

CHRI 2018



Easier Said Than Done

Pledges and Performance:
Holding Commonwealth members to account at HRC



CHRI

Commonwealth Human Rights Initiative
working for the *practical* realisation of human rights in
the countries of the Commonwealth

Australia Kenya Nigeria Pakistan
Rwanda South Africa United Kingdom

Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-profit, non-partisan, international non-governmental organisation, mandated to ensure the *practical* realisation of human rights in the countries of the Commonwealth. In 1987, several Commonwealth professional associations founded CHRI, with the conviction that there was little focus on the issues of human rights within the Commonwealth although the organisation provided member countries a shared set of values and legal principles from which to work.

CHRI's objectives are to promote awareness of and adherence to the Commonwealth Harare Principles, the Universal Declaration of Human Rights and other internationally recognised human rights instruments, as well as domestic instruments supporting human rights in Commonwealth member states.

Through its reports and periodic investigations, CHRI continually draws attention to progress and setbacks to human rights in Commonwealth countries. In advocating for approaches and measures to prevent human rights abuses, CHRI addresses the Commonwealth Secretariat, member Governments and civil society associations. Through its public education programmes, policy dialogues, comparative research, advocacy and networking, CHRI's approach throughout is to act as a catalyst around its priority issues.

CHRI is headquartered in New Delhi, India, and has offices in London, UK and Accra, Ghana.

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EASIER SAID THAN DONE

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37th Regular Session

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List of Abbreviations

CERD: Committee on the Elimination of Racial Discrimination
CRC: Convention on the Rights of the Child
CEDAW: Convention on the Elimination of Discrimination Against Women
CRPD: Convention on Rights of Persons with Disabilities
CCPR: Covenant on Civil and Political Rights
CESCR: Covenant on Economic, Social and Cultural Rights
CAT: Committee Against Torture
CRC: Convention on the Rights of the Child
CRC-OP-CP: Optional Protocol to the Convention on the Rights of the Child on a communications procedure
CRC-OP-AC: CRC- Operational Protocol- Armed Conflict
CRC-OP-SC: CRC- Operational Protocol- Sale of Children
DDR: Disarmament, Demobilization and Reintegration
DIRCO: Department of International Relations and Cooperation
DDPA: Durban Declaration and Programme of Action
DPO: Displaced Persons Organization
DPRK: Democratic People’s Republic of Korea
EU: European Union
HLS: High-Level Segment
HRC: Human Rights Council
ICCPR: International Covenant on Civil and Political Rights
ICRMW: International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ICESCR: International Covenant on Economic, Social and Cultural Rights
ICPPED: International Convention for the Protection of All Persons from Enforced Disappearance
ID: Interactive Dialogue
IDP: Internally Displaced Person
IE: Independent Expert
INGO: International Non-Governmental Organization
IPOA: Independent Policing Oversight Authority
IPOB: Indigenous People of Biafra
KNCHR: Kenyan National Commission on Human Rights
KANU: Kenya African National Union
LDC: Least Developed Countries
LGBTIQ: Lesbian, Gay, Bisexual, Transgender and Questioning
NGO: Non-Governmental Organization

NHRC: National Human Rights Commission
NEDC: North East Development Commission
NAM: Non-Aligned Movement
NCCWD: National Commission for Child Welfare and Development
NAP: National Action Plan
OHCHR: Office of the High Commissioner for Human Rights
OIC: Organization for Islamic Cooperation
OAU: Organization of African Unity
OPT: Occupied Palestinian Territory
SDG: Sustainable Development Goals
SR: Special Rapporteur
SARS: Special Anti-Robbery Squad
SERAP: Socio Economic Rights and Accountability Project
SSMPA: Same Sex Marriage (Prevention) Act
SIDS: Small Island Developing States
TMG: Transition Monitoring Group
UN: United Nations
UK: The United Kingdom of Great Britain and Northern Ireland
UPR: Universal Periodic Review
UNMOGIP: United Nations Military Observer Group in India and Pakistan
UNGA: United Nations General Assembly
UNDEF: United Nations Democracy Fund
UNICEF: United Nations International Children's Emergency Fund
WEOG: Western European and Others Group
WISPI: World Internal Security and Police Index

Acknowledgements

The Easier Said Than Done (ESTD) series has been produced by the Commonwealth Human Rights Initiative (CHRI) to evaluate the performance of Commonwealth member states at the United Nations Human Rights Council (HRC), and to highlight the opportunity for the Commonwealth and its member states to reflect on and improve their human rights record. CHRI has consistently tracked the performance of the Commonwealth at the HRC since the first ESTD report in 2007.

The concept has been redesigned and standardized by Yashasvi Nain, Programme Officer at CHRI's International Advocacy Programme (IAP) and lead author for this report. He compiled and analysed the research and led a team of colleagues, volunteers and partner organizations to make this report possible amid pressing deadlines and parallel programme commitments.

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CHAPTER I

Introduction

a. An Overview of the Report

This edition of the Easier Said Than Done (ESTD) report is the latest in the series which was started in 2007, to review the voting patterns of Commonwealth member states at the Human Rights Council (HRC) in Geneva. It provides a basis for evaluating their engagement with the Council and considers if their voting behaviour in support of resolutions is consistent with their voluntary pledges and commitments they made to the HRC. In 2017, as the first decade of the HRC came to an end, CHRI conducted a study titled “The Commonwealth at the Human Rights Council: A Decade of Voting” to understand the extent to which voting behaviour actualized the safeguarding of human rights by member states in conformity with their own voluntary pledges and their commitments at the HRC.

The latest ESTD report summarizes and presents an analysis of the performance of seven Commonwealth member states during the 37th session of the HRC: Australia, Kenya, Nigeria, Pakistan, Rwanda, South Africa and the United Kingdom. It highlights the disparities between human rights promises made by Council members and their implementation at the national levels. Overall, the ESTD series seeks to bridge gaps between international human rights systems and local landscapes at the country level.

The ESTD report seeks to present a clear picture of the activities of Commonwealth member states in the HRC and track thematic developments there, along with shifts in foreign policy approaches of member states on rights issues. The report aims to highlight institutional and human rights concerns in the HRC and explain discrepancies in the behaviour of the member state. It calls for greater accountability so that members act in accordance with their pledges and commitments.

The ESTD report contributes towards enabling and strengthening stakeholders’ access to the HRC. This report is an information-sharing tool which aims to reach a wider audience. The target groups include civil society, national human rights institutions as well as researchers, who are otherwise unable to access the HRC due to their remote locations. The report promotes the accountability of member states and furthers efforts for human rights protection in the Commonwealth through dialogue and data-driven advocacy.

b. Methodology

The report was prepared using research based on primary as well as secondary sources. Research is based on accessing the following materials: monitoring live HRC sessions; HRC resolutions available at the HRC extranet; UPR extranet, the UPR Info website; statements made by the countries at the HRC; explanations of votes provided by the countries; reports submitted during the UPR; concluding observations; national reports submitted to the treaty bodies; and NGO reports.

For analytical ease, resolutions were divided into two categories: thematic and country situation. Thematic categorically refers to topics focused on a theme, for example, civil society space or the death penalty. Country situations categorically refer to specific human rights situations in a country or capacity-building, such as the human rights situation in Sudan or technical assistance to, and capacity-building in, Ukraine.

c. Limitations

The ESTD report aims to provide a balanced review and assessment but this report was limited by two key challenges:

- The first challenge was to measure vague and unquantifiable pledges made by several Commonwealth member states on rights issues. In some instances, this led to “compliance indicators” which are far too general in nature. Elsewhere, the report assesses specific pledges, reviewing loopholes in the pledge-making process and looking at the lack of efficient governing standards.
- The second challenge was that most countries do not have publicly available robust documentation on their positions. There is a lack of standard process, and not all documented reasons are available on the HRC extranet or on the website of the respective UN missions. That is why it was not possible to analyse the voting rationale for every issue. This has led to a variation in the quantity of information used in tallying compliances with pledges. The limited availability of reliable, objective and/or quantified information is in itself an indication of the lack of infrastructure in many Commonwealth member states to monitor human rights conditions. It is advisable to take these factors into consideration and avoid comparing the different countries’ situations and/or extent of compliances with their pledges when using this report.

d. Structure

The second chapter provides an overview of the 37th session. It discusses the performance of Commonwealth member states during the session and covers major findings and observations concerning voting on resolutions, engagement with special procedures, compliance with treaty bodies, participation in formats of discussion and domestic human rights challenges.

The third chapter consists of country profiles of Australia, Kenya, Nigeria, Pakistan, Rwanda, South Africa and the United Kingdom. Each profile presents information of the member state’s voluntary pledges, participation in panel discussions, general debates and interactive dialogues, and voting on thematic and country-specific resolutions. The profile ends with an analysis of the country’s compliance with pledges and international commitments, and the corresponding domestic human rights situation in the country.

The report concludes with key recommendations for Commonwealth member states to enhance meaningful engagement with the HRC and draw in the 37th session and the analysis of specific human rights issues at the national level.

CHAPTER II

The Commonwealth at the 37th Session of the Human Rights Council

a. An Overview of the 37th Session of the Human Rights Council

The 37th regular session of the Human Rights Council (HRC) addressed a range of human rights issues and considered 95 reports from experts addressing 35 thematic and 50 country-specific situations. The Council passed 42 resolutions, comprising 28 thematic and 14 country-specific resolutions respectively. It adopted 26 resolutions by consensus (62%), and 16 by a recorded vote (38%). The following table covers the contested resolutions along with short descriptions:

Table 2.1

Resolution No.	Title of the Resolution	Description
37/3	The integrity of the judicial system	The Council requested the United Nations High Commissioner for Human Rights to prepare a comprehensive study on the implications of the lack of integrity of the judicial system for human rights, in particular for persons kept in detention facilities outside the territory of the country, and to submit the study to the Human Rights Council at its 43rd session.
37/1	The deteriorating situation of human rights in Eastern Ghouta, in the Syrian Arab Republic	The Council requested the Commission of Inquiry on Syria to urgently conduct a comprehensive and independent inquiry and update the Council at its June session.
37/21	Human rights and unilateral coercive measures	The Council urged the Special Rapporteur to focus on the resources and compensation necessary to promote accountability and reparations for victims in his next report to the Council and to the General Assembly. It also requested the Special Rapporteur to present a set of elements to be considered as appropriate in the preparation of a Draft United Nations Declaration on the negative impact of unilateral coercive measures on the enjoyment of human rights.
37/23	Promoting mutually beneficial cooperation in the field of human rights	The Council requested its Advisory Committee to conduct a study on the role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights, and to submit a report to the Council before its 43rd session.
37/29	The human rights situation in the Syrian Arab Republic	The Council invited member states to actively support the International, Impartial and Independent Mechanism, including by considering the provision of information and data on the most serious crimes under international law committed in the Syrian Arab Republic. It decided to extend for one year the mandate of the Independent International Commission of Inquiry on the Syrian Arab Republic. It requested the Commission of Inquiry to provide an oral update to the Human Rights Council during the interactive dialogue at its 38th session, and to present an updated written report during an interactive dialogue at the 39th and 40th sessions.
37/30	Situation of human rights in the Islamic Republic of Iran	The Council decided to extend the mandate of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran for a further period of one year. It requested the Special Rapporteur to submit a report on the implementation of the mandate to the Human Rights Council at its 40th session and to the General Assembly at its 73rd session.

37/32	Situation of human rights in Myanmar	The Council decided to extend the mandate of the Special Rapporteur on the situation of human rights in Myanmar for a further period of one year. It requested the Special Rapporteur to present an oral progress report to the Council at its 38th session and to submit a report to the Third Committee at the 73rd session of the General Assembly, and to the Council at its 40th session.
37/33	Human rights in the occupied Syrian Golan	The Council called on Israel, the occupying power, to desist from imposing Israeli citizenship and Israeli identity cards on Syrian citizens in the occupied Syrian Golan. It requested the Secretary-General to bring the present resolution to the attention of all governments, the competent United Nations organs, specialized agencies, international and regional intergovernmental organizations and international humanitarian organizations.
37/10	The right to food	The Council called on States to heed the urgent United Nations humanitarian appeal to assist countries facing drought, starvation and famine with emergency aid and urgent funding. It underlined the fact that if no immediate response was received, an estimated 20 million people, most of whom were women and children, risk losing their lives.
37/11	The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights	The Council requested the Advisory Committee to submit the final report on the activities of vulture funds and their impact on human rights to the Human Rights Council at its 41st session.
37/34	Right of the Palestinian people to self-determination	The Council reaffirmed the inalienable, permanent and unqualified right of the Palestinian people to self-determination. It urged all States to adopt measures as required to promote the realization of this right and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of this right.
37/35	Human rights situation in the Occupied Palestinian Territory, including East Jerusalem	The Council demanded that Israel cease its policy of transferring prisoners from the Occupied Palestinian Territory into the territory of Israel. It urged Israel to ensure that any arrest, detention and/or trial of Palestinian children was in line with the Convention on the Rights of the Child, including by refraining from holding criminal proceedings against them in military courts.
37/36	Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan	The Council called on the relevant United Nations bodies to take all necessary measures and actions within their mandates to ensure the implementation of the United Nations "Protect, Respect and Remedy" Framework, which provides a global standard for upholding human rights in relation to business activities that are connected with Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem. It requested the United Nations High Commissioner for Human Rights to report to the Human Rights Council on the implementation of the provisions of the present resolution.
37/37	Ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem	The Council called on the parties concerned, to cooperate fully with the preliminary examination of the International Criminal Court and with any subsequent investigation that may be opened. It requested the United Nations High Commissioner for Human Rights to report on the implementation of the present resolution to the Human Rights Council at its 40th session.
37/40	Cooperation with Georgia	The Council urged the United Nations High Commissioner for Human Rights to continue providing technical assistance through his office in Tbilisi and present an oral update on the follow-up to the present resolution at the Council's 38th session and a written report at its 39th session.

37/42	Contribution to the implementation of the joint commitment to effectively addressing and countering the world drug problem with regard to human rights	The Council requested the Office of the United Nations High Commissioner for Human Rights to prepare a report, in consultation with the States, the United Nations Office on Drugs and Crime and other United Nations agencies, civil society and other relevant stakeholders, on the joint commitment to effectively address and counter the world drug problem with regards to human rights, and to present it to the Human Rights Council at its 39th session. It also requested the Office of the High Commissioner to share the report with the Commission on Narcotic Drugs, through the appropriate channels, as a contribution to their work in this field and in preparation for the 62nd session of the Commission.
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b. The Commonwealth at the 37th Session of the Human Rights Council

During the session, seven Commonwealth countries participated as members of the Council.¹ These were Australia, Kenya, Nigeria, Pakistan, Rwanda, South Africa and the United Kingdom. Australia and Rwanda are serving their first term in the Council. Rwanda's membership will end in 2019 and Australia will remain a member till 2020, having begun its term in the 37th session. Kenya is serving its second term, which will end in 2018. South Africa is serving its third term, which will end in 2019. Nigeria, Pakistan and the United Kingdom are serving their fourth terms. While the United Kingdom will end its term in 2019, Nigeria and Pakistan will remain members till 2020.

c. Voting Patterns of the Commonwealth Member States on Resolutions

i. Thematic Resolutions

Voting Key:

Favour: ✓

Against: ✗

Consensus: •

Abstention: –

■ Original Sponsor/Co-sponsor

■ Additional Co-sponsor

Table 2.2

TEXT	RESOLUTIONS	AUS	KEN	NIG	PAK	RWA	SA	UK
37/2	The right to privacy in the digital age	•	•	•	•	•	•	•
37/3	Integrity of the judicial system	–	✓	–	✓	✓	✓	–
37/4	Adequate housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this context	•	•	•	•	•	•	•
37/5	Mandate of the Independent Expert on the enjoyment of human rights by persons with albinism	•	•	•	•	•	•	•
37/6	The role of good governance in the promotion and protection of human rights	•	•	•	•	•	•	•
37/7	Promoting human rights and Sustainable Development Goals through transparent, accountable and efficient public services delivery	•	•	•	•	•	•	•
37/8	Human rights and the environment	•	•	•	•	•	•	•
37/9	Freedom of religion or belief	•	•	•	•	•	•	•
37/10	The right to food	✓	✓	✓	✓	✓	✓	✓
37/11	The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights	✓	✓	✓	✓	✓	✓	✗

1 United Nations Human Rights Council, Current Membership of the Human Rights Council, 1 January- 31 December 2018 by regional groups. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/MembersByGroup.aspx>

37/12	Mandate of the Special Rapporteur in the field of cultural rights	•	•	•	•	•	•
37/13	The question of the realization in all countries of economic, social and cultural rights	•	•	•	•	•	•
37/14	Rights of persons belonging to national or ethnic, religious and linguistic minorities	•	•	•	•	•	•
37/15	High-level intersessional discussion celebrating the centenary of Nelson Mandela	•	•	•	•	•	•
37/16	Right to work	•	•	•	•	•	•
37/17	Cultural rights and the protection of cultural heritage	•	•	•	•	•	•
37/18	Promoting human rights through sport and the Olympic ideal	•	•	•	•	•	•
37/19	The negative impact of corruption on the right to be free from torture or other cruel, inhuman or degrading treatment or punishment	•	•	•	•	•	•
37/20	Rights of the child: protection of the rights of the child in humanitarian situations	•	•	•	•	•	•
37/21	Human rights and unilateral coercive measures	✘	✓	✓	✓	✓	✓
37/22	Equality and non-discrimination of persons with disabilities and the right of persons with disabilities to access to justice	•	•	•	•	•	•
37/23	Promoting mutually beneficial cooperation in the field of human rights	–	✓	✓	✓	–	✓
37/24	Promotion and protection of human rights and the implementation of the 2030 Agenda for Sustainable Development	•	•	•	•	•	•
37/25	The need for an integrated approach to the implementation of the 2030 Agenda for Sustainable Development for the full realization of human rights, focusing holistically on the means of implementation	•	•	•	•	•	•
37/26	Prevention of genocide	•	•	•	•	•	•
37/27	Terrorism and human rights	•	•	•	•	•	•
37/38	Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief	•	•	•	•	•	•
37/42	Contribution to the implementation of the joint commitment to effectively addressing and countering the world drug problem with regard to human rights	✓	–	–	✘	✓	–

ii. Country-Situation Resolutions

Voting Key:

Favour: ✓

Against: ✗

Consensus: •

Abstention: –

■ Original Sponsor/Co-sponsor

■ Additional Co-sponsor

Table 2.3

TEXT	RESOLUTIONS	AUS	KEN	NIG	PAK	RWA	SA	UK
37/1	The deteriorating situation of human rights in Eastern Ghouta, in the Syrian Arab Republic	✓	–	–	–	✓	–	✓
37/28	Situation of human rights in the Democratic People's Republic of Korea	•	•	•	•	•	•	•
37/29	The human rights situation in the Syrian Arab Republic	✓	–	–	–	✓	–	✓
37/30	Situation of human rights in the Islamic Republic of Iran	✓	–	–	✗	–	–	✓
37/31	Situation of human rights in South Sudan	•	•	•	•	•	•	•
37/32	Situation of human rights in Myanmar	✓	–	✓	✓	✓	–	✓
37/33	Human rights in the occupied Syrian Golan	✗	✓	✓	✓	–	✓	✗
37/34	Right of the Palestinian people to self-determination	✗	✓	✓	✓	✓	✓	✓
37/35	Human rights situation in the Occupied Palestinian Territory, including East Jerusalem	✗	✓	✓	✓	–	✓	✓
37/36	Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan	✗	✓	✓	✓	–	✓	–
37/37	Ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem	✗	–	✓	✓	–	✓	✗
37/39	Assistance technique et renforcement des capacités dans le domaine des droits de l'homme	•	•	•	•	•	•	•
37/40	Cooperation with Georgia	✓	–	–	–	–	–	✓
37/41	Technical assistance and capacity-building to improve human rights in Libya	•	•	•	•	•	•	•

d. Overview of the Performance of Commonwealth Member States

i. Compliance with Reporting Obligations to Treaty Bodies

When a country ratifies a treaty, in addition to its obligation to implement the substantive provisions of the treaty, it is also under an obligation to submit periodic reports to the relevant treaty body on how the rights are being implemented. Almost all Commonwealth member states in their pledges committed to comply with their treaty body reporting obligations under the major human rights treaties. Australia, Rwanda, South Africa and the United Kingdom complied with their obligations and hence complied with their pledges. Both Pakistan and Kenya have three reports pending to review bodies under major human rights treaties, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC). Nigeria is the worst performer with more than ten reports pending to various treaty bodies. These include Nigeria's state reports to the treaty bodies formed under the International Covenant on Economic, Social and Cultural Rights (ICESCR), due since 2000; the Convention Against Torture (CAT) due since 2002; the Convention on the Rights of Persons with Disabilities (CRPD) due since 2001; and its reports under the Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) and International Convention on the Elimination of All Forms of Racial Discrimination (CERD), both of which were due since 2012, amongst others.

ii. Engagement with Special Procedures

The special procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. Despite voluntary pledges, the record of most of the current Commonwealth member states' engagement with special procedures is poor. Countries from the Western European and Others Group (WEOG) have a better record of engaging with special procedures. Australia's performance is positive, except for its engagement with the Special Rapporteur on Torture, where it postponed and later cancelled the request for a country visit. The United Kingdom's positive record is aspersed by its handling of country visits by the Special Rapporteurs on adequate housing and on violence against women. It earlier cancelled a request from the Special Rapporteur on food, and is yet to accept the request from the Working Group on mercenaries. At the same time, countries from the Africa and Asia Group have not engaged much with special procedures, and have more than a dozen requests for country visits pending: Kenya (15), Nigeria (14), Pakistan (16) and South Africa (13). However, Rwanda has a better record with only four pending requests. Most of the requests for country visits in the Asian and African Commonwealth member states are from special procedures dealing with civil and political rights issues, such as torture, violence against women, freedom of assembly, extrajudicial killings, amongst others.

iii. Treaty Ratification

Australia, Rwanda and Nigeria have a relatively better record of human rights treaty ratification than other Commonwealth countries. These three countries are however yet to ratify four instruments including the ICPED and the Optional Protocols to the ICESCR and the CRC. South Africa and the United Kingdom each have five instruments pending for ratification including the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW) and the Optional Protocols to the International Covenant on Civil and Political Rights (ICCPR), the CRC and the ICESCR. Kenya and Pakistan fare poorly amongst these states, with ten and nine pending ratifications of international human rights treaties respectively. These include the ICRMW, CPED and the Optional Protocols to the ICCPR, ICESCR, CRC, CEDAW and CAT.

iv. Thematic Resolutions

All Commonwealth member states voted in favour of one resolution: the right to food. The Western Group, comprising Australia and the UK displayed a similar voting pattern. On resolutions concerning the integrity of the judicial system, promoting mutually beneficial cooperation in the field of human rights, foreign debt and unilateral coercive measures, they either abstained or voted against. Other Commonwealth member states (developing countries) however voted in favour of these resolutions. Australia and the UK voted in favour of the resolution concerning countering world drug problems and human rights, while developing countries, barring Rwanda, voted against it. Kenya, Rwanda and South Africa did not vote against any thematic issue and voted in favour of five resolutions. Australia sponsored the maximum number of resolutions (12) and most of them were adopted by consensus; Australia itself, however, voted in favour of only two resolutions, namely the right to food and the world drug problem.

v. Country Resolutions

Commonwealth member states did not vote along similar lines on any resolution. While most of them agreed on international scrutiny on human rights abuses in Myanmar, they were divided on the situation in Iran. On the issue of Palestine, they were in maximum agreement, with only one exception: Australia voted against the resolution. Kenya, Nigeria and South Africa voted similarly for the African states. UK and Australia voted similarly on every country-situation resolution, barring that concerning Palestine; both countries adopted pre-defined stances. Nigeria and the UK sponsored the maximum number of resolutions (7). The UK voted the most in favour of country-specific resolutions with seven positive votes on resolutions concerning Myanmar, Iran, Syria and a mixed record on successive resolutions concerning Palestine and Syria. Nigeria and Pakistan voted in favour on five resolutions, with support for all resolutions concerning Palestine and Myanmar.

e. Major Challenges

i. Pledges

Only four Commonwealth member states: Australia, Pakistan, South Africa and the UK submitted a pledge enumerating their human rights promises and commitments. Rwanda did not submit a pledge. Nigeria last submitted its pledge in 2006. Kenya did not submit a new pledge while applying for its second term in 2015; the report considers its 2012 pledge.

Further, pledges are often vague and ambiguous, thereby making it difficult to measure outcomes and hold countries accountable. Pledges are a precondition for selection to the HRC. The UN General Assembly Resolution 60/251, which established the HRC, states that human rights pledges that countries make during HRC elections should be considered when selecting members of the HRC. Members without formal pledges and commitments are able to avoid scrutiny from national and international stakeholders.

ii. Uncontested Elections

The performance of the Council is directly influenced by its composition. There has been a trend of regional groupings running clean-slate elections – with the number of countries standing for election matching the number of open seats – to avoid embarrassment to members that lose out to other countries from the same region. This trend is visible across all five regional groups. In the first decade of the Council, the Asian-Pacific regional elections were uncontested six out of ten times; African regional elections were uncontested eight out of ten times; and Western European and other regional elections were uncontested six out of ten times. CHRI believes that competitive elections are critical to promote robust dialogue, geographical representation, diversity and accountability. The practice of clean-slate elections is a threat to the Council's credibility, for among other issues, it also prevents states from submitting pledges on sincere human rights commitments.

CHAPTER III

Country Profiles

AUSTRALIA

I. Introduction

Australia initially supported the establishment of the Human Rights Council (HRC) but within a year expressed a lack of confidence in the HRC's ability to pass a resolution condemning human rights abuses in Zimbabwe. The country first showed interest in candidacy of the HRC for the 2018-2020 term before the 2013 election.¹ When it launched its bid for a seat at the HRC, Australia went through a shift in domestic politics,² which was coupled with international criticism of human rights violations, particularly with respect to its refugee policy.³ Australia officially launched its candidacy in October 2015 for the 2018 to 2020 term.⁴

This was the first-time Australia submitted its candidature for a seat on the HRC since it was established in 2006. Australia was one of the two members of the Western European and Other Groups (WEOG) that contested and was elected during the 72nd General Assembly Session in October 2017. Two vacant seats out of the total five seats were reserved for WEOG for the 2018 to 2020 term.⁵ Australia will serve at the HRC for the 2018 to 2020 term and will be eligible for re-election for a second term.⁶ Initially, France, Spain, and Australia had contested for the two seats. However, after France's withdrawal to support Spain's candidacy, it proved to be a clean-slate election for the other two.⁷ During the 37th session of the HRC, Australia's voting pattern on thematic resolutions was mixed. Australia sponsored 12 thematic resolutions and three country-situation resolutions. Australia was also an additional sponsor of six thematic and six country-situation resolutions.

II. Voluntary Pledges and Commitments

In its voluntary pledge, Australia firmly committed to fundamental human rights and freedoms.⁸ Australia pitched itself as a "pragmatic and principled" candidate and a voice for the Pacific. Foreign Minister, Julie Bishop, led Australia's campaign, which was based on "five pillars",⁹ namely:

- 1 Nicole Brangwin, "Australia takes a seat at the UN Human Rights Council", 18 October 2017, Parliament of Australia. Available at https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2017/October/UN_Human_Rights_Council.
- 2 Georgie Bright, "Australia is No Longer a Human Rights Leader", Human Rights Watch, 24 February 2016. Available at <https://www.hrw.org/news/2016/02/24/australia-no-longer-human-rights-leader>.
- 3 Amnesty International, "Election to the UN Human Rights Council Means Australia Must End Human Rights Hypocrisy", 17 October 2017. Available at <https://www.amnesty.org.au/election-un-human-rights-council-means-australia-must-end-human-rights-hypocrisy/>.
- 4 Address of the Minister for Foreign Affairs to launch Australia's UNHRC Candidacy, 2018-20, 19 October 2015. Available at https://foreignminister.gov.au/speeches/Pages/2015/jb_sp_151019.aspx?w=tb1CaGpkPX%2FIS0K%2Bg9ZKEg%3D%3D.
- 5 UN General Assembly, "Assembly, by Secret Ballot, Elects 15 Member States to Serve Three-Year Terms on Human Rights Council", 16 October 2017, GA/11962. Available at <https://www.un.org/press/en/2017/ga11962.doc.htm>.
- 6 UN General Assembly, Human Rights Council: resolution / adopted by the General Assembly, 3 April 2006, A/RES/60/251. Available at: <http://www.refworld.org/docid/4537814814.html>.
- 7 Address of the Minister for Foreign Affairs to launch Australia's UNHRC Candidacy 2018-20, 19 October 2015. Available at https://foreignminister.gov.au/speeches/Pages/2015/jb_sp_151019.aspx?w=tb1CaGpkPX%2FIS0K%2Bg9ZKEg%3D%3D.
- 8 United Nations General Assembly, "Note verable dated 14 July 2017 from the Permanent Mission of Australia to the United Nations addressed to the President of the General Assembly", 24 July 2017. Available at <http://undocs.org/en/A/72/212>; <http://dfat.gov.au/international-relations/international-organisations/un/Documents/ga-doc-a-72-212-voluntary-pledges-hrc-australia.pdf>.
- 9 Australian Government, Department of Foreign Affairs and Trade, "Pillars and Priorities". Available at <http://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/pillars-and-priorities/Pages/pillars-and-priorities.aspx>.

- Gender equality
- Good governance
- Freedom of expression
- The rights of Indigenous peoples
- Strong national human rights institutions and capacity building.

The 2017 Foreign Policy White Paper¹⁰ outlines Australian Foreign Policy for the next five to ten years. Priorities with respect to human rights¹¹ listed in the Australian Foreign Policy are similar to the pledges made. In addition, the paper lists:

- Commitment to protect and strengthen civil society internationally
- Increase the formal participation of civil society in UN processes
- Support democratic principles, the rule of law, human rights and gender equality through the Commonwealth.

III. Australia’s Participation in the 37th Session of the HRC

In its first session as member of the HRC, Australia participated actively in general debates, panel discussions and interactive dialogues, and made several statements. The complete list of statements made at the 37th session can be found below.¹² In the High-Level Segment, Peter Cosgrove, the Governor General of Australia, highlighted the country’s “commitment to advancing human rights for all.”¹³

S. No.	Panel Discussion	Australia’s Response
1.	<i>On the 70th anniversary of the Universal Declaration of Human Rights and the 25th anniversary of the Vienna Declaration and Programme of Action</i>	On behalf of a group of countries, Australia reaffirmed their commitment to stand up for human rights principles. Australia questioned the panel on ways to foster effective coordination between Geneva and New York. ¹⁴
2.	<i>On the rights of the child, focusing on children in humanitarian situations</i>	On behalf of a group of countries, Australia raised its concern over the increased vulnerability of women and girls to gender-based violence in humanitarian situations. It further stated that health and education require attention. ¹⁵
3.	<i>High-level panel on violations of human rights of children in Syria</i>	Australia asserted that Syria’s children were victims of chemical weapons, and were used as civilian shields and child soldiers. Australia urged the international community to help all the children they could reach in Syria. ¹⁶

10 Australian Government, 2017 Foreign Policy White Paper. Available at <https://www.fpwhitepaper.gov.au/foreign-policy-white-paper>.

11 Advancing human rights. Available at <https://www.fpwhitepaper.gov.au/foreign-policy-white-paper/chapter-six-global-cooperation/advancing-human-rights>.

12 Australian Government, Department of Foreign Affairs and Trade, 37th Session of the Human Rights Council. Available at <http://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Pages/37th-session-of-the-human-rights-council.aspx>.

13 High-Level Segment, United Nations Human Rights Council, National Statement, 26 February 2018. Available at https://extranet.ohchr.org/sites/hrc/HRCSessions/HRCDocuments/19/SP/10183_35_ce8a8b2b_7027_4cf4_81f3_e4281bf000d5.DOCX,

14 Human Rights Council, Mountains Group, Joint Statement, High-Level panel discussion on the seventh anniversary of the UDHR and the twenty-fifth anniversary of VDPA, 28 February 2018. Available at <http://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/statement-on-the-anniversary-of-the-udhr-and-the-anniversary-of-the-vdpa-28-february-2018.pdf>.

15 Human Rights Council, Australian Statement, Panel Discussion on protecting the rights of the child in humanitarian situations, 5 March 2018. Available at <http://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/statement-on-protecting-the-rights-of-the-child-in-humanitarian-situations-5-march-2018.pdf>.

16 The United Nations Office at Geneva, “Human Rights Council Holds High-Level Panel Discussion on Violations of the Human Rights of Children in Syria”, 13 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/7E17567654CED729C125824F003F9E74?OpenDocument.

S. No.	General Debate	Australia's Response
1.	<i>On human rights bodies and mechanisms</i>	Australia spoke on behalf of a group of countries stating that the Council could be more effective in handling its work with dialogue, both within and outside the Council, to create an enabling environment for civil society organisations. It urged that efforts be taken to ensure greater participation of small states at the Council. ¹⁷
2.	<i>On human rights situations requiring the Council's attention</i>	Australia stated that it would remain a pragmatic partner to the Council and States, including countries considered under agenda Item of the HRC . Australia further said that there was no progress in the Democratic People's Republic of Korea or in Iran that had no free trials, and where the death penalty was still in place. It averred that a political solution for the Syrian crisis was needed. Australia also condemned the attempted assassination by Russia in the UK. ¹⁸
3.	<i>On technical assistance and capacity building</i>	Australia praised the OHCHR for its work on improving human rights situations. It went on to state concern for the human rights abuses in Mali, the sectarian violence in the Central African Republic, the humanitarian situation in Yemen and the narrowing democratic space in Cambodia. ¹⁹
4.	<i>On the Annual Report of the High Commissioner</i>	Australia acknowledged Sri Lanka's steps to implement resolution 30/1. It supported the legislation on protection of all persons from enforced disappearances. Further, Australia appreciated the appointment of a Commissioner for the Office of Missing Persons. Australia also pushed for land release and reparations, and repealing the Prevention of Terrorism Act in Sri Lanka. Australia voiced concern over the increasing attacks and hate speeches against religious minorities, especially in the Kandy region and recommended an investigation and subsequent action against the perpetrators. ²⁰
	Interactive/Clustered Dialogue	Australia's Response
1.	<i>On human rights defenders and on torture</i>	Australia spoke as a concerned country ²¹ expressing its cooperation with Special Rapporteurs. The country went on to state that the government and the Australian Human Rights Commission were working to "give voice to aboriginal and Torres Strait Islander women and girls through the Wiyi Yani U Thangani project".
2.	<i>On promotion of human rights while countering terrorism, and on cultural rights</i>	Australia said effective counter-terrorism practices were "complementary and mutually reinforcing" to the protection of human rights. Further, it "welcomed the Special Rapporteur's commitment to fully integrate a meaningful gender analysis" in her mandate. ²²

17 The United Nation Office at Geneva, "Council Holds Dialogue with the Special Rapporteur on Minority Issues, Starts General Debate on Human Rights Bodies and Mechanisms", 14 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/F33B17ED9042F47AC12582500067D2A0?OpenDocument&cntxt=CFD30&cookielang=en.

18 The United Nations Office at Geneva, "Human Rights Council Holds General Debate on Human Rights Situations requiring the Council's Attention, 14 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/9C654A46A7DC5876C12582500046F571?OpenDocument.

19 Office of the High Commissioner for Human Rights, Display news. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22889&LangID=E>.

20 Human Rights Council, Australian Statement, Item 2: General Debate: Response to the OHCHR Report "Promoting Reconciliation, Accountability and Human Rights in Sri Lanka", 21 March 2018. Available at <http://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/statement-to-the-ohchr-report-promoting-reconciliation-accountability-and-hr-in-sri-lanka-21-march-2018.pdf>.

21 Human Rights Council, Australian Concerned Country Statement, Report of the Special Rapporteur on the situation of human rights defenders in Australia, 1 March 2018. Available at <http://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/australias-statement-on-human-rights-defenders-1-march-2018.pdf>.

22 The Office of the United Nations at Geneva, "Human Rights Council Discusses the Protection of Human Rights while Countering Terrorism and Cultural Rights". Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/28D5FCE4CC9E5575C125824300640314?OpenDocument.

3.	<i>On the right to privacy, and on the sale of children, child prostitution and child pornography</i>	Australia supported the Special Rapporteur on trafficking in persons, stating that the international community needed to work together to prevent the sale of children. With respect to privacy, the country was committed to “maintaining a comprehensive framework” of individuals’ personal information. ²³
4.	<i>On violence against children and on children and armed conflict²⁴</i>	Australia expressed concern over the denial of humanitarian access to children in armed conflict, further urging that humanitarian actors should be allowed unhindered access. ²⁵
5.	<i>On the freedom of religion or belief</i>	Australia expressed concern over the situation of religious minorities in the Middle East and asked how states could support “civil society actors in building coalitions that transcended religious boundaries”. ²⁶
6.	<i>On transitional justice and on the prevention of genocide</i>	Australia’s statement was that “the prevention of conflict and human rights violations was essential to peacebuilding and the UN could play a privileged role in the development of comprehensive atrocity prevention frameworks.” ²⁷
7.	<i>On rights of persons with disabilities and on rights of persons with albinism</i>	Australia asked the Special Rapporteur for practical examples of mechanisms on how to effectively support people with disabilities. ²⁸
8.	<i>On the High Commissioner’s Annual Report</i>	Australia spoke on behalf of a group of countries, and expressed concern with regards to the death penalty in Saudi Arabia and Iran. It further condemned the use of torture in Egypt, extrajudicial killings in the Philippines and imprisonment and mistreatment of protesters in Bahrain. ²⁹
9.	<i>On the situation of human rights in the Democratic People’s Republic of Korea</i>	Australia urged the Democratic People’s Republic of Korea to engage with the international community and permit the Special Rapporteur to visit the country. ³⁰
10.	<i>On the human rights situation in Iran</i>	Whilst Australia welcomed Iran’s amendment to Iran’s drug-trafficking laws, it remained concerned about the use of the death penalty for a wide range of offences. ³¹

23 The United Nations Office at Geneva, “Human Rights Council Discusses the Right to Privacy, and Commercial Surrogacy in the Context of the Sale of Children”, 6 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/5849E29A8B0AC7B7C12582480048DA58?OpenDocument.

24 The United Nations Office at Geneva, “Human Rights Council Holds Interactive Dialogue on Violence against Children and on Children and Armed Conflict”, 6 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/7B7C1330FE581087C125824800555BF7?OpenDocument.

25 Human Rights Council, Australian Statement, Clustered Interactive Dialogue, Special Representative of the Secretary-General for Children and Armed Conflict, Special Representative of the Secretary-General on Violence against Children, 6 March 2018. Available at <http://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/statement-with-srsg-for-children-armed-conflict-srsg-on-violence-against-children-6-march-2018.pdf>.

26 The United Nations Office at Geneva, “Human Rights Council Holds Interactive Dialogue on Freedom of Religion or Belief”, 2 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/0E98D71AC8D687BEC1258244004CDFDB?OpenDocument.

27 The United Nations Office at Geneva, “Human Rights Council Starts Interactive Dialogue on Transitional Justice and on the Prevention of Human Rights”, 2 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/7A13A3C55D4EC96DC125824400550B46?OpenDocument.

28 The United Nations Office at Geneva, “Council Holds Interactive Dialogue with Experts on the Rights of Persons with Disabilities and on the Rights of Persons with Albinism”, 6 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/3350DD28FAF549EFC125824800651268?OpenDocument.

29 Australia’s statement in the ID on the High Commissioner’s report: <http://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/statement-interactive-dialogue-high-commissioner-for-human-rights-8-march-2018.pdf>.

30 The United Nations Office at Geneva, “Human Rights Council Holds Interactive Dialogue with the Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea”, 12 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/BF3016BA81FE5D01C125824E003B3EBB?OpenDocument.

31 The United Nations Office at Geneva, “Human Rights Council Discusses Situation of Human Rights in Iran”, 12 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/651F090127F94189C125824E0044497D?OpenDocument.

11.	<i>On the human rights situation in South Sudan</i>	Australia maintained that some of the human rights violations in South Sudan could be constituted as war crimes and crimes against humanity, further stating that sanctions could be a legitimate means of effecting change. ³²
12.	<i>On the human rights situation in Ukraine</i>	Australia stressed the need to provide unimpeded and guaranteed access to international organisations to Crimea and the conflict zones in Eastern Ukraine. ³³
13.	<i>On the human rights in the Democratic Republic of the Congo</i>	Australia was concerned with the reported spread of violence and inquired about the nature of the obstacles to achieving accountability on the violations. ³⁴

IV. Australia's Voting Pattern on Resolutions

Thematic Resolutions

Of the six thematic resolutions that came up for voting, Australia voted in favour of two resolutions concerning the *right to food*³⁵ and *countering drug problems with regard to human rights*.³⁶

Australia voted against two thematic resolutions concerning the *effect of foreign debt*³⁷ and *human rights and unilateral coercive measures*.³⁸ While voting against the resolution on unilateral coercive measures, Australia stated that sanctions played a critical role in fighting oppression and promoting freedom, and were directed at advancing accountability.³⁹

Australia abstained from voting on two resolutions concerning the *integrity of the judicial system*⁴⁰ and *promoting mutually beneficial cooperation in the field of human rights*.⁴¹ On the resolution *promoting mutually beneficial cooperation in the field of human rights*,⁴² during an explanation of its vote, before the vote, Australia stated that the resolution focused on relations between states rather than on the rights of individuals. The wording in the resolution was vague and undefined with respect to mutually beneficial cooperation and community.⁴³

Country Situations

On country situation, of the nine resolutions that came up for voting, Australia voted in favour of four resolutions concerning the human rights situation in: *Eastern Ghouta*,⁴⁴ the *Republic of Iran*,⁴⁵ and *Myanmar*,⁴⁶ and on *cooperation*

32 Human Rights Council, Australian Statement, Interactive Dialogue with Commission on Human Rights Situation in South Sudan, 13 March 2018. Available at <http://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/state-ments/Documents/statement-on-south-sudan-13-march-2018.pdf>.

33 The United Nations Office at Geneva, "Human Rights Council Holds Interactive Dialogue on the Situation of Human Rights in Ukraine", 21 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/B356758DEBB35156C12582570052E163?OpenDocument.

34 The United Nations Office at Geneva, "Human Rights Council Holds Enhanced Dialogue on the Human Rights Situation in the Democratic Republic of the Congo", 20 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/D069C1C35940F118C1258256007175D1?OpenDocument.

35 Resolution 37/10: The right to food (2018).

36 Resolution 37/42: Contribution to the implementation of the joint commitment to effectively addressing and countering the world drug problem with regard to human rights (2018).

37 Resolution 37/11: The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights (2018).

38 Resolution 37/21: Human rights and unilateral coercive measures (2018).

39 Australia's statement on the resolution on coercive unilateral measures A/HRC/37/L.34. Available at <http://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=22893&LangID=E>.

40 Resolution 37/3: Integrity of the judicial system (2018).

41 Resolution 37/23: Promoting mutually beneficial cooperation in the field of human rights (2018).

42 Ibid.

43 Human Rights Council, "Human Rights Council adopts 10 texts, requests a high panel discussion on genocide and the role of capacity building in the promotion of human rights", 23 March 2018. Available at <http://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=22893&LangID=E>.

44 Resolution 37/1: The deteriorating situation of human rights in Eastern Ghouta, in the Syrian Arab Republic (2018).

45 Resolution 37/39: Situation of human rights in the Islamic Republic of Iran (2018)

46 Resolution 37/43 Situation of human rights in Myanmar (2018)

with Georgia.⁴⁷

While voting in favour of resolution on the *human rights situation in Eastern Ghouta*, Australia, in an explanation of its vote before the vote, stressed that the situation required immediate action and that the Council must collectively call for accountability.⁴⁸

Australia voted in favour of the resolution on the *situation of human rights in the Islamic Republic of Iran* and maintained that it remained deeply concerned about the human rights situation in that country. Australia referred to several issues in Iran, such as the drug trafficking laws, the death penalty, ethnic and religious discrimination, and political prisoners, among others.⁴⁹ Australia extended its appreciation for the periodic reporting by the Special Rapporteur.⁵⁰ Australia also voted in favour of the resolution on the human rights situation in Myanmar. It called for an independent fact-finding mission to study the situation in Myanmar, and stated that the perpetrators of violence must be held accountable.⁵¹

In an explanation of its votes against resolutions on human rights situations under agenda Item 7 of the HRC which talks about “human rights situation in Palestine and other occupied Arab territories”, Australia expressed its commitment to a two-State solution, but clearly stated that it did not support one-sided resolutions under the Item. It added that it did not support any action that diminished the peace process. Australia voted against the five resolutions under Item 7.⁵² These resolutions pertained to: the *Occupied Syrian Golan*; the *OPT*; the *rights of Palestinian people to self-determination*; *Israeli settlement in OPT*; and *ensuring accountability and justice for all violations of international law in OPT*.

V. Analysis: Compliance with Pledges and Commitments

a. Engagement with UN Special Procedures

Australia’s compliance with UN Special Procedures has mostly been supportive. The nation has extended a standing invitation to all thematic special procedures since 2008.⁵³ The only exception has been on the issue of torture, when in 2016, Australia postponed and later cancelled the country visit of the Special Rapporteur on Torture.⁵⁴

47 Resolution 37/27 Cooperation with Georgia (2018)

48 Human Rights Council, “Human Rights Council Requests International Commission of Inquiry on Syria to urgently conduct inquiry into the recent events in Eastern Ghouta”, 5 March 2018. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22756&LangID=E>.

49 High-Level Segment, United Nations Human Rights Council, Discussion on the Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 12 March 2018. Available at https://extranet.ohchr.org/_layouts/OHCHR.CustomLogin/OHCHRLogin.aspx?ReturnUrl=%2fsites%2fhrc%2fHRCSessions%2f_layouts%2fAuthenticate.aspx%3fSource%3d%252Fsites%252Fhrc%252FHRCSessions%252FHRCDocuments%252F19%252FSP%252F10107%255F35%255F9e04fc76%255F26a6%255F482b%255F8e74%255Fc89725b873de%252EDOCX&Source=%2Fsites%2Fhrc%2FHRCSessions%2FHRCDocuments%2F19%2FSP%2F10107_35_9e04fc76_26a6_482b_8e74_c89725b873de%2EDOCX.

50 Human Rights Council, “Human Rights Council Extends Mandates on Democratic People’s Republic of South Korea, Syria, Iran, South Sudan, and Myanmar”, 23 March 2018. Available at <http://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=22895&LangID=E>.

51 High-Level Segment, United Nations Human Rights Council, Clustered Interactive Dialogue with the Fact-Finding Mission on Myanmar, 12 March 2018. Available at https://extranet.ohchr.org/_layouts/OHCHR.CustomLogin/OHCHRLogin.aspx?ReturnUrl=%2fsites%2fhrc%2fHRCSessions%2f_layouts%2fAuthenticate.aspx%3fSource%3d%252Fsites%252FHRCSessions%252FHRCDocuments%252F19%252FSP%252F10108%255F35%255Fb8f7de4f%255Fc6cb%255F45f4%255F8a3d%255F89d57ff65cca%252EDOCX&Source=%2Fsites%2Fhrc%2FHRCSessions%2FHRCDocuments%2F19%2FSP%2F10108_35_b8f7de4f_c6cb_45f4_8a3d_89d57ff65cca%2EDOCX.

52 Human Rights Council, Australian Statement, Item 7- Australia’s Explanation of Vote, 23 March 2018. Available at <http://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/item-7-australias-explanation-of-vote-23-march-2018.pdf>.

53 Office of the High Commissioner for Human Rights, Special Procedures. Available at http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/StandingInvitations.aspx.

54 Office of the High Commissioner for Human Rights, Special Procedures. Available at http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en.

b. Compliance with Reporting Obligations to Treaty Bodies

Australia is up to date with reporting requirements under CERD, CRC, CEDAW, CRPD, CCPR and CESCR,⁵⁵ though some reports were submitted after a delay of two years. Australia did not ratify the *Convention for the Protection of All Persons from Enforced Disappearance* and the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*.⁵⁶ Subsequently, Australia did not accept the inquiry procedure under the *Optional Protocol to the Convention on the Rights of the Child* and the *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*.⁵⁷

c. Compliance on Thematic Issues

In the first session as a member, Australia's interest was visible in several thematic issues concerning the freedom of religion or belief, gender equality, protection of the rights of the child in a humanitarian context, and the situation of human rights defenders, to name a few.

In its voluntary pledge, Australia committed to promote good governance and during the session it co-sponsored the resolution on the *role of good governance in the promotion and protection of human rights*. Australia backed the efforts of the OHCHR to support states in improving their human rights situations.

Advocating globally for the abolishment of the death penalty and ending gender violence, are stated priorities in Australia's voluntary pledge.⁵⁸ In view of the same, Australia voiced its concern against the death penalty and gender violence during interactive dialogues. Australia also made recommendations to countries to abolish the death penalty during the UPR and co-sponsored a resolution on national, ethnic, religious and linguistic minorities.

On the issue of gender equality and preventing violence against women, a report by the Australian Institute of Health and Welfare, paints a critical picture of the extent of physical and sexual violence in Australia.⁵⁹ The report adds that one in six Australian women have experienced physical or sexual violence from a current or former partner. Indigenous women were killed more often in family violence, and were 32 times more likely than non-indigenous women to be hospitalized.⁶⁰

The Special Rapporteur on the human rights of migrants highlighted the prevalent racial discrimination and xenophobia in Australia and asserted that hate speech and xenophobia had increased in Australia despite the nation's rich migration history.⁶¹ He further noted that Australia's recent immigration policies eroded human rights and tarnished the country's reputation. The UN Committee on the Elimination of Racial Discrimination was "deeply concerned that indigenous people continue to experience high levels of discrimination across all socio-economic indicators, including education, healthcare, employment and housing."⁶² It further recommended that Australia needed to address the incarceration levels, schooling, housing and poverty of indigenous youth.⁶³

Before its election, the United Nations condemned Australia for its policies on asylum seekers.⁶⁴ Australia's detention

55 Office of the High Commissioner for Human Rights, Human Rights Bodies. Available at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=AUS&Lang=EN.

56 Office of the High Commissioner for Human Rights, Human Rights Bodies, Available at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=9&Lang=EN.

57 Ibid.

58 Minister for Foreign Affairs, World Day against the Death Penalty, 10 March 2018. Available at https://foreignminister.gov.au/releases/Pages/2017/jb_mr_171010.aspx.

59 Christopher Kanus, "One in six Australian women suffer physical or sexual abuse from partner", *The Guardian*, 27 February 2018. Available at <https://www.theguardian.com/australia-news/2018/feb/28/one-in-six-australian-women-suffer-physical-or-sexual-abuse-from-partner>.

60 Ibid.

61 Helen Davidson, "Australia's politicians have promoted xenophobia: UN expert", *The Guardian*, 18 November 2016. Available at <https://www.theguardian.com/australia-news/2016/nov/18/australias-immigration-policies-have-promoted-xenophobia-un-expert>.

62 Ben Doherty, "Australia pledges at UN to improve its 'human rights situation'". *The Guardian*, 9 March 2018. Available at <https://www.theguardian.com/law/2018/mar/09/australia-pledges-at-un-to-improve-its-human-rights-situation>.

63 Ibid.

64 United Nations Information Centre, Canberra, "Australia's human rights record blemished by punitive approach to migrants", UN rights expert. Available at <http://un.org.au/2016/11/18/australias-human-rights-record-blemished-by-punitive-approach-to-migrants-un-rights-expert/>.

facilities on Nauru and Manus island where 2,000 refugees have been kept for four and a half years, suggest that Australia's policy on asylum seekers needs a human-rights-based approach.⁶⁵

Australia co-sponsored and supported the resolution on national, ethnic, religious and linguistic minorities, however, Australia still struggles with discrimination against minorities at home. Reports on: verbal attacks against individuals of African origin, a 10% increase in anti-Semitic incidents and abuse,⁶⁶ deaths in custody of indigenous Australian children, and hate speech against members of the LGBTI community are recent examples that have been brought to light. Moreover, while Australia has committed to not deny human rights on the basis of sexual orientation or gender identity, reports of hate speech against members of Australia's lesbian, gay, bisexual, transgender, intersex and questioning (LGBTIQ) community increased, despite newly introduced penalties.⁶⁷

One of Australia's key pledges included the recognition of indigenous Australians in the Constitution. In 2015, a Referendum Council was appointed to consider a constitutional change. However, despite indigenous people supporting "substantive constitutional change and structural reform", in the Uluru Statement from the Heart issued at the 2017 Constitutional Convention,⁶⁸ the Australian government is yet to embrace the Referendum Council's proposals for treaty, truth-telling and a First Nations Voice.⁶⁹ Specifically, the government has rejected the possibility of an indigenous representative body.⁷⁰ Consequently, the future of a proposed referendum to change the Constitution is unclear. The Special Rapporteur on the rights of indigenous peoples, on her visit to Australia, found the numerous reports on the prevalence of racism against aboriginal and Torres Strait Islander peoples deeply disturbing.⁷¹

Freedom of expression also happens to be one of the "five pillars" espoused by Australia in its bid for the Council. In 2010, the Australian Law Reform Commission's recommendation to limit the scope of secrecy laws only to public interest matters was not implemented.⁷² According to the 2018 report of the Special Rapporteur on the situation of human rights defenders, after his visit to Australia, secrecy provisions were reinforced, including through the controversial Australian Border Force Act.⁷³ The Human Rights Committee was concerned about "severe restrictions on access to information regarding the offshore immigration processing facilities including lack of monitoring by the Australian Human Rights Commission."⁷⁴ The Special Rapporteur further noted during his visit, that the "new national security laws pertaining to metadata have had serious implications for journalists and whistle blowers."⁷⁵ The Telecommunications (Interception and Access) Amendment (Data Retention) Act, 2015 required telecommunication providers to retain users' metadata for two years, and grant access to the government to see this data. The Special Rapporteur also asserted: "The amendments providing for a warrant regime to govern access to metadata, which

65 Human Rights Law Centre, "Australia ratifies torture-prevention treaty, but must accept scrutiny on Manus and Nauru", 15 December 2017. Available at <https://www.hrlc.org.au/news/2017/12/15/australia-ratifies-torture-prevention-treaty>.

66 Matt Connellan, "Hateful rhetoric rife in Australia and US: Human Rights Report", SBS News, 23 February. Available at <https://www.sbs.com.au/news/hateful-rhetoric-rife-in-australia-and-us-human-rights-report>.

67 Paul Karp, "Homophobic anti-marriage equality material surfaces in postal survey campaign", The Guardian, 21 August 2017. Available at <https://www.theguardian.com/australia-news/2017/aug/21/homophobic-anti-marriage-equality-material-surfaces-in-postal-survey-campaign>.

68 Uluru Statement from the Heart. Available at https://www.referendumcouncil.org.au/sites/default/files/2017-05/Uluru_Statement_From_The_Heart_0.PDF.

69 The Conversation, "Listening to the heart: what now for indigenous recognition after Uluru summit?" 26 May 2017. Available at <https://theconversation.com/listening-to-the-heart-what-now-for-indigenous-recognition-after-the-uluru-summit-77853>.

70 The Conversation, "Turnbull government says no to indigenous 'Voice to parliament'", 26 October, 2017. Available at <https://theconversation.com/turnbull-government-says-no-to-indigenous-voice-to-parliament-86421>.

71 The Conversation, "Listening to the heart: what now for indigenous recognition after Uluru summit?", 26 May 2017. Available at <https://theconversation.com/listening-to-the-heart-what-now-for-indigenous-recognition-after-the-uluru-summit-77853>.

72 Australian Law Reform Commission, Secrecy Laws and Open Government in Australia (ALRC Report 112), 11 March 2010. Available at <https://www.alrc.gov.au/publications/report-112>.

73 Human Rights Council, "Australian Concerned Country Statement", Report of the Special Rapporteur on the situation of human rights defenders in Australia, 1 March 2018. Available at <http://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/australias-statement-on-human-rights-defenders-1-march-2018.pdf>.

74 Human Rights Committee, Concluding observations on the sixth periodic report of Australia*, 1 December 2017. Available at <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsoAl3%2fFsnISQx2VAmWrPA0uA3KW0KkpmSGOue15UG42EodNm2j%2fnCTyghc1kM8Y%2fLQ4n6KZBdggHt5qPmUYCl8e6X%2btTU%2b%2bv5XeCnE5Q7qqg>.

75 Human Rights Council, Report of the Special Rapporteur on the rights of indigenous people on her visit to Australia, 28 February 2018. Available at http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session37/Documents/A_HRC_37_51_Add_3_EN.docx.

could be used to identify journalists' confidential sources, were introduced and then enacted so speedily that meaningful scrutiny processes could not apply."⁷⁶

Australia also abstained from voting on a resolution on the integrity of the judicial system. Australia's justice system continued to fail indigenous people, especially children – with high rates of incarceration and reports of abuse and deaths in custody.⁷⁷ Furthermore, as mentioned earlier, Australia has committed to recognize indigenous Australians in the Constitution, yet a constitutional convention rejected the form of "recognition" that the government-sponsored "Recognise campaign" promoted.⁷⁸ In October 2017, the Australian government rejected a key recommendation made by the Referendum Council which asked for the establishment of an indigenous advisory body in Parliament.⁷⁹

On issues of country-specific situations, Australia adopted a strong stance on Syria,⁸⁰ the Democratic People's Republic of Korea,⁸¹ and Iran.⁸² However, the same level of "enthusiasm" was absent for the Israel/Palestine issue⁸³ as Australia maintained that "a separate agenda item focusing on a single country, in this case Israel, was biased". In an explanation for votes against resolutions on human rights situations under Item 7, Australia expressed its commitment to a two-State solution, adding that it did not support any action that diminished the peace process.

Australia was also unwilling to take on human rights concerns in Myanmar and Cambodia, glossing over grave human rights violations raised by the Council's special procedures. Australia has a vested interest in those countries concerning migration: Myanmar, because of the Rohingya asylum seekers who seek protection in Australia, and Cambodia as a country that Australia is paying to resettle refugees detained on Nauru.⁸⁴ On the human rights situation in Myanmar, Australia expressed only general concern. It failed to specifically mention the plight of the Rohingya people and to take a strong position.⁸⁵ However, Australia voted in favour of the resolution on the situation of human rights in Myanmar.

76 Ibid.

77 Amnesty International, "Amnesty International Report 2017/18". Available at https://www.amnesty.org.au/wp-content/uploads/2018/02/air201718-english_2018-02-12_12-36-44.pdf, p. 44.

78 Bridget Brennan, "Recognise campaign ends after making 'significant' contribution", ABC News, 11 August, 2017. Available at <http://www.abc.net.au/news/2017-08-11/recognise-campaign-wound-up/8797540>.

79 Human Rights Watch, "World Report – 2018". Available at <https://www.hrw.org/world-report/2018/country-chapters/australia>.

80 Human Rights Council, "Australian Statement, The Deteriorating Situation of Human rights in Eastern Ghouta", 2 March 2018. Available at <http://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/australian-statement-syria-2-march-2018.pdf>.

81 Human Rights Council, "Australian Statement, Interactive Dialogue with Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, 12 March 2018. Available at <http://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/statement-on-human-rights-in-dprk-12-march-2018.pdf>.

82 Human Rights Council, "Australian Statement, Discussion on the report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran", 12 March 2018. Available at <http://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/statement-on-sr-report-on-human-rights-in-iran-12-march-2018.pdf>.

83 Human Rights Council, "Australian Statement, Item 7- Australia's Explanation of Vote", 23 March 2018. Available at <http://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/item-7-australias-explanation-of-vote-23-march-2018.pdf>.

84 Human Rights Watch, "Australia at the Human Rights Council", 22 September 2015. Available at <https://www.hrw.org/report/2015/09/22/australia-human-rights-council/ready-leadership-role>.

85 Human Rights Law Centre, "Australian government loses its voice as UN Human Rights Council hears of ethnic cleansing in Myanmar", 13 March 2018. Available at <https://www.hrlc.org.au/news/2018/3/13/australian-government-loses-its-voice-as-un-human-rights-council-hears-of-horror-unfolding-in-myanmar>.

I. Introduction

Kenya gained independence from British rule in 1963, the last East African country to do so. The system of devolved democratic participation, known as *majimbo*, that had existed was dismantled by the ruling party, the Kenya African National Union (KANU), which thus abolished regional participation. The party also introduced amendments that constrained public participation and was “intolerant to dissent”.⁸⁶ In 1982, under the KANU government, Kenya became a one-party state. It was only in 1991, through public pressure that this was repealed and the country transitioned into a multi-party democracy. While on the whole, this led to expansion in civil and political freedoms, numerous successive elections in 1992, 1997, 2007,⁸⁷ and 2017⁸⁸ witnessed episodes of political violence, crackdowns, arbitrary arrests, and attempts to roll back democratic gains and suborn its institutions. While the country has seen regular elections since independence, they have not always been characterised as fair,⁸⁹ though the Chair of the Commonwealth Observer Group in Kenya termed the 2017 elections “credible, fair and inclusive”.⁹⁰ The latest 2010 Constitution of Kenya sought a fundamental change in the political, social and economic order. Recognizing the protracted struggles for democratic reforms, Article 10 of Kenya’s new Constitution includes democracy, public participation, political and social-economic rights, rule of law and good governance, as amongst national values, binding all state institutions, and others when it comes to the interpretation of the Constitution.⁹¹

Kenya served on the Human Rights Council from 2013 to 2015, and is currently serving its second term from 2016 to 2018. Kenya holds one of the seats reserved for the African group. It was elected with a margin of 180 votes.⁹²

During the 37th Session of the Human Rights Council, Kenya participated in interactive dialogues, panel discussions and general debates. Kenya voted in favour of five thematic resolutions and four country situation resolutions. It did not vote against any thematic or country-situation resolutions during this session. Kenya co-sponsored five thematic and two country-situation resolutions. Kenya was also an additional sponsor in three thematic and one country-situation resolution.

II. Voluntary Pledges and Commitments

In its voluntary pledge submitted in 2012, Kenya declared that it attached great importance to the promotion and protection of human rights, as universally shared principles and norms enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights and relevant international human rights instruments. Kenya further declared that its 2010 Constitution provides the basis for the direct application and invocation of treaties and conventions ratified by the country. Kenya has therefore assumed the highest international standards of human rights as set out in the international and regional instruments to which it is a party. Kenya committed itself to the following:⁹³

86 “Democracy and Political Participation, Open Society Initiative for Eastern Africa and the Institute for Development Studies (IDS), University of Nairobi. Available at <https://www.opensocietyfoundations.org/sites/default/files/kenya-democracy-political-participation-20140514.pdf>.

87 Easier Said than Done - 2013, “A Report on the Commitments and Performances of the Commonwealth Members of the UN Human Rights Council”. Available at http://humanrightsinitiative.org/publications/hradvocacy/Easier%20Said%20than%20Done_Kenya2014.pdf.

88 Kenya Elections, 2017. Available at <https://www.hrw.org/blog-feed/kenya-elections-2017>.

89 European Election Observation Mission Report, 2008. Available at http://eeas.europa.eu/archives/eueom/pdf/missions/final_report_kenya_2007.pdf.

90 Kenyan elections. Available at <http://thecommonwealth.org/media/press-release/kenyan-elections-credible-fair-and-inclusive-chair-commonwealth-observer>.

91 Preamble, Constitution of Kenya, 2010. Available at http://www.kenyalaw.org/lex/actview.xql?actid=Const2010#KE/CON/Const2010/chap_2/sec_10.

92 Human Rights Voices. Available at <http://www.humanrightsvoices.org/EYEontheUN/mechanisms/hrc/?p=3146>.

93 The Permanent Mission of Kenya to the United Nations, Address to the President of the General Assembly: Voluntary pledges and commitments, 25 October 2012. Available at https://www.un.org/en/ga/search/view_doc.asp?symbol=A/67/546.

At the regional and international level:

- Continue playing an active role in the mediation and resolution of regional conflicts with the objective of protecting and promoting human rights.
- Continue to pursue the promotion and protection of human rights in both the bilateral and multilateral frameworks within the United Nations system.
- Welcome, accommodate, and provide a safe haven for refuge seekers fleeing from neighbouring countries.
- Strengthen the working partnership with the United Nations and other intergovernmental organizations.
- Continue to work with the special procedures mechanisms and value engagement.
- Continue to honour its international treaty reporting obligations.
- Support the periodic review of member states' human rights records.

At the national level:

- Continue to domesticate its international legal obligations through the adoption of legislative measures, practical programmes, and policies.
- Recognize the supremacy of law and the importance of ensuring that institutions of governance observe the tenets of the rule of law.
- Implement “Kenya Vision, 2030: A Development Blueprint for Kenya”, Anchored by “the Three Pillars of Economic, Social and Political Development”.
- Restructure the judiciary to ensure that all people enjoy equal protection under the law.
- Work effectively to carry out its mandate in the Council.
- Remain firmly committed to the protection and promotion of human rights globally.

III. Kenya’s Participation in 37th Session of the HRC

Kenya participated in several forums in the 37th session of the HRC, including interactive dialogues, clustered interactive dialogues and a panel discussion.

S. No.	Panel Discussion	Kenya’s Response
1.	Annual full-day meeting on the rights of the child	Kenya informed the Council about the steps it undertook for child protection. These included the establishment of various institutions to protect children, such as the Department of Children Services, the National Council for Children Services, and the National Disaster Management Authority, that assesses and responds to children’s humanitarian situations. Kenya also spoke about specific activities undertaken by the government to address child protection during humanitarian situations, which include data collection tools used to trace families and integrate lost children, child protection messages and Working Groups. ⁹⁴
	Interactive/Clustered Dialogue	Kenya’s Response
1.	<i>Dialogue on: The Special Rapporteur’s report on persons with disabilities & The Independent Expert’s report on the enjoyment of human rights by persons with albinism</i>	Kenya stated that it has taken concrete steps to meet these rights: the provision of sunscreen lotions, awareness raising against discrimination on the basis of colour and misconceptions about albinism. On the report of the Special Rapporteur on persons with disabilities, Kenya agreed to support decision-making practices. Kenya affirmed that it is keen to address legal capacity issues of persons with disabilities and ensure their access to justice by collaborating with organizations, NGOs and other stakeholders working in the field. ⁹⁵

94 Oral Statements from the 37th Session of the United Nations Human Rights Council. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=05/03/2018%2000:00:00>.

95 Oral Statements from the 37th Session of the United Nations Human Rights Council. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=06/03/2018%2000:00:00>.

2.	<i>Annual interactive debate on the rights of persons with disabilities; Theme: Article 13 of the Convention on the Rights of Persons with Disabilities regarding access to justice</i>	Kenya emphasized that it is a party to UNCRPD and that the Kenyan Constitution contains favourable provisions for the differently abled. Kenya also highlighted its work with different organizations on this issue and asserted that it recognizes universal legal capacity for all persons with disabilities through the Persons with Disability Bill, 2016. The government is also establishing the Judiciary Training Institute to build the capacity of the judiciary and police on the barriers faced by persons with disabilities in the justice system. Kenya's Victim Protection Act is being amended to include disability as one of the categories of focus in compiling and documenting disaggregated data on victims who are persons with disability. ⁹⁶
3.	<i>Interactive dialogue with the High Commissioner</i>	Kenya stated that it has created space for civil society to thrive and the government is working closely with them to implement human rights and fundamental freedoms in the country. Kenya highlighted that thorough investigations of sexual violence and unlawful killings are conducted by independent authorities and presented to the courts. Kenya also asserted that the Constitution provides freedom of press as enshrined in the bill of rights and the government respects it. ⁹⁷
4.	<i>Interactive dialogue with the Commission of Inquiry on Human Rights in South Sudan</i>	Kenya affirmed that it would continue to assist the Commission and South Sudan in addressing the situation of human rights in the country, as it has done in the past. Kenya urged the Government of South Sudan to ensure that the mechanisms (Hybrid Court, a Commission on Truth, Reconciliation and Healing, and a Compensation and Reparations Authority) are set in place as soon as possible to address impunity and demonstrate the willingness and commitment of the Government of South Sudan to facilitate the revelation of violations of fundamental freedoms and human rights. ⁹⁸
5.	<i>Follow-up and implementation of the Vienna Declaration and Programme of Action</i>	Kenya stated that it took the obligations laid down by the Declaration seriously and has demonstrated this through: Section 4 of the Constitution which domesticates the Declaration, upholding fundamental freedoms and treaties to which Kenya is a party; its participation in the two cycles of the UPRs, presenting periodic reports to the treaty bodies as required; giving standing invitations to all mandate holders; and collaborating with the Office of the High Commissioner for Human Rights and other human rights mechanisms. ⁹⁹

IV. Kenya's Voting Pattern on Resolutions

Thematic Resolutions

Kenya voted in favour of five resolutions concerning: the *integrity of the judicial system*;¹⁰⁰ *right to food*;¹⁰¹ *effects of foreign debt*;¹⁰² *human rights and coercive unilateral measures*;¹⁰³ and *promoting cooperation in the field of human*

96 Oral Statements from the 37th Session of the United Nations Human Rights Council. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=07/03/2018%2000:00:00>.

97 Oral Statements from the 37th Session of the United Nations Human Rights Council. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=08/03/2018%2000:00:00>.

98 Oral Statements from the 37th Session of the United Nations Human Rights Council. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=13/03/2018%2000:00:00>.

99 Oral Statements from the 37th Session of the United Nations Human Rights Council. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=20/03/2018%2000:00:00>.

100 Resolution 37/3: Integrity of the judicial system (2018).

101 Resolution 37/10: The right to food (2018).

102 Resolution 37/11: The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights (2018).

103 Resolution 37/11: The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights (2018).

rights.¹⁰⁴ Although it voted in favour of these resolutions, Kenya did not make any statement explaining its support or the reasons for its commitments.

Kenya abstained from voting on one thematic resolution on *countering world drug problem with regard to human right*.¹⁰⁵ This abstention too, was not accompanied by an explanation.

Kenya did not vote against any thematic resolution.

Country Situations

On country situations, Kenya voted in favour of four resolutions concerning: the *human rights situation in occupied Syrian Golan*,¹⁰⁶ *OPT*; the *right of the Palestinian people to self-determination*,¹⁰⁷ and *Israeli settlement in OPT*.¹⁰⁸

Kenya abstained from voting on four resolutions concerning: the *situation of human rights in Eastern Ghouta*,¹⁰⁹ the *situation of human rights in Iran*,¹¹⁰ the *situation of human rights in Myanmar*,¹¹¹ *ensuring accountability and justice in OPT*,¹¹² and *cooperation with Georgia*.¹¹³

Kenya did not vote against any country-situation resolution.

V. Analysis: Compliance with Pledges and Commitments

a. Engagement with UN Special Procedures

In its pledge, Kenya affirmed that it values engagement with the special procedures mechanisms and is committed to work with them. Despite this, it has not issued a standing invitation to mandate holders and 15 requests for visits from special procedures mechanisms are pending. These include the Special Rapporteurs on torture, on human rights defenders and on extrajudicial, summary, or arbitrary executions. They also include requests from the Working Groups on mercenaries, and on arbitrary detention, and one from the Independent Expert on sexual orientation and gender identity.¹¹⁴

Furthermore, Kenya has committed to pursue the promotion and protection of human rights in both the bilateral and multilateral frameworks within the United Nations system. However, on two occasions, Kenya opposed the international scrutiny on human rights abuses by abstaining from voting on resolutions concerning the human rights situation in Iran and in Myanmar where the Council decided to extend the mandate of the respective Special Rapporteurs.

b. Compliance with Reporting Obligations to Treaty Bodies

Kenya's pledge to honour its obligations to treaty bodies was mostly realized. While Kenya is up-to-date with reporting requirements under CERD, CRC, CEDAW, CRPD and CESC, some of these reports were submitted after a delay of one year. At the end of the reporting period, three reports were overdue: the report under CAT is pending for over a year;

104 Resolution 37/23: Promoting mutually beneficial cooperation in the field of human rights (2018).

105 Resolution 37/23: Promoting mutually beneficial cooperation in the field of human rights (2018).

106 Resolution 37/33: Human rights in the occupied Syrian Golan (2018).

107 Resolution 37/34: Right of the Palestinian people to self-determination (2018).

108 Resolution 37/36: Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan (2018).

109 Resolution 37/1: Eastern Ghouta (2018).

110 Resolution 37/30: Situation of human rights in the Islamic Republic of Iran (2018).

111 Resolution 37/32: Situation of human rights in Myanmar (2018).

112 Resolution 37/37: Ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem (2018).

113 Resolution 37/40: Cooperation with Georgia (2018).

114 Country visits of Special Procedures of the Human Rights Council since 1998. Available at http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en.

under CCPR for three years; and under CRC-OP-AP, the report has been pending for the last 14 years.¹¹⁵

c. Compliance on Thematic Issues

In its pre-election pledges, Kenya recognized the “supremacy of the law” and the “importance of ensuring that institutions of governance observe the tenets of the rule of law”. It further committed to domesticate its international legal obligations through the adoption of legislative measures, practical programmes and policies. Notwithstanding these pledges and commitments, recent elections in Kenya were marked by an excessive use of force against the population, including killings, beatings,¹¹⁶ and even sexual violence.¹¹⁷ The elections were also marred by allegations of fraud and rigging by the opposition and by civil society.¹¹⁸ The Supreme Court annulled the election on the ground of irregularities and illegalities committed by the Election Commission in the transmission of results, and ordered for re-election.¹¹⁹ The elections witnessed police brutality and unlawful, excessive use of force by the police against protesters, resulting in over a hundred deaths and hundreds more injured.¹²⁰ Under the National Police Service Act, 2011, it is mandatory for police officers to report to their supervisors, the circumstances under which lethal force is used. It is also mandatory to carry out an investigation by an Independent Policing Oversight Authority (IPOA) in cases where the use of force results in death.¹²¹ The government’s response has largely been to deny the scale of the violence, and IPOA concluded investigations only in two cases of deaths during the recent elections.¹²²

Further, in the wake of the standoff between Uhuru Kenyatta and Raila Odinga, Kenya’s parliament passed a controversial amendment to the country’s election laws stating that if one candidate withdraws from a repeat presidential election, the other would automatically win.¹²³ The re-elections were boycotted by the opposition party which resulted in a one-sided win by the current president.¹²⁴

Kenya pledged to strengthen an independent judiciary, improve accountability within the executive and enhance the oversight functions of parliament, by voting in favour of the resolution on *integrity of the judicial system*. However, Kenya remains constrained by corruption and limited access to justice for citizens. When sponsoring the resolution on public services delivery, Kenya noted that efficient public services delivery advanced the promotion of civil and political, economic, social and cultural rights, and was an enabler of all 17 Sustainable Development Goals.¹²⁵ However, during Kenya’s Universal Periodic Review in 2013, civil society organizations and the Kenyan National Commission on Human Rights (KNCHR), highlighted these issues and urged the State to pay attention to the judiciary, which was understaffed, faced a backlog of cases, and was marked by corrupt public officials.¹²⁶ Kenya made efforts on

115 Reporting status for Kenya. Available at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=KEN&Lang=EN.

116 Abdullahi Abdi, “Another Kenya Election, More Abuses”, Human Rights Watch, 3 November 2017. Available at <https://www.hrw.org/news/2017/11/03/another-kenya-election-more-abuses>.

117 Euan McKirdy, “Sexual violence widespread during Kenyan elections, report says”, CNN, 14 December 2017. Available at <https://edition.cnn.com/2017/12/14/africa/hrw-kenya-election-sexual-violence-report-intl/index.html>.

118 Al Jazeera, “Protests over election fraud claim turn deadly in Kenya”, 10 August 2017. Available at <http://www.aljazeera.com/news/2017/08/kenya-police-protesters-clash-poll-fraud-claim-170809081850902.html>.

119 Kimiko de Freytas-Tamura, “Kenya Supreme Court Nullifies Presidential Election”, The New York Times, 1 September 2017. Available at <https://www.nytimes.com/2017/09/01/world/africa/kenya-election-kenyatta-odinga.html?mcubz=0>.

120 Human Rights Watch, “Security Forces Violations in Kenya’s August 2017 Elections”, 15 October 2017. Available at <https://www.hrw.org/report/2017/10/15/kill-those-criminals/security-forces-violations-kenyas-august-2017-elections>.

121 Section 4 and section 5 of the Sixth Schedule of the National Police Service Act, 2011. Available at http://law.co.ke/kl/fileadmin/pdfdownloads/Acts/NationalPoliceServiceCommissionAc__No30of2011.pdf.

122 Human Rights Watch, Kenya: “Fresh Evidence of Election-Period Abuses”, 25 February 2018. Available at <https://www.hrw.org/news/2018/02/25/kenya-fresh-evidence-election-period-abuses>.

123 The Star, “Parliament passes controversial election law amendment”, 11 October 2017. Available at https://www.the-star.co.ke/news/2017/10/11/parliament-passes-controversial-election-law-amendment_c1650642.

124 Maggie Fick and Duncan Mirir, “Kenya’s Supreme Court upholds Kenyatta’s presidential win”, Reuters, 20 November 2017. Available at <https://www.reuters.com/article/us-kenya-election/kenyas-supreme-court-upholds-kenyattas-presidential-win-idUSKBN1DK0KH>.

125 Office of the High Commissioner for Human Rights, Display news. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22891&LangID=E>.

126 United Nations General Assembly, Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21, 27 October 2014. Available at https://www.upr-info.org/sites/default/files/document/kenya/session_21_-_january_2015/a_hrc_wg.6_21_ken_3_e.pdf

this front, by prosecuting even ministers found guilty of corruption, and training of individuals.¹²⁷ Although calls for greater transparency continue,¹²⁸ particularly in light of cases of graft emerging from the judiciary,¹²⁹ the government is planning the creation of a new investigative arm to fight corruption.¹³⁰ The enactment of a new Constitution in 2010 heralded a fresh chapter on the right to information in Kenya, as recognized under Article 35. Article 35 enunciates that “every citizen has right of access to information held by the State.”¹³¹ The Access to Information Act, 2016 is also applicable to public entities as defined in Article 260 of the Constitution of Kenya.

The police, in particular, represent systemic failure. According to a report released by the World Internal Security and Police Index (WISPI), the Kenyan police ranks third from the bottom in the world, marred by corruption and brutality.¹³² Kenyan security forces are often implicated in serious human rights violations: arbitrary detentions, enforced disappearances and links to terrorist organisations.¹³³ Civil society further called on the Kenyan State to investigate and punish instances of extrajudicial killings, and provide remedies to victims. According to a report by the Mathare Social Justice Centre, since 2016, there have been at least 57 cases of police killing young men and women.¹³⁴ This represented an incongruence with the resolutions that Kenya supported during the 37th session.

While Kenya supported a resolution on promoting the rights of those belonging to national or ethnic, religious and linguistic minorities, the State has yet to make progress on that front. Loyalty towards tribes and ethnic groups has frequently resulted in violent clashes and fatalities, which are often used by political parties to advantage one community over another for political gains, particularly during elections.¹³⁵ There have also been crackdowns on communities in terms of their forced evictions from land. Examples include evictions of the Nubians, the Ogiek, and most recently in 2018, the Sengwer,¹³⁶ tribes who claim that their descent in Kenya dates back centuries. It was only in 2017, through landmark court interventions and rulings that the Nubians,¹³⁷ as recommended by the African Commission in 2015,¹³⁸ and the Ogiek¹³⁹ were allowed to own land.

Kenya, in its pledge, also declared its commitment to the essential values of human rights, equality, freedom, etc. These are also espoused in its Constitution. However, the country’s penal code¹⁴⁰ prohibits “carnal knowledge against the order of nature” and “indecent practices between males.” While constitutional challenges regarding anti-homosexuality laws and the use of forced anal examinations¹⁴¹ are still pending before the courts,¹⁴² some steps have

127 Online Healthcare MBA Programs for Working Professionals. Available at <https://oxfordbusinessgroup.com/overview/changing-landscape-although-many-challenges-remain-recent-reforms-are-likely-bring-further-growth>.

128 The Star, “Law-making and importance of transparency in amendments”, 28 April 2018. Available at https://www.the-star.co.ke/news/2018/04/28/lawmaking-and-importance-of-transparency-in-amendments_c1750195.

129 Jeremiah Wakaya, “Maraga vows unrelenting war on graft as he concludes Coast tour”, Capital News, 1 February 2018. Available at <https://www.capitalfm.co.ke/news/2018/02/maraga-vows-unrelenting-war-on-graft-as-he-concludes-coast-tour/>.

130 Galgalo Bocha, “CJ Maraga wants new arm to probe corrupt judiciary staff”, Daily Nation, 10 May 2018. Available at <https://www.nation.co.ke/news/CJ-Maraga-wants-new-arm-to-probe-corrupt-Judiciary-staff/1056-4554140-678xh3/index.html>.

131 Constitution of Kenya, Article 35. Available at <http://www.klrc.go.ke/index.php/constitution-of-kenya/112-chapter-four-the-bill-of-rights/part-2-rights-and-fundamental-freedoms/201-35-access-to-information>.

132 World Internal Security & Police Index 2016. Available at http://insyde.org.mx/wp-content/uploads/WISPI-Report_EN_WEB_0.pdf.

133 Human Rights Watch, “World Report – 2017”. Available at <https://www.hrw.org/world-report/2018/country-chapters/kenya#f95966>.

134 Daily Nation, “Candidates should commit to addressing abuses”, 30 July 2017. Available at <https://www.nation.co.ke/oped/opinion/Candidates-should-address-abuses-/440808-4037576-77tyn1/index.html>.

135 NPR, “In Kenya, much of the election chaos and violence stems from tribal divisions”, 24 October 2017. Available at <https://www.npr.org/2017/10/24/559889613/in-kenya-much-of-the-election-chaos-and-violence-stems-from-tribal-divisions>.

136 Amnesty International, “Further Information: New Threats Against Indigenous Community”. Available at <https://www.Amnestykenya.Org/Media-Centre/News-Releases/Information-New-Threats-Indigenous-Community.Html>.

137 Relief Web, “After Long Struggle, Kenya’s Nubian Minority Secures Land Rights”, 5 June 2017. Available at <https://reliefweb.int/report/kenya/after-long-struggle-kenyas-nubian-minority-secures-land-rights>.

138 The Nubian Community in Kenya v. The Republic of Kenya, 30 May 2016. Available at <http://www.achpr.org/communications/decisions/317.06/>

139 Virginia Vigliar, Kenya’s Ogiek win land case against government, Al Jazeera, 27 May 2017. Available at <https://www.aljazeera.com/indepth/features/2017/03/kenya-ogiek-win-land-case-government-170314135038447.html>.

140 Penal Code. Laws of Kenya. Available at http://www.kenyalaw.org/lex/actview.xql?actid=Const2010#KE/CON/Const2010/chap_2/sec_10.

141 National Gay and Lesbian Human Rights Commission, Court Judgements. Available at <https://www.nglhrc.com/litigation#judgements>.

142 Human Rights Watch, “World Report – 2017”. Available at <https://www.hrw.org/world-report/2018/country-chapters/kenya#f95966>.

been taken in the right direction. For instance, in May 2017, the Kenyan Attorney General established a Taskforce on Policy, Legal, Institutional and Administrative Reforms Regarding Intersex Persons in Kenya, meant to safeguard the interests of intersex persons.¹⁴³ Kenya has also emerged, in recent times, as a haven for those facing persecution on grounds of their sexuality, particularly from Uganda.¹⁴⁴

In the 37th session, during an interactive dialogue with the High Commissioner for Human Rights, Kenya mentioned that it had undertaken many steps to create a thriving civil society. However, civil society organizations working on issues such as accountability, police brutalities, and elections, reportedly face a constant threat of closure and often have restrictions imposed on them.¹⁴⁵ As recently as 2017, the UN Special Rapporteurs on the freedoms of peaceful assembly and association, on the freedom of opinion and expression, and on the situation of human rights defenders, had all expressed their concern at the repression of civil society organizations. They called it a “systematic and deliberate pattern to crack down on civil society groups which challenge governmental policies, educate voters, investigate human rights abuses and uncover corruption.”¹⁴⁶

Kenya also stated, in the dialogue with the High Commissioner, that the “press and the media were pillars of democracy and the fourth estate”. Despite this statement, Kenya has displayed repression in terms of media freedoms and in freedom of speech and expression. There have been several claims that the government suppressed media persons and journalists. Arrests and detentions are largely made around election time, and these target journalists that undertake investigations of police abuses and the breaking of rules by contesting parties. Recently, the government stopped a number of TV houses from broadcasting a live event in which Raila Odinga took oath as President.¹⁴⁷

Furthermore, Kenya also displayed a mixed record when voting in favour of country resolutions. While it joined the consensus and voted favourably on some resolutions, it abstained from voting on *human rights situations in eastern Ghouta, Iran, Occupied Palestinian Territory*, and on *cooperation with Georgia*. Moreover, the decisions to abstain from these resolutions came without any explanation. This is despite the country voting in favour of the thematic resolution which promoted cooperation in the field of human rights, and pledging to promote and protect human rights in both the bilateral and multilateral frameworks within the United Nations system.

143 Human Rights Watch, “Human Rights Watch Country Profiles: Sexual Orientation and Gender Identity”, 23 June 2017. Available at <https://www.hrw.org/news/2017/06/23/human-rights-watch-country-profiles-sexual-orientation-and-gender-identity>.

144 Daniel Wesangula, “On the run from persecution: how Kenya became a haven for LGBT refugees”, *The Guardian*, 23 February 2017. Available at <https://www.theguardian.com/global-development-professionals-network/2017/feb/23/on-the-run-from-persecution-how-kenya-became-a-haven-for-lgbt-refugees>.

145 Human Rights Watch, “World Report - 2017”. Available at <https://www.hrw.org/world-report/2018/country-chapters/kenya#f95966>.

146 Office of the High Commissioner for Human Rights, Display news. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21172&LangID=E>.

147 Daily Nations, 30 January. Available at <https://www.nation.co.ke/news/Editors-Guild-condemns-threats-media/1056-4283676-ax4enuz/>.

I. Introduction

The Federal Republic of Nigeria attained independence on 1 October 1960, becoming a sovereign country within the British Commonwealth.¹⁴⁸ Nigeria is ethnically diverse, with over 250 ethnicities, chiefly dominated by the Hausa, Yoruba, and Ibo tribes. It qualifies as an “ethno-federation” with a congruence between state territories and ethnic groups.¹⁴⁹ Politically, the country was under military dictatorships for more than three decades. In 1999, it returned to democracy. In 2003, President Olusegun Obasanjo was able to secure a second term in what was largely considered a free and fair civilian election, representative of the will of the people.¹⁵⁰ In 2007 however, the election was reportedly marred by fraud, intimidation, a lack of credibility and violence. An independent observers group within the country, the Transition Monitoring Group (TMG), called “for its cancellation.”¹⁵¹ Nigeria’s subsequent elections, in 2011 and 2015, were considered an improvement, as they were free, fair, signalled an opening of political space and was a departure from a single party system.¹⁵² Despite ethnic and regional fractures that affected the country since independence, there were few incidents of violence in 2015. The elections were “remarkably peaceful”,¹⁵³ and brought President Muhammadu Buhari to power. The country has also undergone a series of pre- and post-independence Constitutions, with the latest in 1999, stating that the country’s “social order is founded on ideals of Freedom, Equality and Justice”.¹⁵⁴

Nigeria was a founding member of the HRC and served two consecutive terms from 2006 to 2012 on the HRC. Nigeria was again elected to the HRC in 2015, and is currently serving its second consecutive term, which began on 1 January 2018, and runs up to 2020.¹⁵⁵ Holding one of the seats reserved for the African group, it was elected with a margin of 185 votes.¹⁵⁶

During the 37th session of the HRC, Nigeria sponsored/co-sponsored six thematic and seven country-situation resolutions. Nigeria was also an additional sponsor in two thematic and two country-situation resolutions.

II. Voluntary Pledges and Commitments

Nigeria made a voluntary pledge¹⁵⁷ in 2006 and has not submitted an updated pledge since. In its voluntary pledge of 2006, Nigeria committed to:

- The purposes and objectives of the Human Rights Council.
- Cooperate fully with the Council, through active participation. Cooperate with members of the Council, non-members, regional organizations and civil society to create a strong, credible, fair and effective human rights body.
- Submit itself to the Universal Periodic Review mechanism.
- Cooperate with treaty monitoring bodies, including through submission of reports and the implementation of observations and recommendations.
- Contribute actively to the development of a human rights culture and integrate human rights into other

148 T. Falola & M.M. Heaton, *A History of Nigeria* (Cambridge University Press, 2008).

149 L.D. Anderson, *Federal Solutions to Ethnic Problems* (Routledge, 2013), p. 161.

150 Commonwealth Human Rights Initiative, *Easier Said than Done - 2008*. Available at http://humanrightsinitiative.org/publications/hradvocacy/easier_said_than_done_2008.pdf p. 54.

151 *The Economist*, Big men, big fraud and big trouble, 26 April 2007. Available at <https://www.economist.com/node/9070922>.

152 Open Society European Policy Institute, “Nigeria after Elections: Democracy at a Turning Point?”, July 2011. Available at <https://www.opensocietyfoundations.org/reports/nigeria-after-elections-democracy-turning-point>.

153 Mwangi S. Kimenyi, “Nigeria 2015 presidential election: Significance and challenges ahead”, Brookings, 31 March, 2015. Available at <https://www.brookings.edu/blog/africa-in-focus/2015/03/31/nigeria-2015-presidential-election-significance-and-challenges-ahead/>.

154 Constitution of the Federal Republic of Nigeria, 1999. Available at http://www.wipo.int/wipolex/en/text.jsp?file_id=179202.

155 Premium Times, “UN General Assembly elects Nigeria, 14 others to Human Rights Council”, 17 October 2017. Available at <https://www.premiumtimesng.com/news/top-news/246350-un-general-assembly-elects-nigeria-14-others-human-rights-council.html>.

156 2017 elections to the UN Human Rights Council. Available at <http://yourhrc.org/2017-elections/>.

157 The Permanent Mission of the Federal Republic of Nigeria to the United Nations, Human Rights Council: “Nigeria’s Voluntary Pledges and Commitment”, 24 April 2006. Available at <https://www.un.org/ga/60/elect/hrc/nigeria.pdf>.

UN activities, as well as into those of regional organizations, such as the African Union and the Economic Community of West African States.

- Promote and protect human rights, and support the work of the National Human Rights Commission (NHRC).
- Continue to play a responsible leading role, regionally and internationally, in the protection and promotion of peace, stability and democracy.
- Promote and protect all human rights, particularly civil and political rights, and economic, social and cultural rights, including the right to development.
- Work towards strengthening the OHCHR.
- Maintain an open-door policy on human rights issues and to this end, reaffirm its preparedness for officials such as human rights inspectors, special rapporteurs and representatives, to visit the country and carry out their respective mandates without hindrance.
- Cooperate fully with other special procedures of the Council, work towards upholding the rule of law and encourage constructive dialogue and international cooperation in the field of human rights.
- Uphold the principles of non-discrimination and the protection and promotion of the human rights of all citizens. Accelerate the process for the domestication of relevant human rights instruments, such as the African Charter on Human and Peoples' Rights, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC).
- Commit to the international human rights instruments which it ratified including the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).
- Accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW). Sign, ratify and accede to others conventions that the country is not a part of, such as the Convention on the Prevention and Punishment of the Crime of Genocide.
- Continue to uphold the provisions of the Conventions, Protocols and Covenants which it has ratified, and regularly report on their implementation to treaty monitoring bodies of the Human Rights Council.

III. Nigeria's Participation in the 37th Session of the HRC

Nigeria's Minister of Foreign Affairs, Geoffrey Onyeama, participated in the High-Level Segment and stated that Nigeria is committed to the Universal Declaration of Human Rights by passing numerous human rights-related bills into law in 2017. These included the Anti Torture Act, the Comprehensive Treatment and Care for Victims of Gun Shot Act and the National Senior Citizens Centre Act. Nigeria established a Human Rights Desk at the Nigerian Defence Headquarters, where security agencies are continually being sensitized on human rights, while countering terrorism. President Buhari also committed to tackling graft. Nigeria called on States to respect the rights of migrants and accord them humane and dignified treatment, in line with their international obligations. It also called for the non-politicization of human rights issues.¹⁵⁸

S. No.	General Debate	Nigeria's Response
1.	<i>Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (and including thematic reports of the High Commissioner for Human Rights and the Secretary-General)</i>	Nigeria aligned itself with the position of the African Group and the OIC. It condemned the disregard for human life demonstrated by traffickers and some transit and destination States. Nigeria also mentioned that it had established the North-East Development Commission (NEDC) to aid the rehabilitation and resettlement of the victims of terrorism, as well as the reconstruction of the Northeast of the country. ¹⁵⁹

158 High-level segment on 27 February 2018: Statements for the Extranet. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=27/02/2018%2000:00:00>.

159 Item 2: Interactive dialogue with the High Commissioner. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=08/03/2018%2000:00:00>.

2.	<i>Human rights situation in Palestine and other occupied Arab territories</i>	Nigeria aligned itself with the statement of the African Group, OIC and NAM. It reiterated its support for the struggle of the Palestinian people for the realization of their human rights and fundamental freedoms, as well as their inalienable right to self-determination. It called on the international community to live up to their responsibilities, to ensure that all previous UN resolutions on the status of Israeli-occupied Palestine and other Arab territories are fully implemented by Israel, the occupying power. ¹⁶⁰
3.	<i>Human rights situations that require the Council's attention</i>	In its reply to the NGO, Christian Solidarity Network, the Nigerian representative rejected the negative image presented by the NGO and stressed that freedom of religion was provided in the country's Constitution. The representative denied the occurrence of forceful conversions or marriages of religious minorities. The representative further stressed that their efforts to eliminate Boko Haram, and resolve the clashes that were taking place between farmers and herders were ongoing. ¹⁶¹
	Interactive/Clustered Dialogue	Nigeria's Response
4.	<i>Interactive dialogue with the High Commissioner</i>	Nigeria aligned itself with the view of the African Group and the OIC. Nigeria stressed that it could not permit the use of its territory for any activities to destabilize another State. It committed itself to cooperating with Cameroon to tackle subversive activities. It also expressed satisfaction at the functioning of the Universal Periodic Review, but claimed that there was room for improvement in the functioning of the Council. ¹⁶²
5.	<i>Interactive dialogue on the High Commissioner's report on Libya</i>	Nigeria called on Libyan authorities to redouble efforts in addressing the situation of migrants. To this effect, the country is engaging with Libya to ensure that Nigerian migrants and others are duly respected, secure and treated with dignity. Nigeria called on the Office of the High Commissioner to continue engaging with Libya, to provide the needed technical assistance and capacity building, in order to promote and protect human rights and fundamental freedoms across the country. ¹⁶³
6.	<i>Clustered interactive dialogue with the Special Rapporteur on human rights defenders and the Special Rapporteur on torture</i>	Nigeria condemned all forms of torture and other cruel, inhuman and degrading treatment or punishment, and asserted that the right of personal dignity is enshrined in the Nigerian Constitution. Nigeria agreed with the Special Rapporteur on torture that States are duty-bound to refrain from engaging in, or knowingly contribute to any act of torture or ill-treatment. Nigeria reaffirmed its commitment to the prohibition of all forms of torture, as well as upholding the rights of human dignity at all times. ¹⁶⁴
7.	<i>Clustered interactive dialogue with the Special Rapporteur on terrorism and the Special Rapporteur on cultural rights</i>	Nigeria stated its counter-terrorism strategy. It recognized the need to respect human rights and to adhere to its obligations to international human rights. Nigeria ensured transitional justice and a human rights-based approach in the rehabilitation, reconstruction and resettlement of areas and victims affected by Boko Haram. Nigeria informed that it had launched a National Action Plan for Preventing and Countering Violent Extremism, with a focus on strengthening institutions, the rule of law, access to justice and human rights. ¹⁶⁵

160 Item 7: Human rights situation in Palestine and other occupied Arab territories. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=20/03/2018%2000:00:00>.

161 Item 4: Human rights situations that require the Council's attention. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=14/03/2018%2000:00:00>.

162 Item 2: Interactive dialogue with the High Commissioner. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=08/03/2018%2000:00:00>.

163 Item 10: Interactive dialogue with the Independent Expert on Mali. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=21/03/2018%2000:00:00>.

164 17 Item 3: Clustered interactive dialogue with the Special Rapporteur on human rights defenders and the Special Rapporteur on torture. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=01/03/2018%2000:00:00>.

165 Item 3: Clustered interactive dialogue with the Special Rapporteur on human rights defenders and the Special Rapporteur on torture. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=01/03/2018%2000:00:00>.

8.	<i>Clustered interactive dialogue with the Special Representative of the Secretary-General on violence against children and the Special Representative of the Secretary-General for children and armed conflict</i>	Nigeria stressed that it was gravely concerned by the violations suffered by children in armed conflicts and their protection needed to be ensured. It highlighted that it remains deeply committed to the protection of children in armed conflicts, particularly in the North-eastern region affected by Boko Haram. It provided support and services to children forced into such activities, with a view to reintegrate them into their communities. ¹⁶⁶
9.	<i>Clustered interactive dialogue with the Special Rapporteur on persons with disabilities and the Independent Expert on albinism</i>	Aligning itself to the position of the African Group, Nigeria called for the renewal of the mandate of the Independent Expert on Albinism. Nigeria welcomed the report of the Special Rapporteur on the rights of persons with disabilities, which highlighted law and policy reforms in respect of the rights of persons with disabilities to legal capacity. Nigeria also stressed that it was only with equal recognition before the law, that the rights of persons with such disabilities could be upheld, which would enhance their participation in decision-making processes in their societies. ¹⁶⁷

IV. Nigeria's Voting Pattern on Resolutions

Thematic Resolutions

Nigeria voted in favour of four resolutions concerning: *the right to food*,¹⁶⁸ *effects of foreign debt*,¹⁶⁹ *human rights and coercive unilateral measures*,¹⁷⁰ and *promoting cooperation in the field of human rights*.¹⁷¹ Although it voted in favour of these resolutions, Nigeria did not release statements explaining its support or the reasons for its commitment.

While voting in favour of the resolution on *the right to food*, Nigeria affirmed its commitment to the *International Covenant on Economic, Social and Cultural Rights*.

Nigeria abstained from voting on two thematic resolutions concerning *integrity of the judicial system*¹⁷² and *countering the world drug problem with regard to human rights*.¹⁷³ Yet these abstentions were not accompanied by explanations.

Nigeria did not vote against any thematic resolution.

Country Situations

On country situations, Nigeria voted in favour of six resolutions concerning the *human rights situation in Myanmar*,¹⁷⁴ *occupied Syrian Golan*,¹⁷⁵ *the OPT*,¹⁷⁶ *the right of the Palestinian people to self-determination*,¹⁷⁷ *ensuring accountability*

166 Item 3: Clustered interactive dialogue with the Special Rapporteur on the right to privacy and the Special Rapporteur on the state of children, child prostitution and child pornography. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=06/03/2018%2000:00:00>.

167 Item 3: Clustered interactive dialogue with the Special Rapporteur on the right to privacy and the Special Rapporteur on the state of children, child prostitution and child pornography. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=06/03/2018%2000:00:00>.

168 Resolution 37: The right to food (2018).

169 Resolution 37/11: The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights (2018).

170 Resolution 37: Human rights and unilateral coercive measures (2018).

171 Resolution 37/23: Promoting mutually beneficial cooperation in the field of human rights (2018).

172 Resolution 37/3: Integrity of the judicial system (2018).

173 Resolution 37/42: Contribution to the implementation of the joint commitment to effectively addressing and countering the world drug problem with regard to human rights (2018).

174 Resolution 37/32: Situation of human rights in Myanmar (2018).

175 Resolution 37/33: Human rights in the occupied Syrian Golan (2018).

176 Resolution 37/35: Human rights situation in the Occupied Palestinian Territory, including East Jerusalem (2018).

177 Resolution 37/34: Right of the Palestinian people to self-determination (2018).

and justice in the OPT,¹⁷⁸ and Israeli settlements in the OPT.¹⁷⁹

Nigeria abstained from voting on three resolutions concerning the *situation of human rights in Eastern Ghouta*,¹⁸⁰ *situation of human rights in Iran*,¹⁸¹ and *cooperation with Georgia*.¹⁸²

Nigeria did not vote against any resolution on country situations.

V. Analysis: Compliance with Pledges and Commitments

a. Engagement with UN Special Procedures

In its voluntary pledge, Nigeria undertook to “maintain of an open-door policy on human rights issues” and to this end, reaffirmed its “preparedness for officials, such as human rights inspectors, special rapporteurs and representatives to visit the country and carry out their respective mandates without hindrance”. Nigeria further committed to “cooperate fully with other special procedures of the Council and to work towards upholding the rule of law and to encourage constructive dialogue and international cooperation in the field of human rights”. Despite this pledge, Nigeria has not, over the years, accepted requests from 14 special procedure mechanisms. It has a number of country visits of Special Rapporteurs and Independent Experts pending. These include the Special Rapporteurs on freedom of expression, on toxic waste, on independence of judges, trafficking, on human rights and counter-terrorism, on racism, on the sale of children, on violence against women and on freedom of assembly. They also include the Working Group on mercenaries.¹⁸³ Furthermore, Nigeria did not support and abstained from voting on the resolution on the *human rights situation in Iran* which called for extending the mandate of the Special Rapporteur on Iran for an additional period of one year.

b. Compliance with Reporting Obligations to Treaty Bodies

Nigeria committed to cooperate with treaty monitoring bodies, including through submission of reports and the implementation of observations and recommendations. Nigeria completely failed to adhere to its pledge. As of May 2018, Nigeria has reports pending for ten treaty bodies, with some reports pending for more than 15 years.¹⁸⁴

Treaty Body	CAT	CCPR	CED	CERD	CESCR	CMW	CRC- OP-AC	CRC- OP-SC	CRPD	CRC
Pending since	2002	1999	2013	2008	2000	2018	2014	2012	2012	2016

Furthermore, respecting its pledge Nigeria ratified the *Convention on the Prevention and Punishment of the Crime of Genocide* and the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* in 2009. However, it did not accept the individual complaints procedure under the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, *CAT*, *CCPR-OP1*, *CESCR-OP*, *CMW*, *CRC-OP-IC*, *CED* and *CMW*.

c. Compliance on Thematic Issues

Nigeria’s situation on-ground appears contrasting from its pledges and commitments at the HRC. The country continues to face conflict in its northeast, with widespread attacks and abductions of civilians, particularly women

178 Resolution 37/37: Ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem (2018).

179 Resolution 37/36: Ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem (2018).

180 Resolution 37/1: The deteriorating situation of human rights in Eastern Ghouta, in the Syrian Arab Republic (2018).

181 Resolution 37/30: Situation of human rights in the Islamic Republic of Iran (2018).

182 Resolution 37/40: Cooperation with Georgia (2018).

183 Office of the High Commissioner for Human Rights, Special Procedures. Available at http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en.

184 Office of the High Commissioner for Human Rights, Human Rights Bodies. Available at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/MasterCalendar.aspx.

and children, by the terrorist outfit, Boko Haram. While the Nigerian government claims that it is undertaking effective counter-insurgency operations against the group,¹⁸⁵ including Buhari's announcement that they were "technically defeated",¹⁸⁶ the recent kidnapping of 110 schoolgirls in February 2018¹⁸⁷ points towards the contrary.¹⁸⁸ The issue becomes even more troubling when numerous human rights violations take place under the guise of such counter-terrorism offensives. Thousands have reportedly lost their lives, tens of thousands have been arbitrarily detained or have disappeared, while millions have been displaced.¹⁸⁹

Even though Nigeria supported a resolution on terrorism and human rights and reaffirmed its commitment to human rights instruments in its pledge, closed-door military trials have been underway, where human rights groups accuse the government of picking up Boko Haram suspects at random, particularly women and children.¹⁹⁰ Despite committing itself to follow international human rights instruments which it ratified, including the *International Covenant on Civil and Political Rights*, this has given way to concerns about fair trials and due process being followed. For example, out of a batch of 565 defendants convicted, 45 were convicted for terms lasting as long as 31 years for charges yet undisclosed.¹⁹¹

Illegal and arbitrary detention is another major issue in Nigeria. Reportedly, many persons are held at a military detention facility at Maidiguri, with no access to lawyers or family. As of April 2017, nearly 4,900 persons were held in overcrowded cells, including 200 children in a separate cell.¹⁹² Women and girls who were suspected of ties with the Boko Haram were also detained without charge.¹⁹³ This represents a similar violation of Nigeria's pledge which reaffirmed its commitment to the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* and the *International Covenant on Civil and Political Rights* and its stand in clustered interactive dialogues on torture, terrorism and human rights *and dignity, as well as children in armed conflicts*.

The police has often been charged with arbitrary arrests and detentions, while there are increasing calls for the Special Anti-Robbery Squad (SARS) to be scrapped.¹⁹⁴ The police force has, however, repeatedly denied any wrongdoing, despite the campaign gathering pace after the circulation of a video on a man being shot dead by the police.¹⁹⁵ A panel comprising members of the National Human Rights Commission and Human Rights Law Services found that despite their training in maintaining human rights, the police continues to engage in abuses, violations, unlawful detention, extortion, sexual harassment and torture.¹⁹⁶ Torture, unlawful detention, and ill-treatment were also carried out by the State Security Service (SSS). For instance, according to the Amnesty International report for 2017/2018, Bright Chimezie, a member of the Indigenous People of Biafra (IPOB), was held incommunicado in detention for more than

185 The New Indian Express, "Nigeria claims complete victory over Boko Haram", 4 February 2018. Available at <http://www.newindianexpress.com/world/2018/feb/04/nigeria-claims-complete-victory-over-boko-haram-1768363.html>.

186 BBC, "Nigeria Boko Haram: Militants 'technically defeated' - Buhari", 24 December 2015. Available at <https://www.bbc.com/news/world-africa-35173618>.

187 Ryan Cummings, "Nigeria Claimed Victory Over Boko Haram. How Did More Girls Get Kidnapped?" IPI Global Observatory, 6 March 2018. Available at <https://theglobalobservatory.org/2018/03/nigeria-claimed-victory-boko-haram-how-did-girls-get-kidnapped/>.

188 Yomi Kazeem, "Nigeria keeps saying it has defeated Boko Haram against all the evidence", Quartz Africa, 10 July, 2017. Available at <https://qz.com/1024655/boko-haram-remains-active-in-nigeria-despite-the-governments-claims-of-victory/>.

189 Vanda Felbab Brown, "Nigeria's Troubling Counter-Insurgency Strategy Against Boko Haram", Foreign Affairs, 30 March 2018. Available at <https://www.foreignaffairs.com/articles/nigeria/2018-03-30/nigerias-troubling-counterinsurgency-strategy-against-boko-haram>.

190 The Guardian, "Dozens of Boko Haram Members convicted in mass secret trial in Nigeria", 14 October 2017. Available at <https://www.theguardian.com/world/2017/oct/14/dozens-of-boko-haram-members-convicted-in-mass-secret-trial-in-nigeria>.

191 Human Rights Watch, "World Report - 2018". Available at <https://www.hrw.org/world-report/2018/country-chapters/nigeria>.

192 45Amnesty International Report - 2017/18. Available at <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>.

193 Ibid.

194 Reuters, "Nigeria's Senate to probe police brutality allegations", 6 December 2017. Available at <https://www.reuters.com/article/us-nigeria-police/nigerias-senate-to-probe-police-brutality-allegations-idUSKBN1DZ2WE>.

195 Abraham Achirga, "Nigerian police official defends unit against brutality accusations", Reuters, 6 December 2017. Available at <https://www.reuters.com/article/us-nigeria-police-sars/nigerian-police-official-defends-unit-against-brutality-accusations-idUSKBN1E027D>.

196 Ben Ezeamalu, "How Nigeria police officers tortured, extorted, harassed us – Victims", Premium Times, 1 November 2017. Available at <https://www.premiumtimesng.com/news/headlines/248017-nigeria-police-officers-tortured-extorted-harassed-us-victims.html>.

a year.¹⁹⁷ This directly contradicts not only the Nigerian Constitution in terms of the rights to life and dignity, but also its pledge to reaffirm its commitment to ICCPR and CAT. Furthermore, it is contrary to the stand that Nigeria took in its clustered dialogue with the Special Rapporteur on torture, where it committed to prohibit all forms of torture and to uphold the right to human dignity at all times.

In its voluntary pledge, Nigeria committed to the *International Covenant on Civil and Political Rights* (ICCPR). However, Nigeria is witnessing declining levels of freedom regarding speech and expression. According to the Press Freedom Index (2018), Nigeria stifles its media when reporting on issues such as conflict, violence, terrorism and corruption.¹⁹⁸ The Cyber Crime Act, 2015 has been reportedly misused to press charges against and arrest bloggers who criticized businessmen and politicians.¹⁹⁹ Such crackdowns on freedom of speech and expression represent violations of the ICCPR and go against Nigeria's pledge to protect all human rights, particularly civil and political rights. This is also incongruent with the stand it took when it joined the consensus on promoting human rights and the Sustainable Development Goals through transparent, accountable and efficient public services delivery, which calls upon States to respect, promote and protect the freedom of expression.²⁰⁰

Nigeria is also in contradiction of its pledges to promote and protect human rights, and the stand it took when it joined the consensus on promoting human rights and the Sustainable Development Goals through transparent, accountable and efficient public services delivery. This called on States to acknowledge the important role that civil society plays in the design, delivery and promotion of public services delivery. The Nigerian government proposes to pass a bill which would allow it to regulate NGOs. This comes after allegations that some NGOs were using their donations to fund illegal activities, such as those of the insurgents in the Northeast. Civil society within the country has called the bill "extremely dangerous" and a threat to the cause of government accountability, advocacy, and the promotion of democracy.²⁰¹

Nigeria has some of the toughest anti-homosexuality laws in Africa. According to Nigeria's Criminal Code, "carnal knowledge of any person against the order of nature...is guilty of a felony, and is liable to imprisonment for 14 years."²⁰² Moreover, in 2014, the country passed the Same Sex Marriage (Prohibition) Act (SSMPA) which even criminalizes homosexual clubs and associations, providing for penalties of up to 14 years in jail.²⁰³ Homosexuals in the northern part of the country, under sharia law, face the death penalty.²⁰⁴ This Act is also seen to be in direct contravention of Chapter Four of Nigeria's Constitution which protects the right to privacy, to freedom of expression and to freedom of association.²⁰⁵ In August 2017, 42 men and boys were arrested while attending an HIV screening and counselling session at a hotel.²⁰⁶ This promotes a sense of stigmatization and prejudice within society, leading to marginalization of the LGBT community. It is incongruent with the country's pledge to uphold the principles of non-discrimination and the protection and promotion of the human rights of all citizens. It is also a violation of the provisions enshrined in the *International Covenant on Civil and Political Rights* which call for non-discrimination (Article 2(1)) and equality (Article 26).

197 Amnesty International Report - 2017/18. Available at <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>.

198 Reporters Without Borders, "Climate of permanent violence". Available at <https://rsf.org/en/nigeria>.

199 Peter Nkanga, "How Nigeria's cybercrime law is being used to muzzle the press", Committee to Protect Journalists, 21 September 2016. Available at <https://cpj.org/blog/2016/09/how-nigerias-cybercrime-law-is-being-used-to-try-t.php>.

200 Resolution 70/1: Transforming our world: the 2030 Agenda for Sustainable Development (2015). Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/099/26/PDF/G18>.

201 Paul Carsten, "Nigeria's NGO slam civil society bill as grave threat to freedoms", Reuters, 13 December, 2017. Available at <https://www.reuters.com/article/us-nigeria-rights/nigeria-ngos-slam-civil-society-bill-as-grave-threat-to-freedoms-idUSKBN1E72CO>.

202 Section 352 of the Criminal Code Act of Nigeria. Available at http://www.wipo.int/wipolex/en/text.jsp?file_id=218191.

203 AP, "Nigeria passes law banning homosexuality", The Telegraph, 14 January 2014. Available at <https://www.telegraph.co.uk/news/worldnews/africaandindianocean/nigeria/10570304/Nigeria-passes-law-banning-homosexuality.html>.

204 BBC, "Mass Nigerian arrests for 'homosexual acts' in Lagos State", 31 July, 2017. Available at <https://www.bbc.com/news/world-africa-40774930>.

205 Constitution of the Federal Republic of Nigeria, 1999. Available at http://www.wipo.int/wipolex/en/text.jsp?file_id=179202.

206 AFP, "Nigerian police consider 'gay' charges against 42 men", Daily Nation, 3 August 2017. Available at <https://www.nation.co.ke/lifestyle/42-alleged-Nigerian-homosexuals-arrested-/1190-4043008-u3py9kz/index.html>.

I. Introduction

Pakistan is a founding member of the Human Rights Council. It has previously served for three terms, from 2006 to 2011 and from 2013 to 2015. During this period, it was the Coordinator of the Organization for Islamic Cooperation (OIC) Group on Human Rights and Humanitarian Affairs in Geneva.²⁰⁷ Pakistan's candidature was supported by 151 countries in the elections for membership to the Council.²⁰⁸

Pakistan sponsored²⁰⁹ four thematic resolutions and was additional co-sponsor for seven thematic resolutions. Further, on country-situation resolutions, on behalf of the OIC, Pakistan sponsored²¹⁰ five resolutions and was additional sponsor²¹¹ for two resolutions.

II. Voluntary Pledges and Commitments

Pakistan pledged in 2017 that it would commit to the promotion and protection of human rights through efforts at the domestic level and through international cooperation and engagement. On the basis of its expertise, gained from its experience as a member of the HRC, Pakistan committed to proactively engage with the Council, its machinery, processes and initiatives, as well as with the international community, UN Agencies and civil society.²¹²

At the National Level

Pakistan pledged to take bold measures in policy and legal reform by undertaking effective enforcement of its existing human rights legislation and policy. It pledged to prioritize future interventions on women, children, minorities, persons with disabilities and other vulnerable segments of society. Pakistan pledged to:

- Implement the National Action Plan for human rights.
- Formulate a mechanism to review existing legislation and propose new legislation in consultation with provincial governments and civil society.
- Enhance operational effectiveness of national human rights institutions.
- Enhance capacity building of government officials, including treaty implementation cells.
- Ensure speedy justice for victims of human rights violations and create human rights awareness.
- Establish and strengthen the safety infrastructure for women.
- Establish a national commission for the rights of children and strengthen the National Council for the Persons with Disabilities.
- Protect the rights of minorities and promote interfaith harmony.
- Effectively utilize funds for free legal aid.
- Expand the scope of toll free helplines in all provinces.
- Mainstream human rights in development planning.

207 United Nations General Assembly, Note verbale dated 11 May 2017 from the Permanent Mission of Pakistan to the United Nations addressed to the President of the General Assembly, 18 May 2017. Available at <http://undocs.org/A/72/88>.

208 APP, "Pakistan elected to UN Human Rights Council, polling 151 votes", The Nation, 17 October 2017. Available at <https://nation.com.pk/17-Oct-2017/pakistan-elected-to-un-human-rights-council-polling-151-votes>.

209 Office of the High Commissioner for Human Rights, Draft resolutions, decisions and President's statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Resolutions.aspx>.

210 Office of the High Commissioner for Human Rights, Draft resolutions, decisions and President's statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Resolutions.aspx>.

211 Office of the High Commissioner for Human Rights, Draft resolutions, decisions and President's statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Resolutions.aspx>.

212 United Nations General Assembly, Note verbale dated 11 May 2017 from the Permanent Mission of Pakistan to the United Nations addressed to the President of the General Assembly, 18 May 2017. Available at <http://undocs.org/A/72/88>.

Pakistan committed to strengthening its contribution towards the global promotion of human rights and positively engage with the Human Rights Council on the following lines:

- Make the Council a forum for genuine dialogue and cooperation through non-discrimination and impartiality in accordance with the Institution Building Package (HRC Res. 5/1).
- Contribute to the effectiveness of the Council’s mechanisms and its review processes.
- Strengthen the Council to promote dialogue, cooperation, capacity-building and technical assistance for the protection and promotion of human rights.
- Promote constructive engagement, dialogue and cooperation with the concerned states in addressing “situations of concern” at the Council.
- Strengthen participation in the UPR and make useful recommendations to other states.
- As Coordinator of the OIC Group on Human Rights and Humanitarian Affairs in Geneva, Pakistan would work on maintaining solidarity between the Islamic world and the West.
- Continue to support the UN Alliance of Civilizations to promote a culture of dialogue, tolerance and cooperation among the nations of the world.
- Support the OHCHR in carrying out its mandate through coordination and liaison.
- Comply with treaty obligations and ensure periodic submission of reports and constructive engagement during the reviews.
- Strengthen cooperation and engagement with the High Commissioner for Human Rights and with the special procedures.

III. Pakistan’s Participation in the 37th Session of the HRC

On 28th February, Ms Ayesha Raza Farooq, member of the senate committees of Pakistan on foreign affairs, and law and justice, delivered Pakistan’s address at the High-Level Segment (HLS).²¹³ She affirmed Pakistan’s commitment to protect human rights and the active role it has played in the Council. She highlighted Pakistan’s democratic progress during the last four years and enumerated national institutions that work to promote human rights in the country. “The human rights record of any country should be contextualized in the given domestic environment and prevailing ground situation.”²¹⁴ She referred to the challenge of terrorism and extremism in Pakistan and contextualised its human rights progress under these circumstances. She explained that parliament lifted the moratorium on the death penalty in the wake of the Peshawar School attack of December 2014 and the public pressure it caused. The senator highlighted Pakistan’s legislative and administrative measures that protect the rights of women, minorities and the transgender community. She affirmed the developments in Pakistan’s ratification record and compliance with international mechanisms such as the UPR and treaty bodies.

Pakistan participated in the HRC mostly as a OIC coordinator and contributed to various debates and discussions. Pakistan also participated in several interactive dialogues and general debates.²¹⁵

S. No.	Interactive Dialogue	Pakistan’s Response
1.	<i>Clustered interactive dialogue with the Independent Expert on foreign debt and the Special Rapporteur on adequate housing</i>	Pakistan acknowledged the challenges highlighted by the Special Rapporteur on adequate housing in the context of persons with disabilities. It concurred with the Independent Expert on foreign debt that developing guiding principles on the impact of financial crises and the methodology of human rights impact assessments will contribute to more sustainable responses to such crises. ²¹⁵

213 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=28/02/2018%2000:00:00>.

214 Permanent Mission of Pakistan to the United Nations and other International Organizations, Pakistan’s Statement, 37th HRC Session, February 25, 2018. Available at <http://pakistanmission-un.org/?p=2469>.

215 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=28/02/2018%2000:00:00>.

2.	<i>Clustered interactive dialogue with the Special Rapporteurs on human rights defenders and on torture</i>	Pakistan suggested that the work of human right defenders can be supplemented by reshaping the global negative narrative against migration, based on narrow political agendas and xenophobia. Pakistan underlined that protection from torture was part of its Constitution and its record of regular reporting to the treaty bodies under the CAT, ICCPR, CEDAW and ICESCR was noteworthy. ²¹⁶
3.	<i>Clustered interactive dialogue with the Special Rapporteurs on terrorism and on cultural rights</i>	Pakistan highlighted specific measures that it had adopted to combat terrorism, including the National Plan of Action, laws prohibiting hate speech, use of cyberspace by extremists, and vigilance and blocking the funding of selected groups. Pakistan laid emphasis on tolerance of cultural, ethnic, religious and linguistic diversities. ²¹⁷
4.	<i>Interactive dialogue with the Special Rapporteur on freedom of religion</i>	Pakistan emphasized the importance of religious tolerance and freedom in its democracy. It highlighted the flourishing number of Christian missionary schools in the country and mentioned that the Constitution protects the right of minorities to profess their religion and visit place of worship. It stated that even the Supreme Court upheld the freedom of religion in 2014. ²¹⁸
5.	<i>Clustered interactive dialogue with the Special Rapporteurs on the environment and on the right to food</i>	Pakistan affirmed that a healthy environment is necessary for children's enjoyment of the rights to life, development and health. It stated that policies and legislation for the protection of children's rights have been introduced. It agreed with the Special Rapporteur on the right to food on the impact of natural disasters on food security and the health of children. ²¹⁹
6.	<i>Clustered interactive dialogue with the Special Rapporteurs on the right to privacy and on the sale of children, child prostitution and child pornography</i>	Pakistan expressed its concern over commercial international surrogacy practices and shared its commitment towards combating sale and sexual exploitation of children. Pakistan highlighted that right to privacy is enshrined in the Constitution and the Prevention of Electronic Crimes Act, 2016 was enacted to protect this right. Pakistan highlighted that the use of big data, cyber harassment, propagation of hate speech by extremist groups and exploitative use of personal data by private enterprises were other issues that were linked to right to privacy on the internet. ²²⁰
7.	<i>Clustered interactive dialogue with the Special Representatives of the Secretary-General on violence against children and on children and armed conflict</i>	Pakistan raised the issue of violence against children and called for protection of children to be maintained in UN mandated interventions in situations of armed conflicts. Pakistan highlighted various measures taken at its national level: It has set up the National Commission for Child Welfare and Development (NCCWD) to implement the UN Convention on the Rights of the Child (UNCRC). The Criminal Law (Second Amendment) Act, 2016 criminalizes child pornography and prescribes punishment for child sexual abuse, cruelty and trafficking. Treaty implementation cells have been set up at the federal and provincial levels to oversee the implementation of human rights conventions and child commissioners have been appointed. A national campaign to end violence against children has been carried out. ²²¹

216 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=01/03/2018%2000:00:00>.

217 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=01/03/2018%2000:00:00>.

218 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=02/03/2018%2000:00:00>.

219 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=05/03/2018%2000:00:00>.

220 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=06/03/2018%2000:00:00>.

221 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=06/03/2018%2000:00:00>.

8.	<i>Clustered interactive dialogue with the Special Rapporteur on disabilities and the Independent Expert on albinism</i>	Pakistan stated that after ratifying the UNCRPD in 2011, the National Council for Persons with Disabilities was established and the government has allocated special quotas in jobs for persons with disabilities. It further highlighted that specialized educational institutions have been established, and seats have been allocated in metros and buses. Pakistan urged the international community to take necessary steps to curb attacks, mutilations, trafficking of body parts of persons with albinism and stressed on the need for education and sensitization on this issue. ²²²
9.	<i>Annual interactive debate on the rights of persons with disabilities</i>	Pakistan highlighted that disabled persons' organizations (DPOs), civil society organizations, social safety nets and government departments provide support and assistance on this issue in Pakistan. ²²³ It shared that lack of resource is a major constraint to provide sustainable support services.
10.	<i>Interactive dialogue with the High Commissioner</i>	Pakistan mentioned that it has hosted the highest number of refugees since World War II and urged that assistance to refugee hosting countries be enhanced. It stated that political rhetoric in the West that contributes to xenophobia and racial hatred must be checked. On the situation in Jammu and Kashmir, Pakistan mentioned recent incidents of extrajudicial executions of civilians. It requested the OHCHR to document human rights violations in Jammu and Kashmir, and to India, to end its illegal occupation. ²²⁴ It called for strengthening of the United Nations Military Observer Group in India and Pakistan (UNMOGIP) and agreed to allow the OHCHR to visit the region as part of a broad visit to the country. ²²⁵
11.	<i>Interactive dialogue with the Special Rapporteur on minority issues</i>	Pakistan stated that "by promoting inclusivity in social, economic and political dimensions of society, we can pave the way for a tolerant and progressive society where rights of every citizen are protected". Pakistan said that it had taken several steps to enhance socio-political participation and economic empowerment of minorities. ²²⁶
12.	<i>Interactive dialogue with the Special Rapporteur on the Palestinian territories occupied since 1967</i>	Pakistan delivered a statement on behalf of the OIC. It condemned Israel's refusal to cooperate with the mandate of the Special Rapporteur and discussed human rights violations committed by Israel, particularly on children. It highlighted systematic threats faced by protected populations. Pakistan further questioned the Special Rapporteur as to how the international community can most effectively act to compel Israel to comply fully with its obligations under international law. ²²⁷
	General Debate	Pakistan's Responses
1.	<i>General debate on promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (including thematic reports of the High Commissioner for Human Rights and the Secretary-General)</i>	Pakistan raised the issue of self-determination and of crimes against humanity in Jammu and Kashmir in India and mentioned the executions, impunity and ceasefire violation in the region. ²²⁸ In its reply, Pakistan stated that Jammu and Kashmir was a disputed territory as per the Security Council resolutions. It raised concerns over the prevailing religious ideology of the Indian government and the violations against minorities including Muslims, pretrial detentions and deaths in judicial custody. ²²⁹

222 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=06/03/2018%2000:00:00>.

223 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=07/03/2018%2000:00:00>.

224 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=08/03/2018%2000:00:00>.

225 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=08/03/2018%2000:00:00>.

226 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=14/03/2018%2000:00:00>.

227 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=19/03/2018%2000:00:00>.

228 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=08/03/2018%2000:00:00>.

229 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=08/03/2018%2000:00:00>.

2.	<i>General debate on human rights situations that require the Council's attention</i>	Pakistan raised its concern about the growing scale of xenophobia, racial discrimination and anti-Muslim sentiments created by extremist political parties. It drew attention to the attacks against Muslims and mosques in Germany; the death of minorities, the persecutions of Christians, and the rise of "extremism and rank communalism" in India's political order. It called on the Council to urge India to allow an OHCHR fact finding mission to Jammu and Kashmir. ²³⁰
3.	<i>General debate on human rights bodies and mechanisms</i>	Pakistan maintained that its Constitution granted equality to its citizens. It further stated that ten seats in the National Assembly, four in the Senate and 23 in the provincial assemblies are reserved for minorities to ensure their participation in decision-making. Pakistan supported the Social Forum and agreed with its conclusion that healthcare workers are on the front line of the fight against epidemics and other diseases and must be given necessary training and equipment. Pakistan stated that the Council should follow the UPR process as entailed in the Institutional Building Package and refrain from introducing new unnecessary practices. ²³¹
4.	<i>General debate on human rights situation in Palestine and other occupied Arab territories</i>	Pakistan discussed the right to self-determination of the Palestinian people and highlighted Israel's violation of Security Council Resolution 2334 (2016). It urged Israel to halt all settlement activity in the Occupied Palestinian territory. Pakistan stated that it supports a Two-State solution of the Palestinian issue, based on a free and secure State of Palestine with Al-Quds Al Sharif as its capital. ²³²
5.	<i>General debate on follow-up and implementation of the Vienna Declaration and Programme of Action</i>	Pakistan maintained that selectivity and double standards in application of human rights erode the credibility of the global human rights agenda. It stressed for the need to create a favourable environment for the realization of the right to development. Pakistan called for stronger respect for diversity of culture, greater tolerance and compassion for values of others' beliefs as well as social and political systems. ²³³
6.	<i>General debate on racism and racial discrimination; general debate on xenophobia and related forms of intolerance; follow-up and implementation of the Durban Declaration and Programme of Action</i>	Pakistan stated that there was an urgent need to strengthen the legal framework to address hate speech and xenophobia. Pakistan maintained that it had cosponsored resolutions to combat racism in the General Assembly and the Council. Its Constitution and policies reflected the elimination of racial discrimination in all its forms and Pakistan will continue to play an active role. ²³⁴
7.	<i>General debate on technical assistance and capacity-building (including the report of the Secretary-General on Cambodia, the report of the High Commissioner for Human Rights on Afghanistan, and the oral updates on Haiti and Yemen)</i>	Pakistan stated that technical cooperation and capacity building must: (1) cater to a State's peculiar socio-economic and cultural specificities and national priorities; (2) be based on principles of impartiality, objectivity, non-politicization; and (3) focus to overcome any diversion towards polarization, confrontation and politicization of the Council. Pakistan mentioned that it has supported the UN Voluntary Trust Fund for Technical Cooperation and the Voluntary Technical Assistance for the participation of SIDS and LDCs and would continue to do so. ²³⁵

230 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=14/03/2018%2000:00:00>.

231 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=14/03/2018%2000:00:00>.

232 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=20/03/2018%2000:00:00>.

233 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=20/03/2018%2000:00:00>.

234 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=20/03/2018%2000:00:00>.

235 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=20/03/2018%2000:00:00>.

IV. Pakistan's Voting Pattern on Resolutions

Thematic Resolutions

Pakistan sponsored four resolutions and was additional co-sponsor for seven resolutions.²³⁶

Pakistan voted in favour of five resolutions concerning *right to food*,²³⁷ *effect of foreign debt*,²³⁸ *human rights and unilateral coercive measures*,²³⁹ *promoting mutually beneficially cooperation in the field of human rights*²⁴⁰ and *Integrity of judicial system*.²⁴¹

Pakistan voted against a resolution on *countering the world drug problem with regards to human rights*.²⁴²

Country Situations

On behalf of the OIC, Pakistan sponsored five resolutions and additionally sponsored two resolutions.²⁴³

Pakistan voted in favour of five country-situation resolutions concerning *human rights in Occupied Syrian Golan*,²⁴⁴ *human rights in Myanmar*,²⁴⁵ *Israeli settlements in Occupied Palestinian Territory*,²⁴⁶ and *accountability and justice in Occupied Palestinian Territory*.²⁴⁷

Pakistan voted against a resolution concerning the *human rights situation in the Islamic Republic of Iran*.²⁴⁸ It stated that the resolution was not in conformity with a constructive and positive spirit. External interference through country-specific resolutions can be counterproductive and against the spirit of constructive engagement, as referred in UNGA resolution 60/251.²⁴⁹ It stated that Iran's positive attitude to engage constructively with the UPR process and treaty body mechanisms should be encouraged. It stated that human rights concerns should be addressed through engagement and not estrangement.²⁵⁰

Pakistan abstained from voting on two resolutions on *cooperation with Georgia*²⁵¹ and the *deteriorating situation of human rights in Eastern Ghouta, in the Syrian Arab Republic*.²⁵² On the latter, Pakistan stated that the draft fell short of its expectations as identified in three principles: respecting Syria's sovereignty and territorial integrity; condemning human rights violations by all sides; and supporting a dialogue for peace and stability in Syria by respecting international law, including human rights and humanitarian laws. Pakistan stated that the resolution reinforced divisions within the international community and did not bridge them on Syria.²⁵³

236 Office of the High Commissioner for Human Rights, Draft resolutions, decisions and president's statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Resolutions.aspx>

237 Resolution 37/10: The right to food (2018).

238 Resolution 37/11: The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights (2018).

239 Resolution 37/21: Human rights and unilateral coercive measures (2018).

240 Resolution 37/23: Promoting mutually beneficial cooperation in the field of human rights (2018).

241 Resolution 37/3: Integrity of the judicial system (2018).

242 Resolution 37/42: Contribution to the implementation of the joint commitment to effectively addressing and countering the world drug problem with regard to human rights (2018).

243 Office of the High Commissioner for Human Rights, Draft resolutions, decisions and president's statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Resolutions.aspx>

244 Resolution 37/33: Human rights in the occupied Syrian Golan (2018).

245 Resolution 37/32: Situation of human rights in Myanmar (2018).

246 Resolution 37/36: Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan (2018).

247 Resolution 37/37: Ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem (2018).

248 Resolution 37/30: Situation of human rights in the Islamic Republic of Iran (2018).

249 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=23/03/2018%2000:00:00>.

250 Ibid.

251 Resolution 37/40: Cooperation with Georgia (2018).

252 Resolution 37/1: Eastern Ghouta (2018).

253 Office of the High Commissioner for Human Rights, Statements. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=09/03/2018%2000:00:00>.

V. Analysis: Compliance with Pledges and Commitments

a. Engagement with UN Special Procedures

In its voluntary pledge, Pakistan committed to “strengthen cooperation and engagement with the High Commissioner for Human Rights and Special Procedures”. Currently, Pakistan has 16 pending requests from special procedures. They are from the Special Rapporteurs on freedom of assembly; internally displaced persons; housing; racism; human right defenders; extrajudicial, summary or arbitrary executions; human rights and counter-terrorism; extreme poverty; slavery; freedom of religion; minority issues; cultural rights; and on torture. Also pending are requests from the Working Group on discrimination against women and the Independent Expert on minorities. Furthermore, there is no standing invitation from Pakistan to special procedures.²⁵⁴

b. Compliance with Reporting Obligations to Treaty Bodies

Pakistan committed to comply with treaty obligations, to ensure periodic submission of reports and constructive engagement during the reviews. Pakistan’s compliance happens to be questionable on these fronts. Pakistan has four reports pending: for CEDAW since 2017, and for CRPD and CRC-OP-SC since 2013.²⁵⁵ On other treaties, Pakistan has a good record though some reports were submitted after four to five years of delay.

Further, Pakistan has refrained from accepting individual complaint procedures under CAT, CCPR-OP1, CEDAW-OP, CESC-OP, CRC-OP-IC and CRPD-OP respectively, which makes treaty compliance less effective.²⁵⁶

c. Compliance on Thematic Issues

In its election pledge, Pakistan stated that it “firmly resolved to uphold, promote and safeguard universal human rights and fundamental freedoms for all.” However, at the national level the state of human rights violations in Pakistan have been regularly noted and discussed by national and international actors, including UN treaty bodies, special procedures, civil society organizations and local NGOs. These issues range from continued enforced disappearances, blasphemy laws and restricted expression, death penalty, activity of military courts, and weak national human rights institutions. The rights and protection of vulnerable sections such as women, the LGBTI community, human rights defenders and religious minorities remain lingering concerns.

Pakistan pledged to protect and promote interfaith harmony, and to review existing legislation in consultation with provincial governments and civil society. It has not taken firm steps to reform its anti-secular legislative framework which contradicts the spirit of free expression, religious belief and equality before law.²⁵⁷ Pakistan was questioned earlier, on the existence and application of the blasphemy laws²⁵⁸ by the international community in both the second²⁵⁹ and third²⁶⁰ UPR cycles. They have been disproportionately applied, frequently misused, and people accused of blasphemy offences are often denied the guarantees of equality before the law, the presumption of innocence, the right to legal counsel and the right to a fair trial.²⁶¹

254 Office of the High Commissioner for Human Rights, Special Procedures. Available at: http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=PAK

255 Office of the High Commissioner for Human Rights, Human Rights Bodies. Available at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/MasterCalendar.aspx.

256 Office of the High Commissioner for Human Rights, Human Rights Bodies. Available at: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=131&Lang=EN

257 The Guardian, “Pakistan’s blasphemy laws”, February 2018. Available at <https://www.theguardian.com/world/pakistans-blasphemy-laws>.

258 Sections 295-B and 295-C of the Pakistan Penal Code. Available at <https://www.oecd.org/site/adboecdanti-corruptioninitiative/46816797.pdf>.

259 UPR Info, Database of Recommendations. Available at https://www.upr-info.org/database/index.php?limit=0&f_SUR=130&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRGrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly.

260 Xari Jalil, “US urges Pakistan to repeal blasphemy laws”, Dawn, 14 November 2017. Available at <https://www.dawn.com/news/1370349>.

261 Human Rights Watch, Pakistan: “Election to UN Rights Body Spotlights Failings”, 18 October 2017. Available at <https://www.hrw.org/news/2017/10/18/pakistan-election-un-rights-body-spotlights-failings>.

Pakistan's commitment called for advancing the atmosphere for human rights in the country. Enforced disappearances is a critical human rights issue in Pakistan, as more than a thousand cases remain unresolved.²⁶² The UN Working Group on enforced or involuntary disappearances noted in 2016²⁶³ that there is "a climate of impunity in Pakistan with regard to enforced disappearances, and the authorities are not sufficiently dedicated to investigate cases of enforced disappearance and hold the perpetrators accountable."²⁶⁴ Pakistan is yet to sign the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).²⁶⁵

Pakistan pledged to protect the rights of minorities and committed to focus interventions for their rights. In a positive move in 2014, the Supreme Court of Pakistan expanded the scope of Article 20 of the Constitution, which guarantees the right to freedom of religion. The Court explained that religion cannot be defined in rigid terms, and held that freedom of religion must also include freedom of conscience, thought, expression, belief and faith.²⁶⁶ In the same year, in an another judgement, the Supreme Court of Pakistan ordered the establishment of a National Council for the Rights of Minorities.²⁶⁷ While the Council was formally established, no representatives of minority groups were consulted in the process.²⁶⁸ Further, Pakistan continues to not recognize non-religious minorities, such as the Sindhi, Balochi or the indigenous predominantly Shia people of Gilgit-Baltistan.²⁶⁹ There have been positive developments on the issue of recognizing the rights of the transgender community. In a series of steps toward legally recognizing gender identity, the first bill safeguarding the rights of transgender persons was introduced in parliament in August 2017. It brought into effect the Transgender Persons (Protection of Rights) Bill, 2018 in May.²⁷⁰ Many members are contesting in the forthcoming general elections in July 2018.²⁷¹ Attacks against and deaths of individuals belonging to vulnerable sections, particularly transgenders have not been controlled.²⁷² Transgender women face harassment, mistreatment and exclusion from society.

Pakistan lifted its moratorium on the death penalty in December 2014, after the terrorist attack on a school in Peshawar. Since then, it has executed more than 400 people,²⁷³ including those with mental disabilities, minors, and those who were convicted for blasphemy and drug-related offences.²⁷⁴ Pakistan had approved the functioning of secret military courts empowered to try civilians and impose the death penalty in terrorism-related cases for a period of two years.²⁷⁵

262 Centre for Civil and Political Rights, Pakistan: "Counter-terrorism measures, including use of torture and re-introduction of death penalty in violation of ICCPR". Available at <http://ccprcentre.org/ccprpages/pakistan-counter-terrorism-measures-including-use-of-torture-and-re-introduction-of-death-penalty-in-violation-of-iccpr>

263 UN Human Rights Council, Report of the Working Group on enforced or involuntary disappearances, Addendum: "Follow-up report to the recommendations made by the Working Group: Missions to Congo and Pakistan", 13 September 2016, A/HRC/33/51/Add.7. Available at <http://www.refworld.org/docid/57e14c7f4.html>.

264 Amnesty International, Pakistan: "End enforced disappearances now", 6 November 2017. Available at <https://www.amnesty.org/en/latest/research/2017/11/pakistan-end-enforced-disappearances-now/>.

265 United Nations Treaty Collection, International Convention for the Protection of All Persons from Enforced Disappearance. Available at https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-16&chapter=4&lang=en.

266 Daily Times, "SC takes up petition for implementation of hallmark verdict on minorities' rights", 5 June 2018. Available at <https://dailytimes.com.pk/249029/sc-takes-up-petition-for-implementation-of-hallmark-verdict-on-minorities-rights/>.

267 The Supreme Court of Pakistan, Available at http://www.supremecourt.gov.pk/web/user_files/File/smc_1_2014.pdf.

268 United Nations General Assembly, Summary of Stakeholders' submissions on Pakistan, 23 August 2017. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/245/64/PDF/G1724564.pdf?OpenElement>.

269 United Nations General Assembly, Summary of Stakeholders' submissions on Pakistan, 23 August 2017. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/245/64/PDF/G1724564.pdf?OpenElement>.

270 Stephen Peters, "Historic: Pakistan Enacts Monumental Legislation Protecting Transgender People from Discrimination," Human Rights Campaign, 22 February 2018. Available at <https://www.hrc.org/blog/pakistan-enacts-legislation-protecting-trans-people-from-discrimination>.

271 Sehrish Wasif, "13 transgender persons will contest general elections this year", The Express Tribune, 23 May 2018. Available at <https://tribune.com.pk/story/1717448/1-13-transgender-persons-will-contest-general-elections-year/>.

272 Radio Free Europe, "Gunmen in Pakistan Kill Transgender Woman, Friend", 28 March 2018. Available at <https://www.rferl.org/a/pakistan-transgender-woman-killed-peshawar/29129594.html>

273 Amnesty International, "Death Sentences and Executions" (2014). Available at <https://www.amnesty.ch/de/themen/todesstrafe/dok/2015/statistik-2014/death-penalty-report-2014-76-s-pdf-2-6-mb>.

274 Centre for Civil and Political Rights, "Pakistan: Counter-terrorism measures, including use of torture and re-introduction of death penalty in violation of ICCPR". Available at <http://ccprcentre.org/ccprpages/pakistan-counter-terrorism-measures-including-use-of-torture-and-re-introduction-of-death-penalty-in-violation-of-iccpr>.

275 United Nations General Assembly, Summary of Stakeholders' submissions on Pakistan, 23 August 2017. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/245/64/PDF/G1724564.pdf?OpenElement>.

Pakistan voted in favour of the integrity of the judicial system. The judiciary has a well-defined structure of powers and functions in Pakistan, however reports of judicial overreach and misuse of power are frequent²⁷⁶ Judicial independence is a serious concern as bribes and irregular payments in return for favourable judgements are common.²⁷⁷ Furthermore, systemic flaws in Pakistan's criminal justice system contribute to human rights violations. As a result of the ambiguous definition of "terrorism" in the Anti-Terrorism Act, the courts set up under the Act are inundated with "ordinary criminal cases".²⁷⁸ There are allegations of misuse of counter-terrorism measures by law enforcement agents. On the investigation end, the police fail to follow the proper procedures. Excessive use of force, fake encounters, inconsistency in case diaries and misapplication of the relevant provisions are rampant.²⁷⁹

Torture is not criminalized according to international standards and there is no independent mechanism to investigate allegations of torture.²⁸⁰ Pakistan has further used the "war on terror" rhetoric to justify state-imposed terrorism and militarism in tribal areas, particularly to suppress the economically and politically marginalized Pashtun community.²⁸¹

276 Mohammed Hanif, "Pakistan's judges are on a mission. But what is it?", The New York Times, 1 March 2018. Available at <https://www.nytimes.com/2018/03/01/opinion/pakistan-judges-mission-corruption.html>.

277 World Economic Forum, Pakistan. Available at <http://reports.weforum.org/global-competitiveness-report-2015-2016/economies/#economy=PAK>.

278 Research Society of International Law, "Counter-Terrorism and Human Rights: A Review of Anti-Terrorism Court Trial Procedure in Pakistan", February 2018. Available at http://rsilpak.org/wp-content/uploads/2018/02/2018_ABA-Report.pdf.

279 Ibid.

280 Research Society of International Law, "Human Rights and Pakistan's Counter-Terrorism Legislative Landscape", January 2017. Available at <http://rsilpak.org/wp-content/uploads/2017/05/2.-2017-Human-Rights-and-Pakistan%E2%80%99s-Counter-Terrorism-Legislative-Landscape-Final.pdf>.

281 The Conversation, "Pakistan's 'Pashtun Spring' pits human rights demands against war on terror politics", 22 February 2018: Available at <https://theconversation.com/pakistans-pashtun-spring-pits-human-rights-demands-against-war-on-terror-politics-91687>.

I. Introduction

Rwanda announced its independence in 1961. The country went through a military rule during 1973-78, when a new constitution was passed. 1990-94 was a period of civil war in Rwanda which ultimately led to the 1994 genocide. The UN Security Council created the International Criminal Tribunal for Rwanda in November 1994 to allow a process of national reconciliation and maintain peace in the region.²⁸² Rwanda joined the Commonwealth in November 2009, becoming its 54th member. Rwanda also happens to be a Commonwealth country that historically is not a former English colony.²⁸³ The present Constitution came into force in 2003.²⁸⁴ However, a referendum was held in 2015 to allow amendments to the Constitution. The referendum allowed Paul Kagame to stand for election for a third term.²⁸⁵

Rwanda's term at the Council ends in 2019, having been elected in 2016 it began its term in 2017. This is the first time Rwanda has stood for election at the Council. At the moment, the country also holds a seat for vice-presidency at the Council.²⁸⁶

II. Voluntary pledges/commitments

Rwanda did not submit its voluntary pledge and got elected in a clean slate election, i.e. with four candidates for four vacant African seats. Though Rwanda's foreign policy have some reference to human rights²⁸⁷ Rwanda committed itself to human rights, law and order, honoring international commitments and obligations and transparency in judicial processes.

III. Rwanda's participation in the 37th Session of the HRC

Rwanda's level of participation at the Council was low. The country did make a statement²⁸⁸ during the Interactive Dialogue with the High Commissioner on his annual report,²⁸⁹ where it spoke on behalf of a group of countries, calling for the establishment of an alert system to prevent genocide and other mass atrocities. It pushed for resilience and capacity building and implementation of preventative measures. For the remaining panel discussions and general debate, Rwanda was silent.

Notably, the country said nothing during interactive dialogues or clustered IDs on *freedom of religion and belief, the prevention of genocide, on a healthy environment and on right to food and sale of children*.

No comments were made during the annual meeting on the rights of the child including on the panel focused on children in humanitarian situations. Similarly, the country was silent during the general debate on human rights situations regarding the Council's attention, the general debate on racial discrimination, and the general debate on the UPR mechanism.

Turning to Rwanda's position on specific country issues, there was again a noticeable silence when discussing *human rights situations in Democratic People's Republic of Korea, Iran, Myanmar, Eritrea, South Sudan, Libya, Ukraine and the*

282 Rwanda history. Available at <http://thecommonwealth.org/our-member-countries/rwanda/history>.

283 Rwanda and the Commonwealth Available at <http://thecommonwealth.org/our-member-countries/rwanda>.

284 Rwanda: Constitution and politics. Available at <http://thecommonwealth.org/our-member-countries/rwanda/constitution-politics>.

285 Human Rights Watch on the referendum. Available at <https://www.hrw.org/africa/rwanda>.

286 Office of the High Commissioner for Human Rights, Display news. Available at <http://www.ohchr.org/EN/HRBodies/HRC/Pages/MembersByGroup.aspx>.

287 Ministry of Foreign Affairs outlines priorities. Available at <http://www.minaffet.gov.rw/policies/foreign-policy-diplomacy-and-cooperation/>.

288 Office of the High Commissioner for Human Rights, Display news. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22781&LangID=E>.

289 High Commissioner's annual report. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/0CFA6342CB0D4D51C125824900452F69?OpenDocument.

Central African Republic. Further, the country refrained from voicing opinions on the *Occupied Palestinian Territories, Burundi, in the multiple sessions on Syria and Mali*.

IV. Rwanda's voting pattern on resolutions:

On the 16 resolutions adopted through a voting process, Rwanda voted in favour of nine resolutions, and abstained from seven resolutions. Rwanda did not vote against any resolution. However, Rwanda made no statements or explanations of vote at the time of voting on resolutions.

Thematic resolutions

Rwanda voted in favour of six thematic resolutions concerning *right to food*,²⁹⁰ *effects of foreign debt*,²⁹¹ *countering the world drug problem*,²⁹² *Integrity of the judicial system*,²⁹³ *Human rights and unilateral coercive measures*,²⁹⁴ and the resolution *Promoting mutually beneficial cooperation in the field of human rights*.²⁹⁵

Country situations

On country situations Rwanda voted in favour of four resolutions concerning *human rights situation in Eastern Ghouta*,²⁹⁶ *human rights in Syrian Arab Republic*,²⁹⁷ *situation of human rights in Myanmar*,²⁹⁸ and on *right of the Palestinian people to self-determination*.²⁹⁹

Rwanda abstained from voting on five resolutions concerning *human rights in Islamic Republic of Iran*,³⁰⁰ *cooperation with Georgia*,³⁰¹ *situation of human rights in occupied Syrian Golan*,³⁰² *Israeli settlements in occupied Palestinian Territory*,³⁰³ and on *ensuring accountability and justice for violations of international law in occupied Palestinian Territory*.³⁰⁴

Rwanda did not vote against any country situation resolution.

V. Analysis- Compliance to pledges

a. Engagement with UN Special Procedures

Rwanda has four visit requests from the Special Procedures mechanisms pending including that of the SR on Discrimination against Women, SR on Truth, SR on Arbitrary Detention and SR on Rights to Water and Sanitation.³⁰⁵

290 Resolution 37/10 The right to food (2018).

291 Resolution 37/11 The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights (2018).

292 Resolution 37/42 Contribution to the implementation of the joint commitment to effectively addressing and countering the world drug problem with regard to human rights (2018).

293 Resolution 37/3 Integrity of the judicial system (2018).

294 Resolution 37/21 Human rights and unilateral coercive measures (2018).

295 Resolution 37/23 Promoting mutually beneficial cooperation in the field of human rights (2018).

296 Resolution 37/1 Eastern Ghouta (2018).

297 Resolution 37/29 The human rights situation in the Syrian Arab Republic (2018).

298 Resolution 37/32 Situation of human rights in Myanmar (2018).

299 Resolution 37/34 Right of the Palestinian people to self-determination (2018).

300 Resolution 37/30 Situation of human rights in the Islamic Republic of Iran (2018).

301 Resolution 37/40 Cooperation with Georgia (2018).

302 Resolution 37/33 Human rights in the occupied Syrian Golan (2018).

303 Resolution 37/36 Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan (2018).

304 Resolution 37/37 Ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem (2018).

305 Country visits of Special Procedures of the Human Rights Council since 1998. Available at http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en.

b. Compliance with Reporting Obligations to Treaty Bodies

Rwanda has a good record on compliance with Treaty body reporting mechanisms. Rwanda has submitted reports on time to CERD, CEDAW, and CAT. Other reports such as CRPD, CRC, CCPR, CRC-OP-AC and CRC-OP-SC were also submitted, although with a delay of three to six years.³⁰⁶ Though Rwanda has accepted inquiry procedures under CAT, CEDAW-OP and CRPD-OP but it has not accepted individual complaint procedure under CEDAW-OP and CRPD-OP.

The Committee on Elimination of Discrimination against Women raised concerns over gender based violence, trafficking and exploitation in women and girls, obstacles against girls in accessing education, protection from discrimination in the workplace to name a few.³⁰⁷ The UN reports that gender based violence remains a major problem in Rwanda.³⁰⁸

c. Compliance with Thematic Issues

Rwanda voted in favour of the resolution on the *integrity of the judicial system*³⁰⁹ which called on states to promptly and impartially investigate cases of torture and inhuman treatment. However, the reality of access to justice³¹⁰ and protection of rights under the justice system³¹¹ in Rwanda are key problems. The Committee against Torture raised concerns over the government's complicity in extrajudicial killings, enforced disappearances, intimidation of journalists and human rights defenders.³¹² The Committee's concerns are in line with findings reported by Human Rights Watch in its 2017 report.³¹³

Furthermore, Rwanda joined the consensus to support resolution on *the negative impact of corruption on right to be free from torture*, through which the Council urged States to adopt, implement and comply fully with legal and procedural safeguards against torture and other cruel, inhuman or degrading treatment or punishment and ensure that these safeguards are not compromised by any form or practice of corruption. In practice torture, illegal detention and inhumane treatment at detention centers remains a serious human rights concern in Rwanda.³¹⁴ In 2017, during its concluding observation on the second periodic report of Rwanda, Committee against Torture raised serious concerns on the procedural safeguards for detainees set out in the Code of Criminal Procedure, in which medical examination of a detainee is prosecutor's discretion and not yet enshrined as a right in the legislation.³¹⁵

Human Rights Watch reported 104 confirmed cases of illegal detention and people subjected to torture or other inhumane treatment.³¹⁶ This represent a serious violation of human rights and its international obligations since Rwanda has ratified the *Optional Protocol on the Convention against Torture* in 2015. Yet the government is complicit in its systematic use. Furthermore, the government has failed to set up a system to prevent torture at a national level and allow the Subcommittee on Prevention of Torture to visit the detention centers, a requirement under the protocol.³¹⁷

306 2018 Deadlines for the submission of documentation. Available at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/MasterCalendar.aspx .

307 Convention on the Elimination of All Forms of Discrimination against Women 66 Session. Available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1071&Lang=en.

308 United Nations Rwanda, A partnership to end Gender-Based Violence, 19 June 2014. Available at <http://www.rw.one.un.org/press-center/success-story/partnership-end-gender-based-violence>.

309 Resolution 37/3 Integrity of the judicial system (2018).

310 Daniel Bekele, Rwanda Turns the Clock Back on Access to Justice, Human Rights Watch. 11 March 2016. Available at <https://www.hrw.org/news/2016/03/11/dispatches-rwanda-turns-clock-back-access-justice> .

311 Human Rights Watch, World Report -2017. Available at <https://www.hrw.org/world-report/2018/country-chapters/rwanda>.

312 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Concluding observations on the second periodic report of Rwanda, 21 December 2017. Available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/RWA/CO/2&Lang=En.

313 Torture and Unlawful Military Detention in Rwanda. Available at <https://www.hrw.org/node/309923/>

314 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Concluding observations on the second periodic report of Rwanda, 21 December 2017. Available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/RWA/CO/2&Lang=En.

315 Ibid.

316 Azad Essa, Rwanda illegally detaining, torturing civilians: HRW, Al Jazeera, 10 October 2017. Available at <https://www.aljazeera.com/news/2017/10/rwanda-illegally-detaining-torturing-civilians-hrw-171010094439905.html>.

317 Bénédicte Jeannerod, Rwanda's torture problem, Human Rights Watch, 23 November 2017. Available at <https://www.hrw.org/news/2017/11/23/rwandas-torture-problem>.

During the interactive dialogue, Special Rapporteur on Human Rights Defenders noted that Rwanda had not replied to his letter on the alleged kidnapping, prosecution, and interrogation of Robert Mugabe, a journalist and human rights defender.³¹⁸ Mr. Mugabe has submitted a report to the UPR on Rwanda in November 2015, subsequently attending the Council session in September 2016. Mr. Mugabe had then been subjected to intimidation, attempted kidnapping, charged with treason, intensive interrogations. Rwanda made no comments during the interactive dialogue.³¹⁹ Protection of human rights defenders in Rwanda has always been a concern. Freedom of expression of human rights defenders has often been curtailed by the state, through a language of condemnation and ethnic divisionism.³²⁰ In the last UPR session, Rwanda accepted the recommendation to ensure freedom of expression and opinion, and promised to strengthen policies on human rights defenders.³²¹ However, the current state of affairs with respect to human rights defenders and journalists says otherwise. In one year, four journalists have reportedly been either embroiled in legal matters or gone missing.³²²

318 United Nations General Assembly, Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst, 16 February 2018. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/043/30/PDF/G1804330.pdf?OpenElement>.

319 Office of the High Commissioner for Human Rights, Display news. Available at <http://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=22740&LangID=E>.

320 ISHR report on Rwanda HRD. Available at <http://www.ishr.ch/sites/default/files/article/files/rwanda.pdf>.

321 Universal Periodic Review- Rwanda: Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/287/77/PDF/G1528777.pdf?OpenElement>.

322 Human Rights Watch, World Report -2016. Available at <https://www.hrw.org/world-report/2017/country-chapters/rwanda>.

I. Introduction

South Africa became a democracy in 1994 after undergoing apartheid for 46 years. Since 1994, South Africa successfully undertook free and fair elections and made huge strides towards ensuring equality and equal representation for all.³²³ Equality, democracy and human rights were entrenched in documents such as the Freedom Charter adopted in 1955. It emphasizes that non-racialism, non-discrimination, liberty, peace, democratic organs of self-government and equality are essential to achieve the common objective of a “South Africa that belongs to all who live in it, black and white”.³²⁴ These values inspired thousands during the years of struggle and were entrenched in the founding provisions of the 1996 Constitution of the Republic of South Africa. Its Constitution, one of the most progressive in the world, affirms the aspirations of South African society to live with human dignity, equality and freedom.³²⁵

South Africa served at the HRC from June 2006 to June 2010 and then from January 2014 to December 2016.³²⁶ South Africa was re-elected to serve a second consecutive three-year term starting 1 January 2017.³²⁷ South Africa was sponsor/co-sponsor of five thematic resolutions and was additional sponsor of five more thematic resolutions. South Africa also sponsored/co-sponsored two country-situation resolutions and was additional sponsor of four country-situation resolutions.

II. Voluntary Pledges/Commitments

In its voluntary pledge,³²⁸ South Africa undertook to:

- Continue to receive visits of the special procedures and mechanisms of the HRC in keeping with their various mandates, consistent with the standing invitation to all thematic special procedures.
- Respect for the integrity and dignity of the Office of the High Commissioner for Human Rights (OHCHR).
- Continue contributing financially to the OHCHR.
- Continue to support important funds and programmes of the OHCHR and other entities aimed at advancing the cause of human rights globally, such as the United Nations Voluntary Fund for Victims of Torture, the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery, the recently established United Nations Democracy Fund and the United Nations Development Fund for Women.
- Continue with its unwavering position to advocate for a balanced Sustainable Development Programme within the human rights framework.
- Ensure that the future sessions of the HRC will focus on the imperative need to update the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights through an amendment protocol which will seek to place the right to development at par with all other rights enumerated in those core instruments.
- Continue to submit country reports to human rights treaty monitoring bodies.
- Undertake to submit in the near future a National Action Plan (NAP) exclusively covering the area of racism and racial discrimination as required by the Durban Declaration and Programme of Action (DDPA).

323 A report on commitments and performances of the Commonwealth member states of the UN Human Rights Council. Available at http://humanrightsinitiative.org/old/publications/hradvocacy/easier_said_than_done.pdf.

324 ANC (South Africa), and Nederlands Instituut voor Zuidelijk Afrika (Amsterdam). “South Africa Belongs to All Who Live in It, Black and White - Freedom Charter 1955”. Available at http://www.anc.org.za/sites/default/files/docs/The_Freedom_Charter.pdf.

325 Constitution of the Republic of South Africa, Chapter II, Bill of Rights. Available at <http://www.justice.gov.za/legislation/constitution/SACConstitution-web-eng.pdf>.

326 The Commonwealth at The Human Rights Council: A Decade of Voting (2006-2016). Available at <http://www.humanrightsinitiative.org/download/1497945875THE%20COMMONWEALTH%20AT%20THE%20HUMAN%20RIGHTS%20COUNCIL.pdf>.

327 The Permanent Mission of South Africa to the United Nations, Address to the President of the General Assembly, 26 April 2007. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N07/327/13/PDF/N0732713.pdf?OpenElement>.

328 The Permanent Mission of South Africa to the United Nations, Address to the Secretariat, 9 September 2013. Available at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/68/391.

In its 2013 pledge, South Africa highlighted that it is in the process of ratifying international instruments such as: the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*; the *International Convention on the Protection of All Persons from Enforced Disappearance*; the *Convention relating to the Status of Stateless Persons*; and the *Convention on the Reduction of Statelessness*.

III. South Africa's Participation in the 37th Session of the HRC

South Africa participated in most of the general debates, panel discussions and interactive dialogues, made statements and sponsored resolutions. In the High-Level Segment, the Deputy Minister of International Relations and Cooperation of the Republic of South Africa, L. Landers highlighted South Africa's "commitment against racism, racial discrimination, xenophobia and related intolerance as well as poverty and inequality."³²⁹

S. No.	Panel Discussion	South Africa's Response
1.	<i>Panel on the 70th anniversary of the Universal Declaration of Human Rights and the 25th anniversary of the Vienna Declaration and Programme of Action</i>	South Africa declared that inequality amongst people and nations was one of the greatest challenges facing the world and asserted that the individual had to be at the centre of development, including as a beneficiary. ³³⁰
2.	<i>Panel discussion on promoting tolerance, inclusion, unity and respect for diversity</i>	South Africa urged the Human Rights Council to transcend the divisions that arose from addressing issues of discrimination to better respond to the situation. ³³¹
	General Debate	South Africa's Response
1.	<i>On human rights bodies and mechanisms</i>	South Africa stated that youth could play a pivotal role in reconciliation processes and it further supported recommendations that States take concrete actions to combat hate speech and intolerance. ³³²
2.	<i>On racism, racial discrimination, xenophobia and related forms of intolerance</i>	South Africa called for a speedy implementation of the General Assembly resolution 72/157 of 19 December 2017. It raised its concern over the rise of incidents of violent and racially-motivated hatred, and racial profiling in various parts of the world. ³³³
3.	<i>On the human rights situation in Palestine and other occupied Arab territories</i>	South Africa condemned Israel's settlement activities and expansion in the occupied Palestinian territory. It further condemned Israel's discriminatory law enforcement and coercive environment leading to population transfers, forced evictions and collective punishments. ³³⁴

329 Statement by H.E. Deputy Minister L. Landers to the High-Level Segment, 37th Session of the United Nations Human Rights Council, 27 February 2018. Available at <http://www.dirco.gov.za/docs/speeches/2018/land0227.htm>.

330 The United Nations Office at Geneva, Council Holds Panel on Anniversaries Of The Universal Declaration of Human Rights And the Vienna Declaration and Plan of Action, 28 February 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/06D31B179EC6F456C12582420069AE6F?OpenDocument

331 United Nations Human Rights Council, Human Rights Council holds panel discussion on promoting tolerance, inclusion, unity and respect for diversity, 19 March 2018. Available at <http://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=22845&LangID=E>

332 The United Nations Office at Geneva, Council Holds Dialogue With the Special Rapporteur on Minority Issues, Starts General Debate on Human Rights Bodies and Mechanisms, 14 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/F33B17ED9042F47AC12582500067D2A0?OpenDocument&cntxt=CFD30&cookieLang=en

333 UN Human Rights Council, Human Rights Council holds general debate on racism, racial discrimination, xenophobia and related forms of intolerance, 20 March 2018. Available at <http://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=22867&LangID=E>

334 UN Human Rights Council, Human Rights Council holds general debate on human rights situation in Palestine and other occupied Arab territories, 20 March 2018. Available at <http://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=22859&LangID=E>

	Interactive/Clustered Dialogue	South Africa's Response
1.	<i>On adequate housing and foreign debt</i>	South Africa emphasized the importance of the right to development without having measures imposed on it that infringed on human rights. South Africa proposed a question to the Special Rapporteur on the right to housing to share what positive obligations could be in place to ensure the right to housing. ³³⁵
2.	<i>On promotion of human rights while countering terrorism, and on cultural rights</i>	South Africa believed that cultural heritage was an important referential element that defined cultural rights. Cultural rights could assist in restoring human dignity, social cohesion and national identity between people along various lines of division. ³³⁶
3.	<i>On the right to privacy, and on the sale of children, child prostitution and child pornography</i>	South Africa agreed with the conclusions of the Special Rapporteur with regard to surrogacy, and encouraged international cooperation on this issue. It further noted that a child's right to know had to take into consideration broader social issues, such as the ability of the child to come to terms with finding out his/her biological origins. ³³⁷
4.	<i>On violence against children and on children and armed conflict</i>	South Africa informed that corporal punishment in the country is declared illegal by a High Court order in 2017. It further raised its concern over the plight of children in armed conflict and about the politicization of humanitarian aid. ³³⁸
5.	<i>On rights of persons with disabilities and on rights of albinism</i>	South Africa noted, that as per the Constitutional Court, the State has the primary role in promoting the rights of persons with disabilities. On persons with albinism, it reminded the members, that it was the first country to record the successful prosecution of a person who had planned and organized a crime against a person with albinism. ³³⁹
6.	<i>On the High Commissioner's Annual Report</i>	South Africa encouraged the High Commissioner to find innovative ways of engaging with governments, so as to enlist their cooperation and unlock opportunities to address human rights violations and abuses. South Africa emphasized that it is important to consider that there were requirements that could be applied in achieving desired goals, including respect for regional processes; merely highlighting faults is not productive. ³⁴⁰
7.	<i>On the situation of human rights in the Palestinian territories occupied since 1967</i>	South Africa said that abuses of the health rights of Palestinians had reached levels of depravity and sheer inhumanity. It asserted that the system of applications for exit permits, meant in effect, that Israeli officials were passing the death sentence on people requiring urgent medical care. ³⁴¹

335 Office of the High Commissioner for Human Rights, Display News. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22736&LangID=E>

336 The United Nations Office At Geneva, Human Rights Council discusses the protection of human rights while countering terrorism , and cultural rights, 1 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/28D5FCE4CC9E5575C125824300640314?OpenDocument

337 The United Nations Office At Geneva, Human Rights Council discusses the protection of human rights while countering terrorism, and cultural rights, 1 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/28D5FCE4CC9E5575C125824300640314?OpenDocument

338 The United Nations Office At Geneva , Human Rights Council holds interactive dialogue on violence against children and on children and armed conflict, 6 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/7B7C1330FE581087C125824800555BF7?OpenDocument

339 The United Nations Office At Geneva , Human Rights Council holds interactive dialogue on violence against children and on children and armed conflict, 6 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/7B7C1330FE581087C125824800555BF7?OpenDocument

340 United Nations Office at Geneva, Human Rights Council Holds Interactive Dialogue on Violence against Children and Children in Armed Conflict, 6 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/7B7C1330FE581087C125824800555BF7?OpenDocument

341 United Nations Office at Geneva, Human Rights Council Holds Interactive Dialogue on Violence against Children and Children in Armed Conflict, 6 March 2018. Available at https://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/7B7C1330FE581087C125824800555BF7?OpenDocument

IV. South Africa's Voting Pattern on Resolutions

Thematic Resolutions

South Africa voted in favour of the resolutions on *integrity of the judicial system*,³⁴² *right to food*,³⁴³ *effects of foreign debt*,³⁴⁴ and *human rights and coercive unilateral measures*.³⁴⁵ It did not provide an explanation on its votes on the resolutions. South Africa also voted in favour of a resolution on *promoting cooperation in the field of human rights*.³⁴⁶ South Africa, in a general comment, supported the draft resolution as it contained important principles it believed in and because it encouraged an approach that was key to the Council's mandate to operate in a cooperative manner. South Africa went on to add that all programmes of cooperation, capacity building and technical assistance should fundamentally further the realization of human rights as laid down in the Universal Declaration of Human Rights.

On thematic resolutions, South Africa abstained from voting on one resolution concerning the *contribution to the implementation of the joint commitment to effectively addressing and countering the world drug problem with regard to human rights*.³⁴⁷

Country Situations

On country situations, South Africa voted in favour of five resolutions concerning human rights situation in the *occupied Syrian Golan*,³⁴⁸ *OPT*,³⁴⁹ *right of the Palestinian people to self-determination*,³⁵⁰ *Israeli settlement in OPT*,³⁵¹ and *ensuring accountability and justice in OPT*.³⁵²

On country situations, South Africa abstained from voting on a resolution on *situation in Eastern Ghouta*.³⁵³ South Africa cited procedural grounds, stating that the Council had not been given sufficient notice of the urgent debate and that Syria was due to be discussed later anyway, in the Council's session.³⁵⁴

South Africa further abstained from voting on resolutions on: *human rights situation in the Syrian Arab Republic*,³⁵⁵ *human rights situation in the Islamic Republic of Iran*,³⁵⁶ *human rights situation in Myanmar*,³⁵⁷ and *cooperation with Georgia*.³⁵⁸

V. Analysis: Compliance with Pledges and Commitments

a. Engagement with UN Special Procedures

In its pledge in 2013, South Africa harped on "constantly and progressively receiving the visits of the special procedures

342 Resolution 37/3: Integrity of the judicial system (2018).

343 Resolution 37/10: The right to food (2018).

344 Resolution 37/11: The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights (2018).

345 Resolution 37/21: Human rights and unilateral coercive measures (2018).

346 Resolution 37/23: Promoting mutually beneficial cooperation in the field of human rights (2018).

347 Resolution 37/42 Contribution to the implementation of the joint commitment to effectively addressing and countering the world drug problem with regard to human rights (2018).

348 Resolution 37/33: Human rights in the occupied Syrian Golan (2018).

349 Resolution 37/35: Human rights situation in the Occupied Palestinian Territory, including East Jerusalem (2018).

350 Resolution 37/34: Right of the Palestinian people to self-determination (2018).

351 Resolution 37/36: Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan (2018).

352 Resolution 37/37: Ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem (2018).

353 Resolution 37/1: Eastern Ghouta (2018).

354 Faizel Patel, Cage Africa: "SA Abstention from UN Vote on Eastern Ghouta Atrocities Shocking!", Radio Islam News, 7 March 2018. Available at <http://www.radioislam.org.za/a/index.php/latest-news/23155-cage-africa-sa-abstention-from-un-vote-on-eastern-ghouta-atrocities-shocking.html>.

355 Resolution 37/29: The human rights situation in the Syrian Arab Republic (2018).

356 Resolution 37/30: Situation of human rights in the Islamic Republic of Iran (2018).

357 Resolution 37/32: Situation of human rights in Myanmar (2018).

358 Resolution 37/40: Cooperation with Georgia (2018).

and mechanisms of the Human Rights Council". However, it has pending requests from 18 Special Rapporteurs. These include requests from the Special Rapporteurs on torture, on freedom of assembly, on racism, on extrajudicial, summary and arbitrary executions, and on arbitrary detentions. It also has a pending request on the Working Group on disappearances.³⁵⁹ South Africa received five requests from special procedures in 2018. Even after the South African cabinet issued an open invitation on 30 October 2002, to all the special procedures of the Human Rights Council to visit the country and undertake enquiries on the status of the enjoyment of human rights consistent with their respective mandates, South Africa has shown reluctance to accept requests from special procedures as a member of HRC.³⁶⁰

b. Compliance with Reporting Obligations to Treaty Bodies

South Africa's pledge to submit country reports to human rights Treaty Monitoring Bodies was mostly realized, with only two reports pending: one to CEDAW since 2015 and another to CRC-OP-AC since 2011. Furthermore, though South Africa has fulfilled its reporting requirements under CAT, CCPR, CERD, CRC, CRPD and CESC, many of these reports were submitted after a delay of four to fourteen years.³⁶¹

Furthermore, South Africa has not accepted inquiry procedures while ratifying treaties on *Inquiry Procedure under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*³⁶² and *Inquiry Procedure under the Optional Protocol to the Convention on the Rights of the Child*.³⁶³

c. Compliance on Thematic Issues

South Africa pledged to continue supporting important funds and programmes within the OHCHR aimed at advancing the cause of human rights globally, such as the Voluntary Fund for Victims of Torture, the Voluntary Fund for Victims of Contemporary Forms of Slavery and the United Nations Democracy Fund (UNDEF). However, South Africa has not contributed to UNDEF for the last four years.³⁶⁴ It was also one of the lowest contributors to the Voluntary Fund for Victims of Contemporary Forms of Slavery.³⁶⁵

In its voluntary pledge in 2013, South Africa committed to coordinate with UN mechanisms, and added a "focus on the imperative need to update the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights."³⁶⁶ Nevertheless, South Africa abstained from voting on multiple resolutions that acknowledged ongoing concerns about civil and political rights in Syria, Iran, Myanmar and Georgia. Advocacy group, Cage Africa, also condemned South Africa's decision to abstain from a UN vote calling for an urgent probe into atrocities committed in Eastern Ghouta in Syria,³⁶⁷ which called for all parties involved to immediately end all attacks against civilians in Eastern Ghouta.

South Africa further abstained from voting on the resolution *concerning the human rights violation of Rohingyas in Myanmar*. The international community and the OHCHR have strongly condemned the violence,³⁶⁸ but the South African response was lukewarm.³⁶⁹ This goes contrary to South Africa's pledge to "respect the integrity and dignity of

359 United Nations Human Rights Office of The High Commissioner: Country visits of Special Procedures of the Human Rights Council since 1998. Available at http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en.

360 South Africa's Country Report to the Human Rights Council's Universal Periodic Review Mechanism: 15 April 2008. Available at <http://www.justice.gov.za/ilr/docs/2008-upr-country-report.pdf>.

361 United Nations Human Rights Office of the High Commissioner: 2018 Deadlines for the submission of documentation. Available at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/MasterCalendar.aspx.

362 Ibid.

363 Ibid.

364 United Nations Democracy Fund: Status of Contributions by Cumulative Amount as at 10 March 2018. Available at <https://www.un.org/democracyfund/contribution-table>.

365 UN Voluntary Trust Fund on Contemporary Forms of Slavery. Available at <http://www.ohchr.org/Documents/Issues/Slavery/UN-VTCFS/ListOfDonors.pdf>.

366 The Permanent Mission of the Republic of South Africa to the United Nations, Aide memoire: In support of South Africa's candidature of the Human Rights Council, 2 May 2006. Available at <http://www.un.org/ga/60/elect/hrc/southafrica.pdf>.

367 Faizel Patel, Cage Africa: "SA Abstention from UN Vote on Eastern Ghouta Atrocities Shocking!", Radio Islam News, 7 March 2018. Available at <http://www.radioislam.org.za/a/index.php/latest-news/23155-cage-africa-sa-abstention-from-un-vote-on-eastern-ghouta-atrocities-shocking.html>.

368 Al Jazeera and News Agencies: "UN urges Myanmar to end Rohingya violence", 14 September 2017. Available at <https://www.aljazeera.com/news/2017/09/urges-rohingya-violence-170913174112622.html>.

369 Fatima Moosa, "SA Needs a Stronger Stance on the Rohingya Crisis", The Daily Vox, 15 September 2017. Available at <http://www.thedailyvox.co.za/sa-needs-a-stronger-stance-on-the-rohingya-crisis-fatima-moosa/>.

the Office of the High Commissioner for Human Rights". It also failed to condemn terrorist acts committed in Syria.

Furthermore, in 2016, the Human Rights Committee in its concluding observations on the report of South Africa, highlighted incidents of threats, intimidation, harassment, excessive use of force and physical attacks by law enforcement officials against human rights defenders and during public protests.³⁷⁰ In particular, the concern was for those persons working on corporate accountability, land rights and transparency issues, against lesbian, gay, bisexual, transgender and intersex persons, and against HIV activists.³⁷¹ It is pertinent here that as early as 2014, South Africa joined the consensus to support an HRC resolution³⁷² concerning civil society space, and later, in 2016, South Africa voted against a similar resolution.³⁷³

In its pledge, South Africa committed to submit in the near future a National Action Plan (NAP) exclusively covering the area of racism and racial discrimination as required by the Durban Declaration and Programme of Action (DDPA). After the xenophobic attacks of 2015,³⁷⁴ South Africa initiated a process to formulate a *Draft National Action Plan to Combat Racism and Xenophobia (NAP) 2016-21*.³⁷⁵ The slow process is concerning, as till date, it has not been submitted for cabinet approval. Furthermore, in 2016, the Committee on the Elimination of Racial Discrimination (CERD) raised its concerns over discrimination, xenophobia and racism against non-citizens, including refugees, asylum seekers and migrants, which had resulted in numerous violent attacks, leading to deaths and injuries. In the same year, the Human Rights Committee, through its concluding observation on the report submitted by South Africa, recommended that South Africa redouble its efforts to prevent and eradicate all manifestations of racism and xenophobia, and that it improve policing responses to violence against non-nationals.³⁷⁶ As recently as on 23 February 2018, a Tanzanian PhD student at the University of Johannesburg was killed in what may be South Africa's first known violent xenophobic attack on a university campus.³⁷⁷ Furthermore, in the wake of the 2008 and 2015 violence, the government promised to set up special courts to enable quick prosecutions, but this has not yet materialized.³⁷⁸

Irrespective of voting in favour of the resolution on the right to food, South Africa had its own share of the problems. In the report of the Special Rapporteur on the right to food,³⁷⁹ it was observed that a total of 64% of all children (11.9 million) live in families with income poverty (defined in 2008 as an income of less than R570), with significant disparities among regions, ranging from 36.7% in Western Cape to 83.3% in Limpopo.³⁸⁰ It was further observed by the Rapporteur that certain segments of the population remain highly vulnerable to food insecurity. This is despite the fact that the Constitution of the Republic of South Africa guarantees the right of everyone to have access to sufficient food and to social security. It includes appropriate social assistance, if they are unable to support themselves and their dependents.³⁸¹

370 International Covenant on Civil and Political Rights, Concluding Observations on the Initial Report of South Africa, 27 April 2016. Available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/ZAF/CO/1&Lang=En.

371 Resolution CCPR/C/ZAF/CO/1: Concluding observations on the initial report of South Africa (2016).

372 Resolution 27/31: Civil Society Space (2014).

373 Resolution 32/31: Civil Society Space (2016).

374 The Guardian, "Xenophobic violence in South Africa leaves at least five dead", 14 April 2015. Available at <https://www.theguardian.com/world/2015/apr/14/south-africa-xenophobic-violence-outbreak>.

375 National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance 2016-2021. Available at <http://www.justice.gov.za/docs/other-docs/NAP/NAP-A4-PublicConsultationBook.pdf>.

376 Resolution CCPR/C/ZAF/CO/1: Concluding observations on the initial report of South Africa (2016).

377 Laura Freeman & Jenny Lee, "You better go back! Xenophobia at South Africa's universities", Daily Maverick, 20 March 2018. Available at <https://www.dailymaverick.co.za/article/2018-03-20-op-ed-you-better-go-back-xenophobia-at-south-africas-universities/#.WvKITYiFM2w>.

378 Jean Pierre Misago, "Xenophobic violence in the 'Rainbow' nation", Al Jazeera, 1 March 2017. Available at <https://www.aljazeera.com/indepth/opinion/2017/03/xenophobic-violence-rainbow-nation-170301075103169.html>.

379 Report of the Special Rapporteur on the right to food, Olivier De Schutter: 2012. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G12/100/93/PDF/G1210093.pdf?OpenElement>.

380 South African Human Rights Commission/UNICEF, "South Africa's Children – A Review of Equity and Child Rights" (2011), p. 21.

381 Constitution of the Republic of South Africa, Sect. 27(1)(b). Available at <http://www.justice.gov.za/legislation/constitution/SACConstitution-web-eng.pdf>.

I. Introduction

The United Kingdom (UK) held two consecutive terms at the HRC between 2006 and 2010. Even when the UK was not a member of the HRC, it mentioned in the Foreign and Commonwealth Office Report, 2012, that election to the Council would allow it to “shape the UN system to be stronger and more effective” and ensure that the UK would “stay at the forefront” of human rights.³⁸² The United Kingdom was re-elected to serve a second consecutive three-year term effective 1 January 2017.³⁸³

During the 37th session of the HRC, the UK was active at the Council. It was a sponsor of nine thematic resolutions, and an additional sponsor on five other thematic resolutions. Furthermore, the UK was a sponsor of seven country resolutions, and an additional sponsor for two more resolutions.

II. Voluntary Pledges and Commitments

The UK’s voluntary pledge submitted in 2016, focused on the UKs efforts to promote human rights internationally, uphold them domestically, and support UN bodies. They also contain priority issues, including equality and non-discrimination, gender equality, violence against women, religious freedom, and modern slavery, which the UK considered important enough to include in its pledge.

In its campaign in 2016, the UK pledged to:³⁸⁴

- A. Strengthen the role of human rights in the work of the United Nations by:
 - a) Encouraging a fast international response to severe human rights violations and abuses, including in support of conflict prevention.
 - b) Helping States through transition, by supporting stability and reform efforts on the ground.
 - c) Supporting a strong and independent United Nations human rights system.
- B. Translate the 2030 Agenda for Sustainable Development into action that leaves no one behind by:
 - a) Helping women and girls to achieve a voice, choice, and control in development (Sustainable Development Goal 5).
 - b) Tackling the scourge of modern slavery across borders (Target 8.7).
 - c) Supporting work on justice, the rule of law and open societies (Sustainable Development Goal 16).
- C. Stand up for freedom of religion or belief by:
 - a) Defending the freedom of people of all religions and beliefs to live without discrimination and violence.
 - b) Supporting persecuted minorities in the Middle East.
 - c) Advocating in favour of equality and non-discrimination, including on the grounds that freedom of religion or belief can help to counter violent extremism.
- D. Work towards ending violence against women and girls and promote women’s full participation and leadership in political and economic life by:
 - a) Tackling violence against women and girls, including sexual violence in conflict, all forms of domestic violence and harmful practices, including during humanitarian crises.
 - b) Promoting women’s economic empowerment and the representation of women in political and public life, especially in leadership positions.
 - c) Challenging discriminatory laws and practices.
- E. Work towards promoting open societies and challenge threats to civil society.

382 FCO, Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report. Available at http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/186688/Cm_8593_Accessible_complete.pdf

383 The Permanent Mission of the United Kingdom to the United Nations, Human Rights Council: United Kingdom’s voluntary pledges and commitment, 9 December 2015. Available at <https://www.gov.uk/government/publications/un-human-rights-council-united-kingdom-2017-2019-candidate/un-human-rights-council-united-kingdom-2017-2019-candidate>.

384 The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations: Candidature of the United Kingdom to the Human Rights Council. Available at <http://undocs.org/en/A/71/572>.

III. The United Kingdom's Participation in the 37th Session of the HRC

The UK participated in general debates, panel discussions and interactive dialogues, and made a statement during the High-Level Segment (HLS). H.E. Lord Ahmad of Wimbledon, Minister of State for the United Nations, represented the United Kingdom during the HLS. He spoke about the opportunity to increase collective efforts to uphold the rights of individuals, because, as he put it, all around the world, these rights are under threat.³⁸⁵ The minister also underlined the importance of gender equality and freedom of religion, noting that more than 130 million girls were still out of school. In making his point, Lord Ahmad additionally focused on the situations in Syria, Myanmar, North Korea, South Sudan, Gambia and Zimbabwe.³⁸⁶

S. No.	General Debate	The United Kingdom's Response
1.	<i>Racism, racial discrimination, xenophobia and related forms of intolerance</i>	The UK reiterated its strong commitment towards the total elimination of all forms of racial discrimination. It also mentioned the launch of the UK's race disparity audit on the Ethnicity Facts and Figures website. The UK was willing to exchange best practices on the issue with all States and stakeholders across regions. ³⁷³
Panel Discussion		The United Kingdom's Response
1.	<i>Annual full-day meeting on the rights of the child</i>	The UK raised concerns that children are exposed to a wide range of risks in humanitarian situations and that humanitarian crises deprive children of their right to education. It further suggested that child protection, namely the prevention of exploitation, violence and abuse, and the provision of food should be the immediate focus of humanitarian action. ³⁷⁴
2.	<i>Human rights of children in the Syrian Arab Republic</i>	The UK made a statement on behalf of the Syria Core Group and emphasized that the international community must do more to protect children and to ensure that there is accountability for those who have violated or abused children's rights. ³⁷⁵
Interactive/Cluster Dialogue		The United Kingdom's Response
1.	<i>Dialogue with the Special Rapporteur on the right to privacy and with Special Rapporteur on sale for children</i>	The UK believed that that all human rights apply in the online world, just as they do offline, and that States should deliver both privacy and security. ³⁷⁶
2.	<i>Dialogue with the High Commissioner</i>	The UK raised concerns over post-election violence in Honduras, abuses in the DRC and the treatment of Palestinian minors in Israeli military detention. The UK urged Thailand to deliver credible, inclusive elections in line with international standards and called for the restoration of freedom of expression and assembly. The UK expressed concerns over increasing restrictions on freedom of expression in Vietnam and Philippines and about the recent inter-communal violence in Sri Lanka. ³⁷⁷

385 Lord Ahmad marks 70th anniversary of UN Human Rights Declaration. Available at <https://www.gov.uk/government/speeches/lord-ahmad-marks-70th-anniversary-of-un-human-rights-declaration>.

386 Ibid.

387 Oral Statements from the 37th Session of the United Nations Human Rights Council. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=20/03/2018%2000:00:00>.

388 Oral Statements from the 37th Session of the United Nations Human Rights Council. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=05/03/2018%2000:00:00>.

389 Oral Statements from the 37th Session of the United Nations Human Rights Council. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=13/03/2018%2000:00:00>.

390 Oral Statements from the 37th Session of the United Nations Human Rights Council. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=06/03/2018%2000:00:00>.

391 Oral Statements from the 37th Session of the United Nations Human Rights Council. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=08/03/2018%2000:00:00>.

3.	<i>Dialogues on the DPRK, Iran, Myanmar and Eritrea</i>	On the DPRK, the UK condemned the appalling human rights record, and expressed interest on the impact of the expanding market economy on citizens' human rights. On Iran, the UK was concerned over the executions and persecution of religious minorities. On Myanmar, the UK mentioned the probable steps that could be taken to protect children in camps. It also asserted that there are adequate resources to provide for victims of sexual violence, as well as for future reporting. On Eritrea, the UK expressed concern over religious minorities and encouraged UPR engagement. ³⁷⁸
4.	<i>Dialogue on the Syrian Arab Republic, South Sudan and Burundi</i>	The UK condemned the human rights violations in Syria and asked for estimates on people who were detained or had disappeared. It also condemned the violence in South Sudan and called for the implementation of the Hybrid Court. It called on Burundi to cooperate with international human rights mechanisms. ³⁷⁹
5.	<i>Dialogue on the High Commissioner's oral update on the Democratic Republic of the Congo</i>	The UK condemned the human rights violations by the Democratic Republic of the Congo by the state agents, and called for the release of political prisoners. ³⁸⁰
6.	<i>Dialogue on Mali, Libya, Ukraine, Sri Lanka and the Central African Republic</i>	The UK regretted the lack of progress in Mali, and reiterated the need to ensure security and basic services, as well as to end sexual violence by all sides. It condemned the impunity of Libyan forces, but applauded reconciliation initiatives. It further asked how human rights monitoring can be improved. The UK noted the denial of access to the OHCHR in Ukraine, and condemned atrocities in the eastern region. Regarding the Sri Lanka country report, the UK noted Sri Lanka's progress, but strongly encouraged justice and security reform. The UK condemned attacks by armed groups in the Central African Republic. It asked what efforts were being made to implement the DDR process, and to stop sexual violence. ³⁸¹

IV. The United Kingdom's Voting Pattern on Resolutions

Thematic Resolutions

The UK voted in favour of two resolutions concerning the *right to food*,³⁹⁶ and on *countering the world drug problem with regard to human rights*.³⁹⁷ While voting in favour of the resolution on the right to food, the UK affirmed its commitment to the International Covenant on Economic, Social and Cultural Rights. The UK government considers that its method of implementing the Covenant fulfils the UK's obligations under Article 2(1).³⁹⁸

392 Oral Statements from the 37th Session of the United Nations Human Rights Council. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=12/03/2018%2000:00:00>.

393 Oral Statements from the 37th Session of the United Nations Human Rights Council. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=13/03/2018%2000:00:00>.

394 Oral Statements from the 37th Session of the United Nations Human Rights Council. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=20/03/2018%2000:00:00>.

395 Oral Statements from the 37th Session of the United Nations Human Rights Council. Available at <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Pages/Statements.aspx?SessionId=19&MeetingDate=21/03/2018%2000:00:00>.

396 Resolution 37/10: The right to food (2018).

397 Resolution 37/42: Contribution to the implementation of the joint commitment to effectively addressing and countering the world drug problem with regard to human rights (2018).

398 UK Mission to the United Nations Geneva. Human Rights Council 37: Explanation of Votes on Resolutions on right to food, 23 March 2018. Available at <https://www.gov.uk/government/news/human-rights-council-37-resolution-on-right-to-food>.

When an amendment to the resolution on *countering the world drug problem with regards to human rights* was brought forth, the UK objected to the removal of the “request for the High Commissioner for Human Rights to prepare a report on implementation of the joint commitment to effectively addressing and countering the world drug problem with regards to human rights, and to share that report with the Commission on Narcotic Drugs”. The UK maintained that commissioning reports from the High Commissioner are standard practice in this Council.³⁹⁹ Moreover, the UK believes that this resolution reflects the consensus reached at th172e UN General Assembly Special Session on Drugs in 2016.⁴⁰⁰

The UK abstained from voting on two thematic resolutions: one on the *integrity of the judicial system*,⁴⁰¹ and a second on *promoting cooperation in the field of human rights*.⁴⁰² The UK did not comment on the reasoning behind its abstentions.

The UK voted against two thematic resolutions: on the *effects of foreign debt*,⁴⁰³ and on *human rights and coercive unilateral measures*.⁴⁰⁴ The UK did not comment on the reasoning behind its votes.

Country Situations

On country situations, the UK voted in favour of six resolutions concerning the human rights situation in: *Eastern Ghouta*,⁴⁰⁵ *the Islamic Republic of Iran*,⁴⁰⁶ *Myanmar*,⁴⁰⁷ *human rights in the OPT*,⁴⁰⁸ *right of the Palestinian people to self-determination*,⁴⁰⁹ and *cooperation with Georgia*.⁴¹⁰

While voting on the resolution concerning the *human rights situation in Eastern Ghouta*, the UK proposed several oral revisions to the draft resolution. It stated that the revisions were made as a response to the amendments presented, to more accurately reflect the situation and accommodate all parties, as well as the Secretary General’s approach, to the protection of civilians in Syria. Eventually, on discussions with other states, the amendments failed to pass after members agreed that the primary aim of the draft resolution was to protect the people in the Syrian Government in this conflict, which the revised text did sufficiently.⁴¹¹ While voting in favour of the *human rights situation in Iran*, the UK raised concerns over the persecution of religious minorities, freedom of the press and the treatment meted out to detainees.⁴¹²

On the *human rights situation in Myanmar*, while voting in favour of the resolution, the UK condemned human rights violations, and assured the country that the UK would help Myanmar with its long-standing human rights challenges.⁴¹³

The UK voted in favour of a resolution on *cooperation with Georgia* and commended Georgia for its ongoing and constructive cooperation with the Office of the High Commissioner for Human Rights through its representation in Tbilisi. It however regretted that the staff of the Office of the High Commissioner are systematically denied access to regions of Abkhazia and South Ossetia in Georgia.⁴¹⁴

399 UK Mission to the United Nations Geneva. Human Rights Council 37: Explanation of Votes on Resolution addressing the World Drug Problem with regards to Human Rights, 23 March 2018. Available at <https://www.gov.uk/government/news/human-rights-council-37-resolution-on-addressing-the-world-drug-problem-with-regards-to-human-rights>.

400 Ibid.

401 Resolution 37/3: Integrity of the judicial system (2018).

402 Resolution 37/23: Promoting mutually beneficial cooperation in the field of human rights (2018).

403 Resolution 37/11: The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights (2018).

404 Resolution 37/21: Human rights and unilateral coercive measures (2018).

405 Resolution 37/1 Eastern Ghouta (2018).

406 Resolution 37/30: Situation of human rights in the Islamic Republic of Iran (2018).

407 Resolution 37/32: Situation of human rights in Myanmar (2018).

408 Resolution 37/35: Human rights situation in the Occupied Palestinian Territory, including East Jerusalem (2018).

409 Resolution 37/34: Right of the Palestinian people to self-determination (2018).

410 Resolution 37/40 Cooperation with Georgia (2018).

411 Office of the High Commissioner for Human Rights, Display news. Available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22756&LangID=E>.

412 UK Mission to the United Nations Geneva. Human Rights Council 37: Human Rights Situation in Iran, 12 March 2018. Available at <https://www.gov.uk/government/news/human-rights-council-37-human-rights-situation-in-iran>.

413 UK Mission to the United Nations Geneva. Human Rights Council 37: Human Rights Situation in Burma, 12 March 2018. Available at <https://www.gov.uk/government/news/human-rights-council-37-human-rights-situation-in-burma>.

414 UK Mission to the United Nations Geneva. Human Rights Council 37: Resolution on Georgia, 23 March 2018. Available at <https://www.gov.uk/government/news/human-rights-council-37-resolution-on-georgia>.

The UK voted in favour of a resolution on the *right of the Palestinian people to self-determination*. In its explanation for the vote, the UK condemned Israel's settlement activity as being illegal under international law. Furthermore, the UK was concerned about the treatment of Palestinian minors in Israeli military detention and voted in favour of a resolution on the human rights situation in the OPT.⁴¹⁵

The UK abstained from voting on the resolution on *Israeli settlements in the Occupied Palestinian territory*⁴¹⁶ as the UK was against the settlement business database that was espoused.⁴¹⁷

The UK voted against two resolutions. It voted against a resolution on *ensuring accountability and justice for violation of international law in Occupied Palestinian territory*, in which it reiterated its support for a two-state solution that ends the Israeli-Palestinian conflict. It further placed on record that the UK voted against the resolution itself, and not against the importance of accountability and justice in the Occupied Palestinian Territories in general.⁴¹⁸ The second resolution the UK voted against was on the human rights situation in occupied Golan Heights as the UK believed that there was an inherent bias against Israel.⁴¹⁹

V. Analysis: Compliance with Pledges and Commitments

The UK's participation at the HRC contrasted from a number of its pledges and commitments.

a. Ratification of Human Rights Treaties

The UK, in its pledges, committed to "support a strong and independent United Nations human rights system". However, the UK failed to ratify several treaties which were recommended during its third cycle of the UPR.⁴²⁰ Some of the treaties which the United Kingdom was urged to ratify include: the *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*; the *Optional Protocol to the Convention on the Rights of Persons with Disabilities*; the *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*; the *Optional Protocol to the Convention on the Rights of the Child on a communications procedure*; and the *International Convention for the Protection of All Persons from Enforced Disappearance*.

Furthermore, in 2016, the Committee on the Elimination of Racial Discrimination encouraged the UK to consider ratifying: the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*; the *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*; the *Optional Protocol to the Convention on the Rights of the Child on a communications procedure*; the *International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169)*; and the *Domestic Workers Convention, 2011 (No. 189)*.⁴²¹ The UK has not yet ratified any of these treaties that the UN mechanisms recommended to it.

415 UK Mission to the United Nations Geneva. Human Rights Council 37: Explanation of Votes on Resolutions on Israel and the Occupied Palestinian Territories, 23 March 2018. Available at <https://www.gov.uk/government/news/human-rights-council-37-explanation-of-votes-on-resolutions-on-israel-and-the-occupied-palestinian-territories>.

416 Resolution 37/36 Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan (2018).

417 UK Mission to the United Nations Geneva. Human Rights Council 37: Explanation of Votes on Resolutions on Israel and the Occupied Palestinian Territories, 23 March 2018. Available at <https://www.gov.uk/government/news/human-rights-council-37-explanation-of-votes-on-resolutions-on-israel-and-the-occupied-palestinian-territories>.

418 Resolution 37/33: Human rights in the occupied Syrian Golan (2018).

419 UK Mission to the United Nations Geneva. Human Rights Council 37: Explanation of Votes on Resolutions on Israel and the Occupied Palestinian Territories, 23 March 2018. Available at <https://www.gov.uk/government/news/human-rights-council-37-explanation-of-votes-on-resolutions-on-israel-and-the-occupied-palestinian-territories>.

420 Office of the High Commissioner for Human Rights, Display news. Available at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/GBindex.aspx>.

421 Committee on the Elimination of Racial Discrimination, Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland, 26 August 2016, para 46. Available at: http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/GBR/CERD_C_GBR_CO_21-23_24985_E.pdf. See also Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, 3 June 2016, para 89. Available at: <http://www.crae.org.uk/media/93148/UK-concluding-observations-2016.pdf>. See also Committee against Torture, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, adopted by the Committee at its fiftieth session, 24 June 2013, para 36. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/398272/cat-c-gbr-cco-5-16598-e.pdf

b. Engagement with UN Special Procedures

The UK maintains a standing invitation and cooperation with the Special Rapporteurs who wish to visit, and it had accepted all requests of Special Rapporteurs except from the one on the Working Group on mercenaries which was requested for in May 2015.⁴²² The UK's handling of two recent visits by special procedures is concerning. The report of the Special Rapporteur on adequate housing resulted in alarming rhetoric from government officials, and the visit of the Special Rapporteur on violence against women attracted controversy when she reported that "despite my repeated requests, a visit to Yarl's Wood immigration detention centre was not facilitated by the government, and ... access to the Centre was denied, when I tried to visit it independently."⁴²³ Both incidents are worrying, as the UK, itself has warned other states regarding non-cooperation with, and measured responses to, the special procedures.⁴²⁴

The UK has furthermore not accepted inquiry procedures under the *International Convention for the Protection of All Persons from Enforced Disappearance*, and the *Optional Protocol to the Convention on the Rights of the Child*.

c. Compliance with Reporting Obligations to Treaty Bodies

The UK's treaty body obligations were mostly fulfilled. It is up-to-date with its reporting requirements under CERD, CRC, CEDAW, CRPD and CESC, though some of these reports were submitted after a delay of one year.⁴²⁵ However, the UK has not accepted individual complaint procedures pertaining to: the *Optional Protocol to the International Covenant on Civil and Political Rights*; the *Optional protocol to the International Covenant on Economic, Social and Cultural Rights*; and the *Optional Protocol to the Convention on the Rights of the Child*.⁴²⁶

d. Compliance on Thematic Issues

While the UK, in its pledges, mentioned putting into action the "2030 Agenda for Sustainable Development," reports from the Special Rapporteur on violence against women, its causes and consequences, belied this. The Special Rapporteur was concerned that women from black and minority ethnic communities, women belonging to the lesbian, gay, bisexual, transgender and intersex communities, and women with disabilities were often linked to entrenched discriminatory practices in the political, social and economic spheres.⁴²⁷ The Special Rapporteur also mentioned the current gaps in the law, including: the lack of a specific prohibition of simulated rape pornography in the Criminal Justice and Courts Bill; the lack of adequate regulation in relation to the display of highly sexualized images of women in men's magazines; the non-existence of the criminal offence of "intentionally seriously impairing a person's psychological integrity through coercion or threats"; and the lack of provisions in the Immigration Rules to reflect the relevance of taking into account issues other than domestic violence against women and girls.⁴²⁸ Concerns were also raised about the criminalization of forced marriage and its negative effect on reporting.⁴²⁹

In the general debate, the UK reiterated its strong commitment towards the total elimination of all forms of racial discrimination. However, after her visit to the UK in April 2018 the Special Rapporteur on racism stated that Brexit had contributed to an environment of increased racial discrimination and intolerance.⁴³⁰ She further raised concern

422 United Nations Human Rights Office of The High Commissioner- Country visits of Special Procedures of the Human Rights Council since 1998. Available at http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en.

423 Office of the High Commissioner for Human Rights, Display news. Available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14514&LangID=E.

424 FCO, Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report. Available at www.gov.uk/government/uploads/system/uploads/attachment_data/file/186688/Cm_8593_Accessible_complete.pdf.

425 Reporting status for the United Kingdom of Great Britain and Northern Ireland. Available at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=GBR&Lang=en.

426 Ratification Status for the United Kingdom of Great Britain and Northern Ireland. Available at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=185.

427 Office of the High Commissioner for Human Rights, Display news. Available at www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=14514&LangID=E.

428 Equality and Human Rights Commission to the Joint Committee on Human Rights inquiry into violence against women and girls, March 2014. Available at www.equalityhumanrights.com/legal-and-policy/our-legal-work/parliamentary-briefings/response-equality-and-human-rights-commission-joint-committee-human-rights-inquiry-violence-against.

429 See Amrit Wilson, "Criminalizing forced marriage in the UK: why it will not help women". Available at <https://www.opendemocracy.net/5050/amrit-wilson/criminalising-forced-marriage-in-uk-why-it-will-not-help-women>.

430 Office of the High Commissioner for Human Rights, Display news. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23074&LangID=E>.

about the criminalization of young people from ethnic minorities, particularly young black men. She found that they were over-represented in police “stop and searches”, were more likely to face prosecution under the country’s joint enterprise provisions, and were over-represented in the prison system.⁴³¹

Furthermore, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, reported that Britain’s counter-terrorism “*Prevent*” strategy was implemented in a way that translated simply into crude racial, ideological, cultural and religious profiling, with concomitant effects on the right to freedom of association of some groups.⁴³² Criticism was also levied towards the Investigatory Powers Act. The Special Rapporteur stated that the Act contained procedures without adequate oversight, coupled with overly broad definitions, which could result in unduly interfering with the right to privacy, the right to freedom of opinion and expression and the right to freedom of association, both within and outside the United Kingdom.⁴³³

431 Ibid.

432 Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on his follow-up mission to the United Kingdom of Great Britain and Northern Ireland. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/158/29/PDF/G1715829.pdf?OpenElement>.

433 Ibid, para. 21.

Recommendations

The assessment of the performance of the Commonwealth member states in the 37th session of the HRC underlines yet again the need for acceptable mechanisms to monitor the progress of human rights compliance by members as a means of indicating their commitment to the Council. The limited availability of reliable, objective and/or quantified information is in itself an indication of the lack of infrastructure to monitor human rights situations in many Commonwealth member states. This heightens the necessity for an urgent need for both technical assistance and reinforced commitments to human rights on the part of Commonwealth governments.

CHRI reminds all Commonwealth member states of their commitments to the United Nations to make the Human Rights Council a strong and effective body. CHRI urges all Commonwealth member states to strengthen the special procedure mechanisms of the HRC, provide access on requests, and guarantee their independence and impartiality. CHRI further encourages Commonwealth member states to comply with their reporting obligations to treaty bodies and submit pending reports on time.

We recommend that Commonwealth member states:

- Submit voluntary pledges in clear and measurable terms.
- Bring their participation and voting in line with their voluntary pledges submitted at the time of election.
- Accept pending requests from special procedure mechanisms and ensure their independence.
- Comply with their reporting obligations to treaty bodies and submit pending reports to the various human rights treaties.
- Implement the resolutions they have sponsored or supported at the national level, inform the Council on the steps they have undertaken to implement the resolutions and the challenges they have faced.

CHRI Programmes

CHRI believes that the Commonwealth and its member countries must be held to high standards and functional mechanisms for accountability and participation. This is essential if human rights, genuine democracy and development are to become a reality in people's lives. CHRI furthers this belief through strategic initiatives and advocacy on human rights, access to justice and access to information. It does so through research, publications, workshops, information dissemination and advocacy. It has three principal programmes:

1. Access to Justice

Police Reforms: In too many countries the police are seen as an oppressive instrument of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that the police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In South Asia, CHRI works to strengthen civil society engagement on police reforms. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

Prison Reforms: CHRI's work is focused on increasing transparency of a traditionally closed system and exposing malpractices. A major area is focussed on highlighting failures of the legal system that result in terrible overcrowding and unconscionably long pre-trial detention and prison overstay, and engaging in interventions to ease this. Another area of concentration is aimed at reviving the prison oversight systems that have completely failed. We believe that attention to these areas will bring improvements to the administration of prisons as well as have a knock-on effect on the administration of justice overall.

2. Access to Information

CHRI is acknowledged as one of the main organisations working to promote Access to Information across the Commonwealth. It encourages countries to pass and implement effective Right to Information laws. It routinely assists in the development of legislation and has been particularly successful in promoting Right to Information laws and practices in India, Sri Lanka, Afghanistan, Bangladesh and Ghana. In the latter CHRI is the Secretariat for the RTI civil society coalition. CHRI regularly critiques new legislation and intervenes to bring best practices into governments and civil society knowledge both at a time when laws are being drafted and when they are first being implemented. Its experience of working in hostile environments as well as culturally varied jurisdictions allows CHRI to bring valuable insights into countries seeking to evolve and implement new laws on right to information. In Ghana, for instance it has been promoting knowledge about the value of Access to Information which is guaranteed by law while at the same time pushing for introduction of an effective and progressive law.

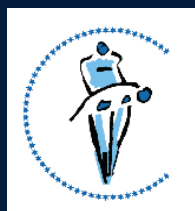
3. International Advocacy and Programming

CHRI monitors commonwealth member states' compliance with human rights obligations and advocates around human rights exigencies where such obligations are breached. CHRI strategically engages with regional and international bodies including the Commonwealth Ministerial Action Group, the UN and the African Commission for Human and People's Rights. Ongoing strategic initiatives include: advocating for and monitoring the Commonwealth's reform; reviewing Commonwealth countries' human rights promises at the UN Human Rights Council, the Universal Periodic Review; advocating for the protection of human rights defenders and civil society space; and monitoring the performance of National Human Rights Institutions in the Commonwealth while advocating for their strengthening.

Since the inception of the Human Rights Council (HRC), the Easier Said Than Done (ESTD) series has reviewed Commonwealth member states' performance at the HRC. The series provides a basis for evaluating Commonwealth countries' engagement with the Council and considers if their voting behaviour in support of resolutions is consistent with their voluntary pledges and commitments to the HRC.

This edition of the ESTD report presents an analysis of the performance of seven Commonwealth member states during the 37th regular session of the HRC: Australia, Kenya, Nigeria, Pakistan, Rwanda, South Africa and the United Kingdom. It addresses institutional and human rights concerns in the HRC and explains discrepancies in the behaviour these countries. The report highlights the disparities between human rights promises made by Commonwealth members and the extent fulfilment at the national level.

The report seeks to present a clear picture of the activities of Commonwealth member states in the HRC and track thematic developments there, along with shifts in foreign policy approaches of member states on rights issues. It calls for greater accountability and resolve on part of Commonwealth countries to act in accordance with their pledges and commitments.



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