

Atrocity Prevention and Outcomes of the Human Rights Council's 48th Session

The 48th regular session of the UN Human Rights Council (HRC) was held in Geneva between 13 September and 11 October 2021. As the primary international human rights body, the HRC has the capacity to prevent and respond to mass atrocity crimes, as systematic violations and abuses of human rights can be an indicator of potential genocide, war crimes, crimes against humanity or ethnic cleansing. The summary below highlights major outcomes and relevant dialogues from the 48th session as they relate to the Responsibility to Protect (R2P) populations from such crimes. During the session Luxembourg delivered two statements on behalf of the Group of Friends of R2P.

RESOLUTIONS

A/HRC/48/L.1 Technical assistance and capacity building in the field of human rights in the Central African Republic

Strongly condemning all human rights violations and abuses against civilians in the Central African Republic (CAR), the HRC called upon the government, political and religious leaders and civil society to prevent incitement to violence, including on ethnic and religious grounds. The HRC encouraged the government of CAR to continue its cooperation with the Special Prosecutor of the Special Criminal Court to ensure that those responsible for international crimes, regardless of their status or affiliation, are identified and brought to justice. The Council renewed the mandate of the Independent Expert on the situation of human rights in CAR for one year and requested the Independent Expert provide an oral update at its 50th session and to submit a written report at its 51st session. The HRC further decided to organize a high-level interactive dialogue at its 49th session to assess the human rights situation, particularly the reconciliation process and guarantees of non-repetition. The resolution also recalled that “the authorities of the Central African Republic have the primary responsibility to protect all populations in the country from genocide, war crimes, ethnic cleansing and crimes against humanity.” The resolution was adopted without a vote.

A/HRC/48/L.2 Technical assistance and capacity building in the field of human rights in the Democratic Republic of the Congo

The HRC expressed concern about the deteriorating security and human rights conditions in the eastern part of the Democratic Republic of the Congo (DRC), as well as continuing violations committed against women and children, including sexual and gender-based violence. The HRC welcomed the report of the Team of International Experts on the situation in Kasai and decided to renew Team's mandate, extending their investigations beyond the Kasai to the entirety of the DRC. The Council requested the team present a final report during an interactive dialogue at the HRC's 51st session and to provide an oral update at its 49th session. The HRC further requested the High Commissioner to provide technical assistance to the government to support the judicial authorities in investigating allegations of human rights violations and abuses and to support the government in its efforts to establish a national commission on transitional justice. The Council requested the High Commissioner present an oral update at its 49th session and submit a comprehensive report at its 51st session. The resolution was adopted without a vote.

A/HRC/48/L.6 Technical assistance and capacity building for Yemen in the field of human rights

The HRC expressed deep concern at violations of International Humanitarian Law (IHL) and violations and abuses of International Human Rights Law (IHRL) in Yemen, including sexual and gender-based violence, recruitment of children, abduction of political activists, violations against journalists, killing of civilians, prevention of access for relief and humanitarian aid, persecution on the basis of religion or belief, cutting of electricity and water supplies, and attacks against hospitals and ambulances. The Council called on all parties to the conflict to respect their obligations under international law and urged the government of Yemen to take measures to end impunity for all alleged violations and abuses of international law. The HRC requested the High Commissioner continue to provide capacity-building and technical assistance to the government of Yemen and technical support to the National Commission of Inquiry (CoI) to ensure that it continues to investigate allegations of violations and abuses committed by all parties to the conflict in line with international standards. The resolution also requested the High Commissioner present a written report on the implementation of technical assistance at its 51st session. The resolution was adopted without a vote.

A/HRC/48/L.10 Situation of human rights in the Syrian Arab Republic

Expressing its deepest concern of the recent findings of the CoI on the Syrian Arab Republic that the situation of human rights has worsened for many Syrians over the past year, the HRC reaffirmed the importance of establishing and supporting appropriate processes and mechanisms to achieve justice, reconciliation, truth and accountability for violations and abuses of international law. The HRC demanded all parties to immediately cease torture and other cruel, inhuman or degrading treatment or punishment, including sexual and gender-based violence, in places of detention, and to cease the use of involuntary or enforced disappearance or kidnappings. The HRC demanded that all parties desist immediately from any use of chemical weapons. The resolution also demanded that “the Syrian authorities meet their responsibility to protect the Syrian population” and expressed grave concern about the tens of thousands of missing and disappeared persons. The resolution was adopted by a vote of 23 in favor, 7 against and 17 abstentions.

A/HRC/48/L.15/Rev.1 Assistance to Somalia in the field of human rights

The HRC recognized efforts by the Federal Government of Somalia to strengthen the promotion and protection of human rights through various ministries and their engagement with the international human rights system, including cooperation with the Independent Expert on the situation of human rights in Somalia. However, the HRC remained concerned by reports of violations and abuses of human rights, including the unlawful recruitment and use of child soldiers and children in armed conflict, killing and maiming, rape and other sexual and gender-based violence. The resolution renewed the mandate of the Independent Expert for a period of one year and requested that the expert work closely with the government to implement its national and international human rights obligations, as well as recommendations accepted in the context of the Universal Periodic Review. The HRC further requested that the Independent Expert report to the Council at its 51st session and to the General Assembly at its 77th session. The resolution was adopted without a vote.

A/HRC/48/L.19/Rev.1 Situation of human rights in Burundi

Expressing appreciation for the work of the CoI on Burundi, the HRC deplored the persistent refusal by the government to cooperate with the CoI. The HRC recognized recent progress in the field of human rights and rule of law, but condemned violations and abuses, including extrajudicial killings, enforced disappearances, arbitrary arrests and detention, acts of torture and other cruel, inhuman or degrading treatment or punishment, sexual and gender-based violence, intimidation and harassment of members of opposition political parties, civil society representatives, peaceful protesters, human rights defenders, journalists and other media workers. The HRC decided to appoint a Special Rapporteur to monitor the situation of human rights in Burundi and build upon the work of the CoI. The resolution requested that the Special Rapporteur present an oral report at the HRC's 50th session and submit a comprehensive written report at its 51st session and to the General Assembly at its 77th session. The HRC further requested the High Commissioner to ensure that information and evidence collected by the CoI are consolidated, preserved and made accessible and usable for ongoing and future accountability efforts. The resolution was adopted by a vote of 21 in favor, 15 against and 11 abstentions.

A/HRC/48/L.24/Rev.1 Situation of human rights in Afghanistan

Expressing deep concern for the human rights implications of the security situation in Afghanistan, the HRC recalled the existing obligations of Afghanistan under IHRL as well as its status as a State Party to the Rome Statute of the

International Criminal Court. The HRC condemned and called for an immediate end to all violations and abuses of human rights and violations of IHL in Afghanistan, including discrimination against women and girls. The Council also reaffirmed that human rights, democracy and the rule of law create an environment to promote development, protect individuals from discrimination and ensure equal access to justice for all. The HRC decided to appoint a Special Rapporteur to monitor the situation of human rights in Afghanistan and requested the Special Rapporteur submit a written report at its 51st session and to the General Assembly at its 77th session. The resolution was adopted by a vote of 28 in favor, 5 against and 14 abstentions.

A/HRC/48/L.25 Technical assistance and capacity building to improve human rights in Libya

The HRC strongly condemned all acts of violence in Libya, particularly those that constitute violations and abuses of human rights and violations of IHL, including unlawful detentions, abductions, enforced disappearances, torture, alleged extrajudicial killings, and intimidation or harassment of and violence against journalists, media workers and members of civil society. The resolution called upon the Government of National Unity and the international community to support victim-centered transitional justice efforts, as well as efforts to identify, protect and process mass graves to promote accountability and provide justice to families of missing and disappeared persons. The HRC renewed its request for OHCHR to provide more comprehensive and sustainable technical assistance and capacity-building to the Libyan judicial authorities. The Council also extended the mandate of the Fact-Finding Mission for Libya for nine months and requested the mission present a follow-up report of its findings at its 49th session, with the participation of the Special Representative of the Secretary-General for Libya, to be followed by an interactive dialogue. The HRC further requested the mission present a comprehensive report at its 50th session. The resolution was adopted without a vote.

RELEVANT INTERACTIVE DIALOGUES, DEBATES AND UPR

- Presentation of the High Commissioner's report on Venezuela
- Oral update by the High Commissioner on Afghanistan
- Interactive Dialogue on the report of the Independent Investigative Mechanism for Myanmar
- Enhanced Interactive Dialogue on the High Commissioner's oral update on the situation of human rights in the Tigray region of Ethiopia
- Interactive Dialogue on the report of the Group of Eminent Experts on Yemen
- Interactive Dialogue with the Special Rapporteur on Myanmar
- Interactive Dialogue on the High Commissioner's written update on Myanmar
- Enhanced Interactive Dialogue with the Commission on Human Rights in South Sudan
- Interactive Dialogue with the CoI on the Syrian Arab Republic
- Interactive Dialogue with the CoI on Burundi
- Interactive Dialogue with the Fact-Finding Mission on Venezuela
- OHCHR Oral Update on the extent of civilian casualties in the Syrian Arab Republic
- Adoption of the Universal Periodic Review Outcomes for Niger, Mozambique and Somalia
- Oral Update by the High Commissioner on implementation of Special Session Resolution 30/1 on the grave human rights situation in the Occupied Palestinian Territory, including East Jerusalem
- Enhanced Interactive Dialogue on the High Commissioner's report on the DRC and final report of the International Team of Experts on the Kasai region
- Enhanced Interactive Dialogue on the oral update of the High Commissioner on technical assistance and capacity-building for South Sudan
- Enhanced Interactive Dialogue on the report of the High Commissioner on the Sudan
- Interactive Dialogue with the Independent Expert on Somalia
- Interactive Dialogue with the Independent Expert on CAR
- Interactive Dialogue with the Fact-Finding Mission on Libya
- Presentation of reports by the High Commissioner/UN Secretary-General and oral updates on the Philippines and Yemen

ANNEX 1 – Statement by the Group of Friends of the Responsibility to Protect re: Item 3 – Interactive Dialogue with the Special Rapporteur on promotion of truth, justice, reparation and guarantees of non-recurrence

Madam President,

I have the honour to deliver this statement on behalf of the Group of Friends of the Responsibility to Protect (R2P). A list of co-sponsors is available on the Extranet.

We thank the Special Rapporteur for his report, including his recommendations to member states and the wider international community on how to establish judicial and non-judicial measures to ensure accountability for genocide, war crimes, crimes against humanity, and ethnic cleansing.

As specifically highlighted in the report, the investigation, pursuit, capture, prosecution and punishment of persons responsible for human rights violations and the promotion of truth, justice, reparation and guarantees of non-recurrence are not only central in combatting impunity, but are also essential to preventing the recurrence of atrocity crimes. During an Intersessional Panel Discussion marking the 15th anniversary of the Responsibility to Protect held earlier this year, the UN High Commissioner for Human Rights equally emphasized that “accountability and reparation are both components of non-recurrence” of mass atrocities. As such, these concepts should be considered as part of atrocity prevention efforts. The HRC, through its prevention mandate, can play a vital role in such efforts.

In recent decades, we have witnessed significant achievements in developing and strengthening various types of accountability mechanisms and procedures – including through international tribunals, Special Courts, and hybrid mechanisms. As outlined by the Special Rapporteur, this contributed to important justice processes for atrocity crimes committed in various countries. At the same time, a multitude of domestic accountability processes and national proceedings in countries from all regions underline important progress achieved in combatting impunity.

Unfortunately, as emphasized in the report, much remains to be done to ensure justice for *all* victims and accountability for *all* perpetrators, wherever atrocity crimes are occurring. Today, impunity for those currently committing crimes remains rampant. Failure to close the impunity gap contributes to the recurrence of new violations and abuses and emboldens those responsible for atrocities to continue to commit or recommit genocide, war crimes, crimes against humanity, or ethnic cleansing.

At the same time, a victim-centred approach to accountability goes beyond judicial proceedings and criminal prosecutions, and focuses on fostering reconciliation, societal healing and access to the truth. Justice, truth, reparations, and guarantees of non-repetition are critical to such an approach. The implementation of such an approach should be localized. Local actors need to be empowered to find their own solutions. We also wish to emphasize the importance of the systematic inclusion of a gender lens to international and domestic accountability efforts for atrocity crimes, both in terms of how crimes are assessed and with regards to who participates in such efforts.

All human rights monitoring mechanisms, including the OHCHR, Special Procedures, Treaty Bodies and international investigative bodies, can play a key role in contributing to dealing holistically with atrocities. By collecting and preserving existing evidence, mapping patterns of violations and sometimes identifying individual perpetrators, Commissions of Inquiry, Fact-Finding Missions and other investigative bodies are instrumental to advancing legal accountability. At the same time, these mechanisms often specifically identify the root causes of atrocity crimes. This helps establish a fact-based historical record and facilitates an understanding of risk factors, which, if unaddressed, may lead to recurrence.

We therefore call on all UN member states actively to utilize the information produced by these bodies to adopt a forward-looking strategy in situations with atrocity risks and take measures to prevent renewed escalation.

The mandate and work of the Special Rapporteur underlines the unique added value of HRC mechanisms and procedures in implementing R2P. We therefore also warmly welcome this year’s Intersessional Panel Discussion on

R2P at the HRC, which we believe helped to advance the genocide and atrocity prevention agenda across the UN human rights system, including through assisting countries in upholding their R2P.

Madam President,

We wish to commend governments that have undertaken steps to enact domestic legislation criminalizing atrocity crimes in accordance with their obligations under international law and encourage all States to explore avenues to do so.

In closing, we would like to ask the Special Rapporteur,

In your report, you emphasize that limited human, financial, technical and institutional resources often constitute obstacles for holding perpetrators to account. What role can the Geneva human rights system – including its technical assistance and capacity-building – play in assisting states in combatting impunity for atrocity crimes, and contribute to preventing their recurrence?

Thank you.

ANNEX 2 – Statement by the Group of Friends of the Responsibility to Protect re: Item 5 – General Debate on Human Rights Bodies and Mechanisms

Madam President,

I have the honour of delivering this statement on behalf of the Group of Friends of the Responsibility to Protect (R2P). A list of co-sponsors is available on the Extranet.

The Group of Friends wishes to take this opportunity to re-affirm its strong commitment to the multilateral human rights system and the integrity and independence of Special Procedures.

As patterns of human rights violations and abuses and violations of international humanitarian law often serve as early warning signs of atrocity crimes, human rights bodies and mechanisms play a fundamental role in helping states to uphold their Responsibility to Protect. According to the UN Framework of Analysis for Atrocity Crimes, developed by the Office on Genocide Prevention and the Responsibility to Protect,

“Atrocity crimes in general and genocide in particular are preceded by less widespread or systematic serious violations of international human rights and humanitarian law. These are typically violations of civil and political rights, but they may include also severe restrictions to economic, social and cultural rights, often linked to patterns of discrimination or exclusion of protected groups, populations or individuals.”

During today’s General Debate, we wish particularly to stress the vital role of Special Procedures in assisting States and other stakeholders in the prevention of human rights violations and abuses, and therefore to the prevention of genocide, war crimes, crimes against humanity and ethnic cleansing, as was recently highlighted in the Report of the High Commissioner for Human Rights on the role of Special Procedures (A/HRC/48/21).

Special Procedures are indispensable in informing the Human Rights Council (HRC) and its members and observers on both country-specific and thematic situations which require attention and engagement. As outlined in report 48/21, Special Rapporteurs not only perform important public monitoring and reporting functions, but may also facilitate early action through country visits, consultations with various national stakeholders and issuing statements of concern. As such, they are essential in mobilizing concerned states, as well as the wider international community, about necessary action to prevent situations from escalating.

In recent years, we have seen various Special Procedure mandate holders make direct and concrete linkages between their unique mandates and the prevention of atrocity crimes. In his 2019 report (A/74/243), the Special Rapporteur on the right to education specifically focused on the connection between education and the prevention of atrocity crimes or grave human rights violations. Recommendations included guidance on how the education system can contribute to addressing hate speech and intolerance, both of which may constitute enabling factors to creating an environment conducive to atrocities. The Special Rapporteur also highlighted the role education can play in fostering knowledge and understanding of past atrocity crimes as a preventive tool. Mandate holders such as the Special Rapporteur in the field of cultural rights or the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence have equally highlighted the role of their mandates in preventing (recurrence) of atrocity crimes.

Special Procedures can make pivotal contribution to enhance our understanding of the connection between atrocity prevention and various unique thematic mandates; Special Procedures may contribute to raising the alarm in situations of imminent risk, but also provide guidance and recommendations to all states to strengthen their national atrocity prevention capacities.

In addition, country-specific mandate holders often point us to unique warning signs within countries which may be at particular risk of atrocity crimes. In the past, Special Rapporteurs were often the first to warn of risk factors of situations which later escalated into atrocities. For example, report 48/21 specifically highlights that “In 1994 in Rwanda, the Special Rapporteur on extrajudicial, summary or arbitrary executions forewarned of a potential genocide.”

Madam President,

While Special Procedures regularly focus on or address the role of prevention in their reporting and documentation, the gap between early warning and early action persists. The problem is often not the availability of or access to information but how best to ensure appropriate and timely attention to the issues raised by mandate holders.

To help close this gap, and in line with the recommendations of the report, we wish to encourage UN member states to:

- Actively and fully cooperate with Special Procedures, including by issuing standing invitations and allowing visits, where applicable;
- Ensure that the establishment and renewal of mandates for Special Procedures include, where appropriate, a specific reference to the prevention of and early warning for atrocity crimes, in line with their mandate;
- Implement recommendations by Special Procedures to strengthen national atrocity prevention capacities, including, where applicable, by creating national mechanisms for preventing atrocity crimes and by appointing or strengthening a national Focal Point on R2P;
- Explore avenues to ensure greater information sharing and coordination among different mandate holders;
- Ensure mandate holders have access to brief and share information with various UN mechanisms, including the Security Council, General Assembly and UPR, as well as Treaty Bodies;
- Work with the Office of the High Commissioner to strengthen its capacity to effectively support Special Procedures mandates in terms of prevention and early warning for atrocity crimes.

While Special Procedures provide us with unique, precise and action-oriented information to prevent atrocity crimes, we must become better at utilizing this information to uphold our individual and collective Responsibility to Protect.

Thank you.