

## R2P and Outcomes of the Human Rights Council's 39<sup>th</sup> Session

The 39th regular session of the Human Rights Council (HRC) was held in Geneva between 10 and 28 September 2018. As the primary international human rights body, the Human Rights Council has the capacity to prevent and respond to mass atrocity crimes, as systematic violations and abuses of human rights can be potential indicators of genocide, war crimes, crimes against humanity or ethnic cleansing. The summary below highlights major outcomes and relevant dialogues from the 39th session as they relate to the Responsibility to Protect (R2P) populations from such crimes. As part of the session, the Netherlands delivered two statements on behalf of 49 members of the Group of Friends of R2P.

### RESOLUTIONS

#### ***A/HRC/39/L.1/Rev.1 Promotion and protection of human rights in the Bolivarian Republic of Venezuela***

Expressing deep concern about serious human rights violations and the ongoing political and economic crisis in Venezuela, the HRC called upon the Venezuelan government to accept humanitarian assistance in order to address the scarcity of food, medicine and medical supplies and the rise of malnutrition. The HRC further urged the government to cooperate with the Office of the High Commissioner for Human Rights (OHCHR) and the mechanisms of the HRC, and called upon the High Commissioner to prepare a written report on the human rights situation in Venezuela to be presented at the 41st session of the HRC, and to present an oral update at its 40th and 42nd sessions. The resolution was adopted by a vote of 23 in favor, 7 against, with 17 abstentions.

#### ***A/HRC/39/L.9 Technical assistance and capacity building in the field of human rights in the Central African Republic***

The HRC expressed grave concern about the deteriorating security situation in the Central African Republic (CAR) and condemned ongoing acts of violence which continue to be committed by armed groups against civilians, peacekeepers and humanitarian staff, as well as other violations of International Human Rights and Humanitarian law, including violence against children and sexual and gender-based violence. The HRC welcomed the adoption of a June 2018 national plan to counter discrimination, hate speech and violence. The HRC also welcomed measures taken by the government to operationalize the Special Criminal Court, including through the adoption of the rules of procedure and evidence, and encouraged the international community to continue to support the Court. The HRC also extended the mandate of the Independent Expert on the situation of human rights in CAR for a period of one year. The resolution was adopted without a vote. The HRC recalled that “*the primary responsibility to protect its population from genocide, crimes against humanity, war crimes and ethnic cleansing lies with the Central African authorities.*”

#### ***A/HRC/39/L.10 Technical assistance and capacity building in the field of human rights in the Democratic Republic of the Congo***

The HRC expressed grave concern about violations of civil and political rights, in particular freedom of expression and peaceful assembly, committed by state actors in the context of the electoral campaign in the Democratic Republic of the Congo. The HRC also expressed deep concern about the humanitarian consequences of violence affecting the civilian

population, in particular women and children, leading to a significant increase in the number of internally displaced persons and people in need of humanitarian assistance. The HRC took note of the significant progress made by the Independent National Electoral Commission, requesting all parties involved in the electoral process to refrain from all forms of violence and incitement. The resolution was adopted without a vote. The HRC recalled that “*the primary responsibility to protect all civilians in its territory rests with the Government of the Democratic Republic of the Congo.*”

### ***A/HRC/39/L.15/Rev.1 Situation of human rights in Burundi***

Expressing alarm about the human rights and humanitarian situation in Burundi, the HRC welcomed the work of the Commission of Inquiry on Burundi. The HRC deplored the continuing refusal by the government of Burundi to grant the Commission access to the country and the threats, intimidation and personal attacks directed by representatives of the government against members of the Commission. The HRC further condemned the decision by the government of Burundi to declare the three members of the Commission of Inquiry *persona non grata* and urged the government to revoke this decision. The HRC extended the mandate of the Commission of Inquiry, mandating it to present a final report to the HRC at its 42nd session, and to the General Assembly at its 74th session. The resolution was adopted by a vote of 23 in favor, 7 against, with 17 abstentions.

### ***A/HRC/39/L.17 Assistance to Somalia in the field of human rights***

While the HRC welcomed the commitment of the Federal Government to improve the human rights situation in Somalia, it expressed concern at reports of violations and abuses of human rights and underscored the need to end impunity and to hold perpetrators of such violations and abuses accountable. The HRC expressed particular concern about abuses and violations committed against women and children, and attacks and harassment against human rights defenders and journalists. The HRC further decided to extend the mandate of the Independent Expert on the situation of human rights in Somalia for a period of one year. The resolution was adopted without a vote.

### ***A/HRC/39/L.20 The human rights situation in the Syrian Arab Republic***

Condemning ongoing violations of International Humanitarian Law, including indiscriminate or deliberate targeting of civilians, the HRC reiterated that the only sustainable solution to the current conflict in the Syrian Arab Republic is through an inclusive, Syrian-led political process under the auspices of the UN. The HRC further recalled statements made by the UN Secretary-General and the High Commissioner for Human Rights that crimes against humanity and war crimes are likely to have been committed in the Syrian Arab Republic. The HRC expressed its deepest concern at the findings of the Independent International Commission of Inquiry on the Syrian Arab Republic, and deplored the lack of cooperation by the Syrian authorities with the Commission. The HRC welcomed the work of the “International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011” and reaffirmed the importance of establishing appropriate mechanisms to achieve justice, reconciliation, truth and accountability. The resolution was adopted by a vote of 27 in favor, 4 against, with 16 abstentions. The resolution demanded that “*the Syrian authorities meet their responsibility to protect the Syrian population*” and stressed that “*the primary responsibility to protect the Syrian population lies with the Syrian authorities.*”

### ***A/HRC/39/L.21 Human rights situation in Yemen***

The HRC expressed concern about allegations of violations of International Humanitarian Law and of violations and abuses of human rights in Yemen, including those involving grave violations against children, attacks on humanitarian workers, civilians and civilian infrastructure, and the denial of access to humanitarian aid. The HRC urged all parties to the conflict to take all necessary measures to ensure effective, impartial and independent investigations into all alleged violations and abuses of human rights and International Humanitarian Law, in accordance with international standards. The HRC extended the mandate of the Group of Eminent International and Regional Experts for a period of one year, and requested the Group of Experts submit a comprehensive written report to the High Commissioner for presentation at the 42nd session of the HRC. The resolution was adopted by a vote of 21 in favor, 8 against, with 18 abstentions.

### ***A/HRC/39/L.22 Situation of human rights of Rohingya Muslims and other minorities in Myanmar***

The HRC welcomed the work of the independent international fact-finding mission on Myanmar, the reports of the Special Rapporteur on the situation of human rights in Myanmar, as well as the appointment by the UN Secretary-General of a Special Envoy. The HRC expressed deep concern about the ongoing non-cooperation of the government of Myanmar and its denial of access to the fact-finding mission and the Special Rapporteur. The HRC expressed concern at reports of continued intimidation and violence against the Rohingya Muslim population and other minorities in Myanmar, and further expressed grave concern at the findings of the independent international fact-finding mission that there is sufficient information to warrant the investigation and prosecution of senior officers of the Tatmadaw for genocide in relation to the situation in Rakhine State. The HRC further decided to establish an ongoing independent mechanism to collect, consolidate, preserve and analyze evidence of the most serious international crimes and violations of international law committed in Myanmar, and to prepare files in order to expedite independent criminal proceedings. The HRC further decided to extend the mandate of the independent International Fact-Finding Mission until the new mechanism is operational. The resolution was adopted by a vote of 35 in favor, 3 against, with 7 abstentions.

### ***A/HRC/39/L.23 Technical assistance and capacity building for Yemen in the field of human rights***

The HRC expressed deep concern at the serious abuses and violations of International Human Rights Law and International Humanitarian Law committed by all parties to the conflict. The HRC reaffirmed the responsibility of all parties to the conflict to enable the immediate and unhindered delivery of humanitarian assistance to all those in need. The HRC requested that the High Commissioner to continue to provide substantive capacity-building and technical assistance to the government of Yemen in the field of human rights, and to present a written report to the HRC at its 42nd session. The resolution was adopted without a vote.

### ***A/HRC/39/L.24/Rev.1 Technical assistance and capacity building to improve human rights in the Sudan***

The HRC welcomed the report of the Independent Expert and noted the cooperation of the government of Sudan with the Independent Expert to enable him to fulfil his mandate. The HRC requested the Independent Expert to continue to work with all relevant partners to provide technical assistance and capacity building in the field of human rights. The HRC renewed the mandate of the Independent Expert for a period of one year or until the day a country office of the OHCHR is declared operational, in accordance with General Assembly resolution 48/141 of 20 December 1993. The resolution was adopted without a vote.

## **OUTCOMES OF INTERACTIVE DIALOGUES, DEBATES AND UNIVERSAL PERIODIC REVIEWS**

### *Country-specific*

- Interactive Dialogue with the Deputy High Commissioner for Human Rights on the situation in Burundi ([Summary](#))
- Interactive Dialogue with the Commission of Inquiry on Burundi ([Summary](#))
- Interactive Dialogue with the Commission of Inquiry on Syria ([Summary](#))
- Interactive Dialogue with the Commission on Human Rights in South Sudan ([Summary](#))
- Interactive Dialogue with the Independent International Fact-Finding Mission on Myanmar ([Summary](#))
- Interactive Dialogue with the Commission of Inquiry on the Occupied Palestinian Territory ([Summary](#))
- Enhanced Interactive Dialogue on the situation of human rights in the Democratic Republic of the Congo ([Summary](#))
- Interactive Dialogue on the situation of human rights in Yemen ([Summary](#))
- Interactive Dialogue on the situation of human rights in Libya ([Summary](#))
- Interactive Dialogue with the Independent Expert on the situation of human rights in Somalia ([Summary](#))
- Interactive Dialogue with the Independent Expert on the situation of human rights in Sudan ([Summary](#))
- Interactive Dialogue with the Independent Expert on the situation of human rights in the Central African Republic ([Summary](#))

- Outcomes of the Universal Periodic Review of Germany ([Summary](#))
- Outcomes of the Universal Periodic Review of Cameroon and Bangladesh ([Summary](#))
- Outcomes of the Universal Periodic Review of Canada and the Russian Federation ([Summary](#))

### *Thematic*

- General Debate on the Oral Update of the High Commissioner for Human Rights ([Summary](#))
- High Level Panel on the Seventieth Anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide ([Summary](#))
- Interactive Dialogue with the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and the Special Adviser of the Secretary-General on the Prevention of Genocide ([Summary](#))
- General Debate on human rights situations that require the Council's attention ([Summary](#))

## **ESTABLISHMENT AND EXTENSION OF COMMISSIONS OF INQUIRY AND SPECIAL PROCEDURES**

The HRC announced Daniela Kravetz (Chile) as Special Rapporteur on the situation of human rights in Eritrea.

**ANNEX I – Statement by the Group of Friends of the Responsibility to Protect re: 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\***

11 September 2018

Mr. President,

I have the honour to deliver this statement on behalf of members of the Group of Friends of the Responsibility to Protect.

Together we would like to express our deep gratitude and admiration for the outgoing High Commissioner, who fought tirelessly to promote and protect human rights, gave a voice to millions of victims of large-scale human rights violations and abuses, and played a fundamental role in stressing states' individual and shared responsibility to protect populations from mass atrocity crimes.

We call upon the new High Commissioner, in accordance with her mandate, to continue highlighting gross human rights violations and abuses, which often times serve as early warning signs of situations that may escalate into mass atrocity crimes.

Mr President,

Thirteen years ago the international community unanimously endorsed the responsibility to protect populations from genocide, war crimes, crimes against humanity and ethnic cleansing. Geneva-based human rights mechanisms often lay the ground for the prevention of mass atrocity crimes by speaking out and acting upon widespread violations and abuses of human rights. We therefore wish to highlight the importance of a more systematic integration of human rights into conflict and atrocity prevention agendas.

In this regard, the Special Procedures of the Human Rights Council are exceptionally well suited to highlight early warning signs and provide information on potential and current mass atrocity situations. In particular, their advocacy and awareness-raising activities for both thematic and country-specific issues allow for the effective and timely responses to large-scale human rights violations. We encourage the Special Procedures mechanisms to highlight mass atrocity risks in their annual reports presented to the Human Rights Council, and further emphasize the importance of regular briefings, within their mandate, to the UN Security Council.

In addition, the Human Rights Council and its procedures play a crucial role in strengthening states' individual efforts to prevent mass atrocity crimes. By providing technical assistance and capacity building measures, states are able to strengthen respect for the rule of law and good governance and consolidate effective and accountable national institutions, which are key elements for effective atrocity prevention.

We further welcome the work of the Human Rights Council's ongoing investigation mechanisms as well as other Mechanisms. Such investigative mechanisms allow the Human Rights Council to respond to situations of serious violations of international law, promoting accountability and fighting impunity. Ensuring accountability for mass atrocity crimes also plays a fundamental role in preventing their recurrence.

Mr President,

Ongoing conflict and atrocities around the world demonstrate the need for greater attention on the linkages between the prevention of mass atrocity crimes, which often times arise from long standing and widespread violations of human rights, and the maintenance of international peace and security. Human rights violations and mass atrocity crimes are both also often times a result of failures of maintaining the rule of law and development, including discrimination, lack of good governance and radicalisation.

In this respect, we wish to express our strong commitment to the Secretary General's *Human Rights Up Front* among other efforts to strengthen ties between peace and security, development and human rights. Emphasizing the need for greater cooperation between various UN agencies and organs will allow for a more holistic, effective and timely response to persistent and widespread human rights violations and situations at risk of mass atrocity crimes.

Mr President,

The current displacement of over 65 million people due to conflict, violence and atrocities demonstrates the need for a strong and consolidated commitment of the international community to adhere to the international rule of law. As such, we are ready and committed to assist member states in upholding their primary responsibility to protect populations from mass atrocity crimes. We must also ensure that those responsible for mass atrocity crimes are brought to justice.

Thank you.

\*Two members of the Group of Friends of R2P – Singapore and the United States of America – abstained from the statement.

## **Annex 2 - Group of Friends of the Responsibility to Protect Statement to the High-Level Panel discussion to commemorate the 70th anniversary of the Genocide Convention**

13 September 2018

Mr President,

I have the honour to deliver this statement on behalf of members of the Group of Friends of the Responsibility to Protect.

Seventy years ago, the UN General Assembly established the Convention on the Prevention and Punishment of the Crime of Genocide through Resolution 260 A III. The Convention not only provides a legal definition of genocide, but also constitutes one of the first and most significant practical attempts by the UN to address international crimes and human rights. Under the Convention, States undertake to prevent and punish acts of genocide, regardless of whether they have been committed in peacetime or during armed conflict. The Rome Statute of the International Criminal Court further affirms that the most serious crimes of international concern, including genocide, must not go unpunished and that their effective prosecution must be ensured.

Despite the celebration of the seventieth anniversary of the Genocide Convention later this year, over the last seven decades acts of genocide have still occurred. The 100 days of slaughter in Rwanda in 1994, killing more than 800,000 men, women and children, and the massacre at Srebrenica, both demonstrate the ongoing need to prevent and punish genocide.

Despite efforts to learn from the past and better prevent mass atrocity crimes, ongoing serious violations and abuses of international law highlight the need to bridge the gap between words and deeds, and to uphold our shared responsibilities.

It is clear that there is a growing body of evidence of terrible crimes committed against the Yazidi in northern Iraq, four years after these atrocious events took place. This August marked the first anniversary of the 25 August ARSA attacks in Myanmar and the horrific and disproportionate response of the Myanmar security forces. According to the HRC's Independent International Fact Finding Mission, there is sufficient information to warrant the investigation and prosecution of senior members of the Tatmadaw/Burmese military in the Tatmadaw chain of command, so that a competent court can determine their liability for genocide in relation to the situation in Rakhine State.

Mr President,

One of the most significant efforts to transform the sentiment of “never again” into meaningful action was the unanimous adoption of the principle of the Responsibility to Protect, whereby states unanimously committed to protect populations from genocide, war crimes, crimes against humanity and ethnic cleansing, as set out in the 2005 World Summit Outcome Document. The primary responsibility for protecting a population from genocide and other mass atrocities lies with that population's government. Where national authorities are manifestly failing to protect their population from such atrocities, the international community has a responsibility to act.

We strongly believe that the Human Rights Council and all Geneva-based human rights mechanisms are particularly well suited to recognise the early warning signs of genocide and other mass atrocity crimes. This includes focusing on country-specific situations where States may be unable or unwilling to protect their populations and establishing monitoring and/or investigative mechanisms as well as offering technical assistance, capacity building and access to special procedure mechanisms, within their mandates. All of these measures are critical to achieve effective and early action aimed at preventing genocide and other mass atrocities.

In this regard, we wish to highlight the crucial role of the Special Rapporteur on the promotion of truth, justice, reparations and guarantees of non-recurrence, whose work is an essential contribution to seek truth, ensure accountability and promote reconciliation, all of which are essential for the prevention of genocide and other mass atrocities.

We further wish to highlight the crucial role of the UN Office on Genocide Prevention and the Responsibility to Protect, and applaud the Special Adviser to the Secretary General on the Prevention of Genocide, Mr. Adama Dieng, for his tireless efforts to promote and defend the principles enshrined in the Genocide Convention. We therefore urge all member states to continue and strengthen their cooperation with the Special Advisor's Office, as well as with all other relevant UN bodies. We would also like to call for all member states to urge the UN Secretary-General to progress the appointment of a new Special Adviser on the Responsibility to Protect.

Mr President,

As was noted in Resolution 37/26 on the Prevention of Genocide from 6 April 2018, "further international cooperation is required to facilitate the timely prevention and punishment of the crime of genocide". In this context, we call upon all member states to sign and ratify the Genocide Convention and, where applicable, enact relevant national legislation.

Resolution 37/26 further reiterated the responsibility of each State to protect its population from genocide through appropriate and necessary means. Such means may include the establishment of national institutions focusing on mass atrocity prevention and the appointment of national Focal Points on the prevention of genocide, which are already engaging in dialogue and the exchange of best practices on an international level. We encourage Member States who have not done so to consider appointing such an R2P Focal Point and help promote genocide prevention at the national, regional and international level.

We also stress the importance of ending impunity for perpetrators of genocide and mass atrocities. Accountability provides a glimpse of justice for victims of atrocity crimes, and helps prevent their recurrence. Therefore, we wish to call upon all member states to continue to investigate and prosecute those responsible for grave breaches of international law and, where applicable, cooperate with the International Criminal Court.

Mr President,

Protecting populations from genocide, war crimes, crimes against humanity and ethnic cleansing is our individual and collective responsibility. The best way to uphold that responsibility and to honour the Genocide Convention is by consistently holding perpetrators to account and meaningfully preventing future atrocities.

Thank you.

\*Three members of the Group of Friends of R2P – Japan, Singapore and the United States of America – abstained from the statement.