

## THE UN HUMAN RIGHTS COUNCIL:

### WHAT IS IT ? HOW CAN IT HELP HUMAN RIGHTS DEFENDERS ? HOW TO ENGAGE WITH IT ?

DefendDefenders (the East and Horn of Africa Human Rights Defenders Project) regularly engages with the United Nations (UN) Human Rights Council (hereafter 'HRC' or 'Council') and other UN bodies and mechanisms – what we refer to as the “UN human rights system.” Every year, in partnership with DefendDefenders, human rights defenders (HRDs) from the East and Horn of Africa participate in advocacy initiatives at the HRC, including by attending sessions. We work on 11 countries, namely Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia/Somaliland, South Sudan, Sudan, Tanzania, and Uganda. All take part in the HRC’s work, and five are on the Council’s agenda with specific resolutions.

This note seeks to provide HRDs and partners with basic information on the HRC, the ways in which it can help them and strengthen their work at the national level, and how to engage with stakeholders and contribute to the work of the HRC.

#### 1. WHAT IS THE UN HUMAN RIGHTS COUNCIL?

The HRC is the main UN body in charge of human rights. It is an inter-governmental body: it is **made up of States** represented by their governments. It is a subsidiary organ of the UN General Assembly (UNGA), the assembly of all UN member States (as of 2020: 193). The UNGA established the HRC through **resolution 60/251** (2006). The HRC succeeded and assumed most responsibilities and functions previously entrusted to the UN Commission on Human Rights, and it took over some of the Commission’s mandates and mechanisms.

The HRC is **tasked** with promoting universal respect for the protection of all human rights and fundamental freedoms for all, addressing human rights violations (including gross and systematic violations) and promoting effective coordination and the mainstreaming of human rights within the UN system. The Office of the UN High Commissioner for Human Rights (**OHCHR**) serves as the secretariat for the Council, ensuring its functioning and preparing the reports and documents requested by the HRC.

The Council is based in Geneva, Switzerland. It is composed of **47 member States**. This means that to serve as members of the HRC, States need to be elected. **HRC elections** are organised every year (mid-October) at the UNGA (New York, USA), within the five regional groups recognised by the UN:

- African States (13 seats);
- Asia-Pacific States (13 seats);
- Latin American and Caribbean (GRULAC) States (8 seats);
- Western European and other (WEOG) States (7 seats); and
- Eastern European States (6 seats).



Candidates that receive a majority of votes at the UNGA are elected for a **three-year term**. One third of the HRC’s membership is renewed every year. For instance, 14 **members** elected in October 2019 will serve for the 2020-2022 term. The HRC **President** is elected on an annual basis within her/his regional group, following a principle of rotation. States serve for a maximum of two consecutive terms (six years), after which they must remain observers for a minimum period of one year.

In practice, in most groups, elections take place in closed slates (or “clean slates”), which means that States agree on candidacies beforehand and that regional groups present the same number of candidates as there are seats available. For the African Group and the Western Group, this is the case every year. NGOs have criticised this practice, which eliminates competition and deprives voting States of the opportunity to make a real decision based on the merits of each candidate’s human rights record.

States that are not members can nevertheless participate in the work of the HRC as **observers** – they have a right to participate in the negotiation of resolutions, present and join initiatives, and deliver oral statements, but their speaking time is reduced in a number of debates and they do not have the right to vote when resolutions are presented for adoption, at the end of each session.

The HRC's founding resolution, UNGA resolution 60/251, outlines a number of **membership criteria and standards**, including the obligation to "uphold the highest standards in the promotion and protection of human rights [and to] fully cooperate with the Council." A member's failure to respect membership standards may lead to its suspension, but this happened only once.

The HRC holds three **regular sessions** per year (four weeks in February-March, three weeks in June-July, and three weeks in September) and can hold **special (emergency) sessions** to address human rights crises. Its sessions are numbered: for instance, the HRC's 42<sup>nd</sup> regular session is referred to as [HRC42](#) (a specific webpage for each session gathers relevant information, including reports and resolutions). The HRC's rules and procedures, agenda, programme and methods of work, mechanisms and structures are set out in HRC resolutions 5/1 and 5/2 (its "institution-building package") of 2007.

Debates can be followed live on the UN webcast: [webtv.un.org](http://webtv.un.org). Additional information on sessions and debates, including oral statements delivered by participants, is available on the [HRC Extranet](#) (username: *hrc extranet* / password: *1session*). The HRC Secretariat has Twitter (@UN\_HRC) and Facebook (UNHRC) accounts.

The HRC has established a number of **bodies and mechanisms**. Apart from the special procedures (see below), the most well-known is the **Universal Periodic Review (UPR)**, a process through which the human rights record of all UN member States is reviewed every four-and-a-half years. The Council has also set up open-ended inter-governmental working groups (IGWGs) to negotiate the adoption of additional human rights treaties (on transnational corporations and human rights, among others), forums (including the Minority Forum and the Forum on Business and Human Rights), and expert mechanisms and committees. The HRC has a complaint procedure, which is less and less used and has been criticised for its ineffectiveness.

The **special procedures (SPs)** are independent human rights experts with mandates to report and advise on human rights. Mandates can be thematic (freedom of peaceful assembly and association, torture, arbitrary detention, the right to adequate housing...) or country-specific. Sometimes referred to as the "eyes and ears" of the Council, special procedure mandate-holders undertake country visits, act on individual cases or concerns by sending "communications" to States, conduct thematic studies and convene expert consultations, and provide advice for technical cooperation.

Lastly, the HRC has set up **independent investigations** into human rights violations and abuses in specific countries. These include Commissions of Inquiry (CoIs), fact-finding missions (FFMs), independent investigative mechanisms and other expert groups. These mechanisms have collected and preserved evidence of grave violations and provided information to other UN bodies, as well as courts and tribunals, including the International Criminal Court (ICC).

## 2. HOW CAN THE COUNCIL HELP HUMAN RIGHTS DEFENDERS?

**Resolutions** adopted by the HRC are not in themselves legally binding. As opposed to resolutions adopted by the UN Security Council (UNSC), they are not "hard" international law. From a strictly legal perspective, HRC resolutions are recommendations. However, they matter as they represent political pronouncements on the human rights record of countries that are the object of resolutions, or on thematic issues that have a human rights dimension. They also build upon existing international human rights law and help "crystallise" norms. Lastly, HRC resolutions can have real consequences beyond "naming and shaming" human rights abusers, including at the judicial level. Investigations set up by HRC resolutions can lead to prosecutions by national or international courts, and HRC resolutions and pressure can push national authorities to act against impunity, including by prosecuting perpetrators of violations.

More generally, HRC resolutions and the recommendations they contain can **positively impact** the concerned countries' domestic human rights situation by demanding accountability for violations, calling for legal and institutional reform and stronger human rights safeguards, expressing support for local civil society, and offering technical advice and support (usually through OHCHR) for human rights improvements. The very fact of seeing a multilateral body such as the HRC signal interest in a country may bring about positive results at the domestic level: as the concerned country is under the spotlight, its authorities have an incentive to better comply with their human rights obligations and improve their human rights record.

Resolutions are not the only types of HRC outcomes that matter and for which NGOs advocate. In a number of cases, **"joint oral statements"** or "joint statements" (statements on a specific country situation delivered by a State on behalf of a number of other States) may bring about positive results at the

national level, as the concerned country is also placed under scrutiny – and sometimes “warned” that stronger action (namely, a resolution) may follow if it does not improve its human rights record. **Individual statements** (delivered by States in their national capacity) may also be useful, especially when several such statements are delivered on the same country situation or during the same debate/session, and when such statements come from States belonging to several regional groups (these are called “cross-regional” statements). NGOs advocate for such individual statements too, depending on what can realistically be achieved.

It is of course more difficult to push States to deliver joint and individual statements – let alone prepare and present a resolution for adoption – on powerful and influential countries, even if the latter’s human rights situation is objectively grave. This does not mean that concerted multilateral action is not possible. A joint statement is often the first step towards a resolution.

No State likes being under the **international spotlight**. This explains why most States significantly engage in the work of the HRC, putting forward or joining initiatives on themes or countries, supporting or opposing specific language and amendments, and using their speaking time to both defend their record and policy priorities and speak out on violations committed in other countries. Since the HRC was established, a number of States have withdrawn from it or some of its mechanisms, leaving their seat vacant, but they usually came back after realising that the HRC is an instrument of influence, used by both human rights-minded actors and human rights abusers.

As, unlike at the UNSC, **no State enjoys veto powers** at the HRC (that is, no State can oppose the adoption of a resolution alone), HRC resolutions represent the views of the international community more accurately. The HRC is often used to shine a light on a country’s human rights situation when the UNSC is unable to act because it is “paralysed” by the veto (or threat thereof) of one of its five permanent members (China, France, Russia, the United Kingdom, and the USA).



To be adopted by the HRC, a resolution needs to gather a **simple majority of votes**. The 47 member States can either vote “Yes” or “No” or abstain on a proposed resolution. For any draft resolution to pass, the number of positive votes must be superior to the number of negative votes (and abstentions). For instance, a resolution can be adopted

with 46 votes in favour, 1 against, and 0 abstention (“46Y, 1N, 0A”), with 24Y, 20N, 3A, or with 17Y, 15N, 15A. It can also be adopted “**by consensus**” (see below).

Member states can also present **amendments** aiming to modify the text of a draft resolution before it is adopted. These amendments can seek to insert language, remove language, change the resolution’s title, or change its focus or scope. Amendments are adopted or rejected following the same rules of procedure. Amendments are presented to the plenary of the HRC when no agreement has been found between groups of States during the negotiation process.



HRDs and NGOs can advocate for the adoption of specific resolutions by the HRC (see section 3). But they can also make use of the Council’s outcomes in their work at the national and regional levels. To do so, they should rely on the value (political weight) of HRC resolutions and pronouncements to promote human rights and push for stronger protections at home. They may **use country-specific resolutions** to advocate for change in line with the recommendations offered by the HRC or States. Language is important, and one should always look at the specific terms and expressions used in HRC resolutions. They may also use **thematic resolutions** to advocate for national-level reform. Thematic resolutions contain reminders of what State obligations are with regard to a specific area, mentions of good practices, mentions of legislation/policies/practices that should be avoided, and recommendations on how to comply with international law. As they are often adopted by consensus, thematic resolutions are more easily accepted by all States – it is indeed more difficult for a government to discard the content of a consensus resolution as they have directly or tacitly accepted it. It is important for HRDs and NGOs operating at the national level to use HRC resolutions to push for reforms. HRC resolutions and joint statements on African countries often refer to African Union (AU) of African Commission on Human Rights (ACHPR) outcomes, decisions or resolutions.

All HRC resolutions adopted to date are available online on the Council’s website (see the “Resolutions, decisions and President’s statements” section of each session’s [webpage](#)) and on the databases of

specialised organisations, which have effective search tools.<sup>1</sup>

The **UPR** can also effectively be used for national-level advocacy. While recommendations that have been accepted by the State under review provide invaluable strength for advocacy with national authorities (who committed to specific action), even recommendations that have been “noted” (i.e., not accepted during the UPR process) can provide HRDs and NGOs with tools. If a large number of States recommended the State under review to take action in a specific field, this is a clear indication that the international community has an interest in seeing the concerned State improve its human rights record in that field. This kind of argument can prove to be powerful for national human rights advocates. Country-specific information on the UPR, including past reviews and recommendations, can be obtained through the UPR’s webpage or via UPR Info’s [database](#).



**Special procedures** are natural interlocutors for national-level HRDs and NGOs. This paper does not aim to provide a comprehensive overview of civil society’s interactions with special procedures, but it is worth keeping in mind the many roles and missions mandate-holders fulfil: they conduct country visits (and pushing governments to accept visit requests should be part of NGOs’ “advocacy toolkit”), send communications to States (communications to special procedures can be sent by anyone<sup>2</sup>), conduct thematic studies and reports (their findings and recommendations can be used for advocacy), provide advice for technical cooperation (which can also be used for national advocacy), and raise public awareness (and special procedures’ statements and press releases are powerful tools for human rights advocates).

Lastly, the work of other HRC mechanisms, including ongoing negotiations in the framework of IGWGs and outcomes of expert mechanism sessions, should be kept in mind by advocates.

<sup>1</sup> Some collective outcomes are called “decisions” or “President’s statements” in lieu of “resolutions.” Differences are based on the HRC’s procedures and programme of work, not on substance. These outcomes are essentially resolutions.

See for instance the Universal Rights Group’s (URG) resolutions portal (<https://www.universal-rights.org/human-rights/human-rights-resolutions-portal/>) and HURIDOCS’ “Rights Docs” tool: <https://www.right-docs.org/>

<sup>2</sup> See criteria and guidance on the special procedures’ main page

### 3. HOW TO, AND HOW DOES DEFENDDEFENDERS, ENGAGE WITH THE COUNCIL?

DefendDefenders and its partners routinely engage with the HRC and its mechanisms, including the UPR, the system of special procedures, and independent investigative mechanisms such as the CoI on Burundi and the Commission on Human Rights (CoHR) in South Sudan. HRDs and civil society organisations can interact with and provide information to these mechanisms.<sup>3</sup> Participation in the UPR process and submission of information to special procedure mandate-holders and investigative mechanisms are not conditioned upon receiving official consultative status with the UN (“**ECOSOC**” status). However, to attend sessions of the HRC, deliver oral statements, organise events in the UN premises, and officially participate in the Council’s work, organisations need to be ECOSOC-accredited.

But what do we mean exactly by “**advocacy**”? And what does another oft-heard word – “**lobbying**” – mean? By advocacy, we mean the coordinated, strategic expression of concerns, needs and/or interests, accompanied by suggested actions or reforms, aiming to bring about policy-making, legislative or practical changes. In short, advocacy is the activity that seeks to influence decision-making. It is intimately linked to communications and campaigning. “Lobbying” is understood to be more private (“behind the doors”): it is advocacy tailored to the environment in which specific actors (for instance, a specific State (Country X) at the HRC) evolve, as well as to their needs, constraints and particularities. While the overall objective remains the same (for instance, pushing the HRC to adopt a resolution on the human rights situation in Country Y), our messages and arguments will not be exactly the same when talking to Country X and Country Z.



At the level of advocacy, when one says “engaging with the HRC,” in most cases one actually means “**engaging with States**” as the HRC is an inter-governmental (i.e., political) body made up of States.

(<https://www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx>) and on each mandate’s page.

<sup>3</sup> The UN system protects those who seek to cooperate with UN human rights bodies and mechanisms. An Assistant Secretary-General for Human Rights, who heads the New York office of OHCHR, leads efforts within the UN system to address intimidation and reprisals against those cooperating with the UN on human rights. The HRC adopted several resolutions on the important topic of reprisals. See <https://www.ohchr.org/EN/Issues/Reprisals/Pages/ReprisalsIndex.aspx>

HRC outcomes (resolutions, decisions, joint oral statements...) depend on States' will, and no action can take place without the political will of States. This means that **NGOs need to convince States** that it is in their interest to take action on specific thematic issues or country situations. NGOs do not have the right to vote on resolutions presented to the Council; they only have their voice and can intervene in the process in limited ways.

NGOs can **advocate for resolutions** by calling on States to take action, either by leading on initiatives (drafting and leading negotiations on resolutions) or by supporting them (adding their name to the list of authors ("sponsors") of a resolution, voting in favour of the latter if it is put to a vote<sup>4</sup>). Occasionally, NGOs call on States to *oppose* resolutions (or amendments) which they see as failing to advance, or even adversely affecting, human rights.

The most controversial resolutions are usually **country-specific resolutions**, as opposed to **thematic resolutions**, which do not mention any country. Country-specific resolutions can be adopted in the framework of several agenda items on the HRC's programme of work: item 2, item 4, item 7, or item 10. It is common to present the HRC's agenda item 4, which is dedicated to "human rights situations that require the Council's attention" (that is, the most serious situations), as the most confrontational. In practice, item 4 resolutions contain more condemnatory elements and are indeed more often put to a vote. Item 10 resolutions on "technical assistance and capacity-building" are regarded as softer as they rely on the consent of the State concerned. They are usually adopted by consensus.<sup>5</sup> Most thematic resolutions are adopted under the HRC's agenda item 3, which covers all human rights – civil, political, economic, social and cultural. They can also be adopted under items 1, 5, 6, 8, 9, or 10.

We also engage with other stakeholders, chiefly OHCHR, independent mechanisms set up by the HRC (Commissions of Inquiry, fact-finding missions, etc.), and fellow civil society organisations.

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<sup>4</sup> A majority of the resolutions adopted by the HRC are actually not put to a vote, but rather adopted by consensus. This means that they are drafted, negotiated and presented for adoption (at the end of a Council session) without any member State requesting a vote. In the absence of any opposition, "consensus resolutions" are adopted smoothly. This signals a common position by/in the international community.

<sup>5</sup> For more detail, read DefendDefenders' report on the contents and evolution of the Council's agenda item 10, "No



To enable more well-informed and effective advocacy, in 2018 DefendDefenders opened a permanent office in Geneva. DefendDefenders' Geneva office can advise on advocacy opportunities, strategies, and objectives. Advocacy requires preparation and strategisation. The HRC's heavy programme of work and its political nature make it difficult to achieve impact without substantial preparation, including high-quality advocacy documents, advocacy plans with targets and objectives, and numerous meetings with State representatives (diplomats) and other stakeholders, ideally conducted in Geneva ahead of, and during, sessions. This holds true for HRC and UPR advocacy. For "expert" bodies and mechanisms (as opposed to "political"/inter-governmental bodies), such as the treaty monitoring bodies<sup>6</sup> and special procedures, the process is different, as advocacy is to a much larger extent based on strictly legal arguments.

For advocacy in Geneva, DefendDefenders relies on its **in-house expertise** (DefendDefenders' Advocacy, Research and Communications Department, as well as Management) and on its **network of HRDs** across the East and Horn of Africa. We bring the voices of HRDs to Geneva, which enables powerful advocacy. HRDs bring knowledge, messages and analysis from the ground to Geneva-based stakeholders.

We advocate for:

- **Initiatives** (resolutions or joint oral statements; sometimes simply individual statements by States): we push States to take initiatives, build alliances, and work towards either collective forms of action (resolutions or joint statements) or individual action (statements delivered in a national capacity);
- **Meaningful contents** for such initiatives: we push States to include specific elements or language in resolutions and statements, depending on issues which we believe merit increased attention. Sometimes, we call for the scope of specific resolutions to be expanded, based on human rights needs and considerations;

Advice without Knowledge":

<https://defenddefenders.org/no-advice-without-knowledge-scrutiny-elements-in-the-un-human-rights-councils-item-10-resolutions/> The analysis shows more complexity than common wisdom assumes.

<sup>6</sup> Committees that monitor and advise on the implementation of international human rights instruments (treaties See the treaty bodies' main page:

<https://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>

- **A meaningful agenda** for the HRC: we suggest the holding of specific debates, specific issues in focus for debates or reports requested by the HRC, or increased attention to specific countries or themes. If/when the situation in a country warrants it, we call on the HRC to convene a special session or an urgent debate to address the situation;
- **Relevant amendments** to resolutions (or against negative/hostile amendments to progressive resolutions). We also join forces with other NGOs to suggest, support or oppose amendments.



The methods we use include:

- **Advocacy documents:** letters, calls, position papers, briefing notes, background papers, etc. Ideally, these should be available ahead of the session they target, to serve as advocacy tools in pre-session meetings with State representatives and other stakeholders (the more time Geneva-based State representatives have to consult their capital on suggested action, the better). Advocacy letters to members and observers of the HRC are often joint letters endorsed by several (or many) NGOs (DefendDefenders usually coordinates the drafting of letters on countries of our sub-region). We also publish press releases for important resolutions or other noteworthy events at, or steps taken by, the HRC.
- **Reports:** research reports that include findings based on primary sources and materials, as well as analysis from the ground, are invaluable. They allow us to inform the HRC of human rights developments, issues and needs. To be useful in the context of the HRC, reports need to fill a gap and to coincide with HRC sessions and debates (example: a report on South Sudan should be released ahead of a February-March session of the HRC, as South Sudan resolutions are usually discussed in March). For the UPR, the HRC has set up a specific, formal process – NGOs must follow a number of steps to officially submit a “stakeholder report” (alternative report).<sup>7</sup>
- **Parallel events** (often referred to as “side events”): these are events ECOSOC-accredited NGOs can hold during HRC sessions, in rooms that are located in the same building as the plenary chamber (Room XX) or nearby. Timing is of the essence to draw the attention of relevant stakeholders and ensure good attendance. Side events should bring together HRDs from the country concerned,

experts, and Geneva-based stakeholders, and panellists should formulate concrete recommendations or bring specific analysis to the discussion.

- **Oral statements:** ECOSOC-accredited NGOs can request slots to deliver oral statements during plenary debates of the HRC. Statements can be delivered during General Debates (GDs) (one for each standing agenda item of the HRC), Interactive Dialogues (IDs) (with OHCHR, special procedure mandate-holders or other stakeholders), panel discussions, or for the adoption of UPR reports. As the space is limited for IDs, prioritisation is essential and should fit in a broader advocacy strategy.
- **Written statements:** ECOSOC-accredited NGOs can submit written statements, which are included in the official list of documents for HRC sessions.
- **Meetings with stakeholders:** this is the most important advocacy tool. To achieve impact, civil society actors need to talk to State representatives who are either based in Geneva, and/or in capital, and/or in the country concerned. Such meetings take place all year long, which is why it makes a difference to have a permanent office in Geneva. Sessions of the HRC are busier and busier, and the Council’s agenda is overloaded. This means that State representatives are facing an increasing amount of work and that advocacy conducted during HRC sessions only is increasingly unlikely to be successful. To successfully influence the HRC’s work, agenda, and outcomes, advocacy and lobbying meetings must take place in advance of sessions. This way, proposals can be put forward and discussed with stakeholders. Such pre-session advocacy is ideally complemented by in-session advocacy, and it is even more effective if conducted with HRDs from the concerned countries.

The level of collaboration with other Geneva-based NGOs is high, as is the quality of collective work. For a number of country situations, coordination is vital. Beyond regional/sub-regional networks (including the Pan-African Human Rights Defenders Network, AfricanDefenders) and national HRDs and HRD coalitions and networks, our main partners at the HRC are NGOs that are present in Geneva, often with a permanent office: Human Rights Watch, Amnesty International, ISHR, FIDH, CIVICUS, the Global Center for the Responsibility to Protect (GCR2P), the International Commission of Jurists (ICJ), FIACAT, OMCT, and regional NGOs such as FORUM-Asia or CIHRS.

<sup>7</sup> Failure to do so does not mean that it is impossible to engage in advocacy around the UPR; it simply means that

the NGO’s report or input will not be considered as an official document for the review of the State under review.