

R2P and Outcomes of the Human Rights Council's 41st Session

The 41st regular session of the Human Rights Council (HRC) was held in Geneva between 24 June and 12 July 2019. 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 41st session as they relate to the Responsibility to Protect (R2P) populations from such crimes. As part of the session, the Netherlands and Rwanda delivered two statements on behalf of members of the Group of Friends of R2P.

RESOLUTIONS

A/HRC/41/L.15 Situation of human rights in Eritrea

The HRC, welcoming the report of the Special Rapporteur on the situation of human rights in Eritrea and her conclusions, requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to present an oral update to the HRC at its 43rd session on progress made in the cooperation between Eritrea and the Office, and on its impact on the situation of human rights in Eritrea. The HRC further decided to extend the mandate of the Special Rapporteur for one year and to continue to assess and report on the situation of human rights. The HRC further requested the Special Rapporteur to present an oral update on the situation to the HRC at its 43rd session during an interactive dialogue. The Special Rapporteur was also requested to present a report on implementation of its mandate to the HRC at its 44th session and to the General Assembly at its 75th session. Lastly, the HRC called upon the Government of Eritrea to cooperate fully with the Special Rapporteur, including by granting access to the country, and requested the Secretary-General to provide the Special Rapporteur with all the information and resources necessary to fulfil the mandate. The resolution was adopted by a vote of 21 in favour, 13 against and 13 abstentions.

A/HRC/41/L.16/Rev.1 Mandate renewal of the international team of experts on the Kasai region

Taking note of the finding of the International Team of Experts that ethnic tensions in Kasai remain high and the situation still requires vigilant attention, the HRC welcomed the continued cooperation of the Government of the Democratic Republic of the Congo (DRC) with the Team of Experts, in particular by facilitating access to the country. The HRC requested the government continue full implementation of the recommendations made by the Team of Experts, in particular those relating to the fight against impunity and the promotion of reconciliation. The HRC decided to renew the mandate of the International Team of Experts and requested it submit its final report to the Council at its 45th session, as well as an oral update at its 43rd session. The HRC further requested OHCHR to provide the Government of the DRC with technical assistance, including necessary forensic expertise, to support the country's judicial authorities in their investigations into allegations of human rights violations so that perpetrators are brought to justice. The resolution was adopted without a vote.

A/HRC/41/L.20 Promotion and protection of human rights in the Philippines

The HRC expressed concern at the allegations of human rights violations in the Philippines, particularly those involving killings, enforced disappearances, arbitrary arrest and detention and others. The HRC recalled that since the campaign against illegal drugs was announced in the Philippines in mid-2016, there have been allegations of the killing of thousands of people allegedly involved in the drug trade and drug use. The HRC further expressed deep concern about allegations of threats, intimidation and personal attacks directed against special procedure mandate holders. The HRC urged the government to take all necessary measures to prevent extrajudicial killings and enforced disappearances, to carry out impartial investigations and to hold perpetrators accountable, in accordance with international norms and standards, including on due process and the rule of law. The HRC called upon the government to cooperate with OHCHR and the mechanisms of the HRC, including by facilitating country visits and preventing and refraining from all acts of intimidation or retaliation. Lastly, the HRC requested the High Commissioner to prepare a comprehensive written report on the situation of human rights in the Philippines and to present it to the HRC at its 44th session. The resolution was adopted by a vote of 18 in favour, 14 against and 15 abstentions.

A/HRC/41/L.25 The human rights situation in the Syrian Arab Republic

Recalling the statements made by the 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 (CoI) and deplored the lack of cooperation by the Syrian authorities with the CoI. The HRC demanded that the Syrian authorities cooperate fully with the HRC and the CoI by granting the CoI immediate, full and unfettered access throughout the country. Further, the HRC urged all the relevant parties, including the signatories to the memorandum on the stabilization of the situation in the Idlib de-escalation area of 17 September 2018, to respect and uphold the ceasefire in Idlib. The HRC further noted the findings by the CoI that sexual and gender-based violence were committed by Syrian authorities and associated militia, as well as by so-called Islamic State in Iraq and the Levant, and that they represent a widespread and systematic attack directed against the civilian population, amounting to crimes against humanity, and that such acts constitute the war crimes of rape and other forms of sexual violence. The HRC further strongly condemned the damage and destruction of the cultural heritage within Syria and recalled that deliberate attacks on cultural heritage may amount to war crimes. The resolution was adopted by a vote of 26 in favour, 7 against and 14 abstentions. The resolution “*demanded that the Syrian authorities meet their responsibility to protect the Syrian population and to respect, protect and fulfil the human rights of all persons within its jurisdiction.*”

INTERACTIVE DIALOGUES, DEBATES AND UNIVERSAL PERIODIC REVIEWS RELEVANT TO R2P:

Country-specific

- Interactive Dialogue with the Special Rapporteur on the situation of human rights in Eritrea
- Interactive Dialogue with the Independent International Commission of Inquiry on the Syrian Arab Republic
- Interactive Dialogue with the Independent International Commission of Inquiry on Burundi
- Interactive Dialogue with the Special Rapporteur on the situation of human rights in Myanmar
- Enhanced Interactive Dialogue on Venezuela
- Enhanced Interactive Dialogue on the Sudan
- Enhanced Interactive Dialogue on the Democratic Republic of the Congo
- Interactive Dialogue with the Independent Expert on the Central African Republic
- Oral Update by the High Commissioner on Nicaragua
- Outcomes of the Universal Periodic Review of Afghanistan, Eritrea and Yemen

Thematic

- General Debate on the update of the High Commissioner for Human Rights

- Interactive Dialogue with the Special Rapporteur on violence against women
- Presentation of thematic reports by the Secretary-General and High Commissioner
- General Debate on human rights situations that require the Council's attention

ESTABLISHMENT AND EXTENSION OF COMMISSIONS OF INQUIRY AND SPECIAL PROCEDURES

The HRC extended the mandate of the Special Rapporteur on the situation of human rights in Eritrea for a period of one year.

The HRC also extended the mandate of the international team of experts on the Kasai region for a period of one year.

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

25 June 2019

Mr. President,

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

The Group of Friends of R2P thanks the High Commissioner for her update. Over the past years, the Group of Friends of R2P has continuously emphasized the link between the Responsibility to Protect and Geneva-based human rights mechanisms and institutions. As the primary international human rights body, the Human Rights Council, through its procedures and mechanisms, is particularly well suited to apply preventive measures in situations where early warning signs of possible atrocities arise. Preventing widespread violations and abuses of human rights is crucial to avoid them developing into mass atrocities. It is our individual and collective responsibility to prevent that from happening. We further thank the High Commissioner for highlighting the link between human rights violations and impunity.

In this regard, we would like to thank the High Commissioner and her office for their preventive efforts in promoting human rights including through the World Programme of Human Rights Education as well as in highlighting violations and abuses of human rights and identifying patterns of systematic discrimination against individuals and groups. The identification of risk factors and early warning signs is essential to prevent widespread violations and abuses of human rights that could potentially lead to mass atrocities. We therefore encourage the Office of the High Commissioner to continue to provide regular information to the Human Rights Council and the UN General Assembly, and to provide briefings to the UN Security Council, within her mandate. The promotion of a coherent and comprehensive approach to mass atrocity prevention across the different UN-bodies is key in upholding our responsibility to protect. We further encourage the Office of the High Commissioner for Human Rights to continue and strengthen the engagement with the Special Advisers on the Prevention of Genocide and the Responsibility to Protect.

Besides regular HRC sessions, special procedures, treaty bodies and the Universal Periodic Review are also key mechanisms for atrocity prevention and have often contributed to the early warning of atrocity crimes. In addition, Human Rights Council-mandated investigative mechanisms can play an instrumental role in documenting patterns of widespread human rights violations, identify perpetrators of possible mass atrocity crimes, and strengthen accountability processes. Together, this can have an important deterrence effect to prevent the recurrence of atrocities.

In addition, the Human Rights Council and its procedures plays a crucial role in strengthening states' individual efforts to prevent mass atrocity crimes. By providing timely and targeted 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.

Côte d'Ivoire, which has previously benefitted from technical assistance and capacity building by an Independent Expert, serves as an example of how the HRC can contribute to strengthening domestic institutions and national processes for structural prevention and guarantees of non-recurrence.

In line with the recommendations from the latest SG report on the Responsibility to Protect, we underscore the importance of enhancing prevention efforts at grassroots level, for which assisting domestic, regional and local actors and institutions remains vital. Furthermore, partnerships and cooperation between UN human rights mechanisms, within their mandates, and national actors can ensure that atrocity prevention is both a bottom-up and top-down process. All in all, the variety of human rights mechanisms and institutions allow for context-specific and comprehensive preventive action.

However, where early warning signs and risk factors are being identified, timely and sustained action should follow in accordance with the UN charter. The international community must increase efforts when it comes to early action, as outlined in the Secretary General's 2018 and 2019 reports on the Responsibility to Protect.

We strongly believe that this Council, and all UN Member States, can, and should do more to make the responsibility to protect a living reality.

ANNEX I – Statement by the Group of Friends of the Responsibility to Protect re: Item 3 – Interactive Dialogue with the Special Rapporteur on violence against women

27 June 2019

Mr. President,

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

We would like to thank the Special Rapporteur on violence against women, its causes and consequences for her tireless efforts to recommend measures, ways and means at the local, national, regional and international levels to eliminate all forms of violence against women, as this constitutes a violation of their human rights and fundamental freedoms.

We note with appreciation the Special Rapporteur's focus on the challenges of her mandate since its inception, and in particular the link between her mandate and other mechanisms. We concur with the Special Rapporteur that concerted efforts are needed to bridge the gap between mechanisms with specific focus on violence against women to avoid fragmentation that is demonstrated in her report.

To concur with the Special Rapporteur's recommendation on establishing a system-wide approach to address violence against women, the Group of Friends of R2P has continuously emphasized the link between the Responsibility to Protect and Geneva-based human rights mechanisms and institutions to address atrocities, including sexual violence. As the primary international human rights body, the Human Rights Council, through its procedures and mechanisms, is particularly well suited to apply preventive measures in situations where early warning signs of possible atrocities arise.

In this context, we believe that extreme structural and institutionalized forms of gender inequality and targeted violence against women may constitute potential risk factors for mass atrocities or even constitute these crimes in itself. To follow the Special Rapporteur's important initiative to cooperate with the Committee on CEDAW to ensure better coherence on shared issues between the mechanisms, we are of the view that the same intrinsic link between the mandate and the Committee applies to the Women, Peace and Security agenda and the Responsibility to Protect as well.

Geneva-based human rights mechanisms, in this respect, can play a vital role in strengthening gender-specific assessment of human rights violations. In addition, through applying a gender lens to technical assistance and capacity-building measures, the Human Rights Council can play a key role in supporting governments to uphold R2P and overcome the lack of gender-sensitivity in atrocity prevention, thereby furthering the broader sexual violence prevention agenda.

Other human rights mechanisms, including HRC-mandated Fact-Finding Missions and Commissions of Inquiry, provide further opportunities for systematic integration of gender-sensitive protection measures and to strengthen the role of women. Women need to be included in these mechanisms and to lead them. Utilizing the knowledge of female experts and conducting gender-sensitive investigations can ensure that women's perspectives and needs are discussed. Enhancing the focus on the transformation of women's role in society can positively contribute to the efficiency of post-conflict and accountability strategies. This will in turn help preventing the commission of atrocity crimes.

Lastly, it is crucial to recognize that women around the world have always played an essential role in developing mitigation strategies on an individual, family and community level. In today's atrocity situations, women are often times key actors in initiatives and efforts to prevent or respond to atrocities and violence, leading to a tremendous impact on human rights protection within their communities. It is therefore important that they have our support and protection.

Security Council resolution 2467 on Women, Peace and Security recognizes that sexual violence in conflict occurs on a continuum of interrelated and recurring forms of violence against women and girls. We would like to ask the Special Rapporteur; in your view, what opportunities do you see in aligning the WPS and R2P agendas to prevent and respond to sexual violence in conflict? Are we adequately exploring the benefits of gender-responsive engagement in atrocity prevention and/or accountability processes? And if not, how can we encourage and develop it?

Thank you.