 24 percent for 2016-2018. Overall, 15 percent of all resolutions considered (18 out of 121) contain investigative elements.

Indicator 1.a.3. tracks whether the resolution considered creates or extends a special procedure mandate (of an Independent Expert (IE) or a Special Rapporteur (SR)) or a similar mechanism (such as a Group of Experts, as in HRC resolution 36/31, or a “team of international experts, including experts from the region,” as in HRC resolution 35/33).

Overall, about half of the resolutions (47 percent) satisfy this indicator. In a period encompassing half of the resolutions (2014-2018, from HRC25 to HRC39), a majority of resolutions (52 percent) satisfy it – with the percentage rising to 55 percent if one considers the period 2016-2018 specifically.

	(overall)	2006-2011	2012-2015	2016-2018	2006-2013	2014-2018
1.a.	1.a.1. (88%)	81%	88%	94%	83%	93%
	1.a.2. (15%)	8%	14%	24%	10%	21%
	1.a.3. (47%)	43%	45%	55%	43%	52%

The only exceptions to the practice identified through Indicator 1.a.1. (“Resolutions provide for monitoring”) seem to be resolutions that terminate a mandate or technical/procedural resolutions (for instance those that simply aim to set up a debate or panel discussion).

The table of occurrences provides additional insights. It appears that in a number of cases, the monitoring mandate given to OHCHR or an *ad hoc* mechanism stems from the language used in the resolution, which can be indirect (a resolution may request stakeholders to “follow the situation,” to “present a report,” or to “provide an update” to the Council, etc.). The “investigative aspect” section in the table of occurrences shows the term-frequency for specific words. Percentages for words that pertain to investigation (“investigate”/“inquire,” “establish”/“document”/“collect and preserve”/“identify,” “verify,” etc.) are in line with percentages in the three-dimensional table (under 1.a.2.), namely about 15 percent.¹² However, percentages for words that indicate monitoring (“assess”/“evaluate,” “monitor”/“follow”) are lower than those found in Indicator 1.a.1. in the three-dimensional table (88 percent). This is due to the fact that a monitoring mandate is not always directly and clearly expressed as such. In a number of resolutions, the monitoring component can be inferred from what stakeholders are asked to do and from the focus of the text. However, some resolutions clearly stress the need for monitoring by using candid language.¹³

¹¹ For instance, HRC resolution 37/41 “welcomes technical assistance and capacity-building measures provided [to Libya], including to [...] prevent, investigate and prosecute” illegal acts (OP12).

¹² Some resolutions may mention more than one of these terms, hence the slightly higher percentages appearing in the table of occurrences.

¹³ For instance, HRC resolution 32/30 posits: “the situation of human rights in Côte d’Ivoire has improved significantly [but] that it should nevertheless be monitored, given the numerous challenges [...]” (PP7). In OP15 of HRC resolution 31/28, the Council decided to “extend

Resolutions setting up full-fledged investigations are less common. This does not mean that such resolutions do not exist in the framework of item 10 – recent sessions have shown that this is possible. For instance, in the last few years, the Council set up inquiries into Yemen (through a group of eminent experts, see HRC resolution 36/31) and the Democratic Republic of the Congo (DRC) (through a team of international experts, see resolution 35/33).¹⁴ However, overall, monitoring is more frequent than investigation in item 10 resolutions. Full-fledged inquiries are more frequently found in resolutions adopted under other items (namely items 4, 2, and 7). When mandated by the Council, investigations were often turning points as they resulted in much more robust language, including on violations and accountability, in relation to the country concerned. Prime examples are resolutions on Libya and Yemen, which saw significant changes after the findings of investigations mandated by the Council were presented (however, it should be added that resolutions on Libya have failed to meet the expectations of civil society, one of which has been to move the country's situation to item 4).

Case study: The HRC and Burundi's crisis

The Council considered Burundi until its 18th session (2011). HRC resolution 18/24 marked Burundi's exit from the Council's agenda after it established a national human rights commission. Indeed, in OP8 of HRC resolution 9/19, the Council decided to "extend the mandate of the independent expert [on Burundi] [IE] until an independent national human rights commission has been established."

After a crisis broke out in the country in April 2015, a group of more than 40 states delivered a joint statement (June 2015) and the Council adopted a resolution on the country (HRC resolution 30/27, September 2015). This resolution provided for both monitoring of the situation and advisory services for the country. Burundi's authorities failed to heed the call of the HRC. Considering the deterioration of the country's situation, the HRC held a special session on 17 December 2015. Despite this significant move, the country continued to be considered in the framework of item 10. The government continued to commit grave violations of human rights and refused to meaningfully cooperate with the Council, its mechanisms (including an independent investigation into the country's crisis, the United Nations Independent Investigation on Burundi (UNIIB)), and OHCHR. In September 2016, the Council created a Commission of Inquiry (CoI) on Burundi and moved the country to its agenda item 4.

This case study shows that providing advisory services to a government that lacks the political will to receive and use it in good faith, with a view to improving its record, is futile. It also shows that allowing a country to leave the Council's agenda without a substantial assessment of its human rights situation presents significant risks for the Council. The mere establishment of a national human rights commission was far from being sufficient to measure sustainable progress and resilience in the country. This is all the truer since early 2018, Burundi's national human rights institution (NHRI), the Independent National Commission for Human Rights, lost its A-status and was downgraded to B-status. Resolution 9/19 is an example of meaningless transitional language in an HRC resolution.

Discontinuing the mandate of the IE on Burundi's situation without an adequate assessment of its situation was also bad practice in consideration of HRC resolution 5/1 (which is part of the Council's "Institution-Building Package"). That resolution's paragraph 57 states: "Any decision to streamline, merge or possibly discontinue mandates should always be guided by the need for improvement of the enjoyment and protection of human rights."

the mandate of the Independent Expert on the situation of human rights in Mali [...] to permit the evaluation of the situation of human rights [...]. OP17 of resolution 30/27 requested the High Commissioner to "engage with the Government of Burundi to assess and report on the situation of human rights to the country in order for it to fulfil its human rights obligations."

14 See also successive Libya resolutions, which requested the High Commissioner to "dispatch a mission to investigate violations and abuses of international human rights law."



1.b. Prevention and protection aspect

Sub-dimension 1.b. seeks to measure whether, pursuant to the resolution considered, particular attention should be paid to the country's situation. Prevention is a key aspect of monitoring given the risks of witnessing the human rights situation in the country concerned deteriorate, which, if these risks materialise, triggers not only negative human and social consequences but also additional costs for the international community. Intervening late (at the "crisis stage") rather than early (upon early "warning signs") entails higher diplomatic and economic costs.

Indicator 1.b.1. measures whether the resolution considered mentions an emergency, warning signs, an escalation, a deterioration of the situation, a possible crisis, and/or risks, or whether it raises specific concern over risks. It focuses on prevention.

Findings show a marked increase over time. In its early years, the Council did not pay much attention to including a prevention element in its item 10 resolutions (16 percent between 2006 and 2011). It gradually became much more willing to consider the prevention aspect of its interventions on country situations. The last period (2016-2018) is particularly striking, with 58 percent of resolutions satisfying this indicator. Some resolutions include language on "early warning" (see for instance HRC resolution 29/24) or the role and the efforts of the Council "in preventing a further deterioration of the situation of human rights" in particular countries (Preambular paragraph 10 (PP10) of HRC resolution 30/27).

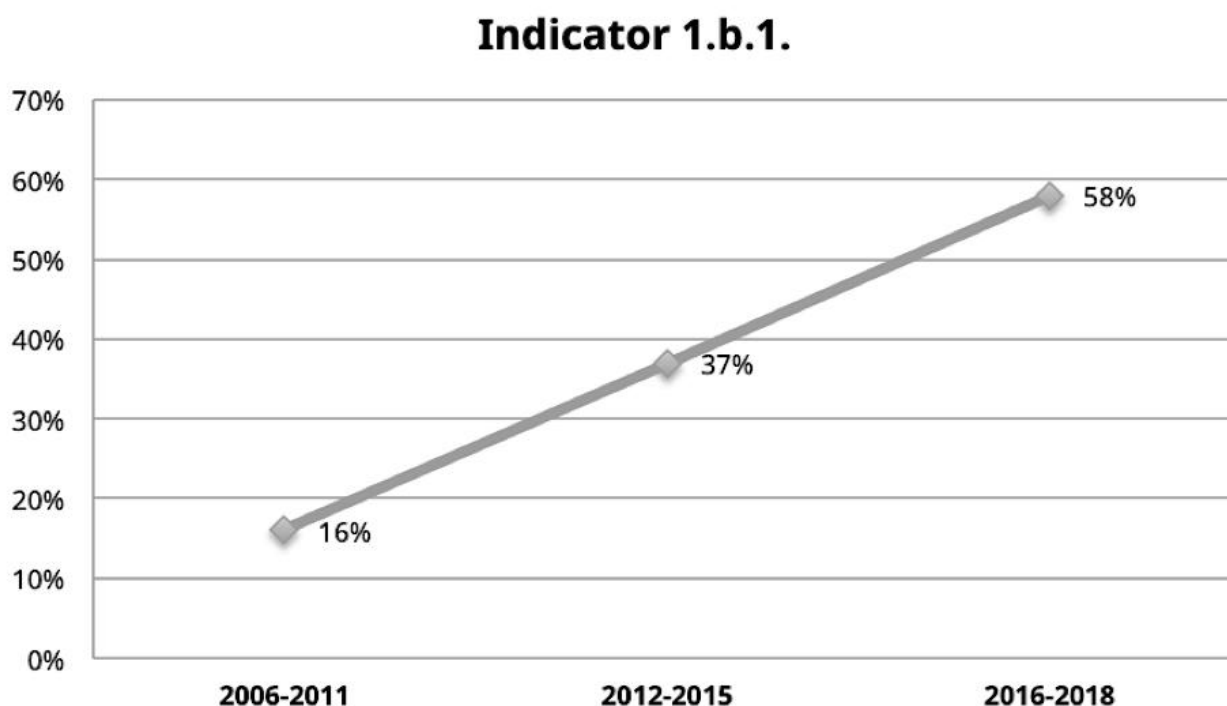


Figure 2: Preventative elements in item 10 resolutions (Indicator 1.b.1.): evolution over time

Indicator 1.b.2. deals with victims and survivors, at-risk or vulnerable persons or groups, HRDs, and/or journalists, measuring the willingness of the Council to pay attention to persons or groups in need of specific protection or who may be particularly targeted. Attacks against HRDs and journalists are often early warning signs of a mounting human rights crisis.

While a majority of resolutions satisfy this indicator in all the periods considered, an increasing

percentage of them have done so over the years. In the last period, resolutions quasi-systematically included elements of Indicator 1.b.2.

Lastly, **Indicator 1.b.3.** focuses on the humanitarian situation and the situation of refugees, and/or internally displaced persons (IDPs) (or the issue of displacement in general). Here again, the increase over the years has been marked, as the overall percentage doubled from 2006-2013 to 2014-2018 (from 37 percent to 74 percent of resolutions). In the 2016-2018 period, 82 percent of all resolutions satisfy this indicator, and it may be assumed that those which do not are resolutions on countries that do not actually encounter a challenging humanitarian situation.

	(overall)	2006-2011	2012-2015	2016-2018	2006-2013	2014-2018
1.b.	1.b.1. (36%)	16%	37%	58%	21%	53%
	1.b.2. (74%)	54%	80%	85%	60%	88%
	1.b.3. (55%)	27%	57%	82%	37%	74%

These findings show that the Council does pay attention to risks, volatility, and persons and groups who are in need of protection. Findings for Indicator 1.b.1., which measures mentions of an emergency, warning signs, an escalation, a deterioration, a possible crisis and/or risks, are confirmed by the table of occurrences (see its “prevention” column). Term-frequency for the words “prevention”/“preventive”/“preventative” is in line with percentages indicated in row 1.b.1. above. A look at some of the thematic resolutions the Council has adopted in the framework of item 10 shows that prevention is a concern. Successive resolutions on the “enhancement of technical cooperation and capacity-building in the field of human rights” reproduced a PP stressing that promotion and protection of human rights “should be based on the principles of cooperation and genuine dialogue and aimed at strengthening the capacity of States to *prevent human rights violations* and comply with their human rights obligations [...]”¹⁵

1.c. Actions requested by the resolution

The “actions requested” sub-dimension (1.c.) focuses on actions the Council requests from the states concerned in order to facilitate monitoring. This sub-dimension partly measures the prescriptive character of a resolution. **Indicator 1.c.1.** measures whether the resolution calls for the state concerned’s cooperation (with OHCHR, the IE/SR, and/or other bodies or mechanisms).

While the Council was initially reluctant to directly call for cooperation in its item 10 resolutions (35 percent of them for 2006-2011), this indicator has increasingly been satisfied. In the last period (2016-2018), 73 percent of resolutions satisfy 1.c.1., with a twofold increase from 2006-2013 to 2014-2018 (38 percent to 69 percent). In its OP64, HRC resolution 5/1 (“Institution-building of the United Nations Human Rights Council”), which is part of the Council’s “Institution-Building Package” (IBP), envisages the possibility of a lack of cooperation. The fact that the IBP does not make any distinction between item 10 and other country-specific mandates shows that the Council envisaged the possibility of a state failing to meaningfully cooperate, including in the framework of item 10. Furthermore, in OP1 of HRC resolution 5/2 (“Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council”), the Council urged “all States to cooperate with, and assist, the special procedures in the performance of their tasks and to provide all information in a timely manner, as well as respond to communications transmitted to them by the special procedures without undue delay” – showing that prescriptive language was intended to be part

¹⁵ See among others HRC resolutions 27/20, 30/21, 33/28, 36/28, and 39/18. Emphasis added.



and parcel of the Council's prerogatives, irrespective of the item number in the framework of which the Council acts.

Indicator 1.c.2. deals with the state concerned's granting of access to human rights experts and/or humanitarian aid/personnel, and the same remark as for 1.c.1. applies. Over time, the Council has shown a greater willingness to include such calls (sometimes phrased in an indirect way) in its resolutions, from 14 percent for 2006-2011 to 35 percent for 2012-2015, and even 67 percent for 2016-2018.

Regarding **Indicator 1.c.3.**, which measures whether the resolution concerned calls for preventative or early measures, to prevent violations, or to build resilience, the findings are even more striking: from a mere 8 percent of resolutions satisfying the indicator between 2006 and 2011, the Council asserted its willingness to exercise a prevention mandate. Between 2016 and 2018 (HRC31 to HRC39), 39 percent of resolutions did contain such preventative elements. Overall, percentages rose from 13 percent for 2006-2013 to 34 percent for 2014-2018.

Lastly, **Indicator 1.c.4.** (facilitation of meetings with independent actors free from government interference) verges on condemnation of, or at least pressure on, the governments concerned. It measures whether the Council is willing to tell the government to refrain from interfering with monitoring work, when it comes to gathering testimonies from independent sources.

A minority of item 10 resolutions contain such an element, which may be seen rather as an "item 4 element" because of its public pressure aspect. In the initial period (2006-2011), no resolution satisfied this indicator. The percentage then rose to a timid 8 percent for 2012-2015. In the last period considered (2016-2018), nearly a quarter (24 percent) of all resolutions contained direct or indirect calls for unhindered meetings with independent actors.

	<i>(overall)</i>	2006-2011	2012-2015	2016-2018	2006-2013	2014-2018
1.c.	1.c.1. (53%)	35%	53%	73%	38%	69%
	1.c.2. (37%)	14%	35%	67%	21%	55%
	1.c.3. (23%)	8%	24%	39%	13%	34%
	1.c.4. (10%)	0%	8%	24%	0%	21%

These findings show that item 10 is not an obstacle to the Council being prescriptive, for instance by directly urging cooperation. When access to places/actors needs to be guaranteed or preventative measures need to be taken, the Council is increasingly willing to express those needs. This finding points to the growing presence of scrutiny elements in resolutions adopted in the framework of item 10.

Dimension 2: Reporting, advocacy, and visibility

The second dimension measures the presence of reporting elements, as components of "scrutiny," in the resolutions. It contains six sub-dimensions, which focus on (a) the public reporting aspect of resolutions (How and how often is a country situation presented and discussed publicly? What bodies are involved? Does reporting go beyond the Council?); (b) condemnatory elements; (c) the length of resolutions; (d) accountability and justice (especially looking at the conduct of armed and law enforcement forces and at the situation of victims); (e) actions requested from the state concerned; and (f) provisions on ongoing consideration of the country concerned by the HRC.

2.a. Public reporting aspect

Sub-dimension 2.a. seeks to measure whether a country is publicly discussed at the HRC, and if so, how and how often it is discussed. Although private reporting (that is, internal reporting, for instance by an OHCHR country office to the Office's divisions and branches) may be valuable in terms of gathering and circulation of information, it is not relevant here, as Dimension 2 aims to measure reporting construed as visibility of, advocacy about, or pressure on the country concerned.

Indicator 2.a.1. measures reporting to the Council. Reporting is understood as either the presentation of a report or update on the country concerned or the holding of an interactive dialogue (ID) or panel discussion. **Indicator 2.a.2.** measures the substantial and/or symbolic importance given to a specific country situation. It measures whether a country situation is the object of an enhanced ID¹⁶ or debate or of multiple instances of reporting (either by the same mechanism or OHCHR more than once in a year, or by several mechanisms. For instance, Cambodia is the object of an annual presentation by the SR on the country and of an annual presentation by OHCHR (based on a Secretary-General's report), which means two presentations per year). **Indicator 2.a.3.** goes beyond the plenary room of the HRC: it measures whether reporting on a country also takes place at the UNGA or is shared with other bodies or mechanisms, pursuant to a Council resolution.

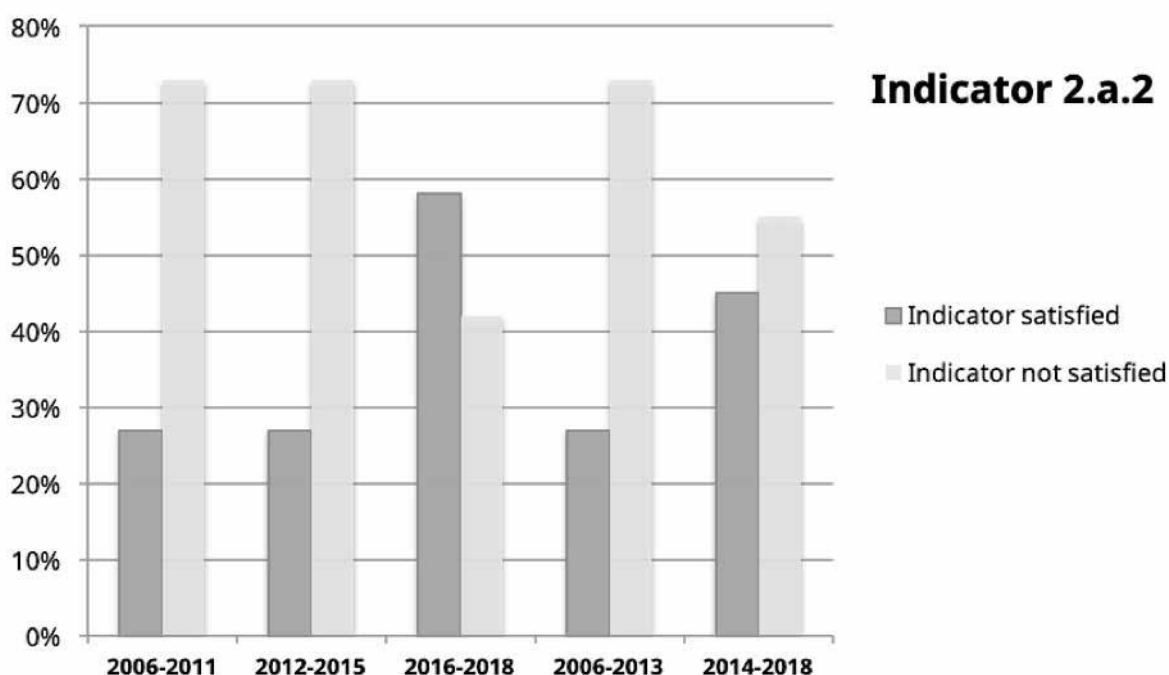


Figure 3: Enhanced reporting in item 10 resolutions (Indicator 2.a.2): evolution over time

Research findings are clear. Nearly all resolutions (93 percent) provide for public reporting to the Council. Percentages have increased over time, and today there are very few resolutions that fail to provide for future reporting to the Council. The only exceptions are texts marking the end of a country's consideration by the Council, like President's statement 35/1 (on Côte d'Ivoire). Enhanced or multiple reporting remains less used in item 10 resolutions. However, the 2016-2018

¹⁶ An enhanced ID gathers, in addition to the usual stakeholders (mandate-holder or OHCHR, states, and civil society/NHRIs), specific stakeholders and UN agencies and/or experts. They often provide for the presence of these, as well as at least one representative of civil society, on the podium as panellist.

period witnessed a significant increase, the percentage (which remained at 27 percent in 2006-2011 and 2012-2015) reaching 58 percent, i.e., a majority of resolutions. Enhanced attention to country situations under item 10, through enhanced IDs or multiple reporting, has become more common practice. This does not hold true for the last indicator, namely reporting to the UNGA or sharing of reports (e.g., to the UNSC), which is satisfied by a small number of item 10 resolutions (4 percent, with a slight increase in 2016-2018 (12 percent)).

	<i>(overall)</i>	2006-2011	2012-2015	2016-2018	2006-2013	2014-2018
2.a.	2.a.1. (93%)	84%	98%	97%	89%	98%
	2.a.2. (36%)	27%	27%	58%	27%	45%
	2.a.3. (4%)	3%	0%	12%	2%	7%

It is clear that public reporting, which entails public discussion, and thus exposure, is inherent in item 10. Resolutions almost always set up a form of public reporting to the Council, and a majority of them now set up enhanced discussions and/or reporting that is more frequent than once a year. When asked to report, OHCHR systematically presents an update on, and an analysis of, the human rights situation in the country concerned – even when the relevant resolution requests an update that is focused on cooperation between the Office and that country.

An element that shows a marked difference from item 4 is reporting to the UNGA and sharing of HRC reports with other bodies or mechanisms (such as the UNSC). These remain rare in item 10 resolutions. For the rest, there is a high level of attention to item 10 country situations. Some resolutions adopted under item 10 followed special sessions of the Council (on the Central African Republic (CAR) or Burundi). Others set out that scrutiny should be permanent – e.g., in resolution 33/29, the HRC invited the UN High Commissioner for Human Rights (High Commissioner, or HC) to “inform the Council on the situation in the [DRC] *as and when appropriate*” (OP35, emphasis added). Today, some states that find themselves considered in the framework of item 10 are actually discussed more often than states that are in item 4, some of which are considered only once a year.

Case study: HRC resolutions on Somalia

Successive HRC resolutions on Somalia have been based on the premise that monitoring, reporting and advisory services are intertwined. In HRC resolution 24/30, the Council “*stresse[d] the importance of technical assistance in building credible and impartial domestic capacity to undertake monitoring, investigations and public reporting to identify human rights concerns, inform appropriate remedies by duty-bearers and ascertain technical assistance needs.*” It “*also stresse[d] the important role of joint monitoring and reporting of the situation of human rights in Somalia by domestic and international experts, and the role that those monitoring human rights can play in evaluating and ensuring the success of technical assistance projects, which in turn must be for the benefit of all Somalis*” (OPs 12 and 13, respectively).

Mutatis mutandis, this language was reproduced in HRC resolution 30/20 (OPs 13 and 14) and 33/17 (OPs 14 and 15); see also OP9 of HRC resolution 36/27 and OP10 of HRC resolution 39/23.

It is in fact difficult to conceive of a wording that would be clearer. Its drafting and inclusion in resolutions was made possible by the Federal Government’s political will, cooperation, and good faith (it has acted upon recommendations of the IE and OHCHR, including most recently to sign the UN Convention on the Rights of Persons with Disabilities), despite a clear lack of capacity and effective control over its entire territory.

2.b. Condemnatory aspect

Condemnation is widely regarded as a hallmark of the Council's item 4 ("Human rights situations that require the Council's attention"), which deals with the most serious situations of human rights violations, in line with the Council's mandate.¹⁷ The indicators used in this sub-dimension measure how much condemnation, or public pressure, there is in item 10 resolutions.

Indicator 2.b.1. measures the presence of mentions of the human rights situation, violations, and abuses (and/or patterns or issues). It is based on a textual (term-frequency) analysis of resolutions. As the findings show, an overwhelming majority of resolutions, in particular, in sessions that took place since 2012, satisfy this indicator. The situation of human rights, or violations and abuses, are widely mentioned. Overall, from 2014-2018, 97 percent of item 10 resolutions contain such elements. The figure was already 87 percent for 2006-2013, and 81 percent for the Council's initial years (2006-2011).

If one looks at the table of occurrences, one realises that the Council was initially reluctant to include mentions of "war crimes," "crimes against humanity," or "genocide" in its item 10 resolutions. Percentages of occurrence of these terms are 0 percent for the 2006-2011 period. "Crimes" and "International Criminal Court" (ICC) were hardly mentioned (16 percent and 8 percent, respectively). Gradually, the Council included these in item 10. Figures for 2012-2015, and particularly for 2016-2018, indicate a take-off. In the last period, 24 percent of all item 10 resolutions mentioned "war crimes," 27 percent mentioned "crimes against humanity," 12 percent mentioned "genocide," 42 percent mentioned "crimes," and more than a third of them (36 percent) mentioned the ICC. This trend shows the Council's growing willingness to tackle the criminal aspect of human rights crises. Actual percentages may be higher, as in some resolutions the Council refrained from using these terms but actually referred to what may constitute war crimes. For instance, in HRC resolution 30/22, the Council condemned the "indiscriminate bombing of humanitarian facilities and the killing of civilians and humanitarian aid workers" in Sudan (OP15).

Indicator 2.b.2. goes a step further than 2.b.1. It measures whether a resolution contains *a list* of human rights violations and abuses. For the purposes of this research, the minimum threshold was set at five: below five types of violations (for instance, arbitrary detention, freedom of expression, the right to an adequate standard of living, etc.), "0" is marked for this indicator; at or above five types of violations, the indicator is satisfied and "1" is marked.

Findings show an evolution over time. Whereas listing violations in item 10 texts was not an established practice during the Council's early years (2006-2011), this became much more frequent from 2012 onwards. 67 percent of all item 10 resolutions adopted between HRC31 (2016) and HRC39 (2018) contained mentions of five or more types of violations.

¹⁷ Operative paragraph 3 of UNGA resolution 60/251: "*Decides also that the Council should address situations of violations of human rights, including gross and systematic violations, and make recommendations thereon. It should also promote the effective coordination and the mainstreaming of human rights within the United Nations system.*"



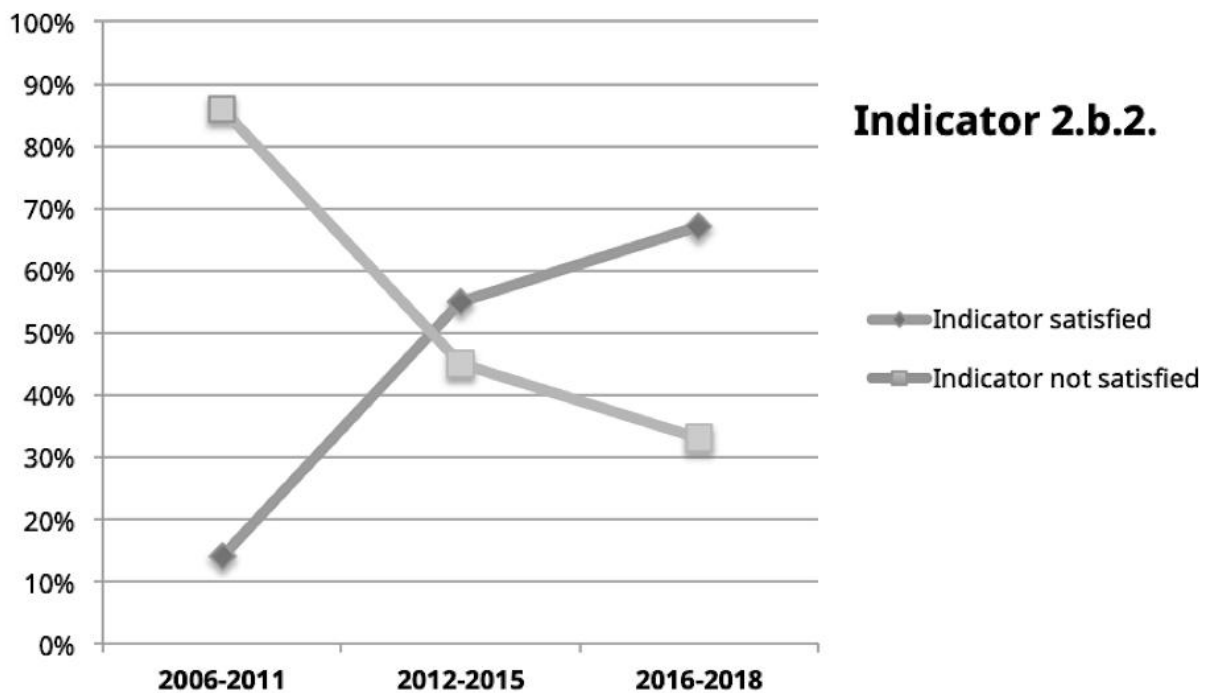


Figure 4: Lists of human rights violations and abuses in item 10 resolutions (Indicator 2.b.2.): evolution over time

Indicator 2.b.3. tracks mentions of condemnation of, or concern over, violations. Except for the early years (46 percent for 2006-2011), this indicator has always been satisfied in a majority of resolutions under item 10. Percentages have continuously increased, with now nearly three-fourths of all resolutions (73 percent for 2016-2018) satisfying Indicator 2.b.3.

Indicator 2.b.4. measures the more or less condemnatory character of a resolution by tracking (through term-frequency analysis) depreciatory adjectives that are associated with violations and abuses. These adjectives may be "grave," "serious," "gross," "egregious," etc. This type of elements is also widely seen as being a hallmark of item 4.

Findings show that, overall, four resolutions out of ten satisfy this indicator – a figure that is above what common sense would expect for agenda item 10. The 2006-2011 period witnessed a third (32 percent) of resolutions using such depreciatory adjectives, and the percentage went slightly up afterwards (39 percent, then 45 percent). Overall, the increase is modest: from 37 percent for 2006-2013 to 41 percent for 2014-2018.

Indicator 2.b.5. focuses on a criterion that indicates concern over the situation and is often a warning sign of a crisis. It measures the occurrence, in resolutions, of mentions of acts of threats, intimidation, harassment, and/or reprisals against HRDs, activists, civil society, journalists/media, and/or humanitarian personnel. When present (even if indirectly worded), this type of element indicates that the Council is willing to exert public pressure on the country concerned to bring these acts to an end.

Findings demonstrate that the Council has increasingly been willing to play this advocacy/pressure role. Overall, only 35 percent of item 10 resolutions satisfy this indicator; however, 61 percent of the resolutions adopted in the last three years (2016-2018) do. Percentages have continuously, and significantly, increased since the initial period (2006-2011), when only 11 percent of resolutions satisfied Indicator 2.b.5.

Lastly, **Indicator 2.b.6.** (which measures whether the word “impunity” is mentioned) demonstrates the same pattern, with percentages increasing from 32 percent for 2006-2011 to 82 percent for 2016-2018.

	<i>(overall)</i>	2006-2011	2012-2015	2016-2018	2006-2013	2014-2018
2.b.	2.b.1. (92%)	81%	98%	94%	87%	97%
	2.b.2. (45%)	14%	55%	67%	29%	64%
	2.b.3. (62%)	46%	67%	73%	52%	72%
	2.b.4. (39%)	32%	39%	45%	37%	41%
	2.b.5. (35%)	11%	35%	61%	19%	52%
	2.b.6. (57%)	32%	59%	82%	41%	74%

These findings show that mentioning human rights violations and abuses is an established practice of the Council acting in the framework of item 10. In other words, item 10 does not prevent the Council from speaking out against violations. In a majority of item 10 resolutions, the Council even includes lists of violations and abuses. Criminal elements are also more and more frequent in item 10 resolutions, reflecting the fact that the Council considers a number of crises and armed conflicts (Yemen, the DRC, or CAR) in the framework of its item 10.

2.c. Length of the resolution

This sub-dimension was not factored into the scoring process as there are so many disparities that it would have biased the analysis. For instance, some resolutions contain few, but long, paragraphs. Others contain a large number of short paragraphs. President’s statements contain no preambular paragraphs; only operative paragraphs (OPs). However, this sub-dimension adds value to the research, especially when one looks at the evolution of resolution length over time.

Indeed, the length of item 10 resolutions has increased over time. Of a relatively modest size in the Council’s initial years (on average, 16 paragraphs, including seven PPs and nine OPs), resolutions have increased in substance, reaching an average size of 26 paragraphs in the 2012-2015 period and 35 paragraphs in 2016-2018. In particular, the number of OPs has grown. As of late 2018, they stand at an average of 22 per resolution.

	<i>(overall)</i>	2006-2011	2012-2015	2016-2018	2006-2013	2014-2018
2.c.	2.c.1. (9)	7	9	12	7	11
	2.c.2. (16)	9	17	22	11	21
	2.c.3. (25)	16	26	35	19	32

It remains to be seen whether the trend of adopting increasingly longer resolutions will continue. Longer resolutions can cover more relevant material. Consequently, the likelihood of including “scrutiny” elements increases. Many of the item 10 resolutions adopted in the last few years are among the longest the Council adopts, irrespective of the agenda item involved. Examples include resolutions on Mali, CAR, DRC, Libya, or Somalia.



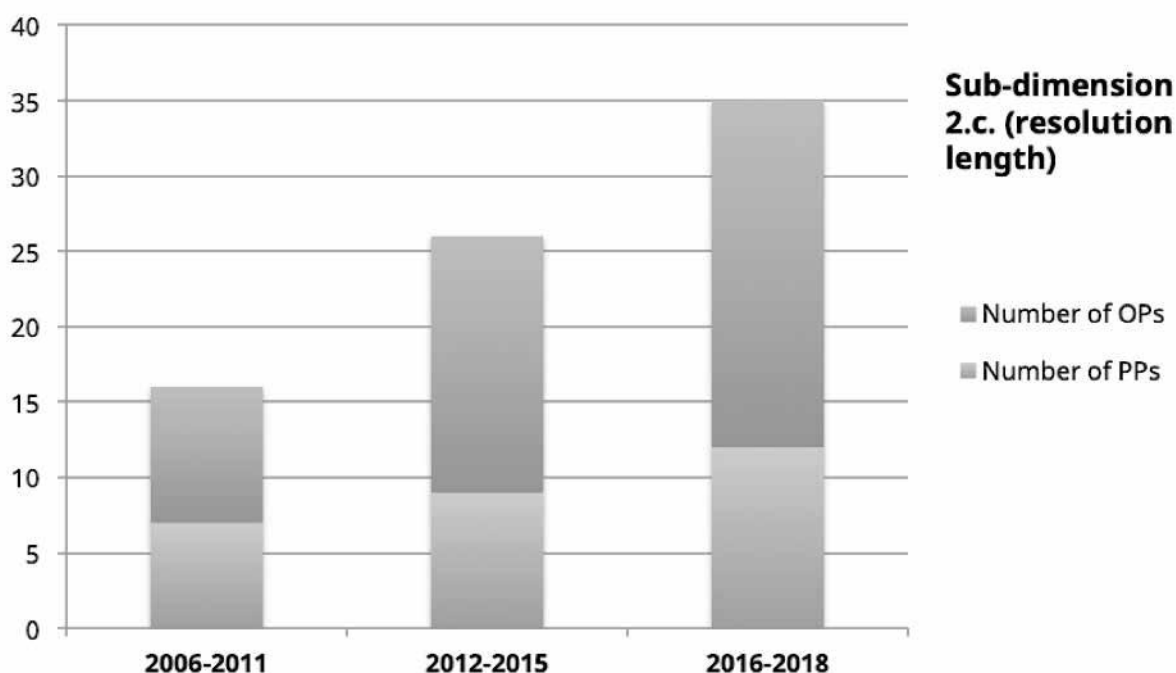


Figure 5: Length of item 10 resolutions (sub-dimension 2.c.): evolution over time

2.d. Accountability and justice aspect

A range of indicators could have been chosen to measure to what extent a resolution contains elements pertaining to justice and accountability. Some of them are intrinsically linked to investigations, in particular when the latter can lead to prosecutions. The three indicators in this sub-dimension measure whether there is a justice and accountability component in a resolution. Thus, **Indicator 2.d.1.** goes further than Indicator 2.b.6 above. It does not simply measure whether the word “impunity” is present; it measures the presence of a *call* (for accountability, or against impunity). It is therefore more prescriptive as it outlines an expectation of conduct from the state concerned.

As evidenced by the findings, there has been a continuous increase in the percentage of resolutions satisfying this indicator. From 38 percent (for 2006-2011), they went up to 69 percent (for 2012-2015) and even 79 percent for the most recent period, namely 2016-2018. The turning point seems to have been 2014. Overall, 62 percent of all HRC resolutions under item 10 contain a call for accountability or to combat impunity. Some innovations have also been observed.¹⁸

Indicator 2.d.2. focuses on armed and law enforcement forces, other state officials, and security sector reform. This indicator measures whether a resolution contains elements pertaining to the conduct of state agents, ahead of, during, or after violations. Indeed, armed and law enforcement forces are often the organs/agents of the state that are responsible for violations, in particular in pre- and post-electoral contexts and in conflict and post-conflict situations. A large number of item 10 resolutions concern states in such situations, e.g., Mali, Côte d’Ivoire, the DRC, CAR, Sudan, Somalia, and Yemen.

¹⁸ In its 2018 resolution on Mali (HRC resolution 37/39), the Council decided to “hold a dialogue [...] to assess the evolution of the situation of human rights in the country, with a particular focus on the fight against impunity” (OP28). Previous versions mentioned the “struggle against impunity” in the country (see for instance OP21 of HRC resolution 28/31). In resolution 26/31 on South Sudan, the HRC requested the HC to “monitor the situation of human rights” and to report to the Council “with recommendations on technical assistance and capacity-building measures, including on [...] the importance of accountability and transitional justice” (OP8).

Findings indicate that while such elements are now present in a majority of resolutions (52 percent for 2016-2018), this has not always been the case. In its early years, the HRC was reluctant to include such language. This is all the more obvious if one looks at the table of occurrences. For the 2006-2011 period, only 22 percent of resolutions mentioned security sector reform, training of security and law enforcement forces, or violations committed by them. None of the 37 resolutions adopted during that period mentioned disarmament, demobilisation, and reintegration (DDR) or the process of vetting of armed/law enforcement forces. Percentages went up, reaching 35 percent and 10 percent, respectively, for 2012-2015 and 36 percent and 27 percent, respectively, for 2016-2018. The prevalence of these elements may have been slightly underestimated as a result of indirect phrasing or calls on “all parties” to act, which are sometimes used to avoid directly naming state bodies or agents. For example, the Council may stress that “it is important to hold all those responsible” to account, or that “holding those responsible should be a priority” (cf. successive resolutions on Sudan).

Indicator 2.d.3. shows a similar pattern, although the increase is less striking. This indicator measures whether a resolution mentions or calls for justice for the victims and survivors of violations and abuses (or for redress, remedies, reparation, truth, reconciliation, and/or non-recurrence). One may assume this is rather an “item 2” or an “item 4” element given the focus of item 10 on technical assistance and capacity-building. However, 62 percent of all item 10 resolutions, and even 73 percent between 2016 and 2018, contain such elements and thus satisfy the indicator.

	<i>(overall)</i>	2006-2011	2012-2015	2016-2018	2006-2013	2014-2018
2.d.	2.d.1. (62%)	38%	69%	79%	46%	79%
	2.d.2. (35%)	22%	33%	52%	24%	47%
	2.d.3. (62%)	46%	67%	73%	52%	72%

Part of the findings for 2.d.2. may be attributable to the fact that the Council has taken on a larger number of countries that are in conflict or post-conflict situations as part of its item 10, which made the percentage for this indicator increase as it pertains to the conduct of armed and law enforcement forces. Justice and accountability elements, including transitional justice elements, are routinely found in item 10 resolutions.

This is undoubtedly a significant finding with regard to the contents of these resolutions and the hypotheses set out at the beginning of this research project. Indeed, a number of observers may have assumed that justice and accountability language belongs in item 4 (or item 2), rather than in item 10.

Regarding victims (Indicator 2.d.3. as well as the dedicated entry in the table of occurrences), Council resolutions are sub-optimal. Mentions of the situation of victims and survivors, avenues for redress, or reconciliation and guarantees of non-recurrence could be more frequent in resolutions. Indeed, it does not make much sense to call for justice without mentioning for whom justice should be achieved. Just like it does not make much sense to condemn violations and abuses without calling for corrective action and accountability.

2.e. Actions requested by the resolution

In Dimension 2, the “actions requested” sub-dimension focuses on actions the Council requests from the states concerned in order for the latter to meet their obligations. Like in Dimension 1 (see sub-dimension 1.c.), indicators measure the prescriptive character of a resolution, but here

the actions requested are stronger. The indicators chosen for sub-dimension 2.e. pertain to the implementation of UN recommendations and/or legal instruments (**Indicator 2.e.1.**); obligations to investigate, prosecute, and/or hold perpetrators of violations to account (**Indicator 2.e.2.**); and immediate or urgent measures (**Indicator 2.e.3.**).

Findings show that all three indicators have seen a significant increase over the years. The increase has been more marked for Indicator 2.e.2., which measures whether resolutions call for investigations, prosecutions, and/or accountability of perpetrators (almost a threefold increase between 2006-2011 and 2016-2018). The other two indicators have witnessed a twofold increase between the two periods.

	<i>(overall)</i>	2006-2011	2012-2015	2016-2018	2006-2013	2014-2018
2.e.	2.e.1. (50%)	32%	53%	64%	43%	57%
	2.e.2. (61%)	32%	69%	82%	44%	79%
	2.e.3. (43%)	30%	43%	58%	37%	50%

Looking at the table of occurrences, term-frequency for the words “immediate” and “urgent” is relatively low (36 percent overall, with a peak for 2016-2018), confirming the findings for Indicator 2.e.3. in the three-dimensional table. Term-frequency for prescriptive words such as “urges,” “demands,” or “strongly”/“firmly” show a surge in the last few years,¹⁹ which confirms the increases observed in the three-dimensional table. Indeed, words such as “urge,” “demand,” or “strongly”/“firmly” are often associated with calls to investigate, prosecute and hold perpetrators to account (measured by Indicator 2.e.2.).

These results show that calling for investigations, prosecutions, and/or accountability has become standard practice for the Council acting in the framework of its item 10 (82 percent of resolutions adopted from 2016 to 2018). Some recent resolutions include strong prescriptive elements, such as “strongly urge [...] to take immediate steps” (HRC resolution 33/29), calls for the release of HRDs (e.g., in HRC resolutions 25/37, 27/19, 30/22 or 33/29), or calls to end the application of the death penalty on blasphemy charges (HRC resolution 31/27).

In fact, the prevalence of calls for action is likely to have been underestimated in this research project, as a number of resolutions contain calls that are worded in an indirect way, which fail to pass the test for indicators in this sub-dimension. The following language has been used: “Taking note of the communiqué [...], in which the Government of the Sudan is urged to spare no efforts to arrest and prosecute all perpetrators of criminal actions” (preambular part of HRC resolution 33/26); “Noting with concern the level of cooperation” [between the national commission and OHCHR – which is way of calling for more cooperation] (preambular part of HRC resolution 33/16); or “Takes note of the assessment [...] that recommendations [...] have largely remained unimplemented, and encourages all stakeholders to fulfil their pledges with regard to the release of political prisoners” (OP5 of HRC resolution 30/22). The passive voice, calls on “all parties,” or sophisticated indirect phrasings have also been used in some resolutions.

2.f. Ongoing consideration by the HRC

This sub-dimension is not included in the overall scrutiny scoring, as there does not seem to be a consistent rationale regarding final provisions and language on ongoing consideration of a country situation by the Council. The force of precedents (final OPs being often copied and pasted from

¹⁹ From 43 percent to 70 percent, from 3 percent to 12 percent, and from 5 percent to 48 percent from 2006-2011 to 2016-2018, respectively.

the previous iteration of the resolution, without any changes) seems to be at play here. Successive resolutions on the same country may include the exact same language (“decides to remain seized [or “actively seized”] of the situation”) irrespective of changes on the ground or a possible end to the consideration of that country by the Council. Other resolutions may remain silent on future consideration of the country concerned despite no noticeable change in the situation and no political space for that country to leave the Council’s agenda.

However, statistical data is valuable. The percentages below provide insights on what the Council says about its own interventions. **Indicators 2.f.1.** and **2.f.2.**, which measure whether a resolution paves a way out for the country concerned, are satisfied in a minority of cases (9 percent and 2 percent, respectively). “Transition” language (2.f.2.) is uncommon. Percentages have remained constant over the years (2 percent of resolutions between 2006 and 2013 and 3 percent between 2014 and 2018). So-called “sunset clauses,” which intend to pave a way out of the Council’s agenda for the country concerned (2.f.1.), have been slightly more used, moving from 6 percent in 2006-2013 to 12 percent in 2014-2018.

Resolutions that set out an expectation of renewal (“remains seized” or similar language, measured through **Indicator 2.f.4.**) or say nothing (**Indicator 2.f.3.**) were, and still are, a large majority of the resolutions. Overall, they represent 88 percent of resolutions (51 percent and 37 percent, respectively). Their share has slightly decreased over time.

	<i>(overall)</i>	2006-2011	2012-2015	2016-2018	2006-2013	2014-2018
2.f.	2.f.1. (9%)	11%	2%	18%	6%	12%
	2.f.2. (2%)	3%	0%	6%	2%	3%
	2.f.3. (37%)	46%	41%	21%	43%	31%
	2.f.4. (51%)	41%	57%	55%	49%	53%

These findings confirm that reporting, visibility, and advocacy belong in item 10. Ongoing consideration of a country situation is the rule; “sunset clauses” or “transitional language,” the exceptions. An overwhelming majority of resolutions set out an expectation of renewal, signalling the Council’s willingness to keep on considering country situations.

Dimension 3: Advisory services (technical assistance and capacity building)

The third dimension measures the presence of elements of advisory services that go beyond purely technical aspects and thus provide for scrutiny (i.e., knowledge) of the country concerned. Its four sub-dimensions focus on (a) the quality and scope of the services provided, with a self-reflective and evaluation aspect; (b) resolution titles; (c) the stakeholders involved in implementation; and (d) coordination and cross-fertilisation, in line with the question: “is HRC intervention holistic?”

3.a. Quality and scope of advisory services

The first sub-dimension seeks to at least partly measure the quality and scope of the services the HRC provides to states concerned. **Indicator 3.a.1.** focuses on impact evaluation. It measures whether a resolution sets out an evaluation of, or at least the need to evaluate, its own impact or effectiveness (or those of previous HRC interventions). Its satisfaction indicates that the state concerned is not the sole judge of whether advisory services have been effective, as evaluation is provided for in a multilateral product.



Indicator 3.a.2. measures whether language relating to technical assistance and capacity-building is self-reflective. Does the resolution factor in the lessons learned, challenges, experience, and/or recommendations by OHCHR or the relevant mechanism when defining an approach to advisory services or their scope? Here again, satisfaction of this indicator shows that the relationship between the HRC and the state concerned is not purely technical: the Council acts as more than a service-provider; it reflects on the services it provides – an act that is intertwined with, and conditioned upon, better knowledge of the situation on the ground.

Lastly, **Indicator 3.a.3.** measures one specific (but key) aspect of technical assistance, namely legal/policy reform. When a political body such as the Council takes up recommendations for reforms (which are usually formulated by independent experts or OHCHR) in the country concerned, it sends a signal that it is paying attention to priority measures that are needed to improve the situation. It goes beyond the role of a service-provider that contents itself with mandating an expert or OHCHR to assist the country concerned. It adds political weight to the latter's recommendations.

Findings show that this aspect is uncommon in resolutions. Overall, 3.a.2. (self-reflection) is more frequent than 3.a.1. (impact evaluation) and 3.a.3. (calls for reforms). Findings regarding the latter are somewhat disconcerting. Contrary to the other two indicators, they have not increased. The last period has even seen a decrease (from 33 percent in 2012-2015 to 21 percent in 2016-2018). This is counter-intuitive, as one may assume that since Indicator 3.a.3. is grounded in one of the key aspects of technical assistance (namely, advice on reforms), the HRC would be more willing to fulfil when it acts in the framework of item 10.

However, the lowest percentages for this sub-dimension are found in Indicator 3.a.1. Impact evaluation – or even simply mentioning the need for it – is infrequent in item 10 resolutions. Again, this is counter-intuitive as one may assume that “monitoring and evaluation” (in project management terms) is a logical corollary of advisory services. Yet, the Council is reluctant to include such elements in its resolutions (overall, 13 percent of them, with a maximum value of 18 percent for 2016-2018). The clearest example so far is HRC resolution 27/27, in which the Council called upon the HC to “commission a study on the impact of technical assistance and capacity-building on the human rights situation in the Democratic Republic of the Congo” (OP21). Unfortunately, the following year, the Council simply “[took note] of the report [...] and urge[d] the Government of the Democratic Republic of the Congo, the United Nations Joint Human Rights Office, the United Nations country team and the partner countries and organizations to put into effect the recommendations contained in that report.”²⁰ This is a missed opportunity, which could have triggered improvements in the Council's practice and effectiveness.

Finally, findings for 3.a.2. reflect the fact that the HRC is somewhat responsive: it can adapt its interventions (through language that pertains to technical assistance and capacity-building) to new developments, challenges, or needs. But this is far from systematic (45 percent overall).

	<i>(overall)</i>	2006-2011	2012-2015	2016-2018	2006-2013	2014-2018
3.a.	3.a.1. (13%)	11%	12%	18%	11%	16%
	3.a.2. (45%)	35%	49%	52%	43%	48%
	3.a.3. (27%)	24%	33%	21%	24%	31%

Data in the table of occurrences confirms the fact that HRC resolutions seldom provide for impact evaluation. Only a handful of resolutions mention “effectiveness”/“efficiency”/“impact” (7 percent overall), “benchmarks”/“indicators”/“targets” (2 percent), or “time frames,” “timetables,”

“timelines,” or “time-bound (measures)” (3 percent). A few additional resolutions mention evaluation of, or the need to evaluate, technical assistance (16 percent overall, with a peak in 2016-2018 (27 percent)). These findings point to an overall under-utilisation of benchmarks, indicators, and other evaluation tools to track progress and follow-up on recommendations.

3.b. Title of the resolution

This sub-dimension is not included in scrutiny scoring. Indeed, analysis showed that the title of a resolution is irrelevant in terms of its scrutiny content. Some resolutions, which are entitled “Technical assistance,” contain significant monitoring and public reporting elements, while others contain fewer such elements despite satisfying Indicators 3.b.2. or 3.b.1. However, as for sub-dimension 2.f. (ongoing consideration of a country situation), statistical data provides insights into the Council’s practice.

	<i>(overall)</i>	2006-2011	2012-2015	2016-2018	2006-2013	2014-2018
3.b.	3.b.1. (10%)	11%	6%	15%	8%	12%
	3.b.2. (12%)	8%	8%	21%	6%	17%
	3.b.3. (79%)	81%	86%	64%	86%	71%

As shown by the table, most resolutions under item 10 have a purely technical title (**Indicator 3.b.3.**). It can be “Assistance to X in the field of human rights,” “Advisory services and technical assistance for Y,” “Technical assistance and capacity-building in the field of human rights in Z,” or a similar title. 79 percent of all item 10 resolutions have such a title. Other titles, which either mention the human rights situation, accountability or responsibilities (**Indicator 3.b.1.**) or contain mixed elements (for instance, “Technical assistance and capacity-building to improve human rights in X” or “Situation of human rights in Y and the strengthening of technical cooperation and consultative services”) (**Indicator 3.b.2.**), are less frequent.

Nonetheless, the most recent period (2016-2018) has witnessed an evolution. More and more resolutions have been given a title that does not entirely focus on technical assistance (15 percent and 21 percent for 3.b.1. and 3.b.2., respectively, and only 64 percent for 3.b.3.). Some innovations have also been noted. For example, HRC resolution 35/33 is entitled “Technical assistance to the Democratic Republic of the Congo and accountability concerning the events in the Kasai regions” – it combines two elements: technical assistance and accountability based on investigations. This may indicate an attempt by the Council to be more precise and better reflect the resolutions’ contents in their title.

3.c. Main stakeholder

This sub-dimension looks at who is charged with providing advisory services to the state concerned. It looks at who is the *main* stakeholder in terms of provision of those services. By default, OHCHR does such work. When a country-specific special procedure mandate exists, the mandate-holder and his/her team provide such services, especially technical assistance (review of legislation, legal and policy reform, advice on compliance with state obligations, drafting of legislation, etc.).

In some cases, both stakeholders (the country-specific mandate-holder and OHCHR) intervene substantially. The former may provide substantial technical assistance in addition to monitoring the situation and reporting to the Council, and OHCHR may intervene through a country presence (country office, regional office, or human rights officers and/or advisors) as well as through the



organisation of workshops, trainings, and *ad hoc* capacity-building activities. This is the case, for instance, for Cambodia, Mali, or CAR. In such cases, both indicators (3.c.1. and 3.c.2.) are satisfied and thus marked with “1.” In other cases, only one of them is marked with “1,” the other with “0.” Therefore, for a number of resolutions, indicators 3.c.1. and 3.c.2. are both satisfied, which has repercussions on the sum of their percentages (which is above 100 percent).

	(overall)	2006-2011	2012-2015	2016-2018	2006-2013	2014-2018
3.c.	3.c.1. (66%)	62%	63%	76%	60%	72%
	3.c.2. (53%)	54%	51%	55%	54%	52%

Indicator 3.c.2. has been remarkably stable over time. It has always remained between 51 percent and 55 percent. In about half of the resolutions, the main stakeholder when it comes to implementing the advisory services provisions of resolutions is a special procedure mandate-holder. For its part, **Indicator 3.c.1.** has seen a slight increase in the last period considered (2016-2018). Figures are otherwise stable, indicating a substantial technical advice/capacity-building role for OHCHR in a majority of countries considered in the framework of item 10.

This is the case in most country-specific resolutions, which enshrine substantial roles for either OHCHR or a mandate-holder, or both. In thematic item 10 resolutions, language is more consensual, i.e., focused on the ownership of the states concerned. Standard language, reproduced in yearly resolutions on enhancement of technical cooperation or promoting international cooperation, includes the fact that technical assistance and capacity-building are “provided in consultation with, and with the consent of” the recipient states, and that OHCHR should provide these advisory services “upon request of and in accordance with the priorities set by” the states concerned, according to the usual phrasing.

3.d. Coordination and cross-fertilisation aspect: is the intervention of the HRC holistic?

The last sub-dimension examines cross-fertilisation. It measures the coherence of HRC interventions and their relationship to other human rights bodies and mechanisms’ interventions, as well as to relevant diplomatic processes. It measures to what extent a Council resolution refers to, takes up, and ultimately inscribes its own intervention in a relationship with, other interventions on the country concerned. A holistic intervention, expressed through a resolution that recognises the context and what other bodies and mechanisms do, and adds political weight to the latter’s recommendations, is more coherent. It is more likely to be effective on the ground.

The first five indicators in this sub-dimension (3.d.1. to 3.d.5.) measure whether the analysis, input, track record and/or expertise of various human rights stakeholders (UN human rights bodies and mechanisms, civil society/HRDs) is taken into account by the HRC resolution being considered. The last indicator (3.d.6.) measures whether other stakeholders (UN country teams, peacekeeping operations (PKOs), UN agencies, regional and sub-regional bodies or mechanisms...) and/or diplomatic interventions (political documents, conference or summit outcomes, UNSC resolutions, national action plans) are taken into account.

Indicator 3.d.1., which measures references to OHCHR, is satisfied in 111 out of 121 resolutions (92 percent). The only exceptions are “technical” or “procedural” resolutions that renew a mandate or set up a panel discussion or debate, or else terminate a mandate. **Indicator 3.d.2.**, which measures references to the Universal Periodic Review (UPR) of the country concerned, is often satisfied, although the percentages never reach 50 percent (overall, 35 percent, with a 41 percent peak for 2012-2015 and a 10-point increase over time (from 30 percent for 2006-2013 to

40 percent for 2014-2018)). **Indicator 3.d.3.** measures references to special procedures' work with the country concerned. It includes the country-specific procedure or mechanism (if one exists) and thematic mandates. Percentages are close to those observed for the UPR: about one third of resolutions overall, with a modest increase over time. Findings for **Indicator 3.d.4.**, which measures references to treaty bodies, are somewhat surprising: only 9 percent of all resolutions satisfy it. The percentage was very low during the Council's early years (5 percent); it increased but reached a maximum of only 14 percent for 2014-2018. This demonstrates that the Council seldom refers to the concluding observations and recommendations offered by treaty bodies.

Indicator 3.d.5., which is dedicated to measuring references to civil society and HRD work, indicates a change over time. More and more resolutions satisfy it, which shows that the Council is increasingly willing to refer to contributions by civil society (only 22 percent of the time between 2006 and 2011, 45 percent of the time from 2012-2015, and 64 percent of the time from 2016-2018). Lastly, **Indicator 3.d.6.** indicates a pattern similar to 3.d.1.: it is satisfied in 110 out of 121 resolutions included in this research (91 percent). The Council is very often willing to reference relevant work on the country on which it intervenes by UN country teams, PKOs, UN agencies, regional and sub-regional bodies or mechanisms, or diplomatic/political fora.

	<i>(overall)</i>	2006-2011	2012-2015	2016-2018	2006-2013	2014-2018
3.d.	3.d.1. (92%)	78%	96%	100%	84%	100%
	3.d.2. (35%)	22%	41%	39%	30%	40%
	3.d.3. (32%)	32%	29%	36%	30%	34%
	3.d.4. (9%)	5%	10%	12%	5%	14%
	3.d.5. (43%)	22%	45%	64%	27%	60%
	3.d.6. (91%)	78%	96%	97%	86%	97%

Overall, cross-fertilisation of HRC resolutions with OHCHR's work and the work of UN country teams, PKOs, UN agencies, regional and sub-regional bodies or mechanisms, or diplomatic/political fora is high. This may be due to the political nature of the Council, which is more prone to referring to the work of other political bodies or diplomatic processes. The frequent references to OHCHR can be explained by the fact that the Office is a key implementer of HRC resolutions, as well as the main UN entity in charge of human rights within the UN Secretariat.

Other indicators show lower percentages, but these have been increasing. Mechanisms and processes set up by the Council, namely special procedures and the UPR, are referenced in a minority of item 10 resolutions. Contributions of civil society and HRDs, who enjoy unparalleled access to decision-making (and space) within the UN system, are increasingly mentioned. Resolutions increasingly refer to the work of civil society, sometimes highlighting their activities, like in HRC resolution 31/27, which mentions the role of journalists, media activists, and HRDs in "documenting protests and human rights violations and abuses, and restrictions on freedom of expression" (OP6). Technical assistance elements are also more and more frequently associated with scrutiny elements, sometimes in a very straightforward manner. For example, OP27 of resolution 34/38 highlights the need to "improve the situation of human rights through targeted technical assistance." OP10 of resolution 33/16 on Yemen requests the HC to "provide substantive technical assistance and advice, including in the areas of accountability and legal support, to enable the national commission to complete its investigatory work."

More broadly, a number of resolutions highlight the interrelated nature of advisory services and human rights monitoring. HRC resolutions 33/17 and 36/27 (on Somalia), 33/29 (on the DRC), 16/36 (on Guinea), 34/38 and 37/41 (on Libya) all stress that monitoring and technical assistance



could not be disassociated.²¹

The exception in sub-dimension 3.d. is treaty bodies. The latter's work and recommendations, which are based on authoritative interpretations of international standards and obligations,²² would add value to Council resolutions, which essentially aim to improve respect for human rights and thus frequently request states to take measures to abide by their obligations, but they are infrequently referenced in Council resolutions. They are sometimes mentioned when a country "graduates" from the Council's agenda, in final resolutions. This was the case for Haiti and Côte d'Ivoire. The reason for this state of affairs is unclear. It may be partly due to states seeing political bodies and expert bodies as "two different worlds" and choosing political convenience over legal precision – or parochialism over human rights mainstreaming.

A typology of item 10 resolutions

As shown in the three-dimensional table and explained in the "methodology" section, each resolution gets a score under each Dimension, as well as an Overall Scrutiny Score. Below is a summary of all scores with a breakdown by groups of resolutions.

Scrutiny score under Dimension 1:

Intense:	$x \geq 18$	16 occurrences (13 percent)
Strong:	$18 > x \geq 12$	25 occurrences (21 percent)
Moderate:	$12 > x \geq 6$	54 occurrences (45 percent)
Light:	$6 > x \geq 0$	26 occurrences (21 percent)
(Max = 24; Min = 0)		

Scrutiny score under Dimension 2:

Intense:	$x \geq 27$	41 occurrences (34 percent)
Strong:	$27 > x \geq 18$	26 occurrences (21 percent)
Moderate:	$18 > x \geq 9$	25 occurrences (21 percent)
Light:	$9 > x \geq 0$	29 occurrences (24 percent)
(Max = 36; Min = 0)		

Scrutiny score under Dimension 3:

Intense:	$x \geq 18$	10 occurrences (8 percent)
Strong:	$18 > x \geq 12$	43 occurrences (36 percent)
Moderate:	$12 > x \geq 6$	62 occurrences (51 percent)
Light:	$6 > x \geq 0$	6 occurrences (5 percent)
(Max = 23; Min = 0)		

21 See for instance OP14 of resolution 33/17 ("Stresses the importance of technical assistance in building credible and impartial domestic capacity to undertake monitoring, investigations and public reporting to identify human rights concerns and inform appropriate remedies by duty-bearers") and its OP15 ("Also stresses the important role of joint monitoring and reporting on the situation of human rights in Somalia by domestic and international experts and the Federal Government of Somalia, and the vital role that those monitoring human rights can play in evaluating and ensuring the success of technical assistance projects, which in turn must be for the benefit of all Somalis"), or OP25 of resolution 37/41 ("Underlines the importance of, and the commitment of the Government of National Accord to, continued human rights monitoring, assessment and evaluation in order to determine effective human rights technical assistance and capacity-building measures"). Some of these paragraphs have been reproduced or even copied verbatim over the years.

22 Expressed in the concluding observations and recommendations formulated at the end of state reviews, opinions on individual communications, and General Comments on specific treaty articles.

Overall Scrutiny Score:

Intense:	$x \geq 18$	42 occurrences (35 percent)
Strong:	$18 > x \geq 12$	31 occurrences (26 percent)
Moderate:	$12 > x \geq 6$	32 occurrences (26 percent)
Light:	$6 > x \geq 0$	16 occurrences (13 percent)
(Max = 26.6; Min = 0)		

This breakdown makes it possible to build a typology of item 10 resolutions on the basis of groups of resolutions (quartiles) in the Overall Scrutiny Score. About a third of all resolutions (42 out of 121, or 35 percent) are “**scrutiny intensive**” (Q4). They contain significant scrutiny elements, with monitoring and reporting both being meaningful (i.e., Dimensions 1 and 2 scoring high). This result is largely due to resolutions adopted in the Council’s latest periods (2014-2018, and particularly 2016-2018, with 52 percent and 58 percent of all resolutions adopted during those periods, respectively).

A quarter of all resolutions (31 out of 121, or 26 percent) contain **strong scrutiny** elements (Q3). They usually score strongly on either monitoring (Dimension 1) or reporting (Dimension 2), or relatively strongly on both. Looking at the breakdown by period, a large number of item 10 resolutions with “strong” scrutiny are found in the 2012-2015 period (18 resolutions out of 51, or 35 percent).

Another quarter of all item 10 resolutions (32 out of 121, or 26 percent) have **moderate scrutiny** elements (Q2). This means that they contain some degree of scrutiny, either at the level of monitoring or at the level of reporting, or a mix of these and/or advisory services going beyond a purely technical aspect (Dimension 3). Most of these “moderate scrutiny” resolutions are found in the first (2006-2011) and second (2012-2015) periods. “Moderate scrutiny” resolutions were the most frequent type of resolutions from 2006 to 2011, with 40 percent of all resolutions adopted then. Their relative importance has since decreased.

Lastly, resolutions with no or few scrutiny elements (the **light scrutiny** group, Q1) are a minority in the framework of item 10 (16 out of 121 resolutions, or 13 percent). They were slightly more common during the Council’s early years (19 percent of all item 10 resolutions adopted between 2006 and 2011) but they are now very uncommon (only 2 resolutions out of 33 adopted between 2016 and 2018, or 6 percent). Detailed figures and percentages for each period are included in Annex 2.



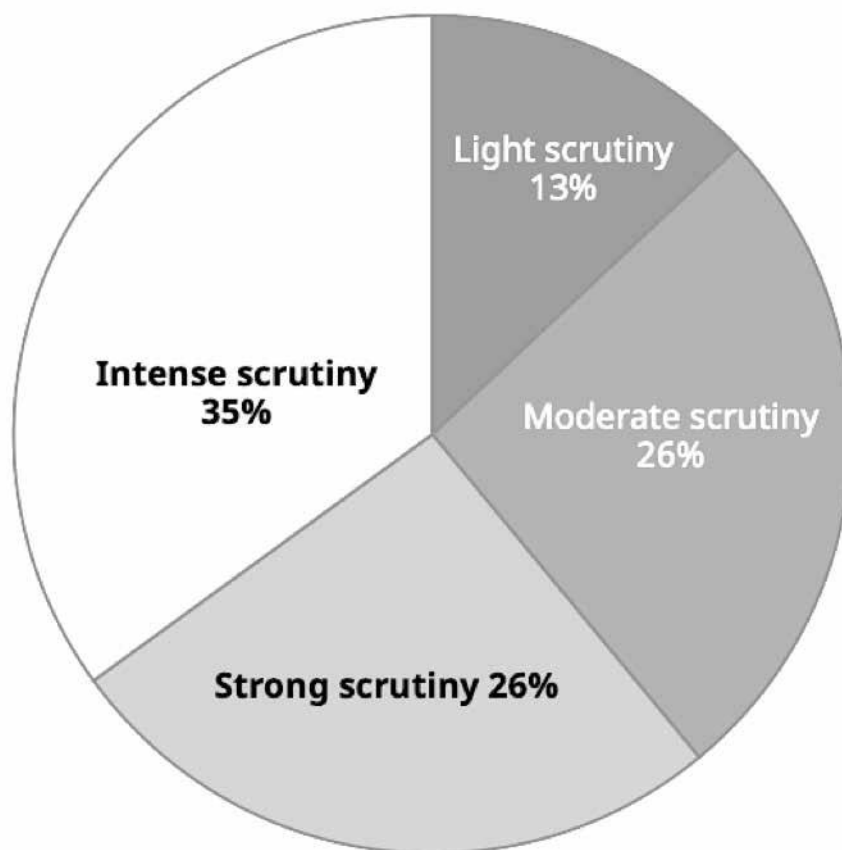


Figure 6: Types of resolutions

Thus, overall, 73 out of 121 item 10 resolutions (60 percent) are either “Intense” or “Strong” in terms of scrutiny. This percentage has continuously increased from one period to the next. Only 13 percent of all item 10 resolutions to date score “Light” – and their share has decreased over the years. Between 2014 and 2018 (from HRC25 to HRC39), 52 percent of all item 10 resolutions scored “Intense,” and 78 percent of them scored either “Intense” or “Strong.” That is 45 out of 58 resolutions. Looking at the 2016-2018 period (from HRC31 to HRC39), 58 percent of all item 10 resolutions scored “Intense,” and 82 percent of them scored either “Intense” or “Strong.” That is a staggering 27 of 33 resolutions.

Strengths of the Council’s practice in the framework of item 10

As this report shows, the Council’s practice under its agenda item 10 presents a number of positive characteristics. Analysis of resolutions adopted in the last few years (since 2012, and particularly since 2016) provides a positive outlook on what the Council can achieve in the framework of its mandate.

First, scrutiny (i.e., monitoring and reporting) elements are largely present in item 10 resolutions. By including such elements in resolutions that officially focus on technical assistance and capacity-building, the Council equips itself with the means to fulfil its mandate to address situations of violations of human rights and make recommendations thereon. It ensures it is able to pay attention to country situations and their evolution (deterioration or improvement) and to adapt its responses. It acts as much more than a “technical” service provider. It exercises a monitoring

mandate, which goes hand in hand, in most cases, with a substantial reporting mandate.

An analysis of the HRC's IBP, namely HRC resolutions 5/1 and 5/2, strengthens this point. At no point do resolutions 5/1 ("Institution-building of the United Nations Human Rights Council") and 5/2 ("Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council") make a distinction between mandate-holders established by resolutions adopted under various agenda items. HRC decision 6/102 ("Follow-up to Human Rights Council resolution 5/1") and HRC resolution 16/21 ("Review of the work and functioning of the Human Rights Council"), which contains an "Outcome of the review of the work and functioning of the United Nations Human Rights Council" (essentially a supplement to the IBP), further leads to the conclusion that there is no substantial difference in the prerogatives enjoyed by special procedure mandate-holders. Irrespective of whether his/her mandate has been established by a resolution adopted under item 4, 2, 7, or 10, a country-specific mandate-holder can, and should, engage in human rights monitoring and reporting in addition to advice. The independence of mandate-holders in "absolute in nature."²³

The Council exercises a mandate that includes advocacy and the ability to name names. Acting in the framework of item 10 (it is even more valid when it acts in the framework of items 4 or 2), the Council mentions violations, abuses, and crimes, condemns or expresses concern over developments, and highlights immediate or urgent measures required. It speaks out to prevent violations, demands access for experts or investigators, refers to the context (elections, legal and political framework, security and stability), and often dedicates attention to the protection needs of specific persons and groups, including independent actors such as HRDs, civil society members, and journalists.

Space for improvement

There are gaps and avenues for improvement in item 10 resolutions, identified in this section. (The "recommendations" section, below, offers concrete suggestions on how to enhance the quality of the Council's resolutions, although more research is needed on this aspect.) Firstly, under item 10, the Council does not systematically discuss the last developments in the country concerned to come up with an assessment of whether the situation has improved or deteriorated, which would provide more clarity.

Secondly, while the Council mentions victims more often than in its early years, it could dedicate more attention to their challenges, needs, and role in the future of the country concerned. Guarantees of non-recurrence and reparations, including the full rehabilitation of victims and survivors, which are key to ensuring sustainability and building human rights resilience – therefore to enhancing the effectiveness of HRC resolutions – should be more frequently highlighted in resolutions.

Security sector reform, vetting, and DDR could also be mentioned in a more systematic manner in post-conflict situations. "Vetting" is rarely mentioned, despite its importance in advancing human rights compliance within armed and law enforcement forces.

Thirdly, there is space for greater cross-fertilisation, in particular with treaty body recommendations. The latter are seldom mentioned – a clear missed opportunity for the Council. This form of parochialism should be critically assessed, keeping in mind that technical expert bodies' and mechanisms' recommendations are as relevant as HRC and UPR recommendations to improve the situation in the country concerned. Regarding UPR references, the Council should not content

23 HRC resolution 5/2, PP13. See also the resolution's annex, in particular Articles 3, 6, and 8.



itself with mentioning recommendations the state concerned accepted. If a large number of recommendations on a specific topic have been noted, the Council should highlight the importance of that topic and encourage the state concerned to reconsider its position and implement these recommendations. Prioritisation work could also be done with regard to UPR and special procedure recommendations that are referenced in HRC resolutions.

Fourthly, the Council seldom uses, or even stresses the need for, evaluation of impact and effectiveness of technical assistance. Targets, indicators, and benchmarks are rarely mentioned, and a mandate is rarely given to OHCHR or the relevant mandate-holder to conduct such evaluation work. These are just a few issues identified through analysis. The recommendations section (see below) mentions a number of additional issues, and offers suggestions to address them.

State behaviour in relation to item 10

The present report identifies Council practice with regard to a number of elements of item 10 resolutions. This means that, in the areas identified in this report, state behaviour is consistent and there is at least partly a sense of obligation that has emerged from multilateral practice. This is evidenced by the fact that the overwhelming majority of item 10 resolutions to date have been adopted by consensus²⁴ and that item 10 adoptions usually give rise to few explanations of votes or general comments.

Identifying criteria to distinguish between item 10 and other approaches to country situations should be an objective for all those who wish to improve the quality and effectiveness of HRC interventions. This report is not the place to do so. Nevertheless, evidence of “bad” state behaviour with regard to item 10 should be considered a central part of such criteria. It is intended for this report to pave the way for more research on the topic.

Good faith behaviour in line with the spirit, tools, and practice of item 10 means that the state concerned engages in constructive action to demonstrate its political will to address the main human rights issues, improve the situation, and bring violations to an end. It cooperates with the Council and its mechanisms. It provides access to its territory and ensures that OHCHR and the relevant mechanisms can meet with independent actors free from interference. It engages in human rights reforms by acting on priority recommendations and swiftly implementing measures that do not require heavy financial means. It endeavours to create human rights entities and institutions and to adequately staff them. It does not attack OHCHR or the relevant mechanisms and refrains from criticising independent analysis of, or public reporting on, the situation. It does not exercise reprisals against HRDs or otherwise intimidate or threaten them. It does not raise points of order during plenary debates at the Council. It shows transparency and openness during the process of negotiating and drafting resolutions on its domestic situation.

Conversely, a state’s bad faith can be identified through a range of corroborating evidence (in French: a “*faisceau d’indices*”). A state that engages in several of the following provides a reliable basis for asserting that it is acting in bad faith. It denies OHCHR, experts and investigators access to certain areas and prevents them from meeting with independent actors (NGOs, journalists, humanitarian workers) free from interference or surveillance. It attempts to monitor meetings between OHCHR and/or the relevant mechanisms and civil society. It attacks the former whenever they raise patterns of human rights violations (with claims that their mandate has been “overstepped” or the code of conduct of special procedures “breached”), and criticises independent analysis of,

24 There have been very few exceptions to this practice. In the last few years, votes were requested on resolutions on Ukraine and Georgia. One resolution on Cambodia was also put to a vote. In the past, this happened with regard to, *inter alia*, one resolution on the DRC.

or public reporting on, the situation. It fails to act on human rights reforms by ignoring priority recommendations and/or failing to create entities and institutions or to adequately staff them. It prevents meaningful, inclusive, and transparent discussion of resolutions, including within its own regional group. It engages in intimidation and reprisals against representatives of civil society, including HRDs who attempt to travel to Geneva or meet with OHCHR or UN human rights mechanisms. It raises points of order during plenary debates at the Council, and delivers defiant statements during IDs on its own situation and/or general comments.

The presence of several of these elements, which do not reflect the behaviour of a state that truly cooperates in good faith with a view to receiving effective advisory services, should lead the Council to reconsider its approach. Essentially, states that engage in such behaviour do not need more technical assistance – they need *political will* to improve their human rights situation. A number of states have abused item 10 by considering the Council as a mere service provider. They have used item 10 to falsely claim to engage and cooperate, while actually doing little. This has meant a waste of time and resources for the Council, hence significant opportunity costs: the time and resources that are inadequately spent on one country that should be approached in a different manner, are time and resources that are not spent on other countries, which might be in greater, and more genuine, need of support.

The Council is not fully equipped to distinguish between a genuine need for assistance and support and bad-faith utilisation of item 10. It is not yet equipped to detect the main factors behind violations, i.e., to sum up, lack of capacity vs. lack of political will to improve the situation.

Case study: The Sudanese government's behaviour at the HRC until 2018

Sudan's National Intelligence and Security Service (NISS) is extremely effective, well-trained, and sophisticated in its surveillance and repression activities. It enjoys, and employs, overbroad law enforcement powers, including to arrest and detain citizens on vague charges, and its agents are granted immunity from prosecution by law.

The activities and functioning of the NISS and other state branches and services, including the army, indicate the existence of a strong state apparatus. As NGOs have repeatedly stressed, Sudan, which fulfils many of the criteria set out in the above paragraph (denial of access, surveillance of meetings between independent actors, verbal attacks on successive IEs and OHCHR, failure to act on key IE recommendations, opaque negotiations of resolutions, reprisals against HRDs, including those who attempted to travel to Geneva to attend the UPR "pre-sessions," etc.), needs political will rather than capacity-building.

The government claimed that it has not received any technical assistance (it reiterated this nuance-free claim during HRC39, in September 2018), but the facts show that it has refused to implement key recommendations, including legal and policy reforms identified as priority matters by the IE and his predecessors. The last IE's report, A/HRC/39/71, makes clear that "[i]n spite of [...] steps and assurances of cooperation, the Independent Expert is deeply concerned that a significant number of his recommendations have still not been implemented" (para. 73).

The events unfolding at the time of completing writing (early June 2019) confirm that Sudan did not belong in item 10, as the government consistently refused to address the systemic human rights issues identified by the IE and OHCHR, including impunity for past and ongoing violations. Widespread impunity enabled perpetrators of the massacre of peaceful demonstrators that began in Khartoum on 3 June 2019.



The bottom line is that if a government has the political will to improve its human rights situation, then it will accept a minimal degree of scrutiny. Governments that reject minimal elements of monitoring or public reporting, or their consequences (in the text of resolutions, on the ground, and during debates), show that they are not committed to effective advisory services. The latter require access, cooperation, voice (including speaking out on violations and abuses and on risks), action (on recommendations), and respect (for all stakeholders).

From a legal perspective, one may even attempt to go one step further. Even though HRC resolutions are non-binding, on the one hand, they contribute to the crystallisation of international law. On the other hand, successive Council sessions add evidence to state practice and indicate that a sense of obligation exists in relation to state conduct at the Council and with regard to its work and rules of procedures. The latter include procedural rules and rulings of the HRC Presidency and Bureau in relation to stakeholder interventions during plenary sessions. Therefore, one may make the case that states acting in breach of Council practice – which indicates that, for instance, oral statements under item 10 can mention the human rights situation, analyse developments, and condemn violations – actually breach their international obligations.

States that now deny this Council practice under item 10 cannot be regarded as “persistent objectors” to an international custom. From a legal perspective, they should be barred from expecting benefits (namely, non-scrutiny) from a change of behaviour precisely because of their past behaviour (acceptance of the Council’s practice and Council practice).²⁵ Elsewhere, this has been referred to as “estoppel.”

In any event, OHCHR provides support to states on the basis of either the latter’s request (the provision of advisory services is a demand-driven process) or pursuant to Council resolutions. In all cases, OHCHR technical assistance and capacity-building programmes are designed on the basis of an assessment of the human rights situation, which aims to best address the needs of the country concerned (main human rights issues, patterns of violations, gaps, lack of capacity). OHCHR always seeks to build stronger national human rights protection systems.²⁶

Ultimately, it is clear that technical assistance and capacity-building can only be successful if based on an in-depth, ongoing analysis of the situation and patterns of violations and abuses, and that a government that has the political will to improve its situation will accept a minimal degree of scrutiny. It is hoped that a future research project will tackle this issue and identify criteria to help the Council better discriminate between item 10 and other agenda items, which are better suited for some country situations currently considered in the framework of item 10.

25 Cambodia (which interrupted NGO speakers during HRC37) and, to a lesser degree, Sudan (which has attacked successive IEs for discussing violations for several years) are two such examples. Cambodia’s practice is recent, while Sudan has routinely engaged in obstructive behaviour. Estoppel could at least be invoked for Cambodia.

26 See the seven components of efficient technical cooperation identified by the UN Board of Trustees for the Voluntary Fund for Technical Cooperation in the Field of Human Rights: OHCHR, “Technical Cooperation in the Field of Human Rights,” <https://www.ohchr.org/EN/Countries/Pages/TechnicalCooperationIndex.aspx> (accessed on 9 May 2019).

Conclusion: No Advice without Knowledge

A methodical analysis of item 10 resolutions shows that most contain significant monitoring and public reporting elements. Denying the fact that scrutiny is part and parcel of item 10 is not only futile and ineffective; it is inconsistent with the Council's practice. Resolutions adopted in the framework of item 10, and the mandates they have created, are much more than "technical." They go much beyond "advisory services." And the Council itself is much more than a service provider. Scrutiny is one of its core functions, and that scrutiny is at the centre of its country-specific work.

Unfortunately, a few states – including China, Russia, the Philippines, and Egypt – are trying to make item 10 something it is not, and has never been: a de-contextualised item through which the Council would be a provider of technical support without objectively assessing the issues and needs of recipient countries. Item 10 relies on expert knowledge of the situation on the ground, i.e. scrutiny.

The Council needs an in-depth knowledge of the human rights situation, issues, and needs in the countries concerned to be able to effectively provide them with technical assistance and capacity-building. This knowledge is gained through scrutiny, and makes it possible to provide targeted support on the basis of an ongoing assessment of the needs, priorities, and gaps to be filled. It also makes it possible to push for progress by exposing issues publicly. Scrutiny makes advocacy for progress easier, and it increases the political cost of lacking the will required to conduct human rights reforms.

This report also demonstrates that item 10 resolutions contain more and more scrutiny elements, in particular in terms of investigation; mechanisms dedicated to establishing facts and responsibilities (possibly leading to prosecutions); condemnation; language on violations, justice and accountability; calls and demands; and references to the work of other bodies and mechanisms. Resolutions have been increasingly lengthy.

The rights and responsibilities of states

It is clear from this report that no one should consider the Council as a service provider only. With rights come responsibilities: no technical advice can take place without some degree of scrutiny. The Council's founding resolution (UNGA resolution 60/251) makes the Council at once a monitor, a watchdog, a rapporteur, a catalyst, a forum, and a service provider. These functions and responsibilities are intertwined.

Bluntly put, advisory services come at a price. For states, this price is the corollary of receiving technical assistance and capacity-building. It includes conducting legal and policy reform, establishing and staffing institutions, ministries, or units, launching education and public awareness campaigns, training civil servants, but also accepting scrutiny.

Attempting to deprive item 10 resolutions of their scrutiny elements is futile and disingenuous. Governments that do so violate not just the Council's logic, spirit, and integrity; they breach the Council's practice. When a government repeatedly rejects the responsibilities that come with Council assistance (i.e., when it refuses to accept the scrutiny that is associated with item 10), the Council should be able to say: "No more advisory services. What this government needs above all



is political will.” And the Council should use its voice to help create that political will, including by moving the country concerned to other items.

Towards a more sensible use of approaches to country situations

Although the relevance of the distinction between item 4 and item 10 has somewhat decreased in the last few years (partly because of the evolutions documented in this report), DefendDefenders does not believe that agenda items should be dropped or merged. The fact that item 10 provides for scrutiny or that the item number of a given resolution is not a reliable indicator of its character should not lead us to conclude that item 4 and item 10 are the same. Nor should one be led to think that item 10 should be the Council’s default option. Rather, every country-specific resolution should strive for effectiveness by including scrutiny elements.

Item 4 has a symbolic and discursive value. Since the Council’s resolutions are not binding and it has no enforcement powers, its main strength is its voice. The Council has the power to make it more costly for governments to violate the rights of their citizens, and with item 4, the Council fully exercises this power.

States that truly lack capacity and engage with the Council in good faith should be supported, in the spirit of item 10. However, the Council should not presuppose the good faith of all governments, without any critical thinking. When it uses item 10 as its default approach, the Council deprives itself of the ability to choose the way it addresses situations and make a sensible use of its mandate. The Council should think critically about how it uses item 10.

Inaction and silence embolden repressive governments. China may be trying to advance its “win-win” cooperation approach (which goes hand in hand with an outdated conception of state sovereignty), but this will not change the fact that when the Council keeps silent on a situation, not everyone wins. When a government that needs political will rather than support receives that support through weak, technical resolutions, it’s rather a “lose-lose” situation. Victims of violations, critics, HRDs, and most ordinary citizens lose – only those in power and their supporters win.

Bad faith state behaviour calls for a response. The High Commissioner’s Office should play a role by speaking out against such behaviour, either by pointing to non- or sub-standard cooperation, denial of access, attacks against HRDs and civic space, or by pushing back against state claims that they “have not received technical advice,” as was heard in recent years (cf. Sudan case study above). This is possible within the council’s institutional framework,²⁷ and this should be done more frequently. By doing this more systematically, OHCHR could help create the political space that is needed to move consideration of a country situation to other agenda items, including item 4. It would also protect its own mandate, independence, and resources by ensuring that the use of its time and resources is optimal. OHCHR could build on the example it provided at the last regular Council session when it published a note on the implementation of HRC resolution 36/2,²⁸ making it clear that it had been unable to carry out its work due to the Burundian government’s lack of cooperation.

Ultimately, some governments conduct policies that are articulated around human rights violations. They should not be allowed to abuse the Council’s time and resources.

27 As mentioned above, the IBP envisages the possibility of a lack of cooperation by states (see OP64 of HRC resolution 5/1), which defeats the purpose and spirit of item 10.

28 OHCHR, “Human rights situation in Burundi,” A/HRC/39/40, 20 August 2018, ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/40 (accessed on 5 November 2018). HRC resolution 36/2 was adopted in the framework of item 2 (a strategic choice on the part of sponsors) but it has hallmarks of item 10 advisory services.

Recommendations

Item 10 resolutions can, and should, be improved. Recommendations that are addressed to the Council are in fact addressed to the states that draft and negotiate resolutions, i.e., both the states concerned and Council members and observers. All have a responsibility to enhance the Council's effectiveness.

The Council has a right to adopt resolutions within the purview of its mandate, but it should also work toward harmonising and rationalising their contents. "Bad" item 10 resolutions are those that do not say much on the human rights situation in the country concerned, do not provide for much public reporting, and do not call for violations to end and accountability to be achieved. They do not offer "SMART" recommendations (see below) and do not provide for follow-up and/or impact evaluation. Some of the worst resolutions the Council has adopted under item 10 included a "sunset clause" without any independent evaluation of the situation and assessment of government claims that it has "improved." This is a recipe for failure, and possibly for the country concerned to be back on the Council's agenda a few years later.

With this and the findings presented above in mind, DefendDefenders formulates the following recommendations with regard to item 10 resolutions:

To the UN Human Rights Council:

- Systematically discuss the latest developments in the country concerned in order to come up with an assessment of whether the situation has improved, stabilised, or deteriorated, and include that assessment in preambular and operative paragraphs of resolutions addressing the country concerned;
- Systematically condemn and/or raise concern over the violations and abuses documented in the country concerned, including those that may amount to international crimes, and precisely characterise them from a legal perspective. Include lists of violations and abuses more systematically in order to reach a better, more comprehensive view of the issues to be addressed through Council and other interventions;
- Reference recent assessments by the Office of the UN High Commissioner for Human Rights and High Commissioner (as expressed in statements, press releases, briefing notes, and reports) of the situation in the country concerned;
- In this regard, the programme of work of Council sessions should be rearranged so as to ensure that dialogues and debates relevant to resolutions to be considered for the current session are moved towards the beginning of the programme of work for the session. This should include ensuring that debates relevant to resolutions being negotiated actually take place at a moment when they can influence those resolutions;²⁹
- Dedicate more attention to the victims and survivors of violations and abuses, as well as to their challenges, needs and role in the future of the country concerned. Highlight the importance of guarantees of non-recurrence, truth and reparations (with all their elements, including

²⁹ Currently, much of item 10, which includes several reports on country situations, is discussed in the last week of each Council session, immediately prior to the adoption of resolutions when resolutions are mostly agreed upon, and thus the impact of the debate is very limited. See "Human Rights Council at 10: Civil society outlines plan for HRC to become more protective, effective and accessible," 28 April 2016, <https://www.ishr.ch/HRCat10>, p.10 (accessed 30 November 2018).



compensation, apologies, psycho-social services as part of rehabilitation, etc.) whenever relevant;

- Highlight the protection needs of vulnerable persons and groups and at-risk groups;
- Highlight the importance of security sector reform, vetting, and disarmament, demobilisation, and reintegration more systematically in post-conflict and transition situations;
- Ensure greater cross-fertilisation of the Council's recommendations, in particular with treaty body recommendations. Strengthen the holistic character of Council interventions by referring to other human rights bodies and mechanisms' work, including recommendations by the Office of the UN High Commissioner for Human Rights as well as Universal Periodic Review, treaty body, special procedure, and civil society recommendations;
- Systematically reference the work of independent actors (human rights defenders, civil society organisations, national human rights institutions if they enjoy A-status) and stress the need to protect them and their space;
- Prioritise Universal Periodic Review and special procedure recommendations that are referenced in Council resolutions. More generally, conduct a prioritisation work and reflect it in resolutions (reforms to be launched as a matter of urgency/priority, laws and regulations to be amended or repealed, practices to be modified, institutions to be set up and staffed, etc.);
- Be precise: use terms in a consistent manner inter- and intra-resolutions (for instance when referencing reports of a third body or mechanism, mention "reports" and not simply "the work" of that body or mechanism). Ensure consistency of successive Council resolutions on the same country by following up on unimplemented recommendations and reflecting substantial and institutional developments;
- Formulate "SMART" recommendations,³⁰ i.e., recommendations that are specific, measurable, achievable, relevant, and time-bound;
- Try to ensure consistency between the title of a resolution and its actual content;
- Consider requesting (and ensuring that programme budget implications exist for) item 10 country-specific mandate-holders to report more frequently to the UN General Assembly;
- Consider recommending that reports of item 10 country-specific mandates be shared with relevant UN bodies and mechanisms, in particular when these reports include elements on the identification of perpetrators of violations and abuses, and attribution of responsibility;
- Ensure that the identification of technical assistance and capacity-building needs is not conducted solely by the government of the country concerned. An independent actor (the Office of the UN High Commissioner for Human Rights and/or a special procedure mandate-holder, if relevant) should play a central role in needs identification, in particular protection needs;
- Systematically evaluate the effectiveness of the advisory services provided to countries, in particular their impact on the ground, at the level of rights-holders. Targets, indicators, and benchmarks should be used to measure progress, and indicators should include an evaluation of the behaviour of the states concerned in receiving, cooperating with, and implementing advisory services. Every resolution should set out an evaluation of, or at least the need to evaluate, its own impact or effectiveness or those of previous/successive Council interventions on the country concerned;
- Ensure that no state leaves the Council's agenda without an evaluation of its human rights situation, progress achieved since it was first considered by the Council, and the impact of technical assistance and capacity-building;

30 See UPR Info, "For impact on the ground the UPR needs SMART recommendations," 21 October 2015: www.upr-info.org/en/news/for-impact-on-the-ground-the-upr-needs-smart-recommendations (accessed on 30 October 2018).

- Develop a framework to follow up on resolutions, which may include the establishment of institutions, inter-ministerial committees or other appropriate mechanisms, and impact assessment/monitoring and evaluation tools; and
- In case of gross and systematic violations and/or ongoing failure by the country concerned to act on recommendations and prove that it cooperates with the Council in good faith, consider moving consideration of the country concerned to agenda item 4.

To the Council President and Bureau:

- Let all stakeholders speak within the context of item 10 interactive dialogues and general debates. In particular, allow civil society speakers to deliver statements that discuss the human rights situation, violations, and/or abuses in the countries considered (or that could be considered) in the framework of item 10, in line with the Council's practice. Reject points of order that merely aim to shut down criticism of the countries concerned's human rights record.

To states:

In addition to the relevant recommendations formulated above:

- States that are the object of item 10 resolutions should engage in good faith in the latter's negotiation, drafting, and implementation. They should demonstrate their willingness to address human rights issues through behaviour identified above;
- During Council debates, respect all stakeholders' right to raise substantive human rights issues and developments, including by condemning human rights violations and abuses;
- Refrain from exercising any form of intimidation, threat, or reprisal against human rights defenders and independent actors cooperating with the UN and its bodies and mechanisms in the field of human rights; and
- Develop a framework to follow up on resolutions. This framework may include the establishment of institutions, inter-ministerial committees or other appropriate mechanisms, and impact assessment tools agreed upon with the Office of the UN High Commissioner for Human Rights and/or the relevant mandate-holder(s).

To the Office of the UN High Commissioner for Human Rights:

- Expose states' behaviour in receiving technical assistance and capacity-building and interacting with stakeholders providing such services. Point to instances and patterns of non- or sub-standard cooperation, denial of access, or attacks against human rights defenders and civic space. Debunk state claims that they "have not received technical advice," including by systematically stressing that advice on amending and repealing laws and regulations and undertaking legal and policy reform constitutes technical assistance.





Annex 1: Indicators and Coefficients Used

Both spreadsheets are available online at: <https://www.defenddefenders.org/publication/no-advice-without-knowledge/>

Dimension 1: Monitoring, prevention, and documentation

What does the resolution provide for in terms of monitoring of the situation and possibly investigation into violations and abuses? What can the body or mechanism mandated by the resolution, if any, do in terms of monitoring of the situation, gathering of information on human rights issues and developments, and documentation of violations and abuses?
(= *Ability to assess the situation, to contribute to prevention of violations and abuses, and to gather information*)

1.a. Mandate given by the resolution

1.a.1. Resolution confers a mandate to monitor, assess or follow the human rights situation, developments, and/or issues

Does the resolution provide for monitoring or give a body or mechanism (OHCHR, a special procedure mandate-holder, or another mechanism) a mandate to assess the human rights situation or developments in the country concerned? The language indicating that this is the case can be specific and crystal-clear (e.g., the IE or SR mandate specifically mentions a monitoring aspect) or can be inferred from the terms employed in the resolution (including words such as “monitor,” “assess,” “evaluate,” “follow,” etc.). The Council requesting OHCHR or the relevant special procedure mandate-holder to report on the situation in, or deciding to hold a debate on, the country concerned, is considered to fulfil this criterion.

1.a.2. Resolution confers a mandate to investigate violations and abuses, inquire, and/or establish, verify or determine the facts

Does the resolution provide for investigation or give a body or mechanism (OHCHR, a special procedure mandate-holder, or another mechanism) a mandate to investigate human rights violations and abuses in the concerned country? Again, the language indicating this can be specific or inferred from the terms of the resolution (including words such as “investigate,” “inquire,” “document,” “determine,” “verify,” “establish (the facts and circumstances),” “collect and preserve (evidence),” “identify (those responsible),” etc.).

1.a.3. Resolution creates or extends a special procedure mandate (IE or SR) or a similar/ investigating mechanism

Does the resolution create a special procedure mandate (an Independent Expert or Special Rapporteur) or an ad hoc mechanism such as a “group of experts,” or does it extend an existing mandate?

Coefficients applied: 1: Light; 2: Moderate; 3: Intense

1.a.1. = 2: Some degree of monitoring is present in most resolutions under item 10, which means the ability to gather and assess information on the human rights situation in the country concerned.

1.a.2. = 3: Investigation entails the ability to examine individual cases of violations and abuses and to document, verify and establish the facts and circumstances of violations on the basis of evidence, as well as to draw patterns and to advance accountability. It is more inquisitive and can lead to attribution of responsibility, including to individuals.

1.a.3. = 2: A dedicated special procedure mandate (or similar mechanism) brings about, and allows for, greater scrutiny and visibility.

1.b. Prevention and protection aspect

1.b.1. Resolution mentions an emergency, warning signs, an escalation, a deterioration, a crisis, and/or risks, or raises specific concern over risks

Does the resolution contain language relating to the prevention of human rights violations and/or abuses or to the risk of a deterioration of the human rights situation (or of “instability,” an “escalation,” “risks,” “threats,” etc.)? In short, does the resolution contain elements of concern regarding risks, i.e., something that may happen but has not yet materialized?

1.b.2. Resolution mentions victims, at-risk or vulnerable persons or groups, HRDs, and/or journalists

Does the resolution mention persons or groups in need of specific protection, including against discrimination, threats, attacks, or stigmatisation, such as human rights defenders, victims and survivors, and/or at-risk or vulnerable persons or groups, including women, children, LGBTIQ persons, persons belonging to minorities, people on the move, IDPs, etc.?

1.b.3. Resolution mentions the humanitarian situation, refugees, and/or IDPs or displacement

Does the resolution mention humanitarian issues facing the country, internally displaced persons, the issue of displacement, refugees or asylum-seekers, etc.?

Coefficients applied: 1: Light; 2: Moderate; 3: Intense

1.b.1. = 3: The prevention mandate of the Human Rights Council, as outlined in paragraph 5(f) of UN General Assembly resolution 60/251, is by nature inquisitive as it is based upon an in-depth analysis of early warning signs within the country concerned.

1.b.2. = 3: Looking at the situation of at-risk or vulnerable persons and groups, the Council equips itself with the ability to detect early warning signs of a deteriorating situation. Attacks on these individuals and groups are often an indicator or a mounting crisis.

1.b.3. = 2: This criterion is a bit less important in terms of scrutiny as a challenging humanitarian situation may occur in pre- as well as post-crisis situation, or may be attributable to a crisis in a neighbouring country.

1.c. Actions requested by the resolution

1.c.1. Resolution calls for the state concerned's cooperation with OHCHR, the IE/SR, and/or other bodies or mechanisms

Does the resolution call for cooperation in any of the areas covered by it or any aspect of the government/relevant stakeholders' relationships?

1.c.2. Resolution calls for the granting of access for experts or humanitarian aid to the territory (or parts of the territory)

Does the resolution call for OHCHR or the relevant special procedure mandate-holder(s) or body or mechanism to be granted access to the territory of the country concerned, or parts of it? Does the resolution call for access for humanitarian aid or personnel?

1.c.3. Resolution calls for preventative or early measures, to prevent violations, or to build resilience

Does the resolution mention specific measures that should be taken to prevent human rights violations or a deterioration of the situation, or to build resilience?

1.c.4. Resolution calls for unhindered meetings or consultation with civil society, HRDs, and/or other independent actors

Does the resolution mention the importance of meetings with independent actors (including civil society and human rights defenders) for OHCHR or the relevant special procedure mandate-holder or mechanism, or specifically call for such meetings free from government interference?

Coefficients applied: 1: Light; 2: Moderate; 3: Intense

1.c.1. = 2: This is the normal practice of resolutions under any item. It is not systematically present in item 10 resolutions. Not the most important criterion to determine the level of scrutiny provided for by a resolution, it is of moderate importance.

1.c.2. = 2: Access is a precondition for effective monitoring work. When present in a resolution, this criterion indicates that there may be a problem with the state concerned. However, lack of access is not always attributable to the government; it can be related to conflict, insecurity or lack of effective control by the government of the state concerned.

1.c.3. = 3: This criterion is linked to the prevention mandate of the Council, by nature inquisitive. As it involves a call on the country concerned to act early to prevent violations, it is in itself a form of exercise of the Council's prevention mandate.

1.c.4. = 2: As for criterion 1.c.2., unhindered access to independent actors is a precondition for effective monitoring work. When mentioned in a resolution, it is a message to the government of the country concerned that the Council expects that that kind of monitoring can take place.

Scrutiny score under Dimension 1:

Intense:	$x \geq 18$	16 occurrences (13 percent)
Strong:	$18 > x \geq 12$	25 occurrences (21 percent)
Moderate:	$12 > x \geq 6$	54 occurrences (45 percent)
Light:	$6 > x \geq 0$	26 occurrences (21 percent)

(Max = 24; Min = 0)



Dimension 2: Reporting, advocacy, and visibility

What does the resolution say about the situation, human rights issues and developments, and violations and abuses? What does it call for (including what the authorities should do) to improve the situation?

(= Ability to present and share information the situation, to call for an end to violations and abuses, and to call for accountability)

2.a. Public reporting aspect

2.a.1. Resolution provides for reporting to the HRC (presentation of report, panel or ID)

Does the resolution provide for reporting, through an oral update, update, or presentation of a report, or through a panel discussion or interactive dialogue, to the HRC?

2.a.2. Resolution provides for enhanced IDs or debates, or for debates or reporting more than once a year or by more than one mechanism

Does the resolution provide for reporting, through an oral update or presentation of a report or through a panel or interactive dialogue, more than once a year or in “enhanced” format to the HRC, or by more than one mechanism during the one-year period following its adoption?

2.a.3. Resolution provides for reporting to the UNGA, or for the sharing of reports or findings with other bodies or mechanisms

Does the resolution provide for reporting, through an oral update or presentation of a report or through an interactive dialogue, to the UNGA? Does the resolution provide for the sharing of a relevant report on the country concerned to other bodies or mechanisms, for instance the UNGA, regional bodies or mechanisms, etc.?

Coefficients applied: 1: Light; 2: Moderate; 3: Intense

2.a.1. = 2: Some degree of public reporting is present in almost all resolutions under item 10, which means the ability to present information on the human rights situation in the country concerned.

2.a.2. = 3: This criterion indicates enhanced public reporting or discussion, i.e., greater scrutiny of the human rights situation in the country concerned.

2.a.3. = 3: Similar reasoning. This criterion indicates a greater degree of scrutiny through public reporting at the UN level, and is linked to investigations conducted as per a Council resolution. Findings are shared with other bodies or mechanisms for appropriate action, including prosecutions if and where the perpetrators of violations or abuses are identified.

2.b. Condemnatory aspect

2.b.1. Resolution highlights the human rights situation, violations and abuses, patterns, and/or issues

Does the resolution highlight the human rights situation, violations and abuses, patterns, and/or issues or challenges in the country concerned?

2.b.2. Resolution contains a list of human rights violations and abuses

Does the resolution contain a list (i.e., at least five types) of human rights issues/violations prevailing in the country concerned?

2.b.3. Resolution condemns or expresses concern over human rights violations and abuses

Does the resolution “condemn” or “express concern” (or similar language) over human rights issues prevailing in the country concerned?

2.b.4. Resolution uses depreciatory adjectives to qualify violations (grave, serious, appalling, egregious, gross, widespread, systematic, systemic, etc.)

Does the resolution use depreciatory adjectives such as those listed to refer to the human rights issues that are observed in the country concerned?

2.b.5. Resolution mentions threats, intimidation, harassment, and/or reprisals against HRDs, civil society, journalists/the media, and/or humanitarian personnel

Does the resolution mention (even without openly condemning or attributing responsibility) acts of threats, intimidation, harassment, and/or reprisals against independent actors, namely human rights defenders, civil society members, journalists, bloggers and other media actors or professionals, and/or humanitarian personnel?

2.b.6. Resolutions mentions impunity as an issue

Does the resolution specifically mention impunity?

Coefficients applied: 1: Light; 2: Moderate; 3: Intense

2.b.1. = 2: Some degree of reporting on violations and abuses is present in most resolutions under any item of the Council’s agenda. At the very least, in substantive (i.e., non-procedural) resolutions, the main human rights issues and challenges are mentioned.

2.b.2. = 3: Including a list (here we rely on a threshold of five types of violations (for instance: freedom of expression, arbitrary detention, women’s rights, or the right to an adequate standard of living)) indicates that the Council is willing to exercise a greater degree of scrutiny of the situation. It is more typically something we find in country-specific resolutions under item 4 or item 2.

2.b.3. = 2: Condemning or expressing concern over violations and/or abuses indicates that the Council takes a position. It does not stay in a neutral service-provider role. By doing so, it fulfils a scrutiny function.

2.b.4. = 3: Negatively qualifying the violations also indicates that the Council is not willing to stay in a neutral role. It takes a position and signals its willingness to conduct scrutiny.

2.b.5. = 3: As in criterion 1.b.2., the Council looks at the situation of at-risk, independent persons and groups, whose targeting is often an early warning sign of a deteriorating situation.

2.b.6. = 2: Including the word “impunity” in a resolution under item 4 is standard practice; however, it is not always the case under item 10. Doing so, the Council signals that it is willing to exercise a scrutiny function.

2.c. Length of the resolution

2.c.1. Number of PPs

How many preambular paragraphs does the resolution contain?

2.c.2. Number of OPs

How many operative paragraphs does the resolution contain? (Presidential statements’ paragraphs are all counted as operative paragraphs, not as preambular paragraphs.)

2.c.3. Total number of paragraphs

How many paragraphs does the resolution contain in total? (It is simply the sum of PPs and OPs.)



Coefficients applied: Irrelevant.

See the analysis of the evolution of Council resolutions in terms of length. This indicator is not included in the scoring process.

2.d. Accountability and justice aspect

2.d.1. Resolution calls for accountability or the fight against impunity (in general)

Does the resolution call for accountability or the fight against impunity, even without attributing responsibility or naming names or institutions?

2.d.2. Resolution mentions the conduct of armed or law enforcement forces, state agents, officials, and/or vetting/security sector reform

Does the resolution specifically mention the state apparatus, agents, or officials? Does the resolution mention the conduct of armed or law enforcement forces such as the police, and/or a process of vetting for agents of such forces, security sector reform, or disarmament, demobilization and reintegration?

2.d.3. Resolution mentions or calls for justice for the victims, redress, remedies, reparation, truth, reconciliation, and/or non-recurrence

Does the resolution mention or call for justice, redress, remedies, reparation, truth, reconciliation, and/or non-recurrence (or related terms relating to transitional justice)?

Coefficients applied: 1: Light; 2: Moderate; 3: Intense

2.d.1. = 2: A general call for accountability, or to combat impunity, is a “moderate” scrutiny element insofar as it does not specifically refer to those responsible or call for individual responsibility. However, it goes beyond a service-provision role.

2.d.2. = 3: This criterion indicates scrutiny of state services/agents that are most often responsible for violations of human rights and international humanitarian law, namely the armed forces and law enforcement/security forces. The Council raising their behaviour and/or responsibility, or the need to reform them, indicates its willingness to scrutinise the state concerned.

2.d.3. = 3: Calls for justice, the rights of the victims, and/or transitional justice go much beyond a service-provision role. When this criterion is fulfilled, the Council makes it clear that it is willing to exercise a scrutiny and advocacy role.

2.e. Actions requested by the resolution

2.e.1. Resolution calls for the implementation of UN recommendations and/or instruments

Does the resolution call for the implementation of UN recommendations (including expert bodies and mechanisms such as OHCHR, special procedures or treaty bodies, and political bodies and processes such as the HRC and the UPR) and/or international instruments?

2.e.2. Resolution calls to investigate, prosecute, and/or hold perpetrators of violations and abuses accountable

Does the resolution call for the investigation, prosecution and/or accountability of perpetrators?

2.e.3. Resolution calls for immediate or urgent measures

Does the resolution mention measures that should be taken immediately or urgently, or as a matter of priority?

Coefficients applied: 1: Light; 2: Moderate; 3: Intense

2.e.1. = 2: Calls to implement recommendations or international instruments is relatively common practice; however, such calls are not always included in Council resolutions. Doing so, the Council signals that it is willing to exercise an advocacy function.

2.e.2. = 3: In comparison with criterion 2.d.1. (general call for accountability), the scrutiny and advocacy element is strong here. The Council directly calls for investigation into the conduct of those responsible and for individual accountability.

2.e.3. = 3: Prescriptive language on immediate or urgent measures to be taken indicates the Council's willingness to scrutinise the state concerned and act for human rights reforms.

2.f. Ongoing consideration by the HRC

2.f.1. Resolution provides for a limited duration intervention ("sunset clause" or similar)

Does the resolution foresee a time-bound intervention of the HRC? Does it provide for a clear end to the HRC's consideration of the country concerned?

2.f.2. Resolution contains "transition" language (i.e., paves the way for an end to the consideration of the country concerned)

Does the resolution envision an end to the consideration of the country concerned upon certain conditions/criteria, or an end to the relevant OHCHR reporting or special procedure mandate?

2.f.3. Resolution says nothing on ongoing consideration

The resolution is silent on the issue of ongoing action on the country concerned.

2.f.4. Resolution envisions an extension of HRC intervention ("remains seized" or similar language)

Does the resolution indicate an expectation or renewal of the relevant OHCHR reporting or special procedure mandate (or other relevant mechanism) or indicate that the Council remains seized of the situation (or similar language)?

Coefficients applied: None

Language on ongoing consideration of a country situation by the Council does not appear to be relevant in terms of its "scrutiny" contents, and therefore would have biased the scoring. This indicator is kept in the table as it provides data for the analysis, but it is not included in the scoring process.

Scrutiny score under Dimension 2:

Intense:	$x \geq 27$	41 occurrences (34 percent)
Strong:	$27 > x \geq 18$	26 occurrences (21 percent)
Moderate:	$18 > x \geq 9$	25 occurrences (21 percent)
Light:	$9 > x \geq 0$	29 occurrences (24 percent)

(Max = 36; Min = 0)

Dimension 3: Advisory services (technical assistance and capacity-building)



What does the resolution provide for in terms of assistance and support? What principles is the resolution based on in terms of ownership of reforms, specificity of advisory services, and its role as a catalyst for reforms?

(= Ability to help the state concerned identify and/or work on relevant issues and challenges and improve the situation in a holistic manner)

3.a. Quality and scope of advisory services

3.a.1. Resolution provides for an evaluation of the impact or effectiveness of the advisory services provided

Does the resolution provide for a mechanism, or at least for the need, to evaluate or assess the impact or effectiveness of the services provided to the state concerned?

3.a.2. Language is self-reflective (sets out a tailor-made approach to advisory services or makes changes in light of experience or findings)

Does the resolution incorporate the lessons learned, remaining challenges, the experience, and/or recommendations by OHCHR or the relevant special procedure mandate-holder or mechanism when defining an approach to advisory services or their scope? Does the resolution re-orient the advisory services provided to the state concerned or stakeholders within the latter?

3.a.3. Resolution calls for a review of, or amendments to, the legislation, or for reforms

Does the resolution call for a review of, or amendments to, the legislation to bring it in line with international standards and the state concerned's obligations? Does it call for reforms (of laws and regulations, policies and practices)?

Coefficients applied: 1: Light; 2: Moderate; 3: Intense

3.a.1. = 3: This criterion indicates a high level of scrutiny, as the state concerned is not the sole judge of the quality of the advisory services received. Evaluation of advisory services means a constant assessment of the human rights issues, including the government's behaviour, in the country and responsiveness of the Council.

3.a.2. = 3: Similar reasoning. A high level of scrutiny is evidenced by the fact that advisory services are refined, redefined, re-oriented to tackle the human rights issues in the country concerned. The Council does not content itself with a neutral service-provider role.

3.a.3. = 3: Advice on legal and policy reform is part and parcel of technical assistance. It is routinely carried out by OHCHR and special procedure mandate-holders. However, when the Council itself takes up recommendations and openly calls for such reforms, it exercises a scrutiny/advocacy function.

3.b. Title of the resolution

3.b.1. Title mentions the human rights situation, accountability, or responsibilities

Does the title of the resolution mention the situation of human rights, accountability, or responsibilities for violations?

3.b.2. Title contains mixed elements (advisory services and the human rights situation, or an "improvement" element)

Does the title of the resolution refer both to advisory services and to the situation of human rights, or contain an "improvement" (of the situation) element? (Example: "technical assistance to improve the situation of human rights in [...].")

3.b.3. Title is entirely technical assistance and capacity-building-oriented

Does the title of the resolution mention only technical assistance, capacity-building, or advisory services?

Coefficients applied: None

The title of a resolution does not appear to be relevant in terms of its “scrutiny” contents, and therefore would have biased the scoring. This indicator is kept in the table as it provides data for the analysis, but it is not included in the scoring process.

3.c. Main stakeholder

3.c.1. Appears to be OHCHR (and/or UN system)

The main stakeholder in the relationship with the state concerned, as per (or in the implementation of) the resolution, appears to be OHCHR and/or the UN system.

3.c.2. Appears to be the relevant special procedure mandate-holder (IE or SR or *ad hoc* mechanism)

The main stakeholder in the relationship with the state concerned, as per (or in the implementation of) the resolution, appears to be special procedure mandate-holder (IE or SR) or the relevant *ad hoc* mechanism.

Coefficients applied: 1: Light; 2: Moderate; 3: Intense

3.c.1. = 1: OHCHR acting to implement Council resolutions is standard practice; it is the case for virtually all resolutions.

3.c.2. = 2: As for criterion 1.a.3., the fact that a dedicated special procedure mandate (or similar mechanism) exists brings about greater scrutiny, notably because of specific interactive dialogues/segments at the Council’s plenary sessions.

3.d. Coordination and cross-fertilisation aspect: is the intervention of the HRC holistic?

3.d.1. Resolution refers to OHCHR's analysis, input, track record with the country concerned, or expertise

Does the resolution refer to or mention OHCHR’s analysis, input, track record with the country concerned, or expertise?

3.d.2. Resolution refers to the UPR of the country concerned

Does the resolution refer to or mention the UPR of the country concerned (at least the recommendations accepted by the state concerned or its engagement in the process)?

3.d.3. Resolution refers to special procedures' analyses, input, track record with the country, or expertise

Does the resolution refer to or mention special procedures’ analyses, input, track record with the country concerned, or expertise? That may include the dedicated, country-specific mandate-holder and other thematic mandates.

3.d.4. Resolution refers to treaty bodies' analyses, input, track record with the country, or expertise

Does the resolution refer to or mention treaty monitoring bodies’ analyses, input, track record with the country concerned, or expertise?



3.d.5. Resolution refers to civil society's or HRDs' analyses, input, track record with the country, or expertise

Does the resolution refer to or mention civil society's or human rights defenders' analyses, input, track record with the country concerned, or expertise?

3.d.6. Resolution refers to UNCT/PKO, UN agencies; regional or sub-regional bodies' or mechanisms'; or other relevant documents, political or technical initiatives or cooperation, and/or resolutions

Does the resolution refer to or mention the UN country team and/or a peacekeeping operation (if relevant), or UN agencies that play a role with regard to the country concerned? Does the resolution refer to or mention regional or sub-regional bodies' or mechanisms' analyses, input, track record with the country, or expertise? Does the resolution refer to or mention other relevant documents, political or technical initiatives or cooperation, and/or resolutions? These can be international or regional/sub-regional resolutions or documents (compact, outcome of a conference or summit on the country concerned, resolution such as UNSC resolution 1325 (2000), national legislation, plan of action, etc.).

Coefficients applied: 1: Light; 2: Moderate; 3: Intense

3.d.1. = 3: This criterion indicates cross-fertilisation with an expert (i.e., non-political) body, therefore a higher degree of scrutiny and insulation from diplomatic considerations.

3.d.2. = 1: References to UPR recommendations are relatively frequent, which can easily be explained by the fact that they emanate from a process set up by the Council itself. However, in itself, the presence of UPR recommendations does not indicate strong scrutiny insofar as they are made within a diplomatic process.

3.d.3. = 3: This criterion indicates cross-fertilisation with expert (i.e., non-political) bodies.

3.d.4. = 3: This criterion indicates cross-fertilisation with expert (i.e., non-political) bodies.

3.d.5. = 2: References to analyses by civil society members or human rights defenders, including those who travel to Geneva to advocate for and work on resolutions under item 10, indicate the willingness of the Council to rely on independent sources of assessment of the situation on the ground, including the effectiveness of technical assistance and capacity-building.

3.d.6. = 2: This criterion indicates cross-fertilisation with independent bodies (which are not human rights expert bodies) and/or outcomes of diplomatic processes.

Scrutiny score under Dimension 3:

Intense:	$x \geq 18$	10 occurrences (8 percent)
Strong:	$18 > x \geq 12$	43 occurrences (36 percent)
Moderate:	$12 > x \geq 6$	62 occurrences (51 percent)
Light:	$6 > x \geq 0$	6 occurrences (5 percent)

(Max = 23; Min = 0)

OVERALL SCRUTINY SCORE



Intense:	$x \geq 18$	42 occurrences (35 percent)
Strong:	$18 > x \geq 12$	31 occurrences (26 percent)
Moderate:	$12 > x \geq 6$	32 occurrences (26 percent)
Light:	$6 > x \geq 0$	16 occurrences (13 percent)

(Max = 26.6; Min = 0)

2006-2011 (HRC2 → HRC18)

Intense:	$x \geq 18$	7 occurrences (19 percent)
Strong:	$18 > x \geq 12$	5 occurrences (14 percent)
Moderate:	$12 > x \geq 6$	15 occurrences (40 percent)
Light:	$6 > x \geq 0$	10 occurrences (27 percent)

2012-2015 (HRC19 → HRC30)

Intense:	$x \geq 18$	16 occurrences (31 percent)
Strong:	$18 > x \geq 12$	18 occurrences (35 percent)
Moderate:	$12 > x \geq 6$	13 occurrences (25 percent)
Light:	$6 > x \geq 0$	4 occurrences (8 percent)

2016-2018 (HRC31 → HRC39)

Intense:	$x \geq 18$	19 occurrences (58 percent)
Strong:	$18 > x \geq 12$	8 occurrences (24 percent)
Moderate:	$12 > x \geq 6$	4 occurrences (12 percent)
Light:	$6 > x \geq 0$	2 occurrences (6 percent)

2006-2013 (HRC2 → HRC24)

Intense:	$x \geq 18$	12 occurrences (19 percent)
Strong:	$18 > x \geq 12$	16 occurrences (25 percent)
Moderate:	$12 > x \geq 6$	22 occurrences (35 percent)
Light:	$6 > x \geq 0$	13 occurrences (21 percent)

2014-2018 (HRC25 → HRC39)

Intense:	$x \geq 18$	30 occurrences (52 percent)
Strong:	$18 > x \geq 12$	15 occurrences (26 percent)
Moderate:	$12 > x \geq 6$	10 occurrences (17 percent)
Light:	$6 > x \geq 0$	3 occurrences (5 percent)



Annex 2: Summary of Data Obtained

Both spreadsheets are available online at: <https://www.defenddefenders.org/publication/no-advice-without-knowledge/>

2.1. Three-dimensional table data:

Percentages under Dimension 1:

	<i>(overall)</i>	2006-2011	2012-2015	2016-2018	2006-2013	2014-2018
1.a.	1.a.1. (88%)	81%	88%	94%	83%	93%
	1.a.2. (15%)	8%	14%	24%	10%	21%
	1.a.3. (47%)	43%	45%	55%	43%	52%
1.b.	1.b.1. (36%)	16%	37%	58%	21%	53%
	1.b.2. (74%)	54%	80%	85%	60%	88%
	1.b.3. (55%)	27%	57%	82%	37%	74%
1.c.	1.c.1. (53%)	35%	53%	73%	38%	69%
	1.c.2. (37%)	14%	35%	67%	21%	55%
	1.c.3. (23%)	8%	24%	39%	13%	34%
	1.c.4. (10%)	0%	8%	24%	0%	21%

Percentages under Dimension 2:

	<i>(overall)</i>	2006-2011	2012-2015	2016-2018	2006-2013	2014-2018
2.a.	2.a.1. (93%)	84%	98%	97%	89%	98%
	2.a.2. (36%)	27%	27%	58%	27%	45%
	2.a.3. (4%)	3%	0%	12%	2%	7%
2.b.	2.b.1. (92%)	81%	98%	94%	87%	97%
	2.b.2. (45%)	14%	55%	67%	29%	64%
	2.b.3. (62%)	46%	67%	73%	52%	72%
	2.b.4. (39%)	32%	39%	45%	37%	41%
	2.c.5. (35%)	11%	35%	61%	19%	52%
	2.c.6. (57%)	32%	59%	82%	41%	74%
2.c. <i>(absolute numbers)</i>	2.c.1. (9)	7	9	12	7	11
	2.c.2. (16)	9	17	22	11	21
	2.c.3. (25)	16	26	35	19	32
2.d.	2.d.1. (62%)	38%	69%	79%	46%	79%
	2.d.2. (35%)	22%	33%	52%	24%	47%
	2.d.3. (62%)	46%	67%	73%	52%	72%
2.e.	2.e.1. (50%)	32%	53%	64%	43%	57%
	2.e.2. (61%)	32%	69%	82%	44%	79%
	2.e.3. (43%)	30%	43%	58%	37%	50%
2.f.	2.f.1. (9%)	11%	2%	18%	6%	12%
	2.f.2. (2%)	3%	0%	6%	2%	3%
	2.f.3. (37%)	46%	41%	21%	43%	31%
	2.f.4. (51%)	41%	57%	55%	49%	53%

Percentages under Dimension 3:

	<i>(overall)</i>	2006-2011	2012-2015	2016-2018	2006-2013	2014-2018
3.a.	3.a.1. (13%)	11%	12%	18%	11%	16%
	3.a.2. (45%)	35%	49%	52%	43%	48%
	3.a.3. (27%)	24%	33%	21%	24%	31%
3.b.	3.b.1. (10%)	11%	6%	15%	8%	12%
	3.b.2. (12%)	8%	8%	21%	6%	17%
	3.b.3. (79%)	81%	86%	64%	86%	71%
3.c.	3.c.1. (66%)	62%	63%	76%	60%	72%
	3.c.2. (53%)	54%	51%	55%	54%	52%
3.d.	3.d.1. (92%)	78%	96%	100%	84%	100%
	3.d.2. (35%)	22%	41%	39%	30%	40%
	3.d.3. (32%)	32%	29%	36%	30%	34%
	3.d.4. (9%)	5%	10%	12%	5%	14%
	3.d.5. (43%)	22%	45%	64%	27%	60%
	3.d.6. (91%)	78%	96%	97%	86%	97%

2.2.2 Table of occurrences data:

	<i>(overall)</i>	2006-2011	2012-2015	2016-2018	2006-2013	2014-2018
Criminal aspect	War crimes (11%)	0%	10%	24%	2%	21%
	Crimes against humanity (12%)	0%	12%	27%	2%	24%
	Genocide (7%)	0%	8%	12%	2%	12%
	(International) crimes (30%)	16%	31%	42%	19%	41%
	International Criminal Court (24%)	8%	27%	36%	11%	38%
Prescriptive aspect	Urges (56%)	43%	57%	70%	43%	71%
	Demands (7%)	3%	6%	12%	2%	12%
	Strongly / firmly (23%)	5%	20%	48%	10%	38%
	Immediate / urgent (36%)	27%	33%	48%	32%	40%
	Prevention / preventive / preventative (36%)	19%	39%	52%	24%	50%
Accountability aspect	Security sector reform / training / violations by security forces (31%)	22%	35%	36%	29%	34%
	Vetting / DDR (12%)	0%	10%	27%	2%	22%
	Victims (36%)	24%	37%	48%	25%	48%
	Justice (59%)	32%	75%	64%	49%	69%
Elections (53%)		46%	59%	52%	56%	50%
Investigative aspect	Investigate / inquire (6%)	3%	2%	15%	2%	10%
	Establish / document / determine (the facts) / collect (and/or preserve (evidence)) (8%)	3%	4%	21%	2%	16%
	Identify (those responsible) (2%)	0%	0%	6%	0%	3%
	Verify / examine (5%)	0%	10%	3%	3%	7%
	Assess / evaluate (the situation) (26%)	14%	22%	48%	13%	41%
	Monitor / follow (the situation) (21%)	8%	18%	39%	8%	34%



Findings / conclusions / evidence / reports	HRC or OHCHR (31%)	22%	24%	52%	19%	43%
	Third body or mechanism (13%)	3%	14%	24%	6%	21%
Evaluation aspect	Effectiveness / efficiency / impact (7%)	8%	4%	9%	5%	9%
	Evaluation / assessment (of technical assistance) / ascertainment / determination (of the needs) (16%)	5%	16%	27%	13%	19%
	Benchmarks / indicators / targets (2%)	3%	2%	3%	3%	2%
	Time frames / time-table / timeline / time-bound (3%)	5%	2%	3%	5%	2%

Annex 3: Agenda of the Human Rights Council³¹

- Item 1. Organizational and procedural matters
- 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
- Item 3. Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development
- Item 4. Human rights situations that require the Council's attention
- Item 5. Human rights bodies and mechanisms
- Item 6. Universal Periodic Review
- Item 7. Human rights situation in Palestine and other occupied Arab territories
- Item 8. Follow-up and implementation of the Vienna Declaration and Programme of Action
- Item 9. Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action
- Item 10. Technical assistance and capacity-building

31 Human Rights Council resolution 5/1 of 18 June 2007.





DefendDefenders (the East and Horn of Africa Human Rights Defenders Project) seeks to strengthen the work of human rights defenders throughout the sub-region by reducing their vulnerability to risks of persecution and by enhancing their capacity to effectively defend human rights.

DefendDefenders is the secretariat of EHAHRD-Net, a network of more than 100 human rights organisations in the eleven countries of the East and Horn of Africa sub-region: Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia (together with Somaliland), South Sudan, Sudan, Tanzania, and Uganda.



www.defenddefenders.org



+256 393 265 820



info@defenddefenders.org



@DefendDefenders



/defenddefenders

