

CHRI 2020

Easier Said Than Done

42nd Regular Session

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

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Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-profit, non-partisan, international non-governmental organisation working in the area of human rights. In 1987, several Commonwealth professional associations founded CHRI, since there was little focus on human rights within the association of 53 nations although the Commonwealth provided member countries the basis of shared common laws.

Through its reports and periodic investigations, CHRI continually draws attention to the 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, the United Nations Human Rights Council members, the media and civil society. It works on and collaborates around public education programmes, policy dialogues, comparative research, advocacy and networking on the issues of Access to Information and Access to Justice.

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

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EASIER SAID THAN DONE

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Commonwealth Human Rights Initiative (CHRI)**

List of Abbreviations

ACHPR: African Commission on Human and Peoples' Rights
AU: Africa Union
CAR: Central African Republic
CARICOM: Caribbean Community
CAT: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CAT-OP: Optional Protocol to the Convention against Torture
CCPR / ICCPR: International Covenant on Civil and Political Rights
CCPR-OP2-DP: Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of death penalty
CED: International Convention for the Protection of All Persons from Enforced Disappearance
CEDAW: Convention on the Elimination of All Forms of Discrimination against Women
CEDAW-OP: Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
CERD / ICERD: International Convention on the Elimination of All Forms of Racial Discrimination
CESCR / ICESCR: International Covenant on Economic, Social and Cultural Rights
CESCR-OP: Optional Protocol to the International Covenant on Economic, Social and Cultural Rights
CMW: International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
Col: Commission of Inquiry
CPC: Country of Particular Concern
CRC: Convention on the Rights of the Child
CRC-OP-AC: Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
CRC-OP-SC: Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
CRC-OP-IC: Third Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure
CRPD: Convention on the Rights of Persons with Disabilities
CRPD-OP: Optional Protocol to the Convention on the Rights of Persons with Disabilities CSO: Civil Society Organisation
CTC: Counter Terrorism Committee
CTI: Convention against Torture Initiative
DDPA: Durban Declaration and Programme of Action
DPRK: Democratic People's Republic of Korea
DRC: Democratic Republic of the Congo
EU: European Union
FGM: Female Genital Mutilation
FFM: Fact-Finding Mission
GBV: Gender-based Violence
GDP: Gross Domestic Product
HRC: Human Rights Council
ICC: International Criminal Court
ICJ: International Court of Justice
ICT: Information and Communication Technology
IDP: Internally Displaced Person
IE: Independent Expert

IHL: International Humanitarian Law
IHL: International Human Rights Law
ILO: International Labour Organization
IOM: international Organization for Migration
IPID: Independent Police Investigative Directorate
ISIS / ISIL: Islamic State of Iraq and Syria / Islamic State of Iraq and the Levant
LGBTQ / LGBTI+: Lesbian, Gay, Bisexual, Transgender, Queer / Intersex and others
LoIPR: List of Issues Prior to Reporting
NAP: National Action Plan
NCAT: National Committee against Torture
NGO: Non-Governmental Organization
NHRC: National Human Rights Commission
NHRI: National Human Rights Institution
NMIRF: National Mechanism for Implementation, Reporting and Follow-Up
NPM: National Preventive Mechanisms
OHCHR: Office of the United Nations High Commissioner for Human Rights
OIC: Organization of Islamic Cooperation
PACT: Pakistan's Action to Counter Terrorism
PSA: Public Safety Act (India)
PSIDS: Pacific Small Island Developing States
PWD: Person with Disabilities
RAB: Rapid Action Battalion
RIB: Rwanda Investigation Bureau
SADC: Southern Africa Development Community
SAHRC: South African Human Rights Commission
SDG: Sustainable Development Goals
SIDS: Small Island Developing State
SLAPP: Strategic Lawsuit Against Public Participation
SR: Special Rapporteur
UAPA: Unlawful Activities Prevention Act
UDHR: Universal Declaration of Human Rights
UK: The United Kingdom of Great Britain and Northern Ireland
UN: United Nations
UNCAC: United Nations Convention against Corruption
UNTOC: United Nations Convention against Transnational Organized Crime
UNDP: United Nations Development Programme
UNESCO: United Nations Educational, Scientific and Cultural Organization
UNFCCC: United Nations Framework Convention on Climate Change
UNICEF: United Nations Children's Fund
UNODC: United Nations Office on Drugs and Crime
UNPFA: United Nations Population Fund
UPR: Universal Periodic Review
VDPA: Vienna Declaration and Programme of Action
WEOG: Western European and Others Group
WG: Working Group
WHO: World Health Organization

Acknowledgements

This Easier Said Than Done (ESTD) Report is a part of the flagship series 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 Members to prioritise, get re-elected, and to improve their human rights record. CHRI has consistently tracked the performance of Commonwealth countries at the HRC since the first ESTD report in 2007.

This report is written, compiled and formatted by Aditi Patil, Programme Officer with CHRI's International Advocacy and Programming (IAP) Unit. She analysed the research and led a team of colleagues and volunteers to make this report possible amid pressing deadlines and parallel programme commitments.

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This study is the outcome of cooperative efforts and innumerable conversations and feedback from practitioners and human rights experts from across the Commonwealth.

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Concluding Remarks

CHAPTER I

Introduction

a. An Overview of the Report

The 'Easier Said Than Done' (ESTD) report series began in 2007 to review the voting patterns of Commonwealth Member States at the UN HRC in Geneva. It provides a basis for evaluating their engagement with the Council and examines whether their voting behaviour in support of resolutions is consistent with their voluntary pledges and commitments made for their election to the HRC. In 2017, at the end of the HRC's first decade, CHRI conducted a study, 'The Commonwealth at the Human Rights Council: A Decade of Voting', to understand the extent to which voting behaviour at the Council actualised the safeguarding of human rights by Member States in conformity with their own voluntary pledges and their commitments.

This ESTD report summarises and presents an analysis of the performance of the following 11 Commonwealth Member States during the 42nd Session of the HRC: Australia, The Bahamas, Bangladesh, Cameroon, Fiji, India, Nigeria, Pakistan, Rwanda, South Africa, and the United Kingdom of Great Britain and Northern Ireland (UK). It highlights the disparities and disjunction between their human rights promises and their implementation at the national level. Overall, the ESTD series seeks to portray the gaps between international human rights systems and local landscapes at the country-level.

The series seeks to present a clear picture of the positions of Commonwealth Member States in the HRC and track thematic developments, along with shifts in their foreign policy approaches on rights-related issues. It calls for greater accountability so that Member States act in accordance with their pledges and commitments.

The ESTD report also contributes towards enabling and strengthening stakeholders' access to the HRC. It is an information-sharing tool which aims at reaching a wider audience. Target groups include civil society, national human rights institutions, media as well as researchers, who are otherwise unable to access the HRC. The report, thus, seeks to attain its objectives and further efforts for human rights protection in the Commonwealth through dialogue and data-driven advocacy.

b. Methodology

The report was prepared using substantive research based on primary as well as secondary sources.

For the purposes of this report, the following human rights treaties have been covered to assess reporting obligations- CAT, CAT-OP, CCPR, CCPR-OP2-DP, CED, CEDAW, CERD, CESC, CMW, CRC, CRC-OP-AC, CRC-OP-SC, and CRPD. Research was conducted from the following sources: monitoring live HRC sessions; HRC resolutions and statements made by States that are available at the HRC Extranet; information published by the Permanent Missions and Government Departments of the States concerned; UPR Extranet; official country reports; statistics published by national agencies of Member States; statements made by the Member States in the HRC sessions; explanations of votes provided by States; official reports submitted during the UPR; treaty body reports; NGO reports; and international and local media.

For analytical ease, the resolutions are divided into two categories: thematic and country situation. Thematic resolutions categorically refer to topics focused on a theme, for example, human rights of migrants or climate change. Country situations categorically refer to specific human rights situations or capacity-building in a country, such as the human rights situation in the Syrian Arab Republic or cooperation with and assistance to Ukraine in the field of human rights.

c. Limitations

The ESTD report intends to provide an objective, factual assessment and review of the Member States' performance at the HRC vis-à-vis their domestic human rights situation. However, there were two key challenges in the completion of this report:

- The first 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 were 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 many 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. This remains the most important challenge in identifying and analysing 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 compliance with their pledges when using this report. The intention is not to compare different countries, given their different contextual realities and challenges, but to hold each Member State responsible to its own pledges and commitments.

d. Structure

The first chapter provides the methodology and structure of the report, while the second chapter provides an overview of the 42nd Session. It further discusses the performance of the 11 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 various formats of discussion and their domestic human rights challenges. Since this happens to be a study on Commonwealth Member States, country-specific resolutions concerning countries not part of the Commonwealth have not been covered.

It is followed by country profiles reviewing the performance of the 11 Commonwealth HRC Members, namely, Australia, The Bahamas, Bangladesh, Cameroon, Fiji, India, Nigeria, Pakistan, Rwanda, South Africa, and the UK. It presents information on their respective voluntary pledges, participation in panel discussions, general debates and interactive dialogues, and voting pattern on thematic and country situation resolutions. The profile ends with an analysis of the country's compliance with pledges and international commitments, and the corresponding domestic human rights situation on the ground.

The report concludes with key recommendations for Commonwealth Member States to enhance meaningful engagement with the HRC, drawing from the 42nd Session, as well as with the analysis of specific human rights issues at the national level.

Caveat: Given the dynamic nature of this study, there are new developments every day, especially in relation to the States' compliance with the HRC and treaty body mechanisms. The data in this report is, therefore, as it was found on 30 April 2020. While every effort has been made to ensure accuracy, CHRI does not take responsibility for data provided by other sources.

CHAPTER II

The Commonwealth at the 42nd Session of the Human Rights Council

a. An Overview of the 42nd Session of the Human Rights Council

The 42nd Regular Session of the HRC was held at the Palais des Nations of the United Nations in Geneva from 9 to 27 September 2019. During the session, the Council addressed several human concerns and passed resolutions on a wide range of issues such as contemporary forms of slavery, terrorism and human rights, arbitrary detention, human rights and indigenous persons, the right to health, the right to development, racism and racial discrimination, among several others. The Council adopted a total of 37 resolutions, comprising of 25 thematic and 12 country situation resolutions. The Member States adopted 25 resolutions by consensus whereas 12 resolutions were adopted by majority vote. The following table covers all resolutions along with short descriptions:

Table 2.1

Resolution	Title of the Resolution	Description
42/1	Composition of staff of the Office of the United Nations High Commissioner for Human Rights (OHCHR)	The Council requested the UN High Commissioner for Human Rights to continue her efforts to address the imbalance in the geographical composition of the OHCHR staff, especially at senior management level and to submit a report in that regard at its 45th session. It also emphasised the importance of achieving a gender balance in the composition of the staff, recognising the High Commissioner's commitment towards it.
42/2	Human rights situation in Yemen	The Council condemned the ongoing violations of international human rights and humanitarian laws, including recruitment of children in the armed conflict; sexual and gender-based violence; denial of humanitarian access; and targeting civilians and infrastructure, including use of starvation as a means of warfare. It called upon all parties to engage in the political process and implement the Stockholm Agreement. It called on the Government to release all Baha'i detained for their religious belief and cease their harassment. It renewed the mandate of the Group of Eminent International and Regional Experts for one year and requested a comprehensive report at its 45th session. It requested the High Commissioner to provide technical assistance to the National Commission of Inquiry to investigate allegations of violations.
42/3	Situation of human rights of Rohingya Muslims and other minorities in Myanmar	The Council expressed grave concerns at the continuing human rights abuses against the Rohingya Muslims and minorities, including forced displacement and sexual violence, especially in Rakhine, Chin, Kachin and Shan states. It called for cessation of hostilities and establishing accountability through independent national or international criminal justice mechanisms. It urged Myanmar to protect human rights of all persons; eliminate statelessness, marginalisation and systematic discrimination against minorities; and cooperate with the UN mandate holders and mechanisms by allowing unhindered access. It urged Myanmar to create a situation conducive for voluntary, safe and dignified return of Rohingya forcibly displaced to Bangladesh.

42/4	Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela	The Council welcomed the report of the High Commissioner on the situation of human rights in Venezuela; commitments made at the end of her visit in June 2019; and the agreement on the permanent presence of the OHCHR in the country. It called on the Venezuelan authorities to cooperate with the Council and its mechanisms. It expressed concerns about the extraterritorial unilateral coercive measures exacerbating the effects of the economic crisis and urged to take measures to guarantee the full enjoyment of the rights to food, water and health, including access to essential medicines and health services, without discrimination.
42/5	The human rights to safe drinking water and sanitation	The Council welcomed the work of the Special Rapporteur on the human rights to safe drinking water and sanitation and extended the mandate for a term of three years. It requested the Special Rapporteur to submit annual reports to the HRC and the GA; to initiate awareness raising activities on the rights to safe drinking water and sanitation in collaboration with States and to identify national, regional and international best practices to promote its progressive realisation; and to facilitate technical assistance for their implementation.
42/6	The role of prevention in the promotion and protection of human rights	The Council urged States to take measures to prevent human rights violations by: ratifying and implementing relevant international instruments on civil, political, economic, social and cultural rights; enhancing good governance, accountability and the rule of law; promoting an active civil society; establishing a strong NHRI in accordance with Paris Principles; ensuring judicial independence; and through human rights education. It recognised the contribution of NHRIs, civil society and UN mechanisms in preventing human rights abuses and underlined the need to further develop the concept of prevention by encouraging its reflection in relevant policies and strategies at all levels.
42/7	World Programme for Human Rights Education: adoption of the plan of action for the fourth phase	The Council adopted the plan of action for the fourth phase (2020-2024) of the Programme and called on States and other stakeholders to develop and implement initiatives in accordance with the Programme. It requested the various UN agencies to disseminate the plan of action widely among States, inter-governmental and non-governmental organisations, NHRIs and civil society and provide technical assistance for its implementation when requested. It reminded States to submit their national evaluation reports to the HRC at its 45th session.
42/8	Promotion of a democratic and equitable international order	The Council reaffirmed that democracy includes respect for the freely expressed will of people to determine their political, economic and socio-cultural systems and the right to a democratic and equitable international order. It underscored the importance of the realisation of the rights to self-determination, development, peace, healthy environment of all; inclusive participation in global decision-making; equitable economic order; enjoyment of ownership of the common heritage of mankind; and the shared responsibility to address collective challenges. It urged for the establishment of an international order based on equity, sovereign equality, inclusion, interdependence, common interest and cooperation among States reinforcing multilateralism.
42/9	The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination	The Council urged States to take vigilant steps, including legislative measures, against recruitment, training, hiring or financing of mercenaries in their territories. It called on States to become a party to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. It condemned impunity granted to perpetrators of mercenary activities and called upon States to cooperate with and assist their prosecution through fair trials. It appreciated the work of the Working Group; extended its mandate for a term of three years and requested it to study and identify new sources and causes, emerging trends and manifestations of mercenary-related activities and their impact on human rights.

42/10	Special Rapporteur on contemporary forms of slavery, including its causes and consequences	The Council welcomed the reports of the Special Rapporteur on ‘the impact of slavery and servitude on marginalised migrant women workers in the global domestic economy’ and ‘on current and emerging forms of slavery’ and renewed the mandate for a period of three years. It requested the Special Rapporteur to promote effective application of international norms; collaborate with other UN mechanism and agencies; and recommend measures at all levels to combat contemporary forms of slavery. It also requested the Special Rapporteur to take account of the gender and age dimensions of the issue and compile and analyse examples of national legislations relating to the prohibition of slavery and slavery-like practices to assist States in their national efforts.
42/11	Human rights in the administration of justice, including juvenile justice	The Council called upon States to implement the UN standards on human rights in the administration of justice, especially the Nelson Mandela Rules, and assess their national legislations by those standards. It urged States to uphold the rights of detainees; maintain mechanisms to monitor places of detention; and maintain records on prisons, including cases of violence, injury or death in detention; prevent violence and promptly investigate such allegations. It stressed the need to address overcrowding in prisons by using alternatives to pre-trial detention and custodial sentences and providing access to legal aid, while underlining the need to train judicial and prison authorities to prevent violations of human rights.
42/12	The human rights of older persons	The Council recognised the importance of the mandate of the Independent Expert on the rights to older persons and extended it for a period of three years. It acknowledged the efforts of States in strengthening the protection of the human rights of older persons, including the possible elaboration of a multilateral legal instrument on the rights of older persons. It requested States and all other relevant stakeholders to cooperate with the Independent Expert to fulfil the mandate, while urging the Expert to work in coordination with the Open-ended Working Group on Ageing to avoid duplication.
42/13	The right to social security	The Council emphasised that States should guarantee the right to social security without discrimination of any kind. While recognising the progress made in achieving accessible social security, it remained concerned that many persons continue to face obstacles in exercising their right and in receiving benefits on an equal basis with others, particularly in developing countries. It decided to convene, before its 45th session, an inter-sessional full-day panel discussion on the right to social security in the changing world for identifying challenges and best practices in consultation with other stakeholders.
42/14	Marking the twenty-fifth anniversary of the Beijing Declaration and Platform for Action	The Council recognised that the Beijing Declaration and Platform for Action contributed greatly towards achieving gender equality and the empowerment of women and girls, while stressing the challenges in its implementation. It decided to convene a high-level panel discussion at its 43rd session to commemorate the twenty-fifth anniversary and requested the High Commissioner to liaise with other relevant stakeholders with a view to ensuring their participation.
42/15	The right to privacy in the digital age	The Council reaffirmed that the rights that people have offline must also be protected online and any interference in the right to privacy must be consistent with the principles of legality, necessity and proportionality. It recognised the impact that the use new and emerging technologies can have on the right to privacy. It called on States to regularly review their legislations and policies; maintain oversight mechanisms for accountability of State surveillance, interception and collection of personal data; and implement standards and obligations for business enterprises that collect, store, use, share and process data. It encouraged States to promote an open, secure, and accessible information and communications technology environment that respects the obligations enshrined in the UN Charter and IHRL norms.

42/16	The right of everyone to the enjoyment of the highest attainable standard of physical and mental health	The Council acknowledged the work of the Special Rapporteur and extended the mandate for a further period of three years. It called on the States to cooperate fully with the Special Rapporteur in the exercise of his mandate, while underlining that the cooperation between stakeholders would be key in creating conditions favourable to the enjoyment of the highest attainable standard of physical and mental health.
42/17	Human rights and transitional justice	The Council recognised the importance of documenting human rights violations for the purpose of accountability and contributing to the transitional justice. It also recognised that national efforts to sustain peace are necessary even for preventing a conflict by addressing its root causes. It underlined the responsibility of States to investigate and prosecute those responsible for human rights abuses to avoid recurrence, promote national reconciliation and implement inclusive strategies to address past atrocities and the victims' right to an effective remedy, while recognising the role of civil society and women in the process. It requested the OHCHR to present a report at its 46th session on how addressing a legacy of violations of human rights and humanitarian law through transitional justice measures can contribute to sustaining peace and realising SDG 16.
42/18	Terrorism and human rights	The Council condemned terrorist acts in all their forms, while expressing concerns about the violations of human rights, international refugee law and humanitarian law in the context of countering terrorism. It stressed the importance of ensuring access to justice, due process, effective remedies and reparation to those whose rights have been violated by counter-terrorism measures. It urged States to maintain a transparent and independent justice system and to ensure that their measures do not resort to profiling based on ethnic, racial or religious stereotypes or discrimination. It recognised the importance of community leaders in preventing and countering extremism and of adopting rehabilitation strategies for returning foreign terrorist fighters in line with international law. It urged States and other stakeholders to also take measures such as education, awareness-raising, media and human rights education and training to tackle terrorism and violent extremism.
42/19	Human rights and indigenous peoples	The Council urged States and potential donors to contribute to the UN Voluntary Fund for Indigenous Peoples to enable participation of indigenous women, youth and persons with disabilities. It encouraged the Expert Mechanism to continue efforts to enhance the representation of indigenous peoples in the HRC. It encouraged States to give due consideration to intersecting forms of discrimination faced by indigenous peoples and to collect disaggregated data covering identity factors to monitor the impact of development policies on their well-being. It called for greater coordination between different UN mechanisms to promote and protect the rights of indigenous peoples.
42/20	Human rights and indigenous peoples: mandate of the Special Rapporteur on the rights of indigenous peoples	The Council renewed the mandate of the Special Rapporteur for a further period of three years. It directed the Special Rapporteur to examine ways of overcoming existing obstacles to the full and effective protection of the rights of indigenous peoples; to identify, exchange and promote best practices; to formulate recommendations on appropriate measures to prevent and remedy violations of the rights of indigenous peoples; to have regular cooperative dialogue with all relevant actors, among other things. It urged Governments to address allegations and condemn reprisals against UN mandate holders working on the rights of indigenous people.

42/21	Protection of the rights of workers exposed to hazardous substances and wastes	The Council condemned the violations of the rights of workers in all parts of the world through unsafe exposure to toxic and hazardous substance at the national, regional and global levels. It highlighted the need to bridge the discussions on the rights of workers within the labour, human rights and environmental health forums. It noted that the right to just and favourable conditions of work and other interrelated human rights of workers remain insufficiently implemented and realised. It urged States to strengthen the global regime for chemical management to prevent and minimise unsafe exposure to hazardous substances and to promote the rights of workers to the highest attainable standard of physical and mental health and to just and favourable conditions of work.
42/22	Arbitrary detention	The Council encouraged all States to ensure that their legislations and practices conform with international legal standards. It urged States to respect the rights of a person arrested or detained on a criminal charge: to be brought promptly before a judge; to engage with the legal counsel of their choice; and to be tried within a reasonable time and to determine the lawfulness of the detention or to be released, principles which would also apply to administrative detention. It recognised that the persons detained arbitrarily are more vulnerable to further abuses such as extrajudicial killings, torture and ill-treatment. It called on States to ensure that conditions of pre-trial detention do not undermine the fairness of the trial and to review laws and practices on that count. It further urged States to heed to the urgent appeals addressed to them by the Working Group on a strictly humanitarian basis and without prejudging its conclusions.
42/23	The right to development	The Council urged the High Commissioner to take sufficient measures to ensure balanced allocation of resources and ensure visibility of the right to development by implementing tangible projects in collaboration with the Special Rapporteur. Noting the need for greater acceptance and realisation of the right internationally, it urged States to formulate policies for implementing the right as an integral part of human rights. It called on States to reiterate their political commitment to ensure the promotion of the right to development and stressed the importance of its core principles of equality, non-discrimination, accountability, participation and international cooperation, for mainstreaming the right. It encouraged all stakeholders to give due consideration to the right to development while implementing the 2030 Agenda for Sustainable Development; to contribute to the work of the Working Group; and to cooperate with the High Commissioner and the Special Rapporteur in the fulfilment of their mandates.
42/24	The question of the death penalty	The Council called upon States that are yet to ratify / accede to the CCPR-OP2-DP aiming at the abolition of the death penalty, to consider doing so; while for States that have abolished or applied a moratorium on death penalty, to refrain from resuming its use. It further called upon States retaining the death penalty to limit its use only to “the most serious crimes” and to make available relevant information, disaggregated by gender, age, nationality and other applicable criteria, with regard to their use of the death penalty. It further decided that the biennial high-level panel discussion to be held at the 46th HRC session will address human rights violations related to the use of the death penalty, particularly with respect to whether it has a deterrent effect on crime rate.

42/25	Situation of human rights in the Bolivarian Republic of Venezuela	The Council condemned the widespread human rights violations and urged the Venezuelan authorities to fully implement the recommendations in the High Commissioner's report: release political prisoners and arbitrarily detained persons; conduct impartial and transparent investigations into violations; condemn, punish and prevent all acts of political persecution; prevent the excessive use of force during protests; and adopt effective measures to protect HRDs and media workers. It expressed concern over the socio-economic crisis in the country, including the lack of availability and accessibility of food, water, essential medicines and health-care and its differentiated impact on women and girls. It further urged the Venezuelan authorities to cooperate and engage with the UN mechanisms for promotion and protection of human rights and to grant free, full and unfettered access to the IACHR.
42/26	Situation of human rights in Burundi	The Council urged the Government of Burundi to end the persistent human rights violations, including extrajudicial killing; enforced disappearances; arbitrary detention; torture and ill-treatment; sexual and gender-based violence; persecution of civil society, journalists and political opponents; and restrictions on the freedoms of expression and assembly. It urged the Government to create conditions conducive for holding peaceful, credible and inclusive elections and called upon all parties to refrain from acts of violence and intimidation. It expressed concerns over the Col's findings of abuses committed by the Burundian national security forces and reaffirmed its call upon the Burundian authorities to conduct impartial, independent and effective investigations into all violations to hold perpetrators to account and ensure that victims have access to effective remedy and reparation.
42/27	The human rights situation in the Syrian Arab Republic	The Council urged all parties to the conflict to renew efforts to negotiate a political solution. It demanded the Syrian authorities to cooperate with the Col by granting it full and unfettered access throughout their territories. It condemned violations of international human rights and humanitarian law committed by all parties and demanded compliance with international law. It called on Syrian authorities to end the use of prohibited weapons and condemned targeted attacks on civilian population and objects, including use of starvation as a method of warfare. It expressed concern over the safe, dignified and voluntary return of over 5.6 million refugees who had fled the violence. It encouraged States to support the work of the IIIM in the Syrian Arab Republic and other accountability mechanisms to end impunity, establish accountability for violations and ensure justice for victims.
42/28	Cooperation with the United Nations, its representatives and mechanisms in the field of human rights	The Council reaffirmed the individual and collective right to have unhindered access to and communication with the UN, its representatives and agencies, including the HRC and its mechanisms. It condemned all acts of intimidation or reprisal, both online and offline, by State and non-State actors against those who seek to cooperate with the UN. It called upon States to prevent and refrain from committing acts of intimidation or reprisal, while welcoming efforts to investigate such allegations and bring perpetrators to justice. It encouraged the Assistant Secretary-General for Human Rights to continue efforts to develop and implement a comprehensive system for addressing acts of intimidation or reprisal, and called upon States and stakeholders to contribute to these efforts.

42/29	From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance	The Council underlined the need to eliminate legal obstacles and discriminatory practices hampering full participation of all, especially people of African descent, in public and political life. It underscored the importance of political will and commitment to eliminate racism, racial discrimination, xenophobia and related intolerance and the need for effective implementation of the DDPA for combating all its forms. It was alarmed at the manifestations of racism and xenophobia precipitated by false, socially unjust, dangerous, extremist nationalist and populist ideologies, reiterating that human beings are born free and equal in dignity and rights. It urged States to consider withdrawing their reservations on Article 4 of the ICERD and on Articles 18, 19 and 20 of the ICCPR.
42/30	Promoting international cooperation to support national mechanisms for implementation, reporting and follow-up	The Council acknowledged the constructive role of all branches of State, as well as NHRIs, civil society, academia and other stakeholders in strengthening national implementation mechanisms. It welcomed the technical assistance and capacity-building provided by the OHCHR and the UNDP, in consultation with and with the consent of the State concerned. It encouraged States to establish and strengthen national mechanisms for implementation, reporting and follow-up for compliance with human rights obligations and to share good practices. It requested the High Commissioner to organise five regional consultations to exchange experiences with all relevant stakeholders and prepare a report on their recommendations.
42/31	Technical assistance and capacity-building for Yemen in the field of human rights	The Council expressed concerns over the serious violations of international human rights and humanitarian law, such as sexual violence, recruitment of children, violence against political activists, targeting of civilians, and religious persecution. It called upon all parties to respect their international obligations by refraining from attacking civilian objects and facilitating rapid, safe and unhindered humanitarian access to civilians. It invited the UN system and Member States to assist the transitional process in Yemen, by aiding it to tackle the consequences of violence and socio-economic challenges. It requested the OHCHR to continue to provide technical assistance to the Government and the National Commission of Inquiry in Yemen so that it can fulfil its mandate effectively and in line with international standards and submit a comprehensive report on its findings.
42/32	Enhancement of technical cooperation and capacity-building in the field of human rights	The Council reiterated the need for Agenda Item 10 for stakeholders to exchange views regarding effective technical cooperation and to share challenges faced while fulfilling human rights obligations. It reiterated that technical cooperation is to be based on consultations with and consent of the States concerned, taking into account their needs and that it should be inclusive of all stakeholders, including civil society. It stressed the importance of coordination within the UN system and encouraged stakeholders to enhance the effectiveness of technical cooperation by building multi-stakeholder partnerships for promoting and protecting human rights.
42/33	Assistance to Somalia in the field of human rights	The Council welcomed the Government of Somalia's commitment to improve the human rights situation through new policy frameworks and progress on key legislations. However, it expressed concerns over human rights abuses committed by all armed actors, especially against children, women and girls, IDPs, persons with disabilities, human rights defenders and the media. It called upon the Government to: complete the constitutional review process to promote peace and the rule of law; expedite the establishment of an NHRI; end the prevailing culture of impunity and hold perpetrators of violations to account; ratify the CEDAW and the Convention on the Prevention and Punishment of the Crime of Genocide, etc. It also renewed the mandate of the Independent Expert on the issue for one year.

42/34	<i>Assistance technique et renforcement des capacités dans le domaine des droits de l'homme en République démocratique du Congo</i> [Technical assistance and capacity-building in the field of human rights in the Democratic Republic of the Congo]	The Council condemned all acts of violence, especially in areas affected by armed or inter-communal conflict and urged all stakeholders to abstain from violence, exercise restraint to avoid further inflaming the situation, and settle their disputes peacefully. It encouraged the Government to pursue legislative changes to promote respect for human rights, strengthen the rule of law and democratic institutions, and advance political openness. It welcomed the establishment of an NHRI and invited the Government to improve the participation of women in governance. It encouraged the Government to continue reforms in the security sector and prison system, and cooperate with the OHCHR, the HRC and its mechanisms.
42/35	Technical assistance and capacity-building to further improve human rights in the Sudan	The Council encouraged the Government of the Sudan to continue cooperation with the Independent Expert to enable him to fulfil his mandate which it renewed for one year. It requested the Independent Expert to work with all relevant partners to provide technical assistance and capacity-building to the Government of the Sudan. It reiterated its appreciation that the Sudan continues to host more than one million refugees from other countries in the region and for the Government's continued efforts to implement the accepted UPR recommendations, notably on ratifying the Convention against Discrimination in Education and reforming the National Security Act, 2010. It urged the Government to maintain a safe and enabling environment for civil society, human rights defenders, the media and other actors as well as to establish an NHRI in accordance with Paris Principles.
42/36	<i>Assistance technique et renforcement des capacités dans le domaine des droits de l'homme en République centrafricaine</i> [Technical assistance and capacity-building in the field of human rights in the Central African Republic]	The Council condemned the violations of human rights and international humanitarian law, including killings, torture and ill-treatment, sexual violence, recruitment and use of children, as well as the denial of humanitarian assistance. It condemned the targeting of civilians, humanitarian and health workers and UN staff, and called on all parties to immediately cease all violations. It welcomed steps by the Government of the CAR, such as the 2019 joint communiqué with the UN to address sexual violence during conflict; ratification of the CRC-OP-AC in 2017; establishment of a Special Criminal Court to identify, prosecute and bring to justice persons responsible for international crimes. It called on the CAR authorities, with the support of the MINUSCA, to engage in disarmament, demobilisation, reintegration and repatriation requests. It also renewed the mandate of the Independent Expert on the human rights situation in the CAR for one year.
42/37	Advisory services and technical assistance for Cambodia	The Council welcomed the positive engagement by the Government of Cambodia in the third UPR cycle and the progress made in implementing the accepted recommendations. It noted efforts made by the Government to combat corruption and crimes, such as human trafficking, the exploitation of labour and sexual exploitation of women and children. However, it expressed serious concern at the deteriorating civil and political rights in Cambodia due to judicial prosecutions and other actions against political opponents, civil society and the media. It called upon the relevant partners to assist Cambodia to establish an independent NHRI, and strengthen legal institutions, investigating machinery and law enforcement. It extended the mandate of the Special Rapporteur on the matter for a period of two years.

b. The Commonwealth at the 42nd Session of the Human Rights Council

During the 42nd Session of the HRC, 11 Commonwealth countries participated as members of the Council. These countries were Australia, the Bahamas, Bangladesh, Cameroon, Fiji, India, Nigeria, Pakistan, Rwanda, South Africa, and the UK.¹

c. Voting Patterns of the Commonwealth Member States on Resolutions

i. Thematic Resolutions

Voting Key:

Favour: ✓

Against: ✗

Consensus: •

Abstention: –

Table 2.2

Text	Resolution	AUS	BAH	BAN	CAM	FIJI	IND	NIG	PAK	RWA	SA	UK
42/1	Composition of staff of the Office of the United Nations High Commissioner for Human Rights (OHCHR)	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓	✗
42/5	The human rights to safe drinking water and sanitation	•	•	•	•	•	•	•	•	•	•	•
42/6	The role of prevention in the promotion and protection of human rights	•	•	•	•	•	•	•	•	•	•	•
42/7	World Programme for Human Rights Education: adoption of the plan of action for the fourth phase	•	•	•	•	•	•	•	•	•	•	•
42/8	Promotion of a democratic and equitable international order	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓	✗
42/9	The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓	✗
42/10	Special Rapporteur on contemporary forms of slavery, including its causes and consequences	•	•	•	•	•	•	•	•	•	•	•
42/11	Human rights in the administration of justice, including juvenile justice	•	•	•	•	•	•	•	•	•	•	•
42/12	The human rights of older persons	•	•	•	•	•	•	•	•	•	•	•
42/13	The right to social security	•	•	•	•	•	•	•	•	•	•	•
42/14	Marking the twenty-fifth anniversary of the Beijing Declaration and Platform for Action	•	•	•	•	•	•	•	•	•	•	•

1 United Nations Human Rights Council, Current Membership of the Human Rights Council, 1 January - 31 December 2019. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/CurrentMembers.aspx>.

42/15	The right to privacy in the digital age	•	•	•	•	•	•	•	•	•	•	•
42/16	The right of everyone to the enjoyment of the highest attainable standard of physical and mental health	•	•	•	•	•	•	•	•	•	•	•
42/17	Human rights and transitional justice	•	•	•	•	•	•	•	•	•	•	•
42/18	Terrorism and human rights	•	•	•	•	•	•	•	•	•	•	•
42/19	Human rights and indigenous peoples	•	•	•	•	•	•	•	•	•	•	•
42/20	Human rights and indigenous peoples: Mandate of the Special Rapporteur on the rights of indigenous peoples	•	•	•	•	•	•	•	•	•	•	•
42/21	Protection of the rights of workers exposed to hazardous substances and wastes	•	•	•	•	•	•	•	•	•	•	•
42/22	Arbitrary detention	•	•	•	•	•	•	•	•	•	•	•
42/23	The right to development	✘	✓	✓	✓	✓	✓	✓	✓	✓	✓	✘
42/24	The question of the death penalty	✓	✘	✘	✘	✓	✘	–	✘	✓	✓	✓
42/28	Cooperation with the United Nations, its representatives and mechanisms in the field of human rights	✓	✓	✓	–	✓	✓	–	✓	✓	✓	✓
42/29	From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance	•	•	•	•	•	•	•	•	•	•	•
42/30	Promoting international cooperation to support national mechanisms for implementation, reporting and follow-up	•	•	•	•	•	•	•	•	•	•	•
42/32	Enhancement of technical cooperation and capacity-building in the field of human rights	•	•	•	•	•	•	•	•	•	•	•

ii. Country-situation Resolutions

Voting Key:

Favour: ✓

Against: ✗

Consensus: •

Abstention: –

Table 2.3

Text	Resolution	AUS	BAH	BAN	CAM	FIJI	IND	NIG	PAK	RWA	SA	UK
42/2	Human rights situation in Yemen	✓	✓	–	–	✓	✗	–	✗	–	✓	✓
42/3	Situation of human rights of Rohingya Muslims and other minorities in Myanmar	✓	✓	✓	–	✓	–	✓	✓	✓	✓	✓
42/4	Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela	✗	–	–	✓	✓	–	–	✓	✓	✓	–
42/25	Situation of human rights in the Bolivarian Republic of Venezuela	✓	✓	–	✗	–	–	–	–	–	–	✓
42/26	Situation of human rights in Burundi	✓	✓	–	✗	✓	–	–	✗	✓	–	✓
42/27	The human rights situation in the Syrian Arab Republic	✓	✓	–		✓	–	–	–	✓	–	✓
42/31	Technical assistance and capacity-building for Yemen in the field of human rights	•	•	•	•	•	•	•	•	•	•	•
42/33	Assistance to Somalia in the field of human rights	•	•	•	•	•	•	•	•	•	•	•
42/34	<i>Assistance technique et renforcement des capacités dans le domaine des droits de l'homme en République démocratique du Congo</i> [Technical assistance and capacity-building in the field of human rights in the Democratic Republic of the Congo]	•	•	•	•	•	•	•	•	•	•	•
42/35	Technical assistance and capacity-building to further improve human rights situation in the Sudan	•	•	•	•	•	•	•	•	•	•	•
42/36	<i>Assistance technique et renforcement des capacités dans le domaine des droits de l'homme en République centrafricaine</i> , [Technical assistance and capacity-building in the field of human rights in the central African Republic]	•	•	•	•	•	•	•	•	•	•	•
42/37	Advisory services and technical assistance for Cambodia	•	•	•	•	•	•	•	•	•	•	•

d. Overview of the Performance of the Commonwealth Member States

Table 2.4

No.	Criteria	AUS	BAH	BAN	CAM	FIJI	IND	NIG	PAK	RWA	SA	UK
1.	Clean slate election	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓
2.	Voluntary pledges and commitments submitted	✓	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓
3.	Issued Standing invitation to Special Procedures	✓	✓	✗	✓	✓	✓	✓	✗	✓	✓	✓
4.	Treaty Ratification (nine major treaties and their optional protocols)	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
5.	Treaty reporting (outstanding report exceeding 5 years)	0	3	1	1	0	3	6	0	0	1	0
6.	Pending visit requests and reminders from Special Procedures	3	1	15	6	6	19	10	11	8	18	3

i. Compliance with Reporting Obligations to Treaty Bodies

When a State ratifies a treaty, it assumes the obligations to implement its substantive provisions. Additionally, it also incurs an obligation to submit periodic reports to the relevant treaty body / committee established by the treaty to monitor the implementation of the rights outlined in it by the State party. Almost all Commonwealth Member States, in their voluntary pledges, have committed to comply with their treaty body reporting obligations under the major human rights treaties that they have ratified. However, not all of these obligations have been fulfilled.

Among the Commonwealth countries from the 'Western European and Others Group' (WEOG), the UK and Australia have submitted all their reports to date, although there has been a slight delay in submitting some of these reports. The Commonwealth countries from 'Asia and the Pacific' Group — Bangladesh, Fiji, India and Pakistan — have some long pending reports under the major treaties. Particularly, Bangladesh and Fiji have a report pending with the CERD since 2002 and 2016 respectively. Fiji has its reports pending under the CAT since 2017 and CRPD since 2019. India has reports pending under the CERD since 2010 and the CESCR since 2011; it last submitted a report to the CCPR (also called HRCtte) in 1995. In 2019, the CCPR decided to review India *in absentia* (to determine the list of issues prior to reporting). Since July 2020, it also has a report pending with the CRC.

Among the Commonwealth countries from the African Group, Cameroon has reports pending with CEDAW since 2018 and CRC-OP-AC since 2015; while Nigeria has eight reports pending: with the CAT since 2002, CERD since 2008, CESCR since 2000, CMW since 2018, CRC since 2016, CRC-OP-AC since 2014, CRC-OP-SC since 2012 and CRPD since 2012. Rwanda has two reports pending: under the CCPR since 2019 and the CESCR since 2018. It also has the report with the CERD pending since May 2020; South Africa has a report pending with the CRC-OP-AC since 2011 and recently with the CERD since January 2020. The sole Commonwealth country from the 'Latin American and Caribbean Group' (GRULAC) and the first HRC member of the Caribbean Community (CARICOM), the Bahamas, has six reports pending: CAT since 2019, CRC-OP-AC and CRPD since 2017, CESCR since 2011, CCPR since 2010, and the CRC since 2008.

ii. Engagement with Special Procedures

The Special Procedures mechanism of the HRC consists of independent human rights experts or groups of experts with mandates to report and advise on human rights issues concerning a particular theme or country situation. Special Procedures include Special Rapporteurs, Independent Experts and Working Groups, who are mandated by the Council to look into various human rights issues. The voluntary pledges of almost all Commonwealth Members States include commitments to support and improve engagement with the Special Procedures. However, records

show that most States do not satisfactorily engage with this mechanism. Bangladesh, South Africa and India have the highest — 15 to 19 — visit requests and reminders pending from Special Procedures. Pakistan has 11 requests pending. Moreover, Pakistan and Bangladesh are the only current Commonwealth Member States of the HRC who have not extended standing invitations to thematic Special Procedures.

In the African Group, Cameroon and Rwanda have six and eight pending requests and reminders each. Nigeria has 10 pending requests. Likewise, Fiji has six pending requests and reminders. The engagement of Australia, the Bahamas and the UK with Special Procedures has been relatively positive. The UK has three pending requests from the Special Rapporteurs on torture, on sale of children, and on mercenaries; Australia also has three pending requests from the Special Rapporteurs on torture and on freedom of expression, and from the Working Group on arbitrary detention. The Bahamas has one request pending from the Special Rapporteur on environment.

iii. Treaty Ratification

In this report, we also examine the status of ratification and compliance of the Commonwealth Member States of the HRC with the substantive provisions of nine major human rights treaties and their optional protocols. None of the Commonwealth Member States covered in this study has ratified or acceded to all the major human rights treaties. The overall trend of ratification shows that nine out of 11 States have not ratified the Convention for the Protection of All Persons from Enforced Disappearance (CED); only Nigeria² and Fiji³ have ratified the Convention. Similarly, seven Commonwealth countries out of 11 have not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), including Australia, the UK and South Africa.

Nigeria and Rwanda have shown a relatively better ratification status. Nigeria has not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to abolish the death penalty (CCPR-OP2-DP), while Rwanda has not ratified the CED. Moreover, Bangladesh has not ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT-OP), the CCPR-OP2-DP and the CED; India has not ratified the CAT, the CAT-OP, the CCPR-OP2-DP, the CED, and it has neither signed nor ratified the CMW. The Bahamas and Pakistan have not ratified the CAT-OP, the CCPR-OP2-DP, the CMW and the CED. Cameroon has not ratified the CAT-OP, the CCPR-OP2-DP, the CED, the CMW, the Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography (CRC-OP-SC) and the CRPD. Fiji recently ratified the CED and CMW in August 2019, but has not yet ratified the CCPR-OP2-DP, CAT-OP, CRC-OP-AC and CRC-OP-SC.

iv. Thematic Resolutions

The Council adopted 25 thematic resolutions during its 42nd Session. As an overall trend, the Commonwealth Member States, along with the other HRC members, adopted 19 resolutions with consensus, while six resolutions were adopted by recorded vote. The resolutions adopted by vote were *Composition of staff of the Office of the United Nations High Commissioner for Human Rights*,⁴ *Promotion of a democratic and equitable international order*,⁵ *The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*,⁶ *The right to development*,⁷ *The question of the death penalty*,⁸ and *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*.⁹

2 Office of the High Commissioner for Human Rights, Treaty Bodies, Reporting status of Nigeria. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=NGA&Lang=EN.

3 Office of the High Commissioner for Human Rights, Treaty Bodies, Reporting status of Fiji. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=60&Lang=EN.

4 Resolution 42/1 Composition of staff of the Office of the United Nations High Commissioner for Human Rights (2019).

5 Resolution 42/8 Promotion of a democratic and equitable international order (2019).

6 Resolution 42/9 The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (2019).

7 Resolution 42/23 The right to development (2019).

8 Resolution 42/24 The question of the death penalty (2019).

9 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

Although there was no unanimity of voting pattern among all the Commonwealth Member States, Australia and UK of the WEOG followed an identical voting pattern on thematic resolutions: while they voted in favour of the resolutions on *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*¹⁰ and *The question of the death penalty*,¹¹ they voted against the other four thematic resolutions that were put to vote. Notably, the resolution on *The question of the death penalty*¹² received the least support from the Commonwealth Member States from other regional groups: whereas The Bahamas, Bangladesh, Cameroon, India and Pakistan voted against it, Nigeria abstained from voting on the resolution.

v. Country Situation Resolutions

The Council adopted a total of 12 country situation resolutions during this session: six resolutions were adopted by consensus and six resolutions were adopted by recorded vote. There was no similarity in the voting pattern of the Commonwealth Member States from any regional group. The WEOG countries, Australia and the UK, voted in favour of five country situation resolutions, except the resolution on *Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela*¹³; Australia voted against the resolution, the UK abstained from voting on it. The resolution on the *Situation of human rights of Rohingya Muslims and other minorities in Myanmar*¹⁴ received support from most Commonwealth Member States, except Cameroon and India who abstained from voting on it. India did not vote in favour of any country situation resolution; it voted against the resolution on *Human rights situation in Yemen*,¹⁵ while it abstained from voting on the remaining five resolutions. Uncharacteristically, Cameroon's vote on the resolution on *The human rights situation in the Syrian Arab Republic*¹⁶ remained unregistered.

e. Major Challenges

i. Pledges

Eight out of the 11 Commonwealth Member States, namely, Australia, The Bahamas, Bangladesh, Fiji, India, Pakistan, South Africa and the UK submitted a new pledge for their election to the HRC enumerating their human rights promises and commitments. Rwanda has not submitted a pledge at all for its election to the HRC. Nigeria last submitted its pledge in 2009. However, a challenging aspect with respect to most of these pledges is that they are often vague and broadly worded. This makes it difficult to assess measurable outcomes or hold countries accountable to any objective commitments made by them. While these pledges are voluntary in nature, they remain an important consideration for being elected to the HRC, as it outlines the human rights priorities of the contesting States. The UN General Assembly Resolution 60/251, which established the HRC, states that human rights pledges made by countries should be an important consideration while electing the HRC members.¹⁷ The importance of the pledges lies in the fact that Member States without formal pledges and commitments can avoid any objective scrutiny from national and international stakeholders, without contributing to the promotion and protection of human rights across the globe which remains the primary mission of the Council.

ii. Uncontested "Clean Slate" Elections

It is a given that the performance of the Council is directly influenced by its composition. Countries have been divided into five regional groups to ensure proportionality and equality of representation. The system of elections was

¹⁰ Ibid.

¹¹ Resolution 42/24 *The question of the death penalty* (2019).

¹² Ibid.

¹³ Resolution 42/4 *Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela* (2019).

¹⁴ Resolution 42/3 *Situation of human rights of Rohingya Muslims and other minorities in Myanmar* (2019).

¹⁵ Resolution 42/2 *Human rights in Yemen* (2019).

¹⁶ Resolution 42/27 *Situation of human rights in the Syrian Arab Republic* (2019).

¹⁷ United Nations General Assembly, Resolution adopted by the General Assembly, 60/251, Human Rights Council (2006). Available at: https://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf.

introduced, among other things, as a competitive incentive for States to improve their commitment to human rights. However, there has been a worrying trend of regional groups running clean-slate elections – with the number of countries contesting the election being equal to the number of seats available. The HRC election in 2018 was a clean-slate election for all the five regional groups.¹⁸ From the current membership, the only Commonwealth Member State that was elected to the Council through a contested, non-clean slate election is Pakistan.

In the first decade of the Council, the elections in Asia and the Pacific Group were uncontested six out of 10 times; African Group elections were uncontested eight out of 10 times; and the WEOG elections were uncontested six out of 10 times. Competitive elections are critical to promote robust dialogue, geographical representation, diversity, and accountability of the States before the world community. The practice of clean-slate elections undermines the Council's credibility, for, among other issues, it also prevents States from submitting pledges on their sincere human rights commitments.

iii. Lack of Follow-up and Implementation

There is a perceptible culture of failure on the part of Member States to truly, in their essence, honour the resolutions that they support during the Council sessions. It is therefore essential that the Council ensures that the Member States follow-up with their commitments and adhere to the objectives and purposes prescribed in the resolutions. This is imperative, especially, to foster and sustain the universality of human rights amongst all sovereign Member States.

During the term of a Member State on the HRC, there should be increased scrutiny on its adherence to these resolutions by other members. This would guarantee compliance with their membership obligations and ensure accountability for their actions and inactions in the human rights arena. This concept of monitoring implementation needs to be held at the highest standards in the Council. Such scrutiny could be applied through an annual report by the High Commissioner that focuses on cooperation by the Council Members with resolutions and other UN mechanisms. It is only when the functioning of the Council is implementation and monitoring-focused, there can be some sense of accountability of States for the human rights situations and concerns in their respective territories.

Another observation is that the resolutions should be action-oriented; they should identify reforms, and stages of practice and implementation, that are concrete and measurable to assist in conducting follow-ups. The primary sponsors of each resolution should consider incorporating successes for identifying benchmarks and reporting on implementation to make documentation and assessment easier and more accessible. Each State, as well as the OHCHR, should also maintain a comprehensive monitoring database, by bringing together relevant recommendations from Special Procedures, Treaty Bodies, the UPR Working Group, various Council resolutions, and reports on the implementation of these recommendations.

¹⁸ United Nations General Assembly, Elections of the Human Rights Council, 12 October 2018. Available at: <https://www.un.org/en/ga/73/meetings/elections/hrc.shtml>.

CHAPTER III

Country Profiles

AUSTRALIA

I. Introduction

Australia was elected to serve its first term at the Council after a clean slate election in 2017.¹⁹ Its current term ends on 31 December 2020.²⁰

II. Voluntary Pledges and Commitments

In its voluntary pledges, Australia committed itself to fundamental human rights and freedoms.²¹ It positioned itself as a “pragmatic and principled” candidate and a voice for the Pacific. Led by the *then* Foreign Minister, Julie Bishop, Australia’s campaign was based on “five pillars”,²² namely:

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

III. Participation at the 42nd Session of the HRC

Australia was an active participant at the 42nd HRC session. The following is a selected representation of Australia’s participation in the interactive dialogues, general debates and panel discussions during the session:

19 United Nations General Assembly, Elections of the Human Rights Council, 16 October 2017. Available at: <https://www.un.org/en/ga/72/meetings/elections/hrc.shtml>.

20 Office of the High Commissioner for Human Rights, Current Membership of the Human Rights Council (2019). Available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/MembersByGroup.aspx>.

21 United Nations General Assembly, Note verbale 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: <https://undocs.org/en/A/72/212>.

22 Government of Australia, Department of Foreign Affairs and Trade, Pillars and Priorities. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/pillars-and-priorities/Pages/pillars-and-priorities.aspx>.

S. No.	Interactive Dialogue	Australia's Interventions
1.	Clustered interactive dialogue with the Special Rapporteur on contemporary forms of slavery and the Working Group on the use of mercenaries	<ul style="list-style-type: none"> Recognised the need for coordinated response and actions across governments, international agencies, business and civil societies to address underlying inequality in society, commerce and law enforcement, including its disproportionate impact on women and girls, for the elimination modern slavery by 2030. Affirmed its commitment to engage with partner countries to build strong law, policy and operational frameworks to support vulnerable domestic and international workers and tackle modern slavery. Stated that their new <i>Modern Slavery Act</i> shall ensure annual reporting by the Government as well as about 3000 large companies, charities and other entities on actions taken to address modern slavery risks in their global operations and supply chains. Called for collaborative implementation of the Bali Process, and the Government and Business Forum's Acknowledge, Act and Advance recommendations to improve supply chain transparency, ethical recruitment and employment. Reaffirmed its commitment to contribute to the Alliance 8.7 partnership's collective effort to accelerate action on SDG 8.7 through the Global Coordinating Group.²³
2.	Enhanced interactive dialogue on the report of the High Commissioner on Nicaragua	<ul style="list-style-type: none"> Expressed concerns about the ongoing human rights violations in Nicaragua forcing at least 60,000 Nicaraguans to flee, mainly to Costa Rica. Urged the Nicaraguan Government to stop the violent repression of political dissent that has resulted in deaths, arbitrary detentions and threats to journalists and the media, with over 100 journalists in exile. Stated that persecution of human rights defenders, civil society, women as well as indigenous and LGBTI communities has disproportionately affected them as they face sexual and gender-based violence, threats and acts of intimidation. Urged the Nicaraguan Government to respect the rights of its citizens to dissent and protest peacefully. Underlined the need to cooperate with international human rights organisations to restore transitional justice and adopt mechanisms for transparent investigation with a view to prevent further human rights violations.²⁴
3.	Interactive dialogue on the report of the High Commissioner on Yemen	<ul style="list-style-type: none"> Welcomed efforts to increase transparency and accountability regarding the on-going conflict to shed light on the humanitarian situation in Yemen. Expressed concerns over the alleged violations of international human rights and humanitarian laws as documented in the report and acknowledged their disproportionate impact on women and girls. Stated that the reports on arbitrary detention, torture, sexual and gender-based violence and discrimination as well as indiscriminate targeting has resulted in significant civilian casualties and damage to civilian infrastructure with no accountability for violations. Welcomed the improved humanitarian access in Hodeidah, while noting the continued unacceptable restrictions faced by humanitarian organisations, particularly in the north. Shared the concerns of the Group of Eminent Experts about the slow progress in the implementation of the Stockholm Agreement and restated the need for all parties to engage constructively with the UN Special Envoy for Yemen to reach a lasting political settlement.²⁵

23 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council, Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-cid-sr-contemporary-forms-of-slavery-wg-use-mercenaries.pdf>.

24 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council, Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-id-on-the-hc-for-human-rights-nicaragua.pdf>.

25 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council, Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-id-on-the-hc-for-human-rights-yemen.pdf>.

4.	Clustered interactive dialogue with the Independent Expert on the human rights of older persons and the Special Rapporteur on the right to development	<ul style="list-style-type: none"> • Welcomed the discussion on improving the existing international human rights architecture to promote and protect of the rights of older persons, especially in humanitarian settings. • Recognised that older persons' experiences of disasters and humanitarian crises can be different to other groups for physical, sensory and social reasons and that challenges are often compounded with other intersectional vulnerabilities such as gender, disability, health issues or caregiving responsibilities. • Supported international and local humanitarian organisations to adopt a comprehensive victim-centred approach when supporting people affected by armed conflict and disasters, including older persons. • Recognised the need for humanitarian partners to collect disaggregated data on age, sex and disability to identify and target those in greatest need during a crisis. • Reaffirmed the need for humanitarian agencies to be accountable to the people they are assisting by ensuring participation of older people in the decision-making to ensure that no one is left behind.²⁶
5.	Interactive dialogue with the Commission on Human Rights in South Sudan	<ul style="list-style-type: none"> • Welcomed the commitment of the leaders to form a transitional government for a stable future of the South Sudanese people by fully implementing the Revitalised Agreement on the Resolution to the Conflict in the Republic of South Sudan (R-ARCSS), including armed forces unification and transitional justice mechanisms. • Strongly condemned the violence against civilians in July 2019, where over 100 civilians were brutally killed in Central Equatoria by government forces. • Expressed serious concerns about the normalisation of sexual and gender-based violence and implored the Government to hold the perpetrators to account and to take active steps to address all forms of violence. • Raised concern about the shrinking civic space as well as reports of arbitrary arrests, detention and torture carried out by the National Security Service and urged the government to end forced disappearances. • Requested the Commission to recommend steps to ensure justice for victims of sexual and gender-based violence in the country and updates on establishing special courts to handle such crimes.²⁷
6.	Interactive dialogue with the Special Rapporteur on Myanmar (oral update)	<ul style="list-style-type: none"> • Reiterated the need for timely, unimpeded and sustained humanitarian access in the Rakhine and other conflict-affected areas to ensure safe, dignified and sustainable return of displaced people by implementing the recommendations of the Advisory Commission. • Welcomed the ceasefire announcements from the Tatmadaw and the Northern Alliance countering the ongoing clashes among the ethnic armed groups and the military that had caused displacement and killing of civilians, complicating the national peace process. • Acknowledged the steps taken by the Government of Myanmar towards the ratification of international human rights instruments and welcomed its ratification of the CRC-OP-AC. • Expressed its continued support to Myanmar's efforts towards full democracy and welcomed the withdrawal of the lawsuit against Reverend Samson. • Urged Myanmar to amend laws restricting rights of the people in order to ensure a safe and enabling environment for civil society, journalists and lawyers.²⁸

26 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-on-the-rights-of-older-persons.pdf>.

27 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-id-commission-human-rights-south-sudan.pdf>

28 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-id-special-rapporteur-myanmar.pdf>.

7.	Interactive dialogue with the fact-finding mission on Myanmar	<ul style="list-style-type: none"> • Expressed serious concerns about the Mission’s findings that war crimes and crimes against humanity, including likely acts of genocide, have occurred in Myanmar against the Rohingya and condemned these atrocities. • Highlighted the continued discrimination, marginalisation and violence suffered by ethnic groups including the Rohingyas, including sexual and gender-based violence, in Myanmar. • Expressed concern over the growing use of criminal defamation charges to silence those who report abuses and the broader conflict. • Commended the Mission’s efforts to document human rights violations to advance accountability for perpetrators and justice for victims.²⁹
8.	Interactive dialogue with the Independent International Commission of Inquiry on the Syrian Arab Republic	<ul style="list-style-type: none"> • Expressed concerns over the attacks on medical personnel, facilities, schools and civilian infrastructure in the Idlib de-escalation area where more than 1000 civilian fatalities were recorded due to indiscriminate bombardment by the Syrian regime and its allies. • Urged all parties to adhere to the 2017 agreement establishing Idlib as a ‘de-escalation’ zone and the 2018 Sochi agreement establishing the Idlib demilitarisation zone since counter-terrorism objectives should not absolve governments of their human rights obligations. • Sought clarification from the Syrian regime on the estimated 98,000 persons who have disappeared, been detained, tortured or killed in Syria since March 2011. • Urged release of detained persons, especially women and children, under UNSC Resolution 2254 and the Col’s recent report on the Syrian Arab Republic and supported efforts to establish accountability for the crimes committed in Syria. • Inquired how the Commission is tracking attacks on civilian targets, particularly medical facilities, in Idlib.³⁰
9.	Interactive dialogue with the Commission of Inquiry on Burundi	<ul style="list-style-type: none"> • Supported the extension of the mandate of the Commission of Inquiry while regretting the Government of Burundi’s lack of cooperation with the Commission and other independent international mechanisms investigating human rights violations in the country. • Expressed deep concerns over the findings of violations of civil and political rights including arbitrary arrest, detention, torture, sexual violence, summary executions and enforced disappearances, and establishing reasonable grounds to believe that crimes against humanity have been committed. • Reiterated the need for the Government of Burundi to support free and fair elections in 2020 and ensure that the <i>Imbonerakure</i> and security forces do not compromise the democratic processes and freedoms. • Requested the Commission to elaborate on reports of violence, intimidation and increasing control over NGOs in the lead up to the 2020 election.³¹

29 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://www.dfat.gov.au/sites/default/files/42nd-hrc-national-statement-id-fact-finding-mission-myanmar.pdf>.

30 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://www.dfat.gov.au/sites/default/files/42nd-hrc-national-statement-id-coi-syrian-arab-republic.pdf>.

31 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-id-commission-enquiry-burundi.pdf>.

10.	Clustered interactive dialogue with the Special Rapporteur on the rights of indigenous peoples and the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)	<ul style="list-style-type: none"> • Informed that their Government has been working with the Aboriginal and Torres Strait Islander people to ensure that they play an integral part in decision-making on matters of concern that affect their lives. • Highlighted the practice of the Children’s Koori Court in Victoria that incorporates cultural practices into legal proceedings and identifies alternative sentencing options with community elders. • Informed about a trial transition programme for youth leaving detention to support indigenous youth to return to their families and communities without reoffending. • Reaffirmed its commitment on working to close the gap between indigenous and non-indigenous Australians to build genuine respect and inclusion, drive social and economic empowerment and address the underlying causes of the overrepresentation of indigenous Australians incarcerated by the justice system. • Requested the Special Rapporteur to share examples of innovative approaches that have helped improve justice outcomes of young indigenous people.³²
11.	Interactive dialogue with the Assistant Secretary-General for Human Rights on the report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights	<ul style="list-style-type: none"> • Disturbed by reports of reprisals against victims, human rights defenders and NGOs cooperating with the UN by both State and non-State actors, including by some members of the HRC. • Concerned by reports of NGO applications for consultative status with ECOSOC being arbitrarily deferred based on political motivations of the Committee on Non-Governmental Organisations and called on all members to apply the criteria for assessing organisations in a fair and transparent manner. • Further concerned by reports of widespread intimidation and reprisals against indigenous peoples and welcomed the ASG’s call for reporting, online documentation and analysis of how national laws affect the engagement of indigenous people with the UN. • Reiterated the need for the OHCHR to investigate and document intimidation and reprisals against women and LGBTI persons in a gender-responsive manner.³³
12.	Interactive dialogue with the High Commissioner on the oral update on Ukraine	<ul style="list-style-type: none"> • Concerned with OHCHR’s continuous observation of the negative impact of the conflict on people living on both sides of the contact line and throughout the country. • Called on all parties to comply with the provisions of the Minsk II Agreement as the only agreed basis for resolving the crisis. • Reiterated its support for Ukraine’s sovereignty and territorial integrity, while remaining concerned about the ongoing human rights violations in Crimea and eastern Ukraine. • Requested the Russian Federation to use its influence to facilitate immediate access to Crimea and eastern Ukraine to the OHCHR and other international organisations responsible for reporting on the human rights situation in Ukraine. • Welcomed the recent presidential and parliamentary elections as an effort to address the human rights concerns, place human rights at the centre of Government’s priorities and include an action plan for the protection of civilians in conflict.³⁴

32 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-cid-with-sr-indigenous-and-emrip.pdf>.

33 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-id-assistant-secretary-general-on-reprisals.pdf>.

34 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-id-hc-ukraine.pdf>.

13.	Enhanced interactive dialogue on the report of OHCHR on the human rights situation in the Democratic Republic of the Congo (DRC)	<ul style="list-style-type: none"> • Welcomed the efforts to open up the democratic space in the DRC by releasing political prisoners, holding demonstrations without incident, reopening media outlets and reported decrease in human rights violations, while adding that the attacks on civil society actors make clear that further action is required. • Urged the Government of DRC to take measures to safeguard civilians from sexual and gender-based violence, including safeguarding children being coerced into participating in armed hostilities and becoming victims of the conflict in the east. • Commends the progress in combatting impunity by prosecution of senior military officials and armed group commanders for serious offences, including sexual and gender-based violence. • Noted that a high proportion of state officials were implicated in such crimes and called on the Government of DRC to bring perpetrators to justice.³⁵
14.	Interactive dialogue with the High Commissioner on the oral update on Libya	<ul style="list-style-type: none"> • Expressed concerns about the humanitarian situation and mounting civilian casualties in Libya and by the deliberate targeting of civilian infrastructure and closure of the Mitiga airport that has restricted the entry of essential humanitarian relief. • Urged all parties to comply with international humanitarian law and human rights law to allow timely, unimpeded, sustained and safe humanitarian access throughout the country. • Deeply concerned by reports of attacks on journalists and widespread sexual and gender-based violence and called for those responsible to be held to account. • Called on all parties to commit to UN-led political mediation to establish a transitional government representing all Libyans and to prepare a new constitution with credible democratic elections. • Inquired with the Deputy High Commissioner on how best the international community could help build conditions for a ceasefire and reconciliation in Libya.³⁶
15.	Interactive dialogue with the Independent Expert on the situation of human rights in Somalia	<ul style="list-style-type: none"> • Commended Somalia for continuously engaging with the treaty bodies, the Council and its mechanisms and for achieving progress in its human rights landscape amidst the conflict and security challenges. • Expressed concerns about the continuing human rights violations and urged the Government to expedite the establishment of an NHRI for the protection of rights and to enact the national disability Bill. • Disturbed by the high levels of sexual and gender-based violence against women and girls and urge Somalia to address this urgently, including by finalising and implementing the Sexual Offences Bill and working to end impunity in such cases. • Raised concerns over the continuous intimidation, harassment and arrest of journalists and urged Somalia to protect the right to freedom of expression. • Inquired about how the international community can work with the Government of Somalia to ensure human rights of all Somalis are constitutionally protected.³⁷

35 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-id-democratic-republic-of-the-congo.pdf>.

36 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-id-on-the-hc-oral-update-libya.pdf>.

37 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-independent-expert-on-somalia.pdf>.

16.	Interactive dialogue with the Independent Expert on the situation of human rights in the Sudan	<ul style="list-style-type: none"> • Commended the parties in Sudan for signing the Constitutional Declaration as well as forming the Sovereign Council and the new Cabinet to enable a transition towards civilian rule and democracy. • Acknowledged the role of the AU and Ethiopia in facilitating the agreement and welcomed: the commitment to establish peace in conflict areas; the Government's outreach to armed opposition groups; and cooperation with the Independent Expert. • Supported an independent, transparent and thorough investigation into allegations of human rights violations, including rape and sexual violence, against peaceful protestors since December 2018. • Called on the new Government to provide an enabling environment for civil society, human rights defenders and media and conduct legal reforms that guarantee women's rights and participation at all levels of the peace process and government, while welcoming their plans to sign the CEDAW.³⁸
17.	Interactive dialogue with the Independent Expert on the situation of human rights in the Central African Republic (CAR)	<ul style="list-style-type: none"> • Welcomed moves to strengthen the ongoing peace process in CAR, while noting the need for further efforts from all parties to address religious and ethnic tensions, and reject the use of political violence. • Noted the efforts to reform the security sector, while adding the need to combat impunity and build confidence in the peace agreement and in public institutions, thereby calling on the Government to investigate and prosecute those accused of human rights violations, including state officials. • Stated that all parties to the peace agreement have an obligation to prevent sexual and gender-based violence, seek justice for victims and promote active participation of women in reconciliation dialogues addressing barriers to their involvement in political processes. • Urged for constructive engagement to ensure greater national unity and asked about the efforts being undertaken locally to support the implementation of the peace agreement to rebuild social cohesion.³⁹

S. No.	General Debate	Australia's Interventions
1.	General debate on the Oral update by the United Nations High Commissioner for Human Rights (Item 2)	<ul style="list-style-type: none"> • Reaffirmed its commitment to promoting Australian values, including democracy, the rule of law, individual freedom and the right of all to dignity and respect. • Called on HRC members to uphold the highest standards in the promotion and protection of human rights and to fully cooperate with the Council. • Disappointed that almost one-third HRC members have not issued a standing invitation to Special Procedures and called on them to do so. • Expressed concerns about the lack of commitment to human rights demonstrated by some members, including extra-judicial killings, targeting civil society and opposition figures, attacks on the independence of judges and lawyers, violent repression of peaceful protests and high rates of violence against women. • Stated that accountability for crimes is crucial for any long-term durable solution to the crisis in Myanmar, as impunity would likely lead to further violence and deter those displaced from returning home. • Commended UN's expeditious efforts to put in place arrangements for the operationalisation of the Mechanism and urged Myanmar to cooperate with the Mechanism as it carried out its mandate.⁴⁰

38 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-independent-expert-on-sudan.pdf>.

39 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://bit.ly/2xKiCij>.

40 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-item-2-general-debate-international-investigation-mechanism-for-myanmar.pdf>.

2.	General debate on Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (Item 3)	<ul style="list-style-type: none"> • Noted the progress towards a death penalty-free world with some States having removed it from their domestic legislation; some having introduced formal moratoria on executions; while others having ratified the CCPR-OP2-DP to signal their commitment. • Alarmed that more than 15 countries have used death penalty for various reasons that are not compelling or convincing, such as public support for the death penalty and for deterrence of crimes, while stating that it is their sovereign prerogative to manage their justice systems. • Deplored the death penalty in all circumstances, especially in context of non-violent conduct such as consensual same-sex relations, blasphemy, and economic crimes and drugs offences. • Called on all States to strive towards global abolition with the support of leaders focused on moving towards a death penalty-free future.⁴¹
3.	General debate on Human rights situations that require the Council's attention (Item 4)	<ul style="list-style-type: none"> • Reiterated the importance of Geneva Conventions on their 70th anniversary as the cornerstone of international law to restrain the use of force and limit warfare and human suffering during armed conflict. • Expressed deep regret regarding the manner in which the Conventions' rules are not universally respected or upheld by States, including by members of the Council. • Troubled by the Syrian regime's brutality towards its own people, including use of chemical weapons, indiscriminate targeting of civilian infrastructure, medical personnel, and facilities, for over eight years. • Alarmed about the devastating humanitarian impact of the conflict in Yemen, including alleged violations of international humanitarian and human rights law and oppression of individuals and communities such as the Baha'is based on their religious beliefs. • Condemned the authorities in Venezuela for the grave political, economic and humanitarian crisis created by their actions and called for an end to human rights violations such as torture and extrajudicial executions. • Urged China to allow independent international observers to access Xinjiang given the reports of enforced disappearances, mass detention, restriction on freedom of religion and movement of Uighurs and other ethnic minorities in the province. • Deplored the systematic human rights violations in the DPRK and called on the Government to halt its WMD and ballistic missile programme and improve the living conditions of its people.⁴²
4.	General debate on Technical assistance and capacity building (Item 10)	<ul style="list-style-type: none"> • Supported the provision of technical assistance and capacity building as critical means for the promotion and protection of human rights. • Welcomed Cambodia's ongoing cooperation with the OHCHR and its rapid economic growth and progress towards SDGs, while urging it to take steps to rebuild its democracy by allowing free and open political debate. • Asserted its support of Georgia's sovereignty; refused to recognise Abkhazia and South Ossetia's claim to independence, while underlining the need for continued engagement to prevent deterioration of the situation and need for authorities to uphold human rights in these territories. • Expressed deep concerns about the reported abuse of international human rights law and humanitarian law in Yemen and welcomed the technical cooperation by OHCHR to increase transparency of the humanitarian situation and strengthen protection for people. • Encouraged all parties to engage with the UN Special Envoy for Yemen to reach a lasting political solution.⁴³

41 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-item-3-death-penalty.pdf>.

42 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-item-4-general-debate.pdf>.

43 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://bit.ly/2RVii7w>.

S. No.	Panel Discussion	Australia's Intervention
1.	Annual half-day panel discussion on the rights of indigenous people (Statement delivered by H.E. Mr. Ken Wyatt, Minister for Indigenous Australians – as a panelist)	<ul style="list-style-type: none"> • Stated that languages are used as tools to connect, teach and exchange; allow expression of a unique perspective on the world; empowers people; and added that it is a fundamental right and expression of identity, culture and heritage to speak one's own language. • Expressed regret that out of the 250 original Aboriginal and Torres Strait Islander languages, only about half are presently spoken and only 13 are considered strong highlighting it as a hotspot for endangered languages. • Affirmed the position of the Government of Australia that indigenous voices are heard when policies are built to preserve and revitalise indigenous languages. • Highlighted the steps taken to keep these languages alive, vibrant and accessible such as conducting comprehensive survey on the state of proficiency, frequency and use of languages and supporting indigenous community-led language and arts centres. • Informed about the use of streaming platforms such as the IndigiTUBE to provide a range of content in these languages and encouraged indigenous community radio stations throughout the country to share their content.⁴⁴

IV. Voting Pattern on Resolutions

Thematic Resolutions

Australia voted in favour of two of the six thematic resolutions adopted by vote during this session, namely, *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*⁴⁵ and *The question of the death penalty*.⁴⁶

Australia voted against the remaining four thematic resolutions adopted by vote: *Composition of staff of the Office of the United Nations High Commissioner for Human Rights*,⁴⁷ *Promotion of a democratic and equitable international order*,⁴⁸ *The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*,⁴⁹ and *The right to development*.⁵⁰

- In the explanation of its vote on the resolution on *The right to development*,⁵¹ Australia shared the concern of many States that the text of the resolution seeks to create a legally binding instrument that is the only way forward to realise the right, leaving no room for alternatives. Australia encouraged the adoption of a more consensual approach in this regard and stated that the operative paragraphs of the resolution were not debated and discussed in the spirit of constructive negotiations. Therefore, Australia voted against the resolution.⁵²

Australia did not abstain from voting on any thematic resolution during the session.⁵³

44 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council, Statement delivered by H.E. Mr. Ken Wyatt, Minister of Indigenous Australians. Available at: <https://ministers.pmc.gov.au/wyatt/2019/panel-discussion-indigenous-languages>.

45 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

46 Resolution 42/24 The question of the death penalty (2019).

47 Resolution 42/1 Composition of staff of the Office of the United Nations High Commissioner for Human Rights (2019).

48 Resolution 42/8 Promotion of a democratic and equitable international order (2019).

49 Resolution 42/9 The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (2019).

50 Resolution 42/23 The right to development (2019).

51 Ibid.

52 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council, Explanation of vote on the resolution on The right to development. Available at: <https://www.dfat.gov.au/sites/default/files/42nd-hrc-joint-statement-right-to-development.pdf>.

53 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

Australia was a part of the consensus in adopting the remaining 19 thematic resolutions during this session.⁵⁴ It sponsored two resolutions, namely, *The role of prevention in the promotion and protection of human rights*⁵⁵ and the resolution extending the mandate of the *Special Rapporteur on contemporary forms of slavery, including its causes and consequences*⁵⁶ adopted by consensus by the Council.⁵⁷

Country Situation Resolutions

Australia voted in favour of five out of the six country situation resolutions adopted by vote during this session. These include *Situation of human rights in the Bolivarian Republic of Venezuela*,⁵⁸ *Situation of human rights in Burundi*,⁵⁹ *Human rights situation in Yemen*,⁶⁰ *Situation of human rights of Rohingya Muslims and other minorities in Myanmar*⁶¹ and *The human rights situation in the Syrian Arab Republic*.⁶²

Australia voted against one country situation resolution, namely, *Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela*.⁶³

It joined the consensus in adopting the remaining six country situation resolutions, namely, *Technical assistance and capacity building for Yemen in the field of human rights*,⁶⁴ *Assistance to Somalia in the field of human rights*,⁶⁵ *Assistance technique et renforcement des capacités dans le domaine des droits de l'homme en République démocratique du Congo* [*Technical assistance and capacity building in the field of human rights in the Democratic Republic of the Congo*],⁶⁶ *Technical assistance and capacity building to further improve human rights in the Sudan*,⁶⁷ *Assistance technique et renforcement des capacités dans le domaine des droits de l'homme en République centrafricaine* [*Technical assistance and capacity building in the field of human rights in the Central African Republic*]⁶⁸ and *Advisory services and technical assistance for Cambodia*.⁶⁹

V. Analysis: Compliance with Pledges and Commitments

a) Engagement with UN Special Procedures

Australia has extended a standing invitation to all thematic Special Procedures since 2008.⁷⁰ It has, to a large extent, complied with the visit requests and reminders from the Special Procedures. However, there are two exceptions:⁷¹ First, the visit of Special Rapporteur on torture was postponed by Australia in 2016 and remains pending,⁷² and secondly, the visit of the Working Group on arbitrary detention was postponed thrice since 2017 and is now scheduled

54 Ibid.

55 Resolution 42/6 *The role of prevention in the promotion and protection of human rights* (2019).

56 Resolution 42/10 *Special Rapporteur on contemporary forms of slavery, including its causes and consequences* (2019).

57 Ibid.

58 Resolution 42/25 *Situation of human rights in Bolivarian Republic of Venezuela* (2019).

59 Resolution 42/25 *Situation of human rights in Burundi* (2019).

60 Resolution 42/2 *Human rights in Yemen* (2019).

61 Resolution 42/3 *Situation of human rights of Rohingya Muslims and other minorities in Myanmar* (2019).

62 Resolution 42/27 *Situation of human rights in the Syrian Arab Republic* (2019).

63 Resolution 42/4 *Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela* (2019).

64 Resolution 42/31 *Technical assistance and capacity building for Yemen in the field of human rights* (2019).

65 Resolution 42/33 *Assistance to Somalia in the field of human rights* (2019).

66 Resolution 42/34 *Assistance technique et renforcement des capacités dans le domaine des droits de l'homme en République démocratique du Congo* [*Technical assistance and capacity building in the field of human rights in the Democratic Republic of the Congo*] (2019).

67 Resolution 42/35 *Technical assistance and capacity building to further improve human rights in the Sudan* (2019).

68 Resolution 42/36 *Assistance technique et renforcement des capacités dans le domaine des droits de l'homme en République centrafricaine* [*Technical assistance and capacity building in the field of human rights in the Central African Republic*] (2019).

69 Resolution 42/37 *Advisory services and technical assistance for Cambodia* (2019).

70 Office of the High Commissioner for Human Rights, *Standing invitations to Special Procedures*. Available at: https://spinternet.ohchr.org/_layouts/15/SpecialProceduresInternet/StandingInvitations.aspx.

71 Office of the High Commissioner for Human Rights, *Country visits by Special Procedures to Australia*. Available at: <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&country=AUS&Lang=en>

72 Ibid.

in the first quarter of 2020.⁷³ Australia also has a visit request pending from the Special Rapporteur on freedom of expression since September 2019.⁷⁴

b) *Compliance with Reporting Obligations to Treaty Monitoring Bodies*

Australia is fully compliant with its reporting obligations to the treaty bodies of the conventions that it has ratified, namely, CAT, CCPR, CEDAW, CERD, CESC, CRC, and CRPD.⁷⁵ However, some of these State party reports, for example to the CCPR, CEDAW, CERD and CESC, were submitted after a delay of approximately two years.⁷⁶

Australia has not ratified two major human rights treaties, namely, the Convention for the Protection of All Persons from Enforced Disappearance (CED) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW).⁷⁷

Australia appeared before and received Concluding Observations from two treaty bodies in 2019, namely, the Committee on the Rights of the Child⁷⁸ and the Committee on the Rights of Persons with Disabilities.⁷⁹

c) *Compliance with Thematic Issues*

In its voluntary pledges, Australia committed itself to promoting 'strong democratic institutions, ensuring transparency, accountability and responsiveness to the needs of its people' and 'good governance' among the main pillars of its advocacy at the Council.⁸⁰ During this session, Australia joined the consensus in adopting the resolutions **Human rights in the administration of justice, including juvenile justice**,⁸¹ and that on **Arbitrary detention**.⁸² In line with its commitments, Australia raised concerns relating to democratic governance and the rule of law across country situations discussed in the Council.⁸³ However, concerns have been raised over Australia's detention policies, especially regarding asylum seekers and refugees, including excessive use of force and the prolonged, arbitrary nature of detention.⁸⁴

In its Annual Report of 2018, the Working Group on arbitrary detention mentioned three cases where it found the detention to be arbitrary and issued an opinion in each case, but no action was taken by the Government to implement them.⁸⁵ One of these three individuals was held without charge or trial for nearly nine years.⁸⁶ In June 2019, three UN Special Rapporteurs had urged Australia to immediately provide appropriate health care to more than 800 asylum seekers and other migrants who have been held in the country's offshore facilities for the past five years

73 Ibid.

74 Ibid.

75 Office of the High Commissioner for Human Rights, Treaty Bodies, Reporting status of Australia. Available at: https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=AUS&Lang=EN.

76 Ibid.

77 Ibid.

78 Office of the High Commissioner for Human Rights, Recent concluding observations for Australia. Available at: <https://www.ohchr.org/EN/Countries/AsiaRegion/Pages/AUIndex.aspx>.

79 Ibid.

80 Government of Australia, Department of Foreign Affairs and Trade, Pillars and Priorities. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/pillars-and-priorities/Pages/pillars-and-priorities.aspx>.

81 Resolution 42/11 (2019).

82 Resolution 42/22 (2019).

83 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://www.dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Pages/42nd-session-of-the-human-rights-council>

84 The Guardian, 'Australia's immigration detention system is cruel and damaging by its very nature', 28 October 2019. Available at: <https://www.theguardian.com/commentisfree/2019/oct/28/our-immigration-detention-system-is-cruel-and-damaging-by-its-very-nature>.

85 39th Session of the Human Rights Council, Report of the Working Group on Arbitrary Detention, 2 July 2018. Available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/45.

86 The Guardian, 'Australia is reported to the UN Human Rights Council over illegal detention of asylum seekers', 14 September 2018. Available at: <https://www.theguardian.com/australia-news/2018/sep/15/australia-is-reported-to-un-human-rights-council-over-illegal-detention-of-asylum-seekers>.

without durable solutions.⁸⁷ Poor mental health is widely prevalent among refugees and asylum seekers in Australia due to years of detention and uncertainty about their future.⁸⁸ In July 2019, the Federal Government was heavily criticised when the case of a 15 month-old girl, who has spent her entire life in an immigration detention centre with her mother, came to light.⁸⁹ The girl's mother, an asylum seeker from Vietnam, has been detained at the Melbourne Immigration Transit Accommodation since she was five months pregnant.⁹⁰

The Australian Human Rights Commission (AHRC), in its report titled '*Lives on hold: Refugees and asylum seekers in the "Legacy Caseload"*',⁹¹ asserted that approximately 30,000 people who arrived in Australia as asylum seekers faced prolonged delays in the processing of their visa claims and identified that these individuals face an ongoing risk of arbitrary detention, amongst other challenges.⁹² In another report called '*Risk management in immigration detention*', AHRC reiterated that immigration detention is merely administrative in nature and not punitive, while noting that the average length of immigration detention in Australia is close to 500 days, greater than almost any other developed country.⁹³ It expressed concerns over issues such as use of restraints outside detention facilities; harsh, restrictive and prison-like conditions of the separation units; preclusion of community alternatives to detention, among others, which has resulted in people being detained when there is no valid justification for it under international law.⁹⁴ Amidst these challenges, the visit of the Working Group on arbitrary detention was postponed thrice since 2017; it was scheduled to take place in the first quarter of 2020, but has been postponed by the mandate holder.⁹⁵

In its voluntary pledges, Australia underscored the importance of the protection of journalists, human rights defenders and civil society against **reprisals**.⁹⁶ In the interactive dialogue with the Assistant Secretary-General for Human Rights on the report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights, Australia expressed concern about reports of reprisals against victims, human rights defenders and NGOs cooperating with the UN by both State and non-State actors.⁹⁷ During the session, Australia also joined the consensus in adopting both the resolutions: First, *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*,⁹⁸ calling upon States to prevent and refrain from all acts of intimidation and reprisal, both online and offline; and secondly, *The right to privacy in digital age*,⁹⁹ which in addition to several recommendations, underlined that any measures taken to counter terrorism and violent extremism that may interfere with the right to privacy are consistent with the principles of legality, necessity and proportionality, and comply with their obligations under international law.

However, there have been instances of journalists and whistle-blowers being targeted for their work raising legitimate concerns over human rights and freedoms and public scrutiny of national security and defence matters.¹⁰⁰ Broadly

87 Office of the High Commissioner for Human Rights, Press Releases, 'Australia: UN experts urge immense medical attention to migrants in its offshore facilities', 18 June, 2019. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24709&LangID=E>.

88 Human Rights Watch, Australia: Events of 2018. Available at: <https://bit.ly/2PDV1Vt>; see also, The Guardian, 'Australia is a bigger cage: the ongoing trauma of Nauru's child refugees', 24 August 2019. Available at: <https://www.theguardian.com/australia-news/2019/aug/25/australia-is-a-bigger-cage-the-ongoing-trauma-of-naurus-child-refugees>.

89 SBS News, 'Protestors call for baby and her mum to be released from Australian detention', 17 July 2019. Available at: <https://bit.ly/2RZuB2t>.

90 Ibid.

91 Australian Human Rights Commission, 'Lives on hold: Refugees and asylum seekers in the 'Legacy Caseload'', July 2019. Available at: <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/lives-hold-refugees-and-asylum-seekers-legacy>.

92 Ibid.

93 Australian Human Rights Commission, 'Risk management in immigration detention', June 2019. Available at: <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/risk-management-immigration-detention-2019>.

94 Ibid.

95 Ibid.

96 United Nations General Assembly, Note verbale 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: <https://www.dfat.gov.au/sites/default/files/ga-doc-a-72-212-voluntary-pledges-hrc-australia.pdf>.

97 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-id-assistant-secretary-general-on-reprisals.pdf>.

98 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

99 Resolution 42/15 The right to privacy in digital age (2019).

100 The New York Times, 'Australia may well be the world's most secretive democracy', 5 June 2019. Available at: <https://www.nytimes.com/2019/06/05/world/australia/journalist-raids.html>.

drafted national security laws have been used against lawyers, whistle blowers and journalists.¹⁰¹ One such case is that of Richard Boyle, a whistle-blower, who revealed the unethical practices at the Australian Tax Office (ATO) and is currently facing more than 160 years in prison.¹⁰² He is accused of having breached the Public Service Code of Conduct after he went public about the ATO's unethical tax recovery practices.¹⁰³ Similarly, a former spy, Witness K and his lawyer, Bernard Collaery, were indicted for their role in revealing that Australian intelligence was spying on Timor Leste for economic gains during oil and gas negotiations.¹⁰⁴ There are similar cases involving journalists: in June 2019, the Australian Federal Police raided the house of a journalist in relation to her investigative story on a plan to expand government surveillance, with a warrant to search her home, her phone and her computer.¹⁰⁵ The police also raided the Australian Broadcasting Corporation's (ABC) Sydney headquarters for a series of articles that it ran in 2017 about the operations of the Australian Special Forces in Afghanistan.¹⁰⁶

Australia ranked 26th out of 180 countries in the World Press Freedom Index 2020,¹⁰⁷ falling five positions from the 2019 index.¹⁰⁸ The report primarily states that 'national security', the main reason given for these raids on journalists, is used to intimidate investigative reporters.¹⁰⁹ In addition to the defamation law, which lays down restrictive standards, there are over 75 national security laws in the country, more than any other modern liberal democracy in the world.¹¹⁰ The Public Interest Disclosure Act 2013 (PIDA), Australia's whistle-blower protection law, was seen as a step in the right direction, but it is said to leave too many whistle-blowers unprotected.¹¹¹ A positive development is that in 2019 Australia amended its legislation to expand protection to whistleblowers in the private sector. *The Treasury Laws Amendment (Enhancing Whistle-blower Protections) Act 2019* (Whistle-blower Act) makes substantive amendments to the *Corporations Act 2001* and the *Tax Administration Act 1953* to provide greater protection for whistle-blowers in the corporate, financial, tax and credit sectors.¹¹²

In its voluntary pledges, Australia reaffirmed its commitment to combat **racism and xenophobia**, while highlighting the fact that it is one of the world's most diverse and multicultural nations.¹¹³ During the clustered interactive dialogue with the Special Rapporteur on the rights of indigenous peoples and the EMRIP, Australia affirmed that it is working to close the gap between indigenous and non-indigenous Australians, to build genuine respect and inclusion, and drive social and economic empowerment of indigenous Australians.¹¹⁴ It also joined the consensus in adopting the resolution, *From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia*

101 Human Rights Watch, Australia: Events of 2019. Available at: <https://www.hrw.org/world-report/2020/country-chapters/australia>.

102 Sydney Morning Herald, 'I feel like I almost died: ATO whistleblower breaks silence on facing 161 years in jail', 3 June 2019. Available at: <https://www.smh.com.au/business/the-economy/i-feel-like-i-almost-died-ato-whistleblower-breaks-silence-on-facing-161-years-in-jail-20190531-p51ta5.html>.

103 ABC News, 'Blowing the whistle on the Australian Taxation Office could land this man in jail', 6 March 2019. Available at: <https://www.abc.net.au/news/2019-03-06/ato-whistleblower-faces-161-years-prison-possibility/10872350>.

104 The Guardian, 'Witness K and the outrageous spy scandal that failed to shame Australia', 9 August 2019. Available at: <https://www.theguardian.com/australia-news/2019/aug/10/witness-k-and-the-outrageous-spy-scandal-that-failed-to-shame-australia>.

105 The Guardian, 'Police raid on Annika Smethurst shows that surveillance exposé hit a nerve', 4 June 2019. Available at: <https://www.theguardian.com/australia-news/2019/jun/05/police-raid-on-annika-smethurst-shows-surveillance-expose-hit-a-nerve>.

106 Independent, 'Police raid Australian public broadcaster over leaked Afghanistan war crimes documents', 5 June 2019. Available at: <https://www.independent.co.uk/news/world/australasia/abc-raid-police-australia-leak-war-crimes-classified-afghanistan-sydney-a8945206.html>.

107 Reporters Without Borders, World Press Freedom Index 2020: Australia. Available at: <https://rsf.org/en/australia>.

108 Reporters Without Borders, World Press Freedom index 2019: Rankings. Available at: https://rsf.org/en/ranking_table.

109 Reporters Without Borders, World Press Freedom Index 2020: Australia. Available at: <https://rsf.org/en/australia>.

110 The Diplomat, 'Australia drops in Press Freedom Index', 22 April 2020. Available at: <https://thediplomat.com/2020/04/australia-drops-in-press-freedom-index/>.

111 The Media, Entertainment and Arts Alliance, 'Report into the state of press freedom in Australia in 2019', p. 34. Available at: <https://www.maaa.org/download/the-publics-right-to-know-the-maaa-report-into-the-state-of-press-freedom-in-australia-in-2019/>.

112 Lexology, 'Toothless no more: Australia's new whistleblower protection laws', 20 May 2019. Available at: <https://www.lexology.com/library/detail.aspx?g=fd1277a7-42ec-4c11-a07e-c551a22856a9>.

113 United Nations General Assembly, Note verbale 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: <https://www.dfat.gov.au/sites/default/files/ga-doc-a-72-212-voluntary-pledges-hrc-australia.pdf>.

114 Government of Australia, Department of Foreign Affairs and Trade, 42nd Session of the Human Rights Council. Available at: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/42nd-hrc-national-statement-cid-with-sr-indigenous-and-emrip.pdf>.

and related intolerance.¹¹⁵ Australia has undertaken measures to combat racial discrimination and xenophobia with its *National Anti-Racism Strategy* launched in 2012. In a progressive judicial step, the Federal Circuit Court, in May 2018, in the case of *Fair Work Ombudsman v. Yenida Pty*, fined an employer AUD 2,11,104 for underpaying two employees due to racial discrimination,¹¹⁶ which is illegal under Section 351 of the *Fair Work Act 2009*.¹¹⁷

However, incidents involving racism and xenophobia have been reported in Australia. These included verbal attacks, physical violence, and racist commentary on social media websites, among others.¹¹⁸ Inequalities related to socio-cultural and ethnic background are prevalent, especially among indigenous peoples¹¹⁹ and other minority groups.¹²⁰ In a nation-wide survey mapping social cohesion in 2018, overall 16 per cent respondents in regional areas reported that they had experienced discrimination because of their birthplace compared to 20 per cent of people in capital cities.¹²¹ A study reported that although people who have non-European and Indigenous backgrounds make up an estimated 24 per cent of the Australian population, they account for only 5 per cent of senior leadership in the country. This is particularly low in Australian government departments and universities.¹²² Aboriginal and Torres Strait Islander peoples are reported to experience both invisible and systemic racism and discrimination¹²³; according to a separate 2018 survey, 75 per cent of Aboriginal and Torres Strait Islander members and staff experience racism and discrimination at the workplace – a 3.5 per cent increase as compared to the findings of a similar survey conducted in 2011.¹²⁴

In August 2019, a doctor of Korean-Canadian origin was reportedly racially profiled as she went to check into a motel in New South Wales.¹²⁵ In the aftermath of the Christchurch terror attacks on two mosques in New Zealand by an Australian man, the *then* Australian senator, Fraser Anning was severely criticised for blaming the attacks on ‘the immigration programme that allowed Muslim fanatics to migrate to New Zealand’.¹²⁶ It has been reported that an increasing media coverage of far-right figures and ideas as part of conventional public debate has led to normalisation and even acceptance of racism.¹²⁷ Recently, with the outbreak of the corona virus pandemic, the country has also reported a rise in racist and xenophobic incidents against Asians.¹²⁸

In its voluntary pledges, Australia committed itself to promote and enhance cooperation to combat **contemporary forms of slavery and human trafficking**.¹²⁹ During the interactive dialogue with the special Rapporteur on contemporary forms of slavery, Australia recognised the need for a coordinated response and actions across

115 Resolution 42/29 From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance (2019).

116 *Fair Work Ombudsman v Yenida Pty Ltd & Anor* [2018] FCCA 1342.

117 Fair Work Act 2009, Section 351. Available at: <https://bit.ly/34ihr3U>.

118 Australian Human Rights Commission, *Anti-Racism in 2018 and Beyond: A report on the activities of the national anti-racism strategy (2015-18)*. Available at: <https://bit.ly/3aEVRKj>.

119 Australian Human Rights Commission, ‘Leading for Change: A Blueprint for Cultural Diversity and Inclusive Leadership Revisited – 2018’. Available at: <https://www.humanrights.gov.au/our-work/race-discrimination/publications/leading-change-blueprint-cultural-diversity-and-0>.

120 Scanlon Foundation and Prof. Andrew Markus, ‘Mapping Social Cohesion: The Scanlon Foundation Surveys’ 2018. Available at: <https://bit.ly/2EdK9Z8>.

121 Ibid.

122 Australian Human Rights Commission, ‘Leading for Change: A Blueprint for Cultural Diversity and Inclusive Leadership Revisited – 2018’. Available at: <https://www.humanrights.gov.au/our-work/race-discrimination/publications/leading-change-blueprint-cultural-diversity-and-0>.

123 The Conversation, ‘Explainer: What is systemic racism and institutional racism’, 5 February 2020. Available at: <https://theconversation.com/explainer-what-is-systemic-racism-and-institutional-racism-131152>.

124 National Aboriginal & Torres Strait Islander Unit Of National Tertiary Education Union, ‘I’m still not a racist, but’, October 2018. Available at: <https://bit.ly/35j2oIO>.

125 ABC News, ‘Doctor claims she was racially profiled during check-in at regional New South Wales motel’, 1 August 2019. Available at: <https://ab.co/2PCIIJb>.

126 CNN, ‘How Australia’s ‘everyday racism’ moved from political fringe to mainstream media’, 16 April 2016. Available at: <https://edition.cnn.com/2019/04/15/australia/australia-racism-media-christchurch-attack-intl/index.html>.

127 Ibid.

128 The Guardian, ‘Australian doctors warn of rise in racist abuse over corona virus’, 4 February 2020. Available at: <https://bit.ly/3aDSnYr>; see also, ABC News, ‘Corona virus has sparked racist attacks on Asians in Australia’, 1 February 2020. Available at: <https://www.abc.net.au/news/2020-02-01/coronavirus-has-sparked-racist-attacks-on-asian-australians/11918962>.

129 United Nations General Assembly, Note verbale 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: <https://www.dfat.gov.au/sites/default/files/ga-doc-a-72-212-voluntary-pledges-hrc-australia.pdf>.

governments, international agencies, businesses and civil society to tackle the issue and affirmed its commitment to engage with other countries to strengthen laws, policies and operational frameworks and to contribute to a collective effort through Alliance 8.7. It also sponsored the resolution extending the mandate of the *Special Rapporteur on contemporary forms of slavery, including its causes and consequences*,¹³⁰ adopted by consensus by the Council.¹³¹

According to the Global Slavery Index 2018, Australia ranked 163 out of 167 countries on the prevalence index indicating lower rate of prevalence.¹³² The estimated population living in modern slavery in Australia is 0.65/1000, which would correspond to an estimated 15,000 people.¹³³ However, there is presently no national data reporting the number of identified victims of modern slavery.¹³⁴ In a recent report published by the Australian Institute of Criminology, it was estimated that only one in five victims of modern slavery are detected in Australia, and therefore, cases that are known are likely to be a small proportion of the actual extent trafficking and slavery in Australia.¹³⁵ Some people are more vulnerable to exploitation and slavery, such as migrant domestic workers.¹³⁶ However, despite voting to adopt the ILO Convention Concerning Decent Work for Domestic Workers (ILO C.189), the Australian Government has not yet ratified it despite recommendations to do so. Australia stated that their laws are already compliant with the said Convention and offer domestic workers protections equal to others in the workforce.¹³⁷

On a positive note, in its efforts to tackle modern slavery, human trafficking and forced labour, the Parliament of Australia enacted the *Modern Slavery Act 2018*, which among other things, requires large businesses to annually report on their efforts to identify and address modern slavery in their operation and supply chains as well as the steps they have taken to address the risks identified.¹³⁸ In 2018, Australia hosted the fifth edition of the Annual Business and Human Rights Dialogue, bringing over 100 stakeholders together to discuss the theme, *'Embedding Human Rights in Global Supply Chains: Modern Slavery and Beyond'*.¹³⁹ It also joined the UN Blue Heart Campaign, an initiative to curb human trafficking globally and the ASEAN-Australia Joint Initiative focusing on skill development of police and prisons in the region.¹⁴⁰ However, the Modern Slavery law passed by the state government of New South Wales (NSW) was deferred indefinitely as it was "inconsistent with the Federal Law." This NSW law would have required companies with a turnover of \$50 million or more to publicly report the steps taken to eliminate slavery from their supply chains; introduced new offences of slavery, servitude and child forced labour, and child forced marriage; and provided for the appointment an anti-slavery commissioner.¹⁴¹ Experts have noted that the NSW law would have been the strongest stance against modern slavery in Australia.¹⁴²

130 Resolution 42/10 (2019).

131 Office of the High Commissioner for Human Rights, 42nd HRC Session, Resolutions decisions and President's statements. Available at: <https://bit.ly/3545UaD>.

132 Walk Free Foundation, Global Slavery Index 2018: Australia. Available at: <https://www.globalslaveryindex.org/2018/data/country-data/australia/>

133 Ibid.

134 Ibid.

135 Australian Institute of Criminology, 'Estimating the dark figure of human trafficking and slavery victimisation in Australia', 15 February 2019. Available at: <https://aic.gov.au/publications/sb/sb16>.

136 The Conversation, 'Human trafficking and slavery still happen in Australia', 12 June 2019. Available at: <https://theconversation.com/human-trafficking-and-slavery-still-happen-in-australia-this-comic-explains-how-112294>.

137 Walk Free Foundation, 'Improving protection for migrant domestic workers in Australia – Discussion Paper'. Available at: https://www.pc.gov.au/__data/assets/pdf_file/0010/188191/sub0156-workplace-relations.pdf.

138 Norton Rose Fulbright, 'Modern Slavery Act: What businesses in Australia need to know', January 2020. Available at: <https://www.nortonrosefulbright.com/en/knowledge/publications/06a565ee/modern-slavery-act-what-businesses-in-australia-need-to-know>.

139 Australian Human Rights Commission, Annual Report 2018-2019. Available at: <https://www.humanrights.gov.au/our-work/commission-general/publications/annual-report-2018-2019>.

140 Global Citizen, 'Australia is cracking down on modern slavery and human trafficking in major ways', 2 August 2019. Available at: <https://www.globalcitizen.org/en/content/australia-modern-slavery-human-trafficking/>.

141 The Guardian, 'NSW anti-slavery act could be abandoned despite being voted into law', 8 November 2019. Available at: <https://www.theguardian.com/australia-news/2019/nov/08/nsw-anti-slavery-act-could-be-abandoned-despite-being-voted-into-law>.

142 Eternity News, 'Anti-slavery laws get buried by NSW government', 14 November 2019. Available at: <https://www.eternitynews.com.au/australia/anti-slavery-laws-get-buried-by-nsw-government/>.

VI. Conclusions

Australia participated actively across interactive dialogues, general debates and panel discussions during the 42nd Session. It sponsored two resolutions adopted by consensus: *The role of prevention in the promotion and protection of human rights*¹⁴³ and the *Special Rapporteur on contemporary forms of slavery, including its causes and consequences*.¹⁴⁴

- Australia has responded to visit requests and reminders from the Special Procedures promptly, except the Special Rapporteur on torture since 2016, and the Working Group on arbitrary detention, whose visit was postponed thrice since 2017.¹⁴⁵ The latter remains pending, despite the UN experts having raised concerns in June 2019 about the condition of detainees in the country's offshore facilities for years without durable solutions.¹⁴⁶
- Australia ranked 26th out of 180 countries in the World Press Freedom Index 2020.¹⁴⁷ However, raids on media houses and the targeting of journalists for their legitimate work and for scrutinising national security and defence matters raises human rights concerns.¹⁴⁸ Investigative reporters¹⁴⁹ have been intimidated using the defamation law, which has higher speech restrictive standards, and other national security laws.¹⁵⁰
- Despite taking several policy and legislative steps for tackling contemporary forms of slavery, it has been reported that there is no national data reporting the number of identified victims.¹⁵¹ Only one in five victims of modern slavery are detected in Australia.¹⁵² It has not ratified the ILO Convention Concerning Decent Work for Domestic Workers (No.189),¹⁵³ despite migrant domestic workers being reported to be at the risk of exploitation and slavery-like conditions.

143 Resolution 42/6 The role of prevention in the promotion and protection of human rights (2019).

144 Resolution 42/10 Special Rapporteur on contemporary forms of slavery, including its causes and consequences (2019).

145 Ibid.

146 Office of the High Commissioner for Human Rights, News and Events, 18 June 2019. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24709&LangID=E>.

147 Reporters Without Borders, World Press Freedom Index 2020: Australia. Available at: <https://rsf.org/en/australia>.

148 The New York Times, 'Australia may well be the world's most secretive democracy', 5 June 2019. Available at: <https://www.nytimes.com/2019/06/05/world/australia/journalist-raids.html>.

149 Reporters Without Borders, World Press Freedom Index 2020: Australia. Available at: <https://rsf.org/en/australia>.

150 The Diplomat, 'Australia drops in Press Freedom Index', 22 April 2020. Available at: <https://thediplomat.com/2020/04/australia-drops-in-press-freedom-index/>.

151 Ibid.

152 Australian Institute of Criminology, 'Estimating the dark figure of human trafficking and slavery victimisation in Australia', 15 February 2019. Available at: <https://aic.gov.au/publications/sb/sb16>.

153 Walk Free Foundation, 'Improving protection for migrant domestic workers in Australia – Discussion Paper'. Available at: https://www.pc.gov.au/__data/assets/pdf_file/0010/188191/sub0156-workplace-relations.pdf.

I. Introduction

The Bahamas is the first member of the Caribbean Community (CARICOM) to be elected to the HRC in 2018 through a clean slate election from the Latin American and Caribbean States regional group.¹⁵⁴ Its first three-year term at the Council started in 2019 and is due to end in 2021.¹⁵⁵

II. Voluntary Pledges and Commitments

In its voluntary pledges, the Bahamas committed itself to the realisation of the 2030 Agenda for Sustainable Development, recognising the importance of advancing human rights as a pillar of such efforts.¹⁵⁶ It affirmed its support to all efforts and mechanisms aimed at guaranteeing effective responses by the international community to global human rights violations and to new and existing human rights challenges.¹⁵⁷

The Bahamas pledged to¹⁵⁸:

- uphold the highest standards in the promotion and protection of human rights;
- fully support and engage constructively in the deliberations of the Human Rights Council, its subsidiary bodies and mechanisms, including the Special Procedures;
- openly and constructively engage in a robust universal review procedure including reporting on measures taken to follow-up on its recommendations;
- meaningfully engage with regional partners, including civil society, on issues relating to human rights and to share best practices and lessons learned in this regard;
- protect against and prevent discrimination in all its forms, in both law and in practice;
- assist in the development of a National Reporting Cooperation Mechanism (NRCM) within the region and to support them to exchange best practices;
- advocate diversity and inclusivity on the Human Rights Council to ensure that all Small Island Developing States have a voice on the pre-eminent United Nations body responsible for the promotion and the protection of human rights;
- ensure that, in the exercise of foreign policy, human rights issues are central to the global discourse and are mainstreamed throughout the work of the United Nations system;
- continue to support all efforts aimed at guaranteeing effective responses by the international community to global human rights violations, such as prevention and early action;
- promote international discourse on areas of human rights of particular concern to Small Island Developing States, for example, human rights and the environment, climate change, public service delivery and local government;
- continue to advocate for the development of the institutional and human rights capacity of Small Island Developing States and Least Developed Countries;
- contribute at the international level to the advancement of women's rights, children's rights, the rights of persons with disabilities and the advancement of human rights aspects of migration, health and sustainable development;
- review and implement accepted recommendations from The Bahamas' UPR;
- submit reports in a timely manner and implement concluding observations;
- contribute to the global reform of the treaty body system;
- cooperate with special procedures, accepting requests for visits, and responding to communications and follow-up on recommendations; and
- contribute to international initiatives for the protection of human rights through the provision of financial resources.

¹⁵⁴ The Government of the Bahamas, Ministry of Foreign Affairs, 12 October 2018. Available at: <http://mofa.gov.bs/bahamas-elected-united-nations-humans-rights-council-2019-2021/>.

¹⁵⁵ Ibid.

¹⁵⁶ Voluntary Pledges and Commitments of the Commonwealth of the Bahamas, Candidature for election to the Human Rights Council (2019-2021) A/RES/60/251. Available at: https://www.universal-rights.org/wp-content/uploads/2018/09/Bahamas-Mission_NV_The-Bahamas-HRC-2019-21-Voluntary-Pledges-and-Commitments_5.09.18.pdf.

¹⁵⁷ Ibid.

¹⁵⁸ Ibid.

III. Participation at the 42nd Session of the HRC

The following is a representation of the Bahamas' participation in the dialogues, debates and discussions during this Session:

S. No.	Interactive Dialogue	The Bahamas' Interventions
1.	Clustered interactive dialogue with the Independent Expert on human rights of older persons and the Special Rapporteur on the right to development	<ul style="list-style-type: none"> • Noted the Special Rapporteur's report on the right to development and the existing challenges to its realisation as climate change effects have the capacity to erode the development gains made over decades. • Welcomed the focus of the Independent Expert's report on the human rights protection of older persons in emergency situations and ways to address the protection gaps and appreciated the recommendations on the implementing frameworks to ensure their protection in such contexts. • Stated that the report is timely for the Bahamas given its efforts at the national level to respond to one of the biggest humanitarian situations in its history, while protecting human rights of all, including older persons. • Noted that the report acknowledges the effects of displacement due to natural disasters and the challenges faced in the aftermath of such events and asked the Independent Expert on how States can prepare and equip older persons to return and rebuild their lives after the losses caused by natural disasters.¹⁵⁹
2.	Interactive dialogue with the Assistant Secretary-General for Human Rights on the report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights	<ul style="list-style-type: none"> • Addressed the report received by CEDAW on the threats by a non-state actor to Alicia Wallace cited in the Secretary-General's report by reiterating its opposition to all acts of reprisal. • Clarified that although no report was made to the police in the Wallace case, appropriate authorities had offered assistance, while adding that all human rights defenders in the Bahamas have access to full protection of the law. • Stated that the Bahamas had responded fully to these allegations and that the CEDAW had acknowledged its expeditious steps, but the same was not mentioned in the Secretary-General's report. • Informed about measures taken such as the inclusion of a gender-based violence specialist in the Department of Gender and Family Affairs, training exercises to sensitise authorities about the rights and needs of women and other vulnerable groups, and mechanisms facilitating anonymous reporting of threats of violence or harm to protect the identity of complainants. • Remained committed to ensure that human rights defenders contribute freely for the country's development and that all citizens enjoy the fundamental rights enshrined in its Constitution.¹⁶⁰

¹⁵⁹ Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2Q6Ap93>.

¹⁶⁰ Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Statements.aspx?SessionId=31&MeetingDate=18/09/2019%2000:00:00>.

S. No.	General Debate	The Bahamas' Interventions
1.	General debate on the Oral update by the United Nations High Commissioner for Human Rights (Item 2)	<ul style="list-style-type: none"> Expressed that the timely discussion on the issue of climate change is important, especially given its experience with Hurricane Dorian, and that it is a human rights issue as it is a matter of survival or extinction. Reiterated that High Commissioner's statement that no country, institution or policymaker can stand on the side-lines as there are none in the context of climate change and called upon all to act to address the issue out of duty as cohabitants of the earth. Remained concerned about the hurricane season, notwithstanding the passage of Dorian, as to how to sustain this way of living and build resilience to progress towards sustainable development. Thanked the High Commissioner for the five key points raised by her and for recognising the Bahamas' efforts aimed at building climate resilience and mitigation, including passing a legislation, advanced policies and programmes to reduce emissions. Reaffirmed its commitment to address the issue of climate change through the enactment of the National Energy Policy that bans single-use plastics by 2020 and by the reduction or elimination of tariffs on solar systems and energy efficient technologies.¹⁶¹

S. No.	UPR Outcome	The Bahamas' Interventions
1.	Dominica	<ul style="list-style-type: none"> Congratulated Dominica on its active engagement with the UPR process and commended it for prioritising its commitments with respect to the UPR despite the many challenges faced by the country. Noted that Dominica received about 140 recommendations and supported 86 of these indicating a willingness to improve human rights in the country. Encouraged Dominica to work towards full implementation of the accepted recommendations with the support of any technical assistance that it deems fit, including for its National Mechanism for Implementation, Reporting and Follow-up. Stated that Dominica needs a continued support from the international community, given the devastating impacts of the natural disasters in recent times, to achieve its goal of becoming a climate resilient nation.¹⁶²

IV. Voting Pattern on Resolutions

Thematic Resolutions

The Bahamas voted in favour of five¹⁶³ of the six thematic resolutions that were put to vote during the 42nd HRC Session: *Composition of staff of the Office of the United Nations High Commissioner for Human Rights (OHCHR)*,¹⁶⁴ *Promotion of a democratic and equitable international order*,¹⁶⁵ *The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*,¹⁶⁶ *The right to development*¹⁶⁷ and *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*.¹⁶⁸

161 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/34e7po4>.

162 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Statements.aspx?SessionId=31&MeetingDate=19/09/2019%2000:00:00>.

163 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

164 Resolution 42/1 Composition of staff of the Office of the United Nations High Commissioner for Human Rights (2019).

165 Resolution 42/8 Promotion of a democratic and equitable international order (2019).

166 Resolution 42/9 The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (2019).

167 Resolution 42/23 The right to development (2019).

168 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

The Bahamas voted against one thematic resolution,¹⁶⁹ namely, *The question of the death penalty*.¹⁷⁰ It did not abstain from voting on any thematic resolution that was tabled during the session and joined the consensus in the Council to adopt the remaining 19 thematic resolutions.¹⁷¹

Country Situation Resolutions

The Bahamas voted in favour of five out of the six country situation resolutions that were put to vote during the session: *Human rights situation in Yemen*,¹⁷² *Situation of human rights of Rohingya Muslims and other minorities in Myanmar*,¹⁷³ *Situation of human rights in the Bolivarian Republic of Venezuela*,¹⁷⁴ *Situation of human rights in Burundi*,¹⁷⁵ and *The human rights situation in the Syrian Arab Republic*.¹⁷⁶

While it did not vote against any country situation resolution,¹⁷⁷ it abstained from voting on the resolution on the *Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela*.¹⁷⁸ It joined consensus in adopting six other country situation resolutions tabled during the session.¹⁷⁹

V. Analysis: Compliance with Pledges and Commitments

a) Engagement with UN Special Procedures

The Bahamas, in its voluntary pledges, had affirmed its support to all mechanisms aimed at guaranteeing effective responses by the international community to new and existing human rights challenges.¹⁸⁰ It has extended a standing invitation to thematic Special Procedures since June 2013.¹⁸¹ Till date, only four Special Procedures have sent visit requests to the Bahamas.¹⁸² The Special Rapporteurs on trafficking and on violence against women visited The Bahamas and submitted their reports in 2013 and 2017 respectively. The visit of the Working Group on arbitrary detention, which was made in March 2017, was accepted by the Bahamas. However, the dates of visit have not been finalised.¹⁸³ Currently, the Bahamas has only one visit request pending from the Special Rapporteur on environment in March 2020 and that State is yet to respond to it.¹⁸⁴

169 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

170 Resolution 42/24 The question of death penalty (2019).

171 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

172 Resolution 42/2 Human rights situation in Yemen (2019).

173 Resolution 42/3 Situation of human rights of Rohingya Muslims and other minorities in Myanmar (2019).

174 Resolution 42/25 Situation of human rights in the Bolivarian Republic of Venezuela (2019).

175 Resolution 42/26 Situation of human rights in Burundi (2019).

176 Resolution 42/27 The human rights situation in the Syrian Arab Republic (2019).

177 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

178 Resolution 42/4 Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela (2019).

179 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

180 Voluntary pledges and commitments of The Bahamas for election to the Human Rights Council (2019-2021). Available at: <https://bit.ly/2nRNHvu>.

181 Office of the High Commissioner for Human Rights, Standing invitations to Special Procedures. Available at: https://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/StandingInvitations.aspx.

182 Office of the High Commissioner for Human Rights, Country visits by Special Procedures to The Bahamas. Available at: <https://bit.ly/2t4XDEe>.

183 Ibid.

184 Ibid.

b) *Compliance with Reporting Obligation to Treaty Monitoring Bodies*

The Bahamas has six treaty body reports pending: with the CRC since 2008; CCPR (LoIPR) since 2010; CESCR since 2011; CRC-OP-AC and CRPD since 2017, and CAT since 2019.¹⁸⁵

The Bahamas has not ratified four major human rights instruments, namely, the *Convention for the Protection of All Persons from Enforced Disappearance* (CED), the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (CMW), the Optional Protocol of the Convention against Torture (CAT-OP) and the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of death penalty (CCPR-OP2-DP).¹⁸⁶ It has also not accepted individual complaints procedures under any of the core human rights treaties.¹⁸⁷

c) *Compliance with Thematic Issues*

In its voluntary pledges, the Bahamas affirmed its commitment to uphold the highest standards in promotion and protection of human rights.¹⁸⁸ It joined the consensus¹⁸⁹ in adopting the resolution on **Arbitrary detention**, which urged States to respect the rights of a person arrested or detained on a criminal charge and that the principles which would also apply to administrative detention.¹⁹⁰ The Constitution of Bahamas, under Article 19, explicitly prohibits arbitrary deprivation of liberty, except as may be authorised by law.¹⁹¹ Similarly, it also provides that for the purpose of effecting the expulsion or other lawful removal from the Bahamas, a person who is not a citizen may, in accordance with law, be deprived of his liberty to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within The Bahamas or prohibiting him from being within such an area.¹⁹² However, instances of prolonged and arbitrary detention have been reported,¹⁹³ especially in the context of immigration detention.¹⁹⁴

In the context of detention under the criminal justice system, attorneys and other prisoner reform advocates reported excessive pretrial detention in the country due to backlogs in the criminal justice system to try cases in a timely manner as well as due to lack of adequate legal representation.¹⁹⁵ Arbitrary and prolonged detention is especially reported in the context of immigrants¹⁹⁶ and the Bahamas, in its UPR, noted that its priority is to avoid indefinite detention in the legal framework for migrants.¹⁹⁷ It has been reported that the Bahamas practices detention of all persons interdicted at sea in an irregular migratory status, that has become more pronounced in the aftermath of Hurricane

185 Office of the High Commissioner for Human Rights, Treaty Bodies, Reporting status of the Bahamas. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=BHS&Lang=EN.

186 Office of the High Commissioner for the Human Rights, Treaty Bodies, Ratification status of the Bahamas. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=12&Lang=EN.

187 Ibid.

188 Voluntary Pledges and Commitments of the Commonwealth of the Bahamas, Candidature for election to the Human Rights Council (2019-2021) A/RES/60/251. Available at: https://www.universal-rights.org/wp-content/uploads/2018/09/Bahamas-Mission_NV_The-Bahamas-HRC-2019-21-Voluntary-Pledges-and-Commitments_5.09.18.pdf.

189 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

190 Resolution 42/22 Arbitrary detention (2019).

191 The Constitution of The Commonwealth of The Bahamas – 1973, Chapter III, Article 19: Protection from arbitrary arrest and detention. Available at: <https://bit.ly/2QwbpZe>.

192 Ibid, Article 19 (1)(g).

193 Report of the Working Group on the Universal Periodic Review: The Bahamas, para 97, 3 April 2018. Available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/38/9&Lang=E>.

194 Eyewitness News, '45 foreign nationals apprehended in joint operation: Rights Bahamas calls on Immigration to cease roadblocks and arbitrary detention, 7 April 2019. Available at: <https://ewnews.com/45-foreign-nationals-apprehended-in-joint-operation>.

195 US Department of State, Country Reports for Human Rights Practices 2019: The Bahamas. Available at: <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/bahamas/>.

196 Center for Justice and International Law (CEJIL), 'Carmichael Road Detention Center: Bahamas, 3 November 2017. Available at: <https://www.cejil.org/en/carmichael-road-detention-center-bahamas>.

197 Report of the Working Group on the Universal Periodic Review: The Bahamas, para 82, 3 April 2018. Available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/38/9&Lang=E>.

Dorian,¹⁹⁸ including asylum seekers.¹⁹⁹ The lack of access to legal representation for asylum seekers and refugees in detention has also been reported.²⁰⁰ UN agencies such as the UNHCR²⁰¹ as well as other human rights organisations had called on the Bahamian authorities to introduce a human-rights based migration policy that uses detention only as a measure of last resort.²⁰² There is no maximum length of detention specified in the law.²⁰³ Some detentions have been reported to have lasted up to eight years.²⁰⁴ Concerns have been raised on the conditions of the Carmichael Road Detention Centre²⁰⁵ despite the 2015 precautionary measure adopted by the Inter-American Commission of Human Rights (IACHR) requesting the Bahamas to take actions to guarantee the rights to life and personal dignity of the detainees at the Carmichael Detention Centre.²⁰⁶ Former detainees have alleged that the guards at the Centre were aggressive, verbally abusive and used physical force as a means of control.²⁰⁷

In May 2019, the Bahamas' use of detention came under scrutiny by the IACHR for the second time. The IACHR President stated that detention is not the answer to the country's immigration challenges, while also raising concerns about the alleged detention of children.²⁰⁸ The CEDAW concluding observations on the Bahamas, released in 2018, specifically noted concerns about detention of asylum-seeking women, including those with children, in the country.²⁰⁹ Rights groups have repeatedly called for better treatment of migrants at the Detention Centre, especially after a recent hunger strike by the detained Haitian migrants²¹⁰ and in light of the COVID-19 pandemic.²¹¹ Several migrants have recently sued the Bahamian authorities: The Supreme Court held that a Jamaican national had been unlawfully detained for over nine years by both the Department of Correctional Services and the Department of Immigration, without ever being convicted of a crime. He sued the Government for false imprisonment and arbitrary, unlawful detention and was ordered to be paid a compensation of 60,000 dollars.²¹² Similarly, a Kenyan man sued the Government for 11 million dollars for illegally detaining him for six years and seven months at the Carmichael Detention Centre, during which he was allegedly beaten numerous times by immigration officials and also contracted

198 Eyewitness News, 'Rights Bahamas condemns government for immigration flip-flop', 2 October 2019. Available at: <https://ewnews.com/rights-bahamas-condemns-government-for-immigration-flip-flop>.

199 UNHCR, Submission on the Bahamas at the 29th UPR Session, January 2020. Available at: <https://www.refworld.org/docid/5b081c584.html>.

200 Working Group on the Universal Periodic Review, Report of the Office of the United Nations High Commissioner for Human Rights, para 8, 27 October 2017. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/329/06/PDF/G1732906.pdf?OpenElement>.

201 UNHCR, Submission on the Bahamas at the 29th UPR Session, January 2020. Available at: <https://www.refworld.org/docid/5b081c584.html>.

202 Center for Justice and International Law (CEJIL), 'Bahamas: International human rights groups express concerns following recent governmental announcements', 28 November 2017. Available at: <https://www.cejil.org/en/bahamas-international-human-rights-groups-express-concerns-following-recent-governmental>.

203 Global Detention Project, Country Profile: The Bahamas. Available at: <https://www.globaldetentionproject.org/countries/americas/bahamas>.

204 Tribune 242, 'Migration Policy 'Must Be Changed'', 22 August 2017. Available at: <http://www.tribune242.com/news/2017/aug/23/migration-policy-must-be-changed/>.

205 Eye Witness News, 'Rights Bahamas members air concerns before Inter-American Commission on Human Rights', 13 May 2019. Available at: <https://ewnews.com/rights-bahamas-members-air-concerns-before-inter-american-commission-on-human-rights>; see also, Robert F. Kennedy Human Rights, 'RKF continues to monitor human rights violations at Bahamian Detention Center', 29 January 2018. Available at: <https://rfkhumanrights.org/news/rfk-continues-to-monitor-human-rights-violations-at-bahamian-detention-center>.

206 IACHR, Resolution 4/2015 (Precautionary Measure No. 535/14), Matter of persons in immigration detention at Carmichael Road Detention Center Commonwealth of the Bahamas, 13 February 2015. Available at: <https://www.oas.org/en/iachr/decisions/pdf/2015/PM535-14-EN.pdf>.

207 The Tribune 242, 'Rights Bahamas To Focus On Conditions at Detention Centre', 1 May 2019. Available at: <http://www.tribune242.com/news/2019/may/01/rights-bahamas-focus-conditions-detention-centre/>.

208 The Tribune 242, 'IACHR President: Detention not the answer to Bahamas' immigration challenges', 10 May 2019. Available at: <https://bit.ly/34D3eCD>.

209 Committee on the Elimination of Discrimination Against Women, Concluding observations on the periodic report of the Bahamas, para 43 (b), 14 November 2018. Available at: <https://bit.ly/2pfZaFv>.

210 The Tribune 242, 'Activists call for better treatment of migrants at detention centre', 4 June 2020. Available at: <http://www.tribune242.com/news/2020/jun/04/activists-call-better-treatment-migrants-detention/>.

211 Robert F. Kennedy Human Rights, 'Robert F. Kennedy Human Rights expresses concerns about conditions at Carmichael Immigrant Detention Center in the Bahamas', 12 June 2020. Available at: <https://rfkhumanrights.org/news/concern-about-conditions-at-carmichael-immigrant-detention-center>.

212 The Tribune 242, 'Jamaican man wins new \$60,000 payout over detention', 8 June 2020. Available at: <http://www.tribune242.com/news/2020/jun/08/jamaican-man-wins-new-60k-payout-over-detention/>.

tuberculosis.²¹³ A prominent attorney from the Bahamas has warned that given the spate of illegal and indefinite detention of migrants at the Carmichael Road Detention Centre, the Government could face several lawsuits over the next few years, which could cost millions of dollars out of the taxpayers' money.²¹⁴ The Working Group on arbitrary detention made a visit request in March 2017, however, the dates of visit have not yet been finalised.²¹⁵

The Bahamas pledged to 'uphold the highest standards in the promotion and protection of human rights' and engage with regional partners, including civil society, on issues relating to human rights.²¹⁶ In the interactive dialogue with Assistant Secretary-General for Human Rights on the report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights, it reiterated its opposition to all acts of **reprisals** and maintained that it remained committed to ensure protection of human rights defenders.²¹⁷ It voted in favour²¹⁸ of the resolution on *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*, which called upon States to prevent and refrain from committing acts of intimidation or reprisal and conduct effective investigations into such allegations.²¹⁹ The Constitution of the Bahamas guarantees freedoms of expression²²⁰ and of assembly and association.²²¹ In its national report for its UPR, it stated that its successive governments have engaged in discussions with the civil society to address the issues affecting the Bahamian society.²²²

However, while there are constitutional guarantees, there are instances where the legitimate work of activists, human rights defenders and civil society has been impeded: The Secretary General's report on reprisals against human rights defenders presented in September 2019 included the case of hostile environment against Alice Wallace, an activist working on women's rights and gender-based violence in the country, who engaged with the CEDAW and delivered an oral statement in Geneva.²²³ While the CEDAW sent a communication to the Government in this regard, the Bahamas had responded and clarified during the session that responded fully to these allegations and that the CEDAW had acknowledged its expeditious steps.²²⁴ However, Ms. Wallace asserted that the Government should rebuke incidents of reprisals and ensure its laws provide protection against hate speech.²²⁵ The CEDAW also posed questions regarding measures taken to ensure that women human rights defenders engaged on issues of gender-based violence could

213 The Tribune 242, 'Govt hit with \$11m damages claim: 'Immigration is not super police, a law unto itself', 17 April 2019. Available at: <http://www.tribune242.com/news/2019/apr/18/govt-hit-11m-damages-claim-immigration-not-super-p/>; see also, The Tribune 242, 'Seeking justice after six and a half years in detention centre', 12 February 2019. Available at: <http://www.tribune242.com/news/2019/feb/12/seeking-justice-after-six-and-half-years-detention/>.

214 Bahamas Spectator, 'Immigration lawsuits could cost millions, warns QC', 18 February 2019. Available at: <https://bahamasspectator.com/immigration-lawsuits-could-cost-millions-warns-qc/> and <https://bit.ly/34EIHxB>.

215 Office of the High Commissioner for Human Rights, Country visits by Special Procedures to The Bahamas. Available at: <https://bit.ly/2t4XDEe>.

216 Voluntary Pledges and Commitments of the Commonwealth of the Bahamas, Candidature for election to the Human Rights Council (2019-2021) A/RES/60/251. Available at: https://www.universal-rights.org/wp-content/uploads/2018/09/Bahamas-Mission_NV-The-Bahamas-HRC-2019-21-Voluntary-Pledges-and-Commitments_5.09.18.pdf.

217 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Statements.aspx?SessionId=31&MeetingDate=18/09/2019%2000:00:00>.

218 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

219 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

220 The Constitution of The Commonwealth of The Bahamas – 1973, Chapter III, Article 23: Protection of Freedom of Expression. Available at: <https://bit.ly/2QwbpZe>.

221 The Constitution of The Commonwealth of The Bahamas – 1973, Chapter III, Article 24: Protection of Freedom of Assembly and Association. Available at: <https://bit.ly/2QwbpZe>.

222 Working Group of the Universal Periodic Review, National report submitted by the Bahamas, para 34, 18 December 2017. Available at: <https://bit.ly/32TB1G3>

223 OHCHR, 42nd HRC Session, Documentation – Reports, Report of the Secretary-General: Cooperation with the United Nations, its representatives and mechanisms in the field of human rights A/HRC/42/30, p. 18, 9 September 2019. Available at: <https://undocs.org/en/A/HRC/42/30>.

224 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Statements.aspx?SessionId=31&MeetingDate=18/09/2019%2000:00:00>.

225 International Service for Human Rights, 'Ending reprisals against those who cooperate with the UN in the field of human rights', p. 17, May 2019. Available at: https://www.ishr.ch/sites/default/files/files/FINAL_ISHR%20Submission%20to%20SG%20Reprisals%20Report_2019_REV.pdf.

exercise their right to freedom of expression without fear of repression.²²⁶ The Government is still due to respond to the Precautionary Measure MC706-16 issued by the IACHR²²⁷ on the abuses against human rights defenders in the Bahamas which has been pending for more than two years.²²⁸

Despite constitutional guarantees, in March 2018, Attorney General Carl Bethel stated that although a constitutional right, 'free speech in the Bahamas has limits' and cannot be used to 'spread propaganda, create hysteria, and misleading information'.²²⁹ However, this was allegedly aimed at silencing a human rights group working for exposing alleged abuses against immigrants or non-Bahamian people under the new immigration policy.²³⁰ Defamation remains a criminal offence under the Penal Code of the Bahamas, with negligent libel punishable with imprisonment up to six months and intentional libel with imprisonment up to two years.²³¹ In July 2019, a political commentator was charged with criminal libel,²³² which was criticised by human rights organisations as an attempt to threaten them for exercising their freedom of expression and for their efforts to highlight the injustices suffered by ordinary people.²³³ Recently, in July 2020, the Government passed the Non-Profit Organisations Act,²³⁴ which has provisions that could raise significant concerns for the future health of the civil society sector in the country.²³⁵ The Act requires NGOs to register, declare sources of contributions and all donations over 50,000 dollars,²³⁶ and account for annual income and expenditures for organisations with a gross annual income above 75,000 dollars by maintaining financial statements at their registered offices.²³⁷ These new provisions raise concerns about increased governmental surveillance and scrutiny in the work of the civil society.²³⁸

The Bahamas pledged to 'protect against and prevent discrimination in all its forms, in both law and in practice'.²³⁹ It was a part of the consensus in the Council that adopted the resolution,²⁴⁰ *From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance*, which raised concerns about the manifestations of racism and xenophobia precipitated by false, socially unjust, dangerous, extremist nationalist and populist ideologies.²⁴¹ The Constitution of the Bahamas envisages that every person is entitled to fundamental rights and freedoms irrespective of his or her race, place of origin, colour, or creed, among other things.²⁴² Despite this, foreign nationals, particularly Haitians, are reported to face discrimination and xenophobia in the country, which is

226 OHCHR, 'Committee on the Elimination of Discrimination against Women examines the situation of women in the Bahamas', 25 October 2018. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23780&LangID=E>.

227 IACHR, Resolution 54/2016 (Precautionary Measure No.MC706/16), Matter of Fred Smith and others regarding in the Bahamas, 4 November 2016. Available at: <https://www.oas.org/en/iachr/decisions/pdf/2016/MC706-16-EN.pdf>

228 The Tribune, 'Two Years On - And No Govt Response On Threats' 5 June 2019. Available at: <http://www.tribune242.com/news/2019/jun/05/two-years-and-no-govt-response-threats/>.

229 The Tribune 242, 'Bethel blasts activists – free speech has limits', 5 March 2018. Available at: <http://www.tribune242.com/news/2018/mar/05/bethel-blasts-activists-free-speech-has-limits/>.

230 The Tribune 242, 'What do you mean, free speech has limits?', 7 March 2018. Available at: <http://www.tribune242.com/news/2018/mar/07/editorial-what-do-you-mean-free-speech-has-limits/>.

231 The Penal Code of the Bahamas, Articles 315-317. Available at: <http://bit.ly/38IH15H>.

232 Eyewitness News, 'Rights Bahamas: Abolish the archaic criminal libel laws', 11 July 2019. Available at: <https://ewnews.com/rights-bahamas-abolish-archaic-criminal-libel-laws>.

233 The Tribune 242, 'Smith leads calls to end 'archaic' criminal libel laws', 11 July 2019. Available at: <http://www.tribune242.com/news/2019/jul/11/smith-leads-calls-to-end-archaic-criminal-libel/>.

234 Government of the Commonwealth of the Bahamas, Non-Profit Organisations Act 2019. Available at: <https://www.bfsb-bahamas.com/wp-content/uploads/2019/08/NON-PROFIT-ORGANISATION-ACT-2019.pdf>.

235 Eye Witness News, 'Smith suggests NPO Bill leading Bahamas to fascism', 29 July 2019. Available at: <https://ewnews.com/smith-suggests-npo-bill-leading-bahamas-to-fascism>.

236 Freedom House, 'Freedom in the World 2020: The Bahamas'. Available at: <https://freedomhouse.org/country/bahamas/freedom-world/2020>.

237 The Tribune, 'Civil Society Fears Bill'S 'Decimation'', 10 December 2018. Available at: <http://www.tribune242.com/news/2018/dec/10/civil-society-fears-bills-decimation/>.

238 Ibid; see also, Freedom House, 'Freedom in the World 2020: The Bahamas'. Available at: <https://freedomhouse.org/country/bahamas/freedom-world/2020>.

239 Voluntary pledges and commitments of The Bahamas for election to the Human Rights Council (2019-2021). Available at: <https://bit.ly/2nRNHvu>.

240 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

241 Resolution 42/29 From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance (2019).

242 The Constitution of The Commonwealth of The Bahamas – 1973, Chapter III, Article 15: Fundamental Rights and Freedoms of the Individual. Available at: <https://bit.ly/2QwbpZe>.

interlinked with the issue of irregular migration.²⁴³ Haitians are said to be frequently targeted, harassed, detained and deported *en masse* by the Government, especially after the 2014 law that requires everyone to carry a passport at all times.²⁴⁴ Haitians and Bahamians of Haitian descent have continued to live in the poorest conditions as the most vulnerable residents.²⁴⁵ Anti-immigrant and anti-Haitian sentiments had increased especially after Hurricane Dorian with heightened tensions, hate speech and death threats, on social media.²⁴⁶

Many public statements were made by Government officials that underlined discrimination: Foreign Minister Darren Henfield said that such uncontrolled immigration is posing a threat to the national security of the Bahamas.²⁴⁷ This statement came in the midst of widespread bias against migrants, particularly Haitians, being reported from the Bahamas.²⁴⁸ A Bahamian attorney suggested that the government should screen the shelterees displaced by the storm to identify undocumented migrants and this was condemned by rights' groups.²⁴⁹ Attorney General Carl Bethel advised work-permit holders, whose places of employment were destroyed by Hurricane Dorian, to "go home".²⁵⁰ The IACHR raised concerns, in addition to arbitrary detention of irregular foreigners, over the discriminatory raids on Haitian immigrant communities, and the new Immigration Act, which makes people born in the Bahamas, with a right to citizenship, 'aliens' liable to be deported if they do not register between ages 18 and 19.²⁵¹ Children of undocumented Haitian immigrants are denied the right to public education, which perpetuates discrimination and inequality against the migrants and their descendants.²⁵² With serious allegations of physical abuses, sexual assault, illegal collection of blood sample of Haiti migrants and systematic stigma,²⁵³ international organisations like IOM had called upon the government to urgently look into and redress human rights abuses against Haitians.²⁵⁴ The OHCHR has also voiced its concern over the social media content and public statements displaying xenophobic behaviour and intolerance towards Haitians.²⁵⁵ To counter the prevailing xenophobia, #BahamasKind has been launched by the IOM with other organisations to reduce xenophobic attitudes and stigmas associated with the Haitian migrants.²⁵⁶

The CEDAW, in its concluding observations, also expressed concerns about the failure to eliminate discrimination, notably intersecting forms of discrimination, against women of Haitian descent and other migrant women.²⁵⁷ It also raised concerns on the situation of asylum-seeking / migrant women and women of Haitian descent without identity documents or national passports, who do not report violations of their rights, including gender-based violence, to the authorities, owing to a fear of detention or deportation.²⁵⁸ In one particular case, a Bahamian-born man of Haitian

243 The Haitian Times, 'Haitians in the Bahamas fear deportations in wake of Hurricane Dorian', 26 September 2019. Available at: <https://bit.ly/2Pfmk9J>.

244 Ibid.

245 Eyewitness News, 'Don't discriminate against Haitians', 11 September 2019. Available at: <https://ewnews.com/dont-discriminate-against-haitians>.

246 Eyewitness News, 'Anti-Haitian sentiments on the rise following Dorian', 2 October 2019. Available at: <https://ewnews.com/anti-haitian-sentiments-on-the-rise-following-dorian>.

247 Eyewitness News, 'Henfield: Illegal immigration is a security threat', 11 January 2019. Available at: <https://ewnews.com/henfield-illegal-migration-is-a-security-threat>.

248 Office of the High Commissioner for Human Rights, Press Releases, Press briefing note on Bahamas, 11 October 2019. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25146&LangID=E>.

249 Eyewitness News, 'Rights Bahamas: Munroe's immigration challenge sickening', 6 November 2019. Available at: <https://ewnews.com/rights-bahamas-munroes-immigration-challenge-sickening>.

250 The Nassau Guardian, 'Xenophobia, ungratefulness and knee-jerk policymaking', 2 October 2019. Available at: <https://thenassauguardian.com/2019/10/02/xenophobia-ungratefulness-and-knee-jerk-policymaking/>.

251 Eyewitness News, 'Rights Bahamas members air concerns before IACHR', 13 May 2019. Available at: <https://ewnews.com/rights-bahamas-members-air-concerns-before-inter-american-commission-on-human-rights>.

252 Ibid.

253 SunSentinel, 'Stigma of being Haitian in the Bahamas reignites after Hurricane Dorian', 8 September 2019. Available at: <https://www.sun-sentinel.com/news/weather/hurricane/fl-ne-dorian-haitian-evacuees-nassau-20190909-sjcg5pegjrgnnhsve7w3pd3o-zu-story.html>.

254 Eye Witness News, 'IOM calls for govt. to investigate migrant abuse claims', 18 November 2019. Available at: <https://ewnews.com/iom-calls-for-govt-to-investigate-migrant-abuse-claims>.

255 OHCHR News, 'Press briefing note on Bahamas' 11 October 2019. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25146&LangID=E>.

256 Eye Witness News, '#BahamasKind initiative targets xenophobia', 3 June 2020. Available at: <https://ewnews.com/bahamaskind-initiative-to-help-reduce-xenophobia-in-the-bahamas>.

257 CEDAW, Concluding observations on the sixth periodic report of the Bahamas, para 11, 14 November 2018. Available at: <https://bit.ly/318rABL>.

258 Ibid, para 43(d).

descent was expelled to Haiti in November 2017. However, the Supreme Court of the Bahamas found that the man was “deprived of his personal liberty, unlawfully arrested and detained/falsely imprisoned” and then “unlawfully expelled” in breach of various rights guaranteed under the Constitution, and thereby, ordered his return.²⁵⁹ Similarly, it was alleged that the Rastafarian also face discrimination in the Bahamas due to their dreadlocks and their religious use of marijuana.²⁶⁰ The Prime Minister has openly advocated for reforming the marijuana laws and the Bahamas National Commission’s preliminary report on Marijuana, includes a recommendation to grant Rastafarians the right to use marijuana for religious purposes and to decriminalise marijuana for medicinal or religious purposes.²⁶¹ However, instances of police arresting Rastafarians for possessing small quantities of marijuana for religious purposes have been reported²⁶² and the Prime Minister himself supported their release.²⁶³ However, recently, the Bahamas joined other UN Member States in condemning all forms of racial discrimination and joined the fight against racism, especially against people of African descent.²⁶⁴

In its voluntary pledges, the Bahamas affirmed to uphold the highest standards in the promotion and protection of human rights and continue to support all efforts aimed at guaranteeing effective responses by the international community to global human rights violations, such as prevention and early action.²⁶⁵ It joined the consensus²⁶⁶ in adopting the resolution on the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, one of whose report was on the ‘impact of slavery and servitude on marginalised migrant women workers in the global domestic economy’ and which called for increasing such counter measures to put an end to such practices.²⁶⁷ The Constitution of the Bahamas, under Article 18, guarantees protection from slavery, servitude and forced labour.²⁶⁸ In 2008, the Bahamas enacted the Trafficking in Persons (Prevention and Suppression) Act²⁶⁹ that defined and criminalised trafficking in persons, forced labour, sexual exploitation and such related offences, and imposed penalties ranging from three years to life imprisonment.²⁷⁰ The Act was amended in 2017 to introduce offences of organising, engaging in or directing another person to engage in trafficking, in compliance with the Trafficking in Persons Protocol supplementing the UNCTOC.²⁷¹

The Bahamas is a source, destination and transit country for victims of various contemporary forms of slavery such as human trafficking, sexual exploitation and forced labour,²⁷² especially for people from the Caribbean, Central and South America.²⁷³ In addition to legislative measures, it has implemented measures such as a marked increase in

259 Amnesty International, ‘Bahamas: Government must immediately enforce court ruling and bring back man unlawfully expelled to Haiti’, 31 January 2018. Available at: <https://www.amnesty.org/en/latest/news/2018/01/bahamas-government-must-immediately-enforce-court-ruling-and-bring-back-man-unlawfully-expelled-to-haiti/>.

260 US Department of State, ‘International Religious Freedom Report: The Bahamas’, 2019. Available at: <https://www.state.gov/wp-content/uploads/2020/06/BAHAMAS-2019-INTERNATIONAL-RELIGIOUS-FREEDOM-REPORT.pdf>.

261 Ibid; see also, Eye Witness News, ‘PM tables preliminary marijuana commission report in Parliament’, 6 February 2020. Available at: <https://ewnews.com/pm-signals-marijuana-reform-as-he-tables-preliminary-report-in-parliament>

262 The Tribune, ‘Marijuana Move Ends ‘Rasta Persecution’’, 6 February 2020. Available at: <http://www.tribune242.com/news/2020/feb/07/marijuana-move-ends-rasta-persecution/>.

263 Eye Witness News, ‘PM supports release of prisoners with small amounts of marijuana convictions’, 22 January 2020. Available at: <https://ewnews.com/pm-supports-release-of-prisoners-with-small-amounts-of-marijuana-convictions>.

264 Eye Witness News, ‘Bahamas joins UN members in condemning racism worldwide’, 20 June 2020. Available at: <https://ewnews.com/bahamas-joins-un-members-in-condemning-racism-worldwide>.

265 Voluntary Pledges and Commitments of the Commonwealth of the Bahamas, Candidature for election to the Human Rights Council (2019-2021) A/RES/60/251. Available at: https://www.universal-rights.org/wp-content/uploads/2018/09/Bahamas-Mission_NV_The-Bahamas-HRC-2019-21-Voluntary-Pledges-and-Commitments_5.09.18.pdf.

266 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President’s statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

267 Resolution 42/10 Special Rapporteur on contemporary forms of slavery, including its causes and consequences (2019).

268 The Constitution of The Commonwealth of The Bahamas – 1973, Chapter III, Article 18: Protection from slavery and forced labour. Available at: <https://bit.ly/2QwbpZe>.

269 Government of the Commonwealth of the Bahamas, ‘The Trafficking In Persons (Prevention and Suppression) Act 2008. Available at: https://www.oas.org/dil/Trafficking_In_Persons_Prevention_and_Suppression_Act_Bahamas.pdf.

270 Ibid, Section 3(5), Section 8(1)(b).

271 Working Group on Universal Periodic Review, National report submitted by the Bahamas, para 110, 18 December 2017. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/362/86/PDF/G1736286.pdf?OpenElement>.

272 Freedom House, ‘Freedom in the World 2020: The Bahamas’. Available at: <https://freedomhouse.org/country/bahamas/freedom-world/2020>.

273 Working Group on the Universal Periodic Review, Report of the Office of the United Nations High Commissioner for Human Rights, para 15, 27 October 2017. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/329/06/PDF/G1732906.pdf?OpenElement>.

the investigation of trafficking cases, identification of victims and training the first-responders and law enforcement officials,²⁷⁴ and putting in place a National Referral Mechanism, among other things.²⁷⁵ The Government has launched a 24-hour human trafficking hotline to help victims or those who aware of the crime to anonymously report it “in furtherance of a victim-centric approach to combat human trafficking and to accelerate the response time by authorities to provide assistance”.²⁷⁶ It also implemented public awareness and prevention measures such as increased coordination with NGOs.²⁷⁷ However, despite taking these measures, there are some difficulties that have been reported: there were reports of complicity of officials in trafficking offences and in protecting sex trafficking rings, especially that of the immigration department.²⁷⁸ While migrants have been found to be at a higher risk of being subject to trafficking,²⁷⁹ the Bahamas does not have bilateral labour agreements with neighbouring States in the region that include protections for labour migrants.²⁸⁰ The displacement of thousands of people due to Hurricane Dorian has raised concerns over exacerbation of the existing exploitation and trafficking of both the migrant and domestic population.²⁸¹ Additionally, migrant workers from nearby countries are reported to have been lured through false recruitment offers by traffickers, who then allegedly subject them to sex trafficking, forced labour and domestic servitude. Unaccompanied migrant children and stateless persons are reported to be particularly vulnerable to trafficking.²⁸² Despite training by the National Trafficking Commission to the agencies to identify and protect victims,²⁸³ lack of implementation of uniform identification protocols have raised concerns that authorities penalised potential trafficking victims. Experts reported that authorities have routinely detained and deported irregular Haitian migrants without screening for trafficking.²⁸⁴ The prosecution and conviction rates for trafficking crimes are low often owing to delays in judicial processes.²⁸⁵

The Special Rapporteur on violence against women, its causes and consequences, in her report on her mission to the Bahamas, had noted that training of law enforcement to identify victims of trafficking should also include victims of labour exploitation.²⁸⁶ Many undocumented migrants, especially from Haiti, constitute a major share of domestic workers in the Bahamas. The absence of safeguards for them in the Employment Act 2001, along with inadequate inspection and identification, has rendered them as easy targets to be subjected to forced labour.²⁸⁷ The Bahamas has

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- 274 US Department of State, ‘Trafficking in Persons Report 2020’, p. 88, June 2020. Available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.
- 275 Walk Free and Commonwealth Human Rights Initiative, ‘Eradicating Modern Slavery: An assessment of Commonwealth governments’ progress on achieving SDG Target 8.7’, p.5, June 2020. Available at: <https://www.humanrightsinitiative.org/download/1596089364Eradicating%20Modern%20Slavery%20achieving%20SDG%20Target%208.7.pdf>.
- 276 The Tribune 242, ‘24-hour hotline launched to tackle human trafficking’, 1 March 2019. Available at: <http://www.tribune242.com/news/2019/mar/01/24-hour-hotline-launched-tackle-human-trafficking/>.
- 277 Working Group on Universal Periodic Review, National report submitted by the Bahamas, paras 115-116, 18 December 2017. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/362/86/PDF/G1736286.pdf?OpenElement>.
- 278 Walk Free and Commonwealth Human Rights Initiative, ‘Eradicating Modern Slavery: An assessment of Commonwealth governments’ progress on achieving SDG Target 8.7’, p.50, June 2020. Available at: <https://www.humanrightsinitiative.org/download/1596089364Eradicating%20Modern%20Slavery%20achieving%20SDG%20Target%208.7.pdf>.
- 279 Ibid.
- 280 Ibid, p. 54.
- 281 ReliefWeb, ‘IOM Appeal: Hurricane Dorian Response, September 2019 - April 2020’, 2 October 2019. Available at: <https://reliefweb.int/report/bahamas/iom-appeal-hurricane-dorian-response-september-2019-april-2020>.
- 282 38th HRC Session, Report of the Special Rapporteur on violence against women, its causes and consequences, on her mission to the Bahamas, para 21, 25 May 2018. Available at: <https://undocs.org/en/A/HRC/38/47/Add.2>; see also, US Department of State, ‘Trafficking in Persons Report 2020’, p. 90, June 2020. Available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.
- 283 Walk Free and Commonwealth Human Rights Initiative, ‘Eradicating Modern Slavery: An assessment of Commonwealth governments’ progress on achieving SDG Target 8.7’, p.50, June 2020. Available at: <https://www.humanrightsinitiative.org/download/1596089364Eradicating%20Modern%20Slavery%20achieving%20SDG%20Target%208.7.pdf>.
- 284 The Tribune 242, ‘Bahamas retains its Tier 1 ranking over human trafficking’, 21 June 2019. Available at: <http://www.tribune242.com/news/2019/jun/21/bahamas-retains-its-tier-1-ranking-over-human-traf/>.
- 285 US Department of State, ‘Trafficking in Persons Report 2020’, p. 88, June 2020. Available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.
- 286 38th HRC Session, Report of the Special Rapporteur on violence against women, its causes and consequences, on her mission to the Bahamas, para 22, 25 May 2018. Available at: <https://undocs.org/en/A/HRC/38/47/Add.2>.
- 287 Working Group on the Universal Periodic Review, Report of the Office of the United Nations High Commissioner for Human Rights, para 48, 27 October 2017. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/329/06/PDF/G1732906.pdf?OpenElement..>

not ratified either the CMW²⁸⁸ or the ILO Domestic Workers Convention 2011 (No. 189).²⁸⁹ There were no reported cases of child sex tourism in Bahamas,²⁹⁰ however, displacements due to natural calamities and discriminatory provisions in citizenship where children born to foreign parents or non-Bahamian father do not automatically become eligible for citizenship, have heightened the risk of exploitation of children.²⁹¹ The Bahamas also has a legislation criminalising forced marriage²⁹² and the legal age for marriage as prescribed under the Bahamian law is 18.²⁹³ However, there are legal exceptions and judicial discretions allowed whereby marriage of children as young as 13-15 years may be held legal.²⁹⁴ The CEDAW had also raised these concerns²⁹⁵ along with the lack of adequate research on the extent of trafficking in women and girls in the Bahamas.²⁹⁶

VI. Conclusions

The Bahamas participated in selected debates in this session and consistently raised concerns over climate change and its impact on the realisation of human rights.

- Irregular migration continues to be a major challenge and concerns have been raised over prolonged detention of migrants, refugees and asylum seekers, including women and children. There is no maximum length of detention specified in the law.²⁹⁷ Some detentions have been reported to have lasted up to eight years.²⁹⁸
- On a related note, discrimination and xenophobia against migrants, especially Haitians, has been widely reported. International and regional organisations such as the OHCHR, IOM and IACHR have raised concerns over the discriminatory impact of policies and xenophobic stigma associated with foreigners, especially Haitians, in the country.
- Being a source, destination and transit country for victims of various contemporary forms of slavery, the Government has taken several legislative and policy measures to combat them. It has implemented policies to improve investigation of trafficking cases and identification of victims; training first-responders and law enforcement officials²⁹⁹; putting in place a National Referral Mechanism³⁰⁰; a 24-hour human trafficking hotline to help victims or those who aware of the crime to anonymously; as well as public awareness and prevention measures such as increased coordination with NGOs.³⁰¹

288 Office of the High Commissioner for the Human Rights, Treaty Bodies, Ratification status of the Bahamas. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=12&Lang=EN.

289 ILO, Conventions and protocols not ratified by the Bahamas. Available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11210:0::NO::P11210_COUNTRY_ID:103215.

290 Human Rights Council Working Group on the Universal Periodic Review, 'National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21*', Bahamas, A/HRC/WG.6/29/BHS/1, 15–26 January 2018, pg. no 15, para 120. Available at: https://www.upr-info.org/sites/default/files/document/bahamas/session_29_-_january_2018/a_hrc_wg_6_29_bhs_1_e.pdf.

291 US Department of State, 'Trafficking in Persons Report 20th Edition', June 2020, pg. 98. Available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

292 Walk Free and Commonwealth Human Rights Initiative, 'Eradicating Modern Slavery: An assessment of Commonwealth governments' progress on achieving SDG Target 8.7', p.52, June 2020. Available at: <https://www.humanrightsinitiative.org/download/1596089364Eradicating%20Modern%20Slavery%20achieving%20SDG%20Target%208.7.pdf>.

293 Government of the Commonwealth of the Bahamas, Marriage Act 1908, Section 20. Available at: http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1908/1908-0004/MarriageAct_1.pdf.

294 Ibid, Section 50 (2).

295 CEDAW, Concluding observations on the sixth periodic report of the Bahamas, para 45, 14 November 2018. Available at: <https://bit.ly/2YNAuTM>.

296 Ibid, para 25.

297 Global Detention Project, Country Profile: The Bahamas. Available at: <https://www.globaldetentionproject.org/countries/americas/bahamas>.

298 Tribune 242, 'Migration Policy 'Must Be Changed'', 22 August 2017. Available at: <http://www.tribune242.com/news/2017/aug/23/migration-policy-must-be-changed/>.

299 US Department of State, 'Trafficking in Persons Report 2020', p. 88, June 2020. Available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

300 Walk Free and Commonwealth Human Rights Initiative, 'Eradicating Modern Slavery: An assessment of Commonwealth governments' progress on achieving SDG Target 8.7', p.5, June 2020. Available at: <https://www.humanrightsinitiative.org/download/1596089364Eradicating%20Modern%20Slavery%20achieving%20SDG%20Target%208.7.pdf>.

301 Working Group on Universal Periodic Review, National report submitted by the Bahamas, paras 115-116, 18 December 2017. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/362/86/PDF/G1736286.pdf?OpenElement>.

I. Introduction

Bangladesh was elected to serve its fourth term as a member of the HRC in 2018 by virtue of a clean slate election.³⁰² It has previously served as a member of the HRC from 2007-2009,³⁰³ 2010-2012,³⁰⁴ and 2015-2017.³⁰⁵ Its current term started in 2019 and will end in 2021.³⁰⁶

II. Voluntary Pledges and Commitments

Bangladesh submitted its voluntary pledges and commitments before its election to the Council in 2018.³⁰⁷

At the domestic level, it pledged to:

- Host the forcibly displaced Myanmar nationals until they return to their homeland in safety, security and dignity.
- Take initiatives to develop national policies and strategies aimed at the realisation of fundamental rights and principles as enshrined in the Constitution, the Universal Declaration of Human Rights and the international human rights instruments to which it is a party.
- Consider acceding to the remaining international and regional human rights instruments on the basis of consensus forged through national consultation processes, as appropriate.
- Enact and / or update, to the extent necessary, national legislation to implement the international human rights instruments to which it is a party.
- Cooperate and engage with OHCHR, as well as the Special Procedures mechanism of the Human Rights Council, with a view of further improving its human rights situation.
- Sustain the trend of further strengthening the statutory and watchdog bodies, such as the National Human Rights Commission, the National Election Commission, the Anti-Corruption Commission, the Public Service Commission and the Information Commission.
- Ensure effective parliamentary oversight, including through the parliamentary standing committees, and enhance the transparency and accountability of public accounts.
- Preserve the independence of the judiciary.
- Preserve the freedom of the press and promote the constructive role of civil society and print, electronic and social media in the promotion of human rights at all levels.
- Provide capacity-building and training in the field of human rights to the law enforcement, judges, prosecutors, lawyers, journalists, civil servants, parliamentarians and the media.
- Continue its pro-people development agenda, with particular attention to women, children, persons with disabilities and other vulnerable sections of the population, including through the continued application an innovation of home-grown concepts.

³⁰² United Nations General Assembly, Elections of the Human Rights Council, 12 October 2018. Available at: <https://www.un.org/en/ga/73/meetings/elections/hrc.shtml>.

³⁰³ United Nations Human Rights Council, Membership of the Human Rights Council - 2007. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Group20062007.aspx>.

³⁰⁴ United Nations Human Rights Council, Membership of the Human Rights Council - 2010. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Group20092010.aspx>.

³⁰⁵ United Nations Human Rights Council, Membership of the Human Rights Council - 2015. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Group2015.aspx>.

³⁰⁶ United Nations Human Rights Council, Current Membership of the Human Rights Council for the 13th cycle. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/CurrentMembers.aspx>.

³⁰⁷ Office of the High Commissioner for Human Rights, Voluntary pledges and commitments submitted by Bangladesh, 14 June 2018. Available at: https://www.un.org/en/ga/search/view_doc.asp?symbol=A/73/90.

- Widen the coverage of the social safety net with enhanced allocation of resources with a view to achieving further economic empowerment and social security of citizens.
- Promote and protect the rights of religious and ethnic minorities and work towards the maintaining the traditional communal harmony by upholding the secular, pluralist and inclusive values of the State and society in general.
- Strengthen efforts to promote and protect the rights of workers and progressively realise decent working conditions across all sectors of the economy.
- Take adequate social and developmental measures for promoting the education and well-being of women and girls, with a view to ending child marriage.
- Strengthen its efforts to ensure the provision for the basic needs of its people, including for food, clothing, shelter, education, primary health care and access to water and sanitation, as a means to effectively ensure the enjoyment of all human rights.
- Strengthen the legal and policy framework for the elimination of violence and discrimination against women, children and vulnerable groups, including transgender persons.
- Take meaningful measures to prevent sexual exploitation and abuse and to ensure justice for the victims of such exploitation and abuse.
- Promote the role of women, youth, teachers, local leaders and other stakeholders in society in preventing violent extremism and intolerance in order to ensure the enjoyment of constitutionally guaranteed fundamental freedoms.

At the international level, it pledged to:

- Extend its support to the Human Rights Council in its work towards the promotion and protection of all human rights and fundamental freedoms in a fair and equal manner.
- Strengthen its constructive engagement and cooperation with other members of the Human Rights Council to make it an efficient and effective body.
- Engage constructively with all parties, on the basis of dialogue and cooperation, to resolve challenges to the full realisation of all human rights and to prevent human rights violations.
- Support the OHCHR and UN agencies promoting human rights in fulfilling their mandate.
- Promote the realisation of the right to development as an inalienable right for all parties and individuals, and support ongoing efforts to further develop the concept and its operationalisation on the basis of practical applications.
- Combat climate change at the national and international levels in order to further enhance the interface between the human rights and the climate change communities.
- Promote a culture of peace, take collective measures against racism, xenophobia and Islamophobia and protect victims against such crimes.
- Promote for the rights and well-being of migrant workers throughout the migration cycle.
- Participate in the international discourse towards the formulation of global compacts on migration and refugees to develop a just and equitable global regime on human mobility.
- Work with the international community in creating awareness of genocide and crimes against humanity; promote collective action to prevent genocide and similar crimes and support initiatives aimed at ensuring justice for the victims of genocide.

III. Participation at the 42nd Session of the HRC

The following is a selected representation of Bangladesh's participation in the Session:

S. No.	Interactive Dialogue	Bangladesh's Interventions
1.	Clustered interactive dialogue with the Special Rapporteur on the human rights to safe drinking water and sanitation and the Special Rapporteur on hazardous substances and wastes	<ul style="list-style-type: none"> • Reiterated the need to consider that access to water and sanitation is vital for all places, beyond the scope of the household and added that 99% of its population has access to sanitation and 88% to safe drinking water. • Stated that Prime Minister Sheikh Hasina and 11 other Heads of States met at the UN High-Level Panel on Water and have noted the need for a fundamental change in approach towards water management. • Took note of the proposed examination by Special Rapporteur on hazardous substances and wastes of the principles for protecting workers from toxic exposures and hazards and thanked him for underlining the right to equal treatment of documented and undocumented migrant workers, as that of nationals, regarding health, safety and other conditions of work. • Informed that the Bangladesh Labour (Amendment) Act 2018 incorporates all provisions with respect to safety of workers and reiterated its commitment to eliminate all forms of child labour by 2021 in accordance with the ILO Worst Forms of Child Labour Convention of 1999.³⁰⁸
2.	Clustered interactive dialogue with the Independent Expert on the human rights of older persons and the Special Rapporteur on the right to development	<ul style="list-style-type: none"> • Appreciated the Independent Expert's focus on the existing protection gaps, giving attention to the issue in post-disaster situations or in climate change context. • Supported the need to conduct further research into the prevalence and risk of elder abuse, especially during emergencies, and affirmed that creating awareness about rights and needs of older persons is the first step towards reducing their marginalisation and enabling them to support themselves. • Informed the Council of its National Older Person Policy 2013 addressing the issue of 'climate change and older persons' and the Maintenance of Parents Act 2013 that ensures their protection and participation in public life. • Noted the recommendations on the implementation of the right to development and stated that receiving States should view migrants as right holders and agents of development rather than a security issue.³⁰⁹
3.	Interactive dialogue with the Special Rapporteur on Myanmar	<ul style="list-style-type: none"> • Raised concerns over the continuing human rights violations against the Rohingya by Myanmar's military and highlighted the need to activate international justice mechanisms as Myanmar authorities are unable or unwilling to investigate the violations. • Asserted that Myanmar has not taken any action to review the 1982 citizenship law marginalising the Rohingya, but continued to force them to accept national verification cards. • Claimed that Myanmar has failed in its commitment to create conducive environment for the repatriation of the Rohingya and added that the Tatmadaw has been using their lands for commercial purposes. • Underlined that Myanmar has not allowed unhindered humanitarian access, including to UN mechanisms, and urged the global community to hold Myanmar accountable for atrocities against the Rohingya.³¹⁰

308 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2SWCqX8>.

309 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2WnE0nh>.

310 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2Wm3wt3>.

4.	Interactive dialogue with the fact-finding mission (FFM) on Myanmar	<ul style="list-style-type: none"> • Stated that FFM’s findings of genocide, war crimes, and crimes against humanity against the Rohingya show that the attacks were a pre-planned, well-coordinated and state-endorsed policy aiming at their exodus. • Echoed the FFM’s conclusion that justice and accountability can only be facilitated by the international community and added that Myanmar has failed in its obligation to prevent and investigate the genocide, and to criminalise and punish its perpetrators, which is emblematic of pervasive domestic impunity. • Welcomed the commencement of the IIIM’s work and added that the FFM’s findings would help it facilitate and expedite criminal proceedings against perpetrators. • Supported the FFM’s compilation of a non-exhaustive list of suspected perpetrators and supported the proposal of creating an <i>ad-hoc</i> international criminal tribunal, the ongoing probe of the ICC in the matter, as well as the OIC’s initiative to take the case to the ICJ.³¹¹
5.	Interactive dialogue with the Assistant Secretary-General for Human Rights on the report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights	<ul style="list-style-type: none"> • Reiterated its commitment to ensure equal rights to all regardless of religion, sex, race or ethnicity through constitutional guarantees envisaged by its founding father and to uphold human rights by cooperating with and assisting the UN, its representatives and mechanisms. • Stated the need for a constructive, transparent approach while addressing alleged cases of reprisals as naming and shaming countries based on insufficient and unverified information is a disservice to the cause. • Emphasised that due to free-flowing information, the society is more prone to misinformation, hate speech and propaganda, and noted the importance for States to take necessary measures, with due diligence and following due process, to maintain peace and security.³¹²

S. No.	General Debate	Bangladesh’s Interventions
1.	General debate on the Oral update by the United Nations High Commissioner for Human Rights (Item 2)	<ul style="list-style-type: none"> • Echoed the High Commissioner’s concern about the escalating conflict, violence, human rights abuses and displacement in Rakhine state and called on Myanmar to take measures to facilitate safe return of the displaced Rohingya to their place of origin. • Added that victims of the crimes committed in Myanmar as established by the FFM deserve justice and welcomed the commencement of the work of the IIIM to hold perpetrators to account. • Stated that lack of security, justice and rights issues, including citizenship, have not been addressed by Myanmar despite all arrangements made by Bangladesh for repatriation of the displaced Rohingya. • Reminded Myanmar of its responsibility to encourage their safe return, create conducive environment for it, and disseminate authentic information on the ground realities in Rakhine state. • Highlighted the human rights implications and its vulnerability to climate change and urged Member States to implement the Paris Agreement. • Condemned the unlawful killings of Palestinians and called on Israel to immediately end occupation of the occupied territory.³¹³

311 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/3fGCh3M>.

312 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2zpBrrR>.

313 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2yPfcvc>.

2.	Human rights situation in Palestine and other occupied Arab territories (Item 7)	<ul style="list-style-type: none"> • Reiterated its unwavering support to the two-State solution and the establishment of a sovereign Palestinian State with 1967 borders and deplored backtracking in this regard by Israel and its allies. • Expressed concerns about the mischaracterisation of this asymmetrical conflict and urged the international community to acknowledge that Israel is an occupier and has not implemented any UN resolution on Palestine and the occupied territories for over 70 years. • Asserted that Israel continues to violate human rights of the Palestinian people and called on Israel to release all Palestinian prisoners, particularly women and children, and stop targeted violence against civilians. • Called upon business enterprises profiting from Israeli settlements to terminate their activities respecting international humanitarian law and human rights of those living under occupation and requested the OHCHR to publish the names of such business enterprises. • Called upon the international community to hold Israel accountable for its violations of international law and to prevent forced dispossession and displacement of vulnerable Palestinian civilians and the Council to protect them from further repression.³¹⁴
3.	General debate on Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action (DDPA) (Item 9)	<ul style="list-style-type: none"> • Stated that millions around the world, including the Rohingya in Myanmar, suffer from racism, discrimination, Islamophobia and exclusion, and that targeted hate speech against minorities with official connivance has been on a rise. • Reiterated the findings of the FFM on Myanmar on how longstanding, systematic deprivation and discrimination based on racial hatred has led to persecution and targeting of the Rohingya causing millions of them to flee to Bangladesh and other countries. • Reaffirmed that voluntary repatriation of the Rohingya would be possible only after their concerns are reasonably addressed by Myanmar and a conducive environment for their return is created. • Advocated for the need to condemn and combat all forms of discrimination and violence in the age of increasing intolerance, and added that concrete actions towards accountability and justice are imperative.³¹⁵

IV. Voting Pattern on Resolutions

Thematic Resolutions

Bangladesh voted in favour of five of the six thematic resolutions adopted by majority vote during this session: *Composition of staff of the Office of the United Nations High Commissioner for Human Rights*,³¹⁶ *Promotion of a democratic and equitable international order*,³¹⁷ *The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*,³¹⁸ *The right to development*³¹⁹ and *Cooperation*

³¹⁴ Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2LkNQA4>.

³¹⁵ Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2WQ8fC8>

³¹⁶ Resolution 42/1 Composition of staff of the Office of the United Nations High Commissioner for Human Rights (2019).

³¹⁷ Resolution 42/8 Promotion of a democratic and equitable international order (2019).

³¹⁸ Resolution 42/9 The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (2019).

³¹⁹ Resolution 42/23 The right to development (2019).

with the United Nations, its representatives and mechanisms in the field of human rights.³²⁰

Bangladesh voted against one thematic resolution adopted by vote, namely, *The question of the death penalty*.³²¹

- In the explanation of its vote before the vote on the resolution, Bangladesh stated that death penalty exists in many countries as an expression of society's revulsion against crimes that shake the conscience of humanity. Reminding the Council of the deterrent impact of punishment, it affirmed that the use of death penalty is restricted only to the most serious crimes, with due legal process and judicial safeguards. It asserted that each State has a sovereign right to choose its own political, criminal and judicial systems and total abolition of death penalty would require a review of global judicial systems as well as global consensus. It, therefore, voted against the resolution as it goes against their national statutory law.³²²

Bangladesh did not abstain from voting on any thematic resolution during the session.³²³ It joined the consensus in the Council in adopting the remaining 19 thematic resolutions.³²⁴

Country Situation Resolutions

Bangladesh voted in favour of one out of the six country situation resolutions adopted by vote during this session, namely, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar*.³²⁵

It did not vote against any country situation resolution tabled for vote during the session.³²⁶

It abstained from voting on the remaining five country situation resolutions. These include: *Situation of human rights in the Bolivarian Republic of Venezuela*,³²⁷ *Situation of human rights in Burundi*,³²⁸ *Human rights situation in Yemen*,³²⁹ *The human rights situation in the Syrian Arab Republic*³³⁰ and *Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela*.³³¹

It joined the consensus in adopting the remaining six country situation resolutions during the Session.³³²

V. Analysis: Compliance with Pledges and Commitments

a) Engagement with UN Special Procedures

Bangladesh pledged to "support the OHCHR and UN agencies promoting human rights in fulfilling their mandate".³³³ However, it is one of the only two Commonwealth Member States of the HRC that has not yet extended a standing

320 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

321 Resolution 42/24 The question of the death penalty (2019).

322 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/35NuSeK>.

323 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

324 Ibid.

325 Resolution 42/3 Situation of human rights of Rohingya Muslims and other minorities in Myanmar (2019).

326 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

327 Resolution 42/25 Situation of human rights in Bolivarian Republic of Venezuela (2019).

328 Resolution 42/25 Situation of human rights in Burundi (2019).

329 Resolution 42/2 Human rights in Yemen (2019).

330 Resolution 42/27 Situation of human rights in the Syrian Arab Republic (2019).

331 Resolution 42/4 Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela (2019).

332 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

333 United Nations General Assembly, Voluntary Pledges and Commitments submitted by Bangladesh, 14 June 2018. Available at: https://www.un.org/en/ga/search/view_doc.asp?symbol=A/73/90.

invitation to thematic Special Procedures, the other being Pakistan.³³⁴ Recently, in January 2020, it accepted the visit request from the Special Rapporteur on trafficking.³³⁵

Bangladesh currently has 15 visit requests and reminders pending from various mandate holders, including those from the Special Rapporteurs on minority issues, on extrajudicial summary or arbitrary executions (both pending since 2006), on human rights and counter terrorism, on extreme poverty, among others, as well as from the Working Group on enforced or involuntary disappearances.³³⁶ The visit request by the Independent Expert on the rights of older persons was postponed by the mandate holder, while visit requests from four other Special Procedure mandate holders have now become inactive.³³⁷ They include the Special Rapporteurs on freedom of expression, on independence of judges, and on housing as well as the Independent Expert on international solidarity.³³⁸

b) *Compliance with Reporting Obligations to Treaty Monitoring Bodies*

Bangladesh has only one treaty body report outstanding since 2002: the report to the CERD.³³⁹ Reports to the CRC-OP-AC, the CRC-OP-SC, and the CRPD were submitted in 2017 after a delay of seven years.³⁴⁰ In July 2019, after a substantial delay of 20 years, Bangladesh submitted its report to the CAT.³⁴¹

It has not responded to any of the individual complaint procedures.³⁴² It has accepted the inquiry procedures for CAT and CRPD-OP.³⁴³ Moreover, till date, Bangladesh has not ratified the Optional Protocols of the CAT (CAT-OP) and the CCPR (CCPR-OP2-DP) as well as the CED.³⁴⁴

c) *Compliance with Thematic Issues*

In its voluntary pledges, Bangladesh committed itself to provide ‘capacity-building and training in the field of human rights to the law enforcement, judges, prosecutors, lawyers, journalists, civil servants, parliamentarians and the media’.³⁴⁵ It joined the consensus in adopting the resolution on **Human rights in the administration of justice, including juvenile justice**,³⁴⁶ and on **Arbitrary detention**.³⁴⁷ However, arbitrary arrests and disappearances have continued to be reported from the country,³⁴⁸ especially in the background of the general elections in 2018.³⁴⁹

The Committee Against Torture, in its concluding observations on Bangladesh in 2019, raised concerns about numerous and consistent reports that the State authorities in Bangladesh have arbitrarily deprived persons of their liberty and have failed to disclose their whereabouts or fate,³⁵⁰ including arrests and detention of opposition supporters around

334 Office of the High Commissioner for Human Rights, Standing invitations to Special Procedures. Available at: https://spinternet.ohchr.org/_layouts/15/SpecialProceduresInternet/StandingInvitations.aspx.

335 Office of the High Commissioner for Human Rights, Country visits by Special Procedures to Bangladesh. Available at: <https://bit.ly/2AjQ8Nu>.

336 Ibid.

337 Ibid.

338 Ibid.

339 Office of the High Commissioner for Human Rights, Treaty Bodies, Reporting status of Bangladesh. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=BGD&Lang=EN.

340 Ibid.

341 Ibid.

342 Ibid.

343 Ibid.

344 Office of the High Commissioner for Human Rights, Treaty Bodies, Ratification Status of Bangladesh. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=14&Lang=EN.

345 Office of the High Commissioner for Human Rights, Voluntary pledges and commitments submitted by Bangladesh, 14 June 2018. Available at: https://www.un.org/en/ga/search/view_doc.asp?symbol=A/73/90.

346 Resolution 42/11 (2019).

347 Resolution 42/22 (2019).

348 Committee Against Torture, Concluding observations on the initial report of Bangladesh, 26 August 2019, para.18. Available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/12.

349 Office of the High Commissioner for Human Rights, Press briefing on Bangladesh, 4 January 2019. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24056&LangID=E>.

350 Committee Against Torture, Concluding observations on the initial report of Bangladesh, 26 August 2019, para.14. Available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/12

general elections at the end of 2018.³⁵¹ It was concerned over the allegations of arbitrary deprivation of liberty of individuals on mere suspicion of having ties to militant groups.³⁵² The Committee also noted cases of unacknowledged detention for lengthy periods by law enforcement officers and the lack of Government response regarding investigation into such allegations.³⁵³ Enforced disappearances consistently reported from the country,³⁵⁴ especially leading up to the general elections in 2014 and 2018, have often taken place in conjunction with arbitrary detention.³⁵⁵

In 2017, the Working Group on arbitrary detention found the detention of Hasnat Karim illegal and arbitrary and urged the Government to ensure a full and independent investigation into the case.³⁵⁶ However, the Government did not respond to the communication from the Working Group nor did it take any steps to implement the opinion.³⁵⁷ Mr. Karim, himself the victim of the terror attack, was wrongly accused by the Bangladesh police for colluding with terrorists and arrested in 2016.³⁵⁸ He was released by the Anti-Terrorism Tribunal in Dhaka in 2018, after the police filed a charge-sheet exonerating him after finding no links to the militants.³⁵⁹ At the end of August 2018, 13 student leaders were picked up by the police after protests demanding stricter enforcement of traffic rules³⁶⁰; 12 of them were arrested and held *incommunicado* and were officially remanded only after they were produced before a Magistrate Court in Dhaka after six days.³⁶¹ Renowned photojournalist Shahidul Alam was arbitrarily arrested and detained by the police for documenting these student protests,³⁶² where he was also allegedly tortured before being brought before the court.³⁶³ He was released after being in custody for over 100 days.³⁶⁴ Recently, journalist Shafiqul Islam Kajol went missing in a suspected enforced disappearance,³⁶⁵ and the issue was raised by many rights organisations in light of the trend of secret detention of dissidents.³⁶⁶ However, 53 days after he 'disappeared', he was found in police custody in a border town³⁶⁷ and continues to remain in detention as this report is being written.³⁶⁸

In its voluntary pledges, Bangladesh committed to 'preserving the freedom of the press and promoting the constructive role of civil society and print, electronic and social media in the promotion of human rights at all levels'.³⁶⁹ In the Interactive dialogue with the Assistant Secretary-General for Human Rights on the report of the Secretary-General

351 Ibid, para.18.

352 Ibid.

353 Ibid, para 15.

354 Office of the High Commissioner for Human Rights, 'UN Expert Group asks Bangladesh to stop enforced disappearances', 24 February 2017. Available at: <https://bit.ly/2ZhPjz9>.

355 International Federation for Human Rights (FIDH), 'Vanished Without A Trace: The Enforced Disappearance of Opposition and Dissent in Bangladesh', April 2019, pp.12-13. Available at: <https://bit.ly/3dXI0Rg>.

356 Working Group on Arbitrary Detention, Opinion No. 45/2017, Adopted on 15 September 2017. Available at: https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session79/A_HRC_WGAD_2017_45.pdf.

357 Report of the Working Group on Arbitrary Detention, 39th HRC Session, 2 July 2018, p.12. Available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/45.

358 Independent, 'Innocent British man who survived ISIS terror attack released after two years in Bangladesh jail', 12 August 2018. Available at: <https://www.independent.co.uk/news/uk/home-news/isis-attack-bangladesh-dhaka-hasnat-karim-arrested-innocent-jailed-freed-terrorism-charges-a8488831.html>.

359 Benar News, 'Bangladesh court frees Briton Hasnat karim after two years in prison', 9 August 2018. Available at: <https://www.benarnews.org/english/news/bengali/bangladesh-killings-08092018170524.html>.

360 International Federation for Human Rights, 'Bangladesh: Arbitrary arrest and incommunicado detention of 13 student leaders', 14 September 2018. Available at: <https://www.fidh.org/en/issues/human-rights-defenders/bangladesh-arbitrary-arrest-and-incommunicado-detention-of-13-student>.

361 Dhaka Tribune, 'Missing for six days, 12 youths finally shown arrested, remanded', 11 September 2018. Available at: <https://www.dhakatribune.com/bangladesh/court/2018/09/11/missing-for-six-days-12-youths-finally-shown-arrested-remanded>.

362 The Guardian, 'Arrest of Shahidul Alam is an attack on rights in Bangladesh', 12 August 2018. Available at: <https://www.theguardian.com/world/2018/aug/12/arrest-of-shahidul-alam-is-an-attack-on-rights-in-bangladesh>.

363 Office of the High Commissioner for Human Rights, 'Bangladesh: UN human rights experts urge immediate release of photographer Shahidul Alam', 13 August 2018. Available at: <https://bit.ly/3cT8DXh>.

364 The Guardian, 'Bangladeshi photographer Shahidul Alam released from prison', 20 November 2018. Available at: <https://www.theguardian.com/world/2018/nov/20/bangladeshi-activist-shahidul-alam-released-from-prison>.

365 The Daily Star, 'Locate journalist Shafiqul Islam Kajol', 15 March 2020. Available at: <https://www.thedailystar.net/frontpage/news/locate-journo-shafiqul-islam-kajol-1880833>.

366 Ibid; see also, DW, 'Press freedom: What happened to the missing Bangladeshi journalist?', 21 April 2020. Available at: <https://www.dw.com/en/press-freedom-what-happened-to-missing-bangladeshi-journalist-shafiqul-kajol/a-53199732>.

367 The Guardian, 'Bangladeshi journalist is jailed after mysterious 53-day disappearance', 8 May 2020. Available at: <https://www.theguardian.com/global-development/2020/may/08/bangladeshi-journalist-is-jailed-after-mysterious-53-day-disappearance>.

368 Dhaka Tribune, 'Call for immediate release of journalist Kajol', 23 August 2020. Available at: <https://bit.ly/3c8zU8C>.

369 Office of the High Commissioner for Human Rights, Voluntary pledges and commitments submitted by Bangladesh, 14 June 2018. Available at: https://www.un.org/en/ga/search/view_doc.asp?symbol=A/73/90.

on cooperation with the United Nations, its representatives and mechanisms in the field of human rights, it stated the need for a constructive, transparent approach while addressing alleged cases of reprisals rather than naming and shaming countries on the basis of insufficient, unverified information.³⁷⁰ It voted in favour of the resolution on *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*.³⁷¹ However, instances of **reprisals against civil society**, journalists and activists with impunity have continued and have been attributed to both State agencies and non-State actors.³⁷²

The violent crackdown on student protests in 2018 is reported to be indicative of a broader pattern of attacks by the Government against critics to silence dissent.³⁷³ Around the Bangladesh general elections in 2018, the OHCHR in its press briefing had raised concerns that reprisals have continued to take place against political opponents, human rights defenders, university professors and media in the form of physical attacks, harassment, arbitrary arrests, detention and disappearances and filing criminal cases.³⁷⁴ The Digital Security Act (DSA) of 2018, like its predecessor, the Information Technology Act, has been used to harass and detain those critical of the government.³⁷⁵ The international community³⁷⁶ and civil society³⁷⁷ in Bangladesh have been raising concerns about the overly broad and vague provisions of the Act under which more than 1000 cases have been filed since it came into force in 2018.³⁷⁸ Recently, a total of 20 journalists were intimidated and harassed for reporting on the corruption and lack of accountability in food aid meant for the poor during the COVID-19 lockdown.³⁷⁹ There were also several arrests under the DSA against those who criticised the Government's COVID-19 response.³⁸⁰

The report of the Assistant Secretary-General for human rights, presented in the 42nd HRC Session, raised concerns about the continuing acts of intimidation and reprisals against individuals or groups seeking to cooperate with the UN human rights mechanisms.³⁸¹ The report mentioned the case of a human rights organisation from Bangladesh that regularly engages with the UN mechanisms and has been increasingly monitored by authorities; its staff has allegedly been threatened and harassed by government officials. In December 2018, Special Procedure mandate holders raised concerns over reported smear campaign against the organisation and freezing of its bank accounts limiting their capacity to operate.³⁸² It also mentioned the Foreign Donations (Voluntary Activities) Regulation Bill of 2016, a law that allows suspension of NGOs if they fail to comply with the national laws of Bangladesh.³⁸³ The report also mentions the reported intimidation of human rights advocates and indigenous peoples' representatives, especially in Chittagong Hill Tracts, during the 18th session of the UN Permanent Forum on Indigenous Issues in New York in April 2019. They were allegedly followed, videotaped without consent and told to refrain from speaking in

370 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2zpBrrR>.

371 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights.

372 CIVICUS, 'Two years on, impunity for attacks against student protestors', 9 June 2020. Available at: <https://www.civicus.org/index.php/media-resources/reports-publications/4433-bangladesh-two-years-on-impunity-for-attacks-against-student-protestors>

373 Frontline Defenders, CIVICUS and South Asians for Human Rights, 'Crushing Student Protests: Bangladesh's repression of the quota reform and road safety movements', June 2020, p. 5. Available at: <https://civicus.org/documents/BangladeshCrushingStudentProtests2020.pdf>.

374 OHCHR, Press Briefing on Bangladesh, 4 January 2019. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24056&LangID=E>.

375 Human Rights Watch, 'Bangladesh's draconian internet law treats peaceful critics as criminals', 19 July 2019. Available at: <https://www.hrw.org/news/2019/07/19/bangladeshs-draconian-internet-law-treats-peaceful-critics-criminals>.

376 Inter Press Service News Agency, 'Revise Digital Security Act: UN', 9 October 2018. Available at: <http://www.ipsnews.net/2018/10/revise-digital-security-act-un/>.

377 The Daily Star, 'Draft Digital Security Act: Editors reject JS Body', 17 September 2018. Available at: <https://www.thedailystar.net/frontpage/news/draft-digital-security-act-editors-reject-js-body-report-1634866>.

378 Amnesty International, 'Bangladesh: Reveal whereabouts of disappeared journalists, end repression', 18 March 2020. Available at: <https://www.amnesty.org/en/latest/news/2020/03/bangladesh-must-reveal-whereabouts-of-disappeared-journalist-and-end-repression/>.

379 The Daily Star, 'It is an attack on freedom of expression', 29 April 2020. Available at: <https://www.thedailystar.net/city/news/it-attack-freedom-expression-1897708>.

380 Human Rights Watch, 'Bangladesh: End the wave of COVID-19 'rumour' arrests', 31 March 2020. Available at: <https://www.hrw.org/news/2020/03/31/bangladesh-end-wave-covid-19-rumor-arrests>.

381 42nd HRC Session, Report of the Secretary-General, 'Co-operation with the United Nations, its representatives and mechanisms in the field of human rights', 9 September 2019. Available at: https://www.ohchr.org/Documents/Issues/Reprisals/A_HRC_42_30.docx.

382 Ibid, pp. 43-44.

383 The Daily Star, 'Reprisals against victims and activists in a rise', 24 September 2019. Available at: <https://www.thedailystar.net/law-our-rights/news/reprisals-against-victims-and-activists-the-rise-1804537>.

public meetings and to UN officials.³⁸⁴ Similar concerns regarding reprisals against civil society were also raised by the Committee Against Torture in its concluding observations, which had recommended that Bangladesh ensure that the civil society members are protected from reprisals and harassment and effectively investigate all such allegations.³⁸⁵ The HRCtte also raised concerns, particularly on the lack of police protection for those who had faced death threats, physical attacks and other acts of intimidation by extremist groups.³⁸⁶ Thus, civil society continues to face legislative and administrative actions, restriction on funding and other adverse consequences due to their legitimate work, which has contributed to further shrinking of the civic space in the country.³⁸⁷

In its voluntary pledges, Bangladesh committed itself to “promote and protect the rights of religious and ethnic minorities and work towards maintaining the traditional communal harmony”.³⁸⁸ In the general debate on **racism, racial discrimination, xenophobia and related forms of intolerance**, Bangladesh stated that millions around the world suffer from racism, discrimination, Islamophobia and exclusion and that targeted hate speech against minorities with official connivance has been on a rise.³⁸⁹ It advocated for the need to condemn and combat all forms of discrimination and violence in the age of increasing intolerance and concrete actions towards accountability and justice are an imperative.³⁹⁰ It also joined the consensus in adopting the resolution *From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance*.³⁹¹ Article 28 (1) of the Constitution of Bangladesh prohibits the State from discriminating against any citizen on grounds on religion, race, caste, sex or place of birth.³⁹² Over the years, some efforts are reported to have been made by the Government to create a sense of security among religious minorities in the country. The proportion of minorities in Government jobs has increased by five to seven per cent of government employment and about 10 per cent in the police force.³⁹³

However, despite these efforts, instances of violence and protest against the minorities, especially Hindus, have been reported in the country. In October 2019, violence erupted during protests by Muslims against an allegedly blasphemous Facebook post by a Hindu man. While the police extended protective custody to the man, their retaliation against protestors led to four deaths and injuries to several.³⁹⁴ In the immediate aftermath of the clash, protestors allegedly vandalised and torched nine Hindu homes and a temple.³⁹⁵ People with secular or non-conformist views have also been targeted by hardline groups.³⁹⁶ In April 2019, a prominent hardline cleric went on to call authorities in Bangladesh to officially declare the Ahmadi sect as “non-Muslims”.³⁹⁷ In September 2019, an under-construction

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- 384 42nd HRC Session, Report of the Secretary-General, ‘Co-operation with the United Nations, its representatives and mechanisms in the field of human rights’, 9 September 2019, p.8. Available at: https://www.ohchr.org/Documents/Issues/Reprisals/A_HRC_42_30.docx.
- 385 Committee Against Torture, Concluding observations on the initial report of Bangladesh, 26 August 2019, paras 28-31. Available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/12
- 386 Human Rights Council, Working Group on the Universal Periodic Review, Compilation on Bangladesh, 19 March 2018. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/067/24/PDF/G1806724.pdf?OpenElement>.
- 387 The Daily Star, ‘Ensure democratic space for civil society and media in Bangladesh’, 4 July 2019. Available at: <https://www.thedailystar.net/city/news/ensure-democratic-space-civil-society-media-1766482>.
- 388 Office of the High Commissioner for Human Rights, Voluntary pledges and commitments submitted by Bangladesh, 14 June 2018. Available at: https://www.un.org/en/ga/search/view_doc.asp?symbol=A/73/90.
- 389 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2WQ8fC8>
- 390 Ibid.
- 391 42nd HRC Session, Resolutions, decisions and President’s statements. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session42/Pages/ResDecStat.aspx>.
- 392 The Constitution of the People’s Republic of Bangladesh, Article 28(1). Available at: <http://extwprlegs1.fao.org/docs/pdf/bgd117108E.pdf>.
- 393 The Economic Times, ‘Sheikh Hasina government sets precedent in minority rights protection’, 27 November 2019. Available at: <https://economictimes.indiatimes.com/news/international/world-news/sheikh-hasina-government-sets-precedent-in-minority-rights-protection/articleshow/66825486.cms?from=mdr>.
- 394 The Hindu, ‘4 killed, 50 injured as protestors clash with police over blasphemous Facebook post in Bangladesh’, 20 October 2019. Available at: <https://www.thehindu.com/news/international/4-killed-50-injured-as-protesters-clash-with-police-over-blasphemous-facebook-post-in-bangladesh/article29751887.ece>.
- 395 bdnews24.com, ‘After deadly clashes with police, Muslims also attacked Hindu homes, temple in Bhola’, 24 October 2019. Available at: <https://bdnews24.com/bangladesh/2019/10/24/after-deadly-clashes-with-police-muslims-also-attacked-hindu-homes-temple-in-bhola>.
- 396 Freedom House, ‘Freedom in the World 2020: Bangladesh’. Available at: <https://freedomhouse.org/country/bangladesh/freedom-world/2020>.
- 397 UCA News, ‘Cleric demands Bangladesh Ahmadis be declared “non-Muslim”’, 18 April 2019. Available at: <https://www.ucanews.com/news/cleric-demands-bangladesh-ahmadis-be-declared-non-muslim/85004>.

Ahmadiyya mosque was vandalised in Netrakona by radical Islamists who threatened the Ahmadiyya families living in the area to “leave for good or face dire consequences”.³⁹⁸ In January 2020, another Ahmadiyya mosque in Brahmanbaria town was attacked, which led to a confrontation in which a number of people were injured.³⁹⁹ There were also concerns raised about the segregation and confinement of the Dalit workers in socially stigmatised sectors and discrimination against the indigenous people.⁴⁰⁰

Bangladesh continued to host the Rohingya refugees who have fled ethnic cleansing by the Myanmar military since August 2017.⁴⁰¹ Bangladesh’s efforts and humanitarian contribution have been commended by the international community.⁴⁰² However, some concerns have been raised regarding the refugee camps: Maintaining that the refugee camps in Cox’s Bazaar were temporary, Bangladesh introduced the ‘*Ashrayan Project*’⁴⁰³ to relocate the Rohingya refugees to low-lying island of Bhasan Char or Thengar Char,⁴⁰⁴ despite serious concerns about its habitability.⁴⁰⁵ The authorities reportedly had fenced the camps with barbed wires for “security reasons” confining the refugees within the camps.⁴⁰⁶ This happened soon after the Bangladesh Telecommunication Regulatory Commission directed network providers to restrict 3G and 4G internet services aiming to stop the refugees from accessing digital communication.⁴⁰⁷ There were also reports of restrictions on access to education for the Rohingya children.⁴⁰⁸ However, these restrictions were lifted by the Government, which has now allowed the schooling of Rohingya children aged 11-13.⁴⁰⁹

In its voluntary pledges, Bangladesh undertook to “widen the coverage of the social safety net with enhanced allocation of resources with a view to achieving further economic empowerment and social security of citizens; strengthen efforts to promote and protect the rights of workers and progressively realise decent working conditions across all sectors of the economy; and take meaningful measures to prevent sexual exploitation and abuse and to ensure justice for the victims of such exploitation and abuse.”⁴¹⁰ Bangladesh joined the consensus in adopting the resolution extending the mandate of the *Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, which also called upon the Special Rapporteur to assist States in combatting contemporary forms of slavery.⁴¹¹ Although Bangladesh has taken some legislative and policy measures to combat these forms of

398 New Age Bangladesh, ‘Under-construction Ahmadiyya mosque vandalised in Netrakona’, 15 September 2019. Available at: <https://www.newagebd.net/article/84607/under-construction-ahmadiyya-mosque-vandalised-in-netrakona>.

399 Dhaka Tribune, ‘Ahmadiyya mosque vandalised in Brahmanbaria’, 16 January 2020. Available at: <https://www.dhakatribune.com/bangladesh/nation/2020/01/16/ahmadiyya-mosque-vandalized-in-brahmanbaria>.

400 Committee on Economic, Social and Cultural Rights, Concluding observations on the initial report of Bangladesh, 18 April 2018. Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4sIQ6QSmIBEDzFEovLCuWwpdl7QZ9ZIIvEnVcAytL1KqJU9GxfzRiExOku4WSVPsJDWOR5qjpoyl4XsHdw%2FeT5bGQbWuN6yiMNz%2BUPYmNjv1oKGMtYvPbtbCvtNnAIT>.

401 Human Rights Watch, ‘World Report 2020: Bangladesh’. Available at: <https://www.hrw.org/world-report/2020/country-chapters/bangladesh#>.

402 OHCHR, Press Briefing Note on Myanmar / Bangladesh – Rohingya, 17 April 2020. Available at: <https://www.ohchr.org/EN/News-Events/Pages/DisplayNews.aspx?NewsID=25804&LangID=E>.

403 Government of People’s Republic of Bangladesh, Prime Minister’s Office – Armed Forces Division, ‘Ashrayan Project, 2019. Available at: <https://afd.gov.bd/activities/ashrayan-project>.

404 Observer Research Foundation, ‘From Cox’s Bazaar to Bhasan Char: An Assessment of Bangladesh’s relocation plan for Rohingya refugees’, 7 May 2020. Available at: https://www.orfonline.org/research/from-coxs-bazar-to-bhasan-char-an-assessment-of-bangladeshs-relocation-plan-for-rohingya-refugees-65784/#_edn10.

405 The Guardian, ‘Plan to move Rohingya to remote island prompts fears of human catastrophe’, 2 February 2017. Available at: <https://www.theguardian.com/global-development/2017/feb/02/bangladesh-government-plan-move-rohingya-remote-island-human-catastrophe>.

406 Observer France 24, ‘Authorities fence in Rohingya refugee camp in Bangladesh’, 12 September 2019. Available at: <https://observers.france24.com/en/20191209-myanmar-authorities-fence-rohingya-refugee-camp-bangladesh>.

407 The Daily Star, ‘3G, 4G services restricted in Ukhia-Teknaf until further notice’, 10 September 2019. Available at: <https://www.thedailystar.net/rohingya-crisis/news/3g-4g-services-restricted-ukhia-teknaf-until-further-notice-1798249>.

408 Human Rights Watch, ‘“Are we not humans?”: Denial of Education for Rohingya Refugee Children in Bangladesh’, 3 December 2019. Available at: <https://www.hrw.org/report/2019/12/04/are-we-not-human/denial-education-rohingya-refugee-children-bangladesh#>.

409 The Guardian, ‘Bangladesh grants Rohingya refugee children access to education’, 29 January 2020. Available at: <https://www.theguardian.com/global-development/2020/jan/29/bangladesh-grants-rohingya-refugee-children-access-to-education>.

410 Office of the High Commissioner for Human Rights, Voluntary pledges and commitments submitted by Bangladesh, 14 June 2018. Available at: https://www.un.org/en/ga/search/view_doc.asp?symbol=A/73/90.

411 OHCHR, 42nd HRC Session, Resolutions, decisions and President’s statements. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session42/Pages/ResDecStat.aspx>.

modern slavery,⁴¹² it ranked 92nd out of 167 countries on the Global Slavery Index 2018.⁴¹³ The index reported that an estimated 5,92,000 people in Bangladesh or 3.67 per cent of the total population, were living in modern slavery.⁴¹⁴

Forced labour, domestic servitude and debt bondage,⁴¹⁵ forced marriage and human trafficking are among the most common forms of modern slavery in Bangladesh.⁴¹⁶ Bangladesh's garment industry, whose 60.8 per cent workers are women and girls,⁴¹⁷ not only pays very low wages, but also faces concerns over enforcement of local laws to ensure safe working conditions.⁴¹⁸ In November 2018, when the Government increased the monthly minimum wages to 8000 takas (96 USD), the workers protested the low wages, and resultantly, about 5,000 workers were fired from their jobs.⁴¹⁹ Recently, the fallout of the COVID-19 lockdown exposed the vulnerabilities of these workers in the form of layoffs, wage-cuts and forced work without prescribed physical distancing guidelines.⁴²⁰ Domestic workers engaged in the informal sector are also highly susceptible to forced labour, exploitation and slavery-like circumstances, especially during the pandemic.⁴²¹

Child labour, especially in various domestic sectors, is prevalent in the country.⁴²² Children are often forced to work because of conditions of extreme poverty.⁴²³ It is reported that while the legal age of employment in Bangladesh is 14, 12-13 year olds are permitted to do "light work".⁴²⁴ However, the term has not been clearly defined and it makes these children are more vulnerable to exploitation, as the law does not prohibit their employment in informal economic sectors or specify the number of hours that they can be made to work.⁴²⁵ Similarly, child marriage is widely prevalent in Bangladesh⁴²⁶ for several reasons, despite efforts taken towards its eradication.⁴²⁷ According to the Bangladesh Demographic and Health Survey (BDHS) in 2017-18, nearly 60 per cent of the country's girls are married before they turn 18.⁴²⁸ It has been reported that child marriage in Bangladesh is closely linked to child trafficking and prostitution.⁴²⁹

412 Labour Exploitation Accountability Hub, National Context: Bangladesh. Available at: <https://accountabilityhub.org/country/bangladesh/>; see also, International Organization For Migration, 'Concerted efforts needed to combat human trafficking', 1 August 2019. Available at: <https://bangladesh.iom.int/news/concerted-efforts-need-combat-human-trafficking>.

413 Walk Free Foundation, Global Slavery Index 2018: Bangladesh. Available at: <https://www.globallslaveryindex.org/2018/data/country-data/bangladesh/>.

414 Ibid.

415 International Labour Organization, 'Global Estimates of Modern Slavery: 2017', p. 37. Available at: https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf.

416 Department For International Development (DFID), Government of the United Kingdom, 'Study on Modern Slavery in Bangladesh', August 2019. Available at: https://assets.publishing.service.gov.uk/media/5e56a40d86650c539fff3f20/DFID_Study_on_Modern_Slavery_in_Bangladesh_.pdf.

417 Centre for Policy Dialogue, 'Declining female participation in RMG sector', 7 May 2018. Available at: <https://cpd.org.bd/declining-female-participation-in-rmg-sector-cpd-study/>.

418 The Guardian, 'Why are wages so low for garment workers in Bangladesh?', 21 January 2019. Available at: <https://www.theguardian.com/business/2019/jan/21/low-wages-garment-workers-bangladesh-analysis>; see also: The Citizen, 'Exploitation of women workers in Bangladesh's garment industry', 25 January 2019. Available at: <https://www.thecitizen.in/index.php/en/News-Detail/index/7/16115/Exploitation-of-Women-Workers-In-Bangladeshs-Garment-Industry>.

419 Quartz, '5,000 workers protesting low wages in Bangladeshi garment factories have been fired', 1 February 2019. Available at: <https://qz.com/1540275/5000-garment-workers-in-bangladesh-were-fired-after-protesting-low-wages/>.

420 The Nation, 'Bangladesh's garment workers are being treated as disposable', 22 June 2020. Available at: <https://www.thenation.com/article/world/bangladesh-garment-workers-covid-19/>.

421 The Daily Star, 'Formalise the invisible workforce', 7 July 2020. Available at: <https://www.thedailystar.net/opinion/news/formalise-the-invisible-workforce-1925077>.

422 International Journal of Advanced Research, 'Forced Labour in Bangladesh: A Case Study of Child Domestic Workers in Chittagong', January 2019. Available at: http://www.journalijar.com/uploads/645_IJAR-25870.pdf.

423 New Age Bangladesh, 'Poverty behind much of child labour', 30 November 2018. Available at: https://www.ilo.org/newdelhi/areasofwork/child-labour/legal-framework/WCMS_486151/lang--en/index.htm.

424 International Labour Organization, South Asia Legal Minimum Age for Employment. Available at: https://www.ilo.org/newdelhi/areasofwork/child-labour/legal-framework/WCMS_486151/lang--en/index.htm.

425 The Daily Star, 'Putting an end to modern slavery', 28 August 2019. Available at: <https://www.thedailystar.net/opinion/society/news/putting-end-modern-day-slavery-1791478>.

426 UNICEF, 'Ending Child Marriage: Towards Evolution of Social Behaviour'. Available at: <https://www.unicef.org/bangladesh/en/ending-child-marriage>.

427 Prothom Alo, 'Child marriage: When and how to stop it', 16 January 2020. Available at: <https://en.prothomalo.com/bangladesh/Child-marriage-when-and-how-to-stop-it>.

428 Ministry of Health and Family Welfare, National Institute of Population research and Training, 'Bangladesh Demographic and Health Survey 2017-2018', p.7. Available at: <https://www.share-netbangladesh.org/wp-content/uploads/2020/04/5-BDHS-2017-2018.pdf>.

429 The Telegraph, 'The Bangladesh brothels where men pay child brides for sex – while police look the other way', 23 July 2018. Available at: <https://www.telegraph.co.uk/global-health/women-and-girls/bangladesh-brothels-men-pay-child-brides-sex-police-look-way/>; see also, Foreign Policy, 'Bangladesh's child marriage problem is the world's human trafficking crisis', 8 November 2019. Available at: <https://foreignpolicy.com/2019/11/08/bangladesh-child-marriage-human-trafficking-crisis/>.

Bangladesh remains a major source country for traffickers due to the low conviction rate in trafficking cases and enforcement gaps.⁴³⁰ However, it has reportedly enhanced efforts to combat trafficking with the 2018-2022 Plan of Action to improve enforcement through inter-agency coordination, better training and harmonisation of existing laws.⁴³¹ In February 2020, the Government also announced plans to establish seven special tribunals for speedy trials in human trafficking cases as required by the *Prevention and Suppression of Human Trafficking Act 2012*.⁴³²

VI. Conclusions

Bangladesh participated in selected interactive dialogues and panel discussions during the session.

- Bangladesh currently has a total of 15 visit requests and reminders pending from various mandate holders, which is the third highest of all the Commonwealth HRC Member States. It is also the only Commonwealth Member State other than Pakistan that has not issued a standing invitation to Special Procedures, despite committing to support the OHCHR mechanisms promoting human rights in fulfilling their mandate.
- Reprisals against human rights defenders, civil society organisations and media in various ways are reported from the country, including through legislative and administrative actions. Several UN agencies have reported that reprisals and adverse actions have contributed to the shrinking civic space in the country, such the Assistant Secretary-General in her annual report, Special Procedures as well as some Treaty Bodies in their concluding observations.
- Despite legislative and policy efforts, Bangladesh ranks 92nd out of 167 countries on the Global Slavery Index 2018.⁴³³ Approximately 5,92,000 people in Bangladesh, that is, 3.67 per cent of its total population, are found to be living in conditions of modern slavery.⁴³⁴ Socio-economic drivers, especially poverty, have made people more susceptible to exploitation and slavery-like conditions.⁴³⁵

430 The Dhaka Tribune, 'Human trafficking cases: No tribunal in six years, conviction rates less than half percent', 21 April 2019. Available at: <https://www.dhakatribune.com/bangladesh/nation/2019/04/21/human-trafficking-cases-no-tribunal-in-six-years-conviction-rate-less-than-half-percent>.

431 International Organization for Migration, 'Human trafficking takes centre stage in Bangladesh', 24 May 2019. Available at: <https://www.iom.int/news/human-trafficking-takes-centre-stage-bangladesh>.

432 Asia News Network, 'Human trafficking: special tribunals to ensure speedy trials in Bangladesh', 17 February 2020. Available at: <https://asianews.network/2020/02/17/human-trafficking-special-tribunals-to-ensure-speedy-trials-in-bangladesh/>.

433 Walk Free Foundation, Global Slavery Index 2018: Bangladesh. Available at: <https://www.globalslaveryindex.org/2018/data/country-data/bangladesh/>.

434 Ibid.

435 Department For International Development (DFID), Government of the United Kingdom, 'Study on Modern Slavery in Bangladesh', August 2019. Available at: https://assets.publishing.service.gov.uk/media/5e56a40d86650c539fff3f20/DFID_Study_on_Modern_Slavery_in_Bangladesh_.pdf.

I. Introduction

Cameroon was elected to serve its third term at the HRC in 2018 by virtue of a clean slate election.⁴³⁶ Its current term ends in 2021.⁴³⁷ It has previously served as a member of the Council for two terms, i.e., from 2007-2009⁴³⁸ and from 2009-2011.⁴³⁹

II. Voluntary Pledges and Commitments

Cameroon submitted its voluntary pledges and commitments in 2006 when it was first elected to serve as a member of the Council.⁴⁴⁰ It updated its pledges before serving a second consecutive term,⁴⁴¹ where in addition to reporting on the implementation of its previous commitments, it also underlined some new commitments for the promotion of human rights as a Council member.⁴⁴²

Cameroon pledged to:

- Be a party to major international instruments on human rights in which it is not yet participating, notably, the Optional Protocols to the CRC; the CMW; the CRPD; the Convention on the Prevention and Punishment of the Crime of Genocide, the CED, and the UNESCO Convention against Discrimination in Education.
- Promote the rights of women by: fostering programmes aimed at improving their status; adopting legislation against female genital mutilation (FGM) and running awareness campaigns against it; considering the observations of the Committee on the Elimination of Discrimination against to ensure that women actually enjoy all their rights; and pursuing efforts towards combating all forms of discrimination against women.
- Strengthen the protection of children's rights by: taking into account the rights of the child in programmes designed to improve on the living conditions of the people; implementing recommendations of the Committee on the Rights of the Child on children without shelter; preventing child trafficking and child labour and improving measures to protect victims; improving treatment of minors in places of detention.
- Boost efforts made in the area of prison administration by: Ensuring that places of detention meet international standards and respecting the rights of detainees; facilitating access to prisons to national and international humanitarian organisations; accelerating reforms of the penitentiary system, including the construction of new prisons; strengthening the independence of the judicial system.
- Guarantee, within available resources, the right to health by intensifying HIV/AIDS control programmes and reinforcing the health system as a whole; the right to education by continuing efforts on improving on the quality of education, providing free primary education and improving on the implementation of the Plan of Action of the World Programme for Education on Human Rights; and the fight against corruption and improvement on governance.
- Continue with actions aimed at promoting civil and political rights, especially freedom of the press and transparency of elections, including the provision of sufficient resources to the national election managing body.
- Reinforce measures to protect the rights of minorities, the disabled and vulnerable groups.
- Intensify action to promote peace, preserve ecosystems within the sub-region, through greater involvement in peacekeeping operations on the one hand, and sub-regional structures for the promotion of sustainable development on the other.

436 United Nations General Assembly, Elections of the Human Rights Council, 12 October 2018. Available at: <https://www.un.org/en/ga/73/meetings/elections/hrc.shtml>.

437 United Nations Human Rights Council, Current Membership of the Council (2019). Available at: <https://www.ohchr.org/EN/HR-Bodies/HRC/Pages/CurrentMembers.aspx>.

438 United Nations General Assembly, Elections of the Human Rights Council, 9 May 2006. Available at: <https://bit.ly/35sq512>.

439 United Nations General Assembly, Elections of the Human Rights Council, 12 May 2009. Available at: https://www.un.org/en/ga/63/elections/hrc_elections.shtml.

440 Office of the High Commissioner for Human Rights, Cameroon, Voluntary Pledges and Commitments. Available at: <https://www.un.org/ga/60/elect/hrc/cameroun.pdf>.

441 United Nations General Assembly. Voluntary pledges and commitments submitted by Cameroon, 1 May 2009. Available at: <https://undocs.org/en/A/63/816>.

442 Ibid.

- Work with the National Commission on Human Rights and Freedoms and civil society to improve the situation of human rights in Cameroon and to popularise human rights culture.
- Enhance cooperation with treaty bodies and special procedures and continue to work with other Member States for the credibility of the Human Rights Council.

III. Participation at the 42nd Session of the HRC

The following is a representative selection of Cameroon’s participation in the interactive dialogues and general debates during the Session:

S. No.	Interactive Dialogue	Cameroon’s Interventions
1.	Clustered interactive dialogue with the Independent Expert on the human rights of older persons and the Special Rapporteur on the right to development	<ul style="list-style-type: none"> • Noted that the right to development continues to be sidelined while thousands of people are deprived of resources and opportunities and added that sustainable development approach must be based on human rights standards and principles. • Affirmed that people are at the heart of development and that it aims at improving living conditions and tackling inequalities through the National Action Plan for the Promotion and Protection of Human Rights, whose implementation is incumbent on both public and private stakeholders. • Informed the Council about its strategic frameworks to accelerate growth in priority sectors such as agriculture, health, education and water. • Highlighted that the employment strategy is based on improving the production fabric by facilitating entrepreneurship, investment and inclusion of social categories, such as women and youth in job creation. • Outlined the measures for protection and management of natural resources taking into account the best interest of the population, which has enabled the exercise of the right to their free disposal.⁴⁴³
2.	Interactive dialogue with the Working Group on arbitrary detention	<ul style="list-style-type: none"> • Appreciated the important work conducted by the Working Group, but regretted that its work gives an impression of a lack of understanding of the complexity of the cases and that its opinions are more of an ideological debate and do not shed light on inconsistency between the domestic law and international human rights law. • Added that Section 64 of its Code of Criminal Procedure provides a possibility of involving the Government as not an interference of the Executive in the judicial function, but a modality of exercising prosecutorial discretion known as <i>Nolle Prosequi</i> in Commonwealth States. • Asserted that Cameroon cannot be criticised for incorporating social peace considerations into its criminal law and the Working Group should refrain from issuing hasty opinions qualifying, as arbitrary, the detention of perpetrators of human rights violations. • Reminded that the rule of law primarily infers a non-negotiable respect for State institutions.⁴⁴⁴

⁴⁴³ Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2Ujp3BK>.

⁴⁴⁴ Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/33laOv7>.

3.	Interactive dialogue with the Commission of Inquiry on Burundi	<ul style="list-style-type: none"> • Stated that promotion and protection of human rights would be essential vectors for achieving international peace and security and that they would require prior efforts to consolidate stability in the States concerned. • Added that being mindful of the fragile nature of many States, it would be important to favour consolidation of legitimate institutions in these States and understanding the constraints involved, especially in plural, complex societies such as in the African States. • Emphasised the importance of favouring options allowing collaboration with the countries concerned, based on mutual respect and respect for international law to preserve non-politicisation. • Affirmed its support for a healthy cooperation with Burundi with a strict respect for its sovereignty and legitimate expectations of its people. • Welcomed the affirmation shown by the Burundian authorities to continue their cooperation with the OHCHR and encouraged continuing consultations to create new modes of partnership.⁴⁴⁵
4.	Clustered interactive dialogue with the Special Rapporteur on the rights of indigenous peoples and the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)	<ul style="list-style-type: none"> • Endorsed the conclusions of the Special Rapporteur's report and stated that its own legal and policy framework as well as programmes initiated guarantee the rights of indigenous people. • Identified the indigenous people in Cameroon and reported that taking from the preamble of its Constitution, its measures are aimed at facilitating indigenous peoples' access to education, citizenship, public affairs, justice, land, natural resources, development and socio-economic empowerment. • Informed the Council of its Three-Year Plan (2017-19) for the Protection and Promotion of the Human Rights of indigenous people in all spheres as well as the National Community Driven Programme, which includes a plan for development of the Pygmies. • Added that a Committee coordinates, monitors and evaluates these programmes and that these projects are implemented after consultations with the indigenous people inhabiting the area. • Affirmed that the Government has continued to provide free access to primary education to all indigenous children and to ensure that every child has a birth certificate and reassured its support to the Special Rapporteur for fulfilling his mandate.⁴⁴⁶

S. No.	General Debate	Cameroon's Interventions
1	General debate on the Oral update by the United Nations High Commissioner for Human Rights (Item 2)	<ul style="list-style-type: none"> • Welcomed the High Commissioner for favouring dialogue and cooperation to achieve partnerships for the promotion and protection of human rights. • Recalled UNSC Resolution 1373 adopted under Chapter VII of the UN Charter that requires States to fight terrorism and its financing, including by controlling and safeguarding their borders. • Expressed surprise at the <i>erga omnes</i> immunity which appears to benefit the sponsors of the secessionist terrorist acts in the North-West and South-West regions of Cameroon. • Recalled the statement of the High Commissioner from May 2019 criticising the secessionist activities for depriving children of education, killing teachers and destroying health facilities. • Requested supported of its bilateral and multilateral partners against secessionist activists, who incite violence and terrorist acts in the North-West and South-West regions or call for genocide against specific ethnic groups, by drying up their sources of funding and initiating legal proceedings. • Confirmed the irreversible nature of developments in the country in matters related to peace, security, the rule of law, democracy and human rights.⁴⁴⁷

445 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2DAIf9m>.

446 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2FdECG1>.

447 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, Oral Statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Statements.aspx?SessionId=31&MeetingDate=10/09/2019%2000:00:00>

2.	General debate on promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (Item 3)	<ul style="list-style-type: none"> • Raised concerns about the ransacking of the Cameroonian embassies in some EU countries, which caused destruction of its heritage and symbols and recalled that the States concerned were given a prior warning of the imminence of these criminal acts. • Surprised at the efforts made by EU States for the release of those arrested in this regard and stated that this conduct in fact violated their international obligations as receiving States. • Deplored and condemned any biased statement that fails to take into account the facts, issues, realities and constraints involved. • Reminded the Council of Article 16 of the ECHR that prohibits the political activity of foreigners and stated that many European citizens of Cameroonian origin are harmfully involved in Cameroon's political life. • Reaffirmed its cooperation and friendship with the EU while reminding them of their inalienable right to live their life as a nation.⁴⁴⁸
3.	General debate on human rights situations that require the Council's attention (Item 4)	<ul style="list-style-type: none"> • Welcomed the measures taken by China to restore security in its Xinjiang region to guarantee the well-being of the population living there and supported respect for laws and institutions in Hong Kong. • Stated that secessionism, terrorism and trivialisation of insurrections are emerging as major challenges facing a vast majority of UN Member States and should be condemned with equal energy. • Highlighted that Cameroon has initiated a process of dialogue to tackle the issue and stated that there is a possibility of pardon under certain conditions within the national reconciliation framework. • Raised concerns about the impression that one can commit crimes and challenge the authority of the State and its institutions in the hope that a dialogue will erase them, perpetuates impunity to the perpetrators, which could encourage violence in regions in crisis and elsewhere. • Asserted that to guarantee the territorial integrity of the State and security of persons and property; protect its institutions; and defend them from those who invoke human rights to destroy them, the Government takes necessary measures in accordance with its international obligations and national laws.⁴⁴⁹
4.	General debate on human rights bodies and mechanisms (Item 5)	<ul style="list-style-type: none"> • Stated that the Special Procedures play a key role in the collaboration for capacity building of Member States and added that they ought to carry out their mandate in accordance with Resolution 5/2. • Reminded that their output should be based on objective and reliable facts and that they should avoid naming and shaming and generalising the problems that they identify in the countries they visit. • Added that they should consider the specific challenges and complexities to make practical recommendations and that national mechanisms available should be taken into account. • Affirmed that the appointment of mandate holders should be based on equitable geographical representation and that of different legal systems, to help generate diversity essential to understand the various countries with which they work. • Raised concerns about the use of voluntary contributions which could negatively impact the independent functioning of the mandate holders. • Asserted that the Special Procedures should not establish a hierarchy or prioritise a set of rights.⁴⁵⁰

448 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Statements.aspx?SessionId=31&MeetingDate=13/09/2019%2000:00:00..>

449 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/3aeSDyg>.

450 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/3gM0tSv>.

5.	General debate on follow-up and implementation of the Vienna Declaration and Programme of Action (VDPA) (Item 8)	<ul style="list-style-type: none"> • Reminded that the VDPA emphasises that the human person is central to the idea of development, and thus, encouraged States to cooperate to promote development and eliminate obstacles in its way. • Deplored the differentiated and unbalanced importance given to civil and political rights over social, economic and cultural rights, including the right to development, in the HRC and other international fora, while reminding the States of their interdependence. • Expressed concern about challenges faced by migrants and their families globally and added that stereotypes, marginalisation, and policies undermining their human rights need to be condemned and reconsidered. • Maintained that despite many challenges, it has tirelessly worked to improve the human rights situation and has made considerable progress in this area in the past 25 years following the VDPA.⁴⁵¹
6.	General debate on racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action (DDPA) (Item 9)	<ul style="list-style-type: none"> • Underscored the urgent need to effectively implement the DDPA which provides a solid foundation for addressing and preventing contemporary forms of racism, discrimination, xenophobia and intolerance. • Stated that the Government has made dialogue as one of the constant tools of crisis management in the North-West and South-West regions of Cameroon. • Informed the Council about the national dialogue in 2019 allowing Cameroonians to examine ways of responding to the aspirations of the populations of the regions in crisis as well as other parts of the country. • Questioned the stakeholders who advocated for unconditional dialogue about not addressing the extremists and advocating for them to participate in the national dialogue without conditions. • Affirmed that consolidating national unity by overcoming any regional or ethnic division remains the official policy of Cameroon, and condemned any hate speech and resurgence of identity folds, especially on social media, which can neither question nor jeopardise its unity and stability.⁴⁵²
7.	General debate on Technical assistance and capacity-building (Item 10)	<ul style="list-style-type: none"> • Aligned itself with the African Group and stated that it considers technical assistance and capacity building as essential to promote and protect human rights, build resilience and prevent human rights violations. • Stated that Cameroon is open to cooperation in the field of human rights, subject to its sovereignty, Constitution, and its legitimate institutions, and added that it has adopted negotiation, among other things, to address the secessionist crisis in its regions. • Affirmed that Cameroon will be holding a national dialogue that will allow Cameroonians to examine ways of responding to the aspirations of the populations of the regions in crisis, despite being stigmatised by many other stakeholders. • Expressed surprise over the silence of the various critical stakeholders over the national dialogue and called on them to ask the secessionist groups to lay down their arms and participate in the dialogue.⁴⁵³

IV. Voting Pattern on Resolutions

Thematic Resolutions

Cameroon voted in favour of four thematic resolutions that were put to vote during the Session⁴⁵⁴: *Composition of*

451 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2PFHvkk>.

452 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/33KTjuk>.

453 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/3k43nna>.

454 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

staff of the Office of the United Nations High Commissioner for Human Rights (OHCHR),⁴⁵⁵ Promotion of a democratic and equitable international order,⁴⁵⁶ The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination,⁴⁵⁷ and The right to development.⁴⁵⁸

Cameroon voted against the resolution on *The question of the death penalty*,⁴⁵⁹ and it abstained from voting on the resolution on *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*.⁴⁶⁰

It joined the consensus in the Council to adopt the remaining 19 thematic resolutions tabled during this Session.⁴⁶¹

Country Situation Resolutions

Cameroon voted in favour of one country situation resolution tabled during the session, namely, *Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela*.⁴⁶²

It voted against two country situation resolutions: *Situation of human rights in the Bolivarian Republic of Venezuela*⁴⁶³ and *Situation of human rights in Burundi*,⁴⁶⁴ and abstained from voting on two others: *Human rights situation in Yemen*⁴⁶⁵ and *Situation of human rights of Rohingya Muslims and other minorities in Myanmar*.⁴⁶⁶

However, it was unusual that Cameroon's vote on the resolution concerning *The human rights situation in the Syrian Arab Republic*⁴⁶⁷ was not recorded on the voting system.⁴⁶⁸ It joined the consensus in the Council to adopt the remaining six country situation resolutions introduced during the Session.⁴⁶⁹

V. Analysis: Compliance with Pledges and Commitments

a) Engagement with UN Special Procedures

Cameroon has extended a standing invitation to all thematic Special Procedures since 2014.⁴⁷⁰ In its voluntary pledges, it undertook to "enhance cooperation with treaty bodies and special procedures and continue to work with other Member States for the credibility of the Human Rights Council."⁴⁷¹

455 Resolution 42/1 Composition of staff of the Office of the United Nations High Commissioner for Human Rights (OHCHR) (2019).

456 Resolution 42/8 Promotion of a democratic and equitable international order (2019).

457 Resolution 42/9 The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (2019).

458 Resolution 42/23 The right to development (2019).

459 Resolution 42/24 The question of the death penalty (2019).

460 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://bit.ly/2PfcTqH>.

461 Ibid.

462 Resolution 42/4 Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela (2019).

463 Resolution 42/25 Situation of human rights in the Bolivarian republic of Venezuela (2019).

464 Resolution 42/26 Situation of human rights in Burundi (2019).

465 Resolution 42/2 Human rights situation in Yemen (2019).

466 Resolution 42/3 Situation of human rights of Rohingya Muslims and other minorities in Myanmar (2019).

467 Resolution 42/27 The human rights situation in the Syrian Arab Republic (2019).

468 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

469 Ibid.

470 Office of the High Commissioner for Human Rights, Country visits by Special Procedures to Cameroon. Available at: https://spin-ternet.ohchr.org/_layouts/15/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en.

471 United Nations General Assembly. Voluntary pledges and commitments submitted by Cameroon, 1 May 2009. Available at: <https://undocs.org/en/A/63/816>.

However, currently, Cameroon has a total of six visit requests pending from Special Procedures,⁴⁷² including those from the Working Groups on arbitrary detention and on discrimination against women, and the Special Rapporteurs on freedom of assembly, on independence of judges, on health and on water and sanitation.⁴⁷³

Cameroon had accepted visit requests from two other mandate holders, namely, the Special Rapporteur on indigenous peoples and the Special Rapporteur on sale of children and are pending proposal of dates for their visit.⁴⁷⁴ Similarly, the Special Rapporteur on minority issues had finalised the dates of the visit, but postponed it in April 2020; it is now scheduled in the first half of 2021.⁴⁷⁵

b) *Compliance with Reporting Obligations to Treaty Monitoring Bodies*

Cameroon pledged to continue its efforts to remain fully compliant with the obligations under international human rights law.⁴⁷⁶ However, despite this, it has two treaty body reports pending, one with CRC-OP-AC since February 2015 and with CEDAW since February 2018.⁴⁷⁷

In July 2019, Cameroon submitted its report to the CERD, which was pending for two years till it was submitted.⁴⁷⁸ The remaining treaty body reports were submitted, but after a delay of about two-three years.⁴⁷⁹

Similarly, Cameroon had pledged to be a party to major international instruments on human rights in which it is not yet participating, notably, the CRC-OP-SC; the CMW; the CRPD; the CED, among others.⁴⁸⁰ However, it has signed but not yet ratified them per its pledge.⁴⁸¹ It has signed but not ratified the CAT-OP, while it has neither signed nor ratified the CCPR-OP2-DP.⁴⁸²

c) *Compliance with Thematic Issues*

In its voluntary pledges, Cameroon committed itself “to boost efforts made in the area of prison administration by ensuring that places of detention meet international standards and respecting the rights of detainees” and “to work with the National Commission on Human Rights and Freedoms and civil society to improve the situation of human rights in Cameroon and to popularise human rights culture”.⁴⁸³ In the interactive dialogue with the Working Group on **arbitrary detention**, it expressed that the Working Group’s ‘opinions on individual complaints’ show a lack of understanding of the complexity of the cases and are more of an ideological debate.⁴⁸⁴ However, recognising the importance of the work of the Working Group, it joined the consensus⁴⁸⁵ in adopting the resolution on *Arbitrary detention*.⁴⁸⁶ However, the UN human rights mechanisms and civil society stakeholders have often reported cases of arbitrary detention, including *incommunicado* detention, especially by the security forces in relation to counter-

472 Office of the High Commissioner for Human Rights, Country visits by Special Procedures to Cameroon. Available at: https://spinternet.ohchr.org/_layouts/15/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en.

473 Ibid.

474 Ibid.

475 Ibid.

476 Office of the High Commissioner for Human Rights, Cameroon Homepage, Voluntary Pledges and Commitments. Available at: <https://www.un.org/ga/60/elect/hrc/cameroun.pdf>.

477 Office of the High Commissioner for Human Rights, Treaty Bodies, reporting status of Cameroon. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=CMR&Lang=EN.

478 Ibid.

479 Ibid.

480 Office of the High Commissioner for Human Rights, Cameroon Homepage, Voluntary Pledges and Commitments. Available at: <https://www.un.org/ga/60/elect/hrc/cameroun.pdf>.

481 Ibid.

482 Ibid.

483 United Nations General Assembly. Voluntary pledges and commitments submitted by Cameroon, 1 May 2009. Available at: <https://undocs.org/en/A/63/816>.

484 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/33laOv7>.

485 OHCHR, 42nd HRC Session, Resolutions, decisions and President’s statements. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session42/Pages/ResDecStat.aspx>.

486 Resolution 42/22 Arbitrary detention (2019).

terrorism and insurgency operations.⁴⁸⁷ Similarly, the visit request from the Working Group on arbitrary detention has been pending with Cameroon since 2017.⁴⁸⁸

The CAT, in its concluding observations in 2017, noted that it is deeply concerned by reports from credible sources that many people, from the far North region, suspected of supporting Boko Haram were held *incommunicado* by the security forces in at least 20 unofficial detention centres.⁴⁸⁹ It was reported that between January 2018 to January 2019, there were about 26 cases of *incommunicado* detention, including that of two women and an 18-month-old child, who were held for several months without any contact with family or legal counsel.⁴⁹⁰ It was further reported that between July and August 2019, the Cameroonian authorities held over 100 detainees *incommunicado* at a detention facility in Yaounde.⁴⁹¹ The CAT also raised concerns about the high number of persons held in pretrial detention beyond the maximum time allowed by law.⁴⁹² At the end of 2017, it was reported that 58.1 per cent of the total population in prisons were pre-trial detainees.⁴⁹³

In April 2018, five activists working for LGBTIQ+ rights in western Cameroon were reportedly arbitrarily arrested⁴⁹⁴ and detained for a week before being released.⁴⁹⁵ In July 2018, it was reported that 15 individuals being arbitrarily arrested and detained in the Anglophone regions in relation to protests and were held without charge.⁴⁹⁶ In October 2018, Michel Biem Tong, a journalist and human rights defender was arbitrarily arrested, and held in *incommunicado* detention; charges were officially filed only after a month.⁴⁹⁷ He was subsequently pardoned and released after two months.⁴⁹⁸ In response to the mass *incommunicado* detention in a facility in Yaounde, in September 2019, Lawyers in Cameroon alleged that the law enforcement agencies interfered in their work and protested the rights violation, including torture and illegal and prolonged detention of accused persons.⁴⁹⁹ In August 2019, journalist Samuel Wazizi was arrested and held *incommunicado*⁵⁰⁰; he was never presented before the court, nor were his family and lawyer informed of his whereabouts.⁵⁰¹ It was only in June 2020 — after 10 months — that the Cameroonian military confirmed that he had died on 17 August 2019 while in custody.⁵⁰² Recently, in June 2020, the UN Working Group on

487 HRCttee, Concluding observations on the fifth periodic report of Cameroon, 30 November 2017, paras 11, 13, 27, 33, 37. Available at: <https://bit.ly/2XUVkAh>; CAT, Concluding observations on the fifth periodic report of Cameroon, 18 December 2017, paras 8, 10, 11, 13, 17. Available at: <https://bit.ly/3fWk7KE>; see also, Human Rights Watch, 'Cameroon: Routine torture, incommunicado detention', 6 May 2019. Available at: <https://bit.ly/3gW06oQ>.

488 Office of the High Commissioner for Human Rights, Country visits by Special Procedures to Cameroon. Available at: https://spinternet.ohchr.org/_layouts/15/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en.

489 CAT, Concluding observations on the fifth periodic report of Cameroon, 18 December 2017, para 11. Available at: <https://bit.ly/3fWk7KE>.

490 Human Rights Watch, 'Cameroon: Routine torture, incommunicado detention', 6 May 2019. Available at: <https://www.hrw.org/news/2019/05/06/cameroon-routine-torture-incommunicado-detention>.

491 Human Rights Watch, 'Cameroon: Detainees tortured', 20 August 2019. Available at: <https://www.hrw.org/news/2019/08/20/cameroon-detainees-tortured>.

492 CAT, Concluding observations on the fifth periodic report of Cameroon, 18 December 2017, para 31. Available at: <https://bit.ly/3fWk7KE>.

493 World Prison Brief, Birkbeck – University of London, Cameroon. Available at: <https://www.prisonstudies.org/country/cameroon>.

494 International Federation for Human Rights (FIDH), 'Cameroon: Arrest and arbitrary detention of five members of the association Avenir Jeune de l'Ouest (AJO)', 30 April 2018. Available at: <https://www.fidh.org/en/issues/human-rights-defenders/cameroon-arrest-and-arbitrary-detention-of-five-members-of-the>.

495 UK Home Office, Country policy and information note – Cameroon: Sexual orientation and gender identity or expression, p. 15, February 2020. Available at: <https://www.justice.gov/eoir/page/file/1249766/download>.

496 Lawyers' Rights Watch Canada, 'Cameroon: Arbitrary detention of Anglophones', 14 July 2018. Available at: <https://www.lrwc.org/cameroon-arbitrary-detention-of-anglophones-in-cameroon-letter/>.

497 Frontline Defenders, 'Journalist Michel Biem Tong arbitrarily arrested and held without charge', 25 October 2018. Available at: <https://www.frontlinedefenders.org/en/case/michel-biem-tong-arrested#case-update-id-8470>.

498 OMCT, Cameroon: Release of Michel Biem Tong', 14 December 2018. Available at: <https://www.omct.org/fr/human-rights-defenders/urgent-interventions/cameroon/2018/12/d25167/>.

499 VOA News, 'Cameroon courts paralyzed as lawyers strike over human rights violations', 18 September 2019. Available at: <https://www.voanews.com/africa/cameroon-courts-paralyzed-lawyers-strike-over-human-rights-violations>; see also, the communique issued by the Bar Council Association announcing a five-day strike in this regard, 31 August 2019. Available at: https://www.hrw.org/sites/default/files/supporting_resources/bar_council_resolution_on_strike.pdf.

500 Ubuntu Times, 'Press advocacy body implores UN to investigate Cameroonian journalist's death', 12 August 2020. Available at: <https://www.ubuntutimes.com/press-advocacy-body-implores-un-to-investigate-cameroonian-journalists-death/>.

501 CIVICUS Monitor, 'Military forced to admit that journalist Samuel Wazizi died in custody, 10 months after his death', 6 July 2020. Available at: <https://monitor.civicus.org/updates/2020/07/06/Military-forced-admit-journalist-Samuel-Wazizi-died-custody-10-months-after-his-death/>.

502 Reporters Without Borders, 'Cameroonian journalist Samuel Wazizi died in detention', 4 June 2020. Available at: <https://rsf.org/en/news/cameroonian-journalist-samuel-wazizi-died-detention>.

Arbitrary Detention gave its opinion stating that the detention of the 70-year-old journalist, Amadou Vamoulke, for nearly four years, is arbitrary and lacks a “legal basis” and recommended his release by the Cameroonian authorities.⁵⁰³

Cameroon pledged to “intensify action to promote peace, preserve ecosystems within the sub-region, through greater involvement in peacekeeping operations on the one hand, and sub-regional structures for the promotion of sustainable development on the other”.⁵⁰⁴ In the General debate under Item 4, Cameroon asserted that to “guarantee the territorial integrity of the State and security of persons and property; protect its institutions; and defend its institutions from those who invoke human rights to destroy them, its Government takes necessary measures in accordance with its international obligations and national laws.”⁵⁰⁵ It joined the consensus in the Council⁵⁰⁶ in adopting the resolution on **Terrorism and human rights**,⁵⁰⁷ which condemned terrorist acts in all their forms, while expressing concerns about the violations of human rights, international refugee law and humanitarian law in the context of countering terrorism.⁵⁰⁸ Boko Haram attacks in Cameroon, especially in the far North, have steadily increased since 2017.⁵⁰⁹ In 2019 alone, the Boko Haram killed at least 275 people, mostly civilians. Many others, especially women, were mutilated and kidnapped.⁵¹⁰ Additionally, the clashes between the security forces and the armed separatist groups in the North-West and South-West regions have continued unabated,⁵¹¹ even after the national dialogue in September-October 2019 intended to ensure cessation of hostilities and restore peace.⁵¹² The rebel group, Southern Cameroons Defence Force (SOCADEF), heeded the call by the UN Secretary General for a ceasefire “to help create corridors of life-saving aid” in the middle of the COVID-19 pandemic; however, neither the Ambazonia Defence Forces (ADF) nor did the military responded to the call.⁵¹³ The elections in February 2020 escalated the tensions and the separatist fighters had threatened people to boycott the elections.⁵¹⁴ The armed separatists had also reportedly abducted dozens of candidates, mostly from the Social Democratic Front, to prevent them from contesting elections.⁵¹⁵

While the armed separatists have terrorised and killed civilians and attacked government forces,⁵¹⁶ the response of the forces is also reported to have been excessive and indiscriminate, allegedly targeting civilians in the Anglophone

503 Working Group on Arbitrary Detention, Opinions adopted at its 87th Session, Opinion No. 1/ 2020 concerning Amadou Vamoulke (Cameroon), 12 June 2020. Available at: https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session87/A_HRC_WGAD_2020_1_Advance_Edited_Version.pdf; see also, Reporters Without Borders, ‘UN asks Cameroon to free Amadou Vamoulke’, 12 June 2020. Available at: <https://rsf.org/en/news/un-asks-cameroon-free-amadou-vamoulke>.

504 Office of the High Commissioner for Human Rights, Cameroon Homepage, Voluntary Pledges and Commitments. Available at: <https://www.un.org/ga/60/elect/hrc/cameroun.pdf>.

505 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/3aeSDyg>.

506 OHCHR, 42nd HRC Session, Resolutions, decisions and President’s statements. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session42/Pages/ResDecStat.aspx>.

507 Resolution 42/18 Terrorism and human rights (2019).

508 Ibid.

509 Foreign Brief, ‘Boko Haram in Cameroon: compounding security concerns’, 16 February 2020. Available at: <https://www.foreign-brief.com/africa/boko-haram-in-cameroon-compounding-security-concerns/>.

510 Amnesty International, ‘Cameroon: Victims of Boko Haram attacks feel abandoned in the Far North’, 11 December 2019. Available at: <https://www.amnesty.org/en/latest/news/2019/12/cameroon-victims-of-boko-haram-attacks-feel-abandoned-in-the-far-north/>.

511 DW, ‘Cameroon’s escalating Anglophone crisis shows little sign of abating’, 24 June 2020. Available at: <https://www.dw.com/en/camerouns-escalating-anglophone-crisis-shows-little-sign-of-abating/a-53906409>.

512 Government of Cameroon, Major National Dialogue: Living Together In Peace. Available at: <https://nationaldialogue.cm/>.

513 Radio France Internationale, ‘Mixed reception to call for COVID-19 ceasefire in Cameroon’s anglophone regions’, 27 March 2020. Available at: <https://www.rfi.fr/en/africa/20200327-mixed-reception-to-call-for-coronavirus-ceasefire-in-cameroon-s-anglophone-regions>.

514 France 24, ‘Cameroon elections dominated by boycott and separatist violence’, 9 February 2020. Available at: <https://www.france24.com/en/20200209-cameroon-elections-dominated-by-boycott-and-separatist-violence>.

515 UN News, ‘Guterres deeply concerned over deadly assault in north-west Cameroon’, 18 February 2020. Available at: <https://news.un.org/en/story/2020/02/1057571>.

516 TRT World, ‘Anglophone separatists kill five soldiers, four civilians in West Cameroon’, 8 March 2020. Available at: <https://www.trtworld.com/africa/anglophone-separatists-kill-five-soldiers-four-civilians-in-west-cameroon-34394>; see also, Human Rights Watch, ‘Cameroon: New attacks on civilians by troops, separatists’, 28 March 2019. Available at: <https://www.hrw.org/news/2019/03/28/cameroon-new-attacks-civilians-troops-separatists>; see also, VOA News, ‘Cameroon Anglophone villagers attack separatist camps over abuse’, 8 January 2020. Available at: <https://www.voanews.com/africa/cameroon-anglophone-villagers-attack-separatist-camps-over-abuse>.

regions⁵¹⁷ as well as committing other serious human rights violations in its counter-terrorism measures.⁵¹⁸ In August 2018, a video was circulated on social media platforms showing several men in the military uniform summarily executing a dozen people believed to be Boko Haram terrorists.⁵¹⁹ In June 2019, the Government announced that it would prosecute seven soldiers suspected of the summary killings,⁵²⁰ after initially dismissing the video “fake news”.⁵²¹ In October 2019, six soldiers and a captain were charged with joint participation in murder, breach of regulations and conspiracy.⁵²² In June 2019, Cameroonian forces allegedly killed at least four civilians during security operations in one of the country’s Anglophone regions.⁵²³ In a separate incident in June 2019, a group of at least 20 soldiers allegedly killed an elderly disabled man and raped a woman. In July 2019, Cameroonian soldiers reportedly killed a nurse and injured his sister in an alleged act of retaliation against separatists.⁵²⁴ In January 2020, incidents were reported where soldiers attacked and fired indiscriminately in a market⁵²⁵ and villages were allegedly razed and burned down by the military.⁵²⁶ In February 2020, almost two dozen villages, including 15 children, were killed in an attack on a village in North-West Cameroon.⁵²⁷ While the Government announced that it would investigate the matter and that its findings would be made public,⁵²⁸ witnesses allegedly reported 40 armed men, including members of the security and defence forces “opened fire on the people and burned down houses”.⁵²⁹ However, despite initially calling it an “accident”, authorities in Cameroon have reportedly arrested three soldiers for their role in the killing of civilians.⁵³⁰

The HRCtte, in its concluding observations, had noted that human rights abuses, such as arbitrary detention, torture and extrajudicial killings have been reported in the name of counter-terrorism.⁵³¹ The CAT also raised concerns about reports from credible sources that the security forces are making widespread use of torture in the course of its counter-terrorism efforts.⁵³² In 2018, it was reported that while the armed Anglophone separatists attacked schools and teachers, there were accounts of beatings, simulated electrocutions and torture by the Cameroon military.⁵³³ Reports suggest that security forces tortured the detainees held *incommunicado* at a detention facility in Yaoundé,

517 Amnesty International, ‘Cameroon: Rise in killings in Anglophone regions ahead of parliamentary elections’, 6 February 2020. Available at: <https://www.amnesty.org/en/latest/news/2020/02/cameroon-rise-in-killings-in-anglophone-regions/>.

518 HRCtte, Concluding observations on the fifth periodic report of Cameroon, 30 November 2017, paras 11, 12, 23, 25, 27. Available at: <https://bit.ly/2XUVkAh>.

519 The Observers – France 24, ‘Video proves Cameroonian soldiers executed civilians’, 10 August 2018. Available at: <https://observers.france24.com/en/20180810-video-cameroon-soldiers-executed-civilians>.

520 Business Standard, ‘Cameroon to prosecute seven soldiers over “atrocities video”’, 24 June 2019. Available at: https://www.business-standard.com/article/pti-stories/cameroon-to-prosecute-7-soldiers-over-atrocities-video-119062401375_1.html.

521 News 24, ‘Seven Cameroonian soldiers plead not guilty to executing women and children’, 21 October 2019. Available at: <https://www.news24.com/news24/africa/news/7-cameroonian-soldiers-plead-not-guilty-to-executing-women-and-children-20191021>.

522 Ibid.

523 The Guardian, ‘Cameroonian forces in anglophone region accused of killing four people’, 22 July 2019. Available at: <https://bit.ly/3kMGF47>.

524 Human Rights Watch, ‘Cameroon security forces kill civilians, rape woman’, 22 July 2019. Available at: <https://www.hrw.org/news/2019/07/22/cameroon-security-forces-kill-civilians-rape-woman>.

525 Amnesty International, ‘Cameroon: Rise in killings in Anglophone regions ahead of parliamentary elections’, 6 February 2020. Available at: <https://www.amnesty.org/en/latest/news/2020/02/cameroon-rise-in-killings-in-anglophone-regions/>.

526 Ibid; see also, BBC, ‘Burning Cameroon: Images you’re not meant to see’, 25 June 2018. Available at: <https://www.bbc.com/news/world-africa-44561929>; see also, Journal du Cameroon, ‘Rights group says over 100 villages burnt in Cameroon’s anglophone region’, 22 August 2018. Available at: <https://www.journalducameroun.com/en/rights-group-says-100-villages-burnt-camerouns-anglophone-regions/>; see also, The Economist, ‘English speaking villages are burning in Cameroon’, 7 November 2019. Available at: <https://www.economist.com/middle-east-and-africa/2019/11/07/english-speaking-villages-are-burning-in-cameroon>.

527 UN News, ‘Guterres deeply concerned over deadly assault in north-west Cameroon’, 18 February 2020. Available at: <https://news.un.org/en/story/2020/02/1057571>.

528 OHCHR, ‘Press briefing note on Cameroon’, 18 February 2020. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25566&LangID=E>.

529 UN News, ‘Guterres deeply concerned over deadly assault in north-west Cameroon’, 18 February 2020. Available at: <https://news.un.org/en/story/2020/02/1057571>; Africa News, ‘“It was an accident”: Cameroon army explains massacre in Anglophone region’, 18 February 2020. Available at: <https://www.africanews.com/2020/02/18/it-was-an-accident-cameroon-army-explains-massacre-in-anglophone-region/>.

530 Reuters, ‘Cameroon arrests soldiers for killing civilians in separatist war’, 22 April 2020. Available at: <https://www.reuters.com/article/us-cameroon-security/cameroon-arrests-soldiers-for-killing-civilians-in-separatist-war-idUSKCN2233AE>.

531 HRCtte, Concluding observations on the fifth periodic report of Cameroon, 30 November 2017, paras 11-12. Available at: <https://bit.ly/2XUVkAh>.

532 CAT, Concluding observations on the fifth periodic report of Cameroon, 18 December 2017, para 11. Available at: <https://bit.ly/3fWk7KE>.

533 CNN, ‘Cameroon security forces torturing English speakers, Amnesty says’, 12 June 2018. Available at: <https://edition.cnn.com/2018/06/11/africa/cameroon-anglophone-torture-amnesty-intl/index.html>

where they allegedly beat up and used near-drowning to extract confessions from detainees suspected of ties to armed separatist groups in 2019.⁵³⁴ While conflicts with both the Boko Haram and the Anglophone separatists has threatened the security of the people in the country, UN treaty bodies as well as rights groups have called on Cameroon to take necessary steps to ensure that its counter-terrorism measures are compatible with international obligations and standards⁵³⁵ and to hold its security forces to account for human rights abuses and targeting civilians.⁵³⁶

In its voluntary pledges, Cameroon undertook the commitment to “work with the National Commission on Human Rights and Freedoms and civil society to improve the situation of human rights in Cameroon and to popularise human rights culture and continue with actions aimed at promoting civil and political rights, especially freedom of the press and transparency of election”.⁵³⁷ However, it abstained from voting⁵³⁸ on the resolution on *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*,⁵³⁹ which called upon States to prevent and refrain from committing **acts of intimidation or reprisal** and conduct effective investigations into such allegations.⁵⁴⁰ However, the CESCR, in its concluding observations of 2019, raised concerns that human rights defenders and activists in Cameroon operate under restrictive conditions and are often subjected to various forms of harassment or reprisal. It called upon the country to provide effective protection to them and to ensure that perpetrators of such acts are brought to justice.⁵⁴¹

The Report of the Secretary-General presented in September 2018 noted the cases of Maximilienne Ngo Mbe and Alice Nkom of the Central Africa Human Rights Defenders Network (REDHAC) who had suffered physical attacks and intimidation because of their cooperation with the HRCttee during the review of Cameroon in October 2017, while the Government denied these allegations.⁵⁴² However, the report presented at the 42nd HRC Session in September 2019 added that allegedly between October and December 2018, Maximilienne Ngo Mbe has been closely monitored and surveilled by the intelligence services outside her house and the REDHAC offices.⁵⁴³ Apart from being subjected to routine questioning and smear campaigns, she has allegedly received many anonymous, threatening phone calls and text messages.⁵⁴⁴ In August 2019, she was assaulted at gunpoint.⁵⁴⁵ Recently, in January 2020, the REDHAC office in Douala was allegedly set ablaze by a group of unidentified individuals destroying their archives, research, publications and other important documents.⁵⁴⁶ Another activist, Franklin Mowha, disappeared in August 2018 on his mission to document human rights violations in the Anglophone region and has since been missing.⁵⁴⁷ Another indigenous

534 Human Rights Watch, ‘Cameroon: Routine torture, incommunicado detention’, 6 May 2019. Available at: <https://www.hrw.org/news/2019/05/06/cameroon-routine-torture-incommunicado-detention>.

535 HRCttee, Concluding observations on the fifth periodic report of Cameroon, 30 November 2017, paras 11-12. Available at: <https://bit.ly/2XUVkAh>.

536 Human Rights Watch, ‘Cameroon: Government forces attack village’, 10 April 2019. Available at: <https://www.hrw.org/news/2019/04/10/cameroon-government-forces-attack-village>.

537 Office of the High Commissioner for Human Rights, Cameroon Homepage, Voluntary Pledges and Commitments. Available at: <https://www.un.org/ga/60/elect/hrc/cameroun.pdf>.

538 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President’s statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

539 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).
540 Ibid.

541 CESCR, Concluding observations on the fourth periodic report of Cameroon, 25 March 2019, paras 10-11. Available at: <https://bit.ly/3axdBsn>; see also, HRCttee, Concluding observations on the fifth periodic report of Cameroon, 30 November 2017, para 41. Available at: <https://bit.ly/2XUVkAh>; see also, CAT, Concluding observations on the fifth periodic report of Cameroon, 18 December 2017, para 41. Available at: <https://bit.ly/3fWk7KE>.

542 Reporting mandate of the Secretary-General on intimidation and reprisals for cooperation with the UN in the field of human rights, 39th HRC Session, 13 August 2018, para 31. Available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/41.

543 Reporting mandate of the Secretary-General on intimidation and reprisals for cooperation with the UN in the field of human rights, 42nd HRC Session, 9 September 2019, paras 15-16. Available at: <https://undocs.org/en/A/HRC/42/30>; see also, Frontline Defenders, ‘Maximilienne Ngo Mbe under surveillance by unknown individuals’, 19 October 2018. Available at: <https://www.frontlinedefenders.org/en/case/maximilienne-ngo-mbe-under-surveillance-unknown-individuals>.

544 Ibid.

545 OHCHR, ‘Cameroon must protect human rights defenders – UN Experts’, 28 April 2020. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25835&LangID=E>.

546 Journal du Cameroon, ‘Cameroon: Fire ravages REDHAC office in Douala’, 29 January 2020. Available at: <https://www.journaldu-cameroun.com/en/cameroon-fire-ravages-redhac-office-in-douala/>.

547 OHCHR, ‘Cameroon must protect human rights defenders – UN Experts’, 28 April 2020. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25835&LangID=E>.

human rights defender, Musa Usman Ndamba, has reportedly been subject to judicial harassment for nine years⁵⁴⁸ and has been called to court on over 60 separate occasions on the same grounds.⁵⁴⁹ His appeal has been rescheduled without sufficient explanation and his lawyers have reported irregularities in the proceedings.⁵⁵⁰ In April 2020, the North-West Court of Appeal sentenced him to six months in prison and a fine for “defamation of character”; the appeal now is pending before the Supreme Court.⁵⁵¹ Leaders from his organisation, Mbororo Social and Cultural Development Association (MBOSCUDA) have reported increased harassment ever since they submitted a report for Cameroon’s Universal Periodic Review in May 2013.⁵⁵² Prominent human rights lawyer, Felix Agbor Nkongho, has also faced retaliation for his legitimate human rights work over the years, including his recent dismissal from his job as a lecturer in the Faculty of Law and Political Science, University of Buea.⁵⁵³ In April 2020, six UN mandate holders called on Cameroon to put an end to escalating intimidation and aggression towards human rights defenders to ensure that they can continue their work and NGOs operate safely.⁵⁵⁴

Similarly, journalists and media in the country have also faced abuse from both the Government and separatists.⁵⁵⁵ Journalists⁵⁵⁶ and political opponents⁵⁵⁷ have been targeted, harassed and subjected to other human rights abuses.⁵⁵⁸ It has been reported that the Cameroonian authorities have used the 2014 anti-terror law⁵⁵⁹ against journalists covering the Anglophone crisis and the fight against terrorism⁵⁶⁰ and those criticising the Government.⁵⁶¹ News broadcaster Akumbom Elvis McCarthy was arrested in March 2018 while he was filming police officers allegedly harassing taxi drivers.⁵⁶² He was detained for three weeks before being brought before the military tribunal — on charges of “attempted secession” and “disseminating secessionist propaganda” on air — which ordered that he be remanded for a renewable six-month period while police investigate the charges against him.⁵⁶³ He was finally released in December 2018.⁵⁶⁴ Similarly, the Cameroon authorities accused journalist Samuel Wazizi of ‘collaborating

548 International Federation for Human Rights, ‘Cameroon: Ongoing judicial harassment of Mr. Musa Usman Ndamba’, 29 April 2020. Available at: <https://www.fidh.org/en/issues/human-rights-defenders/cameroon-ongoing-judicial-harassment-of-mr-musa-usman-ndamba>.

549 Cultural Survival, ‘Mbororo human rights defender Musa Ndamba faces charges in Cameroon’, 12 June 2018. Available at: <https://www.culturalsurvival.org/news/mbororo-human-rights-defender-musa-ndamba-faces-charges-cameroon>.

550 Frontline Defenders, ‘Judicial harassment against human rights defender Musa Usman Ndamba’. Available at: <https://www.frontlinedefenders.org/en/case/judicial-harassment-against-human-rights-defender-musa-usman-ndamba>.

551 World Organisation Against Torture, ‘Cameroon: Ongoing judicial harassment against Mr. Musa Usman Ndamba’, 29 April 2020. Available at: <https://www.omct.org/human-rights-defenders/urgent-interventions/cameroon/2020/04/d25806/>.

552 Frontline Defenders, ‘Judicial harassment against human rights defender Musa Usman Ndamba’. Available at: <https://www.frontlinedefenders.org/en/case/judicial-harassment-against-human-rights-defender-musa-usman-ndamba>.

553 Lawyers’ Rights Watch Canada, ‘Cameroon: Dismissal of human rights defender Mr. Felix Agbor Nkongho from University of Buea’, 10 June 2020. Available at: <https://www.lrwc.org/cameroon-dismissal-of-human-rights-defender-mr-felix-agbor-nkongho-from-university-of-buea-joint-letter/>.

554 OHCHR, ‘Cameroon must protect human rights defenders – UN Experts’, 28 April 2020. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25835&LangID=E>.

555 Voice of America, ‘Cameroon journalists protest harassment, abusive arrests’, 3 May 2020. Available at: <https://www.voanews.com/africa/cameroon-journalists-protest-harassment-abusive-arrests>; see also, Voice of America, ‘Cameroon journalists caught in separatist conflict plea for help’, 10 March 2020. Available at: <https://www.voanews.com/press-freedom/cameroon-journalists-caught-separatist-conflict-plea-help>.

556 Freedom House, ‘Freedom in the World 2020: Cameroon’. Available at: <https://freedomhouse.org/country/cameroon/freedom-world/2020>.

557 Human Rights Watch, ‘Cameroon cracks down on opponents’, 7 March 2019. Available at: <https://www.hrw.org/news/2019/03/07/cameroon-cracks-down-opponents>.

558 HRCte, Concluding observations on the fifth periodic report of Cameroon, 30 November 2017, para 41. Available at: <https://bit.ly/2XUVkAh>; see also, CAT, Concluding observations on the fifth periodic report of Cameroon, 18 December 2017, para 41. Available at: <https://bit.ly/3fWk7KE>.

559 Committee to Protect Journalists, ‘Journalists Not Terrorists’, 20 September 2017. Available at: <https://cpj.org/reports/2017/09/journalists-not-terrorists-cameroon-ahmed-abba-anti-terror-imprisoned/>.

560 Reporters Without Borders, World Press Freedom Index 2020: Cameroon. Available at: <https://rsf.org/en/cameroon>.

561 Committee to Protect Journalists, ‘Journalists Not Terrorists’, 20 September 2017. Available at: <https://cpj.org/reports/2017/09/journalists-not-terrorists-cameroon-ahmed-abba-anti-terror-imprisoned/>.

562 Cameroon News Agency, ‘Abakwa FM Pidgin News Caster Akumbom McCarthy spends second night at Bamenda Central Prison’, April 2018. Available at: <https://cameroonnewsagency.com/abakwa-fm-pidgin-news-caster-akumbom-mccarthy-spends-second-night-bamenda-central-prison/>; see also, CIVICUS Monitor, ‘Intensification of conflict in Anglophone Cameroon: Citizens targeted’, 4 October 2018. Available at: <https://monitor.civicus.org/updates/2018/10/04/cameroon-intensification-conflict-citizens-targeted/>.

563 Committee to Protect Journalists, ‘Cameroon military court orders radio journalist to be held for at least six months’, 7 May 2018. Available at: <https://cpj.org/2018/05/cameroon-military-court-orders-radio-journalist-to/>.

564 Daily News Cameroon, ‘Anglophone Crisis: I Spent A Month On The Floor At The Bamenda Judicial Police – Journalist Akumbom Elvis McCarthy’, 5 December 2019. Available at: <https://www.dailynewscameroon.com/anglophone-crisis-i-spent-a-month-on-the-floor-at-the-bamenda-judicial-police-journalist-akumbom-elvis-mccarthy/>.

with the separatists' following which he held *incommunicado*⁵⁶⁵ and died while in custody.⁵⁶⁶ Political analyst and Anglophone activist, Abdul Karim Ali was arrested in September 2019 on charges of "terrorism" and "secession" and allegedly denied access to lawyer for five days, before his eventual release in November 2019.⁵⁶⁷ Similarly, political opponents such as Maurice Kamto and other opposition figures were arrested and detained in after crackdown of peaceful protests in January 2019.⁵⁶⁸ Kamto was charged with insurrection.⁵⁶⁹ He was finally released in October 2019 along with other opposition leaders, after nine months behind bars, after President Biya ordered prosecutors to drop charges⁵⁷⁰ against them as a conciliatory gesture.⁵⁷¹

In its voluntary pledges, Cameroon committed itself to reinforce measures to protect the rights of minorities, the disabled and other vulnerable groups.⁵⁷² In the general debate on **racism, racial discrimination, xenophobia and related forms of intolerance**, follow-up and implementation of the Durban Declaration and Programme of Action (DDPA), Cameroon underscored the urgent need to fully and effectively implement the DDPA which provides a solid foundation for addressing and preventing contemporary forms of racism, discrimination, xenophobia and intolerance and affirmed that consolidating national unity by overcoming any regional or ethnic division remains the official policy of Cameroon, and condemned any hate speech and resurgence of identity folds.⁵⁷³ It joined consensus in adopting the resolution, *From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance* which raised an alarm about the manifestations of racism and xenophobia precipitated by false, socially unjust, dangerous, extremist nationalist and populist ideologies.⁵⁷⁴

However, the CESCR, in its concluding observations in March 2019, pointed out the introduction of some anti-discrimination provisions in its legislative framework, including in the Criminal Code, observed that these measures do not cover all the grounds under the ICESCR.⁵⁷⁵ It expressed concerns about the discrimination and exclusion faced by indigenous peoples in Cameroon and the lack of recognition of their rights with regard to access to land, their ancestral territories and natural resources.⁵⁷⁶ Similarly, the HRCttee had also raised concerns about reports of discrimination against the Pygmy and Mbororo communities in Cameroon.⁵⁷⁷ It has been reported that structural discrimination is among the key factors impeding delivery of social services, including access to education and health care, among the Baka Pygmies of Cameroon.⁵⁷⁸ The CESCR had also raised concerns about the *de facto* discrimination and marginalisation faced by some ethnic and linguistic minorities, including the English-speaking minority.⁵⁷⁹ The 'Anglophone' crisis in Cameroon was spurred by the linguistic split between the French-speaking and English-speaking

565 Freedom House, 'Freedom in the World 2020: Cameroon'. Available at: <https://freedomhouse.org/country/cameroon/freedom-world/2020>.

566 Reporters Without Borders, 'Cameroonian journalist Samuel Wazizi died in detention', 4 June 2020. Available at: <https://rsf.org/en/news/cameroonian-journalist-samuel-wazizi-died-detention>.

567 Human Rights Watch, 'World Report 2020: Cameroon'. Available at: <https://www.hrw.org/world-report/2020/country-chapters/cameroon>.

568 Human Rights Watch, 'Cameroon cracks down on opponents', 7 March 2019. Available at: <https://www.hrw.org/news/2019/03/07/cameroon-cracks-down-opponents>.

569 BBC, 'Cameroon opposition leader Maurice Kamto "charged with insurrection"', 31 January 2019. Available at: <https://www.bbc.com/news/world-africa-47080323>.

570 DW, 'Cameroon opposition leader Maurice Kamto, supporters freed from prison', 5 October 2019. Available at: <https://www.dw.com/en/cameroon-opposition-leader-maurice-kamto-supporters-freed-from-prison/a-50713067>.

571 BBC, 'Cameroon opposition leader Maurice Kamto walks free from jail', 5 October 2019. Available at: <https://www.bbc.com/news/world-africa-49947652>.

572 Office of the High Commissioner for Human Rights, Cameroon Homepage, Voluntary Pledges and Commitments. Available at: <https://www.un.org/ga/60/elect/hrc/cameroon.pdf>.

573 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/33KTjuk>.

574 Resolution 42/29 *From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance* (2019).

575 CESCR, Concluding observations on the fourth periodic report of Cameroon, 25 March 2019, para 21. Available at: <https://bit.ly/3axdBsn>

576 *Ibid*, para 12.

577 HRCttee, Concluding observations on the fifth periodic report of Cameroon, 30 November 2017, para 45. Available at: <https://bit.ly/2XUVkAh>

578 Journal of Progressive Human Services, 'Factors impeding social service delivery among the Baka pygmies of Cameroon', 23 March 2019. Available at: <https://doi.org/10.1080/10428232.2019.1581041>.

579 CESCR, Concluding observations on the fourth periodic report of Cameroon, 25 March 2019, para 25. Available at: <https://bit.ly/3axdBsn>.

communities⁵⁸⁰ and the alleged discrimination by the Government against the latter.⁵⁸¹

There have been repeated recommendations by UN bodies that Cameroon redouble its efforts in favour of effective implementation of the official policy of bilingualism, and ensure that the English-speaking population was not subject to inequality, particularly in the areas of employment, education and judicial procedures.⁵⁸² Although President Biya responded to international pressure by organising talks that took place from 30 September to 4 October 2019, leading to the adoption of dozens of recommendations to restore peace, the violence between the Cameroonian military and secessionist fighters has reportedly intensified.⁵⁸³ There are further tensions between the Fulani — called Mbororo in Cameroon — and other Anglophone communities in the North-West and South-West region that has added another ethnic fault line to the complicated conflict.⁵⁸⁴

VI. Conclusions

Cameroon participated actively across interactive dialogues and general debates during the 42nd HRC Session.

- Cameroon has been facing security issues on two fronts: Terrorism from groups such as Boko Haram as well as from the armed separatists. While these armed non-State forces have terrorised and killed civilians and attacked government forces, the response of the security forces has also been excessive and indiscriminate and allegedly purposely targeting civilians in the Anglophone regions. The authorities have been accused of committing other serious human rights violations in their counter-terrorism measures.
- Cameroon had pledged to be a party to major international instruments on human rights in which it is not yet participating, notably, the Optional Protocols to the CRC; the CMW; the CRPD; the CED, among others.
- Despite pledging to “work with the National Commission on Human Rights and Freedoms and civil society to improve the situation of human rights in Cameroon and to popularise human rights culture”, reprisals against human rights defenders, activists, journalists and political opponents have been widely reported. UN human rights mechanisms have repeatedly called on Cameroon to put an end to the intimidation and aggression towards human rights defenders and to ensure that NGOs operate safely in the country.

580 Independent, ‘War of words: Cameroon being torn apart by deadly language division’, 27 February 2019. Available at: <https://www.independent.co.uk/news/world/cameroon-language-french-english-military-africa-ambazonia-a8770396.html>.

581 Foreign Policy, ‘Cameroon must make concessions to end the Anglophone crisis’, 27 September 2019. Available at: <https://foreignpolicy.com/2019/09/27/cameroon-must-make-concessions-to-end-the-anglophone-crisis-paul-biya/>.

582 Human Rights Council, Working Group on the Universal Periodic Review, Compilation on Cameroon, 12 March 2018. Available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WG.6/30/CMR/2&Lang=E>.

583 African Arguments, ‘Why has violence increased since Cameroon’s National Dialogue?’, 29 October 2019. Available at: <https://bit.ly/3536JRp>.

584 Refugees International, ‘Cameroon’s NWSW crisis ignites new fault line of conflict’, 6 April 2020. Available at: <https://www.refugeesinternational.org/reports/2020/4/6/cameroons-nsw-crisis-ignites-new-fault-line-of-conflict>; see also, The New Humanitarian, ‘How an “execution-style” massacre unfolded in Cameroon’, 3 March 2020. Available at: <https://www.thenewhumanitarian.org/analysis/2020/03/03/Cameroon-Ambazonia-Ngarbuh-massacre>.

I. Introduction

Fiji was elected to the HRC after a clean slate election in 2018.⁵⁸⁵ It is the first ever Pacific Small Island Developing State (PSIDS) to be elected as an HRC member⁵⁸⁶ with its first three-year term starting from 2019 to 2021.⁵⁸⁷

II. Voluntary Pledges and Commitments

After its election in 2018, Fiji committed to give the South Pacific region a voice in the Council and reaffirmed the work in terms of cooperation and dialogue in driving worldwide progress of human rights, and stressed the Council's role as a forum for dialogue, mutual understanding, shared values and common progress.⁵⁸⁸

Fiji pledged to⁵⁸⁹:

- Cooperate with the Council and its mechanisms, in particular with the visits by the Special Rapporteur on human rights and the environment and by the Special Rapporteur on the right to freedom of religion.
- Commit to ratifying those international human rights conventions to which it is not yet party, and clearing its backlog of periodic reports to the UN treaty bodies.
- Commit to increase the participation of the Small Island Developing States (SIDS) and the Pacific Small Island Developing States (PSIDS) in the work of the Council.
- Develop its National Mechanism for Implementation, Reporting and Follow-Up (NMIRF), so that it becomes one of the world's largest implementation mechanisms and making NMIRF more efficient and transparent.
- Offer strong support to Council initiatives where it has a particular interest including: human rights and climate change, human rights and environment, human rights and migration, human rights of internally displaced persons, women's rights, sexual and reproductive rights, and violence against women, independence of judges and lawyers; and torture prevention.
- Continue to build bridges between the international human rights and climate change communities, so that human rights obligations and commitments may inform and strengthen the implementation of the UNFCCC Paris Agreement, and will focus on ensuring that climate policy considers the particular vulnerabilities and potential (as agents of change) of women, children and persons with disabilities.
- Champion global recognition of the universal right to a safe and healthy environment as called for by the UN Special Rapporteur in March 2018.
- Emphasise the importance of prevention, in accordance with the Council's mandate: both the prevention of violation at root cause level by building domestic resilience and local capacity, and by responding promptly to human rights emergencies via engagement and cooperation with the concerned State and region to avoid politicisation or selectivity.
- Work with other interested States, including other Small States, to guide reform of the Council's work under Item 10 of its agenda.

III. Participation at the 42nd Session of the HRC

The following is a selected representation of Fiji's participation in the Session:

⁵⁸⁵ United Nations General Assembly, Elections of the Human Rights Council, 12 October 2018. Available at: <https://www.un.org/en/ga/73/meetings/elections/hrc.shtml>.

⁵⁸⁶ United Nations Secretary General, Address to the Fijian Parliament, 15 March 2019. Available at: <https://www.un.org/sg/en/content/sg/speeches/2019-05-15/address-fijian-parliament>.

⁵⁸⁷ Office of the High Commissioner for Human Rights, Current Membership of the Human Rights Council (2019). Available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/MembersByYear.aspx>.

⁵⁸⁸ Voluntary pledges and commitments submitted by Fiji. Available at: https://www.universal-rights.org/wp-content/uploads/2018/08/Fiji_Voluntary-pledges-and-commitments.pdf.

⁵⁸⁹ Ibid.

S. No.	Interactive Dialogue	Fiji's Interventions
1.	Clustered interactive dialogue with the Special Rapporteur on contemporary forms of slavery and the Working Group on the use of mercenaries	<ul style="list-style-type: none"> • Noted with concern the finding that most victims of contemporary slavery are found in Asia and Pacific and requested the Special Rapporteur to provide further information on the situation in the Pacific per her study and the focus areas to address the issue. • Thanked the Special Rapporteur for highlighting the co-relation between climate change induced migration and contemporary forms of slavery, especially the apparent vulnerability of the Asia-Pacific region in such context, as it already has the highest estimated prevalence of contemporary and forced labour. • Expressed commitment to taking this caution seriously by adding this to a list of factors that must be considered while determining strategies to address climate change. • Condemned all contemporary forms of slavery, including in armed conflicts, especially concerning children, and called on States to take a universal stand against resurgence of enslavement in armed conflicts and to reaffirm the norm of warfare against enslavement.⁵⁹⁰
2.	Clustered interactive dialogue with the Special Rapporteur on the human rights to safe drinking water and sanitation and the Special Rapporteur on hazardous substances and wastes	<ul style="list-style-type: none"> • Committed to achieving SDG 6 especially in the context of the human rights to water and sanitation in all spheres of life and noted the recommendation that States' policies, plans and implementation strategies should include water and sanitation beyond the household, particularly in public spaces. • Stated that its 20-Year Development Plan (2017-2036) includes a commitment to ensuring 100 per cent access to clean and safe water for urban areas by 2021 and for rural maritime areas by 2030. • Reiterated its commitment to building climate resilient water infrastructure and implement measures to protect freshwater aquifers from saltwater intrusion, while emphasising the threats posed by climate change, including to basic necessities of life such as right to water enshrined in the Fijian Constitution. • Informed the Council about the 2018 Water, Sanitation and Hygiene Summit held in Fiji with participation from and consultations between 18 Government agencies and NGOs on key activities to strengthen Government systems to provide water and sanitation to all Fijians. • Committed to pursue strategies that reflect these adversities to achieve this vision and called on the Council to discuss the impact of climate change on the human rights to water and sanitation.⁵⁹¹

590 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2PICFcd>.

591 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Statements.aspx?SessionId=31&MeetingDate=09/09/2019%2000:00:00>.

3.	Clustered interactive dialogue with the Working Group on enforced or involuntary disappearances and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence	<ul style="list-style-type: none"> • Informed the Council of its accession to the CED in August 2019 and added that ‘enforced disappearance’ is already a criminal offence in Fiji under the Crimes Act since 2009. • Mentioned the Information Act 2018 which includes a specific reference to the urgency with which requests for information concerning life or liberty of a person must be dealt with i.e. as soon as is reasonably practicable on the receipt of a request. • Reiterated its commitment to ensuring the right of ‘access to information’ enshrined in its Constitution, especially with regard to the rights of detained or arrested persons, transparency and accountability of their whereabouts, provision for communicating with legal representatives, family or next-of-kin, religious counsellor or social worker. • Asserted that enforced disappearances deprive families and communities of their right to know the truth about the circumstances of those disappeared and could amount to cruel and degrading treatment. • Assured the Council that it will do its part to ensure that the Convention is adhered to domestically and extended support to the Working Group’s universal mandate.⁵⁹²
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S. No.	General Debate	Fiji’s Intervention
1.	General debate on the Oral update by the High Commissioner for Human Rights (Item 2)	<ul style="list-style-type: none"> • Appreciated the emphasis on climate change in the High Commissioner’s statement and agreed that it is an unprecedented threat to human rights and not a situation where anyone can stand on the side-lines. • Noted that the High Commissioner highlighted that South Pacific States have led the global call for climate change and climate justice, while urging other States to unite in this cause. • Stated that inaction will lead to islands and coastal cities being submerged, cultures lost, human rights violated and people continuing to suffer its adverse impacts. • Welcomed the High Commissioner’s call on the international community to provide resources and technical support to South Pacific countries and SIDS for mitigation, adaptation and prevention. • Commended the High Commissioner for her partnership with the University of South Pacific to prioritise environmental issues and promote support for environmental defenders.⁵⁹³

592 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements, Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Statements.aspx?SessionId=31&MeetingDate=11/09/2019%2000:00:00>.

593 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements, Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Statements.aspx?SessionId=31&MeetingDate=10/09/2019%2000:00:00>.

S. No.	Panel Discussion	Fiji's Intervention
1.	Biennial panel discussion on unilateral coercive measures and human rights	<ul style="list-style-type: none"> Appreciated the Special Rapporteur's report and the updated elements for a draft UNGA declaration on unilateral coercive measures and the rule of law. Stated that it is difficult to construct a rationale for unilateral coercive measures against States, adding that such measures contribute to further violations of the rights of those who they purportedly seek to protect. Added that secondary sanctions on third countries, to economically isolate the targeted State, leave the people in a worse state with nowhere to seek relief. Demarcated the difference between taking a stand against a State and forcing other States to join the cause with threats of sanctions. Underlined the need to contemplate the consequences of advancing unilateral coercive measures and recognise how they contribute to human rights violations, while adding that the draft text should espouse this responsibility towards those adversely affected.⁵⁹⁴

IV. Voting Pattern on Resolutions

Thematic Resolutions

Fiji voted in favour of all six thematic resolutions that were put to vote during this Session⁵⁹⁵: *Composition of staff of the Office of the United Nations High Commissioner for Human Rights (OHCHR)*,⁵⁹⁶ *Promotion of a democratic and equitable international order*,⁵⁹⁷ *The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*,⁵⁹⁸ *The right to development*,⁵⁹⁹ *The question of the death penalty*⁶⁰⁰ and *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*.⁶⁰¹

It did not vote against or abstain from voting on any thematic resolution.⁶⁰² It joined the consensus for adopting the remaining 19 thematic resolutions in this Session.⁶⁰³

It also co-sponsored the resolution on *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*,⁶⁰⁴ which was adopted by the Council by majority vote.⁶⁰⁵

594 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Statements.aspx?SessionId=31&MeetingDate=12/09/2019%2000:00:00>.

595 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

596 Resolution 42/1 Composition of staff of the Office of the United Nations High Commissioner for Human Rights (OHCHR) (2019).

597 Resolution 42/8 Promotion of a democratic and equitable international order (2019).

598 Resolution 42/9 The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (2019).

599 Resolution 42/23 The right to development (2019).

600 Resolution 42/24 The question of death penalty (2019).

601 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

602 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

603 OHCHR, 42nd HRC Session, Resolutions, decisions and President's statements. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session42/Pages/ResDecStat.aspx>.

604 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

605 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

Fiji voted in favour of five of the total country situation resolutions that were tabled for vote during the Session⁶⁰⁶: *Human rights situation in Yemen*,⁶⁰⁷ *Situation of human rights of Rohingya Muslims and other minorities in Myanmar*,⁶⁰⁸ *Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela*,⁶⁰⁹ *Situation of human rights in Burundi*,⁶¹⁰ and *The human rights situation in the Syrian Arab Republic*.⁶¹¹

It did not vote against any country situation resolution.⁶¹² It abstained from voting on the resolution on *Situation of human rights in the Bolivarian Republic of Venezuela*.⁶¹³

It joined the consensus in adopting the remaining six country situation resolutions introduced during the Session.⁶¹⁴

V. Analysis: Compliance with Pledges and Commitments

a) Engagement with UN Special Procedures

Fiji has extended standing invitations to all thematic Special Procedures since March 2015.⁶¹⁵ It had pledged to 'cooperate with the Council and its mechanisms, in particular with the visits by the Special Rapporteur on human rights and the environment and by the Special Rapporteur on the right to freedom of religion'.⁶¹⁶ In line with this commitment, the Special Rapporteur on human rights and the environment completed his mission to Fiji in December 2018⁶¹⁷; the visit report was presented at the 43rd HRC Session in March 2020.⁶¹⁸

However, till March 2020, Fiji had six visit requests pending from the following active mandates, namely, the Special Rapporteurs on freedom of assembly, on internally displaced persons, on leprosy, and on food; the Working Group on business and human rights; and the Independent Expert on international solidarity.⁶¹⁹ In July 2020, the Working Group on mercenaries also sent a visit request to Fiji.⁶²⁰

b) Compliance with Reporting Obligations to Treaty Monitoring Bodies

In its voluntary pledges, Fiji committed "to ratify those international human rights instruments to which it is not

606 Ibid.

607 Resolution 42/2 Human rights situation in Yemen (2019).

608 Resolution 42/3 Situation of human rights of Rohingya Muslims and other minorities in Myanmar (2019).

609 Resolution 42/4 Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela (2019).

610 Resolution 42/26 Situation of human rights in Burundi (2019).

611 Resolution 42/27 The human rights situation in the Syrian Arab Republic (2019).

612 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

613 Ibid.

614 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

615 OHCHR, Standing Invitations to Special Procedures. Available at: <https://spinternet.ohchr.org/StandingInvitations.aspx#:~:text=A%20standing%20invitation%20is%20an,visit%20from%20all%20special%20procedures>.

616 Voluntary pledges and commitments submitted by Fiji. Available at: https://www.universal-rights.org/wp-content/uploads/2018/08/Fiji_Voluntary-pledges-and-commitments.pdf.

617 OHCHR, Country visits by Special Procedures to Fiji. Available at: <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&country=FJI&Lang=en>.

618 OHCHR, Country visits of the Special Rapporteur on human rights and the environment. Available at: <https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/Countryvisits.aspx>.

619 OHCHR, Country visits by Special Procedures to Fiji. Available at: <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&country=FJI&Lang=en>.

620 Ibid. (*However, this request will not be counted for the purposes of the report since it only looks at data available till 30 April 2020.)

yet party, and clearing its backlog of periodic reports to the UN treaty bodies”.⁶²¹ In that light, Fiji acceded to two core human rights treaties in August 2019, namely, the International Convention for the Protection of All Persons from Enforced Disappearance (CED) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW).⁶²²

Currently, Fiji has reports pending for three treaty bodies: CERD since 2016, CAT since 2017 and CRPD since 2019.⁶²³ Fiji’s periodic reports to CRC and CEDAW were submitted after a delay of six years and two years respectively.⁶²⁴ It has not yet ratified the optional protocols to key human rights treaties such as the CAT-OP, CCPR-OP2-DP, CRC-OP-AC and CRC-OP-SC.⁶²⁵

c) Compliance with Thematic Issues

Fiji pledged to ‘offer strong support to the Council initiatives where it has a particular interest, including independence of judges and lawyers and torture prevention’.⁶²⁶ It also joined consensus in adopting the resolutions **Human rights in the administration of justice, including juvenile justice**,⁶²⁷ and on **Arbitrary detention**.⁶²⁸ In the interactive dialogue with the Working Group on enforced disappearances, Fiji reiterated its commitment to ensuring the right of ‘access to information’, especially with regard to the rights of detained or arrested persons, and transparency and accountability of their whereabouts, among other things.⁶²⁹ Sections 9 and 13 of Fiji’s Constitution of 2013 outline the right to personal liberty and the rights of arrested and detained persons providing protection against arbitrary and unlawful detention.⁶³⁰ Fiji has also introduced measures such as the ‘First Hour Procedure’⁶³¹ and ‘caution interviews’⁶³² to ensure that any detention by the authorities is in a manner prescribed by the law and safeguards against human rights violations and that the arrested or detained persons are informed of their constitutional rights in furtherance of implementing their obligations under the UNCAT.⁶³³

However, despite progressive measures on the one hand, it has been reported that, till September 2019, 24 per cent of the total prison population in Fiji consisted of pre-trial detainees.⁶³⁴ In April 2019, three journalists from New Zealand were arrested and detained overnight by the police⁶³⁵; Prime Minister Frank Bainimarama had promptly apologised,⁶³⁶ for what he called an ‘isolated incident’.⁶³⁷ In 2019, workers and trade unions expressed concern about repression of trade union rights and alleged that the authorities used threats, arbitrary arrests and pre-trial detention

621 Voluntary pledges and commitments submitted by Fiji. Available at: https://www.universal-rights.org/wp-content/uploads/2018/08/Fiji_Voluntary-pledges-and-commitments.pdf.

622 OHCHR, Treaty Bodies, Reporting status for Fiji. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=FJI&Lang=EN.

623 Ibid.

624 Ibid.

625 Ibid.

626 Voluntary pledges and commitments submitted by Fiji. Available at: https://www.universal-rights.org/wp-content/uploads/2018/08/Fiji_Voluntary-pledges-and-commitments.pdf.

627 Resolution 42/11 (2019).

628 Resolution 42/22 (2019).

629 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Statements.aspx?SessionId=31&MeetingDate=11/09/2019%2000:00:00>.

630 Fiji’s Constitution of 2013, Sections 9 and 13. Available at: <http://www.paclii.org/fj/Fiji-Constitution-English-2013.pdf>.

631 Fiji Sun, ‘Analysis: 2135 persons helped through ‘First Hour Procedure’, 27 May 2018. Available at: <https://fijisun.com.fj/2018/05/27/analysis-2135-persons-helped-through-first-hour-procedure/>; see also, Fiji Village, ‘First-hour procedure reduces allegations of ill-treatment and an attitude change in the Fiji police’, 10 November 2019. Available at: <https://www.fijivillage.com/news/First-hour-procedure-reduces-allegations-of-ill-treatment-and-an-attitude-change-in-the-Fiji-Police-Force---Ali-52s9rk>.

632 Fiji’s Constitution of 2013, Section 13(1)(a). Available at: <http://www.paclii.org/fj/Fiji-Constitution-English-2013.pdf>.

633 The Government of Fiji, The Attorney-General Hon. Aiyaz Sayed-Khaiyum’s Keynote Address at the UNCAT Workshop, 6 February 2019. Available at: <https://bit.ly/2Xuar3D>.

634 World Prison Brief, Birkbeck – University of London, Fiji: Pre-trial / Remand Prison Population Trend 2019. Available at: <https://prisonstudies.org/country/fiji>.

635 ABC News, ‘New Zealand journalists arrested in Fiji after probing “illegal” Chinese resort development’, 4 April 2019. Available at: <https://www.abc.net.au/news/2019-04-04/new-zealand-journalists-arrested-in-fiji/10970956>.

636 Fiji Sun, ‘Prime Minister Bainimarama: I’m Sorry’, 5 April 2019. Available at: <https://fijisun.com.fj/2019/04/05/prime-minister-bainimarama-im-sorry/>.

637 RNZ, ‘Fiji PM apologises to NZ journalists detained in Fiji’, 4 April 2019. Available at: <https://www.rnz.co.nz/news/national/386287/fiji-pm-apologises-to-nz-journalists-detained-in-fiji>.

against them.⁶³⁸ The Government clarified its position stating that the actions taken by the police, including that of arrest and detention as alleged, were not intended to harass and intimidate, but to conduct further investigations into the violations of certain relevant laws.⁶³⁹ While the Constitution mandates that a detained person must be charged and brought to court within 48 hours of arrest,⁶⁴⁰ there is an exception on the arrests made under the Public Order Act.⁶⁴¹ Under the Act, police may detain a person for a maximum of 16 days without charge; the initial detention period of 48 hours maybe extended for a further period of 14 days, if deemed necessary, with the authority and under the direction of the Prime Minister.⁶⁴²

Recently, in October 2019, a 16-year old boy was detained by the military and police forces in Fiji for an alleged anti-Government post on Facebook⁶⁴³ and was held for nearly two days⁶⁴⁴ at the Republic of Fiji Military Force's (RFMF) Queen Elizabeth Barracks, Nebua.⁶⁴⁵ The military, however, stated that it did not authorise the questioning of the teenager and announced a probe into the matter.⁶⁴⁶ The boy alleged that he was kicked and punched while being detained.⁶⁴⁷ The NGO Coalition for Human Rights in Fiji raised concerns about the incident⁶⁴⁸ and expressed its disappointment that the Commissioner of Police justified these actions and the arrest as lawful⁶⁴⁹ and reiterated the call for protection of human rights.⁶⁵⁰ Reportedly, till March 2020, the Fiji Human Rights and Anti-Discrimination Commission (HRADC) was "awaiting a response" from the police and the military raising questions about the accountability of the security forces for arbitrary detention and ill-treatment.⁶⁵¹ Further, the HRADC, in its submission for Fiji's UPR Review in 2019, stated that between 2016 and 2018, it had received complaints alleging instances of police interviewing teenage girls without their parents' consent, failing to inform the family about the arrest, and suspects being detained for more than 48 hours.⁶⁵²

Chapter Two of the Constitution of Fiji 2013 guarantees freedoms of expression, assembly and association and the right of access to information.⁶⁵³ During this session, it co-sponsored the resolution on *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*, which condemned all **acts of intimidation or reprisal against civil society**, both online and offline, and called on States to take efforts to prevent and refrain from committing such acts.⁶⁵⁴ In its third UPR cycle, Fiji supported recommendations on constructive involvement of civil society and to safeguard freedom of expression, assembly, association and freedom of the press.⁶⁵⁵ Fiji ranks

638 ILO, Individual Case (Committee of Application of Standards - CAS), 108th ILC Session (2019). Available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:4000066.

639 Ibid.

640 Fiji's Constitution of 2013, Section 13(1)(f). Available at: <http://www.paclii.org/fj/Fiji-Constitution-English-2013.pdf>.

641 Public Order (Amendment) Decree 2012, Section 8 – Newly inserted Section 17A (2) to the Public Order Act. Available at: <https://www.fijifiu.gov.fj/getattachment/Law-Regulations/Other-Relevant-Laws/Public-Order-Amendment-Decree-2012.pdf.aspx>.

642 Ibid.

643 RNZ, 'Fijian boy questioned over anti-PM post on social media', 27 September 2019. Available at: <https://www.rnz.co.nz/international/pacific-news/399789/fijian-boy-questioned-over-anti-pm-post-on-social-media>.

644 Ibid.

645 The Fiji Times, 'Fiji's human rights body awaits response on teenager's assault claims', 2 March 2020. Available at: <https://www.fijitimes.com/fijis-human-rights-body-awaits-response-on-teenagers-assault-claims/>.

646 RNZ, 'Fiji army probes claims soldiers grilled teen over anti-PM post', 30 September 2019. Available at: <https://www.rnz.co.nz/international/pacific-news/399957/fiji-army-probes-claims-soldiers-grilled-teen-over-anti-pm-post>.

647 The Fiji Times, 'Kick and punch claim', 19 October 2019. Available at: <https://www.fijitimes.com/kick-and-punch-claim/>.

648 Fiji Women's Rights Movement, 'NGOCHR: Speaks out against alleged torture of a 16 year old boy by Fiji military', 30 October 2019. Available at: <http://www.fwrm.org.fj/news/media-releases/67-all-category/news/press-releases/557-ngochr-pr-ngochr-speaks-out-against-alleged-torture-of-a-16-year-old>.

649 Fiji Sun, 'Police speak out on the 16-year old's RFMF citizen arrest claim', 8 October 2019. Available at: <https://fijisun.com.fj/2019/10/08/police-speak-out-on-the-16-year-olds-rfmf-citizen-arrest-claim/#:~:text=Commissioner%20of%20Police%20Brigadier%2D%20General,of%20the%20Republic%20of%20Fiji>.

650 Fiji Women's Rights Movement, 'NGOCHR: Speaks out against alleged torture of a 16-year old boy by Fiji military', 30 October 2019. Available at: <http://www.fwrm.org.fj/news/media-releases/67-all-category/news/press-releases/557-ngochr-pr-ngochr-speaks-out-against-alleged-torture-of-a-16-year-old>.

651 CIVICUS Monitor, 'Civil society disappointed by Fiji's rejection of UN recommendations to revise repressive laws', 25 March 2020. Available at: <https://monitor.civicus.org/updates/2020/03/25/civil-society-disappointed-fijis-rejection-un-recommendations-revise-repressive-laws/>.

652 Working Group on the Universal Periodic Review, 34th Session, Summary of Stakeholders' submissions on Fiji, para 30, 22 August 2019. Available at: <https://undocs.org/A/HRC/WG.6/34/FJI/3>.

653 Fiji's Constitution of 2013, Sections 17-19, 25. Available at: <http://www.paclii.org/fj/Fiji-Constitution-English-2013.pdf>

654 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

655 OHCHR, Universal Periodic Review – Fiji (Third Cycle), Matrix of recommendations. Available at: https://lib.ohchr.org/HRBodies/UPR/Documents/Session34/FJ/UPR34_Fiji_Thematic%20list%20of%20Recommendations.docx.

52nd out of 180 countries on the Press Freedom Index⁶⁵⁶ and its ranking has consistently improved since 2013.⁶⁵⁷ However, a number of restrictive laws⁶⁵⁸ and threat of prosecution has reportedly forced the media to self-censor.⁶⁵⁹

Fiji still retains sedition provisions in its Penal Code despite several calls for its repeal.⁶⁶⁰ The maximum penalty for a “seditious publication”, if found guilty, is imprisonment for seven years.⁶⁶¹ In a recent case of the Fiji Times, three journalists were charged with sedition, but were ultimately acquitted by the High Court in May 2018.⁶⁶² Similarly, the Public Order (Amendment) Act⁶⁶³ and the Media Act, with its vaguely worded provisions,⁶⁶⁴ have reportedly created deep concerns among journalists, activists and the media.⁶⁶⁵ In February 2018, the Director of the Fijian magazine ‘Islands Business’, along with two colleagues, were interrogated for breach of Section 15 of the Public Order Act for reporting on the issue of Air Terminal Service (ATS) workers⁶⁶⁶ and the alleged termination of the magistrate who ruled in the workers’ favour.⁶⁶⁷ Similar concerns have also been raised about some other laws such as the Online Safety Act 2018, which was put in place to “deter harmful online behaviour”. However, there were concerns raised by the civil society such as lack of guiding principles to define the scope of the Commission it creates to receive, assess and investigate complaints, which creates a possibility of being misused to criminalise legitimate speech.⁶⁶⁸ The CEDAW, in its concluding observations of March 2018, had raised concerns about the adverse effect of these laws, in addition to the Parliamentary Powers and Privileges Bill of 2016, on the work of NGOs, human rights defenders and journalists and recommended Fiji to review these laws and repeal the undue restrictions placed thereunder.⁶⁶⁹ These specific recommendations to amend or repeal restrictive laws, including those to promote and protect freedom of assembly were reiterated in its UPR and not supported by the Government.⁶⁷⁰

Freedom of assembly and association in Fiji, especially for trade unions, is allegedly restricted due to the Public Order (Amendment) Act 2014 which basically allowed the Government to refuse permits for any public meeting or march that could prejudice maintenance of peace or public order.⁶⁷¹ The 2017 Amendment removed such requirement for meeting in a public place, but retained the need to obtain such a permit for holding a meeting in a public park or road.⁶⁷² In June 2019, the National Secretary of the Fiji Trade Union Congress (FTUC) was arrested for breach of the

656 Reporters Without Borders, ‘World Press Freedom Index 2020’. Available at: https://rsf.org/en/ranking_table.

657 Reporters Without Borders, Country profile: Fiji. Available at: <https://rsf.org/en/fiji>.

658 Asia Pacific Report, ‘Sedition, coup-era media law and nerves keep lid on Fiji press’, 3 September 2018. Available at: <https://asia-pacificreport.nz/2018/09/03/sedition-coup-era-media-law-and-nerves-keep-lid-on-fiji-media/>.

659 Reporters Without Borders, Country profile: Fiji. Available at: <https://rsf.org/en/fiji>; see also, International Service for Human Rights and Rainbow Pride Foundation, ‘Briefing Paper: The Situation of Human Rights Defenders in Fiji’, March 2019. Available at: http://www.ishr.ch/sites/default/files/files/upr_fiji_final.pdf.

660 ABC News, ‘Calls in Fiji for the offence of sedition to be repealed’, 23 May 2018. Available at: <https://www.abc.net.au/radio/programs/pm/calls-in-fiji-for-the-offence-of-sedition-to-be-repealed/9792840>.

661 Government of Fiji, Crimes Act 2009, Section 67: Seditious offences. Available at: <https://laws.gov.fj/Acts/DisplayAct/798#>.

662 RNZ, ‘Fiji Times four found not guilty of sedition’, 22 May 2018. Available at: <https://bit.ly/2Dmhrsc>.

663 Government of Fiji, Public Order Act (1969), Section 15. Available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/95506/112475/F-2087560428/FJ195506.pdf>; see also, Devpolicy Blog, ‘Fiji’s review at the Human Rights Council highlights lack of progress on civic freedoms’, 29 November 2019. Available at: <https://devpolicy.org/fijis-review-at-the-human-rights-council-highlights-lack-of-progress-on-civic-freedoms-20191129/>.

664 Reporters Without Borders, Country profile: Fiji. Available at: <https://rsf.org/en/fiji>.

665 CIVICUS, ‘Civil society calls on Fiji to address civic space concerns’, 5 November 2019. Available at: <https://www.civicus.org/index.php/media-resources/news/united-nations/geneva/4155-civil-society-calls-on-fiji-to-address-civic-space-concerns>.

666 RNZ, ‘ATS workers could return after Fiji magistrate ruling’, 22 January 2018. Available at: <https://www.rnz.co.nz/international/pacific-news/348443/ats-workers-could-return-after-fiji-magistrate-ruling>.

667 Islands Business, ‘Could over magistrate in ATS case’, 9 February 2018. Available at: <https://www.islandsbusiness.com/past-news-break-articles/item/1985-cloud-over-magistrate-in-ats-case.html>.

668 Fiji Women’s Rights Movement (NGO Coalition for Human Rights) Online Safety Bill (2018) Submission, paras 1-2. Available at: <http://www.fwrm.org.fj/images/resources/NGOCHR-Online-Safety-Bill-Submission.pdf>.

669 CEDAW, Concluding observations on the fifth periodic report of Fiji, 14 March 2018. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/FJI/CO/5&Lang=En.

670 CIVICUS, ‘Civil society disappointed by Fiji’s rejection of UN recommendations to revise repressive laws’, 25 March 2020. Available at: <https://monitor.civicus.org/updates/2020/03/25/civil-society-disappointed-fijis-rejection-un-recommendations-reverse-repressive-laws/>.

671 Government of Fiji, Public Order (Amendment) Decree 2014. Available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/98623/117438/F2071131074/FJ198623.pdf>, see also, CIVICUS, ‘Fiji: Government rejects review of restrictive laws used to target journalists, activists and its critics’, 13 March 2020. Available at: <https://www.civicus.org/index.php/media-resources/news/united-nations/geneva/4340-fiji-sedition-laws-used-to-target-journalists-activists-and-government-critics>.

672 Public Order (Amendment) Act 2017, Section 2 (1) and (2) – Section 8 amended. Available at: <http://www.parliament.gov.fj/wp-content/uploads/2017/03/Act-1-Public-Order-Amendment-Act.pdf>.

Public Order Act⁶⁷³ and was held for two days before being released.⁶⁷⁴ The FTUC was reportedly denied permission to hold a march at least six times between 2018 and 2019, without any valid reason and often at the last minute.⁶⁷⁵ It was reported that the Fijian authorities have arrested workers and unionists for planning to hold protests,⁶⁷⁶ threatened teachers and Government employees against participating in the protests⁶⁷⁷ and allegedly harassed a women's rights defender, demanding information about the nature of her planned discussions with the UN Secretary General's on her visit to the country.⁶⁷⁸

During the session, Fiji joined the consensus⁶⁷⁹ in the Council to adopt the resolution, *From rhetoric to reality: a global call for concrete action against, racism, racial discrimination, xenophobia and related intolerance*.⁶⁸⁰ The resolution, among other things, underlined the need to eliminate legal obstacles and discriminatory practices hampering full participation of all in public and political life and for combatting contemporary forms of racism.⁶⁸¹ Fiji's Constitution of 2013, through its Section 26, guarantees freedom from discrimination, directly or indirectly, on ground of race, culture, ethnic or social origin, colour, place of birth, primary language, religion and conscience, among other things.⁶⁸² The then Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance was invited by the Government for a visit in 2016, who submitted his report in November 2017.⁶⁸³ She made note of the role of the HRADC and other official policies to combat racism and discrimination.⁶⁸⁴

The 2013 Constitution ensured that all citizens are "Fijians", irrespective of their ethnic origin, and are equal in status and rights.⁶⁸⁵ It has been reported that the issue of landownership remains a source of contention between the iTaukei and Fijians of Indian descent.⁶⁸⁶ The Special Rapporteur noted that the iTaukei hold approximately 87 per cent of the land, the Government owns four per cent and the remaining land is freehold land, which private individuals or companies hold. It is estimated that Fijians of Indian descent own about three per cent of the freehold land. This system of landownership is protected by the 2013 Constitution.⁶⁸⁷ It states that the ownership of the iTaukei, Rotuman, and Banaban lands shall always remain with the customary landowners and cannot be alienated.⁶⁸⁸ Most of the cash-crop farmers are Fijians of Indian descent and consequently almost all of them lease their land from iTaukei landowners.⁶⁸⁹ Concerns have been raised that the limits placed on the former's ability to own land and

673 Fiji Broadcasting Corporation, 'Felix Anthony arrested', 28 June 2019. Available at: <https://www.fbcnews.com.fj/news/felix-anthony-arrested/>.

674 Amnesty International, 'Fiji: Drop baseless charges against trade unionist', 28 June 2019. Available at: <https://www.amnesty.org/en/latest/news/2019/06/fij-drop-baseless-charges-trade-unionist/>.

675 CIVICUS, 'Civil society calls on Fiji to address civic space concerns', 5 November 2019. Available at: <https://www.civicus.org/index.php/es/component/content/article/132-media-resources/news/united-nations/geneva/4155-civil-society-calls-on-fiji-to-address-civic-space-concerns?Itemid=1523>.

676 RNZ, 'Fiji union leader released; members charged with unlawful assembly bailed', 3 May 2019. Available at: <https://www.rnz.co.nz/international/pacific-news/388419/fiji-union-leader-released-members-charged-with-unlawful-assembly-bailed>.

677 Equal Times, 'Has Fiji's democracy decayed into a police state?', 10 June 2019. Available at: <https://www.equaltimes.org/has-fiji-s-democracy-decayed-into#.XyuzvfgzbJ8>.

678 CIVICUS Monitor, 'Fiji authorities suppress workers and attempt to silence activist', 18 June 2019. Available at: <https://monitor.civicus.org/updates/2019/06/18/fiji-authorities-suppresses-workers-and-attempt-silence-activist/>; see also, Fiji Village, 'Raj urges Shamima Ali to lodge an official complaint with police regarding officers who purportedly called her five times', 16 May 2019. Available at: <https://fijivillage.com/news/Raj-urges-Shamima-Ali-to-lodge-an-official-complaint-with-Police-regarding-officers-who-purportedly-called-her-five-times-2rs5k9>.

679 OHCHR, 42nd HRC Session, Resolutions, decisions and President's statements. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session42/Pages/ResDecStat.aspx>.

680 Resolution 42/29 From rhetoric to reality: a global call for concrete action against, racism, racial discrimination, xenophobia and related intolerance (2019).

681 Ibid.

682 Fiji's Constitution of 2013, Section 26(3)(a). Available at: <http://www.paclii.org/fj/Fiji-Constitution-English-2013.pdf>.

683 OHCHR, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Fiji, 2 November 2017. Available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/41/Add.3.

684 Ibid, Parts IV and V.

685 Fiji's Constitution of 2013, Preamble. Available at: <http://www.paclii.org/fj/Fiji-Constitution-English-2013.pdf>.

686 OHCHR, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Fiji, para 46, 2 November 2017. Available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/41/Add.3.

687 Ibid, paras 48-49.

688 Fiji's Constitution of 2013, Sections 26(8) and 28. Available at: <http://www.paclii.org/fj/Fiji-Constitution-English-2013.pdf>.

689 The Fiji Times, 'Farming leases', 20 March 2020. Available at: <https://www.pressreader.com/fiji/the-fiji-times/20200320/281831465812755>; read with OHCHR, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Fiji, para 51, 2 November 2017. Available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/41/Add.3.

consequent dependency on the iTaukei constitutes *de facto* discrimination.⁶⁹⁰ The Special Rapporteur also noted that the proposed restructuring of the sugar industry has further strained relations between indigenous landowners and tenant farmers of Indian descent.⁶⁹¹

It was also found that there is a lack of disaggregated data, especially on the socio-economic situation of the different ethnic groups, to monitor the progress of the inclusive policies. Such recommendations were also previously made by some other treaty bodies.⁶⁹² The Special Rapporteur reiterated the CERD's recommendation on adopting a comprehensive legislation against racism and racial and ethnic discrimination, including a national action plan and the establishment of racial/ethnic motives as aggravating circumstances in the criminal legislation.⁶⁹³ However, such a recommendation repeated in its recent UPR cycle was not supported by Fiji.⁶⁹⁴ The Media Industry Development Decree of 2010 prohibits media content that: is against the public interest or order; is against national interest; or creates communal discord. However it lacks of a proper definition of what constitutes racist or hate speech.⁶⁹⁵ At the end of his mission, the Special Rapporteur recognised the efforts made by the Government while noting that hate speech in the media, in the Parliament and on the internet remains very strong.⁶⁹⁶ In its concluding observations, CEDAW noted with concern that women belonging to ethnic and religious minority groups and indigenous women in Fiji are exposed to significant intersecting discrimination and had recommended that Fiji redouble its efforts to combat such discrimination.⁶⁹⁷ It must be noted that Fiji's periodic report to the CERD has also remained pending since February 2016.⁶⁹⁸

During this session, Fiji noted with concern in the interactive dialogue with the Special Rapporteur on **contemporary forms of slavery** that most victims of contemporary slavery are found in the Asia-Pacific region, while reiterating the co-relation between climate change induced migration and contemporary forms of slavery.⁶⁹⁹ Fiji also joined the consensus⁷⁰⁰ in adopting the resolution on *Special Rapporteur on contemporary forms of slavery, including its causes and consequences* that extended the mandate for another term of three years.⁷⁰¹ In August 2019, Fiji joined the Alliance 8.7 by becoming a Pathfinder Country to achieve SDG Target 8.7.⁷⁰² Fiji's Constitution of 2013 provides for freedom from slavery, forced labour and human trafficking.⁷⁰³ The Crimes Act 2009 punishes offences amounting to slavery, sexual servitude and exploitation, trafficking in persons and in children, and debt bondage.⁷⁰⁴ Fiji also

690 OHCHR, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Fiji, para 51, 2 November 2017. Available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/41/Add.3.

691 Ibid; see also, Fijileaks, 'Fiji Cane Growers Association's submission to the Parliamentary Standing Committee on Economic Affairs on Bills 19 and 20 of 2016', 15 May 2016. Available at: <https://www.fijileaks.com/home/fiji-cane-growers-association-we-reject-these-bills-outright-and-request-the-committee-to-recommend-that-these-be-shelved-reform-of-the-sugar-industry-bill-and-sugar-cane-growers-fund-amendment-bill>.

692 OHCHR, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Fiji, paras 52-53, 2 November 2017. Available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/41/Add.3.

693 Ibid, para 54.

694 OHCHR, Universal Periodic Review of Fiji: Third Cycle, 'Matrix of recommendations', Recommendation 140.24. Available at: <https://bit.ly/3kqUHLz>.

695 OHCHR, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Fiji, paras 52-53, 2 November 2017. Available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/41/Add.3.

696 OHCHR, Press Release, 'The end of racism and xenophobia relies on the commitment of Fiji's political leadership – UN Expert', 13 December 2013. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21025&LangID=E>.

697 CEDAW, Concluding observations on the fifth periodic report of Fiji, paras 55-56, 14 March 2018. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/FJI/CO/5&Lang=En.

698 OHCHR, Treaty Bodies, Reporting status for Fiji. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=FJI&Lang=En.

699 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2PICFcd>.

700 OHCHR, 42nd HRC Session, Resolutions, decisions and President's statements. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session42/Pages/ResDecStat.aspx>.

701 Resolution 42/10 Special Rapporteur on contemporary forms of slavery, including its causes and consequences (2019).

702 Government of Fiji, 'Fiji volunteered to be a Pathfinder Country in the Pacific on Alliance 8.7', 22 August 2019. Available at: <https://bit.ly/2F2tL1z>.

703 Fiji's Constitution of 2013, Section 10. Available at: <http://www.paclii.org/fj/Fiji-Constitution-English-2013.pdf>.

704 Government of Fiji, Office of the Director of Public Prosecutions, "Anti-Human Trafficking". Available at: <http://odpp.com.fj/anti-human-trafficking/>; see also, Crimes Act 2009, Chapter 3 – Divisions 5 and 6. Available at: <https://laws.gov.fj/Acts/DisplayAct/798#>.

ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children in 2017 supplementing the UN Convention Against Transnational Organized Crime.⁷⁰⁵

Despite laws and policies, owing to its extensive porous border with a large maritime space,⁷⁰⁶ Fiji is often exploited as a source, transit and destination country for cross-border trafficking as well as domestic human trafficking.⁷⁰⁷ The CEDAW raised concerns about the high number of women and children who were trafficked in the country.⁷⁰⁸ While Fiji reportedly has successfully prosecuted some trafficking cases,⁷⁰⁹ the CEDAW had noted that the prosecution and conviction rates in trafficking cases were low, despite higher number of reported victims.⁷¹⁰ It was reported that in 2018, the police initiated investigation into and prosecution of three suspected trafficking cases.⁷¹¹ Recommendations have been made for strengthening mechanisms for early identification and provision of legal support to victims and survivors,⁷¹² updated statistics and data on trafficking and capacity-building of the law enforcement agencies.⁷¹³

Child trafficking, including sale of children for prostitution and forced marriages, is an important concern in the country.⁷¹⁴ Children living in poverty are specifically at a risk of being trafficked or pushed into forced labour⁷¹⁵; the CEDAW had raised concerns about the high number of girls sold by their own families to cope with poverty, especially in the aftermath of the Winston cyclone in 2016.⁷¹⁶ While the Employment Relations Act 2007 prohibits the sale and trafficking of children, it does not explicitly mention it in the context of child, early and forced marriage.⁷¹⁷ The rates of child, early and forced marriages in Fiji are lower than the average found in the Pacific region due to legislative development, although girls from disadvantaged or marginalised groups may still face risk.⁷¹⁸ There are some gaps in Fiji's legal framework to adequately protect children from the worst forms of child labour, including light work.⁷¹⁹ The Employment Relations Act specifies the conditions under which children ages 13 to 15 may engage in light work, but does not include a list of activities that are permissible.⁷²⁰ Further, climate change, migration⁷²¹ and natural disasters have contributed to increased vulnerability, especially of children, to sexual exploitation.⁷²² During the session, Fiji called on States to take a universal stand against resurgence of enslavement in armed conflicts and to reaffirm the

705 CEDAW, Concluding observations on the fifth periodic report of Fiji, para 31, 14 March 2018. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW/C/FJI/CO/5&Lang=En.

706 Government of Fiji, 'Trafficking one of the worst forms of violence: Minister Vuniwaqa', 11 December 2019. Available at: <https://www.fiji.gov.fj/Media-Centre/News/TRAFFICKING-ONE-OF-THE-WORST-FORMS-OF-VIOLENCE-MIN>.

707 IOM, 'Project launched to protect the rights of victims of trafficking in Fiji', 30 July 2020. Available at: <https://www.iom.int/news/project-launched-protect-rights-victims-trafficking-fiji>.

708 OHCHR, 'Committee on the Elimination of Discrimination against Women assesses the situation of women in Fiji', 23 February 2018. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22699&LangID=E>.

709 The Fiji Times, 'Human trafficking cases increasing in the Pacific', 22 February 2019. Available at: <https://www.fijitimes.com/human-trafficking-cases-increasing-in-the-pacific/>.

710 Ibid.

711 US Department of State, 2019 Trafficking in Persons: Fiji. Available at: <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/fiji/>.

712 CEDAW, Concluding observations on the fifth periodic report of Fiji, para 32, 14 March 2018. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW/C/FJI/CO/5&Lang=En.

713 Alliance 8.7, 'Developing a joint roadmap for Fiji as a pathfinder country to achieve SDG Target 8.6', p.8, 22-23 August 2019. Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-suva/documents/publication/wcms_726134.pdf.

714 Reuters, 'Fiji urged to end the silence and crackdown on child prostitution', 8 December 2017. Available at: <https://www.reuters.com/article/us-fiji-sextrafficking-children/fiji-urged-to-end-the-silence-and-crackdown-on-child-prostitution-idUSKBN1E2261>.

715 Alliance 8.7, 'Developing a joint roadmap for Fiji as a pathfinder country to achieve SDG Target 8.6', p.13, 22-23, August 2019. Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-suva/documents/publication/wcms_726134.pdf.

716 OHCHR, 'Committee on the Elimination of Discrimination against Women assesses the situation of women in Fiji', 23 February 2018. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22699&LangID=E>.

717 Government of Fiji, Employment Relations Act 2007, Sections 6 and 91. Available at: <https://laws.gov.fj/Acts/DisplayAct/483#>; see also, Working Group on the Universal Periodic Review, Summary of stakeholders' submissions on Fiji, para 59, 22 August 2019. Available at: <https://undocs.org/A/HRC/WG.6/34/FJI/3>.

718 EPCAT International, 'Fiji: A report on the scale, scope and context of sexual exploitation of children', pp. 14-15, June 2019. Available at: <https://www.ecpat.org/wp-content/uploads/2019/05/ECPAT-Country-Overview-Report-Fiji-2019.pdf>.

719 ILO, 2018 Findings on the Worst Forms of Child Labour: Fiji, p.2. Available at: https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2018/Fiji.pdf.

720 Government of Fiji, Employment Relations Act 2007, Section 93. Available at: <https://laws.gov.fj/Acts/DisplayAct/483#>

721 42nd HRC Session, Report of the Special rapporteur on contemporary forms of slavery, including its causes and consequences, para 15, 25 July 2019. Available at: https://www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/42/44.

722 EPCAT International, 'Fiji: A report on the scale, scope and context of sexual exploitation of children', pp. 14-15, June 2019. Available at: <https://www.ecpat.org/wp-content/uploads/2019/05/ECPAT-Country-Overview-Report-Fiji-2019.pdf>

norm of warfare against enslavement.⁷²³ However, it has not yet ratified the CRC-OP-SC and the CRC-OP-AC,⁷²⁴ despite recommendations to that effect.⁷²⁵

VI. Conclusions

Fiji participated in selected debates and dialogues during the session. It also co-sponsored the resolution on *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*,⁷²⁶ which was adopted by the Council by majority vote.⁷²⁷

- Fiji had pledged to cooperate with the Council and its mechanisms, in particular with the visits by the Special Rapporteur on human rights and the environment and by the Special Rapporteur on the right to freedom of religion. In line with this commitment, the Special Rapporteur on human rights and the environment completed his mission to Fiji in December 2018.⁷²⁸ However, it still has six visit requests pending from active thematic mandates.
- It co-sponsored the resolution condemning all acts of intimidation or reprisal against the civil society; however, Fiji has some national laws whose provisions are reportedly restrictive⁷²⁹ and have been used to impede the legitimate work and fundamental freedoms of media professionals, human rights defenders and trade unions.
- Fiji became a Pathfinder Country to achieve SDG Target 8.7 in August 2019. Although it has laws and policies in place and has been making efforts to combat modern slavery, the incidence of human trafficking and forced labour, including of children, remains high. Several factors such as its porous borders, vulnerabilities due to poverty and climate change induced migration, legislative gaps and difficulties in enforcement, among other things, have contributed to the prevalence of modern slavery.

723 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2PICFcd>.

724 OHCHR, Treaty Bodies, Reporting status for Fiji. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=FJI&Lang=EN.

725 Fiji Village, 'Fiji should ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict – Ashwin Raj', 7 July 2020. Available at: <https://www.fijivillage.com/news/Fiji-should-ratify-the-Optional-Protocol-to-the-Convention-on-the-Rights-of-the-Child-on-the-involvement-of-children-in-armed-conflict--Ashwin-Raj-f5r4x8/>.

726 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

727 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

728 OHCHR, Country visits by Special Procedures to Fiji. Available at: <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&country=FJI&Lang=en>.

729 Asia Pacific Report, 'Sedition, coup-era media law and nerves keep lid on Fiji press', 3 September 2018. Available at: <https://asiapacificreport.nz/2018/09/03/sedition-coup-era-media-law-and-nerves-keep-lid-on-fiji-media/>.

I. Introduction

India was among the first 47 Member States elected to the HRC in its inaugural year in 2006.⁷³⁰ It has subsequently served as a member of the HRC from 2011-2013⁷³¹ and 2015-2017.⁷³² It was elected to the Council to serve its fourth term in 2018 through a clean slate election.⁷³³ Its current term began in 2019 and is set to end in 2021.⁷³⁴

II. Voluntary Pledges and Commitments

In its voluntary pledges, India pointed towards a long tradition of promoting and protecting human rights. It highlighted that the Constitution of India enshrined its commitment to human rights by guaranteeing fundamental political and civil rights to its citizens and provided for the progressive realisation and enforcement of economic, social and cultural rights.⁷³⁵

India pledged to⁷³⁶:

- Continue to uphold the highest standards in the promotion and protection of human rights.
- Continue to strive for the full realisation of civil, political, economic, social and cultural rights, including the right to development.
- Continue to abide by its national mechanisms and procedures to promote and protect the human rights and fundamental freedoms of all its citizens.
- Continue to cooperate with States, upon request, in their implementation of human rights through capacity-building by means of technical cooperation and dialogue with experts.
- Continue to strive to promote the work of the Human Rights Council in accordance with the principles of sovereign equality, mutual respect, cooperation and dialogue.
- Continue to strive to make the Human Rights Council a strong, effective and efficient body capable of promoting and protecting human rights and fundamental freedoms for all.
- Continue to support international efforts to combat racism, racial discrimination, xenophobia and related intolerance.
- Continue to engage constructively in the deliberations of the Human Rights Council, its subsidiary bodies and mechanisms.
- Continue to support the Office of the United Nations High Commissioner for Human Rights, including through regular voluntary contributions.
- Continue to cooperate with Special Procedures, accept requests for visits and respond to communications.
- Remain committed to implementing the recommendations it accepted during the third cycle of the universal periodic review.
- Remain committed to ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Continue to cooperate with treaty monitoring bodies and engage constructively with them in the context of

⁷³⁰ United Nations General Assembly, Elections of the Human Rights Council, 9 May 2006. Available at: <https://www.un.org/press/en/2006/ga10459.doc.htm>.

⁷³¹ United Nations General Assembly, Elections of the Human Rights Council, 20 May 2011. Available at: <https://www.un.org/en/ga/65/meetings/elections/hrc.shtml>.

⁷³² United Nations General Assembly, Elections of the Human Rights Council, 28 October 2015. Available at: <https://www.un.org/en/ga/70/meetings/elections/hrc.shtml>.

⁷³³ United Nations General Assembly, Elections of the Human Rights Council, 12 October 2018. Available at: <https://www.un.org/en/ga/73/meetings/elections/hrc.shtml>.

⁷³⁴ Ibid; see also, OHCHR, Current membership of the Human Rights Council. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/CurrentMembers.aspx>.

⁷³⁵ Office of the High Commissioner for Human Rights, Voluntary pledges and commitments submitted by India, para 28, 4 October 2018. Available at: <https://undocs.org/en/A/73/394>.

⁷³⁶ Ibid.

fulfilling its human rights obligations.

- Continue to strengthen the implementation of the human rights treaties that it has ratified.
- Maintain the independence, autonomy and genuine powers of investigation of national human rights bodies, including its National Human Rights Commission and other National Commissions for Women, Child Rights, Minorities, Backward Classes, as mandated by the Constitution and national legislation.
- Continue to foster the genuine participation and effective involvement of civil society in the promotion and protection of human rights.
- Continue its strong support for and steadfast commitment to working with fellow developing countries and the United Nations development system towards collectively achieving the Sustainable Development Goals.
- Continue to pursue the necessary domestic actions to implement the 2030 Agenda, with an overarching focus on poverty eradication and a balanced emphasis on social development, economic growth and environmental protection.

III. Participation at the 42nd Session of the HRC

India participated actively across interactive dialogues and general debates during this session. The following is a selected representation of India’s participation:

S. No.	Interactive Dialogue	India’s Interventions
1.	Clustered interactive dialogue with the Special Rapporteur on the human rights to safe drinking water and sanitation and the Special Rapporteur on hazardous substances and waste	<ul style="list-style-type: none"> • Informed the Council of its accelerated efforts to achieve universal sanitation coverage in a timely manner with the launch of the <i>Swacch Bharat Mission</i> in 2014 with the aim of achieving an open defecation free India. • Reported that after the launch of the mission, its rural sanitation coverage has increased from 39% in 2014 to over 99% as of June 2019. • Stated that another significant step for the realisation of the right is the creation of the <i>Jal Shakti Ministry</i>, by integrating the Ministry of Water Resources, River Development and Ganga Rejuvenation and Ministry of Drinking Water and Sanitation, for the management of its water resources and which ensures an integrated, piped water supply to all rural households by 2024. • Emphasised the importance of the <i>Jal Shakti Abhiyan</i> for water conservation and security as a collaborative scheme that aims at providing drinking water to every household in a priority manner and focuses on five important water conservation interventions. • Reiterated its commitment to ensure access to water and sanitation in all spheres of life, especially in public spaces, as an essential element for the full realisation of the human rights to water and sanitation.⁷³⁷

⁷³⁷ Permanent Mission of India in Geneva, 42nd HRC Session – Statement, 9 September 2019. Available at: <https://pmindiaun.gov.in/pageinfo/MjAxNg,,>

2.	Clustered interactive dialogue with the Independent Expert on the human rights of older persons and the Special Rapporteur on the right to development	<ul style="list-style-type: none"> • Affirmed the importance of the right to development as a vehicle for improving human rights and undertook to continue to constructively work towards its realisation. • Stated that the right to development can provide a balanced and comprehensive framework to strengthen global partnership to achieve SDGs in a sustainable manner while promoting human rights for all. • Agreed that the process of development needs to be nationally owned: driven by national needs and priorities and complemented by equitable economic relations and environment at the international level. • Welcomed the Special Rapporteur's report exploring the connection between the right to development and equality in implementing the equality-related goals and targets of the 2030 Agenda. • Appreciated the Special Rapporteur for regional consultations with stakeholders on various issues such as access to adequate information, monitoring and evaluation, accountability and access to remedies among others for realising of the right to development. • Remained committed to the implementation of the right to development and contributed USD 25,000 for the activities of the Special Rapporteur, while supporting the renewal of his mandate.⁷³⁸
3.	Interactive dialogue with the Special Rapporteur on Myanmar	<ul style="list-style-type: none"> • Emphasised the need to recognise limits to Myanmar's capacity, bearing in mind its evolving democracy, developing institutional capacities and regional and global engagements in the last two decades. • Urged the international community to help create conditions for sustainable, safe and speedy return of all displaced communities as it is vital to promote engagement-based efforts to address the root cause of the socio-economic conflict in Rakhine state. • Encouraged Myanmar's efforts to implement the Annan Commission's recommendations and added that the independent Commission of Inquiry and UN human rights entities should be constructively engaged. • Stated that threatening Myanmar with punitive action including at the ICC, to which it is not a signatory, will be counter-productive and that the approach should also relieve Bangladesh's socio-economic strain. • Suggested that the way forward must be to encourage implementing the agreement on return of displaced persons and facilitate repatriation, for which international efforts to improve the socio-economic environment in Rakhine are essential. • Noted that the HRC's efforts need to have the right tone and that building trust is key to address the problem.⁷³⁹

738 Permanent Mission of India in Geneva, 42nd HRC Session - Statement, 12 September 2019. Available at: <https://pmindiaun.gov.in/pageinfo/MjAxNw,,>

739 Permanent Mission of India in Geneva, 42nd HRC Session - Statement, 16 September 2019. Available at: <https://www.pmindi-aun.gov.in/pageinfo/MjAxMw,,>

4.	Interactive dialogue with the fact-finding mission on Myanmar	<ul style="list-style-type: none"> • Reiterated that the international community should engage more constructively to support and encourage Myanmar in its path towards democratic reforms. • Asserted that rendering genuine assistance to strengthen Myanmar’s democratic journey is essential. • Stated that cessation of hostilities by all groups is essential for an enduring peace process and recognising Myanmar’s complexities merit a nuanced treatment. • Noted the extensive recommendations in the Fact-Finding Mission’s reports, including constitutional, legislative and policy actions, while reminding the need to recognise the limitations to its systemic capacity. • Encouraged the implementation of the Annan Commission recommendations and constructive engagement with the Independent Commission of Inquiry established in Myanmar.⁷⁴⁰
5.	Interactive dialogue with the Assistant Secretary-General for Human Rights on the report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights	<ul style="list-style-type: none"> • Informed that all reported acts or threats of reprisals in India are examined and appropriate action is taken; added that protection of HRDs is a core priority of the NHRC, while the Press Council of India ensures safety of journalists and monitors cases of threats. • Called all acts of reprisals and intimidation as unacceptable and reaffirmed that active cooperation of millions of active and vocal civil society voices from India with the UN system reflects its policy. • Asserted that bringing transparency in governance is its focus and added that the Digital India programme and the Right to Information Act are efforts in the direction. • Committed to the principle of protection of HRDs, but stressed the need for their activities to be in conformity with its legal framework and Constitution. • Underlined the need for the information received by the UN system to be duly corroborated and added that cooperation with the UN cannot be used as an alibi to misuse the mechanism for political purposes.⁷⁴¹
6.	Interactive dialogue with the Human Rights Council Advisory Committee	<ul style="list-style-type: none"> • Stated that the importance of the Advisory Committee in providing expertise and advice to the Council is rising and with the equitable geographical representation of its membership, it brings a comprehensive understanding on various issues. • Took note of action taken by the Committee on seven thematic human rights issues mandated by various resolutions, including the preparation of reports on the negative effects of terrorism on the enjoyment of all human rights and on the importance of a legally binding instrument on the right of development. • Appreciated the work of the Committee on the right to development and agreed that development contributes to better enjoyment of human rights, as greater availability of resources can enhance availability, accessibility and quality of good and services necessary for the enjoyment of human rights. • Looked forward to the report on current levels of representation of women in human rights organs and the study on new and emerging digital technologies as recently mandated by the Council.⁷⁴²

740 Permanent Mission of India in Geneva, 42nd HRC Session – Statement, 17 September 2019. Available at: <https://www.pmindiaun.gov.in/pageinfo/MjAxMg,,>

741 Permanent Mission of India in Geneva, 42nd HRC Session – Statement, 19 September 2019. Available at: <https://pmindiaun.gov.in/pageinfo/MjAxNA,,>

742 Permanent Mission of India in Geneva, 42nd HRC Session – Statement, 19 September 2019. Available at: <https://pmindiaun.gov.in/pageinfo/MjAxNQ,,>

S. No.	General Debate	India's Interventions
1.	General debate on the Oral update by the United Nations High Commissioner for Human Rights (Item 2)	<ul style="list-style-type: none"> • Informed the Council about progressive legislations and policies for socio-economic equality in the spirit of its motto of <i>Sabka Saath, Sabka Vikas, Sabka Vishwas</i> which emulates the principle of 'leave no one behind'. • Spoke of the progressive legislative measures -- aimed at ending gender discrimination; ensuring better protection of juvenile rights; creating stronger laws against domestic violence – all enacted after debates in Parliament and are India's sovereign decisions. • Affirmed that these progressive measures will also be applicable to the citizens in Jammu, Kashmir and Ladakh and assured that, despite challenging circumstances, basic services and essential supplies were being provided and restrictions were being gradually eased. • Pointed out the necessity to place temporary preventive measures for the safety and security of citizens in the face of credible threats of cross-border terrorism, while underlining the need for the international community to work together to fight against terrorism and those who abet, finance and support it in any form. • Declared that the National Register for Citizens is a statutory, transparent and non-discriminatory legal process monitored by the Supreme Court and all decisions in the process are in compliance with the Indian law and consistent with its democratic traditions. • Reiterated its belief in a constructive approach to shape the human rights discourse in the Council and the need to find practical measures for realisation of human rights as well as "the need to call out those who misuse the platform for malicious political agendas".⁷⁴³
2.	General debate on Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (Item 3)	<ul style="list-style-type: none"> • Reminded the Council was based as a forum for dialogue on human rights issues with impartiality, objectivity, non-selectivity, constructive international dialogue and cooperation as its guiding principles informed by the reason that its objectives can be best achieved through consensus between States on all outstanding issues. • Noted with regret that that discourse in the Council has become acrimonious with the tendency to misuse the Council for self-serving political interests leading to polarisation. • Underlined the urgent need to build consensus among States to realise its core objectives and to take a firm and collective approach to reject any self-serving interests pushed as the Council's agenda. • Stated that efforts to devise processes to achieve sustainable objectives of the Council would strengthen it and added that the practice of naming and shaming is counter-productive for the promotion of human rights as it erodes trust between stakeholders. • Drew the Council's attention to the promotion of human rights education, learning and extending technical and advisory services to build capacity of Member States upon their request. • Proposed the involvement of the Council in the impending review of its status by the UNGA in 2021 as it can present its multifaceted challenges and present effective suggestions on the review process.⁷⁴⁴

743 Permanent Mission of India in Geneva, 42nd HRC Session – Statement, 10 September 2010. Available at: <https://pmindiaun.gov.in/pageinfo/MjAwOA,,>

744 Permanent Mission of India in Geneva, 42nd HRC Session – Statement, 13 September 2019. Available at: <https://pmindiaun.gov.in/pageinfo/MjAxMA,,>

3.	General debate on the Universal Periodic Review (UPR) (Item 6)	<ul style="list-style-type: none"> • Stated that UPR is an effective instrument to promote and protect human rights as it allows a review of States taking into account their socio-political-economic circumstances through an objective, transparent, non-confrontational and non-politicised process, leaving the final decisions on the recommendations to the States. • Underlined that enhancing a State’s capacity through technical assistance and capacity building measures in consultation as well as with its consent would contribute in improving the human rights situation on the ground. • Stressed that national or domestic mechanisms remain best placed to translate the UPR recommendations into concrete outcomes and added that extending technical assistance to States is the best way to progress on it. • Warned that any tinkering with the UPR mechanism would dilute the universal support it presently enjoys and that the practice of encouraging States to focus on a particular set of rights is counter-productive. • Urged that the time given to Member States for the UPR process should be enhanced, as the limited time allotted restricts fruitful exchange of views and proposed that the review of the Council should address this asymmetry by allotting more time to the UPR process. • Appreciated the OHCHR for conducting the UPR and its technical support for capacity building of States in this process despite budgetary constraints.⁷⁴⁵
4.	General debate on Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action (DDPA) (Item 9)	<ul style="list-style-type: none"> • Strongly opposed all incidents of racism, xenophobia and exclusivism in the world and considered such discrimination as the anti-thesis of what humanity stands for: equality, justice, peace and progress. • Reaffirmed that it is conscious of the destructive impact that racial discrimination can have on the society and noted that the founding fathers of its Constitution built adequate safeguards against it and enshrined equality as a core value. • Further stated that these principles are strengthened by its comprehensive legal framework with an independent and impartial judiciary, a secular and pluralist polity, a vibrant civil society and free media. • Noted with regret that the habit and attitude of the bygone era continue to foment racial hatred and segregation, with modern communication technologies such as the internet becoming increasingly vulnerable to misuse by the purveyors of such hatred. • Assured that countering racism through promulgation and implementation of appropriate laws, ensuring attitudinal changes and inculcation of tolerance through educational strategies remains its priority.⁷⁴⁶

745 Permanent Mission of India in Geneva, 42nd HRC Session - Statement, 23 September 2019. Available at: <https://www.pmindiaun.gov.in/pageinfo/MjAyNg,,>

746 Permanent Mission of India in Geneva, 42nd HRC Session - Statement, 24 September 2019. Available at: <https://www.pmindiaun.gov.in/pageinfo/MjAyNw,,>

5.	General debate on Technical assistance and capacity- building (Item 10)	<ul style="list-style-type: none"> • Appreciated the efforts of the OHCHR in capacity building and technical assistance in various areas of human rights as an important mandate of the Council. • Stated that strengthening national mechanisms is the best way of protecting human rights and therefore the Council and its mechanisms should focus on rendering technical assistance to States upon request with primacy and respect to the State's participation in the process. • Suggested that discussions under Item 10 ought to be aimed at addressing the needs of the States and focus on technical cooperation, instead of using it as a proxy for Item 4 for naming and shaming them. • Reminded the Council that as envisaged in the VDMA and its own founding resolution, any technical assistance rendered should be upon their explicit request and aligned to their national objectives. • Took note of the efforts of the OHCHR in improving its Performance Monitoring System as for technical cooperation to be effective, regular monitoring is key. • Raised concerns over the funding deficit in the UN Voluntary Fund for Technical Cooperation and highlighted the need to ensure its sustainability. • Called on all Member States to prioritise Item 10, while preserving its sanctity and intended purpose to have a real and meaningful impact on the improvement of human rights on the ground.⁷⁴⁷
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IV. Voting Pattern on Resolutions

Thematic Resolutions

India voted in favour of five⁷⁴⁸ out of the six thematic resolutions that were adopted by vote during this session: *Composition of staff of the Office of the United Nations High Commissioner for Human Rights*,⁷⁴⁹ *Promotion of a democratic and equitable international order*,⁷⁵⁰ *The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*,⁷⁵¹ *The right to development*,⁷⁵² and *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*.⁷⁵³

It voted against one thematic resolution,⁷⁵⁴ namely, *The question of the death penalty*.⁷⁵⁵

It did not vote against or abstain from voting on any thematic resolution tabled during the session⁷⁵⁶ and joined the consensus to adopt the remaining 19 thematic resolutions.⁷⁵⁷

⁷⁴⁷ Permanent Mission of India in Geneva, 42nd HRC Session - Statement, 26 September 2019. Available at: <https://www.pmindia-un.org.in/pageinfo/MjAyOQ,,>

⁷⁴⁸ Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

⁷⁴⁹ Resolution 42/1 Composition of staff of the Office of the United Nations High Commissioner for Human Rights (2019).

⁷⁵⁰ Resolution 42/8 Promotion of a democratic and equitable international order (2019).

⁷⁵¹ Resolution 42/9 The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (2019).

⁷⁵² Resolution 42/23 The right to development (2019).

⁷⁵³ Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

⁷⁵⁴ Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://bit.ly/3iWkeqN>.

⁷⁵⁵ Resolution 42/24 The question of the death penalty (2019).

⁷⁵⁶ Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

⁷⁵⁷ Ibid.

India did not vote in favour of any country situation resolution that was put to vote in the session.⁷⁵⁸ It voted against one country situation resolution,⁷⁵⁹ namely, *Human rights situation in Yemen*.⁷⁶⁰

It abstained from voting on five country situation resolutions⁷⁶¹: *Situation of human rights of Rohingya Muslims and other minorities in Myanmar*,⁷⁶² *Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela*,⁷⁶³ *Situation of human rights in the Bolivarian Republic of Venezuela*,⁷⁶⁴ *Situation of human rights in Burundi*,⁷⁶⁵ and *The human rights situation in the Syrian Arab Republic*.⁷⁶⁶

It joined the consensus in the Council to adopt the remaining six country situation resolutions during the session.⁷⁶⁷

V. Analysis: Compliance with Pledges and Commitments

a) Engagement with UN Special Procedures

In its voluntary pledges, India committed to “continue to cooperate with the Special Procedures, accept requests for visits and respond to communications”.⁷⁶⁸ It has extended a standing invitation to all thematic Special Procedures since September 2011.⁷⁶⁹ Between 2000 and 2017, India has complied with requests from 10 Special Procedures.⁷⁷⁰ Recently, it also accepted the visit request from the Special Rapporteur on environment and has proposed dates for the visits of the Special Rapporteurs on sale of children and on leprosy.⁷⁷¹

India currently has 19 visit requests pending with the Special Procedures: 14 reminders and five requests. This includes requests from the Special Rapporteurs on human rights and counter terrorism and on minority issues; Working Group on discrimination against women and girls; and Independent Experts on sexual orientation and gender identity and on international solidarity, as well as reminders from the Special Rapporteurs on freedom of assembly, on freedom of expression, on slavery, on torture (since 1999), on trafficking, on racism etc. and Working Groups on discrimination against women, on disappearances, on arbitrary detention, among others.⁷⁷²

India has maintained that it will not entertain any communication with the Special Rapporteurs⁷⁷³ which is based on

758 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President’s statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

759 Ibid.

760 Resolution 42/2 Human rights situation in Yemen (2019).

761 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President’s statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

762 Resolution 42/3 Situation of human rights of Rohingya Muslims and other minorities in Myanmar (2019).

763 Resolution 42/4 Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela (2019).

764 Resolution 42/25 Situation of human rights in the Bolivarian Republic of Venezuela (2019).

765 Resolution 42/26 Situation of human rights in Burundi (2019).

766 Resolution 42/27 The human rights situation in the Syrian Arab Republic (2019).

767 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President’s statements. Available at: <https://bit.ly/3duuqWH>.

768 Office of the High Commissioner for Human Rights, Voluntary pledges and commitments submitted by India, para 28, 4 October 2018. Available at: <https://undocs.org/en/A/73/394>.

769 Office of the High Commissioner for Human Rights, Country visits by Special Procedures to India. Available at: https://spinternet.ohchr.org/_layouts/15/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=IND.

770 Ibid.

771 Ibid.

772 Ibid.

773 Office of the High Commissioner for Human Rights, Report on the Situation of Human Rights in Kashmir: Developments in the Indian State of Jammu and Kashmir from June 2016 to April 2018, and General Human Rights Concerns in Azad Jammu and Kashmir and Gilgit-Baltistan. Available on: <https://www.ohchr.org/Documents/Countries/IN/DevelopmentsInKashmirJune-2016ToApril2018.pdf>.

the OHCHR Report on Jammu and Kashmir in 2018.⁷⁷⁴

b) *Compliance with Reporting Obligations to Treaty Monitoring Bodies*

India committed to “cooperate with treaty monitoring bodies and engage constructively with them in the context of fulfilling its human rights obligations”.⁷⁷⁵ India complied with its reporting obligations under the following treaty bodies in the previous reporting cycles: CEDAW, CRC, CRC-OP-AC, CRC-OP-SC, and CRPD, however, some of these reports were submitted after a delay of two to five years.⁷⁷⁶

India has the following treaty body reports outstanding against it:

- For the last two decades, India has not submitted a report to the CCPR; this has been due since 2001. Recently, the CCPR reviewed India in absentia (list of issues prior to reporting). This report was initially due in 2001, with the new due date being 7 August 2020.⁷⁷⁷
- CERD since 2010.⁷⁷⁸
- CESCR since 2011.⁷⁷⁹
- CRC since July 2020.⁷⁸⁰

India has not yet ratified the CAT (despite having signed it in 1997); CCPR-OP2-DP; CED (despite having signed it in 2007); and CMW.⁷⁸¹ Similarly, it has not accepted individual complaint procedures under any of the core human rights treaties.⁷⁸²

c) *Compliance with Thematic Issues*

In its voluntary pledges, India pledged to continue to uphold the highest standards in the promotion and protection of human rights and strive for the full realisation of civil, political, economic, social and cultural rights, including the right to development.⁷⁸³ During the session, India joined the consensus in the Council to adopt the resolution on **Arbitrary detention**⁷⁸⁴ that called on States to ensure that their legislations and practices conform with international legal standards and guarantee respect for the rights of a arrested or detained person.⁷⁸⁵ The Constitution of India,⁷⁸⁶ the legal framework⁷⁸⁷ and the jurisprudence of the Indian Supreme Court imbibes prohibition of arbitrary deprivation of liberty and protection of the rights of detained persons.⁷⁸⁸ However, the law also sculpts out certain exceptions, such as permissible preventive or administrative detention in accordance with a law.⁷⁸⁹ Other extraordinary provisions

774 The Hindu, ‘India cuts off UN panel after Jammu and Kashmir report’, 21 May 2019. Available at: <https://www.thehindu.com/news/national/india-cuts-off-un-panel-after-jammu-kashmir-report/article27190445.ece>; The Hindu, ‘UN makes its third communication on Jammu and Kashmir public’, 8 July 2020. Available at: <https://www.thehindu.com/news/national/un-makes-its-third-communication-on-jk-public/article32024205.ece>.

775 Office of the High Commissioner for Human Rights, Voluntary pledges and commitments submitted by India, para 28, 4 October 2018. Available at: <https://undocs.org/en/A/73/394>.

776 OHCHR, Treaty Bodies, Reporting status of India. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=En&CountryID=79.

777 Ibid.

778 Ibid.

779 Ibid.

780 Ibid.

781 Ibid.

782 Ibid.

783 Office of the High Commissioner for Human Rights, Voluntary pledges and commitments submitted by India, para 28, 4 October 2018. Available at: <https://undocs.org/en/A/73/394>.

784 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President’s statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

785 Resolution 42/22 Arbitrary detention (2019).

786 The Constitution of India 1950, Articles 19, 21 and 22. Available at: <http://legislative.gov.in/sites/default/files/coi-4March2016.pdf>.

787 Ibid, Article 39 A; see also, the Code of Criminal Procedure 1973, Sections 56, 167, Available at: <http://legislative.gov.in/actsof-parliamentfromtheyear/code-criminal-procedure-act-1973>.

788 Law Times Journal, ‘Protection against illegal arrest, detention and custodial death’, 29 September 2019. Available at: <https://bit.ly/3bo6cvZ>.

789 The Constitution of India 1950, Article 22 (3). Available at: <http://legislative.gov.in/sites/default/files/coi-4March2016.pdf>.

in counter-terrorism and national security laws⁷⁹⁰ create separate procedural rules for detention that are argued to be ‘vaguely worded offences’⁷⁹¹ and inconsistent with international standards.⁷⁹² Similarly, backlogs in the justice system are reported to have led to lengthy pretrial detention of suspects in the country.⁷⁹³ In India, the substantive law or the national statistics do not make a distinction between detention at pretrial and under-trial stages and both these categories are combined.⁷⁹⁴ According to the National Prison Statistics, as of December 2019, the number of under-trial prisoners and detainees in the country was 330,487,⁷⁹⁵ accounting for 69.8 per cent of the total prison population.⁷⁹⁶ It was reported that the occupancy level of Indian prisons by the end of 2018 was 117.6 per cent.⁷⁹⁷ while some of the prisons were reportedly functioning with occupancy rates higher than 200%.⁷⁹⁸

Reports suggest that certain groups of individuals, such as HRDs, activists, political dissidents⁷⁹⁹ as well as protestors⁸⁰⁰ have been and continue to be at a greater risk of being arrested and detained under anti-terrorism and national security laws in the country.⁸⁰¹ The 11 human rights defenders arrested and detained since August 2018,⁸⁰² for allegedly inciting the Bhima Koregaon violence, had their detention periods repeatedly extended⁸⁰³ and remain detained.⁸⁰⁴ One of them, the 81-year-old poet, Mr. Varavara Rao, was released in hospital custody after testing positive for COVID-19 and now has been sent back to jail.⁸⁰⁵ Recently, Dr. Kafeel Khan, one of the activists detained for an alleged speech against the Citizenship (Amendment) Act (CAA) and charged under the National Security Act (NSA), was freed from the detention after nine months.⁸⁰⁶ He was initially arrested under the Indian Penal Code for which he was granted bail but not released⁸⁰⁷; he was soon after was taken into preventive custody and charged under the

790 For example: Unlawful Activities (Prevention) Act 1967, Section 43D(2) and (5). Available at: <https://www.mha.gov.in/sites/default/files/A1967-37.pdf>; see also, National Security Act 1980, Sections 13, 14A. Available at: https://www.mha.gov.in/sites/default/files/ISdivII_NSAAct1980_20122018.pdf.

791 The Hindu, ‘Guilt by association and insinuation’, 20 September 2018. Available at: <https://www.thehindu.com/opinion/lead/guilt-by-association-and-insinuation/article24988742.ece>.

792 Amnesty International, ‘Injustice In The Courts: Four Indian Laws That Should Never Have Existed’, 6 May 2020. Available at: <https://amnesty.org.in/injustice-in-the-courts-four-indian-laws-that-should-have-never-existed/>.

793 Freedom House, Freedom in the World 2020: India. Available at: <https://freedomhouse.org/country/india/freedom-world/2020>.

794 Centre for Law and Policy Research, Bail decisions – ‘Should Indian law recognise the distinction between pretrial and undertrial detention?’, 21 September 2017. Available at: <https://clpr.org.in/blog/bail-decisions-should-indian-law-recognise-the-distinction-between-pre-trial-and-under-trial-detention/>.

795 National Crime Records Bureau, Prison Statistics India 2019: Type of prison inmates as on 31 December 2019. Available at: https://ncrb.gov.in/sites/default/files/psi_table_and_chapter_report/TABLE-2.1_2019.pdf.

796 National Crime Records Bureau, Prison Statistics India 2019: Percentage share of different types of prison inmates as on 31 December 2019. Available at: https://ncrb.gov.in/sites/default/files/psi_table_and_chapter_report/TABLE-2.2_2019.pdf.

797 World Prison Brief, Birkbeck – University of London: India. Available at: <https://www.prisonstudies.org/country/india>.

798 Amnesty International, ‘Justice Under Trial: A Study Of Pretrial Detention in India’, July 2017. Available at: <https://bit.ly/3bjCf08>.

799 CIVICUS Monitor, ‘Arbitrary arrests, judicial harassment and attacks on activists and critics in India persist’, 13 May 2020. Available at: <https://monitor.civicus.org/updates/2019/05/13/indian-authorities-continue-use-restrictive-laws-harass-activists-and-silence-dissent/>.

800 The Wire, ‘Invocation of sedition laws, UAPA against Anti-CAA protestors illegal’, say activists’, 24 April 2020. Available at: <https://thewire.in/rights/anti-cao-protesters-uapa-cao>.

801 OHCHR, ‘India: Terrorism charges are pretext to silence human rights defenders, say UN experts’, 5 October, 2018. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23686&LangID=E>.

802 The Hindu, ‘Shock arrests: on activists arrests’, 30 August 2018. Available at: <https://www.thehindu.com/opinion/editorial/shock-arrests/article24813620.ece>.

803 OHCHR, ‘India: Terrorism charges are pretext to silence human rights defenders, say UN experts’, 5 October, 2018. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23686&LangID=E>.

804 The Hindu, ‘Bhima Koregaon: demand to release arrested activists’, 10 December 2019. Available at: <https://www.thehindu.com/news/national/other-states/bhima-koregaon-demand-to-release-arrested-activists/article30261064.ece>; Amnesty International, ‘India must put an end to the unjust, cruel and continued incarceration of Bhima Koregaon activists’, 6 June 2020. Available at: <https://amnesty.org.in/news-update/india-must-put-an-end-to-the-unjust-cruel-and-continued-incarceration-of-bhima-koregaon-activists/>.

805 Hindustan Times, ‘Varavara Rao released from hospital after COVID treatment; back in jail’, 28 August 2020. Available at: <https://www.hindustantimes.com/india-news/varavara-rao-released-from-hospital-after-covid-treatment-back-in-jail/story-Opdlkc-ToUZ45sOchrdmbQI.html>.

806 The Indian Express, ‘Kafeel Khan released from jail after HC clears him of NSA charges’, 2 September 2020. Available at: <https://indianexpress.com/article/india/kafeel-khan-allahabad-high-court-national-security-act-charges-6578418/>.

807 India Today, ‘Anti-CAA row: Kafeel Khan granted bail but not yet released from Mathura jail’, 14 February 2020. Available at: <https://www.indiatoday.in/india/story/anti-cao-row-kafeel-khan-granted-bail-but-not-yet-from-mathura-jail-1646312-2020-02-14>.

NSA.⁸⁰⁸ The Allahabad High Court adjudged his detention “illegal” and ordered his immediate release.⁸⁰⁹ Along with several other student leaders protesting against the CAA,⁸¹⁰ 11 members of the All Manipur Student’s Union were reportedly arrested without a warrant and detained for ten days and before being unconditionally released.⁸¹¹ It was also reported that till December 2019, there were allegedly 1,113 arrests and 5,558 cases of preventive detention over the anti-CAA protests in the state of Uttar Pradesh alone.⁸¹² In June 2020, the Working Group on arbitrary detention, along with other Special Procedures, urged India to release protest leaders,⁸¹³ some of whom have been subsequently released on bail.⁸¹⁴

The revocation of the special status of Jammu and Kashmir (J&K) on 5 August 2019, followed by a complete lockdown and communication blockade, also reportedly saw arbitrary preventive detention of political leaders as well as civilians.⁸¹⁵ The Ministry of Home Affairs (MHA) confirmed in the Parliament that from the date of revocation of J&K’s special status until November 2019, there were a total of 5,161 preventive arrests, including political leaders,⁸¹⁶ separatists, stone pelters, ‘overground’ workers, out of which 609 persons remained in detention.⁸¹⁷ By March 2020, the number of people in preventive custody stood at 7,357 with 451 people in detention.⁸¹⁸ Not less than 396 of those were detained under the Public Safety Act (PSA).⁸¹⁹ The Act has been criticised for non-compliance with international human rights obligations given the broad understanding of preventive detention based on the ‘subjective satisfaction’ of the detaining authority. This permits preventive detention for persons acting in a prejudicial manner to the security of the State for up to two years and those harming public order for up to one year; and allowing non-disclosure of the grounds and facts of detention up to 10 days, especially those considered against ‘public interest’.⁸²⁰ Similarly, the Advisory Board created under the Act to examine the correctness of the detentions under the Act has come under scrutiny with Right to Information (RTI) requests revealing that from 2016-2017, it upheld detention orders in 998 cases referred to it by the *then* state government, out of which approximately 81 per cent were subsequently quashed by the High Court.⁸²¹ A petition was filed in the Supreme Court seeking probe on the illegal detention of

808 Firstpost, ‘Kafeel Khan case: UP’s refusal to comply with court order grim example of how states can subvert Constitution’, 3 September 2020. Available at: <https://www.firstpost.com/india/kafeel-khan-case-up-refusal-to-comply-with-court-order-grim-example-of-how-state-govts-can-subvert-constitution-8778971.html>.

809 NDTV, ‘UP Doctor Kafeel Khan’s Detention Under Tough Law NSA “Illegal”, Free Him: High Court’, 1 September 2020. Available at: <https://www.ndtv.com/india-news/kafeel-khan-allahabad-high-court-orders-release-of-up-doctor-charged-under-national-security-act-for-anti-kaa-speech-2288450>.

810 Outlook, ‘students, activists demand release of anti-CAA agitators’, 3 June 2020. Available at: <https://www.outlookindia.com/newscroll/students-activists-demand-release-of-anticaa-agitators/1855232>.

811 Frontline Defenders, ‘Arbitrary detention and judicial harassment of members of AMSU’, 12 December 2019. Available at: <https://www.frontlinedefenders.org/en/case/arbitrary-detention-and-judicial-harassment-members-amsu>.

812 India Today, ‘Anti-CAA protests: 1,113 arrests, 5,558 preventive detentions, 19 dead in UP’, 27 December 2019. Available at: <https://www.indiatoday.in/india/story/anti-kaa-protests-1-113-arrests-5-558-preventive-detentions-19-dead-in-up-1631814-2019-12-27>.

813 OHCHR, ‘UN experts urge India to release protest leaders’, 26 June 2020. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26002&LangID=E>.

814 The Quint, ‘Day after being granted bail. Safoora Zargar released from Tihar jail’, 24 June 2020. Available at: <https://www.thequint.com/news/india/safoora-zargar-bail-hearing-delhi-high-court-uapa-jamia-kaa>; Scroll, ‘Delhi violence: Pinjra Tod activist Devangana Kalita gets bail after police fail to give evidence’, 1 September 2020. Available at: <https://bit.ly/3hPZbqg>; The Wire, ‘After 110 days in jail for saying ‘Pakistan Zindabad’, 19-year-old activist gets “default” bail’, 11 June 2020. Available at: <https://thewire.in/rights/amulya-leona-bail-bengaluru>.

815 Human Rights Watch, ‘India: Free Kashmiris Arbitrarily Detained’, 16 September 2019. Available at: <https://www.hrw.org/news/2019/09/16/india-free-kashmiris-arbitrarily-detained>.

816 OHCHR, ‘Press briefing note on Kashmir’, 29 October 2019. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25219&LangID=E>.

817 The Indian Express, ‘Govt in Rajya Sabha: 5161 preventive arrests in Valley after Aug 4’, 21 November 2019. Available at: <https://indianexpress.com/article/india/govt-in-rajya-sabha-5161-preventive-arrests-in-valley-after-aug-4-6129463/>.

818 Deccan Herald, ‘451 people under detention including 396 slapped with Public Safety Act in J&K: G Kishan Reddy tells Rajya Sabha’, 11 March 2020. Available at: <https://www.deccanherald.com/national/north-and-central/451-people-under-detention-including-396-slapped-with-public-safety-act-in-jk-g-kishan-reddy-tells-to-rajya-sabha-812801.html>.

819 Ibid.

820 Oxford Human Rights Hub, ‘Jammu and Kashmir Public Safety Act 1978: India’s use of preventive detention violates human rights’, 17 March 2020. Available at: <http://ohrh.law.ox.ac.uk/jammu-and-kashmir-public-safety-act-1978-indias-use-of-preventive-detention-violates-human-rights/>; see also, Jammu and Kashmir Public Safety Act 1978. Available at: <http://jkhome.nic.in/psa0001.pdf>.

821 Commonwealth Human Rights Initiative, ‘RTI reveals Advisory Board under J&K Public Safety Act spent 76% of its budget upholding detention orders with J&K High Court quashed later on’, 2 August 2018. Available at: <https://www.humanrightsinitiative.org/blog/rti-reveals-advisory-board-under-jk-public-safety-act-spent-75-of-its-budget-upholding-detention-orders-which-jk-high-court-quashed-later-on>.

minors in the valley during this period.⁸²² However, upon reviewing the report of the J&K High Court panel,⁸²³ it was disposed of after the Court was satisfied that no minors were illegally held in J&K.⁸²⁴

In its voluntary pledges, India pledged to continue to uphold the highest standards and foster the genuine participation and effective involvement of civil society in the promotion and protection of human rights.⁸²⁵ During the session, in the interactive dialogue with the Assistant Secretary-General for Human Rights on the report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights, India condemned all **acts of reprisals and intimidation** while reaffirming that active cooperation of millions of active and vocal civil society voices from India with the UN system is reflective of its policy.⁸²⁶ It also stated that appropriate action is taken against all reported acts or threats of reprisals against HRDs as well as journalists.⁸²⁷ The NHRC has reiterated its support for protecting and intervening in cases of alleged harassment and intimidation of HRDs across the country to create an enabling environment for their work.⁸²⁸ However, India was listed among the countries where civil society actors suffer reprisals because of their work⁸²⁹ in the UN Secretary-General's report consecutively in 2018⁸³⁰ and 2019.⁸³¹ In December 2019, an international civil society group monitoring civic space around the world lowered India's civic space rating from 'obstructed' to 'repressed'.⁸³²

In August 2018, Mr. Thirumurugan Gandhi, an environmental activist from Tamil Nadu was arrested for 'sedition' and other provisions under the Indian Penal Code soon after his return to India from Geneva after addressing the UNHRC on the police firing in Thoothukudi that killed 13 people.⁸³³ He was released on bail after 53 days in prison.⁸³⁴ There have been several cases using stringent anti-terrorism laws such as the UAPA and the NSA to detain and intimidate civil society members⁸³⁵ and dissenters.⁸³⁶ In October 2018, UN human rights experts, including the Special Rapporteur on the situation of HRDs, had raised concerns about the terrorism charges under the UAPA pressed against 10 HRDs and

822 National Herald, 'Supreme Court seeks report from Jammu and Kashmir HC on alleged detention of children', 20 September 2019. Available at: <https://www.nationalheraldindia.com/india/supreme-court-seeks-report-from-jammu-and-kashmir-hc-on-alleged-detention-of-children>.

823 Scroll, 'No minors illegally detained in Kashmir, satisfied with HC panel report, says SC', 13 December 2019. Available at: <https://scroll.in/latest/946743/satisfied-with-jammu-and-kashmir-hc-panels-report-that-no-minors-are-illegally-detained-says-sc>.

824 The Hindu, 'Supreme Court says no minors were held in Jammu and Kashmir', 13 December 2019. Available at: <https://www.thehindu.com/news/national/supreme-court-throws-out-plea-alleging-minors-illegally-detained-in-kashmir-valley/article30299684.ece>.

825 Office of the High Commissioner for Human Rights, Voluntary pledges and commitments submitted by India, para 28, 4 October 2018. Available at: <https://undocs.org/en/A/73/394>.

826 Permanent Mission of India in Geneva, 42nd HRC Session – Statement, 19 September 2019. Available at: <https://pmindiaun.gov.in/pageinfo/MjAxNA,,>.

827 Ibid.

828 NHRC India, 'NHRC Chairperson's message on Human Rights Defenders, 9 December 2019. Available at: <https://bit.ly/3blbEzU>; see also, Scroll, 'NHRC orders Chhattisgarh to pay Rs. 1 lakh each to six human rights defenders for false cases', 6 August 2020. Available at: <https://scroll.in/latest/969588/nhrc-orders-chhattisgarh-to-pay-rs-1-lakh-each-to-six-human-rights-defenders-for-false-cases>.

829 UN News, 'Alarming level of reprisals against activists, human rights defenders, and victims – new UN report', 12 September 2018. Available at: <https://news.un.org/en/story/2018/09/1019082>.

830 39th HRC Session, Report of the Secretary-General on 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', paras 23-24, 50-52, 60-67 (A/HRC/39/41), 13 August 2018. Available at: https://www.un.org/en/ga/search/view_doc.asp?symbol=a/hrc/39/41.

831 42nd HRC Session, Report of the Secretary-General on 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', paras 53, 56-59 (A/HRC/42/30), 9 September 2019. Available at: https://www.ohchr.org/Documents/Issues/Reprisals/A_HRC_42_30.docx.

832 CIVICUS Monitor, 'India downgraded as civic freedoms deteriorate', 4 December 2019. Available at: <https://monitor.civicus.org/India.PeoplePowerUnderAttack.2019/>.

833 The Hindu, 'May 17 Movement leader Thirumurugan Gandhi held in Bengaluru on charges of sedition', 9 August 2019. Available at: <https://www.thehindu.com/news/cities/bangalore/human-rights-activist-thirumurugan-gandhi-arrested/article24639529.ece>; see also, 42nd HRC Session, Report of the Secretary-General on 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', para 53 (A/HRC/42/30), 9 September 2019. Available at: https://www.ohchr.org/Documents/Issues/Reprisals/A_HRC_42_30.docx.

834 The Wire, 'Activist, Thirumurugan Gandhi released after 53 days in prison', 3 October 2018. Available at: <https://thewire.in/rights/thirumurugan-gandhi-may-17-movement>.

835 CIVICUS Monitor, 'Arbitrary arrests, judicial harassment and attacks on activists and critics in India persist', 13 May 2019. Available at: <https://monitor.civicus.org/updates/2019/05/13/indian-authorities-continue-use-restrictive-laws-harass-activists-and-silence-dissent/>.

836 Outlook, 'There is no democracy without dissent', 25 February 2019. Available at: <https://magazine.outlookindia.com/story/india-news-in-course-of-persecution/301193>.

activists for allegedly inciting the Bhima-Koregaon violence and “urged the Government to refrain from criminalising HRDs in general, including through the use of overly broad national security legislation”.⁸³⁷ All of them still remain in detention.⁸³⁸ These activists, now 12, include four academics who have criticised the Government.⁸³⁹ Similarly, repeated calls, including from the UN Special Procedures,⁸⁴⁰ for the release of academic Dr. G.N. Saibaba on medical grounds, who is wheelchair bound with over 90 per cent physical disability, have not been heeded. He is currently serving a life sentence for alleged Maoist links.⁸⁴¹ Similarly, student leaders and activists who protested against the CAA have been charged under the UAPA for allegedly inciting the Delhi violence.⁸⁴² UN human rights experts have raised serious concerns over their detention and allegations of other human rights violations, including due process failings.⁸⁴³

A study has reported that between 2014 and 2019, there have been 200 serious attacks on journalists in the country; out of the 40 killed, 21 were confirmed to have been due to their work.⁸⁴⁴ According to CHRI’s *Hall of Shame: Mapping Attacks on RTI Users*, there have been 451 attacks on RTI activists since the Right to Information Act came into force in 2005. As of August 2020, 87 of those attacked were killed, 172 were assaulted and 185 threatened or harassed.⁸⁴⁵ Activists advocating for the rights of the marginalised and indigenous communities, those working in militarised regions and women HRDs face unique challenges, threats and risks.⁸⁴⁶ Further, the investigations on the murders of rationalist activists: Narendra Dabholkar, Govind Pansare, MM Kalburgi and Gauri Lankesh, are still underway with no charge sheet having been filed in any of the cases.⁸⁴⁷ Some legislative restrictions were also noted: The Secretary-General’s report also raises concerns about the Foreign Contributions (Regulations) Act 2010 (FCRA) that has adversely affected the ability of Indian civil society organisations to access foreign funding by freezing bank accounts or cancelling registrations of organisations found to be ‘non-compliant’.⁸⁴⁸ In 2019 alone, the MHA cancelled FCRA registration of 1,808 NGOs.⁸⁴⁹ The Right to Information (Amendment) Act adopted in July 2019 has been criticised for diluting the Act, potentially curtailing the independence of the information commissioners and for lack of any pre-legislative consultations with stakeholders.⁸⁵⁰ Similarly, although India passed the Whistle-blowers Protection Act in 2014, it has not yet been operationalised.⁸⁵¹

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- 837 OHCHR, ‘India: Terrorism charges are pretext to silence human rights defenders, say UN experts’, 5 October, 2018. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23686&LangID=E>.
- 838 The Hindu, ‘Bhima Koregaon: demand to release arrested activists’, 10 December 2019. Available at: <https://www.thehindu.com/news/national/other-states/bhima-koregaon-demand-to-release-arrested-activists/article30261064.ece>
- 839 The Print, ‘With DU Prof. Hany Babu’s arrest, 4 academics now in custody in Bhima Koregaon violence case’, 9 August 2020. Available at: <https://theprint.in/india/with-du-prof-hany-babus-arrest-4-academics-now-in-custody-in-bhima-koregaon-violence-case/477401/>.
- 840 OHCHR, ‘India: UN experts call for release of human rights defender Saibaba’, 30 April 2019. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24534&LangID=E>.
- 841 The Wire, ‘Bombay HC rejects DU Professor G.N. Saibaba’s bail plea’, 28 July 2020. Available at: <https://thewire.in/rights/gn-saibaba-professor-covid-19-maoist-link-bail-bombay-hc>.
- 842 Frontline Defenders, Cases: India. Available at: <https://www.frontlinedefenders.org/en/cases/location/india>; see also, The Wire, ‘Invocation of sedition laws, UAPA against Anti-CAA protestors illegal’, say activists’, 24 April 2020. Available at: <https://thewire.in/rights/anti-cao-protesters-uapa-cao>.
- 843 OHCHR, ‘UN experts urge India to release protest leaders’, 26 June 2020. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26002&LangID=E>.
- 844 The Wire, ‘Over 200 serious attacks on journalists in India between 2014-2019: Report’, 26 December 2019. Available at: <https://thewire.in/media/journalists-killed-attacked-india-report>.
- 845 Commonwealth Human Rights Initiative, Hall Of Shame: Mapping Attacks on RTI Users (accessed on 31 August 2020). Available at: <http://attacksonrtiusers.org/Home/Issue/>.
- 846 Counter Currents, ‘The Powerful Mighty State Versus The Human Rights Defenders: The Courage To Challenge The Unruly Authority’, 27 June 2019. Available at: <https://countercurrents.org/2019/06/the-powerful-mighty-state-versus-the-human-rights-defenders-the-courage-to-challenge-the-unruly-authority/>.
- 847 The Hindu, ‘CBI probe: Seven years on, no justice for Dr. Dabholkar’, 21 August 2020. Available at: <https://www.thehindu.com/news/cities/mumbai/cbi-probe-seven-years-on-no-justice-for-dr-dabholkar/article32407976.ece>.
- 848 42nd HRC Session, Report of the Secretary-General on ‘Cooperation with the United Nations, its representatives and mechanisms in the field of human rights’, paras 53, 56-59 (A/HRC/42/30), 9 September 2019. Available at: https://www.ohchr.org/Documents/Issues/Reprisals/A_HRC_42_30.docx.
- 849 Business Standard, ‘Government banned 14,500 NGOs under FCRA from receiving foreign funds in the last five years’, 4 December 2019. Available at: <https://bit.ly/3hVBwVz>.
- 850 The Hindu, ‘Centre’s decision to bring amendments to RTI Act draws criticism from activists’, 22 July 2019. Available at: <https://bit.ly/3jH3jtc>.
- 851 The Wire, ‘Five years after passing law to protect whistle-blowers, Govt yet to operationalise it’, 22 February 2019. Available at: <https://thewire.in/government/whistle-blowers-protection-act-five-years>.

In its voluntary pledges, India promised to support international efforts to combat **racism, racial discrimination, xenophobia and related intolerance**.⁸⁵² In the general debate under Item 9, India strongly opposed all incidents of racism, xenophobia, exclusivism and discrimination and assured that countering it through promulgation and implementation of appropriate laws, ensuring attitudinal changes and inculcation of tolerance through educational strategies remains its priority.⁸⁵³ The Constitution of India guarantees equality before law as well as prohibition of discrimination on grounds of religion, race, caste, and place of birth, among others.⁸⁵⁴ However, according to the 2019 World Population Review, India lists among the “most racist countries” in the study.⁸⁵⁵ Approximately 64.3 per cent of the participants from India who took the survey reported that they were either discriminated against or witnessed discrimination unfold in their country.⁸⁵⁶ The recent COVID-19 pandemic reportedly led to a rise in racial profiling, harassment and discrimination against citizens from the North-Eastern states of India on the basis of their appearance.⁸⁵⁷ Similarly, in continuation of a series of incidents racial prejudice against people from African countries, two African students — one Nigerian and one Ghanaian — were beaten and dragged out of college premises by over 30 security guards for allegedly violating COVID-19 lockdown rules.⁸⁵⁸ Eight people, including the Director of the institute, were arrested in relation to the incident.⁸⁵⁹

While secularism and pluralistic society rooted in equality and freedom of religion are envisaged in the Constitution,⁸⁶⁰ concerns have been raised over the situation of religious freedom in the country with instances of discrimination, harassment and violence by State as well as non-State actors.⁸⁶¹ When concerns were raised about the exclusionary impact of the National Register of Citizens in Assam on the minorities,⁸⁶² the MHA clarified that those whose names were excluded in the NRC would not automatically be declared “foreigners” as they would be given adequate opportunity to present their case before the Foreigners Tribunals, the High Court and the Supreme Court.⁸⁶³ The CAA, which led to citizen protests across the country,⁸⁶⁴ allows for the fast-tracking of citizenship for Hindu, Sikh, Jain, Parsi and Christian migrants as minorities from the neighbouring Muslim-majority countries of Afghanistan, Bangladesh and Pakistan, but this provision does not include Muslims.⁸⁶⁵ In December 2019, the Supreme Court refused to stay its implementation.⁸⁶⁶ However, the OHCHR had raised concerns that the Act was “fundamentally discriminatory in nature” for people’s access to nationality and called for ensuring its compatibility with India’s international human rights obligations.⁸⁶⁷ In March 2020, the UN High Commissioner for Human Rights filed an intervention in the Supreme Court of India in the nature of an ‘amicus brief’ with an aim to focus on the international law dimension of the

852 Office of the High Commissioner for Human Rights, Voluntary pledges and commitments submitted by India, 4 October 2018. Available at: <https://undocs.org/en/A/73/394>.

853 Permanent Mission of India in Geneva, 42nd HRC Session - Statement, 24 September 2019. Available at: <https://www.pmindiaun.gov.in/pageinfo/MjAyNw,,>

854 The Constitution of India 1950, Articles 14, 15, 17. Available at: <http://legislative.gov.in/sites/default/files/coi-4March2016.pdf>.

855 World Population Review 2019. Available at: <https://bit.ly/2PbHtBO>.

856 Ibid.

857 Outlook, ‘COVID-19: Indians from the North East region victims of racial and regional prejudice’, 24 May 2020. Available at: <https://www.outlookindia.com/newscroll/covid19-indians-from-the-north-east-region-victims-of-racial-and-regional-prejudice/1844685>.

858 Observer Research Foundation, ‘India’s racial prejudice is jeopardising ties with African nations’, 28 July 2020. Available at: <https://www.orfonline.org/research/indias-racial-prejudice-is-jeopardising-ties-with-african-nations/>.

859 Hindustan Times, ‘College director, 7 arrested after Nigerian students thrashed in Haridwar’, 16 July 2020. Available at: <https://www.hindustantimes.com/india-news/college-director-7-arrested-after-nigerian-students-thrashed-in-haridwar/story-04kO-FIbc7iOsjJopwplCfP.html>.

860 The Constitution of India 1950, Preamble, Articles 14, 25-28. Available at: <http://legislative.gov.in/sites/default/files/coi-4March2016.pdf>.

861 Forbes, Religious Freedom Is On The Decrease In India’, 12 January 2019. Available at: <https://www.forbes.com/sites/ewelinaochab/2019/01/12/religious-freedom-is-on-the-decrease-in-india/#3258e83b403b>.

862 OHCHR, ‘UN experts: Risk of statelessness for millions and instability in Assam, India’, 3 July 2019. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24781&LangID=E>.

863 The Hindu, ‘Citizens left out of NRC will not go to jail at once’, 24 August 2019. Available at: <https://bit.ly/344hyA8>.

864 India Today, ‘Anatomy of a Protest’, 11 January 2020. Available at: <https://www.indiatoday.in/magazine/cover-story/story/20200120-anatomy-of-a-protest-1635164-2020-01-10>.

865 Reuters, ‘Explainer: Why India’s new citizenship plans are stirring protests’, 23 December 2019. Available at: <https://www.reuters.com/article/us-india-citizenship-explainer/explainer-why-indias-new-citizenship-plans-are-stirring-protests-idUSKBN1YR-0WL>.

866 The Hindu, ‘Supreme Court refuses to stay Citizenship (Amendment) Act’, 20 December 2019. Available at: <https://www.thehindu.com/news/national/supreme-court-refuses-to-stay-citizenship-amendment-act/article30336722.ece>.

867 OHCHR, ‘Press briefing on India’, 13 December 2019. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25425&LangID=E>.

submission.⁸⁶⁸ The protests against the CAA reported instances of excessive use of force by the police,⁸⁶⁹ including in University premises.⁸⁷⁰ In the communal violence that subsequently erupted in Delhi, wherein both Hindus and Muslims were killed,⁸⁷¹ signs of police complicity were alleged.^{872, 873} Instances of lynching or cow-vigilantism,⁸⁷⁴ hate crimes,⁸⁷⁵ or even hate speech against minorities by public figures⁸⁷⁶ have been reported. Hate crimes against Indian Muslims have spiked and they were even accused of spreading the pandemic.⁸⁷⁷ However, a bench of the Bombay High Court, while quashing charges against 29 foreign nationals and six Indians in connection with the Tablighi Jamaat congregation, sharply criticised the police authorities in the state of Maharashtra and the national media for making them ‘scapegoats’ for the pandemic.⁸⁷⁸

A growth in crime against Dalits has been reported over the years⁸⁷⁹ and caste discrimination in India remains prevalent.⁸⁸⁰ The National Crime Records Bureau’s (NCRB) report, ‘Crime in India – 2018’ noted 42,793 cases of crimes or atrocities against the Scheduled Castes (SCs),⁸⁸¹ out of which 40,077 cases were under the SC/ST (Prevention of Atrocities) Act 1989 (Atrocities Act) together with the Indian Penal Code.⁸⁸² Similarly, out of the 6,528 crimes reported against the Scheduled Tribes (STs),⁸⁸³ 6,488 were under the Atrocities Act.⁸⁸⁴ In the first half of 2019 alone, 121 alleged hate crimes against Dalits were reported.⁸⁸⁵ In August 2019, it was reported that the Tamil Nadu government identified some schools in the state where students are made to wear colour-coded wrist bands to distinguish between those belonging to “upper castes” and “lower castes”.⁸⁸⁶ A Dalit groom was subjected to casteist slurs and beaten for riding a horse.⁸⁸⁷ A Dalit man was lynched on the suspicion of stealing a water pump,⁸⁸⁸ while in yet another case, two Dalit

868 The Print, ‘UN rights body moves Supreme Court over CAA, govt says it’s an internal matter’, 3 March 2020. Available at: <https://theprint.in/india/un-human-rights-body-moves-supreme-court-over-caa-govt-says-its-internal-matter/374703/>.

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871 The Print, ‘List of those killed in Delhi communal riots’, 27 February 2020. Available at: <https://theprint.in/india/list-of-those-killed-in-delhi-communal-riots/372170/>.

872 The Scroll, ‘In Delhi violence investigation, a disturbing pattern: Victims end up being prosecuted by the police’, 23 May 2020. Available at: <https://scroll.in/article/962526/in-delhi-violence-investigation-a-disturbing-pattern-victims-end-up-being-arrested-by-police>.

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874 The Hindu, ‘Lynching, the scourge of new India’, 16 October 2019. Available at: <https://www.thehindu.com/opinion/lead/lynching-the-scurge-of-new-india/article29693818.ece>; see also, Outlook India, ‘Tabrez Ansari lynching case: 6 of 13 accused granted bail’, 11 December 2019. Available at: <https://www.outlookindia.com/website/story/india-news-tabrez-ansari-lynching-case-6-of-13-accused-granted-bail/343951>.

875 The Indian Express, ‘Bengal man pushed off train for not saying Jai Shri Ram’, 25 June 2019. Available at: <https://indianexpress.com/article/india/bengal-man-pushed-off-train-for-not-saying-jai-shri-ram-5797944/>.

876 NDTV, ‘Delhi riots chargesheet skips hate speeches by BJP leaders’, 9 June 2020. Available at: <https://www.ndtv.com/delhi-news/delhi-riots-chargesheet-skips-hate-speeches-by-bjp-leaders-2243342>.

877 Scroll, ‘The other virus: Hate crimes against India’s Muslims are spreading with COVID-19’, 8 April 2020. Available at: <https://scroll.in/article/958543/the-other-virus-hate-crimes-against-indias-muslims-are-spreading-with-covid-19>.

878 The Indian Express, ‘Bombay HC slams Govt: Tablighi a scapegoat to warn Muslims; fix damage’, 23 August 2020. Available at: <https://indianexpress.com/article/india/tablighi-jamaat-case-firs-bombay-hc-coronavirus-6565460/>.

879 The Hindu, ‘Sending the wrong signal: SC order in SC/ST Act Case’, 29 March 2019. Available at: <https://www.thehindu.com/opinion/op-ed/sending-the-wrong-signal/article23375824.ece>.

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881 NCRB, Crime in India – 2018, Volume II, p. 509, 7 March 2020. Available at: <https://ncrb.gov.in/sites/default/files/Crime%20in%20India%202018%20-%20Volume%202.pdf>.

882 Ibid, p. 510.

883 Ibid, p. 605.

884 Ibid, p.606.

885 Amnesty International, ‘Halt the Hate’ Hate Crimes Against Dalits – 2019. Available at: <http://haltthehate.amnesty.org.in/map.html>.

886 The Telegraph, ‘Caste bands in Tamil Nadu schools’, 14 August 2019. Available at: <https://www.telegraphindia.com/india/caste-bands-in-tamil-nadu-schools/cid/1697686>.

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888 India Today, ‘Rajasthan: Dalit man lynched on suspicion of stealing water pump in Jhalawar’, 22 September 2019. Available at: <https://www.indiatoday.in/crime/story/rajasthan-dalit-man-lynched-on-suspicion-of-stealing-water-pump-in-jhalawar-1601952-2019-09-22>.

brothers were stripped and beaten for alleged theft.⁸⁸⁹ Dalit and tribal women face intersectional discrimination on the basis of gender, caste and class and remain particularly vulnerable to human rights violations as well as socio-economic-political exclusion from availing basic civic amenities.⁸⁹⁰ The deep-rooted social bias and impunity for perpetrators of caste atrocities have also led to crimes such as honour killings, which though prevalent are largely under-reported.⁸⁹¹ In 2018, in the case of *Dr. Subhash Kashinath Mahajan v. The State of Maharashtra*, the Supreme Court issued three guidelines to prevent potential misuse of the Atrocities Act⁸⁹²; the decision was widely criticised for ‘watering down’ of the provisions intended to protect the rights of the oppressed communities.⁸⁹³ However, an amendment was enacted by the Parliament to insert Section 18A into the Act soon after, which effectively nullified the decision of the Court. This was subsequently upheld by the Supreme Court in *Prathvi Raj Chauhan v. Union of India* overturning the 2018 decision.⁸⁹⁴

In its voluntary pledges, India undertook to ‘continue to pursue the necessary domestic actions to implement the 2030 Sustainable Development Goals (SDG) Agenda’⁸⁹⁵; it reiterated its commitment to achieving Target 8.7 and combatting human trafficking by making necessary amendments to criminal laws, improving law enforcement response and creating systems for rehabilitation of survivors.⁸⁹⁶ India joined the consensus in adopting the resolution extending the mandate of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, which also called upon Special Rapporteur to assist States in combatting contemporary forms of slavery.⁸⁹⁷ The Constitution of India expressly prohibits trafficking in human beings and all forms of forced labour.⁸⁹⁸ The criminal law in India under Sections 370 and 370A⁸⁹⁹ of the Indian Penal Code, the Immoral Traffic (Prevention) Act 1956, Bonded Labour System (Abolition) Act 1976, the Protection of Children from Sexual Offences (POCSO) Act 2012, in addition to several other laws, lay down comprehensive provisions for combatting human trafficking, including that in children, physical and sexual exploitation, slavery, servitude and forced removal of organs.⁹⁰⁰

According to the Global Slavery Index 2018, India ranks 53rd on the prevalence index; with an estimated 7,989,000 people living in modern slavery.⁹⁰¹ The NCRB’s ‘Crime in India – 2018’ found that a total of 2,465 cases of trafficking were reported, including 5,788 victims of trafficking.⁹⁰² 2,834 out of these victims were below the age of 18 years.⁹⁰³ The number of cases has marginally reduced from a reported 2,854 cases in 2017.⁹⁰⁴ Most cases were for the purpose of sexual exploitation and prostitution (1,922), followed by forced labour (1,046) and forced marriage (220).⁹⁰⁵ Although there has been a decline in the number of trafficking cases, campaigners on the issue state that it does not reflect the full magnitude of the crime and it further raises concerns about ‘undetected victims’.⁹⁰⁶ The Trafficking

889 Scroll, ‘Rajasthan: Two Dalit brothers beaten and stripped for alleged theft, seven arrested’, 20 February 2020. Available at: <https://scroll.in/latest/953775/rajasthan-two-dalit-brothers-beaten-stripped-for-alleged-theft-in-nagaur>.

890 International Dalit Solidarity Network, Dalit Women, 4 July 2019. Available at: <https://idsn.org/key-issues/dalit-women/>.

891 The Swaddle, ‘Why India Needs A Separate Law For Honour Killings’, 21 April 2020. Available at: <https://theswaddle.com/honour-killings-india-law/>.

892 The Hindu, ‘A pattern of impunity: on the SC/ST Act’, 4 May 2018. Available at: <https://www.thehindu.com/opinion/lead/a-pattern-of-impunity/article23763763.ece>.

893 Deccan Chronicle, ‘Justice For All: Supreme Court restores a protective law’s bite’, 15 February 2020. Available at: <https://www.deccanchronicle.com/nation/current-affairs/150220/justice-for-all-supreme-court-restores-a-protective-laws-bite.html>.

894 Ibid.

895 Office of the High Commissioner for Human Rights, Voluntary pledges and commitments submitted by India, para 28, 4 October 2018. Available at: <https://undocs.org/en/A/73/394>.

896 Ibid, para 22.

897 OHCHR, 42nd HRC Session, Resolutions, decisions and President’s statements. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session42/Pages/ResDecStat.aspx>.

898 The Constitution of India 1950, Article 23. Available at: <http://legislative.gov.in/sites/default/files/coi-4March2016.pdf>.

899 Inserted through The Criminal Law (Amendment) Act 2013. Available at: <https://www.iitk.ac.in/wc/data/TheCriminalLaw.pdf>.

900 The Government of India - Ministry of External Affairs, ‘Human trafficking – constitutional and legislative provisions’. Available at: <https://www.mea.gov.in/human-trafficking.htm#:~:text=A%3A,trafficking%20for%20commercial%20sexual%20exploitation>.

901 Walk Free Foundation, Global Slavery Index 2018: India. Available at: <https://www.globalslaveryindex.org/2018/data/country-data/india/>.

902 NCRB, Crime in India – 2018, Volume III, pp. 973-974, 7 March 2020. Available at: <https://ncrb.gov.in/sites/default/files/Crime%20in%20India%202018%20-%20Volume%203.pdf>.

903 Ibid, p. 974.

904 NCRB, Crime in India – 2017, Volume III, pp. 973, 4 March 2020. Available at: <https://ncrb.gov.in/sites/default/files/Crime%20in%20India%202017%20-%20Volume%203.pdf>.

905 Ibid, pp.978-979.

906 Reuters, ‘Indian trafficking cases fall sharply fueling concern over ‘undetected victims’, 22 October 2019. Available at: <https://www.reuters.com/article/us-india-crime-trafficking/indian-trafficking-cases-fall-sharply-fuelling-concern-over-undetected-victims-idUSKBN1X11WK>.

of Persons (Prevention, Protection and Rehabilitation) Bill was introduced and passed by the Lok Sabha (Lower House of Parliament) in 2018 which laid down stringent punishment for aggravated forms of trafficking, proposed the establishment of a National Anti-Trafficking Bureau, and provided for a fund for the relief and rehabilitation of survivors, among other things.⁹⁰⁷ However, the UN Special Rapporteurs had raised concerns over the over-broad and vague nature of its provisions, lack of human-rights based approach, and promotion of rescue raids and institutionalisation of victims in the name of rehabilitation.⁹⁰⁸ It lapsed in 2019.⁹⁰⁹ It was reported that although the number of trafficking victims in the country from 2011-2019 was 38,503, only 107 applied for compensation; 85 were found eligible, yet funds were disbursed only for 77.⁹¹⁰

India is among the few countries that has a systematic training for first responders and law enforcement to identify and work on trafficking cases.⁹¹¹ Indeed, some Indian states have reportedly set up “child-friendly” courts to try cases of child-trafficking with the view to increase conviction rates and minimise re-traumatisation of victims.⁹¹² Despite this, India does not have a national coordinating body or national action plan to combat human trafficking.⁹¹³ In addition to its Constitutional provisions, India has also ratified the ILO Forced Labour Convention (No. 29) of 1930 as well as the ILO Worst Forms of Child Labour Convention (No. 182) of 1999.⁹¹⁴ However, despite prohibitions, forced labour and debt bondage continues to be reported⁹¹⁵ and there is a high incidence in some states in 2019 statistics.⁹¹⁶ Certain groups such as members of the Scheduled Tribes⁹¹⁷ and Dalits,⁹¹⁸ are found to be particularly vulnerable to bonded labour and exploitation.⁹¹⁹ As much as 80 per cent of India’s 461 million workers work in the informal sector or are employed as informal workers, which renders them more vulnerable to exploitation in the absence of any regulation.⁹²⁰ Similarly, recent labour law restructuring in some Indian states, removing key protections such as minimum wages or limited working hours per day negotiated through collective bargaining agreements, has raised serious concerns.⁹²¹ Despite legislative and awareness efforts, early, forced and child marriages are still prevalent in the country.⁹²² While 27 per cent of girls are reportedly married before their 18th birthday, about seven per cent are married off before the age of 15.⁹²³

907 The Hindu, ‘Lok Sabha passes the Anti-Trafficking Bill’, 27 July 2018. Available at: <https://www.thehindu.com/news/national/lok-sabha-passes-anti-trafficking-bill/article24523977.ece>.

908 OHCHR, ‘India must bring its new anti-trafficking Bill in line with human rights law, urge UN experts’, 23 July 2018. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23392&LangID=E>.

909 The Print, ‘Anti-trafficking Bill has scope for confusion. Here’s what will work: BJP MP Meenakshi Lekhi’, 19 August 2020. Available at: <https://theprint.in/opinion/anti-trafficking-bill-has-scope-for-confusion-heres-what-will-work-bjp-mp-meenakshi-lekhi/484637/>.

910 The Print, ‘India had 38,503 victims of trafficking in 2011-19. Only 77 have got compensation’, 18 February 2020. Available at: <https://theprint.in/india/india-had-38503-victims-of-trafficking-in-2011-19-only-77-have-got-compensation/365761/>.

911 Walk Free and Commonwealth Human Rights Initiative, ‘Eradicating Modern Slavery: An assessment of Commonwealth governments’ progress on achieving SDG Target 8.7’, p.61, June 2020. Available at: <https://www.humanrightsinitiative.org/download/1596089364Eradicating%20Modern%20Slavery%20achieving%20SDG%20Target%208.7.pdf>.

912 Reuters, ‘India turns tables on traffickers with child-friendly courts’, 19 August 2019. Available at: <https://www.reuters.com/article/us-india-court-sexcrimes-insight/india-turns-tables-on-traffickers-wh-child-friendly-courts-idUSKCN1V900B>.

913 Walk Free and Commonwealth Human Rights Initiative, ‘Eradicating Modern Slavery: An assessment of Commonwealth governments’ progress on achieving SDG Target 8.7’, p.65, June 2020. Available at: <https://www.humanrightsinitiative.org/download/1596089364Eradicating%20Modern%20Slavery%20achieving%20SDG%20Target%208.7.pdf>.

914 ILO, Ratifications for India. Available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:11771885012696:::P11200_INSTRUMENT_SORT:1.

915 The News Minute, ‘It’s 2020 but bonded labour is still a reality in India’, 28 January 2020. Available at: <https://www.thenewsminute.com/article/its-2020-bonded-labour-still-reality-india-here-s-why-116977>.

916 The Government of India - Ministry of Labour and Employment, Lok Sabha, Unstarred question no. 345 to be answered on 24 June 2019. Available at: <http://164.100.24.220/loksabhaquestions/annex/171/AU345.pdf>.

917 Firstpost, ‘Adivasis and the Indian State: Tribal groups particularly vulnerable to bonded labour, strict enforcement needed to prevent exploitation’, 30 August 2019. Available at: <https://www.firstpost.com/india/adivasis-and-the-indian-state-tribal-groups-particularly-vulnerable-to-bonded-labour-strict-enforcement-needed-to-prevent-exploitation-7257231.html>.

918 International Dalit Solidarity Network, Caste-based slavery in India. Available at: <https://idsn.org/key-issues/caste-based-slavery/caste-based-slavery-in-india/>.

919 Ibid.

920 News Click, ‘COVID-19 Crisis Exposes India’s Neglect Of Informal Workers’, 12 May 2020. Available at: <https://www.newsclick.in/Covid-19-Crisis-Exposes-India-Neglect-Informal-Workers>.

921 Livemint, ‘Why labour law rejig is no reform’, 13 May 2020. Available at: <https://www.livemint.com/news/india/why-labour-law-rejig-is-no-reform-11589300644620.html>.

922 Scroll, ‘Ending early marriage in India will take more than legal action – it needs real belief in equality’, 30 June 2020. Available at: <https://scroll.in/article/966034/ending-early-marriage-in-india-will-take-more-than-legal-action-it-needs-real-belief-in-equality>.

923 Girls Not Brides: India. Available at: <https://www.girlsnotbrides.org/child-marriage/india/>.

VI. Conclusions

India participated in selected interactive dialogues and debates during this session.

- Despite pledging to engage constructively with UN human rights mechanisms and cooperate with the Special Procedures and Treaty Bodies, India has the highest number pending visit requests from the former (19) and the second highest number of reports pending with the latter (three), out of the Commonwealth Members States reviewed in this report.
- Concerning reports of reprisals and intimidation of the HRDs and other civil society actors for cooperating with the UN mechanisms as well as for their legitimate human rights work or for expressing critical views have emerged. Journalists, RTI activists, lawyers and student leaders have also reported to have been targeted and harassed for exercising their fundamental rights by using strict anti-terrorism laws.⁹²⁴
- Despite having the necessary legislations and taking some proactive steps to combat modern forms of slavery, trafficking, forced labour or domestic servitude are still prevalent. India is among the few countries that has a systematic training for first responders and law enforcement to identify and work on trafficking cases. Some Indian states have also set up “child-friendly” courts to try cases of child trafficking with the view to increase conviction rates and minimise re-traumatisation of trafficking victims and survivors.⁹²⁵

924 CIVICUS Monitor, ‘India downgraded as civic freedoms deteriorate’, 4 December 2019. Available at: <https://monitor.civicus.org/India.PeoplePowerUnderAttack.2019/>.

925 Walk Free and Commonwealth Human Rights Initiative, ‘Eradicating Modern Slavery: An assessment of Commonwealth governments’ progress on achieving SDG Target 8.7’, p.61, June 2020. Available at: <https://www.humanrightsinitiative.org/download/1596089364Eradicating%20Modern%20Slavery%20achieving%20SDG%20Target%208.7.pdf>.

I. Introduction

Nigeria was elected to serve its first ever term as a member of the HRC in 2006.⁹²⁶ It was subsequently elected to the Council for two more terms, in 2010-2012,⁹²⁷ and in 2015-2017.⁹²⁸ It was elected for its fourth term in 2018 through a clean slate election,⁹²⁹ and its current term is set to end in 2020.⁹³⁰

II. Voluntary Pledges and Commitments

Nigeria first submitted its voluntary pledges in 2006,⁹³¹ and then updated its pledges while submitting its candidature for the second term in 2009.⁹³² Reiterating its commitment to and compliance with its earlier pledges on advancing human rights at the national and international levels, Nigeria pledged to:

- Engage actively with the Human Rights Council to promote human rights in and outside Nigeria.
- Contribute to efforts to improve the effectiveness of the Human Rights Council.
- Cooperate with all Treaty Bodies, especially through timely submission of periodic reports.
- Cooperate with all Special Procedures of the United Nations aimed at improving the promotion and protection of human rights.
- Intensify efforts to ensure the ratification and / or domestication of all outstanding human rights instruments.
- Implement all the recommendations accepted by the country contained in the Universal Periodic Review report, as well as give active consideration to those noted for further examination by virtue of constitutional, cultural or other implications.
- Continue to make its best effort to enhance the protection and promotion of human rights in Nigeria.

III. Participation at the 42nd session of the HRC

The following is a selected representation of Nigeria's participation during this session, in particular its interventions during interactive dialogues and general debates:

⁹²⁶ United Nations General Assembly, Elections of the Human Rights Council, 9 May 2006. Available at: <https://www.un.org/ga/60/elect/hrc/index.html>.

⁹²⁷ United Nations General Assembly, Elections of the Human Rights Council, 12 May 2009. Available at: https://www.un.org/en/ga/63/elections/hrc_elections.shtml.

⁹²⁸ United Nations General Assembly, Elections of the Human Rights Council, 21 October 2014. Available at: <https://www.un.org/en/ga/69/meetings/elections/hrc.shtml>.

⁹²⁹ United Nations General Assembly, Elections of the Human Rights Council, 16 October 2017. Available at: <https://www.un.org/en/ga/72/meetings/elections/hrc.shtml>.

⁹³⁰ Office of the High Commissioner for Human Rights, Current Membership of the Human Rights Council. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/CurrentMembers.aspx>.

⁹³¹ Office of the High Commissioner for Human Rights, Voluntary pledges and commitments submitted by the Permanent Mission of the Federal Republic of Nigeria to the United Nations, 24 April 2006. Available at: <https://www.un.org/ga/60/elect/hrc/nigeria.pdf>.

⁹³² United Nations General Assembly, Voluntary pledges and commitments submitted by the Permanent Mission of the Federal Republic of Nigeria to the United Nations, 8 May 2009. Available at: <https://undocs.org/en/A/63/851>.

S. No.	Interactive Dialogue	Nigeria's Interventions
1.	Clustered interactive dialogue with the Independent Expert on the human rights of older persons and the Special Rapporteur on the right to development	<ul style="list-style-type: none"> • Reiterated the importance of realising the right to development for achieving the SDGs and attaining global peace and security, and underscored the imperative of States' efforts to focus on development to ensure that no one is left behind. • Informed the Council that it is committed to improving the general well-being of its people by addressing the country's infrastructure deficit and creating jobs for the youth by diversifying its economy to ensure sustainable growth. • Recognised the vulnerabilities of older persons and challenges hampering their enjoyment of their rights. • Stated that it enacted the National Senior Citizens Centre Act 2017 to cater to the needs of older persons and to facilitate policies to improve their lives and ensure their full participation in all spheres of social life. • Reaffirmed its determination to improve the well-being of its citizens by ensuring economic growth and development and called for global efforts towards realising the right to development for combatting poverty and inequality.⁹³³
2.	Interactive dialogue with the Working Group on arbitrary detention	<ul style="list-style-type: none"> • Reiterated its commitment to democratic ideals, respect for human rights, rule of law and good governance and stated that it does not condone any form of arbitrary detentions. • Stated that all detentions are carried out in line with the Nigerian Constitution and other relevant laws and that it has continued to sensitise its security forces and criminal justice agencies to uphold human rights and fundamental freedoms while carrying out their constitutional mandates. • Affirmed that despite terrorism and such challenges, constitutionality and the rule of law are upheld while making arrests and detentions and that detainees are charged to court or released after due investigation. • Emphasised its determination to uphold human rights and fundamental freedoms while continuing its efforts to address the necessary security challenges.⁹³⁴

933 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2JTqL6P>.

934 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/3e9UZQJ>.

S. No.	General Debate	Nigeria's Interventions
1.	General debate on the Oral update by the United Nations High Commissioner for Human Rights (Item 2)	<ul style="list-style-type: none"> • Commended the High Commissioner's efforts to promote and protect human rights and reassured the OHCHR and its mechanisms of its cooperation. • Commended the High Commissioner for highlighting the devastating effects of climate change and the attendant humanitarian and human rights challenges, thereby calling for greater international cooperation to address this challenge. • Strongly condemned the xenophobic attacks against foreign nationals and recalled its concern about the intermittent violence against Nigerians, their property and business interests in South Africa. • Urged South African authorities to take steps to stop violence against foreigners, bring the perpetrators to justice, appropriately compensate the victims and desist from raising xenophobic tensions through narratives demonising foreigners as the cause of socio-economic problems. • Reiterated its call for continued international cooperation in addressing the plight of migrants, especially women and children, across the world and reminded the Council of the relevance of the Global Compact for safe, orderly and regular migration. • Reaffirmed its commitment to the promotion and protection of human rights and the work of the Council as an important element in the maintenance of sustainable peace and security.⁹³⁵
2.	General debate on the Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (Item 3)	<ul style="list-style-type: none"> • Reaffirmed its committed to the promotion and protection of human rights and fundamental freedoms and emphasised the need for a global dialogue to ensure enjoyment of human rights by all. • Expressed determination to address the challenges of terrorism, local conflicts and other acts of criminality while recognising the imperative to respect human rights and adhere to international human rights obligations. • Reiterated its call for continued international cooperation in combating terrorism as a major threat to peace and security causing a loss of thousands of lives, destruction of families across the world. • Committed itself to the implementation of the UDHR, while recognising the sovereign rights of States to develop their legal systems according to their national circumstances and international obligations. • Underlined the importance of continued multilateral efforts and respect for sovereign equality of nations to promote and protect human rights as any non-consensual notions would be counterproductive and polarise the international community.⁹³⁶

935 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/3eaBaZB>.

936 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2Rwqv1P>.

3.	General debate on the Human rights situation in Palestine and other occupied Arab territories (Item 7)	<ul style="list-style-type: none"> • Remained concerned over the continued occupation of Palestine and other Arab territories by Israel and underscored the importance of implementing the UN resolutions by Israel to amicably resolve the conflict. • Called on the international community, particularly the HRC, to continue efforts to end human rights violations in the occupied Palestinian territory and uphold the fundamental freedoms and rights of the Palestinian people by ensuring an end to the crisis. • Reaffirmed its support to the people of Palestine for their right to self-determination and other fundamental freedoms and reiterated that this would only be possible after Palestine is recognised as an independent State, existing alongside the State of Israel in peace and security.⁹³⁷
4.	General debate on Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action (DDPA) (Item 9)	<ul style="list-style-type: none"> • Remained concerned and strongly condemned all forms of racism, racial discrimination, xenophobia, hate speech, incitement to hatred and violence, especially against Africans and people of African descent who suffer marginalisation and socio-economic exclusion, across the world. • Underscored the imperative of effective implementation of the DDPA as a global action to bring an end to the scourge of racism and xenophobia, with the surge of populist nationalism. • Reaffirmed that ending racism, discrimination, xenophobia and related intolerance is key to ensuring peaceful, just and inclusive society, where respect for human rights and the rule of law will be the norm. • Expressed its support to all international efforts and initiatives aimed at ensuring the effective implementation of the DDPA and called for genuine international cooperation for the same.⁹³⁸

IV. Voting Pattern on Resolutions

Thematic Resolutions

Nigeria voted in favour of four out of the six thematic resolutions adopted by vote during this session: *Composition of staff of the Office of the United Nations High Commissioner for Human Rights*,⁹³⁹ *Promotion of a democratic and equitable international order*,⁹⁴⁰ *The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*,⁹⁴¹ and *The right to development*.⁹⁴²

It did not vote against any thematic resolution put to vote during the session.⁹⁴³

Nigeria abstained from voting on two thematic resolutions, namely, *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*⁹⁴⁴ and *The question of the death penalty*.⁹⁴⁵

937 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2V2bYgi>.

938 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2V37G8q>.

939 Resolution 42/1 Composition of staff of the Office of the United Nations High Commissioner for Human Rights (2019).

940 Resolution 42/8 Promotion of a democratic and equitable international order (2019).

941 Resolution 42/9 The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (2019).

942 Resolution 42/23 The right to development (2019).

943 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

944 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

945 Resolution 42/24 The question of the death penalty (2019).

Nigeria joined the consensus in adopting the remaining 19 thematic resolutions during this session.⁹⁴⁶

Country Situations Resolutions

Nigeria voted in favour of one out of the six country situation resolutions adopted by vote during this session, namely, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar*.⁹⁴⁷

While it did not vote against any country situation resolution,⁹⁴⁸ it abstained from voting on the remaining five country situation resolutions adopted by vote: *Situation of human rights in the Bolivarian Republic of Venezuela*,⁹⁴⁹ *Situation of human rights in Burundi*,⁹⁵⁰ *Human rights situation in Yemen*,⁹⁵¹ *The human rights situation in the Syrian Arab Republic*,⁹⁵² and *Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela*.⁹⁵³

It joined the consensus in adopting the remaining six country situation resolutions during the session.⁹⁵⁴

V. Analysis: Compliance with Pledges and Commitments

a) Engagement with UN Special Procedures

In its voluntary pledges, Nigeria committed to “cooperate with all Special Procedures of the United Nations aimed at improving the promotion and protection of human rights”.⁹⁵⁵ It also extended standing invitation to all thematic Special Procedures in 2013.⁹⁵⁶

However, Nigeria has a total of 10 visit requests and reminders pending from the Special Procedures.⁹⁵⁷ These include visit requests from the Working Group on discrimination against women and girls; the Independent Experts on foreign debt and on albinism; and Special Rapporteurs on racism, on freedom of expression, on health, among others.⁹⁵⁸ It also has reminders pending from the Working Group on mercenaries, and the Special Rapporteurs on toxic waste and on counter-terrorism and human rights.⁹⁵⁹

b) Compliance with Reporting Obligations to Treaty Monitoring Bodies

Nigeria pledged to ‘co-operate with all Treaty Bodies, especially through timely submission of periodic reports’.⁹⁶⁰ However, currently, Nigeria has eight treaty body reports pending: CAT (since 2002), CERD (since 2008), CESCR (since

946 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President’s statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

947 Resolution 42/3 Situation of human rights of Rohingya Muslims and other minorities in Myanmar (2019).

948 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President’s statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

949 Resolution 42/25 Situation of human rights in Bolivarian Republic of Venezuela (2019).

950 Resolution 42/25 Situation of human rights in Burundi (2019).

951 Resolution 42/2 Human rights in Yemen (2019).

952 Resolution 42/27 Situation of human rights in the Syrian Arab Republic (2019).

953 Resolution 42/4 Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela (2019).

954 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President’s statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

955 United Nations General Assembly, Voluntary pledges and commitments submitted by the Permanent Mission of the Federal Republic of Nigeria to the United Nations, 8 May 2009. Available at: <https://undocs.org/en/A/63/851>.

956 Office of the High Commissioner for Human Rights, Country visits by Special Procedures to Nigeria. Available at: <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&country=NGA&Lang=en>.

957 Ibid.

958 Ibid.

959 Ibid.

960 United Nations General Assembly, Voluntary pledges and commitments submitted by the Permanent Mission of the Federal Republic of Nigeria to the United Nations, 8 May 2009. Available at: <https://undocs.org/en/A/63/851>.

2000), CMW (since 2018), CRC (since 2016), CRC-OP-AC (since 2014), CRC-OP-SC (2012) and CRPD (since 2012).⁹⁶¹ Six out of these eight treaty body reports have been pending for over five years.⁹⁶²

Nigeria is the only Commonwealth Member of the HRC that has ratified almost all major human rights instruments, except the CCPR-OP-2-DP.⁹⁶³ It has also accepted four inquiry procedures, namely, for CAT, CERD, CEDAW-OP, and CRPD-OP, and two individual complaints procedures, for CEDAW-OP and CRPD-OP.⁹⁶⁴

c) Compliance with Thematic Issues

In its voluntary pledges submitted in 2009, Nigeria committed to “continue to make its best effort to enhance the protection and promotion of human rights in Nigeria”.⁹⁶⁵ During the interactive dialogue with the Working Group on **arbitrary detention**, Nigeria stated that it does not condone any form of arbitrary detention and that all detentions in the country are carried out in line with their Constitution and other relevant laws.⁹⁶⁶ It also stated that it has continued to sensitise its security forces and criminal justice agencies to uphold human rights and fundamental freedoms while carrying out their constitutional mandates to address the necessary security challenges.⁹⁶⁷ Nigeria joined the consensus in adopting the resolution on *Arbitrary detention*,⁹⁶⁸ which encouraged States to take a number of appropriate measures to uphold the rights of detained persons and to ensure that their legislations and practices conform with relevant international norms and standards. It also recognised that arbitrarily or unlawfully detained persons are more vulnerable to extrajudicial killings, torture and ill-treatment, and other human rights violations.⁹⁶⁹ Although the Constitution of Nigeria provides protection against arbitrary detention,⁹⁷⁰ instances of arbitrary or unlawful deprivation of liberty have been reported from the country.⁹⁷¹

The Human Rights Committee, in its concluding observations from August 2019, expressed concerns over allegations of arbitrary arrests, lengthy pretrial and *incommunicado* detentions, especially in cases involving suspected Boko Haram fighters.⁹⁷² The Committee observed that Nigeria should take steps to ensure that no one is arbitrarily arrested or detained; that the detained persons enjoy the legal safeguards under Articles 9 and 14 of the CCPR; that persons responsible for such detentions are subject to disciplinary action; and that pretrial detention is used only as an exceptional measure and is not excessive in length.⁹⁷³ However, it was reported that in 2020, nearly 72.7 per cent of the total prison population are pretrial or remand detainees awaiting trial.⁹⁷⁴ In October 2019, a lawyer seeking to secure a release of his client from the police post was detained by the police in Maiduguri for over 13 hours after an argument between them.⁹⁷⁵ The Nigerian Bar Association condemned the detention as ‘unconstitutional, unlawful and illegal’.⁹⁷⁶ In such other instance, three human rights defenders were arbitrarily detained since August 2019;

961 Office of the High Commissioner for Human Rights, Treaty Bodies, Reporting status of Nigeria. Available at: https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=NGA&Lang=EN.

962 Ibid.

963 Ibid.

964 Office of the High Commissioner for Human Rights, Treaty Bodies, Reporting status of Nigeria. Available at: https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=NGA&Lang=EN.

965 United Nations General Assembly, Voluntary pledges and commitments submitted by the Permanent Mission of the Federal Republic of Nigeria to the United Nations, 8 May 2009. Available at: <https://undocs.org/en/A/63/851>.

966 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/3e9UZQJ>.

967 Ibid.

968 Resolution 42/22 Arbitrary detention (2019).

969 Ibid.

970 Constitution of the Federal Republic of Nigeria – 1999, Article 35: “Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law”. Available at: <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>.

971 Amnesty International, ‘Nigeria: Bullets were raining everywhere’, November 2016. Available at: <https://www.refworld.org/topic,50ffbce582,50ffbce58e,583840864,0,AMNESTY,COUNTRYREP,NGA.html>.

972 HRCtte, Concluding observations on Nigeria in the absence of its second periodic report, 29 August 2019, para 36. Available at: <https://bit.ly/2K06c8P>.

973 Ibid, para 37.

974 World Prison Brief, Birkbeck – University of London, Nigeria (July 2020). Available at: <https://prisonstudies.org/country/nigeria>.

975 The Guardian, ‘NBA condemns police detention of attorney’, 26 October 2019. Available at: <https://guardian.ng/news/nba-condemns-police-detention-of-attorney/>.

976 Ibid.

despite meeting the stringent bail conditions, Nigeria's State Security Service refused to obey courts orders to release two of them.⁹⁷⁷ Two of them were subsequently released after 126 days in detention.⁹⁷⁸

In January 2020, while responding to escalated attacks by Boko Haram, the Nigerian military arbitrarily detained six men from displaced villages in the area, who were allegedly held *incommunicado* for almost a month before being released.⁹⁷⁹ Another recent case is that of the former Emir of Kano, Muhammadu Sanusi II, who was dethroned and detained without any legal justification,⁹⁸⁰ and was released only after the Federal High Court in Abuja granted an interim order to that effect.⁹⁸¹ In 2018, an Onitsha-based businessman was reportedly arrested without a warrant by the Special Anti-Robbery Squad (SARS) and unlawfully detained for five days, tortured (including being subjected to mock execution) and extorted money for setting him free.⁹⁸² The High Court in Ogidi, Idemili North LGA of Anambra State ruled that victim's fundamental rights were grossly violated by the unlawful arrest, detention and torture and ordered the SARS to pay compensation to him to the tune of N5million.⁹⁸³ It was further reported that the Nigerian military has arbitrarily detained thousands of children in dire conditions, and with no contact with outside world, for a suspected involvement with Boko Haram. Nearly 2,200 children were subsequently released by the military, nearly all without any charge.⁹⁸⁴ Similarly, the Borno movement, who started the KNIFAR movement, have been seeking justice for over five years for their men, who were subject to prolonged and *incommunicado* detentions without trial,⁹⁸⁵ among other violations, on the suspicion of being Boko Haram members.⁹⁸⁶ Many cases of arbitrary detention of journalists and media professionals have been reported from the country.⁹⁸⁷

In its voluntary pledges, Nigeria committed to 'continue to make its best effort to enhance the protection and promotion of human rights in the country'.⁹⁸⁸ Similarly, in its third UPR, Nigeria supported recommendations calling it to create safe environment for the civil society, HRDs and journalists in the country to carry on their work.⁹⁸⁹ However, these individuals, in addition to activists and political opponents continue to remain at a risk of harassment and **reprisals**.⁹⁹⁰ Nigeria also abstained from voting on the resolution on *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*,⁹⁹¹ which called on the Council to continue efforts towards developing a comprehensive system for addressing acts of intimidation and reprisal against civil society and other stakeholders. The Human Rights Committee, in its concluding observations, noted that slander, libel and defamation are criminal

977 Amnesty International, 'Nigeria: Sowore, Bakare and Jalingo declared Prisoners of Conscience', 20 November 2019. Available at: <https://www.amnesty.org/en/latest/news/2019/11/nigeria-sowore-bakare-and-jalingo-declared-prisoners-of-conscience/>.

978 The Lagos Times, 'Sowore, Bakare regain freedom after 126 days in DSS detention', 5 December 2019. Available at: <http://thelagos-times.com/breaking-sowore-bakare-regain-freedom-after-126-days-in-dss-detention/>.

979 Amnesty International, 'Nigeria: Military razes villages as Boko Haram attacks escalate', 14 February 2020. Available at: <https://www.amnesty.org/en/latest/news/2020/02/nigeria-military-razes-villages-as-boko-haram-attacks-escalate/>.

980 Dailypost, 'Sanusi: Kano government reported to the UN over former Emir's continued detention', 12 March 2020. Available at: <https://dailypost.ng/2020/03/12/sanusi-kano-govt-reported-to-un-over-former-emirs-continued-detention/>.

981 The Guardian, 'Court orders release of Sanusi from "detention"', 13 March 2020. Available at: <https://guardian.ng/news/court-orders-release-of-sanusi-from-detention/>.

982 Amnesty International, 'Demand justice for police brutality in Nigeria', 2020. Available at: <https://www.amnesty.org/en/get-involved/take-action/nigeria-end-impunity-for-police-brutality-end-sars/>.

983 Daily Post, 'Court orders SARS to pay Onitsha businessman N5m over unlawful arrest and torture', 25 March 2019. Available at: <https://dailypost.ng/2019/03/25/court-orders-sars-pay-onitsha-businessman-n5m-unlawful-arrest-torture/>.

984 Human Rights Watch, 'Nigeria: Military holding children as Boko Haram suspects', 10 September 2019. Available at: <https://www.hrw.org/news/2019/09/10/nigeria-military-holding-children-boko-haram-suspects>.

985 The Guardian, 'Jire Dole: Agony of Borno women struggling to obtain justice for their missing men', 25 November 2019. Available at: <https://guardian.ng/news/jire-dole-agony-of-borno-women-struggling-to-obtain-justice-for-their-missing-men/>.

986 All Africa, 'Nigeria: AI meets Borno women whose husbands have been missing since arrest by soldiers', 6 May 2019. Available at: <https://allafrica.com/stories/201905070078.html>.

987 Media Foundation of West Africa, 'Police in Kwara State Must End Arbitrary Detention of Journalists', 1 November 2019. Available at: <https://www.mfwa.org/police-in-kwara-state-must-end-arbitrary-detention-of-editor-webmaster-of-newsdigest-mfwa/>.

988 United Nations General Assembly, Voluntary pledges and commitments submitted by the Permanent Mission of the Federal Republic of Nigeria to the United Nations, 8 May 2009. Available at: <https://undocs.org/en/A/63/851>.

989 40th HRC Session, Report of the Working Group on the Universal Periodic Review: Nigeria, 26 December 2018. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/446/65/PDF/G1844665.pdf?OpenElement>.

990 HRCtte, Concluding observations on Nigeria in the absence of its second periodic report, 29 August 2019, paras 46-47. Available at: <https://bit.ly/2K06c8P>; see also, CIVICUS Monitor: Nigeria <last updated on 19 November 2019>. Available at: <https://monitor.civicus.org/country/nigeria/>; Media Foundation for West Africa, 'Police in Kwara State Must End Arbitrary Detention of Journalists', 1 November 2019. Available at: <https://www.mfwa.org/police-in-kwara-state-must-end-arbitrary-detention-of-editor-webmaster-of-newsdigest-mfwa/>.

991 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

offences under the Nigerian Penal Code, punishable by imprisonment.⁹⁹² It raised concerns about reports of libel laws being used by State authorities against journalists and bloggers in retaliation for criticising the Government and that hate speech legislation is applied too broadly to detain or arrest them for such activities.⁹⁹³ The Committee further recommended that the Nigerian Government should thoroughly investigate all reported cases of the harassment, arbitrary arrest and detention of bloggers, journalists and HRDs, bring the perpetrators to justice, provide reparations to the victims, and take measures for their safety.⁹⁹⁴

Between January and September 2019, 19 cases of assault, arbitrary arrest, and detention of journalists were recorded in Nigeria.⁹⁹⁵ Many of the journalists faced indiscriminate charges such as ‘cyber-stalking’, ‘defamation’ and ‘terrorism’ and some were prosecuted also under the Cybercrime Act⁹⁹⁶ and Terrorism (Prevention) (Amendment) Act 2013, amongst others, for investigative journalism, unveiling corruption and for expressing unfavourable views about the Government.⁹⁹⁷ Especially, the election period in February 2019 was marred by an increase in violence, harassment and prosecution of journalists.⁹⁹⁸ In January 2019, the Nigerian military raided offices of Daily Trust newspapers and detained their staff temporarily for allegedly publishing classified military operation.⁹⁹⁹ Similarly, the Nigerian Broadcasting Company suspended the licenses of the African Independent Television (AIT) and Raypower Radio Station for allegedly airing uncensored content against the Government.¹⁰⁰⁰ HRDs and activists in the country have also been targeted by stifling their voices through repressive legislations.¹⁰⁰¹ The Protection from Internet Falsehood and Manipulation Bill 2019 or the Social Media Bill that passed the second reading in the Senate has faced a stiff opposition from rights groups. Although aimed at tackling fake news, it contains several draconian provisions that empower the Government to unilaterally shut down social media and internet for reasons of “public safety and national security.”¹⁰⁰² Similarly, the proposed hate speech bill has also raised concerns as it provides for life-imprisonment if found guilty of publication or presentation of material deemed to stir up ethnic hatred or are otherwise threatening, abusive or offensive. If any of such acts cause a loss of life, the bill proposes death penalty for such hate speech.¹⁰⁰³ Similarly, the recently assented Companies and Allied Matters Act (CAMA) 2020 gives broad powers to the Government to wind up NGOs and remove board of directors or trustees, among other things and has been criticised to be “repressive” by NGOs and religious groups in Nigeria.¹⁰⁰⁴

In August 2019, Omoyele Somore, a pro-democracy activist, was detained on the allegation that his call for nationwide protests against the economic conditions in the country was aimed at forceful takeover of the government. He was charged with treason, cybercrime and money laundering offences.¹⁰⁰⁵ Even after meeting the stringent bail conditions ordered by the Court in October 2019,¹⁰⁰⁶ the Department of State Security (DSS) did not comply with the court order

992 Human Rights Committee, Concluding observations on Nigeria in the absence of its second periodic report, 29 August 2019, paras 46-47. Available at: <https://bit.ly/2K06c8P>.

993 Ibid.

994 Ibid, para 47.

995 CIVICUS, ‘Concerns about freedom of expression in Nigeria: Journalists arrested, protests repressed’, 19 November 2019. Available at: <https://monitor.civicus.org/country/nigeria/>.

996 Global Voices, ‘How Nigeria uses the law to repress free speech: The case of journalist Jones Abiri’, 17 July 2019. Available at: <https://globalvoices.org/2019/07/17/how-nigeria-uses-the-law-to-repress-free-speech-the-case-of-journalist-jones-abiri/>.

997 Amnesty International, ‘Endangered Voices: Attack on Freedom of Expression in Nigeria’ - 2019, p.5. Available at: <https://www.amnesty.org/en/documents/afr44/9504/2019/en/>.

998 Freedom House, ‘Freedom On The Net 2019: Nigeria’. Available at: <https://bit.ly/2Kbp3Oc>.

999 Human Rights Watch, Nigeria: Events of 2019. Available at: <https://www.hrw.org/world-report/2020/country-chapters/nigeria-0>.

1000 Ibid.

1001 The Sun, ‘Sowore, Bakare Agba Jalingo: the Real Victims’, 26 October 2019. Available at: <https://www.sunnewsonline.com/sowore-bakare-agba-jalingo-the-real-victims/>; see also, Amnesty International, ‘Nigeria: Sowore, Bakare and Jalingo declared Prisoners of Conscience’, 20 November 2019. Available at: <https://bit.ly/2K8E7Mx>.

1002 Centre for Democracy and Development, ‘Social Media Bill: A disturbing attempt to muzzle free speech’, 11 December 2019. Available at: <https://www.cddwestafrica.org/social-media-bill-a-disturbing-attempt-to-muzzle-free-speech/>.

1003 DW, ‘Nigeria bill aims at punishing hate speech with death’, 26 November 2019. Available at: <https://www.dw.com/en/nigeria-bill-aims-at-punishing-hate-speech-with-death/a-51419750>.

1004 Premium Times, ‘CAN rejects CAMA, says government cannot control churches’, 21 August 2020. Available at: <https://www.premiumtimesng.com/news/more-news/410066-can-rejects-cama-says-government-cannot-control-churches.html>.

1005 Human Rights Watch, ‘Nigeria: Activist’s detention a sign of growing intolerance’, 7 August 2019. Available at: <https://www.hrw.org/news/2019/08/07/nigeria-activists-detention-sign-growing-intolerance>.

1006 The Guardian, ‘Court varies bail conditions for Somore’, 22 October 2019. Available at: <https://guardian.ng/news/court-varies-bail-conditions-for-sowore/>.

for his release¹⁰⁰⁷ and rearrested him soon after he was freed on bail.¹⁰⁰⁸ Journalist and publisher, Agba Jalingo was also charged with treason for criticising the Governor of the Cross River state and for working alongside Somore.¹⁰⁰⁹ Jalingo's bail applications were repeatedly rejected¹⁰¹⁰ and he was finally granted bail in February 2020.¹⁰¹¹ Further, it has been reported that HRDs working in Northern Nigeria are at the risk of reprisals from both Government agencies and the Boko Haram for their work.¹⁰¹²

During the general debate under Item 3, Nigeria affirmed its commitment to international cooperation in combating acts of terrorism and to the effective implementation of the provisions of the UDHR, while recognising the sovereign rights of States to develop their legal systems according to their national circumstances and international obligations.¹⁰¹³ Nigeria joined the consensus in adopting the resolution on **Terrorism and human rights**,¹⁰¹⁴ which recognised that an approach that fully respects human rights and the rule of law is the only way to effectively counter terrorism and called on States to ensure that their counter-terrorism measures comply with international law.¹⁰¹⁵ One of the worst affected countries by terrorism over the last few years, Nigeria ranked third on the Global Terrorism Index in 2019 with increase in attacks since 2018.¹⁰¹⁶ The armed confrontations between the Nigerian security forces and Boko Haram and other extremist factions have killed approximately 640 civilians in 2019 alone.¹⁰¹⁷ In March 2020, Boko Haram killed 92 Chadian and 70 Nigerian soldiers in separate terror attacks, posing a steady threat to the communities in North East Nigeria.¹⁰¹⁸ The country has also been facing increasing secessionist sentiments in its South Eastern region adding another security challenge¹⁰¹⁹ and the clashes between the security forces and the separatists have continued to simmer.¹⁰²⁰

However, the Nigerian military has also been accused of human rights abuses and using excessive force¹⁰²¹ in their fight against the Boko Haram over the last decade¹⁰²² as well as in fighting the ethnic separationist movement in the South Eastern part of the country.¹⁰²³ While acknowledging these serious security challenges, the Human Rights Committee remained concerned that some provisions of the Terrorism (Prevention) Act of 2011, such as the broad definition of "terrorism" and "terrorist activities", the disproportionate sanctions for non-violent acts and omissions under the Act, the extensive powers conferred upon State authorities and the lack of judicial supervision.¹⁰²⁴ It raised

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- 1007 Human Rights Watch, Nigeria: Events of 2019. Available at: <https://www.hrw.org/world-report/2020/country-chapters/nigeria-0>.
- 1008 CNN, 'Armed secret police storm high court to rearrest activist and journalist Omoyele Somore', 6 December 2019. Available at: <https://edition.cnn.com/2019/12/06/africa/sowore-arrested-after-bail/index.html>.
- 1009 Committee to Protect Journalists, 'Nigerian publisher Agba Jalingo charged with treason', 5 September 2019. Available at: <https://cpj.org/2019/09/nigerian-publisher-agba-jalingo-charged-with-treas.php>.
- 1010 Amnesty International, 'Nigeria: Sowore, Bakare and Jalingo declared Prisoners of Conscience', 20 November 2019. Available at: <https://bit.ly/2K8E7Mx>.
- 1011 Amnesty International, 'Nigeria: Journalist Agba jalingo released on bail', 26 February 2020. Available at: <https://www.amnesty.org/en/documents/afr44/1866/2020/en/>.
- 1012 Frontline Defenders, 'Nigeria'. Available at: <https://www.frontlinedefenders.org/en/location/nigeria>.
- 1013 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2Rwqv1P>.
- 1014 Resolution 42/18 Terrorism and human rights (2019).
- 1015 Ibid.
- 1016 Institute for Economics and Peace, Global Terrorism Index 2019, p. 8. Available at: <https://bit.ly/3bdbcmd>.
- 1017 Human Rights Watch, 'Watch, Nigeria: Events of 2019. Available at: <https://www.hrw.org/world-report/2020/country-chapters/nigeria-0>.
- 1018 Daily Sabah, 'Boko Haram kills 92 Chadian, 70 Nigerian soldiers', 25 March 2020. Available at: <https://www.dailysabah.com/world/africa/boko-haram-kills-92-chadian-70-nigerian-soldiers-in-terror-attacks>.
- 1019 Reuters, 'Nigerian military labels Biafra separatist group a terrorist organization', 15 September 2017. Available at: <https://www.reuters.com/article/us-nigeria-security/nigerian-military-labels-biafra-separatist-group-a-terrorist-organization-idUSKCN1BQ2CF>.
- 1020 US News, 'Nigerian security clash with Biafra separatists turns deadly', 23 August 2020. Available at: <https://www.usnews.com/news/world/articles/2020-08-23/nigerian-security-clash-with-biafra-separatists-turns-deadly-dss>.
- 1021 OHCHR, End of visit statement of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her visit to Nigeria, 2 September 2019. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24934&LangID=E>.
- 1022 Independent, 'Nigeria's military destroyed villages in fight against Islamic insurgents', 14 February 2020. Available at: <https://bit.ly/2VCSloQ>.
- 1023 US News, 'Nigerian security clash with Biafra separatists turns deadly', 23 August 2020. Available at: <https://www.usnews.com/news/world/articles/2020-08-23/nigerian-security-clash-with-biafra-separatists-turns-deadly-dss>; see also, BBC, 'Nigeria security forces 'killed 150 pro-Biafra protestors'', 24 November 2016. Available at: <https://www.bbc.com/news/world-africa-38087836>.
- 1024 HRCte, Concluding observations on Nigeria in the absence of its second periodic report, 29 August 2019, para 14. Available at: <https://bit.ly/2K06c8P>.

concerns about the allegations of human rights violations committed by the security forces in North East Nigeria in the context of the counter-terrorism measures.¹⁰²⁵ International human rights bodies have also received preliminary reports of such alleged violations by the forces during counter-insurgency operations, including extrajudicial killings, enforced disappearances, arbitrary arrests and detention, and ill-treatment.¹⁰²⁶ The UPR Working Group noted the recommendations made to Nigeria and supported by it, including those to conduct prompt, thorough and independent investigations into allegations of abuse to ensure accountability for all violations of international human rights law and humanitarian law, regardless of the perpetrator's position or rank.¹⁰²⁷ The Special Rapporteur on extrajudicial, summary or arbitrary executions found and cited cases of military abuses even in the farmer-herder conflict in the Middle Belt, South and North Western States: indiscriminate killings, failure to protect the civilians as well as complicity in the attacks.¹⁰²⁸

Many instances of such human rights violations have been reported from the country: In December 2018, the Nigerian soldiers were captured in a video firing indiscriminately at protesting crowds near Abuja stating that the protestors posed a threat to the Nigerian soldiers.¹⁰²⁹ Nigerian authorities have detained thousands of children alongside adults for their alleged involvement with the Boko Haram.¹⁰³⁰ It was alleged that some children were imprisoned for months; others for years.¹⁰³¹ It was reported that at least 68 boys were held without charge in Maiduguri prisons as of April 2019,¹⁰³² which the military has, however, denied.¹⁰³³ Concerns were raised over similar allegations of detention of a large number of women, without charge, for alleged links with Boko Haram by the military.¹⁰³⁴ Other violations such as ill-treatment, lengthy pretrial and *incommunicado* detention of suspected Boko Haram fighters; frequent denial of basic legal safeguards, such as the right to be informed of charges and the right to communicate with a lawyer or to notify family members, have also been alleged.¹⁰³⁵ In February 2020, the military was accused of burning down villages which led to forcible displacement of hundreds of people while fighting the Islamic insurgents in the north-eastern part of the country.¹⁰³⁶ In April 2020, the Nigerian military was accused of accidentally dropping a bomb on a village in Borno state that killed civilians, including women and children.¹⁰³⁷ a claim that the military has denied.¹⁰³⁸ The Special Rapporteur on extrajudicial, summary and arbitrary executions in her end of visit report in September 2019 reported that the number of allegations of arbitrary killings and deaths in custody at the hands of the military forces has decreased over the last two years,¹⁰³⁹ but that little progress has been seen in the securing of accountability and reparations for past violations of international human rights or humanitarian law.¹⁰⁴⁰

1025 Ibid.

1026 HRCttee, Working Group on the Universal Periodic Review, Compilation on Nigeria, 27 August 2018. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/259/06/PDF/G1825906.pdf?OpenElement>.

1027 Ibid.

1028 OHCHR, End of visit statement of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her visit to Nigeria, para 38, 2 September 2019. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24934&LangID=E>.

1029 Council on Foreign Relations, 'Nigerian military conduct should be of serious international concern', 19 December 2018. Available at: <https://www.cfr.org/blog/nigerian-military-conduct-should-be-serious-international-concern>.

1030 Human Rights Watch, 'Military detention of children for suspected Boko Haram involvement in North East Nigeria', 10 September 2019. Available at: <https://www.hrw.org/report/2019/09/10/they-didnt-know-if-i-was-alive-or-dead/military-detention-children-suspected-boko>.

1031 Ibid.

1032 Amnesty International, Nigeria – 2019. Available at: <https://www.amnesty.org/en/countries/africa/nigeria/report-nigeria/>.

1033 BBC, 'Nigeria's Boko Haram crisis: Military denies detaining thousands of children', 10 September 2019. Available at: <https://www.bbc.com/news/world-africa-49653414>.

1034 HRCttee, Concluding observations on Nigeria in the absence of its second periodic report, 29 August 2019, para 36. Available at: <https://bit.ly/2K06c8P>.

1035 Ibid.

1036 Reuters, 'Nigeria's military razed villages in war on Islamic insurgents; Amnesty International', 14 February 2020. Available at: <https://in.reuters.com/article/nigeria-security-amnesty/nigerias-military-razed-villages-in-war-on-islamist-insurgents-amnesty-international-idINKBN20816F>.

1037 Daily Post, 'Boko Haram: ICC told to investigate army over alleged killing of 13 civilians', 15 April 2020. Available at: <https://dailypost.ng/2020/04/15/boko-haram-icc-told-to-investigate-army-over-alleged-killing-of-13-civilians/>.

1038 Daily Post, 'Boko Haram: Nigerian military denies killing over 17 civilians in Borno', 14 April 2020. Available at: <https://dailypost.ng/2020/04/14/boko-haram-nigerian-military-denies-killing-over-17-civilians-in-borno/>.

1039 OHCHR, End of visit statement of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her visit to Nigeria, 2 September 2019. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24934&LangID=E>.

1040 Ibid.

In its voluntary pledges of 2006, reiterated in 2009, Nigeria committed to ‘uphold the principles of non-discrimination and the protection and promotion of the human rights of all citizens’.¹⁰⁴¹ During the general debate under Item 9 on **racism, racial discrimination, xenophobia and related forms of intolerance**, follow-up and implementation of the Durban Declaration and Programme of Action (DDPA), it reiterated its unequivocal condemnation of all forms of racism, and remained concerned by the trend of social exclusion and other forms of marginalisation against people of African descent across the world, especially with the upsurge of populist nationalism.¹⁰⁴² After multilateral consultations, Nigeria finalised its second National Action Plan (NAP) for the Promotion and Protection of Human Rights covering 2017 to 2022, addressing among other things, racial discrimination, xenophobia and intolerance.¹⁰⁴³ Article 42 of the Nigerian Constitution guarantees protection against racial discrimination.¹⁰⁴⁴ The Committee on Migrant Workers recommended that Nigeria take all measures necessary to extend to migrant workers the guarantees relating to privacy, freedom of movement and protection against racial discrimination and to remove from its legislation all provisions that discriminated against foreign men in relation to the acquisition of nationality.¹⁰⁴⁵

Earlier in 2019, 130 people were killed during an attack by the Fulani ethnic group (predominantly Muslims) on the members of the Adara ethnic group (predominantly Christians).¹⁰⁴⁶ Investigations found that the objective of the attack was to ‘wipe out certain communities’.¹⁰⁴⁷ Between January 2016 and October 2018 nearly 3,641 people were killed in clashes between Fulani farmer communities and members of the herder communities over disputes concerning access to resources: water, land and pasture, ethnic differences, among others.¹⁰⁴⁸ These attacks have continued and as recently as in April 2020, Nigerian Christians were reportedly attacked in their homes.¹⁰⁴⁹ There were also reports of attacks and protests against South African entities in the country in retaliation for the xenophobic attacks against Nigerians in South Africa.¹⁰⁵⁰

VI. Conclusions

Nigeria participated in selected interactive dialogues and general debates during the 42nd HRC Session.

- Nigeria currently has a total of 10 visit requests reminders pending from the Special Procedures despite having pledged to cooperate with the Special Procedures of the Council,¹⁰⁵¹ including those from the Working Groups on discrimination against women and girls and on mercenaries; the Independent Experts on foreign debt and on albinism; and Special Rapporteurs on racism, on freedom of expression, on sale of children, on health and sanitation, on toxic waste and on counter-terrorism and human rights, among others.¹⁰⁵²
- Nigeria is the only Commonwealth member of the HRC that has ratified almost all major human rights instruments, except the CCPR-OP2-DP. But it currently has eight reports pending with treaty bodies, six out of which have been outstanding for over five years.¹⁰⁵³
- According to the recent visit report of the Special Rapporteur on extrajudicial, summary and arbitrary executions,

1041 Office of the High Commissioner for Human Rights, Voluntary Pledges and Commitments submitted by the Permanent Mission of the Federal Republic of Nigeria to the United Nations, 24 April 2006. Available at: <https://www.un.org/ga/60/elect/hrc/nigeria.pdf>.

1042 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2V37G8q>.

1043 Human Rights Council, Working Group on the Universal Periodic Review, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, 27 August 2018. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/182/589/9X/PDF/1825899.pdf?OpenElement>.

1044 Constitution of The Federal Republic of Nigeria - 1999, Article 42. Available at: <http://www.nigeria-law.org/ConstitutionOf-TheFederalRepublicOfNigeria.htm>.

1045 Human Rights Council, Working Group on the Universal Periodic Review, Compilation on Nigeria, 27 August 2018. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/259/06/PDF/G1825906.pdf?OpenElement>.

1046 Reuters, ‘Death toll from northwest Nigeria attack doubles to 130’, 19 February 2019. Available at: <https://reut.rs/2PGHwEr>.

1047 Ibid.

1048 Amnesty International, ‘Harvest of Death’, May 2018. Available at: <https://www.amnesty.org/en/documents/afr44/9503/2018/en/>.

1049 The Voice, ‘Nigerian Christians attacked in their homes during COVID-19 lockdown’, 7 April 2020. Available at: <https://www.voice-online.co.uk/news/world-news/2020/04/07/nigerian-christians-attacked-in-their-homes-during-covid-19-lockdown/>.

1050 Africa News, ‘Nigerians attack South African business in retaliation to xenophobic attacks’, 4 September 2019. Available at: <https://www.africanews.com/2019/09/04/nigerians-attack-south-african-business-in-retaliation-to-xenophobic-attacks/>.

1051 Ibid.

1052 Ibid.

1053 Ibid.

although the number of arbitrary killings and deaths in custody at the hands of the military forces has decreased over the last two years, there still are allegations of other violations against the security forces such as arbitrary and pre-trial detention, ill-treatment and excessive, indiscriminate use of force in counter-terrorism operations.

- Human rights defenders, journalists, activists and political opponents remain at a risk of harassment and reprisals through de facto and legislative means. Whereas slander, libel and defamation are criminal offences under the Nigerian penal Code, punishable by imprisonment, some journalists were prosecuted also under the Cybercrime Act and Terrorism (Prevention) (Amendment) Act 2013, for investigative journalism, unveiling corruption and for expressing unfavourable views about the Government.¹⁰⁵⁴ Between January and September 2019, 19 cases of assault, arbitrary arrest, and detention of journalists were recorded in Nigeria.¹⁰⁵⁵

1054 Amnesty International, 'Endangered Voices: Attack on Freedom of Expression in Nigeria'- 2019, p.5. Available at: <https://www.amnesty.org/en/documents/afr44/9504/2019/en/>.

1055 CIVICUS, 'Concerns about freedom of expression in Nigeria: Journalists arrested, protests repressed', 19 November 2019. Available at: <https://monitor.civicus.org/country/nigeria/>.

I. Introduction

Pakistan was elected for its fourth term at the HRC in 2017 and currently is the only Commonwealth Member State of the HRC that has been elected through a contested, ‘non-clean slate’ election.¹⁰⁵⁶ It previously served as a member of the Council from 2006-2008,¹⁰⁵⁷ 2009-2011,¹⁰⁵⁸ and 2012-2015.¹⁰⁵⁹ Its current term ends in 2020.¹⁰⁶⁰

II. Voluntary Pledges and Commitments

Pakistan submitted its updated voluntary pledges while submitting its candidature in 2017.¹⁰⁶¹ It undertook commitments to promote and protect human rights at the national and international levels through cooperation and engagement: by proactively engaging with the Council, its machinery, processes and initiatives as well as other UN agencies and civil society.¹⁰⁶²

Pakistan pledged to¹⁰⁶³:

At the National Level:

- Undertake effective enforcement of its existing human rights legislation and policy, and to prioritise future interventions on women, children, minorities, persons with disabilities and other vulnerable segments of society.
- Implement the National Action Plan for human rights.
- Formulate a mechanism for reviewing existing legislation and proposing new legislation in consultation with provincial governments and civil society.
- Enhance the operational effectiveness of national human rights institutions.
- Improve 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 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 utilise funds for free legal aid.
- Expand the scope of toll-free helplines in all provinces.
- Mainstream human rights into development planning.

At the International Level: strengthen its contribution towards the global promotion of human rights and positively engage with the Human Right Council along these lines:

- Make the Council a forum for genuine dialogue and cooperation through non-discrimination and impartiality as per the Institution Building Package (HRC Resolution 5/1).
- Contribute to the effectiveness of the Council’s Mechanisms and its review process.

¹⁰⁵⁶ United Nations General Assembly, Elections of the Human Rights Council, 2017. Available at: <https://www.un.org/en/ga/72/meetings/elections/hrc.shtml>.

¹⁰⁵⁷ United Nations General Assembly, Elections of the Human Rights Council, 2006. Available at: <https://www.un.org/press/en/2006/ga10459.doc.htm>.

¹⁰⁵⁸ United Nations General Assembly, Elections of the Human Rights Council, 2008. Available at: https://web.archive.org/web/20081114214133/https://www.un.org/ga/62/elections/hrc_elections.shtml.

¹⁰⁵⁹ United Nations General Assembly, Elections of the Human Rights Council, 2012. Available at: <https://www.un.org/en/ga/67/meetings/elections/hrc.shtml>.

¹⁰⁶⁰ Office of the High Commissioner for Human Rights, Current Membership of the Human Rights Council (2019), Available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/MembersByGroup.aspx>.

¹⁰⁶¹ United Nations General Assembly, Elections of the Human Rights Council, 2017. Available at: <https://www.un.org/en/ga/72/meetings/elections/hrc.shtml>.

¹⁰⁶² United Nations General Assembly, Note verbale 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>.

¹⁰⁶³ Ibid.

- 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 of Human Rights and Humanitarian Affairs in Geneva, work on maintaining solidarity between the Islamic world and the West.
- Continue to support the UN Alliance of Civilisations 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, ensure periodic submission of reports and engage constructively during the reviews.
- Strengthen cooperation and engagement with the High Commissioner for Human Rights and Special Procedures.

III. Participation at the 42nd Session of the HRC

Pakistan’s participation in the various interactive dialogues and debates during the Session can be summarised as follows:

S. No.	Interactive Dialogue	Pakistan’s Interventions
1.	Clustered interactive dialogue with the Special Rapporteur on contemporary forms of slavery and the Working Group on the use of mercenaries	<ul style="list-style-type: none"> • Concurred with the Special Rapporteur’s observations that inequality, demographic pressure, climate change, and lack of safe and affordable pathways for labour migration have increased the risks of modern slavery. • Raised concerns about the new forms of online exploitation, especially of women and children. • Stated that its Constitution prohibits all forms of bonded labour and that it has enacted two new laws in June 2018 on migrant smuggling and trafficking in persons to tackle the linkages between irregular movement and various forms of modern slavery. • Fully endorsed the Special Rapporteur’s multi-stakeholder, multi-faceted victim-centric approach and the need to address both national and trans-national drivers of modern slavery focusing on global inequalities and facilitating legal routes for labour migration. • Expressed the need for an evolved international legal framework to regulate the increasing role of mercenaries in different settings, including in extractive industries, while stressing the need for the Working Group to focus on its primary mandate.¹⁰⁶⁴
2.	Clustered interactive dialogue with the Special Rapporteur on the human rights to safe drinking water and sanitation and the Special Rapporteur on hazardous substances and wastes	<ul style="list-style-type: none"> • Reassured the Council of its people-centric agenda focused on management and implementation of water, sanitation and hygiene-related policies in coordination with provincial and local government departments. • Stated that the aim of its National Drinking Water Policy 2009 is to provide clean, safe, affordable and sufficient drinking water and reducing inequalities in this regard. • Reiterated the responsibility of States and other stakeholders to provide protection of workers at elevated social or physiological risks. • Thanked the Special Rapporteur for elaborating on the principles for protection from hazardous wastes based on agreed international standards and requested him for possible steps to fill the legislative gaps. • Highlighted the increased risk of harm by hazardous wastes for vulnerable groups such as migrants, minorities and persons with disabilities and the need to provide remedy to the victims and protect them from exploitation by companies in transboundary cases.¹⁰⁶⁵

1064 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2GshIR2>.

1065 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2QUBhy6>.

3.	Clustered interactive dialogue with the Working Group on enforced or involuntary disappearances and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence	<ul style="list-style-type: none"> • Reaffirmed its commitment to uphold its international human rights obligations, as a parliamentary democracy and stated the steps taken to address the issue of enforced and involuntary disappearances. • Informed the Council of the institution of an independent Commission of Inquiry on Enforced Disappearances which has investigated many alleged cases and provided remedy where required. • Stated that the marked decline in new cases of enforced disappearances over the years evidenced its commitment and efforts. • Urged the Working Group to transmit specific and verifiable information with concerned Governments to enable swift action within available resources and capacity and reiterated the need to screen cases at the preliminary stage and avoid resending of cases closed on provision of sufficient evidence.¹⁰⁶⁶
4.	Clustered interactive dialogue with the Independent Expert on the human rights of older persons and the Special Rapporteur on the right to development	<ul style="list-style-type: none"> • Concurred with the challenges highlighted by the Independent Expert in realising the rights of older persons and reminded the Council to be cognisant of the socio-economic pressures affecting older persons. • Stated that it has a strong social system, based on Islamic principles of respect and care for all, and thus an inbuilt mechanism of providing care for older people by younger family members. • Affirmed that maintaining traditional family system with targeted State interventions for assistance to the elderly remains a priority and agreed on the need to strengthen the contributions by older persons by engaging them in conflict resolution and decision-making. • Asserted the importance of equal distribution of wealth and resources and widening disparities, while adding the right to development ensures freedom from poverty, which remains a core human right. • Informed the Council of its people-centric development strategies following a multifaceted approach through structural reforms, investment friendly policies and social safety nets for the vulnerable. • Asserted that the enjoyment of the right to development should not be constricted by the limited ability, especially of developing States, and requested the Special Rapporteur to elaborate on steps to ensure an inclusive development process.¹⁰⁶⁷
5.	Interactive dialogue with the Independent Expert on democratic and equitable international order	<ul style="list-style-type: none"> • Affirmed that there is no place for unilateral coercive measures in a democratic, just and equitable international order and added that actions such as economic sanctions and blockades violate the UN Charter and the international human rights and humanitarian law. • Added that unilateral coercive measures are tantamount to intervention and modern form of use of force and regretted their increasing use to advance political interests, and added that although these measures target regimes, their ultimate victims are people, especially women, children and the elderly. • Agreed with the Special Rapporteur that unilateral economic sanctions are a form of “collective punishment” impeding people’s access to food and medicines that undermines cooperation among States and shrinks space for peaceful conflict resolution. • Reiterated the need for an independent UN mechanism that provides remedies and compensation to victims of coercive measures in light of the democratic deficit in global governance system. • Reaffirmed the need to facilitate civil society participation to bring a useful perspective as well as promote transparency, inclusivity and responsiveness and tackle emerging global challenges.¹⁰⁶⁸

1066 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/324mBCZ>.

1067 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/31VPwRy>.

1068 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/32YofQU>.

6.	Interactive dialogue with the Working Group on arbitrary detention	<ul style="list-style-type: none"> • Raised concerns about the situation in Jammu and Kashmir since August 2019, including communication blackout and detention of political leaders there. • Expressed concern regarding reports of arbitrary arrests and detention, while raising concerns over the Public Safety Act that is reported to be used to detain people, including human rights defenders, and does not provide for judicial review of such detentions. • Urged the Working Group to address the issue of detention in Jammu and Kashmir and share updates.¹⁰⁶⁹
7.	Interactive dialogue with the Special Rapporteur on Myanmar	<ul style="list-style-type: none"> • Remained concerned with the human rights situation of the Rohingya Muslims in Myanmar who have been victims of systematic persecution over decades. • Added that unless the underlying socio-political causes of such discrimination are addressed and security forces are held accountable for their actions, violence and atrocities against the Rohingya will continue. • Urged the Government of Myanmar to grant unhindered access to UN agencies and other international organisations and take steps to end violence immediately, bring perpetrators to justice, address the root causes of discrimination against the Rohingya, and ensure their well-being and return to Myanmar in conditions of safety and dignity. • Maintained that it was ready to work with all stakeholders, including the Government of Myanmar, to prevent human rights violations and ensure sustainable return and rehabilitation of the Rohingya in their ancestral homes in conditions of peace.¹⁰⁷⁰
8.	Interactive dialogue with the fact-finding mission on Myanmar	<ul style="list-style-type: none"> • Remained concerned with the findings of the Fact-Finding Mission's report and maintained that the anti-Muslim public discourse in Myanmar has led to isolation, criminalisation and systemic persecution of the Rohingya for decades. • Stated that the vulnerability of the Rohingya and other minorities is a consequence of State policies and practices steadily marginalising them leading to institutionalised and continuous oppression. • Stated it was alarmed by the Fact-Finding Mission's conclusion that international crimes warranting criminal prosecution have been committed in Myanmar. • Reiterated the need to address the root socio-political causes of discrimination, the need for accountability of the security forces, and for the international community to unite to assist Myanmar in bringing an end to the recurrent problems and sufferings of the Rohingya.¹⁰⁷¹
9.	Clustered interactive dialogue with the Special Rapporteur on the rights of indigenous peoples and the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)	<ul style="list-style-type: none"> • Stated that its Constitution guarantees fundamental rights for all without any discrimination on any basis, including gender, race, colour, descent, ethnicity or nationality and that all people are free to participate politically at national, provincial and local levels. • Noted that its civil society, judiciary and media function as watch dogs for proper implementation of laws, while its National History and Literary Heritage Division has been working on promoting the culture of indigenous people from the Kalash valley by preparing documentaries and celebrating their festivals. • Stated that the rights of the indigenous people of Jammu and Kashmir were undermined by measures taken by India in August 2019. • Urged the Special Rapporteur and members of the expert mechanism to give equal attention to the rights of these indigenous people and to elaborate ways to ensure equal enjoyment of rights by them.¹⁰⁷²

1069 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2Zco08t>.

1070 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/3jQUdKt>.

1071 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2ROERa2>.

1072 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/3jQUoFD>.

10.	Interactive dialogue with the Human Rights Council Advisory Committee	<ul style="list-style-type: none"> • Aspired that the work of the Advisory Committee continues to be guided by the principles of objectivity, non-politicisation and impartiality, while noting the importance of timely presentation of thematic reports. • Stated that its study on “the possibility of utilising non-repatriated illicit funds to support the achievement of the 2030 Agenda for Sustainable Development” being of importance for the developing world. • Pointed out that their citizens are adversely affected by the outflow and non-repatriation of such funds and added that appropriate international mechanisms and processes and cooperation should be developed to repatriate such funds to their rightful owners. • Expressed an interest in the study on “the negative effects of terrorism on the enjoyment of all human rights” and hoped that it would objectively assess the various aspects of the subject, including State- sponsored terrorism.¹⁰⁷³
11.	Interactive dialogue with the Assistant Secretary-General for Human Rights on the report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights	<ul style="list-style-type: none"> • Stated that engagement of civil society and HRDs with the UN human rights mechanisms is crucial for the realisation of the human rights agenda and that reprisals against them must be dealt with seriously. • Alleged that there had been reprisals in Jammu and Kashmir, including regular harassment, intimidation and persecution, and condemned the communications blockade as an effort to stop information from reaching UN mechanisms and the international community. • Expressed concerns over reported cases of harassment against local and foreign journalists and alleged reprisals against women HRDs in the territory to obstruct their work and stop them from attending HRC sessions also noted in the OHCHR Kashmir reports. • Urged the Assistant Secretary-General to take note of the situation in Kashmir and share updates on issues that may have come to his attention.¹⁰⁷⁴
12.	Interactive dialogue with the Working Group of Experts on People of African Descent	<ul style="list-style-type: none"> • Reaffirmed its commitment to the Working Group’s mandate and to the DDPA while strongly condemning all acts of racism, discrimination, xenophobia and related intolerance in all their forms and manifestations. • Underlined the urgency to address the issue with greater resolve and political will around the world. • Concerned with systemic racial discrimination that denies meaningful and effective development to people of African descent and concluded the need to identify gaps, increase visibility and combat such discrimination, xenophobia, Afrophobia and related intolerance faced by the people of African descent. • Expressed concerns about incidents of religious intolerance and discrimination, xenophobic hatred, negative stereotyping and ethnic profiling that is an affront to human dignity and the shared responsibility of States to combat and condemn such incidents. • Recalled the DDPA principles urging States to adopt measures creating equal opportunity in various sectors and provide effective remedies for victims.¹⁰⁷⁵

1073 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/354CVFE>.

1074 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/330kTBQ>.

1075 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/3btRUdv>.

S. No.	General Debate	Pakistan's Interventions
1.	General debate on the Oral Update by the United Nations High Commissioner for Human Rights (Item 2)	<ul style="list-style-type: none"> • Shared the High Commissioner's concerns over the human rights situation in Jammu and Kashmir. • Highlighted serious concerns about the communication blackout there, while reiterating the alleged human rights violations by Indian forces as documented by the OHCHR in its Kashmir Reports. • Raised serious concerns that the people of Jammu and Kashmir are reportedly desperate for food, medicines, access to medical services and other basic necessities. • Condemned the curfew as draconian and demanded answers for the detention of civilians and leadership and excesses by the forces while adding that human rights are universal and not an internal or bilateral issue. • Called for accountability for the human rights violations and protection of the people in Jammu and Kashmir in order to ensure its foundation, spirit and credibility.¹⁰⁷⁶
2.	General debate on Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (Item 3)	<ul style="list-style-type: none"> • Reminded the Council that one of the purposes of the UN was to achieve freedom from all forms of servitude, protect the life and liberty of people and ensure the realisation of the right to self-determination. • Asserted that the UNSC's position on Kashmir in favour of right to self-determination of the people and asserted that the changed status of Kashmir in August 2019 was in contravention of the UNSC resolution. • Raised concerns over the human rights violations and excessive use of force in Jammu and Kashmir and recalled the UN Special Procedures' words calling these actions as "unprecedented" and amounting to "collective punishment" for the people in the territory. • Pointed out the dire situation of eight million Kashmiris due to lack of food, medicines and violence and urged States to act together on the issue.¹⁰⁷⁷
3.	Human rights situation that require the Council's attention (Item 4)	<ul style="list-style-type: none"> • Informed the Council on the reports of the security lockdown, use of pellet guns, scarcity of food and medicines, communication blockade, and allegations of detention and extrajudicial killings, in Kashmir. • Shared several anecdotes from international media and news agencies as well as personal accounts to narrate their plight and extent of human rights violations. • Asked the Council on how it proposes to alleviate suffering and urged a response from international human rights mechanisms to demonstrate a resolute adherence to international norms and values. • Urged the High Commissioner and the Council to closely monitor and report on the situation in Jammu and Kashmir in accordance with its mandate.¹⁰⁷⁸
4.	General debate on Human rights bodies and mechanisms (Item 5)	<ul style="list-style-type: none"> • Affirmed that it remains constructively engaged with the Special Procedures, Treaty Bodies and other relevant UN mechanisms given their important contributions towards realisation of human rights. • Noted that its diligent sharing of reports with treaty bodies and communications with mandate holders demonstrates its commitment to advance human rights through fruitful interaction with UN mechanisms. • Highlighted the critical role played by mandate holders in the field of advocacy, creating public awareness and providing expert opinion and reiterated the importance of documenting the impact of their work to channelise their potential utility in an evidence-based manner. • Called them the "eyes and ears" of the UN system and urged them to call on India to ease the restrictions in Jammu and Kashmir and allow access to monitor and document the human rights situation on the ground.¹⁰⁷⁹

1076 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/3bDlai0>.

1077 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/32YOvzm>.

1078 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/3228cXT>.

1079 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2F13dOo>.

5.	General debate on Human Rights situation in Palestine and other occupied Arab territories (Item 7)	<ul style="list-style-type: none"> • Reaffirmed the importance of the agenda item and noted that the lack of progress on the Palestinian issue has betrayed their hopes and aspirations and sowed seeds of hostility and discord in the region. • Noted that while the right to self-determination is a basic right enshrined in international law, millions of people around the world, including in Palestine, have been denied its exercise. • Strongly condemned Israel's atrocities and systematic violence against Palestinian civilians and called for immediate measures to guarantee the safety and security of Palestinians in the occupied territories. • Reminded the Council of the UNSC and UNGA resolutions affirming that any measures taken to alter the legal status of Jerusalem would be null and void; and asserted that any contrary action would be an attempt to legitimise Israel's illegal occupation of East Jerusalem. • Expressed solidarity with the Palestinian cause and endorsed the need for a viable and independent State of Palestine to be created on internationally agreed parameters, the pre-1967 borders and Al-Quds-Al-Sharif as its capital, to bring peace and stability. • Urged Israel to end its illegal occupation of and human rights violations in all Arab territories.¹⁰⁸⁰
6.	General debate on follow-up to and implementation of the Vienna Declaration and Programme of Action (VDPA) (Item 8)	<ul style="list-style-type: none"> • Considered VDPA as a landmark of ongoing global endeavours to promote and protect human rights of all on an equal footing and encouraged the progress made on these collective commitments. • Noted the multiple challenges in its effective implementation: ethno-nationalism, populism, unilateralism and global socio-economic inequalities that have dimmed the prospect of having a just and equitable international order. • Elaborated that the VDPA recognises occupation as a situation impeding full enjoyment of human rights and thus calls for effective implementation of international measures to protect, guarantee and monitor human rights of people under occupation. • Drew the Council's attention to the situation in Jammu and Kashmir especially since August 2019. • Called on the Council to urge India to lift restrictions imposed in Jammu and Kashmir and allow access to the OHCHR and UN mandate-holders to monitor the situation.¹⁰⁸¹
7.	General debate on Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action (DDPA) (Item 9)	<ul style="list-style-type: none"> • Reiterated deep concern over the rise of racism, xenophobia and Islamophobia in many parts of the world where ideologies of exclusion and hate are being used to demonise minorities and target migrants. • Noted instances from India with the spread of ideology that has incited hatred against minorities. • Expressed serious concerns over these trends and called on them to be resisted as well as urged the Council to demonstrate same standards and principles for all to tackle bigotry, exclusion and racism. • Appreciated the remarkable example set by the Prime Minister of New Zealand, Jacinda Ardern, by effectively defeating those spreading hatred and intolerance.¹⁰⁸²

1080 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2Zda2U1>.

1081 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2ZbKdn5>.

1082 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/358wOA4>.

8.	General debate on Technical assistance and capacity building (Item 10)	<ul style="list-style-type: none"> • Noted the primary importance of technical assistance and capacity building within the Council’s mandate and that it should be utilised bearing in mind the principles of transparency, objectivity and non-politicisation. • Highlighted that the Council needs be more innovative in designing cooperation packages taking into consideration the national context and circumstances. • Strongly believed in the principles established in UNGA Resolution 60/251 and the institution building package on technical cooperation and capacity building which should not be misused or used as an excuse for interfering in internal matters and offered in consultation with the concerned States to ensure sustainability. • Drew attention to the cross-linkages between the 2030 Agenda and the technical assistance and capacity building arm of the Council, while stating the need to channelise sufficient resources to realise the right to development and achieve human rights and sustainable development in a mutually reinforcing manner. • Outlined the vital role played by the UN Voluntary Trust Fund to Support Participation of LDCs and SIDS and committed to continue to support it.¹⁰⁸³
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IV. Voting Pattern on Resolutions

Thematic Resolutions

Pakistan voted in favour of five¹⁰⁸⁴ out of the six thematic resolutions that were put to vote during the session: *Composition of staff of the Office of the High Commissioner for Human Rights (OHCHR)*,¹⁰⁸⁵ *Promotion of a democratic and equitable international order*,¹⁰⁸⁶ *The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*,¹⁰⁸⁷ *The right to development*,¹⁰⁸⁸ and *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*.¹⁰⁸⁹

- In the explanation of vote before the vote on the resolution on *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*,¹⁰⁹⁰ Pakistan underscored the importance of engagement of different stakeholders, including civil society, HRDs and victims of human rights violations, for fully realising the human rights agenda. It raised concerns over the life-threatening reprisals against HRDs in many parts of the world with States stopping physical access and imposing communication blockades to prevent them from reaching out to the UN human rights mechanisms. In furtherance of its support for the engagement with different stakeholders, Pakistan supported the resolution.¹⁰⁹¹

It voted against one thematic resolution, namely, *The question of the death penalty*.¹⁰⁹²

- In the explanation of vote before the vote on the resolution, Pakistan maintained that there is no international consensus on the death penalty when imposed in accordance with the due process of the law. It added that the international human rights law defers the decision on the death penalty as a sovereign right of a State to decide for itself taking into account its own circumstances. It stated that, in Pakistan, death penalty is only applied

1083 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/35dFp4v>.

1084 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President’s statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1085 Resolution 42/1 Composition of staff of the Office of the United Nations High Commissioner for Human Rights (2019).

1086 Resolution 42/8 Promotion of a democratic and equitable international order (2019).

1087 Resolution 42/9 The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (2019).

1088 Resolution 42/23 The right to development (2019).

1089 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

1090 Ibid.

1091 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Statements.aspx?SessionId=31&MeetingDate=27/09/2019%2000:00:00>.

1092 Resolution 42/24 The question of the death penalty (2019).

in adherence to the due process of the law after a final judgment rendered by a competent court and after exhausting the right to appeal for commutation or seek pardon. Therefore, Pakistan voted against the resolution.¹⁰⁹³

It did not abstain from voting on any thematic resolution that was put to vote during the session and joined the consensus in the Council to adopt the remaining 19 thematic resolutions.¹⁰⁹⁴

Country Situation Resolutions

Pakistan voted in favour of two¹⁰⁹⁵ country situation resolutions that were tabled for vote during the session, namely, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar*¹⁰⁹⁶ and *Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela*.¹⁰⁹⁷

It voted against two¹⁰⁹⁸ country situation resolutions: *Human rights situation in Yemen*¹⁰⁹⁹ and *Situation of human rights in Burundi*.¹¹⁰⁰

It abstained from voting on two¹¹⁰¹ other resolutions, namely, *Situation of human rights in the Bolivarian Republic of Venezuela*¹¹⁰² and *The human rights situation in the Syrian Arab Republic*.¹¹⁰³

It joined the consensus in adopting the remaining six country situation resolutions.¹¹⁰⁴

V. Analysis: compliance with Pledges and Commitments

a) Engagement with Special Procedures

Pakistan, in its voluntary pledges, committed itself to 'strengthen cooperation and engagement with the High Commissioner for Human Rights and Special Procedures.'¹¹⁰⁵ However, it has not yet extended a standing invitation to the Special Procedures.¹¹⁰⁶

Presently, Pakistan has a total of 11 visit requests pending with the Special Procedure mandate holders.¹¹⁰⁷ These pending requests and reminders include: from the Special Rapporteurs on cultural rights, on minority issues, on

1093 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2QJLI7r>.

1094 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1095 Ibid.

1096 Resolution 42/3 Situation of human rights of Rohingya Muslims and other minorities in Myanmar (2019).

1097 Resolution 42/4 Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela (2019).

1098 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1099 Resolution 42/2 Situation of human rights in Yemen (2019).

1100 Resolution 42/26 Situation of human rights in Burundi (2019).

1101 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1102 Resolution 42/25 Situation of human rights in the Bolivarian Republic of Venezuela (2019).

1103 Resolution 42/2 The human rights situation in the Syrian Arab Republic (2019).

1104 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1105 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>.

1106 OHCHR, Standing invitations to Special Procedures. Available at: https://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=PAK.

1107 OHCHR, Country visits by Special Procedures to Pakistan. Available at: https://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=PAK.

torture, on freedom of religion, on contemporary forms of slavery, on human rights and counter terrorism, on human rights defenders, and on extrajudicial, summary or arbitrary executions as well as Working Groups on mercenaries, on discrimination against women and on disappearances.¹¹⁰⁸

b) *Compliance with Reporting Obligations to Treaty Monitoring Bodies*

Pakistan pledged to comply with its treaty obligations, to ensure periodic submission of reports, and constructive engagement during the reviews.¹¹⁰⁹ Within the stipulated timeframe of this report, Pakistan had only one treaty body report pending with the CERD since January 2020.¹¹¹⁰ Similarly, its report to the CCPR for the current reporting cycle is also pending since July 2020.¹¹¹¹

Pakistan submitted two treaty body reports, namely, CEDAW in October 2018, and CRC-OP-SC in March 2019, after the delay of 6 years.¹¹¹² Its report to the CCPR in October 2015; the CAT in January 2016; and the CESCR in October 2015, after a delay of four years in the first reporting cycles.¹¹¹³

Pakistan has not ratified the *Convention for the Protection of All Persons from Enforced Disappearance (CED)* and the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)*.¹¹¹⁴ Furthermore, Pakistan has not accepted individual complaint procedures under CAT, CEDAW-OP, CESR- OP, CRC-OP-AC, and CRPD-OP.¹¹¹⁵

c) *Compliance with Thematic Issues*

In its voluntary pledges, Pakistan committed itself to effectively enforce its existing human rights legislation and policy and to ensure speedy justice for victims of human rights violations and create human rights awareness.¹¹¹⁶ In the interactive dialogue with the Working Group on arbitrary detention, it alleged arbitrary detentions in Jammu and Kashmir and requested the Working Group to address the issue in the region and share updates on it.¹¹¹⁷ The HRCtte has espoused that enforced disappearances constitute a particularly aggravated form of arbitrary detention.¹¹¹⁸ In the interactive dialogue with the Working Group on enforced or involuntary disappearances, it informed the Council of the steps taken to address the issue at the national level, including the setting up of an Independent Commission of Inquiry on Enforced Disappearances (CIOED), which has led to a marked decline in such cases over the years.¹¹¹⁹ It also joined the consensus in the Council in adopting the resolution on *Arbitrary detention*¹¹²⁰ that called on States to respect the rights of arrested and detained persons at all stages, including in cases of administrative detention and to

1108 Ibid.

1109 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>.

1110 OHCHR, Treaty Bodies, Reporting status of Pakistan. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=En&CountryID=131.

1111 Ibid (*However, this pending report will not be counted for the purposes of the report since it only looks at the data available till 30 April 2020).

1112 Ibid.

1113 Ibid.

1114 Ibid.

1115 Ibid.

1116 United Nations General Assembly, Note verbale 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>.

1117 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2ZsFFcr>.

1118 Human Rights Committee, General Comment No. 35 on Article 9 of the International Covenant on Civil and Political Rights (Liberty and security of person), 16 December 2016, para 17. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CCPR%2fC%2fGC%2f35&Lang=en.

1119 OHCHR, 'Human Rights Council holds clustered interactive dialogue on enforced disappearances and arbitrary detention', 12 September 2018. Available at: <https://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23542&LangID=E>; See also, Human Rights Commission of Pakistan, 'State of Human Rights in 2019', 2020, pg. 10, 78. Available at: http://hrp-web.org/hrpweb/wp-content/uploads/2020/04/REPORT_State-of-Human-Rights-in-2019-20190503.pdf.

1120 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

review laws and practices in that regard.¹¹²¹

The Constitution of Pakistan guarantees that no person shall be deprived of liberty save in accordance of law.¹¹²² However, UN bodies¹¹²³ as well as other human rights organisations¹¹²⁴ have raised concerns over cases of arbitrary detention, including secret detention, and enforced disappearances in the country.¹¹²⁵ The Constitution makes provision for enacting laws permitting preventive detention, especially in the context of national security and defence.¹¹²⁶ It allows for an initial detention for a period of three months at a time which can be further extended on the permission of a review board. It allows the detaining authority to communicate the grounds of detention to a person detained under such a law within fifteen days and afford her/him 'the earliest opportunity' for making a legal representation against the order, unless it considers such disclosure to be against 'public interest'.¹¹²⁷ Presently, multiple laws provide for preventive detention in Pakistan.¹¹²⁸ In August 2019, the Actions (In Aid of Civil Power) Ordinance was promulgated in the province of Khyber-Pakhtunkhwa giving sweeping powers to members of the armed forces to detain people without charge or trial on vaguely defined grounds for an unspecified period of time,¹¹²⁹ until it was struck down by the Peshawar High Court as unconstitutional.¹¹³⁰ It was based on the 2011 Regulation, which have been reported to be used extensively used as a legal cover for arbitrary, secret detentions and enforced disappearances in Pakistan.¹¹³¹ The HRCtte, in its concluding observations, had raised concerns about the indefinite, secret detention of a high number of persons without judicial supervision under the 2011 Regulation, in addition to threats and intimidation to discourage victims and their families from filing cases and lack of prosecution and conviction of perpetrators, and called for repealing it or bringing it in conformity with international standards.¹¹³² It was reported that, until March 2019, the COIED had around 2,178 unresolved individual cases.¹¹³³

The HRCtte also raised concerns about high proportion of persons held in prolonged pretrial detention, including for periods exceeding the maximum sentence for the crime.¹¹³⁴ Out of the total prison population as of September 2019, about 62.1 per cent were pretrial or remand detainees.¹¹³⁵ One of the reasons behind overcrowding is overuse of

1121 Resolution 42/22 Arbitrary detention (2019).

1122 The Constitution of Pakistan, Part II, Chapter 1 – Articles 9-10. Available at: <http://www.pakistani.org/pakistan/constitution/part2.ch1.html>.

1123 HRCtte, Concluding observations on the initial report of Pakistan, paras 19-20, 23, 27-28, 37, 23 August 2017. Available at: <https://undocs.org/en/CCPR/C/PAK/CO/1>; see also, CAT, Concluding observations on the initial report of Pakistan, paras 12-13, 16-17, 21-22, 34, 1 June 2017. Available at: <https://undocs.org/en/CAT/C/PAK/CO/1>; see also, CESCR, Concluding observations on the initial report of Pakistan, paras 14, 25, 20 July 2017. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybody-external/Download.aspx?symbolno=E/C.12/PAK/CO/1&Lang=En.

1124 Freedom House, Freedom in the World 2020: Pakistan. Available at: <https://freedomhouse.org/country/pakistan/freedom-world/2020>; see also, Amnesty International, 'Pakistan: Authorities must investigate whereabouts of missing political activists', 1 February 2019. Available at: <https://www.amnesty.org/en/latest/news/2019/02/pakistan-authorities-must-investigate-whereabouts-of-missing-political-activists/>.

1125 Human Rights Watch, Pakistan: Events of 2019. Available at: <https://www.hrw.org/world-report/2020/country-chapters/pakistan>.

1126 The Constitution of Pakistan, Part II, Chapter 1 – Article 10 (3-5). Available at: <http://www.pakistani.org/pakistan/constitution/part2.ch1.html>.

1127 Ibid.

1128 The Security of Pakistan Act 1952, Section 3. Available at: <http://nasirlawsite.com/laws/sop.htm>; The West Pakistan Maintenance of Public Order Ordinance 1960, section 3. Available at: <https://www.ma-law.org.pk/pdflaw/WEST%20PAKISTAN%20MAINTENANCE%20OF%20PUBLIC%20ORDER%20ORDINANCE.pdf>; The Anti-Terrorism Act 1997, Section 11EEE. Available at: <http://www.molaw.gov.pk/molaw/userfiles1/file/Anti-Terrorism%20Act.pdf>.

1129 International Commission of Jurists, 'Pakistan: Immediately revoke oppressive Khyber Pakhtunkhwa Actions (In Aid of Civil Power) Ordinance', 27 September 2019. Available at: <https://www.icj.org/pakistan-immediately-revoke-oppressive-khyber-pakhtunkhwa-actions-in-aid-of-civil-power-ordinance/>.

1130 The Express Tribune, 'PHC scraps 'action in aid of civil power' ordinance', 18 October 2019. Available at: <https://tribune.com.pk/story/2081969/phc-scraps-action-aid-civil-power-ordinance>.

1131 International Commission of Jurists, 'Military Injustice in Pakistan – Briefing Paper', January 2019. Available at: <https://www.icj.org/wp-content/uploads/2019/01/Pakistan-military-courts-Advocacy-Analysis-brief-2018-ENG.pdf>.

1132 HRCtte, Concluding observations on the initial report of Pakistan, paras 19-20. Available at: <https://undocs.org/en/CCPR/C/PAK/CO/1>.

1133 Amnesty International, 'Pakistan: Enduring Enforced Disappearances', 27 March 2019. Available at: <https://www.amnesty.org/en/latest/research/2019/03/pakistan-enduring-enforced-disappearances/>.

1134 HRCtte, Concluding observations on the initial report of Pakistan, para 27. Available at: <https://undocs.org/en/CCPR/C/PAK/CO/1>.

1135 World Prison Brief, Birkbeck University of London, Pakistan (as of September 2019). Available at: <https://www.prisonstudies.org/country/pakistan>; see also, ICRC, 'Overcrowding: Pakistan prisons holding 57% more inmates than capacity', 15 May 2018. Available at: <https://www.icrc.org/en/document/overcrowding-pakistan-prisons-holding-57-more-inmates-capacity>.

arrest and detention in criminal justice policies.¹¹³⁶ Afghan refugees, especially those without proper documentation have consistently reported threats of arbitrary arrests and detention from police authorities¹¹³⁷ and security forces.¹¹³⁸ Cases of journalists being arbitrarily detained and held *incommunicado* have also been reported from the country.¹¹³⁹ For instance, a local newspaper editor, Ahmed Muneeb, covering police corruption and organised crime was held *incommunicado* for three days without his family members being informed.¹¹⁴⁰ It is alleged that Pakistan's security forces have been implicated in enforced disappearances.¹¹⁴¹ Another reporter, Gohar Wazir was detained for reporting on protests by the Pashtuns¹¹⁴² and released after four days.¹¹⁴³ In yet another case, Hani Gul Baloch, a student of medicine, was reportedly arrested by the Pakistani security Forces from her home and kept under custody for three months, for her alleged association with the Baloch separatist militant organisation, Balochistan Liberation Front (BLF).¹¹⁴⁴ The whereabouts of her fiancé, Muhammad Naseem, arrested along with her remain unknown.¹¹⁴⁵ The Working Group on arbitrary detention, in its opinion concerning Mesut Kaçmaz, Meral Kaçmaz and two minors, held Pakistan responsible for the arbitrary deprivation of liberty and violation of the right to a fair trial of the four concerned individuals.¹¹⁴⁶ In June 2020, the OHCHR observed in relation the enforced disappearance of activist Idris Khattak that despite the promise by successive governments to criminalise enforced disappearance, no concrete steps have been taken and the practice continues with impunity.¹¹⁴⁷

In its voluntary pledges, Pakistan undertook to proactively engaging with the Council, other UN Agencies as well as the civil society.¹¹⁴⁸ In the interactive dialogue with the Assistant Secretary-General for Human Rights on the report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights, it stated that engagement of civil society and HRDs with the UN human rights mechanisms is crucial for the realisation of the human rights agenda and that **reprisals** against them must be dealt with seriously.¹¹⁴⁹ It voted in favour of the resolution on *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*¹¹⁵⁰ which condemned **all acts of intimidation or reprisal**, both online and offline, by State and non-State

- 1136 Gulf News, 'Overcrowded Pakistan prisons house 57% more inmates than authorised', 10 May 2018. Available at: <https://gulfnews.com/world/asia/pakistan/overcrowded-pakistan-prisons-house-57-more-inmates-than-authorized-1.2219546>.
- 1137 Foreign Policy, 'For Afghan Refugees, Pakistan Is a Nightmare—but Also Home', 9 May 2019. Available at: <https://foreignpolicy.com/2019/05/09/for-afghan-refugees-pakistan-is-a-nightmare-but-also-home/>.
- 1138 HRCtte, Concluding observations on the initial report of Pakistan, para 45. Available at: <https://undocs.org/en/CCPR/C/PAK/CO/1>; see also, CESCR, Concluding observations on the initial report of Pakistan, para 25, 20 July 2017. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/PAK/CO/1&Lang=En; see also, CAT, Concluding observations on the initial report of Pakistan, para 34, 1 June 2017. Available at: <https://undocs.org/en/CAT/C/PAK/CO/1>.
- 1139 Reporters Without Borders, 'Missing for three days, Pakistani journalist found in police custody', 20 August 2019. Available at: <https://rsf.org/en/news/missing-three-days-pakistani-journalist-found-police-custody>.
- 1140 Ibid.
- 1141 Government of the United Kingdom, Home Office, 'Country Policy and Information Note Pakistan: Actors of protection', July 2020, pg. 24, para 6.2.8. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/897074/Pakistan-Actors_of_protection-CPIN-v1.0_June_2020_.pdf.
- 1142 Committee to Protect Journalists, 'Pakistani reporter Gohar Wazir detained in Khyber Pakhtunkhwa after covering Pashtun demonstrations', 28 May 2019. Available at: <https://cpj.org/2019/05/pakistani-reporter-gohar-wazir-detained-in-south-w/>.
- 1143 Radio Free Europe/Radio Liberty, 'Detained Pakistani journalist Wazir released', 31 May 2019. Available at: <https://www.rferl.org/a/detained-pakistani-journalist-wazir-released/29974495.html#:~:text=Pakistani%20journalist%20Gohar%20Wazir%20has,returned%20home%20on%20May%2031.>
- 1144 Balochistan Affairs, 'Enforced disappearances in Balochistan: The case of Hani Gul and Muhammad Naseem', 4 June 2020. Available at: <https://www.balochistanaffairs.com/2020/06/04/enforced-disappearances-in-balochistan-the-case-of-hani-gul-and-muhammad-naseem/>.
- 1145 Ibid.
- 1146 Working Group on Arbitrary Detention, Opinion No. 11/2018 concerning Mesut Kaçmaz, Meral Kaçmaz and two minors, paras 57-64, 25 May 2018. Available at: https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session81/A_HRC_WGAD_2018_11.pdf.
- 1147 OHCHR, 'Pakistan: UN experts appalled by the enforced disappearance of activist Idris Khattak', 29 June 2020. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26010>.
- 1148 United Nations General Assembly, Note verbale 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>.
- 1149 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Statements.aspx?SessionId=31&MeetingDate=18/09/2019%2000:00:00>.
- 1150 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

actors.¹¹⁵¹ While the Constitution guarantees freedoms of expression, association and assembly,¹¹⁵² there have been consistent reports¹¹⁵³ of HRDs, activists and journalists being subject to reprisals, harassment and threats,¹¹⁵⁴ as well as other human rights violations for their cooperating with the UN mechanisms and their human rights work.¹¹⁵⁵ This includes the case of alleged death threats and intimidation against Mr. Adil Ghaffar, who brought cases of extrajudicial killings, torture, enforced disappearances allegedly committed by State agents which were raised by four Special Procedure mandate holders as well in the Secretary-General's report on reprisals.¹¹⁵⁶

There have been consistent reports of detention, enforced disappearance and intimidation of human rights defenders and activists allegedly committed by State agents, including security forces.¹¹⁵⁷ Recently, the CEDAW in its concluding observations, noted the specific harassment and gender-based threats against women HRDs and political activists.¹¹⁵⁸ Similarly, transgender activists have also reported to be violently attacked, sexually assaulted and even killed for their human rights work.¹¹⁵⁹ While the Constitution protects freedom of speech and expression, there are defined limitations.¹¹⁶⁰ Prominent dissenting voices have raised concerns over “diminishing democracy”,¹¹⁶¹ while Pakistan's civic space was rated to be “repressed”.¹¹⁶² Over the last few months, journalist Matiullah Jan,¹¹⁶³ political activist Mohammad Amin¹¹⁶⁴ and human rights defenders Idris Khattak¹¹⁶⁵ and Sarang Joyo¹¹⁶⁶ have been subject to enforced disappearances and no one has been held accountable for these crimes.¹¹⁶⁷ While Sarang Joyo was released a week after his disappearance, Idris Khattak has been “missing” till date after he was admittedly taken into custody by the Pakistan Military Intelligence on 13 November 2019.¹¹⁶⁸ Lawyer and HRD, Jalila Haider, was recently detained by

1151 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

1152 The Constitution of Pakistan, Part II, Chapter 1 – Articles 16-19. Available at: <http://www.pakistani.org/pakistan/constitution/part2.ch1.html>.

1153 39th HRC Session, Report of the Secretary-General on ‘Cooperation with the United Nations, its representatives and mechanisms in the field of human rights’, paras 23-24, 50-52, 60-67 (A/HRC/39/41), 13 August 2018. Available at: https://www.un.org/en/ga/search/view_doc.asp?symbol=a/hrc/39/41.

1154 CEDAW, Concluding observations on the fifth periodic report of Pakistan, para 25, 10 March 2020. Available at: <https://undocs.org/en/CEDAW/C/PAK/5>.

1155 HRCtte, Concluding observations on the initial report of Pakistan, para 37, 23 August 2017. Available at: <https://undocs.org/en/CCPR/C/PAK/CO/1>; see also, CAT, Concluding observations on the initial report of Pakistan, paras 22-23, 34, 1 June 2017. Available at: <https://undocs.org/en/CAT/C/PAK/CO/1>; see also, CESCR, Concluding observations on the initial report of Pakistan, paras 13-14, 20 July 2017. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/PAK/CO/1&Lang=En.

1156 39th HRC Session, Report of the Secretary-General on ‘Cooperation with the United Nations, its representatives and mechanisms in the field of human rights’, paras 23-24, 50-52, 60-67 (A/HRC/39/41), 13 August 2018. Available at: https://www.un.org/en/ga/search/view_doc.asp?symbol=a/hrc/39/41.

1157 The New York Times, ‘Abductions, censorship and layoffs: Pakistani critics are under siege’, 4 August 2020. Available at: <https://www.nytimes.com/2020/08/03/world/asia/pakistan-media-abductions.html>, see also, CESCR, Concluding observations on the initial report of Pakistan, paras 13-14, 20 July 2017. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/PAK/CO/1&Lang=En; see also, Amnesty International, ‘Pakistan: Journalists and activists under threat’, 1 March 2017. Available at: <https://www.amnesty.org/en/latest/news/2017/03/pakistan-journalists-and-activists-under-threat/>.

1158 CEDAW, Concluding observations on the fifth periodic report of Pakistan, para 25, 10 March 2020. Available at: <https://undocs.org/en/CEDAW/C/PAK/5>.

1159 Frontline Defenders, ‘Pakistan: Violent attacks on transgender activists’, 23 January 2018. Available at: <https://www.frontlinedefenders.org/en/case/violent-attacks-transgender-activists-0>;

1160 The Constitution of Pakistan, Part II, Chapter 1 – Article 19. Available at: <http://www.pakistani.org/pakistan/constitution/part2.ch1.html>.

1161 South Asia Monitor, ‘Pakistan's “diminishing democracy”: Where dissent is a crime’, 29 May 2020. Available at: <https://southasiamonitor.org/index.php/spotlight/pakistans-diminishing-democracy-where-dissent-crime>.

1162 CIVICUS Monitor, Pakistan – Live Rating : Repressed, 21 August 2020. Available at: <https://monitor.civicus.org/country/pakistan/>.

1163 Dawn, ‘Journalist Matiullah Jan released 12 hours after being abducted from Islamabad’, 22 July 2020. Available at: <https://www.dawn.com/news/1570325>.

1164 Peoples Dispatch, ‘Rights groups demand release of activist Mohammed Amin in Pakistan’, 30 July 2020. Available at: <https://peoplesdispatch.org/2020/07/30/rights-groups-demand-release-of-activist-mohammad-amin-in-pakistan/>.

1165 OHCHR, ‘Pakistan: UN experts appalled by the enforced disappearance of activist Idris Khattak’, 29 June 2020. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26010&LangID=E>.

1166 Pakistan Today, ‘Missing rights activist Sarang Joyo returns home’, 17 August 2020. Available at: <https://www.pakistantoday.com.pk/2020/08/17/missing-rights-activist-sarang-joyo-returns-home/>.

1167 CIVICUS, ‘Activists and journalists facing harassment, being forcibly disappeared or killed in Pakistan’, 21 August 2020. Available at: <https://monitor.civicus.org/updates/2020/08/21/activists-and-journalists-facing-harassment-being-forcibly-disappeared-or-killed-pakistan/>.

1168 OHCHR, ‘UN Experts: Pakistan must end enforced disappearance of human rights defender’, 4 September 2020. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26207&LangID=E>.

the Federal Investigative Agency (FIA) for seven hours at the Lahore Airport and told that she was on the no-fly list for “anti-State activities”, as she was boarding a flight to the United Kingdom to attend a conference on feminism organised by the University of Sussex.¹¹⁶⁹ In another such instance, Muhammed Ismail, the Secretary-General of the Pakistan NGO Forum (PNF), along with his wife, was charged under the Anti-Terrorism Act.¹¹⁷⁰ The case was brought against him¹¹⁷¹ is reported to be in connection with work of his daughter, Gulalai Ismail who has allegedly faced persecution from authorities for her human rights work and was forced to flee the country due to concerns for her safety.¹¹⁷² Recently, CEDAW noted with concern that the procedure for NGOs to obtain foreign funding lacks transparency and is cumbersome and applied in a discriminatory manner and called on the State to review it to ensure that the NGOs can freely carry out their advocacy work.¹¹⁷³ In October 2018, Pakistan’s Interior Ministry had ordered 18 foreign-funded NGOs to shutter their operations and leave the country without giving a reason for their expulsion.¹¹⁷⁴ Pakistan temporarily eased these restrictions for six months for NGOs to carry out the COVID-19 relief work.¹¹⁷⁵

Journalists in the country have been increasingly threatened for their legitimate work with restriction of free speech: In September 2018, Cyril Almeida, a prominent journalist had a non-bailable arrest warrant issued against him, along with his name on the no-fly list, for allegedly conducting an interview with former Prime Minister Nawaz Sharif when he was facing charges of treason, until the order of withdrawal by the Lahore High Court.¹¹⁷⁶ Anwar Jan Kethran, a Baloch journalist was shot dead for covering corruption of the local and provincial authorities¹¹⁷⁷ for which a provincial minister is currently being probed.¹¹⁷⁸ In October 2018, journalist Sohail Khan was killed for allegedly publishing an article on drug trafficking¹¹⁷⁹; in June 2019, journalist Muhammed Bilal who spoke about religion and politics on his YouTube channel was stabbed to death.¹¹⁸⁰ In August 2020, several Pakistani women journalists and commentators critical of the government issued a statement condemning their alleged cyber harassment by government officials and supporters.¹¹⁸¹ Currently, Pakistan ranks 145th of the World Press Freedom Index 2020,¹¹⁸² falling three places from its ranking in 2019.¹¹⁸³ Defamation and sedition¹¹⁸⁴ continue to remain a criminal offence in Pakistan’s Penal Code and misused against journalists and dissenting voices.¹¹⁸⁵ In July 2019, the Pakistan Electronic Media Regulatory Authority (PEMRA) blocked three television news channels—Capital TV, 24 News HD, and AbbTakk News Network— allegedly

- 1169 Dawn, ‘Activist Jalila Haider released after being held by the FIA for 7 hours at Lahore airport’, 20 January 2020. Available at: <https://www.dawn.com/news/1529491>.
- 1170 CIVICUS, ‘Judicial harassment of human rights defender Muhammed Ismail persists amid the pandemic’, 15 May 2020. Available at: <https://www.civicus.org/index.php/media-resources/news/4417-judicial-harassment-of-human-rights-defender-muhammed-ismail-persists-amid-pandemic>.
- 1171 The Express Tribune, ‘Gulalai Ismail’s father arrested by FIA for ‘spreading hate against State’, 25 October 2019. Available at: <https://tribune.com.pk/story/2087149/gulalai-ismails-father-arrested-fia-spreading-hate-state>.
- 1172 The New York Times, ‘Gulalai Ismail, feminist hunted by Pakistan’s authorities, escapes to US’, 20 September 2019. Available at: <https://www.nytimes.com/2019/09/19/world/asia/gulalai-ismail-pakistan-activist.html>.
- 1173 CEDAW, Concluding observations on the fifth periodic report of Pakistan, paras 25-26, 10 March 2020. Available at: <https://undocs.org/en/CEDAW/C/PAK/5>.
- 1174 DW, ‘Pakistan orders 18 foreign-funded NGOs out of country’, 4 October 2018. Available at: <https://www.dw.com/en/pakistan-orders-18-foreign-funded-ngos-out-of-country/a-45761398>.
- 1175 The New Humanitarian, ‘Pakistan eases aid restrictions as coronavirus cases rise’, 15 April 2020. Available at: <https://www.thenewhumanitarian.org/news/2020/04/15/coronavirus-Pakistan-aid-access-NGO-restrictions>.
- 1176 CIVICUS, ‘Civil society says shutting down of international NGOs “an attack on civic freedoms”’, 17 October 2018. Available at: <https://monitor.civicus.org/updates/2018/10/17/civil-society-says-shutting-down-international-ngos-attack-civic-freedoms/>.
- 1177 Reporters Without Borders, ‘Balochistan reporter gunned down for covering corruption’, 30 July 2020. Available at: <https://rsf.org/en/news/balochistan-reporter-gunned-down-covering-corruption>.
- 1178 The Washington Post, ‘Pakistani police probe minister after killing of journalist’, 25 July 2020. Available at: https://www.washingtonpost.com/world/asia_pacific/pakistani-police-probe-minister-after-killing-of-journalist/2020/07/25/857246a2-ce9b-11ea-99b0-8426e26d203b_story.html.
- 1179 UNESCO, ‘Director-General urges investigation into killing of journalist Sohail Khan in Pakistan’, 23 October 2018. Available at: <https://en.unesco.org/news/director-general-urges-investigation-killing-journalist-sohail-khan-pakistan>.
- 1180 Committee to Protect Journalists, ‘Pakistani journalist Muhammed Bilal Khan stabbed to death in Islamabad’, 19 June 2019. Available at: <https://bit.ly/321kvn4>.
- 1181 Reporters Without Borders, ‘Pakistani government orchestrated cyber-harassment of women journalists’, 19 August 2020. Available at: <https://rsf.org/en/news/pakistani-government-orchestrated-cyber-harassment-women-journalists>.
- 1182 Reporters Without Borders, World Press Freedom Index 2020: Pakistan. Available at: <https://rsf.org/en/pakistan>.
- 1183 Ibid.
- 1184 The News, ‘Criminalising protest’, 9 February 2020. Available at: <https://www.thenews.com.pk/tns/detail/610313-criminalising-protest>.
- 1185 HRCttee, Concluding observations on the initial report of Pakistan, para 37, 23 August 2017. Available at: <https://undocs.org/en/CCPR/C/PAK/CO/1>.

after they broadcast speeches of opposition leaders; the channels were taken off air without giving them a reason or a hearing.¹¹⁸⁶ Blasphemy laws, constitutionally an exception to the right to freedom of speech,¹¹⁸⁷ and legislations such as the Prevention of Electronic Crimes Act of 2016 have been used to arrest and detain several persons.¹¹⁸⁸ Media professionals and journalists reportedly exercise self-censorship with the fear of harmful consequences for their work.¹¹⁸⁹ Critics fear that further restrictions have been imposed through the Citizens Protection (Against Online Harm) Rules 2020.¹¹⁹⁰

In its voluntary pledges, Pakistan committed itself to effectively enforce its existing human rights legislation and policy, and prioritise future interventions on the rights of the vulnerable segments of the society, including minorities. It also undertook to protect the rights of minorities and promote interfaith harmony.¹¹⁹¹ In the interactive dialogue with the Working Group of Experts on People of African Descent, it underlined the need to identify gaps and increase visibility to combat such discrimination, xenophobia, and Afrophobia and added that all people are free to participate politically at all levels in Pakistan.¹¹⁹² In the general debate under Item 9, it reiterated concerns over the rise of racism, xenophobia and Islamophobia in many parts of the world where ideologies of exclusion and hate are being used to demonise minorities and target migrants and called on the Council to demonstrate same standards and principles to resist such trends.¹¹⁹³ It joined the consensus in the Council to adopt the resolution on *From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance*¹¹⁹⁴ which raised an alarm about the manifestations of racism and xenophobia precipitated by false, socially unjust, dangerous, extremist nationalist and populist ideologies.¹¹⁹⁵ While the Constitution establishes Islam as the State religion of Pakistan,¹¹⁹⁶ it guarantees the freedom to profess religion and manage religious institutions, subject to law public order and morality.¹¹⁹⁷

Blasphemy remains a criminal offence under the Pakistan Penal Code¹¹⁹⁸; defiling the Holy Quran or using derogatory remarks against the Prophet Mohammed are punishable with life imprisonment or death.¹¹⁹⁹ The laws are often reported to be abused¹²⁰⁰: a high number of cases are reported to be false accusations and violence against those accused of blasphemy.¹²⁰¹ In 2017, a journalism student was lynched over false accusations of blasphemy¹²⁰²; in another case, a student stabbed a professor to death over alleged 'anti-Islam' remarks.¹²⁰³ In January 2019, Asia Bibi,

1186 Dawn, 'PEMRA asked to lift curbs on TV channels', 11 July 2019. Available at: <https://www.dawn.com/news/1493393>.

1187 The Constitution of Pakistan, Part II, Chapter 1 – Article 19. Available at: <http://www.pakistani.org/pakistan/constitution/part2.ch1.html>.

1188 Amnesty International, Annual Report 2017/18: Pakistan. Available at: <http://bit.ly/2tcK6L4>.

1189 The Guardian, 'Extreme fear and self-censorship': media freedom under threat in Pakistan', 5 November 2019. Available at: <https://www.theguardian.com/world/2019/nov/05/extreme-fear-and-self-censorship-media-in-pakistan-under-attack>.

1190 DW, 'Pakistan's new internet laws tighten control over social media', 24 February 2020. Available at: <https://www.dw.com/en/pakistans-new-internet-laws-tighten-control-over-social-media/a-52375508>.

1191 United Nations General Assembly, Note verbale 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>.

1192 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/3btRUdv>.

1193 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/358wOA4>.

1194 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1195 Resolution 42/29 From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance (2019).

1196 The Constitution of Pakistan, Part I, Article 2. Available at: <http://www.pakistani.org/pakistan/constitution/part2.ch1.html>.

1197 Ibid, Part II, Chapter 1 – Articles 20-22.

1198 Pakistan Penal Code, Sections 295-298C. Available at: <https://www.oecd.org/site/adboecdanti-corruptioninitiative/46816797.pdf>.

1199 Ibid, Sections 295B-295C.

1200 The Diplomat, 'Misuse of blasphemy law again on the rise in Pakistan', 15 August 2018. Available at: <https://thediplomat.com/2018/08/misuse-of-blasphemy-law-again-on-the-rise-in-pakistan/>.

1201 HRCtte, Concluding observations on the initial report of Pakistan, para 33, 23 August 2017. Available at: <https://undocs.org/en/CCPR/C/PAK/CO/1>.

1202 DW, 'Liberals in Pakistan fear hate crimes following lynching victim Mashal Khan's death', 22 March 2019. Available at: <https://www.dw.com/en/liberals-in-pakistan-fear-hate-crimes-following-lynching-victim-mashal-khans-death/a-48022110>.

1203 Dawn, 'Bahawalpur student stabs professor to death over 'anti-Islam' remarks', 25 March 2019. Available at: <https://www.dawn.com/news/1470814>.

a Christian woman accused of blasphemy was acquitted by the Supreme Court of Pakistan after she spent eight years on death row.¹²⁰⁴ Recently, in December 2019, UN human rights experts condemned the death sentence imposed on a university lecturer charged with blasphemy.¹²⁰⁵ The UN human rights mechanisms had raised concerns that religious minorities were disproportionately charged under these laws¹²⁰⁶ and had recommended Pakistan to repeal death penalty for blasphemy offences or amend them to bring them in line with international standards.¹²⁰⁷ As of December 2019, at least 17 people convicted of blasphemy remained on death row.¹²⁰⁸

The Ahmadi community also reportedly faces discrimination and persecution.¹²⁰⁹ Although they identify as Muslims, an amendment to the Constitution of Pakistan in 1974 declared them as non-Muslims¹²¹⁰ and the Penal Code criminalises them for ‘posing as Muslims’ with an imprisonment for up to three years.¹²¹¹ Under the current legal requirement, there are separate electoral lists for Muslim and non-Muslim voters in the country, which has largely resulted in exclusion of the Ahmadis from voting¹²¹² as it would require them to declare themselves as non-Muslims.¹²¹³ Recently, Pakistan’s cabinet established the National Commission for Minorities, but the Ahmadis are excluded from it.¹²¹⁴ Similarly, the threat of sectarian violence, especially at the hands of extremist outfits,¹²¹⁵ against the Shia Hazara community remains a major challenge in Balochistan.¹²¹⁶ Both the Hindu¹²¹⁷ and Christian communities in Sindh and Punjab continued to report systematic discrimination and forced conversion.¹²¹⁸ Young girls from the minority communities have been reported to be forcibly converted and coerced into marriage.¹²¹⁹ Ethnic minorities such as Pashtun and Baloch, especially political and social activists, have reported human rights violations at the hands of law enforcement and security forces,¹²²⁰ including arbitrary arrests, enforced disappearance¹²²¹ and extrajudicial killings.¹²²² The CEDAW, in its concluding observations, raised concerns about the persistence of discriminatory stereotypes faced by women and girls belonging to ethnic minority groups, particularly Ahmadi, Christian, Dalit, Hindu, Roma, scheduled caste, Sheedi and Sikh, including abduction and forced conversion, as well as the lack of data on such intersecting

- 1204 BBC, ‘Asia Bibi blasphemy acquittal upheld by Pakistan court’, 29 January 2019. Available at: <https://www.bbc.com/news/world-asia-47040847>.
- 1205 OHCHR, ‘Pakistan blasphemy death sentence for Junaid Hafeez is ‘travesty of justice’ – UN experts’, 27 December 2019. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25455&LangID=E>.
- 1206 OHCHR, ‘Pakistan must repeal discriminatory measures leading to persecution of Ahmadis, say UN experts’, 25 July 2018. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23401&LangID=E>.
- 1207 HRCttee, Concluding observations on the initial report of Pakistan, para 34, 23 August 2017. Available at: <https://undocs.org/en/CCPR/C/PAK/CO/1>.
- 1208 Human Rights Commission of Pakistan, ‘Annual Report on the State of Human Rights in 2019’, p.8, 30 April 2020. Available at: http://hrcp-web.org/hrpweb/wp-content/uploads/2020/04/REPORT_State-of-Human-Rights-in-2019-20190503.pdf.
- 1209 Ibid, p. 32.
- 1210 Reuters, ‘Pakistan’s Ahmadi community faces growing discrimination, report says’, 6 May 2019. Available at: <https://www.reuters.com/article/us-pakistan-ahmadis/pakistans-ahmadi-community-faces-growing-discrimination-report-says-idUSKCN1SCOR5>.
- 1211 Pakistan Penal Code, Section 298B-298C. Available at: <https://www.oecd.org/site/adboecdanti-corruptioninitiative/46816797.pdf>.
- 1212 The Conversation, ‘Who are Pakistan’s Ahmadis and why haven’t they voted in 30 years’, 8 August 2018. Available at: <https://theconversation.com/who-are-pakistans-ahmadis-and-why-havent-they-voted-in-30-years-100797>.
- 1213 OHCHR, ‘Pakistan must repeal discriminatory measures leading to persecution of Ahmadis, say UN experts’, 25 July 2018. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23401&LangID=E>.
- 1214 Reuters, ‘Pakistan excludes religious sect from minority commission’, 7 May 2020. Available at: <https://www.reuters.com/article/us-pakistan-minorities/pakistan-excludes-religious-sect-from-minority-commission-idUSKBN22J1PU>.
- 1215 Human Rights Commission of Pakistan, ‘Annual Report on the State of Human Rights in 2019’, p.176, 30 April 2020. Available at: http://hrcp-web.org/hrpweb/wp-content/uploads/2020/04/REPORT_State-of-Human-Rights-in-2019-20190503.pdf.
- 1216 The Diplomat, ‘Hazaras gripped by religious extremism in Balochistan’, 16 April 2019. Available at: <https://thediplomat.com/2019/04/hazaras-gripped-by-religious-extremism-in-balochistan/>.
- 1217 The New York Times, ‘Poor and desperate, Pakistani Hindus Accept Islam to get by’, 4 August 2020. Available at: <https://www.nytimes.com/2020/08/04/world/asia/pakistan-hindu-conversion.html>.
- 1218 Human Rights Commission of Pakistan, ‘Annual Report on the State of Human Rights in 2019’, pp.11, 31, 30 April 2020. Available at: http://hrcp-web.org/hrpweb/wp-content/uploads/2020/04/REPORT_State-of-Human-Rights-in-2019-20190503.pdf.
- 1219 Dawn, ‘Forced conversions’, 12 April 2020. Available at: <https://www.dawn.com/news/1548550>; see also, Asia Times, ‘Forced conversions hit Pakistani minorities’, 28 March 2019. Available at: <https://asiatimes.com/2019/03/forced-conversions-hit-pakistani-minorities/>.
- 1220 Brookings, ‘Why is Pakistan’s military repressing a huge, non-violent Pashtun movement?’, 7 February 2020. Available at: <https://www.brookings.edu/blog/order-from-chaos/2020/02/07/why-is-pakistans-military-repressing-a-huge-nonviolent-pash-tun-protest-movement/>.
- 1221 The Balochistan Post, ‘Baloch boy who marked thousands of miles goes missing’, 20 June 2019. Available at: <https://thebalochistanpost.net/2019/06/baloch-boy-who-marched-thousands-of-miles-has-gone-missing/>.
- 1222 CIVICUS, ‘Rights group condemns arbitrary detention of protestors in Pakistan and the police killing of activist’, 8 February 2020. Available at <https://bit.ly/2IBONWB>.

forms of discrimination.¹²²³ The COVID-19 pandemic is reported to have exacerbated faith-based discrimination, including instances of refusal of ration aid to Christians and Hindus.¹²²⁴

In its voluntary pledges, Pakistan committed itself to effectively enforce its existing human rights legislation and policy, and prioritise future interventions on the rights of the vulnerable segments of the society; ensure speedy justice for victims of human rights violations and create human rights awareness; and establish and strengthen safety infrastructure for women.¹²²⁵ In the interactive dialogue with the Special Rapporteur on **contemporary forms of slavery**, it stated that inequality, demographic pressure, climate change, and lack of safe and affordable pathways for labour migration have increased the risks of modern slavery, while informing the Council of its two newly enacted legislations on migrant smuggling and trafficking in persons to tackle the linkages between irregular movement and various forms of modern slavery.¹²²⁶ It also joined the consensus in the Council to adopt the resolution on *Special Rapporteur on contemporary forms of slavery, including its causes and consequences*¹²²⁷ that extended the mandate for a period of three years and requested the Special Rapporteur to consider gender and age dimensions of the issue and analyse various national legislations on prohibition of slavery and slavery-like practices to assist States in their national efforts.¹²²⁸ However, despite legislative efforts, concerns have been raised over the high incidence of trafficking in women and girls for sexual exploitation and forced or bonded labour in Pakistan, including enslavement as domestic workers and that it remains a country of origin, transit and destination of trafficking for the purpose of forced marriage.¹²²⁹

Pakistan ranks 8th out of 167 countries on the Global Slavery Index 2018,¹²³⁰ being one of the 10 countries with the highest prevalence of modern slavery.¹²³¹ According to the Index, approximately 3,186,000 number of people were living in conditions of modern slavery.¹²³² In 2018, Pakistan adopted the Prevention of Trafficking in Persons Act (PTPA) to combat trafficking in persons¹²³³ which criminalises human trafficking and imposes imprisonment up to seven years and substantial fines for traffickers, smugglers and their accomplices¹²³⁴ and provides for protection of victims and witnesses as well as for payment of compensation.¹²³⁵ Similarly, an important aspect of the Prevention of Smuggling of Migrants Act 2018 is the non-criminalisation of ‘smuggled migrants’ to ensure the protection of the rights of the victims trapped by migrant smugglers.¹²³⁶ However, there are no national guidelines for identifying victims and the resources available for the specialised law enforcement units are insufficient.¹²³⁷ Similarly, concerns have also

1223 CEDAW, Concluding observations on the fifth periodic report of Pakistan, para 47, 10 March 2020. Available at: <https://undocs.org/en/CEDAW/C/PAK/5>.

1224 The Diplomat, ‘COVID-19 fans religious discrimination in Pakistan’, 28 April 2020. Available at: <https://thediplomat.com/2020/04/covid-19-fans-religious-discrimination-in-pakistan/>.

1225 United Nations General Assembly, Note verbale 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>.

1226 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2GshIR2>.

1227 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President’s statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1228 Resolution 42/10 Special Rapporteur on contemporary forms of slavery, including its causes and consequences (2019).

1229 CEDAW, Concluding observations on the fifth periodic report of Pakistan, para 33, 10 March 2020. Available at: <https://undocs.org/en/CEDAW/C/PAK/5>.

1230 Walk Free Foundation, Global Slavery Index 2018: Pakistan. Available at: <https://www.globalslaveryindex.org/2018/data/country-data/pakistan/>.

1231 Walk Free Foundation, Global Slavery Index 2018: Global Findings. Available at: <https://www.globalslaveryindex.org/2018/findings/global-findings/>.

1232 Walk Free Foundation, Global Slavery Index 2018: Pakistan. Available at: <https://www.globalslaveryindex.org/2018/data/country-data/pakistan/>.

1233 CEDAW, Concluding observations on the fifth periodic report of Pakistan, para 33, 10 March 2020. Available at: <https://undocs.org/en/CEDAW/C/PAK/5>.

1234 UNODC – Pakistan, ‘Trafficking in Persons and Smuggling of Migrants laws 2018’. Available at: <https://www.unodc.org/pakistan/en/trafficking-in-persons-and-smuggling-of-migrants-laws-2018.html>.

1235 Walk Free and Commonwealth Human Rights Initiative, ‘Eradicating Modern Slavery: An assessment of Commonwealth governments’ progress on achieving SDG Target 8.7’, “Regional spotlight”, p.58, June 2020.

1236 UNODC – Pakistan, ‘Trafficking in Persons and Smuggling of Migrants laws 2018’. Available at: <https://www.unodc.org/pakistan/en/trafficking-in-persons-and-smuggling-of-migrants-laws-2018.html>.

1237 Walk Free and Commonwealth Human Rights Initiative, ‘Eradicating Modern Slavery: An assessment of Commonwealth governments’ progress on achieving SDG Target 8.7’, “Regional spotlight”, pp.61 and 64, June 2020. Available at: <https://www.humanrightsinitiative.org/download/1596089364Eradicating%20Modern%20Slavery%20achieving%20SDG%20Target%208.7.pdf>.

been raised that since the PTPA allows imposition of a fine in lieu of imprisonment with regard to sex trafficking, the penalties are not commensurate with the nature of the crime.¹²³⁸ It was reported that, in June 2019, Pakistani investigators had compiled a list of the 629 women and girls from across Pakistan who were sold as brides and trafficked to China, but the investigation into the matter was reportedly halted.¹²³⁹ In October 2019, a court in Faisalabad acquitted 31 Chinese nationals charged in connection with trafficking as several victims refused to testify allegedly under threats or bribes.¹²⁴⁰

Children, especially those working in the streets, are found to be more vulnerable to being trafficked and placed in organised begging rings, domestic servitude, small shops, and sex trafficking.¹²⁴¹ Similarly, poor, unemployed, rural and migrant women are more vulnerable to trafficking.¹²⁴² While forced labour and slavery, including employment of children under 14 years, are prohibited under the Constitution,¹²⁴³ and criminalised under the Penal Code,¹²⁴⁴ they have continued in practice.¹²⁴⁵ It has been reported that over 25,000 brick kilns operate across the country and illiterate, desperate people in rural areas often end up accepting small loans in exchange of working in the kilns.¹²⁴⁶ The HRCttee had raised concerns about the high number of children engaged in labour under hazardous and slavery-like conditions, particularly in the brick kiln industry and domestic settings, and the insufficient labour inspections into child labour.¹²⁴⁷ Similarly, child marriage¹²⁴⁸ and forced marriage are criminalised under the Penal Code,¹²⁴⁹ however, the practice has continued in the country.¹²⁵⁰ The minimum age of marriage for women is 16 years, while it is 18 years for men.¹²⁵¹ In August 2019, the National Assembly's Standing Committee on Law and Justice rejected the 'The Child Marriage Restraint (Amendment) Bill 2019' aimed at fixing the minimum age of marriage for girls at 18.¹²⁵² It has been reported that nearly 21 per cent girls in Pakistan are married before the age of 18, while three per cent are married before the age of 15.¹²⁵³ In a progressive development, the Sindh Cabinet approved the Women Agricultural Workers Bill 2019 which gave a formal recognition to the rights of female agricultural workers to have a written contract, minimum wages and welfare benefits,¹²⁵⁴ including their right to form unions.¹²⁵⁵

VI. Conclusions

Pakistan participated actively across interactive dialogues and debates during this session.

- Pakistan is one of the only two Commonwealth members of the HRC — the other being Bangladesh — not to have issued a standing invitation to thematic Special Procedures, despite pledging to strengthen cooperation and

1238 US Department of State, Trafficking in Persons Report 2020: Pakistan. Available at: <https://www.state.gov/reports/2020-trafficking-in-persons-report/pakistan/>.

1239 Associated Press News, 'AP Exclusive: 629 Pakistani girls sold as brides to China', 7 December 2019. Available at: <https://ap-news.com/c586d0f73fe249718ec06f6867b0244e>.

1240 Ibid.

1241 US Department of State, Trafficking in Persons Report 2019: Pakistan. Available at: <https://bit.ly/2DAeG6X>.

1242 CEDAW, Concluding observations on the fifth periodic report of Pakistan, para 33, 10 March 2020. Available at: <https://undocs.org/en/CEDAW/C/PAK/5>.

1243 The Constitution of Pakistan, Part II, Chapter 1 – Article 11. Available at: <http://www.pakistani.org/pakistan/constitution/part2.ch1.html>.

1244 Pakistan Penal Code, Section 359-374. Available at: <https://www.oecd.org/site/adboecdanti-corruptioninitiative/46816797.pdf>.

1245 DW, 'Life of slavery – the perpetuation of bonded labour in Pakistan', 25 December 2019. Available at: <https://www.dw.com/en/life-of-slavery-the-perpetuation-of-bonded-labor-in-pakistan/a-51792298>.

1246 Thomson Reuters Foundation News, 'Pakistan's future generations need protecting from bonded labour', 6 August 2019. Available at: https://news.trust.org/item/20190806122625-uyhst#_ftnref1.

1247 HRCttee, Concluding observations on the initial report of Pakistan, para 41, 23 August 2017. Available at: <https://undocs.org/en/CCPR/C/PAK/CO/1>.

1248 The Child Marriage Restraint Act 1929, Sections 4-5. Available at: <http://punjablaws.gov.pk/laws/147a.html>.

1249 Pakistan Penal Code, Sections 365B [Inserted by the Protection of Women (Criminal Laws Amendment) Act 2006] and 368. Available at: <https://www.oecd.org/site/adboecdanti-corruptioninitiative/46816797.pdf>.

1250 CEDAW, Concluding observations on the fifth periodic report of Pakistan, para 29, 49(a), 10 March 2020. Available at: <https://undocs.org/en/CEDAW/C/PAK/5>; see also, Pakistan Today, 'Forced Marriage', 1 July 2018. Available at: <https://www.pakistantoday.com.pk/2018/07/01/forced-marriage/>

1251 Ibid, para 49(b).

1252 The News, NA body on law rejects Child Marriage Restraint Bill, 22 August 2019. Available at: <https://bit.ly/2EXklVo>.

1253 Girls Not Brides: Pakistan. Available at: <https://bit.ly/2R0sWsB>.

1254 The Express Tribune, 'Sindh cabinet approves Women Agricultural Workers draft bill', 25 August 2019. Available at: <https://tribune.com.pk/story/2041560/sindh-cabinet-approves-women-agricultural-workers-draft-bill>.

1255 Human Rights Watch, Pakistan: Events of 2019. Available at: <https://www.hrw.org/world-report/2020/country-chapters/pakistan>.

engagement with the High Commissioner for Human Rights and Special Procedures. It presently has a total of 11 visit requests and reminders pending from the Special Procedures.

- Despite committing itself to proactively engaging with the Council, other UN Agencies as well as the civil society,¹²⁵⁶ there have been consistent reports¹²⁵⁷ of HRDs, activists and journalists being subject to reprisals, harassment and threats,¹²⁵⁸ as well as other human rights violations for their human rights work in the country. These alleged violations include detention, enforced disappearance and intimidation of human rights defenders and activists allegedly committed by State agents, including security forces.¹²⁵⁹
- Pakistan ranks 8th out of 167 countries on the Global Slavery Index 2018,¹²⁶⁰ being one of the 10 countries with the highest prevalence of modern slavery across the world.¹²⁶¹ According to the index, approximately 3,186,000 persons were living in conditions of modern slavery.¹²⁶² In 2018, it enacted the Prevention of Trafficking in Persons Act (PTPA) and Prevention of Smuggling of Migrants Act to combat trafficking in persons and protect the rights of victims and survivors, including smuggled migrants.

1256 United Nations General Assembly, Note verbale 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>.

1257 39th HRC Session, Report of the Secretary-General on 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', paras 23-24, 50-52, 60-67 (A/HRC/39/41), 13 August 2018. Available at: https://www.un.org/en/ga/search/view_doc.asp?symbol=a/hrc/39/41.

1258 CEDAW, Concluding observations on the fifth periodic report of Pakistan, para 25, 10 March 2020. Available at: <https://undocs.org/en/CEDAW/C/PAK/5>.

1259 The New York Times, 'Abductions, censorship and layoffs: Pakistani critics are under siege', 4 August 2020. Available at: <https://www.nytimes.com/2020/08/03/world/asia/pakistan-media-abductions.html>, see also, CESCR, Concluding observations on the initial report of Pakistan, paras 13-14, 20 July 2017. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/PAK/CO/1&Lang=En; see also, Amnesty International, 'Pakistan: Journalists and activists under threat', 1 March 2017. Available at: <https://www.amnesty.org/en/latest/news/2017/03/pakistan-journalists-and-activists-under-threat/>.

1260 Walk Free Foundation, Global Slavery Index 2018: Pakistan. Available at: <https://www.globalslaveryindex.org/2018/data/country-data/pakistan/>.

1261 Walk Free Foundation, Global Slavery Index 2018: Global Findings. Available at: <https://www.globalslaveryindex.org/2018/findings/global-findings/>.

1262 Walk Free Foundation, Global Slavery Index 2018: Pakistan. Available at: <https://www.globalslaveryindex.org/2018/data/country-data/pakistan/>.

I. Introduction

Rwanda was elected as a member of the HRC for the first time in 2016 through a clean state election.¹²⁶³ Its term began in 2017, which ended in 2019.¹²⁶⁴

II. Voluntary Pledges and Commitments

Rwanda has not submitted its voluntary pledges for its election to the HRC.¹²⁶⁵

III. Participation at the 42nd Session of the HRC

Rwanda did not make any individual statements during the 42nd Session of the HRC.¹²⁶⁶ However, it had joined two oral statements delivered together by a group of countries in general debates under Items 2¹²⁶⁷ and 3.¹²⁶⁸

IV. Voting Pattern on Resolutions

Thematic Resolutions

Rwanda voted in favour of all six thematic resolutions that were adopted by vote¹²⁶⁹: *Composition of staff of the Office of the United Nations High Commissioner for Human Rights (OHCHR)*,¹²⁷⁰ *Promotion of a democratic and equitable international order*,¹²⁷¹ *The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*,¹²⁷² *The right to development*,¹²⁷³ *The question of the death penalty*,¹²⁷⁴ and *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*.¹²⁷⁵

It did not vote against or abstain from voting on any thematic resolution.¹²⁷⁶ It joined the consensus in the Council to adopt the remaining 19 thematic resolutions that were introduced in this session.¹²⁷⁷

1263 United Nations General Assembly, Elections of the Human Rights Council, 28 October 2016. Available at: <https://www.un.org/en/ga/71/meetings/elections/hrc.shtml>.

1264 Office of the High Commissioner for Human Rights, Current Membership of the Human Rights Council, 2019. Available at <https://www.ohchr.org/en/hrbodies/hrc/pages/membersbygroup.aspx>.

1265 Office of the High Commissioner for Human Rights, Rwanda. Available at: <https://www.ohchr.org/en/countries/africaregion/pages/rwindex.aspx>.

1266 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/OralStatements.aspx>.

1267 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Statement delivered by The Netherlands on behalf of the Group of Friends of R2P Geneva – Item 2. Available at: https://extranet.ohchr.org/sites/hrc/HRCSessions/HRCDocuments/31/SP/23148_41_be10e0a1_1d4c_4025_ad98_7a7072889a14.docx.

1268 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Statement delivered by Denmark on behalf of a group of countries – Item 3. Available at: https://extranet.ohchr.org/sites/hrc/HRCSessions/HRCDocuments/31/SP/23973_41_d7ff30f5_3307_4978_aa91_fd3170ff927d.docx.

1269 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1270 Resolution 42/1 Composition of staff of the Office of the United Nations High Commissioner for Human Rights (OHCHR) (2019).

1271 Resolution 42/8 Promotion of a democratic and equitable international order (2019).

1272 Resolution 42/9 The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (2019).

1273 Resolution 42/23 The right to development (2019).

1274 Resolution 42/24 The question of the death penalty (2019).

1275 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

1276 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1277 Ibid.

Country Situation Resolutions

Rwanda voted in favour¹²⁷⁸ of four out of the six country situation resolutions that were tabled for vote during the session: *Situation of human rights of Rohingya Muslims and other minorities in Myanmar*,¹²⁷⁹ *Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela*,¹²⁸⁰ *Situation of human rights in Burundi*¹²⁸¹ and *The human rights situation in the Syrian Arab Republic*.¹²⁸²

While it did not vote against any country situation resolution,¹²⁸³ it abstained from voting¹²⁸⁴ on two other country situation resolutions, namely, *Human rights situation in Yemen*¹²⁸⁵ and *Situation of human rights in the Bolivarian Republic of Venezuela*.¹²⁸⁶

It joined the consensus in the Council in adopting the remaining six country situation resolutions.¹²⁸⁷

V. Analysis: Compliance with Pledges and Commitments

a) Engagement with UN Special Procedures

Rwanda has extended standing invitations to all thematic Special Procedures since June 2011.¹²⁸⁸ However, currently, it has eight pending requests and reminders for visits from the Special Procedures. These include the requests from the Working Group on enforced disappearances (which also sent a reminder in April 2020), the Independent Expert on older persons, and the Special Rapporteurs on freedom of assembly, on water and sanitation and on extrajudicial, summary or arbitrary execution, and reminders from the Working Groups on business and human rights, on discrimination against women and girls and on arbitrary detention.¹²⁸⁹

b) Compliance with Reporting Obligations to Treaty Bodies

Rwanda has a comparatively better record of compliance with its obligations to submit periodic reports to the treaty body. It submitted its report to CMW in time, while its reports to CAT, CEDAW, CERD, and CRC were submitted with a delay of less than one year. Others like CRC-OP-AC, CRC-OP-SC and CRPD were submitted after a delay of two to five years. Currently, the only pending reports from Rwanda are those to the CESCR since 2018, and the CCPR since March 2019.¹²⁹⁰ Similarly, since May 2020, it also has a report pending with the CERD.¹²⁹¹

Rwanda has ratified 12 out of the 13 major human rights treaties, including their optional protocols, one of the highest among the Commonwealth members of the HRC. The only exception is *Convention for the Protection of All*

1278 Ibid.

1279 Resolution 42/3 Situation of human rights of Rohingya Muslims and other minorities in Myanmar (2019).

1280 Resolution 42/4 Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela (2019).

1281 Resolution 42/26 Situation of human rights in Burundi (2019).

1282 Resolution 42/27 The human rights situation in the Syrian Arab Republic (2019).

1283 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1284 Ibid.

1285 Resolution 42/21 Human rights situation in Yemen (2019).

1286 Resolution 42/25 Situation of human rights in the Bolivarian Republic of Venezuela (2019).

1287 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1288 OHCHR, Standing invitations to Special Procedures. Available at: https://spinternet.ohchr.org/_layouts/15/SpecialProceduresInternet/StandingInvitations.aspx.

1289 OHCHR, Country visits by Special Procedures to Rwanda. Available at: <http://bit.ly/2E8w7lr>.

1290 OHCHR, Treaty Bodies, Reporting status of Rwanda. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=RWA&Lang=EN.

1291 Ibid (*However, this pending report will not be counted for the purposes of the report since it only looks at the data available till 30 April 2020).

c) Compliance with Thematic Issues

Article 24 of the Constitution of Rwanda 2003 guarantees the liberty and security of a person. It underlines that no one shall be subject to arrest or detention unless provided by the law in force at the time of the commission of the alleged offence; similarly, no one shall be subject to security measures except as provided by law and for the reasons of public order or State security.¹²⁹³ Despite constitutional provisions, **arbitrary detention**, including prolonged pretrial detention, military detention, secret or *incommunicado* detention, has been reported from the country by various UN as well as other human rights bodies.¹²⁹⁴ Section 3 of the Rwandan law relating to the Code of Criminal Procedure lays down the provision for provisional detention: A person suspected of offences punishable with at least two years' imprisonment can be placed in provisional detention pending investigation without the need to specify any other ground¹²⁹⁵ and for offences with lower penalty, such provisional detention could be ordered if it is "in the interest of public safety". The CAT, in its concluding observations of 2017, had raised concerns over these provisions while noting excessive pretrial detention in the country and recommended that Rwanda amend its legislation with a view to reducing the use of pretrial detention only as an exceptional measure, ensure increased use of alternatives to pretrial detention and urged the judiciary to continue to monitor the need and length of the pretrial detention.¹²⁹⁶ The visit request of the Working Group on arbitrary detention remains pending with Rwanda: such a request was first sent in 2015 and a reminder was sent in 2018.¹²⁹⁷

Similarly, the Rwandan Code of Criminal Procedure prohibits detention in unofficial or secret facilities.¹²⁹⁸ However, in the context of counter-terrorism, Rwandan Law No. 45 of 2008 on Counter-terrorism makes a provision that security agents or such authorised persons may arrest a suspect without warrant and may detain such person for 48 hours, including in an undetermined place,¹²⁹⁹ before notifying the relevant authorities.¹³⁰⁰ The CAT noted that Rwanda did not comply with the Committee's follow-up procedure for its previous concluding observations regarding closure of any secret or unofficial detention facilities and remained concerned over the allegations of a continuing practice of illegal detention in military facilities.¹³⁰¹ Arbitrary detention and *incommunicado* detention of political dissidents and activists has also been widely reported.¹³⁰² Similarly, administrative detention is reported to be widely practised "transit" and "rehabilitation" centres, where persons suspected of petty crime and homeless people are arbitrarily detained for long periods of time without trial.¹³⁰³

Recently, it was reported that while implementing its 2017 strategy to 'eradicate delinquency', Rwanda has been

1292 Ibid.

1293 Constitution of the Republic of Rwanda of 2003 (revised in 2015), Article 24. Available at: <http://www.rwandabar.org.rw/wp-content/uploads/2017/03/The-New-Constitution-of-the-Republic-of-Rwanda-3.pdf>.

1294 CAT, Concluding observations on the second periodic report of Rwanda, paras 7, 14, 16, 24, 30, 21 December 2017. Available at: <https://bit.ly/32fOAys>; see also, CRC, Concluding observations on the combined fifth and sixth periodic reports of Rwanda, paras 13, 44, 47(d), 28 February 2020. Available at: <https://bit.ly/3jaVbkz>; US Department of State, Country Reports on Human Rights Practices: Rwanda (2019). Available at: <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/rwanda/>; Human Rights Watch, 'Rwanda: Unlawful Military Detention, Torture', 10 October 2017. Available at: <https://bit.ly/2Qm2gSE>.

1295 The Republic of Rwanda, The Law Relating to the Code of Criminal Procedure, Articles 96 and 98. Available at: https://sherloc.unodc.org/res/cld/document/rwa/2009/law-relating-to-the-code-of-criminal-procedure_html/Criminal_Procedure_Code.pdf.

1296 CAT, Concluding observations on the second periodic report of Rwanda, paras 24-25, 21 December 2017. Available at: <https://bit.ly/32fOAys>.

1297 OHCHR, Country visits by Special Procedures to Rwanda. Available at: <http://bit.ly/2E8w7lr>.

1298 The Republic of Rwanda, The Law Relating to the Code of Criminal Procedure, Article 90 (1). Available at: https://sherloc.unodc.org/res/cld/document/rwa/2009/law-relating-to-the-code-of-criminal-procedure_html/Criminal_Procedure_Code.pdf.

1299 CAT, Concluding observations on the second periodic report of Rwanda, para 16, 21 December 2017. Available at: <https://bit.ly/32fOAys>.

1300 The Republic of Rwanda, Law No. 45/2008 of 2008 on Counter Terrorism, Article 44, 9 September 2008. Available at: <https://www.refworld.org/docid/4a3f86af2.html>.

1301 CAT, Concluding observations on the second periodic report of Rwanda, paras 7,16, 21 December 2017. Available at: <https://bit.ly/32fOAys>.

1302 See the next thematic area on 'Reprisals' that outlines the human rights abuses targeted against political dissidents, human rights defenders and activists, including arbitrary and *incommunicado* detentions.

1303 CAT, Concluding observations on the second periodic report of Rwanda, para 30, 21 December 2017. Available at: <https://bit.ly/32fOAys>.

arbitrarily detaining street children for extended periods at the Gikondo Transit Centre in Kigali.¹³⁰⁴ Ill-treatment and beating of the detained children has also been reported.¹³⁰⁵ The CRC, in its concluding observations on Rwanda, in 2020, expressed serious concerns about the juvenile justice system, including the reports that the children are often detained with adults.¹³⁰⁶ It called for halting the arbitrary detention of street children and such other children taken into custody for “deviant behaviour”, including by amending the Ministerial Order No. 001/07.01 and to ensure that detention is only used as a measure of last resort.¹³⁰⁷ Recently, even during the COVID-19 lockdown enforcement, the Rwandan authorities reportedly detained people accused of violating lockdown measures in stadiums etc. without due process or legal authority.¹³⁰⁸ Similarly, it was reported that journalists and bloggers trying to expose official abuse during the lockdown were arbitrarily detained.¹³⁰⁹

In its second periodic report to the CAT, Rwanda reiterated its commitment to an ongoing constructive dialogue with the civil society and encouraging their work.¹³¹⁰ On a progressive note, in April 2019, the Rwandan Supreme Court repealed a law banning publication of political and satirical cartoons, but upheld the one that punishes insulting or defaming the President.¹³¹¹ President Paul Kagame, in response to the judgment, made a rare public statement lending his support to decriminalisation of dissent.¹³¹² However, it has been consistently reported that political opponents, human rights defenders and journalists have been increasingly subject to reprisals, harassed and charged with broadly defined offences for any action or position deemed to be in contradiction with the action of Rwandan authorities.¹³¹³ Some of them have been reported to be detained unlawfully and ill-treated during their detention, such as the presidential candidate Diane Rwigara and her family members,¹³¹⁴ FDU-Inkingi members Léonille Gasengayire and Boniface Twagirimana,¹³¹⁵ journalist Cassien Ntamuhanga, and Jean-Paul Dukuzumuremyi and Bernard Imberakuri.¹³¹⁶ Rwigara was finally acquitted in December 2018.¹³¹⁷ Twagirimana allegedly had escaped from prison in October 2018, has not been seen since,¹³¹⁸ and is feared dead.¹³¹⁹ In January 2020, he was sentenced to 10 years for threatening State security although his whereabouts are not known.¹³²⁰ Similarly, Victoire Ingabire, the then leader of the FDU-Inkingi party, who was in prison since 2010 for allegedly threatening State security and belittling the genocide was

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- 1304 Human Rights Watch, “As long as we live on the streets, they will beat us”: Rwanda’s Abusive Detention of Children’, 27 January 2020. Available at: <https://www.hrw.org/report/2020/01/27/long-we-live-streets-they-will-beat-us/rwandas-abusive-detention-children>.
- 1305 Reuters, ‘Rwanda detaining, abusing street children: rights group’, 27 January 2020. Available at: <https://www.reuters.com/article/us-rwanda-rights/rwanda-detaining-abusing-street-children-rights-group-idUSKBN1ZQ0PQ>; CRC, Concluding observations on the combined fifth and sixth periodic reports of Rwanda, para 44, 28 February 2020. Available at: <https://bit.ly/3jaVbkz>.
- 1306 CRC, Concluding observations on the combined fifth and sixth periodic reports of Rwanda, para 47 (d), 28 February 2020. Available at: <https://bit.ly/3jaVbkz>.
- 1307 Ibid, para 48 (d)(e).
- 1308 East African Film Network, ‘Arrest and abuse cases surge during COVID-19 lockdown’, 24 April 2020. Available at: <http://www.eastafricanfilmnetwork.org/2020/04/arrest-and-abuse-cases-surge-during-covid-19-lockdown/>.
- 1309 Inter Press Service News Agency, ‘Governments cautioned not to use COVID-19 lockdown to cause harm’, 29 April 2020. Available at: <http://www.ipsnews.net/2020/04/governments-cautioned-not-use-covid-19-lockdown-cause-harm/>.
- 1310 CAT, Rwanda’s second periodic report to the CAT, 5 September 2016. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fRWA%2f2&Lang=en.
- 1311 Reuters, ‘Rwanda court repeals law banning satirical cartoons’, 24 April 2019. Available at: <https://reut.rs/2RLZw2V>.
- 1312 The Washington Post, ‘Rwanda’s strongman finally says the right thing on free speech’, 1 May 2019. Available at: <https://wapo.st/38APSGn>.
- 1313 CAT, Concluding observations on the second periodic report of Rwanda, para 52, 21 December 2017. Available at: <https://bit.ly/32fOAys>.
- 1314 Working Group on Arbitrary Detention, Opinion 24/2019 concerning Diane Shima Rwigara and Adeline Rwigara, paras 38-40, 47-48, 13 June 2019. Available at: <https://bit.ly/34qh2Ad>.
- 1315 Reuters, ‘Rwanda arrests supporters of jailed opposition figure’, 7 September 2019. Available at: <https://in.reuters.com/article/rwanda-security/rwanda-arrests-supporters-of-jailed-opposition-figure-idINKCN1BH2SL>.
- 1316 CAT, Concluding observations on the second periodic report of Rwanda, para 52, 21 December 2017. Available at: <https://bit.ly/32fOAys>.
- 1317 BBC, ‘Diane Rwigara: Rwanda government critic acquitted’, 6 December 2018. Available at: <https://www.bbc.com/news/world-africa-46471808>.
- 1318 Amnesty International, ‘Rwanda: Ensure justice for opposition politician stabbed to death’, 24 September 2019. Available at: <https://www.amnesty.org/en/latest/news/2019/09/rwanda-ensure-justice-for-opposition-politician-stabbed-to-death/>.
- 1319 CNN, ‘Rwandan opposition party leader feared dead amid reports he escaped from prison’, 8 October 2018. Available at: <https://edition.cnn.com/2018/10/08/africa/rwanda-opposition-leader-escaped-jail-feared-dead-intl/index.html>.
- 1320 ABC News, ‘Missing Rwandan opposition politician sentenced to 10 years’, 24 January 2020. Available at: <https://abcnews.go.com/International/wireStory/missing-rwandan-opposition-politician-sentenced-10-years-68505304>.

finally released from prison in September 2018 through a Presidential pardon.¹³²¹ Before that, in 2017, the African Court on Human and Peoples' Rights found in *Umuhuza v. The Republic of Rwanda* (Application No. 003/2014) that the State party had violated Ingabire's right to freedom of opinion and expression as well as her right to defend herself, due to the procedural irregularities identified in her trial.¹³²² In November 2019, Jackie Umuhuza, daughter of exiled pastor Deo Nyirigira, was arrested on charges of espionage and treason¹³²³ and was held *incommunicado*. Till February 2020, she was not presented before a court under any formal indictment or description of the charges. She was subsequently released in March 2020, but the charges against her remain pending.¹³²⁴

It has been reported that political opponents have gone missing under mysterious circumstances in the country¹³²⁵ in addition to being exposed to intimidation, violence, or prison terms for criticising President Kagame and his ruling party, the Rwandan Patriotic Front (RPF).¹³²⁶ The CAT raised serious concerns about reports of continuing occurrence of enforced disappearance of members of opposition political parties, such as Jean Damascène Munyeshyaka, Illuminée Iragena, Jean Damascène Habarugira and Théophile Ntirutwa, all members of the banned political party United Democratic Forces (FDU-Inkingi).¹³²⁷ Eugène Ndereyimana, a member of the same party was reported missing by his colleagues on 15 July 2019 after he failed to arrive for a meeting in Nyagatare, in Rwanda's Eastern Province.¹³²⁸ At least two other members of the said political party have gone missing in 2019 in unexplained circumstances.¹³²⁹ On 9 March 2019, Anselme Mutuyimana, an assistant to Victoire Ingabire, was found dead under unexplained circumstances.¹³³⁰ Similarly, popular Rwandan gospel singer and a fierce critic of President Kagame was found dead, allegedly by hanging himself,¹³³¹ in a police cell while in custody in February 2020. However, the opposition leaders have denounced the claims of his suicide and called for an investigation into his death.¹³³² In January 2020, Rwanda convicted six opposition figures for "forming an illegal armed group and conspiring against the Government and jailed them for 12 years. However, dissidents have called these charges as politically motivated.¹³³³

Journalists and human rights activists have been reportedly subject to arbitrary arrest, detention and enforced disappearance for exercising their free speech.¹³³⁴ In one case, Constantin Tuyishimire, a journalist with TV1 Rwanda was reported missing on 16 July 2019, while he was supposed to be on a reporting trip to Gicumbi District.¹³³⁵ In another instance, a retired brigadier and his brother-in-law were convicted and sentenced to 20 years in 2016 for critical remarks against the Government in a private conversation; they have appealed against the verdict.¹³³⁶ They were

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- 1321 BBC, 'Victoire Ingabire: Rwanda frees 2,000 people including opposition leader', 15 September 2018. Available at: <https://www.bbc.com/news/world-africa-45532922>.
- 1322 CAT, Concluding observations on the second periodic report of Rwanda, para 52, 21 December 2017. Available at: <https://bit.ly/32fOAYS>.
- 1323 Soft Power News, 'Rwanda admits holding Jackie Umuhuza, one of the 'kidnapped pastor's daughters', 28 November 2019. Available at: <https://www.softpower.ug/rwanda-admits-holding-jackie-umuhuza-one-of-kidnapped-pastors-daughters/>.
- 1324 Freedom Now, 'Campaign for Jacqueline Umuhuza, Rwanda'. Available at: <http://www.freedom-now.org/campaign/jacqueline-umuhuza/>.
- 1325 CNN, 'Opposition members keep going 'missing' in Rwanda. Few expect them to return', 27 July 2019. Available at: <https://edition.cnn.com/2019/07/27/africa/rwanda-opposition-disappearances-intl/index.html>.
- 1326 DW, 'Rwanda's disappearing opposition', 5 August 2019. Available at: <http://bit.ly/2YPgUpe>.
- 1327 CAT, Concluding observations on the second periodic report of Rwanda, para 52, 21 December 2017. Available at: <https://bit.ly/2PDMMbZ>.
- 1328 Human Rights Watch, 'Rwanda: Disappearances require credible investigations', 15 August 2019. Available at: <https://www.hrw.org/news/2019/08/15/rwanda-disappearances-require-credible-investigations>.
- 1329 Reuters, 'Rwandan President's rival worried after second aide killed this year', 24 September 2019. Available at: <https://reuters/2LLHuKj>.
- 1330 Reuters, 'Spokesperson of leading Rwandan opposition politician found dead', 11 March 2019. Available at: <https://in.reuters.com/article/rwanda-politics/spokesman-of-leading-rwandan-opposition-politician-found-dead-idINKBN1QSOA3>.
- 1331 BBC, 'Kizito Mihigo, 'The Rwandan gospel singer who died in a police cell', 29 February 2020. Available at: <https://www.bbc.com/news/world-africa-51667168>.
- 1332 DW, 'Rwanda gospel singer Kizito Mihigo's death likely a 'political assassination'', 21 February 2020. Available at: <https://www.dw.com/en/rwanda-gospel-singer-kizito-mihigos-death-likely-a-political-assassination/a-52463272>.
- 1333 Reuters, 'Rwanda jails opposition figures for 7-12 years for conspiracy', 24 January 2020. Available at: <https://in.reuters.com/article/rwanda-justice/rwanda-jails-opposition-figures-for-7-12-years-for-conspiracy-idINKBN1ZN1J7>.
- 1334 Human Rights Watch, 'No space for criticism of Rwanda', 27 June 2019. Available at: <https://www.hrw.org/news/2019/06/27/no-space-criticism-rwanda>.
- 1335 Human Rights Watch, 'Rwanda: Disappearances require credible investigations', 15 August 2019. Available at: <https://www.hrw.org/news/2019/08/15/rwanda-disappearances-require-credible-investigations>.
- 1336 The Telegraph, 'Rwanda – the country where a private conversation can cost you your freedom', 7 November 2019. Available at: <http://bit.ly/2YG4Arj>.

prosecuted for “inciting insurrection and tarnishing the government’s image”.¹³³⁷ In July 2018, journalist Jean Bosco Kabakura had to flee from Rwanda because of the threats he received after publishing an article on the role of police in the death of protesters at the Kiziba refugee camp.¹³³⁸ Journalists in Rwanda have allegedly restrained themselves from expressing their views on governmental policies due to fear of being prosecuted and threatened.¹³³⁹ Free speech in Rwanda – or the freedom to criticise the government or the ruling party – has been reportedly repressed¹³⁴⁰ and it ranks 155th out of 180 countries in the Global Press Freedom Index 2019.¹³⁴¹ The CAT stated, in its concluding observations, that the Subcommittee on Prevention of Torture had suspended a visit to Rwanda due to obstructions hindering access to some places of detention and fear of reprisals against people the Subcommittee would interview.¹³⁴² The CRC also raised concerns about reports of the arbitrary detention and enforced disappearance of human rights defenders, including those working on children’s rights, and the difficulties faced by civil society organisations in obtaining long-term registered status.¹³⁴³

The preamble of the Rwandan Constitution, revised in 2015, underlines its commitment to prevent and punish, “divisionism and **discrimination** based on ethnicity, region or any other ground.”¹³⁴⁴ There are other Constitutional provisions that spell out this commitment: Article 10 lays down that eradication of discrimination is one of the fundamental principles of the Constitution¹³⁴⁵; Article 16 promotes equality of all, whereas there are other provisions in the Constitution that also ensure prohibition of divisionism or discrimination on any ground¹³⁴⁶; along with such other provisions.¹³⁴⁷ However, a joint report published in May 2019 by three rights groups on the status of inclusion and involvement of marginalised people in Rwanda found that the marginalised people often did not report cases of human rights violations.¹³⁴⁸ Extreme poverty and destitution act as barriers in seeking justice or remedy for such violations and has been an obstacle in integrating the marginalised people into government’s social programmes. Women from these groups, especially face intersectional discrimination, due to lack of access to education, economic opportunities or justice.¹³⁴⁹

As a measure to promote social cohesion and coexistence after the genocide, the Rwandan government has continued to enforce a policy of “ethnic amnesia”¹³⁵⁰ or denial of ethnicity in the Rwandan society.¹³⁵¹ It has, however, adversely affected the Batwa community, Rwanda’s indigenous people who make less than one percent of the population.¹³⁵² Roughly a third of the community — at least 10,000 people — were killed during the genocide, and another third became refugees.¹³⁵³ The yearly commemorations of the Rwandan genocide have overlooked the consequences of

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- 1337 Human Rights Watch, ‘Rwanda: Ex-military officers convicted over comments’, April 2016. Available at: <https://www.hrw.org/news/2016/04/01/rwanda-ex-military-officers-convicted-over-comments>.
- 1338 US Department of State, Country Reports for Human Rights Practices 2018: Rwanda. Available at: <https://www.justice.gov/eoir/page/file/1146601/download>.
- 1339 Human Rights Watch, Rwanda: Events of 2018. Available at: <http://bit.ly/36EOPDR>.
- 1340 Human Rights Watch, ‘No space for criticism of Rwanda’, 27 June 2019. Available at: <https://www.hrw.org/news/2019/06/27/no-space-criticism-rwanda>.
- 1341 Reporters Without Borders, World Press Freedom Index 2019, Rwanda. Available at: https://rsf.org/en/ranking_table.
- 1342 CAT, Concluding observations on the second periodic report of Rwanda, para 36, 21 December 2017. Available at: <https://bit.ly/32fOAYS>.
- 1343 CRC, Concluding observations on the combined fifth and sixth periodic reports of Rwanda, para 47 (d), 28 February 2020. Available at: <https://bit.ly/3jaVbkz>.
- 1344 Constitution of the Republic of Rwanda of 2003 (revised in 2015). Available at: <http://www.mininfra.gov.rw/index.php?id=rwandaconstitution>.
- 1345 Ibid.
- 1346 Ibid.
- 1347 The New Times, ‘The right to protection from discrimination’, 10 April 2019. Available at: <https://www.newtimes.co.rw/life-style/right-protection-discrimination>.
- 1348 Report on the Status of Inclusion and Involvement of Historically Marginalised People (HMP) In Various Socio-Economic and Political Programmes and Promotion of Their Human Rights in Rwanda, May 2019. Available at: <https://minorityrights.org/publications/rwanda-final-baseline-study-report/>.
- 1349 Ibid.
- 1350 Journal of East African Studies 8(2), ‘Governing ethnicity after genocide: Ethnic amnesia in Rwanda versus ethnic power-sharing in Burundi (2014)’. Available at: <http://dx.doi.org/10.1080/17531055.2014.891784>.
- 1351 US Department of State, Country Reports for Human Rights Practices 2019: Rwanda. Available at: <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/rwanda/>.
- 1352 Minority Rights Group International, ‘Rwanda: Twa’. Available at: <https://minorityrights.org/minorities/twa-2/>; CERD, Concluding observations on the periodic reports of Rwanda, June 2016. Available at: <https://bit.ly/36vB6it>.
- 1353 Minority Rights Group International, ‘The Batwa Pygmies of the Great Lakes Region’. Available at: <http://bit.ly/2rJ6NG6>.

the conflict on the Batwa.¹³⁵⁴ The Government has repeated that recognition of the Batwa is against the Constitution and had threatened to revoke all NGO assistance unless their campaign for recognition is terminated. However, it is reported that they face adverse consequences as the Government refuses to acknowledge or recognise their specific need for development, services, primary healthcare and better infrastructure.¹³⁵⁵ The position of the Batwa community has marginalised also in terms of them integrating into the Government's social welfare programmes in the absence of any affirmative action.¹³⁵⁶ The CEDAW, in its concluding observations in 2017, specifically raised concerns about the intersecting forms of marginalisation and discrimination faced by the Batwa women who are exposed to extreme poverty, limited access to basic services, illiteracy, unemployment and gender-based violence and that the approach of avoiding ethnicity-based categorisation has contributed to obscuring the specific problems of the Batwa women.¹³⁵⁷

According to the Global Slavery Index 2018, Rwanda ranks 16th out of 167 countries with respect to prevalence of the different forms of **contemporary forms of slavery**.¹³⁵⁸ About 11.56 per cent of the population has been found to be living in modern slavery, including a high vulnerability of the population.¹³⁵⁹ However, some efforts were made by the Rwandan Government: in addition to its provisions in the Penal Code criminalising human trafficking,¹³⁶⁰ it passed its first-ever standalone law relating to 'prevention, suppression and punishment of trafficking in persons as a criminal offence in September 2018 which provides that the guilty would be liable for imprisonment between 10 to 25 years.¹³⁶¹ It also collaborated with the IOM to research and validate findings on 'Understanding Human Trafficking in Rwanda: Causes, Effects and Impact'.¹³⁶² The key findings of the study show that Rwanda is a transit country, and to a lesser extent, a country of origin, and that the majority of intercepted victims were female (77.67 per cent) and the most common forms of human trafficking in Rwanda were identified to be labour and sex trafficking.¹³⁶³ It also identified some challenges: scarcity of resources; inadequate victim testimonies and a lack of transnational cooperation mechanisms; challenges related to victim identification¹³⁶⁴; manner of assistance available to victims is often short term due to lack of shelters; and male victims are often neglected.¹³⁶⁵ However, in association with the IOM, 33 law enforcement officers from Rwanda were trained for identification, investigation and referral of victims of trafficking which aimed at strengthening the implementation of the laws and policies and promote intra-agency cooperation, among other things.¹³⁶⁶ It culminated into the establishment of a Technical Committee on Counter Trafficking consisting of representatives from all relevant Government agencies to increase coordinated efforts to combat trafficking.¹³⁶⁷

The CEDAW, in its concluding observations, had appreciated Rwanda's steps towards prosecuting perpetrators, implementing awareness-raising campaigns and providing assistance to victims; but it had raised concerns about

1354 The Washington Post, '25 years after genocide, Rwanda commemorates those killed — but omits one group that was almost wiped out', 5 April 2019. Available at: <https://wapo.st/36WWdeu>.

1355 Unrepresented Nations and Peoples Organisation, 'Batwa', 14 June 2018. Available at: <https://unpo.org/members/7861>.

1356 Renaissance ACTU, 'Historically marginalised people in Rwanda require more consideration from the Government', 15 May 2019. Available at: <http://renaissanceactu.com/2019/05/15/historically-marginalized-people-in-rwanda-require-more-consideration-from-the-government/>.

1357 CEDAW, Concluding observations on the combined seventh to ninth periodic reports of Rwanda, para 44, 9 March 2017. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/RWA/CO/7-9&Lang=En.

1358 Walk Free Foundation, Global Slavery Index 2018: Rwanda. Available at: <https://www.globalslaveryindex.org/2018/data/country-data/rwanda/>.

1359 Ibid.

1360 The Republic of Rwanda, Organic Law Instituting The Penal Code, No. 1/2012, Article 250. Available at: https://sherloc.unodc.org/res/cld/document/rwa/1999/penal-code-of-rwanda_html/Penal_Code_of_Rwanda.pdf.

1361 Medium, 'IOM commends Rwanda for its first-ever law criminalising trafficking in persons', 10 October 2018. Available at: <https://medium.com/@UNmigration/iom-commends-the-government-of-rwanda-for-its-first-ever-law-criminalizing-trafficking-in-persons-a90b8d88aa6c>.

1362 IOM, 'In Rwanda, Research on Understanding Human Trafficking Validated', 8 February 2019. Available at: <https://www.iom.int/news/rwanda-research-understanding-human-trafficking-validated>.

1363 Ibid.

1364 US Department of State, Trafficking in Persons Report 2019: Rwanda. Available at: <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/rwanda/>.

1365 IOM, 'In Rwanda, Research on Understanding Human Trafficking Validated', 8 February 2019. Available at: <https://www.iom.int/news/rwanda-research-understanding-human-trafficking-validated>.

1366 IOM, 'IOM trains Rwanda's law enforcement officers to address human trafficking', 28 March 2019. Available at: <https://www.iom.int/news/iom-trains-rwandas-law-enforcement-officers-address-human-trafficking>.

1367 Ibid.

the relatively low number of prosecutions and convictions and lack of efforts towards prevention.¹³⁶⁸ However, with increased efforts, the Government initiating investigations in 86 trafficking cases and prosecuted at least 53 alleged traffickers in 53 cases of suspected trafficking, with convictions obtained on 13 of them, between October 2017 and September 2018.¹³⁶⁹ Between 2016 and 2018, 95.24 per cent victims of trafficking in Rwanda were female¹³⁷⁰ and girls remain the main target for human trafficking, both for the purposes of sexual exploitation and forced labour.¹³⁷¹ The CEDAW had also raised concerns about the high risk of trafficking for refugee women and girls and the inadequate security situation for refugee women and girls.¹³⁷² The CRC, in its concluding observations in 2020, recommended that Rwanda improve its data collection system to ensure that it covers all areas of the Convention, as well as CRC-OP-AC and CRC-OP-SC such as sale for sexual exploitation, trafficking, children in street situation as well as Batwa children.¹³⁷³ Similarly, it has also been reported that traffickers recruited refugees in Rwanda, including children, into non-state armed groups. In 2018, an international organisation reported to have separated eight Rwandan children from the armed groups in the DRC and the Government is reported to have assisted the rehabilitation of about 19 former child combatants in the year.¹³⁷⁴ Rwanda also joined the global action, Roméo Dallaire Child Soldiers Initiative, to end the recruitment of child soldiers in armed conflicts.¹³⁷⁵

Similarly, Rwanda has manifested its commitment to eliminate child, early and forced marriage in 2030 by ratifying the CRC and CEDAW, by co-sponsoring the resolution on the issue at both the HRC as well as the UN General Assembly.¹³⁷⁶ The Rwandan Civil Law provides that men and women under the age of 21 cannot marry. However, the Minister of Justice may grant an exception to those under 21 for serious reasons.¹³⁷⁷ Approximately 63 per cent of the country lives below the poverty line and there exists a multidimensional child poverty in the country.¹³⁷⁸ However, despite these efforts, reports suggest that one per cent of the girls in the country get married before the age of 15 and about eight percent of them get married before the age of 18.¹³⁷⁹ The number of woman married before 18 was higher in rural areas and amongst poorer families.¹³⁸⁰ Socio-economic circumstances, including poverty, family pressures and youth unemployment are found to have increased the risk of trafficking and forced labour, contributing to modern day slavery in Rwanda.¹³⁸¹

- 1368 CEDAW, Concluding observations on the combined seventh to ninth periodic reports of Rwanda, para 26, 9 March 2017. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW/C/RWA/CO/7-9&Lang=En.
- 1369 US Department of State, Trafficking in Persons Report 2019: Rwanda. Available at: <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/rwanda/>.
- 1370 Never Again Rwanda, 'End Human Trafficking: No One Is Free Until We Are All Free – Never Again Rwanda', July 2019. Available at: <https://neveragainrwanda.org/end-human-trafficking-no-one-is-free-until-we-are-all-free/>.
- 1371 The New Times, 'Inside Rwanda's war on human trafficking: Girls are the main targets for human trafficking', 20 May 2019. Available at: <https://www.newtimes.co.rw/news/inside-rwandas-war-human-trafficking>.
- 1372 CEDAW, Concluding observations on the combined seventh to ninth periodic reports of Rwanda, para 48 (c)(d), 9 March 2017. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW/C/RWA/CO/7-9&Lang=En; see also, Never Again Rwanda, 'End Human Trafficking: No One Is Free Until We Are All Free – Never Again Rwanda', July 2019. Available at: <https://neveragainrwanda.org/end-human-trafficking-no-one-is-free-until-we-are-all-free/>.
- 1373 CRC, Concluding observations on the combined fifth and sixth periodic reports of Rwanda, para 10(a), 28 February 2020. Available at: <https://bit.ly/3jaVbkz>.
- 1374 US Department of State, Trafficking in Persons Report 2019: Rwanda. Available at: <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/rwanda/>.
- 1375 AA News, 'Rwanda joins global initiative to end child soldiers', 15 November 2019. Available at: <https://www.aa.com.tr/en/af-rica/rwanda-joins-global-initiative-to-end-child-soldiers/1646655>.
- 1376 Girls Not Brides, Rwanda. Available at: <https://www.girlsnotbrides.org/child-marriage/rwanda/#:~:text=Rwanda%20has%20committed%20to%20eliminate,of%20the%20Sustainable%20Development%20Goals.&text=In%202001%20Rwanda%20ratified%20the,the%20prohibition%20of%20child%20marriage..>
- 1377 The Republic of Rwanda, Civil Code, Article 171.
- 1378 UNICEF Rwanda and National Institute of Statistics Rwanda, 'Multidimensional child poverty in Rwanda: Key trends and policy implications', March 2018. Available at: <https://www.unicef.org/rwanda/reports/multidimensional-child-poverty-rwanda>.
- 1379 Commonwealth Lawyers Association, 'The Role of the Law in Eliminating Child Marriage in the Commonwealth (2018)', p. 49. Available at: <http://www.commonwealthlawyers.com/wp-content/uploads/2019/05/CLA-Role-of-the-Law-in-Eliminating-Child-Marriage-T-Braun-2018-FINAL.pdf>.
- 1380 Ibid.
- 1381 Never Again Rwanda, 'End Human Trafficking: No One Is Free Until We Are All Free – Never Again Rwanda', July 2019. Available at: <https://neveragainrwanda.org/end-human-trafficking-no-one-is-free-until-we-are-all-free/>.

VI. Conclusions

Rwanda did not participate in any dialogues or debates in the 42nd HRC Session and it remains the only current Commonwealth HRC member to not have submitted its voluntary pledges while submitting its candidature for the HRC elections.¹³⁸²

- Rwanda is the only Commonwealth country that did not participate in any dialogues or debate during the Council. However, it is largely complied with its treaty body reporting obligations and has only two reports pending for a period not exceeding five years' time.
- Despite the constitutional guarantees and legal provisions, instances of arbitrary detention have been reported from Rwanda by UN bodies as well as other UN bodies. This includes cases including prolonged pretrial detention in both criminal and administrative contexts, military detention, *incommunicado* detention, as well as allegations of detention in unofficial or secret facilities.
- There are consistent reports of political opponents, human rights defenders and journalists facing reprisals, harassed and charged with broadly defined offences for criticising the Government. Multiple instances of enforced disappearance, detention and suspicious deaths of dissidents have been reported from Rwanda. The concluding observations of the CAT stated that the Subcommittee on Prevention of Torture had suspended a visit to Rwanda due to obstructions hindering access to some places of detention and fear of reprisals against people the Subcommittee would interview.
- Rwanda ranks 16th out of 167 countries on the Global Slavery Index 2018.¹³⁸³ However, it has also taken legislative and policy measures, including collaborations with the IOM, to combat modern slavery, including trafficking in persons and preventing recruitment and rehabilitation of children by armed groups.

1382 OHCHR, Rwanda. Available at: <https://www.ohchr.org/en/countries/africaregion/pages/rwindex.aspx>.

1383 Walk Free Foundation, Global Slavery Index 2018: Rwanda. Available at: <https://www.globalslaveryindex.org/2018/data/country-data/rwanda/>.

I. Introduction

South Africa served an initial term of one year as a member of the HRC from 2006-2007.¹³⁸⁴ Thereafter, it was elected to the Council to serve a term from 2008-2010¹³⁸⁵ and thereafter from 2014-2016.¹³⁸⁶ It was elected through a clean slate election to serve a second consecutive term as a member of the Council in 2017.¹³⁸⁷ Its term ended in 2019.¹³⁸⁸

II. Voluntary Pledges and Commitments

South Africa updated its voluntary pledges while submitting its candidature in 2016. A central aspect of South Africa's policy is commitment to the promotion, protection and fulfilment of human rights and fundamental freedoms, as well as the advancement of democracy.¹³⁸⁹

South Africa pledged to¹³⁹⁰:

- Continue to receive visits of the Special Procedures and Mechanisms of the HRC in keeping with their various mandates, without any impediments or restrictions.
- Respect the integrity and dignity and 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.
- Promote a common understanding that human rights can only be practically enjoyed through an effective partnership with all the relevant stakeholders at all levels.
- Ensure that the HRC sessions 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.
- Ensure that the UN human rights system adopts the four requisite additional protocols to the International Convention on the Elimination of All Forms of Racial Discrimination covering the following areas: xenophobia, Islamophobia, anti-Semitism and the incitement to hatred through ethnic, religious and racial profiling.
- Remain committed to the letter and spirit of the Vienna Declaration and Programme of Action (VDPA) that human rights are the legitimate concern of the International community and that they should be addressed dispassionately and in a fair and equal manner without politicisation, double standards and selective targeting.

1384 UN News, 'General Assembly elects 47 members of the new Human Rights Council; marks new beginning for human rights promotion, protection, 9 May 2006. Available at: <https://www.un.org/press/en/2006/ga10459.doc.htm>.

1385 United Nations General Assembly, Election of the Human Rights Council, 17 May 2007. Available at: <https://web.archive.org/web/20190110031542/http://www.un.org/ga/61/elect/hrc/>.

1386 United Nations General Assembly, Election of the Human Rights Council, 12 November 2013. Available at: <https://www.un.org/en/ga/68/meetings/elections/hrc.shtml>.

1387 United Nations General Assembly, Election of the Human Rights Council, 28 October 2016. Available at: <https://www.un.org/en/ga/71/meetings/elections/hrc.shtml>.

1388 OHCHR, Membership of the Human Rights Council, 1 January – 31 December 2019 by year when term expires. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Year2019.aspx>.

1389 South Africa's voluntary pledges and commitments, Note verbale from the Permanent Mission of South Africa to the United Nations addressed to the President of the General Assembly, 25 October 2016. Available at: <http://undocs.org/en/A/71/568>.

1390 Ibid.

III. Participation at the 42nd Session of the HRC

The following is the selected representation of South Africa's participation in the debates and deliberations during the session:

S. No.	Interactive Dialogue	South Africa's Intervention
1.	Enhanced interactive dialogue on the report of the High Commissioner on Nicaragua	<ul style="list-style-type: none"> • Expressed the need for the Council's efforts to be in sync with Nicaragua's political processes to avoid jeopardising delicate political processes. • Commended the negotiations that took place with the OAS representatives as observers and the release of the 492 people detained during the attempted <i>coup d'état</i>. • Stated that inclusion of the civil society in the transitional justice measures adopted by the National Assembly will increase their legitimacy and efficacy. • Highlighted the progressive policies introduced in Nicaragua which have caused a reduction of poverty, advancement of economic, social, cultural rights, prioritisation of food security and rapid development of people with African descent, while raising doubts about the report's pessimism that the welfare programmes could be reversed. • Encouraged the Government of Nicaragua to cooperate with the OHCHR to facilitate necessary technical assistance and capacity-building, while asserting that the country can find appropriate solutions for its people.¹³⁹¹

S. No.	General Debate	South Africa's Interventions
1.	General debate on the Oral update by the United Nations High Commissioner for Human Rights (Item 2)	<ul style="list-style-type: none"> • Appreciated the proactive efforts made by the High Commissioner using consultation, cooperation and partnership to facilitate coherence and dissipate tensions among Member States. • Joined the High Commissioner's call for urgent collective action to respond to climate change to prevent its impact on the enjoyment of human rights. • Expected that the Secretary-General's Summit would reaffirm the goal to limit the global temperature increase to below 1.5 degrees, the principle of 'Common but Differentiated Responsibilities and Respective Capabilities', and multilateralism on the primacy of the UNFCCC and the Paris Agreement. • Acknowledged the High Commissioner's concerns on the developments in South Africa and underlined the need to eradicate poverty and restore democracy to prevent contestation over scarce resources. • Appreciated the manner in which the President has led the campaign against gender-based violence.¹³⁹²

¹³⁹¹ Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/2C556bg>.

¹³⁹² Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://bit.ly/31t86XR>.

2.	Human rights situation in Palestine and other occupied Arab territories (Item 7)	<ul style="list-style-type: none"> • Aligned itself with the statement of the African Group and shared the High Commissioner's concerns about the human rights in Gaza and the attacks on Palestinian demonstrators by the Israeli Security Forces, resulting in deaths and injuries to civilians, including children. • Expressed concerns that South Hebron Hills and Jordan Valley could be annexed because of their low population density with the ethnic cleansing spreading beyond East Jerusalem leaving Palestinian communities defenceless. • Raised concerns about the conviction of Palestinian detainees in military courts; mass demolitions of homes; shrinking civic space; harassment and intimidation of human rights defenders and requested the OHCHR to publish data on companies profiting from economic activities in the Occupied Territories. • Reiterated support for Palestinian people's self-determination and restoration of their human rights.¹³⁹³
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IV. Voting Pattern on Resolutions

Thematic Resolutions

South Africa voted in favour¹³⁹⁴ of all the six thematic resolutions that were adopted by vote during this session: *Composition of staff of the Office of the United Nations High Commissioner for Human Rights*,¹³⁹⁵ *Promotion of a democratic and equitable international order*,¹³⁹⁶ *The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*,¹³⁹⁷ *The right to development*,¹³⁹⁸ *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*¹³⁹⁹ and *The question of the death penalty*.¹⁴⁰⁰

It did not vote against or abstain from voting on any thematic resolution tabled during the session.¹⁴⁰¹

South Africa joined the consensus in the Council for adopting the remaining 19 thematic resolutions¹⁴⁰² and also co-sponsored¹⁴⁰³ the resolution on *The right to social security*.¹⁴⁰⁴

Country Situation Resolutions

South Africa voted in favour of three¹⁴⁰⁵ out of the six country situation resolutions that were put to vote during

1393 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Oral Statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Statements.aspx?SessionId=31&MeetingDate=23/09/2019%2000:00:00>

1394 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1395 Resolution 42/1 *Composition of staff of the Office of the United Nations High Commissioner for Human Rights* (2019).

1396 Resolution 42/8 *Promotion of a democratic and equitable international order* (2019).

1397 Resolution 42/9 *The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination* (2019).

1398 Resolution 42/23 *The right to development* (2019).

1399 Resolution 42/28 *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights* (2019).

1400 Resolution 42/24 *The question of the death penalty* (2019).

1401 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1402 Ibid.

1403 Ibid.

1404 Resolution 42/13 *The right to social security* (2019).

1405 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

the session, namely, *Human rights situation in Yemen*,¹⁴⁰⁶ *Situation of human rights of Rohingya Muslims and other minorities in Myanmar*,¹⁴⁰⁷ and *Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela*.¹⁴⁰⁸

While it did not vote against any country situation resolution, it abstained from voting on the remaining three of them that were tabled for vote¹⁴⁰⁹: *Situation of human rights in the Bolivarian Republic of Venezuela*,¹⁴¹⁰ *Situation of human rights in Burundi*,¹⁴¹¹ and *The human rights situation in the Syrian Arab Republic*.¹⁴¹²

It joined the consensus in the Council to adopt the remaining six country situation resolutions during the session.¹⁴¹³

V. Analysis: Compliance with Pledges and Commitments

a) *Engagement with UN Special Procedures*

South Africa has extended a standing invitation to all thematic Special Procedures since July 2003.¹⁴¹⁴ It pledged to “continue to receive visits of the Special Procedures and Mechanisms of the HRC in keeping with their various mandates, without any impediments or restrictions”.¹⁴¹⁵

However, until March 2020, it had pending seven requests and 11 reminders, a total of 18 visit requests from thematic mandate holders.¹⁴¹⁶ It includes requests and reminders from the Special rapporteurs on torture, on trafficking, on minority issues, on sale of children, on migrants, on racism, on freedom of assembly, on human rights defenders, as well as the Working Groups on disappearances, on arbitrary detention and on business and human rights, among other mandate holders.¹⁴¹⁷ Recently, in July 2020, South Africa also received a visit request from the Working Group on mercenaries.¹⁴¹⁸

b) *Compliance with Reporting Obligations to Treaty Monitoring Bodies*

In its voluntary pledges, South Africa committed to “submitting country reports to human rights treaty bodies”.¹⁴¹⁹ In its pledges, South Africa also recalled its tireless efforts to improve the situation of its reporting obligations to the treaty monitoring bodies and has submitted at least three treaty body reports to cover the backlog from the previous cycles.¹⁴²⁰ Although there were substantial delays in submitting reports to some treaty bodies in the previous cycle, South Africa has progressed towards its commitments and currently has only one periodic report pending with the CRC-OP-AC since 2011.¹⁴²¹

1406 Resolution 42/2 Human rights situation in Yemen (2019).

1407 Resolution 42/3 Situation of human rights of Rohingya Muslims and other minorities in Myanmar (2019).

1408 Resolution 42/4 Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela (2019).

1409 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President’s statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1410 Resolution 42/25 Situation of human rights in the Bolivarian Republic of Venezuela (2019).

1411 Resolution 42/26 Situation of human rights in Burundi (2019).

1412 Resolution 42/27 The human rights situation in the Syrian Arab Republic (2019).

1413 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd HRC Session, Draft resolutions, decisions and President’s statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1414 OHCHR, Standing invitations to Special Procedures. Available at: <https://spinternet.ohchr.org/StandingInvitations.aspx>.

1415 South Africa’s voluntary pledges and commitments, Note verbale from the Permanent Mission of South Africa to the United Nations addressed to the President of the General Assembly, 25 October 2016. Available at: <http://undocs.org/en/A/71/568>.

1416 OHCHR, Country visits of Special Procedures to South Africa. Available at: <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&country=ZAF&Lang=en>.

1417 Ibid.

1418 Ibid. (*However, this request will not be counted for the purposes of the report since it only looks at data available till 30 April 2020.)

1419 South Africa’s voluntary pledges and commitments, Note verbale from the Permanent Mission of South Africa to the United Nations addressed to the President of the General Assembly, 25 October 2016. Available at: <http://undocs.org/en/A/71/568>.

1420 Ibid, para 12.

1421 OHCHR, Treaty Bodies, Reporting status of South Africa. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=ZAF&Lang=EN.

South Africa has not ratified the Convention for the Protection of All Persons from Enforced Disappearance (CED) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW).¹⁴²² It has also not accepted individual complaints procedures from the CESCR-OP and CRC-OP-IC.¹⁴²³

c) *Compliance with Thematic Issues*

South Africa's voluntary pledges are centred around its commitment to the promotion, protection and fulfilment of human rights and fundamental freedoms.¹⁴²⁴ It joined the consensus¹⁴²⁵ in the Council for adopting the resolution on **Arbitrary detention**, that called on States to ensure the rights of arrested and detained persons, such as being tried within a reasonable time to determine the lawfulness of the detention or to be released, including in administrative detention.¹⁴²⁶ It also recognised the persons detained arbitrarily are more vulnerable to further abuses such as torture and ill-treatment.¹⁴²⁷ Section 12 of the Constitution of South Africa guarantees the rights against arbitrary or unlawful detention.¹⁴²⁸ However, cases of unlawful detention, especially in the context of refugees and asylum seekers,¹⁴²⁹ and lengthy pre-trial detention¹⁴³⁰ have been reported.

The Immigration Act 2002 makes provisions for holding of an 'illegal foreigner' in custody for up to 120 days without a court hearing.¹⁴³¹ However, in the 2017 case of *Lawyers for Human Rights v. Minister of Home Affairs and Ors.*, the Constitutional Court held that Section 34(1)(b) that allows such detention is inconsistent with Section 12 of the Constitution, and therefore, invalid.¹⁴³² The Court also held that any foreign national detained under the provision shall be brought before the Court in person within 48 hours of their arrest.¹⁴³³ The South African Human Rights Commission found that such undocumented migrants held in the Lindela Detention Facility are often held for periods beyond those prescribed by the law.¹⁴³⁴ It also found a persistent arrest and detention of unaccompanied minors at detention centres, including at Lindela.¹⁴³⁵ Asylum seekers and refugees, whose status is separate from irregular non-citizens, cannot be detained for deportation under the Immigration Act as it could amount to violation of the principle of *non-refoulement*,¹⁴³⁶ which must prevail as held by the Constitutional Court in *Ruta v. Minister of Home Affairs*.¹⁴³⁷ However, it has been reported that immigration officers have "routinely ignored the Refugee Act in favour of the Immigration Act's less burdensome procedures" which has led to a prolonged detention of asylum seekers.¹⁴³⁸ Concerns have been raised that the recent amendment to the Refugee Act would increase the probability of unlawful

1422 Ibid.

1423 Ibid.

1424 South Africa's voluntary pledges and commitments, Note verbale from the Permanent Mission of South Africa to the United Nations addressed to the President of the General Assembly, para 1, 25 October 2016. Available at: <http://undocs.org/en/A/71/568>.

1425 Resolution 42/22 Arbitrary detention (2019).

1426 Ibid.

1427 Ibid.

1428 Constitution of the Republic of South Africa - 1996, Chapter 2: Section 12 (1). Available at: <https://www.gov.za/documents/constitution/chapter-2-bill-rights#12>.

1429 CAT, Concluding observations on the second periodic report of South Africa, para 36 (d), 7 June 2019. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/ZAF/CO/2&Lang=En; see also, Daily Maverick, 'South Africa fails in duty to offer refuge', 10 December 2019. Available at: <https://www.dailymaverick.co.za/article/2019-12-10-south-africa-fails-in-duty-to-offer-refuge/>.

1430 CAT, Concluding observations on the second periodic report of South Africa, para 14, 7 June 2019. Available at: <https://bit.ly/3ILFgdJ>.

1431 Republic of South Africa, Immigration Act 2002, Section 34 (1). Available at: https://www.gov.za/sites/default/files/gcis_document/201409/a13-020.pdf; see also, CAT, Concluding observations on the second periodic report of South Africa, para 36(d), 7 June 2019. Available at: <https://bit.ly/3ILFgdJ>.

1432 Constitutional Court of South Africa, *Lawyers for Human Rights v. Minister of Home Affairs and Ors.*, [2017] ZACC 22, para. 74. Available at: <http://www.saflii.org/za/cases/ZACC/2017/22.html>.

1433 Ibid.

1434 South African Human Rights Commission, Annual Report 2017 – Lindela Monitoring and Oversight Project, p. 31. Available at: <https://www.sahrc.org.za/home/21/files/SAHRC%20Annual%20Report%202017%20HR.PDF>.

1435 Ibid.

1436 Republic of South Africa, Refugee Act 1998, Section 2. Available at: https://www.gov.za/sites/default/files/gcis_document/201409/a130-980.pdf.

1437 Constitutional Court of South Africa, *Alex Ruta v. Minister of Home Affairs* [2018] ZACC 52, para 54. Available at: <http://www.saflii.org/za/cases/ZACC/2018/52.html>.

1438 Global Detention Project, Country Profile: South Africa. Available at: <https://www.globaldetentionproject.org/countries/africa/south-africa#gdp-detention-facts-figures>.

detention,¹⁴³⁹ including that of asylum seekers.¹⁴⁴⁰

Further, the CAT, in its Concluding Observations, had found a persistence of prolonged pretrial detention in South Africa and recommended that all measures should be taken to ensure that it is reduced to the extent possible, is appropriately regulated and closely monitored by courts.¹⁴⁴¹ In 2017-18, there were 46,142 remand detainees in South African correctional centres, which is about 28 per cent of the total number of inmates in the country.¹⁴⁴² In August 2019, the Constitutional Court held that the arrest and subsequent detention in one particular case, *Bryan James de Klerk v. Minister of Police*, was unlawful¹⁴⁴³ and ordered the Minister of Police to pay a compensation of R 300,000 plus interest.¹⁴⁴⁴ Recently, a gospel producer sued the South African Police Service (SAPS) for allegedly unlawfully arrested and detained for five days without being charged.¹⁴⁴⁵ It has been reported that the SAPS currently faces over R290 million in claims for unlawful conduct and most of the cases involved are that of illegal arrest, unlawful detentions and shootings.¹⁴⁴⁶

In its voluntary pledges, South Africa made a commitment to 'promote a common understanding that human rights can only be practically enjoyed through an effective partnership with all the relevant stakeholders at all levels'.¹⁴⁴⁷ It also voted in favour of the resolution on *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*,¹⁴⁴⁸ which called on States to prevent and refrain from committing **reprisals or intimidation**, online and offline, against civil society and others who seek to cooperate with the UN.¹⁴⁴⁹ The Constitution of South Africa guarantees the freedoms of expression, assembly and association¹⁴⁵⁰; however, the *then* Special Rapporteur on the situation of human rights defenders, in his report released in December 2018, expressed concern over the treatment of human rights defenders by in South Africa, particularly, in relation to their rights to freedom of assembly, freedom of expression, and freedom of association.¹⁴⁵¹ Human rights defenders face a number of obstacles in carrying out their legitimate work,¹⁴⁵² particularly those working on indigenous, land and environmental rights,¹⁴⁵³ sexual orientation and gender identity rights, and defenders who exercise their right to freedom of assembly, experience

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- 1439 Ground Up, 'Refugee Act amendments increase probability of unlawful detention, says report', 11 June 2020. Available at: <https://www.groundup.org.za/article/amendments-refugee-act-increase-probability-unlawfully-detained-and-deported-says-report/>.
- 1440 Lawyers for Human Rights, 'Monitoring policy, litigious and legislative shifts in migration and detention in South Africa', 9 June 2020. Available at: <https://www.lhr.org.za/lhr-resources/monitoring-policy-litigious-and-legislative-shifts-in-migration-and-detention-in-south-africa/>.
- 1441 CAT, Concluding observations on the second periodic report of South Africa, paras 14-15, 7 June 2019. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/ZAF/CO/2&Lang=En.
- 1442 Republic of South Africa, Department of Correctional Services, Annual Report 2017-18, pp. 28-29. Available at: <http://www.dcs.gov.za/wp-content/uploads/2018/10/DCS-AR-2017-18-WEB.pdf>.
- 1443 Constitutional Court of South Africa, *Bryan James de Klerk v. Minister of Police* [2019] ZACC 32, p.2. Available at: <https://collections.concourt.org.za/bitstream/handle/20.500.12144/34626/Full%20judgment%20Official%20version%2022%20August%202019.pdf?sequence=26&isAllowed=y>.
- 1444 Daily Maverick, 'ConCourt orders Minister of Police to pay R300,000 for wrongful arrest', 25 September 2019. Available at: <https://www.dailymaverick.co.za/article/2019-09-25-concourt-orders-minister-of-police-to-pay-r300000-for-wrongful-arrest/>.
- 1445 Sunday World, 'Gospel producer sues SAPS for unlawful detention', 7 March 2020. Available at: <https://sundayworld.co.za/news/gospel-producer-sues-saps-for-unlawful-detention/>.
- 1446 The South African, 'SAPS faces more than R290m in claims for unlawful behaviour', 11 March 2020. Available at: <https://www.thesouthafrican.com/news/saps-police-claims-unlawful-behaviour/>.
- 1447 South Africa's voluntary pledges and commitments, Note verbale from the Permanent Mission of South Africa to the United Nations addressed to the President of the General Assembly, 25 October 2016. Available at: <http://undocs.org/en/A/71/568>.
- 1448 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).
- 1449 Ibid.
- 1450 Constitution of the Republic of South Africa - 1996, Chapter 2: Sections 16-19. Available at: <https://www.gov.za/documents/constitution/chapter-2-bill-rights#12>.
- 1451 Mr. Michel Forst, (then) UN Special Rapporteur on the Situation of Human Rights Defenders, 'World Report on the Situation of Human Rights Defenders', pp. 146-149, December 2018. Available at: <https://www.protecting-defenders.org/sites/protecting-defenders.org/files/UNSR%20HRDs-%20World%20report%202018.pdf>.
- 1452 Ibid.
- 1453 Human Rights Watch, 'South Africa: Activists in mining areas harassed', 16 April 2019. Available at: <https://www.hrw.org/news/2019/04/16/south-africa-activists-mining-areas-harassed>; see also, IOL, 'Mining activists in SA face death threats, intimidation and harassment – report', 19 April 2019. Available at: <https://www.iol.co.za/saturday-star/mining-activists-in-sa-face-death-threats-intimidation-and-harassment-report-21620586>.

violations including harassment, intimidation and violence¹⁴⁵⁴ by both State and non-State actors.¹⁴⁵⁵

In addition, cases of violence, intimidation and harassment have been reported against activists for raising concerns about the effect of mining, especially coal mining, on the environment and health of the communities in the region.¹⁴⁵⁶ They have been threatened, physically attacked, and their property has been damaged as a consequence of their activism.¹⁴⁵⁷ At least three activists were killed in the last three years.¹⁴⁵⁸ It is alleged that the police investigations in these cases have not been adequate.¹⁴⁵⁹ Activist Sikhosiphi Rhadebe, who campaigned against titanium mining was shot eight times and killed¹⁴⁶⁰; over three years after the murder, the police has not identified or arrested any suspects.¹⁴⁶¹ Similarly, whistle blower Thabiso Zaulu, who has been speaking out against corruption since 2010 continues to be subject to threats and intimidation.¹⁴⁶² Recently, in November 2019, he was shot in an assassination attempt.¹⁴⁶³ Journalists have also continued to face threats and harassment from State and non-State actors for reporting on certain political issues and corruption.¹⁴⁶⁴ In March 2019, journalist Karima Brown was hounded and subject to numerous threatening and abusive phone calls and messages by supporters of a political leader in the country.¹⁴⁶⁵ Investigative journalism units, AmaBhungane Centre and Daily Maverick's Scorpio were banned from attending events and were asked to be treated as "enemies" after they published an exposé on illicit flow of funds involving the Economic Freedom Fighters (EFF) party leadership.¹⁴⁶⁶ Recently, a journalist fled from South Africa allegedly as a result of reprisals connected to his reporting on the COVID-19 lockdown enforcement.¹⁴⁶⁷

The State security agency allegedly spied on journalists¹⁴⁶⁸; concerns have been raised about the misuse of surveillance laws, notably the 2002 Regulation of Interception of Communications and Provision of Communication-Related Information Act (RICA), can enable spying on reporters.¹⁴⁶⁹ In 2017, the AmaBhungane Centre launched a constitutional challenge to RICA, and the Gauteng High Court ruled in September 2019 that several sections of the Act were unconstitutional.¹⁴⁷⁰ The appeal will be heard by the Constitutional Court now.¹⁴⁷¹ Freedom of assembly and

1454 Mr. Michel Forst, (then) UN Special Rapporteur on the Situation of Human Rights Defenders, 'World Report on the Situation of Human Rights Defenders', pp. 146-149, December 2018. Available at: <https://www.protecting-defenders.org/sites/protecting-defenders.org/files/UNSR%20HRDs-%20World%20report%202018.pdf>.

1455 South African Human Rights Commission, Research Brief: The Status of Human Rights Defenders in South Africa', p. 3, April 2018. Available at: <https://www.sahrc.org.za/home/21/files/Human%20Rights%20Defenders%20Publication.pdf>.

1456 Centre for Environmental Rights in South Africa, 'We know our lives are in danger: New report speaks of environment of fear in mining affected communities', 16 April 2019. Available at: <https://bit.ly/31NDiRR>.

1457 Human Rights Watch, 'We know our lives are in danger', 16 April 2019. Available at: <https://www.hrw.org/report/2019/04/16/we-know-our-lives-are-danger/environment-fear-south-africas-mining-affected>.

1458 Human Rights Watch, 'Interview: The dangers of opposing mining in South Africa', 16 April 2019. Available at: <https://www.hrw.org/news/2019/04/16/interview-dangers-opposing-mining-south-africa>.

1459 Ibid.

1460 The Guardian, 'Murder in Pondoland: how a proposed mine brought conflict in South Africa', 28 March 2017. Available at: <https://www.theguardian.com/environment/2017/mar/27/murder-pondoland-how-proposed-mine-brought-conflict-south-africa-activist-sikhosiphi-rhadebe>.

1461 South Coast Herald, "'Bazooka" murder still unsolved', 25 March 2019. Available at: <https://southcoastherald.co.za/347608/bazooka-murder-still-unsolved/>.

1462 Frontline Defenders, 'Thabiso Zulu facing threats and intimidation'. Available at: <https://www.frontlinedefenders.org/en/case/thabiso-zulu-facing-threats-intimidation>.

1463 News 24, 'Whistleblower Thabiso Zulu shot in assassination attempt – reports', 27 October 2019. Available at: <https://www.news24.com/news24/southafrica/news/whistleblower-thabiso-zulu-shot-in-assassination-attempt-reports-20191027>.

1464 Amnesty International, South Africa: 2019. Available at: <https://www.amnesty.org/en/countries/africa/south-africa/report-south-africa/>.

1465 Reporters Without Borders, 'South African journalist hounded, threatened by opposition politician', 13 March 2019. Available at: <https://rsf.org/en/news/south-african-journalist-hounded-threatened-opposition-politician>.

1466 News24, 'Malema bans amaBhungane and Daily Maverick's Scorpio from EFF events: "We shall treat them as enemies"', 12 September 2019. Available at: <https://www.news24.com/news24/southafrica/news/we-shall-treat-them-as-enemies-malema-bans-amabhungane-and-daily-mavericks-scorpio-from-eff-events-20190912>.

1467 Reporters Without Borders, 'Journalist flees South Africa after police beatings over lockdown reporting', 22 May 2020. Available at: <https://rsf.org/en/news/journalist-flees-south-africa-after-police-beatings-over-lockdown-reporting>.

1468 Reporters Without Borders, World Press Freedom Index 2019: South Africa. Available at: <https://rsf.org/en/south-africa>.

1469 Freedom House, 'Freedom in the World 2020: South Africa'. Available at: <https://freedomhouse.org/country/south-africa/freedom-world/2020>.

1470 Mail & Guardian, 'High court finds parts of RICA "unconstitutional"', 16 September 2019. Available at: <https://mg.co.za/article/2019-09-16-high-court-finds-parts-of-rica-unconstitutional/>.

1471 Times Live, 'Right to privacy under scrutiny as constitutional court hears RICA "spying"', 25 February 2020. Available at: <https://www.timeslive.co.za/news/south-africa/2020-02-25-right-to-privacy-under-scrutiny-as-constitutional-court-hears-rica-spying-case/>.

association is generally respected in the country; the restrictive provision under the Regulation of Gatherings Act, which provided that convening a gathering without prior and adequate notice is a criminal offence, was struck down as unconstitutional by the Constitutional Court in November 2018.¹⁴⁷² However, in the mining areas, municipalities are alleged to have infringed on citizens' rights to freedom of assembly, imposing extra-legal requirements for protests, despite constitutional guarantees established in South African law.¹⁴⁷³

In its voluntary pledges, South Africa had committed to submitting a National Action Plan on **racism and racial discrimination** and to ensure that the UN human rights system adopts the four requisite additional protocols to the ICERD covering the following areas: xenophobia, Islamophobia, anti-Semitism and the incitement to hatred through ethnic, religious and racial profiling.¹⁴⁷⁴ It also joined the consensus¹⁴⁷⁵ in the Council to adopt the resolution, *From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance*, which underlined the need to eliminate legal obstacles and discriminatory practices hampering full participation of all, especially people of African descent, in public and political life.¹⁴⁷⁶ The National Action Plan (NAP) was approved by the Cabinet in February 2019,¹⁴⁷⁷ 12 years after the pledge was submitted,¹⁴⁷⁸ and in March 2019, South Africa launched a five-year NAP.¹⁴⁷⁹ The policy seeks to prevent and combat racism; sexist, homophobic and xenophobic discrimination; discrimination based on ethnic origin; and disability.¹⁴⁸⁰ Despite efforts, xenophobic rhetoric and violence have continued against refugees, asylum seekers and migrants which has left them exposed and unprotected.¹⁴⁸¹

These groups have been affected by the spate of violence that erupted in 2018 across the country, especially in Gauteng, KwaZulu Natal and Western Cape provinces.¹⁴⁸² In August 2018, at least three people were killed and several injured, while shops were looted during xenophobic mob attacks in Soweto that targeted Somali shop owners.¹⁴⁸³ In September 2018, angry protestors near Johannesburg killed at least four for allegedly "stealing local jobs".¹⁴⁸⁴ In March 2019, a South African TV and radio presenter was the victim of a racially-motivated assault and was beaten unconscious.¹⁴⁸⁵ Violent attacks have been reported against migrants and foreigners,¹⁴⁸⁶ especially from other African countries.¹⁴⁸⁷ There were reports of violence against Malawians fuelled by the anti-immigrant rhetoric

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- 1472 Socio-Economic Rights Institute South Africa, 'Constitutional Court ruling declares Section 12(1)(a) of the Gathering Act as unconstitutional', 19 November 2018. Available at: <http://www.seri-sa.org/index.php/latest-news/855-litigation-update-the-constitutional-court-declares-a-section-of-the-gatherings-act-as-unconstitutional-19-november-2018>.
- 1473 Human Rights Watch, 'South Africa: Activists in mining areas harassed', 16 April 2019. Available at: <https://www.hrw.org/news/2019/04/16/south-africa-activists-mining-areas-harassed>.
- 1474 South Africa's voluntary pledges and commitments, Note verbale from the Permanent Mission of South Africa to the United Nations addressed to the President of the General Assembly, 25 October 2016. Available at: <http://undocs.org/en/A/71/568>.
- 1475 OHCHR, 42nd HRC Session, Resolutions, decisions and President's statements. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session42/Pages/ResDecStat.aspx>.
- 1476 Resolution 42/29 From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance (2019).
- 1477 Republic of South Africa, National Action Plan (NAP) to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance 2019. Available at: <http://www.justice.gov.za/docs/other-docs/NAP/NAP-20190313.pdf>.
- 1478 South African Government News Agency, 'NAP a tool to combat racism, xenophobia', 25 March 2019. Available at: <https://www.sanews.gov.za/south-africa/nap-tool-combat-racism-xenophobia>
- 1479 Human Rights Watch, 'South Africa launches plan to combat xenophobia and racism', 25 March 2019. Available at: <https://www.hrw.org/news/2019/03/25/south-africa-launches-plan-combat-xenophobia-and-racism>.
- 1480 PoliticsWeb, 'Hate speech seems to be on the increase - John Jeffery', 25 March 2019. Available at: <https://www.politicsweb.co.za/documents/hate-speech-seems-to-be-on-the-increase--john-jeff>.
- 1481 Amnesty International, South Africa: 2019. Available at: <https://www.amnesty.org/en/countries/africa/south-africa/report-south-africa/>.
- 1482 UN News, 'UNHCR calls for action against xenophobic attacks in South Africa', 4 September 2018. Available at: <https://news.un.org/en/story/2018/09/1018272>.
- 1483 BBC, 'South Africa violence targets Soweto's foreign-owned shops', 30 August 2018. Available at: <https://www.bbc.com/news/world-africa-45354977>.
- 1484 UN News, 'UNHCR calls for action against xenophobic attacks in South Africa', 4 September 2018. Available at: <https://news.un.org/en/story/2018/09/1018272>.
- 1485 BBC, 'Samora Mangesi: South African presenter 'victim of a racist attack'', 14 March 2019. Available at: <https://www.bbc.com/news/world-africa-47568223>.
- 1486 BBC, 'South Africa: How common are xenophobic attacks?', 7 April 2019. Available at: <https://www.bbc.com/news/world-africa-47800718>.
- 1487 ActionAid International, Statement in response to xenophobic attacks against migrants in South Africa, 2 April 2019. Available at: <https://actionaid.org/news/2019/statement-response-xenophobic-attacks-against-migrants-south-africa>.

before elections in May 2019.¹⁴⁸⁸ In August 2019, in Durban, where foreign nationals were attacked and displaced in five locations around the city.¹⁴⁸⁹ Nigerians in South Africa have over the years become targets of fatal xenophobic attacks.¹⁴⁹⁰ President Ramaphosa had condemned¹⁴⁹¹ and apologised for the attacks,¹⁴⁹² but hundreds of Nigerians have reportedly left South Africa after the 2019 flare up.¹⁴⁹³ In September 2019, violence erupted in many regions of the Gauteng province, where two people were reportedly killed. The police had to use tear-gas and rubber bullets to disperse groups of men armed with machetes and sticks shouting anti-immigrant slogans.¹⁴⁹⁴ Officials believed that at least 11 people died and several shops burned in the attacks.¹⁴⁹⁵

These attacks were linked to the protests against employment of foreign truck drivers that escalated into brutal violence.¹⁴⁹⁶ The reason behind these xenophobic attacks were said to be the anti-immigrant rhetoric¹⁴⁹⁷ relating to migration affecting poverty, inequality, and unemployment in the country,¹⁴⁹⁸ further fuelled by politicians.¹⁴⁹⁹ Some legislative provisions such as those in The Immigration Act require that staff at clinics and hospitals must find out the legal status of patients before providing care and report to the Director-General of Home Affairs any illegal foreigner or anyone whose status is not clear.¹⁵⁰⁰ However, this can only be enacted if this does not affect patients' rights set out in the Constitution, National Health Act and Refugees Act.¹⁵⁰¹ It has been reported that despite a strong legal framework on refugees and asylum seekers' rights, South Africa's asylum system is failing, which is exacerbating xenophobia in the country.¹⁵⁰²

South Africa's voluntary pledges are centred around its commitment to the promotion, protection and fulfilment of human rights and fundamental freedoms.¹⁵⁰³ It also committed to continue to support important funds and programmes of the OHCHR and other entities aimed at advancing the cause of human rights globally, including the UN Voluntary Trust Fund on **Contemporary Forms of Slavery**.¹⁵⁰⁴ It also joined the consensus in the Council¹⁵⁰⁵ to adopt the resolution on *Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, which requested the promotion of effective application of international norms; collaboration with other UN mechanism

- 1488 Quartz, 'South Africa's election season rhetoric has sparked fresh xenophobic attacks on African migrants', 2 April 2019. Available at: <https://qz.com/africa/1585736/xenophobic-attacks-on-africans-in-south-africa-ahead-of-elections/>.
- 1489 Daily Maverick, 'Is the State complicit in xenophobic violence in South Africa', 13 August 2019. Available at: <https://www.dailymaverick.co.za/article/2019-08-13-is-the-state-complicit-in-xenophobic-violence-in-south-africa/>
- 1490 Premium Times, 'Buhari, Ramaphosa meet over killings of Nigerians in South Africa', 28 August 2019. Available at: <https://www.premiumtimesng.com/news/top-news/349274-buhari-ramaphosa-meet-over-killings-of-nigerians-in-south-africa.html>.
- 1491 The Guardian, 'South African president condemns anti-foreigner violence', 3 September 2019. Available at: <https://www.theguardian.com/world/2019/sep/03/south-african-president-condemns-anti-foreigner-violence>.
- 1492 BBC, 'South Africa apologises to Nigeria over xenophobic attacks', 17 September 2019. Available at: <https://www.bbc.com/news/world-africa-49726041>.
- 1493 News 24, 'Xenophobic attacks: Hundreds of Nigerians leave SA', 12 September 2019. Available at: <https://www.news24.com/Africa/News/watch-xenophobic-attacks-hundreds-of-nigerians-leaving-sa-20190911>.
- 1494 The Guardian, '"We are a target": Wave of xenophobic attacks sweeps Johannesburg', 10 September 2019. Available at: <https://www.theguardian.com/world/2019/sep/10/we-are-a-target-wave-of-xenophobic-attacks-sweeps-johannesburg>.
- 1495 Ibid.
- 1496 Human Rights Watch, 'South Africa: Deadly attacks on foreign truck drivers', 26 August 2019. Available at: <https://www.hrw.org/news/2019/08/26/south-africa-deadly-attacks-foreign-truck-drivers>.
- 1497 Daily Maverick, 'Migrants' forum claims police were warned of impending xenophobic attacks', 4 September 2019. Available at: <https://www.dailymaverick.co.za/article/2019-09-04-migrants-forum-claims-police-were-warned-of-impending-xenophobic-attacks/>.
- 1498 South African Government News Agency, National Action Plan to use land and other issues to address racism, 26 March 2019. Available at: <https://www.sanews.gov.za/features-south-africa/national-action-plan-use-land-and-other-issues-address-racism>.
- 1499 DW, 'South Africa's politicians feed anti-foreigner violence', 2 April 2019. Available at: <https://www.dw.com/en/south-africas-politicians-feed-anti-foreigner-violence/a-48157900>.
- 1500 Sonke Gender Justice, 'Refugees, migrants and health care in South Africa, explained'. Available at: <https://genderjustice.org.za/card/refugees-migrants-and-health-care-in-south-africa-explained/what-does-the-law-say-about-migrants-and-refugees-accessing-healthcare-in-south-africa/>.
- 1501 Ibid.
- 1502 Amnesty International, 'South Africa: Failing asylum system is exacerbating xenophobia', 29 October 2019. Available at: <https://www.amnesty.org/en/latest/news/2019/10/south-africa-failing-asylum-system-is-exacerbating-xenophobia/>.
- 1503 South Africa's voluntary pledges and commitments, Note verbale from the Permanent Mission of South Africa to the United Nations addressed to the President of the General Assembly, para 1, 25 October 2016. Available at: <http://undocs.org/en/A/71/568>.
- 1504 Ibid.
- 1505 OHCHR, 42nd HRC Session, Resolutions, decisions and President's statements. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session42/Pages/ResDecStat.aspx>.

and agencies and extended the mandate of the Special Rapporteur for another term of three years.¹⁵⁰⁶ In May 2019, South Africa launched the National Policy Framework to prevent and combat trafficking in persons, in collaboration with the UNODC, based on principles and approaches in line with constitutional imperatives, national legislation and international standards along with involvement of civil society and other stakeholders.¹⁵⁰⁷ However, South Africa is a primary origin, transit and destination country for trafficked persons in the Southern African region and Africa at large with forced labour, commercial sex and forced marriages as main forms of modern slavery.¹⁵⁰⁸

According to the Global Slavery Index 2018, there are estimated 155,000 people living in modern slavery in South Africa¹⁵⁰⁹ and has reportedly been on a rise.¹⁵¹⁰ It is reported that most of the human trafficking in South Africa is sexual exploitation and forced labour.¹⁵¹¹ It is reported that traffickers recruit victims from poorer countries or from rural areas within South Africa towards urban centres, where they force them into sex trafficking and forced labour in domestic service, criminal activities, and agriculture.¹⁵¹² The Prevention and Combating of Trafficking in Persons Act 2013, that came into force in 2015, was enacted with the intention to prevent, criminalise and comprehensively deal with trafficking in persons.¹⁵¹³ The Act criminalised sex trafficking and labour trafficking and prescribed penalties of up to life imprisonment, a fine of up to 100 million South African rand (\$6.97 million), or both. The penalties were sufficiently stringent; however, with regard to sex trafficking, by allowing for a fine in lieu of imprisonment, the prescribed punishment was not commensurate with those for other serious crimes, such as rape.¹⁵¹⁴ Additionally, Sections 15, 16, and 31(2)(b)(ii) have not been promulgated,¹⁵¹⁵ and therefore, provisions of the Act dealing with cross-border trafficking are not yet in force.

Especially children, including migrant children, are more vulnerable to the risks of trafficking for sexual purpose, forced labour, and child, early and forced marriage.¹⁵¹⁶ Despite legislative provisions such as the Basic Conditions of Employment Act 1997 which prohibits child labour,¹⁵¹⁷ a significant number of children were found to be involved in various types of child labour, with at least 34.2% of those having exposed to at least one hazardous working condition.¹⁵¹⁸ Sexual exploitation of children and sale and trafficking of children for sexual purposes is known to have a high incidence,¹⁵¹⁹ but as the CRC had pointed out, there is a lack of integrated and effective data system of data

1506 Resolution 42/10 Special Rapporteur on contemporary forms of slavery, including its causes and consequences (2019).

1507 UNODC, 'South Africa launches Prevention and Combating of Trafficking in Persons National Policy Framework', 2 May 2019. Available at: <https://www.unodc.org/unodc/en/human-trafficking/glo-act/south-africa-launches-prevention-and-combating-of-trafficking-in-persons-national-policy-framework.html>.

1508 Ibid.

1509 Walk Free Foundation, Global Slavery Index 2018: South Africa. Available at: <https://www.globalslaveryindex.org/2018/data/country-data/south-africa/>.

1510 Times Live, 'Human trafficking on the rise in SA', 23 October 2018. Available at: <https://www.timeslive.co.za/news/south-africa/2018-10-26-human-trafficking-on-the-rise-in-sa/>; see also, IOL, 'Fear mounts as slavery, human trafficking on rise in SA', 24 August 2019. Available at: <https://www.iol.co.za/weekend-argus/news/fear-mounts-as-slavery-human-trafficking-on-rise-in-sa-31206763>.

1511 IOL, 'Fear mounts as slavery, human trafficking on rise in SA', 24 August 2019. Available at: <https://www.iol.co.za/weekend-argus/news/fear-mounts-as-slavery-human-trafficking-on-rise-in-sa-31206763>.

1512 US Department of State, Trafficking in Persons Report 2020, pp. 445-456. Available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

1513 Republic of South Africa, Department of Justice and Constitutional Development, 'Prevention and Combating of Trafficking in Persons – National Policy Framework', 10 April 2019. Available at: <https://www.justice.gov.za/docs/other-docs/2019-TIP-NPF-10April2019.pdf>; see also, Republic of South Africa, Prevention and Combating of Trafficking in Persons Act 2013. Available at: https://www.gov.za/sites/default/files/gcis_document/201409/36715gon544.pdf.

1514 US Department of State, Trafficking in Persons Report 2019. Available at: <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/south-africa/>.

1515 Government Gazette, 7 August 2015 – Commencement of the Prevention and Combating of Trafficking in Persons Act 2013. Available at: https://www.gov.za/sites/default/files/gcis_document/201509/39078proc32.pdf.

1516 EPCAT, 'The landscape of sexual exploitation of children in South Africa', p. 12, October 2019. Available at: <https://www.ecpat.org/wp-content/uploads/2019/10/Landscape-of-Sexual-Exploitation-of-Children-in-South-Africa-ECPAT-research-October-2019.pdf>.

1517 Republic of South Africa, Basic Conditions of Employment Act 1997, Section 43. Available at: https://www.gov.za/documents/basic-conditions-employment-act?gclid=Cj0KCQjwvb75BRD1ARIsAP6Lcqsaf6j5LK2RV7cRyZTVTp_IVCFhmuf_tNlsd7dDV5g-kUboLJtm37claAgaxEALw_wcB.

1518 EPCAT, 'The landscape of sexual exploitation of children in South Africa', p. 14, October 2019. Available at: <https://www.ecpat.org/wp-content/uploads/2019/10/Landscape-of-Sexual-Exploitation-of-Children-in-South-Africa-ECPAT-research-October-2019.pdf>.

1519 Ibid, pp.20-21.

collection and analysis on the issue.¹⁵²⁰ Similarly, although South Africa has prescribed a minimum age for marriage, there are inconsistencies in the civil law governing the issue and there are exceptions that allow marriage before the age of 18 years under different circumstances.¹⁵²¹ According to UNICEF, in South Africa, 1% of women aged 20-24 in 2010-2018 were reported to be married before the age of 15 and 6% before the age of 18 years.¹⁵²² The traditional practice of Ukuthwala, that is nonconsensual, that contributed to forced marriages and trafficking of children for sexual purposes was classified as a trafficking offence under the Prevention and Combating of Trafficking in Persons Act.¹⁵²³ Identification of victims of trafficking and a lack systematic mechanism for training frontline officials across all agencies, which hindered the government's anti-trafficking efforts as a whole and sometimes resulted in unlawful arrests and detentions of trafficking victims.¹⁵²⁴

VI. Conclusions

South Africa participated in selected debates during the session. It also co-sponsored the resolution on *The right to social security* that was adopted by consensus.

- In its voluntary pledges, South Africa committed to continue to receive visits of the Special Procedures and Mechanisms of the HRC in keeping with their various mandates, without any impediments or restrictions. However, as of March 2020, it had a total of 18 visit requests and reminders pending from Special Procedures of the Council. This is the second highest number of pending requests of the Commonwealth Member States reviewed in this report, next only to India.
- Reprisals and intimidation against human rights defenders — especially environmental activists — journalists, and the media have been reported by State as well as non-State actors. Similarly, it is reported that immigration detention policies have led to prolonged and arbitrary detention not only of irregular migrants, but also of asylum seekers and refugees in the country. However, the Constitutional Court through its rulings has upheld the fundamental rights guaranteed under the South African constitutional framework.
- South Africa has taken active steps towards combating racial and xenophobic discrimination by giving effect to the NAP in March 2019. Despite efforts, xenophobic attacks and violence have continued against refugees, asylum seekers and migrants. It has allegedly exacerbated due to the anti-immigrant narrative coupled with the lapses in the asylum system.

1520 CRC, Concluding observations on the second periodic report of South Africa, 30 September 2016. Available at: https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/ZAF/CRC_C_ZAF_CO_2_25463_E.pdf.

1521 Girls Not Brides, Country Profile: South Africa. Available at: <https://www.girlsnotbrides.org/child-marriage/south-africa/#:~:text=South%20Africa%20ratified%20the%20Convention,and%20full%20consent%20to%20marriage>.

1522 UNICEF, The State of the World's Children – 2019, p. 235, October 2019. Available at: <https://www.unicef.org/sites/default/files/2019-12/SOWC-2019.pdf>.

1523 Girls Not Brides, Country Profile: South Africa. Available at: <https://www.girlsnotbrides.org/child-marriage/south-africa/#:~:text=South%20Africa%20ratified%20the%20Convention,and%20full%20consent%20to%20marriage>.

1524 US Department of State, Trafficking in Persons Report 2019. Available at: <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/south-africa/>.

I. Introduction

The United Kingdom of Great Britain and Northern Ireland (UK) was re-elected to serve a second consecutive term at the HRC after a clean slate election in 2017.¹⁵²⁵ The UK is now serving its fourth term at the Council, which expires in 2019.¹⁵²⁶ It was previously elected to the Council in 2006,¹⁵²⁷ 2009,¹⁵²⁸ and 2014.¹⁵²⁹

II. Voluntary Pledges and Commitments

The UK submitted its voluntary pledges in 2016.¹⁵³⁰ It underlined its focus on its efforts to promote human rights internationally, uphold them domestically, and support UN bodies. It also contained priority issues such as equality and non-discrimination, gender equality, violence against women, religious freedom, and modern slavery. The UK pledged to¹⁵³¹:

- Strengthen the role of human rights in the work of the United Nations by:
 - a) Encouraging a rapid 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) Support a strong and independent United Nations human rights system.
- Translate 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 (SDG Goal 5).
 - b) Tackling the scourge of modern slavery across borders (SDG Target 8.7).
 - c) Supporting work on justice, the rule of law and open societies (SDG 16).
- 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.
- 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 conflicts, 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.
- Work towards promoting open societies and challenge threats to civil society.

1525 United Nations General Assembly, Elections of the Human Rights Council, 2017. Available at: <http://www.un.org/en/ga/72/meetings/elections/hrc.shtml>.

1526 United Nations General Assembly, Elections of the Human Rights Council, 2017. Available at: <http://www.un.org/en/ga/72/meetings/elections/hrc.shtml>.

1527 OHCHR, Current Membership of the Human Rights Council. Available at: <https://www.ohchr.org/en/hrbodies/hrc/pages/currentmembers.aspx>.

1528 United Nations General Assembly, Elections of the Human Rights Council, 2008. Available at: https://www.un.org/en/ga/62/elections/hrc_elections.shtml.

1529 OHCHR, Membership of the Human Rights Council, 2014. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Group2014.aspx>.

1530 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, Voluntary pledges and commitments. Available at: <http://undocs.org/en/A/71/572>.

1531 Ibid.

III. Participation at the 42nd Session of the HRC

The UK was one of the most active participants in the Session. A representative participation of the UK in the debates and discussions in this Session is as follows:

S. No.	Interactive Dialogue	The United Kingdom's Interventions
1.	Clustered interactive dialogue with the Special Rapporteur on contemporary forms of slavery and the Working Group on the use of mercenaries	<ul style="list-style-type: none"> • Welcomed the Special Rapporteur's report on contemporary and emerging forms of slavery and supported her call for a coordinated approach to tackling this crime affecting every country. • Recognised the importance of looking at future challenges, including migration, climate change and shifts in global markets. • Affirmed its support to the important role that Alliance 8.7 plays to mobilise and prioritise international resources and that the Global Fund to End Modern Slavery and the Pathfinder 8.7 Initiative should be used as frameworks for coordinated international action. • Welcomed the ratifications received for the 2014 Protocol to the Forced Labour Convention and urged States who have not done so to consider the same. • Noted the urgent need to maintain international momentum to make significant inroads towards SDG target 8.7 and asked the Special Rapporteur on ways to maintain the momentum necessary to tackle the scourge of modern slavery.¹⁵³²
2.	Enhanced interactive dialogue on the report of the High Commissioner on Nicaragua	<ul style="list-style-type: none"> • Noted the findings of the High Commissioner's recent report on Nicaragua expressing continued concerns about repression, restrictions on freedom of expression, association and peaceful assembly and the lack of progress in the political dialogue. • Underlined the failure of the Nicaraguan Government to honour its commitments made during the talks in March 2019 and expressed concerns over the Government's decision to end talks and its attempt to falsely portray the crisis as a proportionate response to a failed coup. • Added that the exoneration of the perpetrators of human rights violations and constraints on freedom of expression under the Amnesty Law evidence the continued restrictions faced by Nicaraguan citizens. • Urged the Nicaraguan Government to end the repression of its citizens, cooperate with the international human rights bodies and fulfill its commitments towards restoring democracy. • Requested the High Commissioner for her assessment of the prospects of a negotiated settlement to the crisis and the willingness of the Government to address the human rights concerns thus raised.¹⁵³³

1532 UK Mission to the United Nations Geneva, Human Rights Council 42: UK statement on the clustered interactive dialogue with the Special rapporteur on contemporary forms of slavery.. Available at: <https://www.gov.uk/government/news/42nd-human-rights-council-uk-statement-for-clustered-id-with-sr-on-contemporary-forms-of-slavery>.

1533 UK Mission to the United Nations Geneva, Human Rights Council 42: Interactive dialogue on Nicaragua. Available at: <https://www.gov.uk/government/news/un-human-rights-council-42-interactive-dialogue-on-nicaragua>.

3.	Interactive dialogue on the report of the High Commissioner on Yemen	<ul style="list-style-type: none"> • Supported the renewal of the mandate of the Group of Eminent Experts and asserted that political settlement is the only way to bring long-term stability to Yemen and address the worsening crisis. • Committed to continue working with all parties to create conditions for a legitimate Government to protect the human rights of Yemeni people and to support women’s meaningful participation in the peace process. • Expressed concerns about credible reports of religious persecution in Houthi areas, especially of the Baha’i community and the allegations of violations of international humanitarian law and sale of arms. • Encouraged a thorough investigation into alleged violations and urged the Houthis to comply with IHL and cease the indiscriminate targeting of Saudi cities with ballistic missiles and drones.¹⁵³⁴
4.	Clustered interactive dialogue with the Independent Expert on the human rights of older persons and the Special Rapporteur on the rights to development	<ul style="list-style-type: none"> • Addressed the statement to the Independent Expert and added that global population ageing is one of the greatest socio-economic challenges, which has, and will continue to have, substantive policy implications. • Reiterated its commitment to the promotion and protection of the human rights of all persons, irrespective of their age, while acknowledging the serious issues faced by older persons. • Affirmed that States should promote equality in older age and full participation and inclusion of older persons in all aspects of the society and should consider the impact of their decisions and age-based policies on older persons. • Acknowledged the intersecting challenges faced by older persons, especially in emergency situations and agreed that specific measures built on strong data and rigorous assessment of needs should be adopted to support the requirements of older people.¹⁵³⁵
5.	Interactive dialogue with the Commission on Human Rights in South Sudan (oral update)	<ul style="list-style-type: none"> • Commended the critical work of the Commission to promote truth and accountability in South Sudan and the continued cooperation of the Government. • Noted that despite progress made in the 2018 peace deal, civilians continue to be killed and raped; children are recruited as combatants; and communities are forcibly displaced without fear of punishment. • Called on the Government to address the culture of impunity and the parties to the peace deal to ensure implementation of Chapter V. • Insisted that the Government must investigate sexual violence and abuse; support survivors; and take action to prevent further attacks, and welcomed the Commission’s report on the root causes of sexual and gender-based violence. • Expressed concerns over the Commission’s reporting on the securitisation of the State, including arbitrary detention and enforced disappearances and restrictions on freedom of expression and called for accountability in respect of these cases.¹⁵³⁶

1534 UK Mission to the United Nations Geneva, Human Rights Council 42: Interactive dialogue on Yemen. Available at: <https://www.gov.uk/government/news/un-human-rights-council-42-interactive-dialogue-on-yemen>.

1535 UK Mission to the United Nations Geneva, Human Rights Council 42: Interactive dialogue with independent expert on human rights of older persons. Available at: <https://www.gov.uk/government/news/un-human-rights-council-42-interactive-dialogue-with-independent-expert-on-human-rights-by-older-persons>.

1536 UK Mission to the United Nations Geneva, Human Rights Council 42: Interactive dialogue on South Sudan. Available at: <https://www.gov.uk/government/news/human-rights-council-42-interactive-dialogue-on-south-sudan>.

6.	Interactive dialogue with the Special Rapporteur on Myanmar (oral update)	<ul style="list-style-type: none"> • Expressed regret that the Special Rapporteur’s work to discharge her duties continues to be challenged and called on the Government of Myanmar to cooperate fully with her mandate and grant her full access. • Remained deeply concerned by the escalation of violence on Rakhine, Shan and Kachin states and called on all parties to de-escalate hostilities, engage in meaningful dialogue and protect civilians. • Welcomed Bangladesh’s commitment to ensure voluntary repatriations in cooperation with UN agencies and agreed with the UNHCR that the conditions in Myanmar are not conducive to ‘safe, voluntary and dignified returns. • Called on Myanmar to grant UN agencies full access to Rakhine and stated that accountability for violations in Myanmar is key for reconciliation essential for long term stability and underlined the need for the domestic process to be credible. • Regretted that the Independent Commission of Enquiry is yet to deliver its report, while welcoming the operationalisation of the IIIM for Myanmar.¹⁵³⁷
7.	Interactive dialogue with the Fact-Finding mission on Myanmar	<ul style="list-style-type: none"> • Noted the Mission’s report underlining the systematic human rights violations and culture of impunity in Myanmar reinforced by economic structures shielding to protect those responsible. • Highlighted the need for genuine accountability in light of violations in Rakhine, Shan and Kachin states, Tatmadaw’s underlying economic influence and sexual violence perpetrated by security forces. • Affirmed that accountability for the atrocities documented by the Fact-Finding Mission is crucial and that a credible domestic process would be a more effective route to justice and reconciliation in the absence of which other options should be looked into. • Extended its support to the operationalisation of the IIIM for Myanmar and encouraged Myanmar to cooperate fully with its mandate, since the situation continues to warrant attention of the international community and the Council.¹⁵³⁸
8.	Interactive dialogue with the Independent International Commission of Inquiry on the Syrian Arab Republic	<ul style="list-style-type: none"> • Shared the Col’s concern about the human rights situation, particularly in Idlib, where 1,000 civilians have been killed and nearly 600,000 displaced due to the offensive by the Asad regime and its supporters. • Welcomed the UNSG’s Board of Inquiry to investigate attacks on civilian infrastructure, including medical facilities as well as their devastating impact on children where 304 children have died and 55 schools have been struck. • Reiterated the call of the Col for all sides to abide by their IHL obligations and protect civilians and welcomed UN’s efforts to negotiate sustained humanitarian access to Rubkan camp. • Stated that any movement of residents should be safe, voluntary and informed by IHL, in light of reports of arbitrary detention of those who have relocated.¹⁵³⁹

1537 UK Mission to the United Nations Geneva, Human Rights Council 42: Interactive dialogue on Myanmar. Available at: <https://www.gov.uk/government/news/human-rights-council-42-interactive-dialogue-on-myanmar>.

1538 UK Mission to the United Nations Geneva, Human Rights Council 42: Interactive dialogue with the Fact-Finding Mission on Myanmar. Available at: <https://www.gov.uk/government/news/un-human-rights-council-42-interactive-dialogue-with-the-fact-finding-mission-on-myanmar>.

1539 UK Mission to the United Nations Geneva, Human Rights Council 42: Interactive dialogue on Syria. Available at: <https://www.gov.uk/government/news/un-human-rights-council-42-interactive-dialogue-on-syria>.

9.	Interactive dialogue with the Commission of Inquiry on Burundi	<ul style="list-style-type: none"> • Supported the renewal of the Commission’s mandate for a year, especially during the pre-electoral period. • Noted that there has been no progress in preventing human rights violations and urged the Government of Burundi to fulfil its obligation to protect human rights and hold perpetrators to account. • Urged the Government to engage with the OHCHR to help find way for the country to set a course towards human rights protection and pave way towards peaceful elections in 2020. • Concerned by the rising risks that could signal towards atrocity crimes linked to 2020 elections, while stating that the international community and UN Mechanisms should be more focused on resolving the crisis. • Supported the voluntary return Burundian refugees in the neighbouring countries and added that the UK aid supports such returnees and their communities. • Encouraged the Governments of Tanzania and Burundi to work on issues of refugee management through the established Tripartite Process.¹⁵⁴⁰
10.	Interactive dialogue with the Assistant Secretary-General for Human Rights on the report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights	<ul style="list-style-type: none"> • Appreciated the efforts of the Secretary General and the Assistant Secretary-General for their efforts to counter the instances of reprisals against those who choose to cooperate with the UN. • Noted the report’s findings on the risks faced by indigenous people and those working to defend their rights, citing that in 2018 alone 321 HRDs were killed. • Underlined the need to create a safe and enabling environment for all HRDs to work freely and safely and to allow cooperation and transparent discussion. • Informed the Council of a document published by the UK Government setting out its support for HRDs which is available in all six official UN languages. • Asked the Assistant Secretary-General about his view on the main obstacles to countering reprisals and how States can reassure NGOs and HRDs of their valuable contributions in the field of human rights.¹⁵⁴¹

1540 UK Mission to the United Nations Geneva, Human Rights Council 42: Interactive dialogue on Burundi. Available at: <https://www.gov.uk/government/news/un-human-rights-council-42-interactive-dialogue-on-burundi>.

1541 UK Mission to the United Nations Geneva, Human Rights Council 42: Interactive dialogue with Assistant Secretary-General Gilmour on the Secretary-General’s Report on Reprisals. Available at: <https://www.gov.uk/government/news/un-human-rights-council-42-interactive-dialogue-with-assistant-secretary-general-gilmour-on-the-secretary-generals-report-on-reprisals>.

11.	Interactive dialogue with the High Commissioner on the oral update on Ukraine	<ul style="list-style-type: none"> • Noted that fighting continues in and around civilian areas of eastern Ukraine and added that this reporting period has seen an increase in civilian casualties. • Stated that nine out of the 60 injured were children and that 3,399 civilians have died since the conflict started and called on both sides to protect civilians. • Expressed concern by the crackdown on the right to freedom of expression in illegally annexed Crimea, especially where the the Russian Anti-Extremism Legislation has been applied to social media content posted before annexation. • Condemned Russia for failing to comply with the UNGA Resolution 73/263 and called on it to allow international monitoring organisations unhindered access to the Peninsula. • Called on Russia to release all Ukrainian political prisoners following the recent, long overdue release of the 24 Ukrainian servicemen and political prisoners. • Welcomed the Pride Equality Marches and steps taken by the authorities to ensure that participants could freely and safely enjoy their rights.¹⁵⁴²
12.	Enhanced interactive dialogue on the report of the OHCHR on the human rights situation in the Democratic Republic of the Congo (DRC)	<ul style="list-style-type: none"> • Welcomed the reported decrease in the number of human rights abuses and violations, especially of civil and political rights, since the last reporting cycle. • Recognised the opening up of democratic space and improvements in the freedom of press, but also noted with concern the attacks and intimidation of HRDs, journalists and civil society actors by State agents. • Called on the Government of the DRC to ensure protection of freedoms of expression and association while echoing its efforts to combat impunity and sexual violence. • Urged the Government to ensure that State agents operate according to the highest international standards and to bring perpetrators to justice.¹⁵⁴³
13.	Interactive dialogue with the High Commissioner on the oral update on Libya	<ul style="list-style-type: none"> • Expressed grave concern about the deterioration in the human rights situation in Libya and asserted that the international community must think afresh about how to hold perpetrators to account. • Condemned all violations of international human rights and humanitarian law, including unlawful killings, sexual and gender-based violence and attempts to silence journalists and HRDs, and expressed concerns about the disappearance of a member of House of Representatives and called on urgent investigation into the matter. • Noted that the conflict in Libya has cost lives of over 100 civilians and displaced over 100,000 and that more must be done to protect civilians, including migrants and refugees and added that attacks on civilians are completely unacceptable. • Affirmed that an immediate ceasefire and a return to the UN-led political process is essential to improve the human rights situation, supported the efforts of the Special Representative and called on all parties to engage meaningfully.¹⁵⁴⁴

1542 UK Mission to the United Nations Geneva, Human Rights Council 42: High Commissioner’s oral update on Ukraine. Available at: <https://www.gov.uk/government/news/un-human-rights-council-42-high-commissioners-oral-update-on-ukraine>.

1543 UK Mission to the United Nations Geneva, Human Rights Council 42: Interactive dialogue on the Democratic Republic of Congo. Available at: <https://www.gov.uk/government/speeches/un-human-rights-council-42-interactive-dialogue-on-the-democratic-republic-of-congo>.

1544 UK Mission to the United Nations Geneva, Human Rights Council 42: Interactive dialogue with the UN Commissioner on Libya. Available at: <https://www.gov.uk/government/speeches/un-human-rights-council-42-interactive-dialogue-with-the-un-high-commissioner-on-libya>.

14.	Interactive dialogue with the Special Rapporteur on the situation of human rights in Cambodia	<ul style="list-style-type: none"> • Shared the Special Rapporteur’s concerns about the severe regression of political rights and freedoms marked by the lack of credible opposition following the dissolution of the Cambodia National Rescue Party and ban on its officials from political activity. • Urged the Government to ensure that opposition and civil society voices are given a meaningful role in policy making. • Raised concerns about opposition leader, Kem Sokha, who despite having been moved to his family home, remains in detention and urged the Government to drop all charges against him and to take further steps to widen political participation. • Agreed with the Special Rapporteur that political culture should focus on issues than persons and the need for a stronger judicial protection to the freedoms of assembly and expression.¹⁵⁴⁵
15.	Interactive dialogue with the Independent Expert on the situation of human rights in Somalia	<ul style="list-style-type: none"> • Supported the extension of the mandate of the Independent Expert and welcomed the recommendations in his report. • Emphasised the importance of the Somali Government maintaining progress in delivering the commitments they made at the Global Disability Summit, including the development of a National Action Plan to end sexual violence in conflict. • Recognised the role of the Ministry of Women and Human Rights Development in championing human rights and commend the publishing of a scorecard outlining the results achieved. • Remained concerned about the persistent insecurity of the civilian lives; marginalisation of displaced people, minorities and women; use of children in armed conflict; sexual and gender-based violence; and restrictions on journalists and freedom of expression. • Noted the lack of accountability for perpetrators of abuse and urged the Somali authorities to strengthen the rule of law and bring an end to impunity, including by finalising the establishment of an NHRI. • Asked the Independent Expert for his view on the electoral law in Somalia and how the international community can support the establishment within the law ensuring representation to all.¹⁵⁴⁶
16.	Interactive dialogue with the Independent Expert on the situation of human rights in Sudan	<ul style="list-style-type: none"> • Commended the recent positive steps towards a democratic Sudan, including the appointment of civilian leadership. • Noted the details of violence by security forces against peaceful protestors across Sudan and welcomed the Prime Minister’s announcement on forming an independent committee to investigate crimes during the popular protests, while urging all parties to ensure that it is independent and transparent. • Welcomed the Government of Sudan’s commitment to respect human rights through transitional period and beyond, and hoped that the leadership will work constructively with all parties and international partners to address human rights challenges. • Called on the Government to ensure respect, particularly for the freedoms of expression, peaceful assembly and media, as they would be vital in securing Sudan’s path towards democracy.¹⁵⁴⁷

1545 UK Mission to the United Nations Geneva, Human Rights Council 42: Interactive dialogue with the Special Rapporteur on Cambodia. Available at: <https://www.gov.uk/government/speeches/un-human-rights-council-42-interactive-dialogue-with-the-un-high-commissioner-on-cambodia>.

1546 UK Mission to the United Nations Geneva, Human Rights Council 42: Interactive dialogue with the Independent Expert on Somalia. Available at: <https://www.gov.uk/government/speeches/un-human-rights-council-42-statement-for-the-interactive-dialogue-with-the-independent-expert-on-somalia>.

1547 UK Mission to the United Nations Geneva, Human Rights Council 42: Interactive dialogue with the Independent Expert on Sudan. Available at: <https://www.gov.uk/government/news/un-human-rights-council-42-interactive-dialogue-with-the-independent-expert-on-sudan>.

17.	Interactive dialogue with the Independent Expert on the situation of human rights in the Central African Republic (CAR)	<ul style="list-style-type: none"> • Noted the reported decline in human rights violations in the first half of 2019, but remained concerned that despite being signatories to the peace agreement, armed groups continue to commit majority of the human rights abuses against the population. • Echoed the Independent Expert’s view that the peace process will only succeed if all parties implement the peace agreement in good faith and called on all armed groups to cease violence and abide by the agreement. • Welcomed the establishment of the main transitional justice institutions and the launch of the Truth, Justice, Compensation and Reconciliation Commission as there can be no peace without justice. • Urged the CAR Government to continue to prioritise their efforts to strengthen the judicial system to hold perpetrators of human rights abuses to account.¹⁵⁴⁸
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S. No.	General Debate	The United Kingdom’s Interventions
1.	General debate on Oral update by the High Commissioner for Human Rights (Item 2)	<ul style="list-style-type: none"> • Expressed concerns about the continued human rights violations in North-West and South-West regions of Cameroon and the lack of protection of human rights through judicial process, while adding that openness to engage with the UN must be matched by action to establish credible political dialogue. • Concerned by the police response to protests in Harare, Zimbabwe and arrests and abductions of opposition activists and called on Zimbabwe to respect the right to protest peacefully and translate its commitments on political reform into action. • Reminded Bangladesh of its commitment to uphold democratic values in light of actions undermining freedom of expression and narrowing of political space following the 2018 election. • Continued to remain concerned about the limitations on freedom of expression in Vietnam, while welcoming its engagement on the UPR recommendations and its commitment to address the legacies of conflict and women, peace and security issues during its UNSC tenure. • Urged the Philippines to thoroughly investigate killings associated with the war on drugs; take meaningful steps to ensure the safety of human rights defenders, labour rights activists and media professionals; and not to reinstate the death penalty. • Affirmed that meaningful political dialogue under Hong Kong’s high degree of autonomy is essential and supported the call for “One Country, Two Systems”, including rights and freedoms in the Joint Declaration. • Expressed concerns about the recent use of death penalty in Bahrain and urged Bahrain to introduce a moratorium on its use.¹⁵⁴⁹

1548 UK Mission to the United Nations Geneva, Human Rights Council 42: Interactive dialogue on Central African Republic. Available at: <https://www.gov.uk/government/news/un-human-rights-council-42-interactive-dialogue-on-central-african-republic>.

1549 UK Mission to the United Nations Geneva, Human Rights Council 42: Item 2 General Debate. Available at: <https://www.gov.uk/government/news/un-human-rights-council-42-uk-delivers-statement-under-item-2-general-debate>.

2.	General debate on Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (Item 3)	<ul style="list-style-type: none"> • Committed to ensuring that every girl receives 12 years of quality education by 2030 as key to achieving the SDGs as it curbs infant mortality, eradicates illiteracy, reduces population pressures, and boosts economic growth. • Expressed pride in its global campaign to ‘Leave No Girl Behind’ aimed at building political commitment and boost global investment in quality education for girls and added that it is supporting up to 1.5 million marginalised girls in 17 countries through its Girls’ Education Challenge Fund. • Remained concerned that around 131 million girls worldwide remain out of school due to gender inequality in education and affirmed the need to work together to create an enabling environment. • Identified the need to tackle barriers that stop girls from accessing quality education such as poverty; gender-based violence; harmful social norms and attitudes; early and forced marriage, FGM etc. • Called on all States to ensure that all women and girls have access to sexual and reproductive health services; provide comprehensive sexuality education; and endorse the Safe Schools Declaration to prioritise continuation of education during conflict or crisis. • Noted that conflict-related sexual violence prevents many girls from accessing education and informed the Council of its international conference scheduled in November 2019 to galvanise further action to prevent sexual violence in conflict, and thus, continue to champion gender equality.¹⁵⁵⁰
3.	General debate on Human rights situations that require the Council’s attention (Item 4)	<ul style="list-style-type: none"> • Referred to its interventions on Myanmar, Syria, DRC and Burundi and expressed deep concern over the use of arbitrary detention and the number of political prisoners held around the world. • Expressed serious concern by the range of systematic human rights abuses in Xinjiang, while stating that UN experts should be granted immediate access and urged China to cease detaining Chinese and foreign nationals in breach of its international obligations. • Remained concerned by Iran’s human rights record and urged it to cease arbitrary detention of Iranians, foreigners and dual nationals. • Stated that Russia must uphold human rights of all its people, including the LGBTI people in Chechnya, and protect all freedoms such as of expression, association and peaceful assembly and called on the country to release all Ukrainian political prisoners. • Expressed grave concerns about the widespread human rights violations in DPRK and called on the authorities to work with relevant human rights actors to address the situation. • Noted that the continued human rights abuses in Libya are worrying and that the international community must consider all options to hold to account those who are responsible. • Hoped that the new NGO law in Egypt will allow the civil society to operate more freely in the country, while raising concerns about the prison conditions and restrictions on media freedoms. • Expressed serious concerns about the human rights violations in Venezuela documented by the OHCHR July report and called for restoration of democracy and the release of all political prisoners. • Welcomed the political progress and the opportunity to make positive advances on long-standing human rights challenges in Sudan.¹⁵⁵¹

1550 UK Mission to the United Nations Geneva, Human Rights Council 42: Item 3 General Debate. Available at: <https://www.gov.uk/government/news/un-human-rights-council-42-general-debate-on-item-3>.

1551 UK Mission to the United Nations Geneva, Human Rights Council 42: Item 4 General Debate. Available at: <https://www.gov.uk/government/news/un-human-rights-council-42-item-4-general-debate>.

4.	General debate on Technical assistance and capacity-building (Item 10)	<ul style="list-style-type: none"> • Believed firmly that technical assistance can help States realise their human rights obligations and informed the Council about the role of International Ambassador for Human Rights to enhance UK's work in this area. • Informed that the role would also entail working in coordination with Ministers to strengthen the multilateral human rights system and helping deliver tangible improvements in human rights globally. • Added that while it is important to challenge States violating human rights, it is equally important to support States working to fulfil their human rights obligations and encouraged States to provide political and financial support to the OHCHR. • Referred to its interventions on separate countries while welcoming specifically the continued cooperation between Georgia and OHCHR despite concerns that those in effective control in Abkhazia and South Ossetia refuse access to the OHCHR and other human rights mechanisms. • Expressed concerns about civic inequality based on ethnicity and the "borderisation" activities carried out by the <i>de facto</i> authorities further restricting freedom of movement and affecting the most vulnerable. • Believed that the forthcoming National Dialogue in Cameroon must tackle the root causes of the grievances in the North-West and South-West regions and remained ready to support credible efforts towards peace in the country. • Recognised the threat that climate change has posed to the protection and enjoyment of human rights and suggested that Agenda Item 10 should be used to encourage States to address this issue.¹⁵⁵²
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S. No.	Panel Discussion	The United Kingdom's Intervention
1.	Annual discussion on the integration of a gender perspective throughout the work of the Human Rights Council and that of its mechanisms	<ul style="list-style-type: none"> • Reiterated the UK Government's commitment to gender equality, including SDG 5, is reflected in the appointment of a Special Envoy for Gender Equality, its commitment to the Women Peace and Security agenda, the Preventing Sexual Violence in Conflict initiative as well as its work to champion 12 years quality education for all girls. • Affirmed its belief that all people should be able to live with dignity and free from violence and discrimination, regardless of their sexual orientation or gender identity. • Stated that gender equality is broader than gender parity or equal representation and it entails equal rights, opportunities and responsibilities while confirming the need to integrate a gender perspective into all aspects of the UN's work. • Informed that with the 20th anniversary of the UNSC Resolution 1325, it is prioritising women's meaningful participation in the peace process the impact of which has found to be profound. • Asked for panelists' views on collective measures to be taken to end sexual harassment across international meetings, including the Council.¹⁵⁵³

1552 UK Mission to the United Nations Geneva, Human Rights Council 42: Item 10 General Debate. Available at: <https://www.gov.uk/government/speeches/un-human-rights-council-42-uk-statement-under-item-10>.

1553 UK Mission to the United Nations Geneva, Human Rights Council 42: Annual discussion on the integration of a gender perspective. Available at: <https://www.gov.uk/government/news/un-human-rights-council-42-annual-discussion-on-the-integration-of-a-gender-perspective>.

S. No.	UPR Outcome	The United Kingdom's Intervention
1.	Brunei Darussalam	<ul style="list-style-type: none"> Appreciated Brunei Darussalam's continued willingness to discuss human rights issues and welcomed the Brunei's acceptance of its recommendation to strengthen measures to investigate and prosecute those responsible for modern slavery offences and ensure adequate victim protection and care. Welcomed Brunei's partial acceptance of its recommendation to ratify the UNCAT without reservations and commended the acceptance of such other recommendations. Appreciated His Majesty's commitment to respect individual privacy and urged Brunei to formalise the commitment for all, including LGBTI people, and ensure that its laws are not discriminatory. Noted and appreciated the assurances provided by His Majesty regarding the introduction of the Sharia Penal Code and regarding the application of <i>de facto</i> moratorium on death penalty under the code and urged it to further reform its statutory punishments. Called on Brunei to repeal the legislation imposing a state of emergency and restrictions, including those on the media, in light of Para 116 of its National Report.¹⁵⁵⁴

IV. Voting Pattern on Resolutions

Thematic Resolutions

The UK voted in favour of two out of the six thematic resolutions that was put to vote during this session, namely, *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*¹⁵⁵⁵ and *The question of the death penalty*.¹⁵⁵⁶

The UK provided an explanation of vote before the vote on one of the thematic resolutions that it voted in favour of:

- On the resolution on *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*,¹⁵⁵⁷ the UK maintained its view that the Council had affirmed an unequivocal rejection of acts of intimidation and reprisals against individuals and groups cooperating with the UN in the field of human rights. It stated that reprisals against civil society or HRDs brings the entire human rights system into peril given the immense personal sacrifice that these individuals make to advance the rights and freedoms of others. It also added that with the problem becoming more profound, the Council must do everything to combat acts of intimidation and reprisals, individually and collectively, to preserve the civic space. In this view, the UK stated that it will vote for the resolution.¹⁵⁵⁸

It voted against the remaining four thematic resolutions adopted by vote: *Composition of staff of the Office of the United Nations High Commissioner for Human Rights*,¹⁵⁵⁹ *Promotion of a democratic and equitable legal order*,¹⁵⁶⁰ *The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*,¹⁵⁶¹ and *The right to development*.¹⁵⁶²

¹⁵⁵⁴ UK Mission to the United Nations Geneva, Human Rights Council 42: Statement for the UPR of Brunei Darussalam. Available at: <https://www.gov.uk/government/news/un-human-rights-council-42-statement-for-the-universal-periodic-review-on-brunei-darussalam>.

¹⁵⁵⁵ Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

¹⁵⁵⁶ Resolution 42/24 The question of the death penalty (2019).

¹⁵⁵⁷ Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

¹⁵⁵⁸ Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd Session of the Human Rights Council, Oral Statements, EVBV by the UK on A/HRC/42/L.22. Available at: <https://bit.ly/3bzQtc0>.

¹⁵⁵⁹ Resolution 42/1 Composition of staff of the Office of the United Nations High Commissioner for Human Rights (2019).

¹⁵⁶⁰ Resolution 42/8 Promotion of a democratic and equitable legal order (2019).

¹⁵⁶¹ Resolution 42/9 The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (2019).

¹⁵⁶² Resolution 42/23 The right to development (2019).

The UK did not abstain from voting on any thematic resolution during the session.¹⁵⁶³

It joined the consensus in adopting the remaining 19 thematic resolutions¹⁵⁶⁴ and co-sponsored a resolution, namely, *Special Rapporteur on contemporary forms of slavery, including its causes and consequences*.¹⁵⁶⁵

Country Situation Resolutions

The UK voted in favour of five out of the six country situation resolutions tabled and put to vote during this session. These include *Situation of human rights in the Bolivarian Republic of Venezuela*,¹⁵⁶⁶ *Situation of human rights in Burundi*,¹⁵⁶⁷ *Human rights situation in Yemen*,¹⁵⁶⁸ *Situation of human rights of Rohingya Muslims and other minorities in Myanmar*¹⁵⁶⁹ and *The human rights situation in the Syrian Arab Republic*.¹⁵⁷⁰ It also co-sponsored the resolution on *The human rights situation in the Syrian Arab Republic*.¹⁵⁷¹

The UK provided an explanation of vote on one of the resolutions that it voted in favour of:

- On the resolution on the *Situation of human rights in the Bolivarian Republic of Venezuela*,¹⁵⁷² the UK welcomed the aim of the resolution to establish an independent international mechanism to carry out an investigation into the human rights crisis in Venezuela. It also highlighted the grave human rights violations in Venezuela under the Maduro regime and stated that it is essential for the Council to respond in an equally serious manner. Therefore, to enable the Council to help the people who have suffered by establishing the truth and achieving justice, the UK voted in favour of the resolution.¹⁵⁷³

The UK did not vote against any country situation resolution put to vote during this session.¹⁵⁷⁴ However, it abstained from voting on one country situation resolution, namely, *Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela*.¹⁵⁷⁵

It joined the consensus in adopting the remaining six country situation resolutions during the session¹⁵⁷⁶ and co-sponsored the resolutions on *Assistance to Somalia in the field of human rights*¹⁵⁷⁷ and on *The human rights situation in the Syrian Arab Republic*.¹⁵⁷⁸

V. Analysis: Compliance with Pledges and Commitments

a) Engagement with UN Special Procedures

1563 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd Session of the Human Rights Council, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1564 Ibid.

1565 Resolution 42/10 Special Rapporteur on contemporary forms of slavery, including its causes and consequences (2019).

1566 Resolution 42/25 Situation of human rights in Bolivarian Republic of Venezuela (2019).

1567 Resolution 42/25 Situation of human rights in Burundi (2019).

1568 Resolution 42/2 Human rights in Yemen (2019).

1569 Resolution 42/3 Situation of human rights of Rohingya Muslims and other minorities in Myanmar (2019).

1570 Resolution 42/27 Situation of human rights in the Syrian Arab Republic (2019).

1571 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd Session of the Human Rights Council, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1572 Resolution 42/25 Situation of human rights in Bolivarian Republic of Venezuela (2019).

1573 UK Mission to the United Nations Geneva, Human Rights Council 42: Explanation of vote on the resolution on Venezuela. Available at: <https://www.gov.uk/government/speeches/un-human-rights-council-42-uk-explanation-of-vote-on-venezuela>.

1574 Ibid.

1575 Resolution 42/4 Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela (2019).

1576 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd Session of the Human Rights Council, Draft resolutions, decisions and President's statements. Available at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Resolutions.aspx>.

1577 Resolution 42/33 Assistance to Somalia in the field of human rights (2019).

1578 Resolution 42/27 The human rights situation in the Syrian Arab Republic (2019).

The UK has extended a standing invitation to Special Procedures since March 2001,¹⁵⁷⁹ and pledged to support a strong and independent UN human rights system.¹⁵⁸⁰ The UK has largely cooperated with the Special Rapporteurs and has accepted and facilitated visit requests of the majority of thematic Special Procedures.¹⁵⁸¹ However, there are two exceptions: first, the Working Group on mercenaries, which was requested a visit in May 2015; secondly, a visit request sent by the Special Rapporteur on torture in April 2019, which also remains pending.¹⁵⁸² In January 2020, the Special Rapporteur on sale of children also sent a visit request to the UK.¹⁵⁸³

In toto, the UK has three visit requests pending from the Special Procedures.¹⁵⁸⁴

b) *Compliance with Reporting Obligation to Treaty Monitoring Bodies*

The UK pledged to “support a strong and independent UN human rights system.”¹⁵⁸⁵ The UK has fully complied with its reporting obligations to treaty monitoring bodies by submitting its reports to the relevant treaty bodies within a reasonable time.¹⁵⁸⁶ However, the only exceptions are the CERD, to which the report was submitted after a delay of one year, and the CRC-OP-AC and the CRC-OP-SC, whose reports were submitted after a delay of two years in the previous reporting cycle.¹⁵⁸⁷ In April 2020, the due date for the UK to submit its next periodic report to the CERD passed.¹⁵⁸⁸

However, the UK has not yet ratified some key human rights treaties which were recommended during its third UPR cycle.¹⁵⁸⁹ They include: *International Convention for the Protection of All Persons from Enforced Disappearance* (CED), *the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (CMW), *the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, *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 on the Communications Procedure*.¹⁵⁹⁰

c) *Compliance with Thematic Issues*

In its voluntary pledges, the UK committed to “Translate 2030 Agenda for Sustainable Development into action that leaves no one behind by: supporting work on justice, the rule of law and open societies (SDG 16).”¹⁵⁹¹ It joined the consensus in adopting the resolution on **Arbitrary detention**¹⁵⁹² that called on States to provide guarantees with respect to any form of arbitrary or unlawful deprivations of liberty and review laws and practices that may give rise to arbitrary detention.¹⁵⁹³ Throughout its interventions in the session, it raised concerns about the use of arbitrary detention across the world.¹⁵⁹⁴ However, there are concerns over legislations and policies that may lead to arbitrary

1579 OHCHR, Country visits of Special Procedures to the UK. Available at: <https://bit.ly/35fSqrX>.

1580 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, Voluntary pledges and commitments. Available at: <http://undocs.org/en/A/71/572>.

1581 OHCHR, Country visits of Special Procedures to the UK. Available at: <https://bit.ly/35fSqrX>.

1582 Ibid.

1583 Ibid.

1584 Ibid.

1585 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, Voluntary pledges and commitments. Available at: <http://undocs.org/en/A/71/572>.

1586 OHCHR, Treaty Bodies, Reporting status of the UK. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=GBR&Lang=EN.

1587 Ibid.

1588 Ibid.

1589 Report of the Working Group on the Universal Periodic Review of the UK, 36th Session of the Human Rights Council, 14 July 2017. Available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/9.

1590 Ibid.

1591 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, Voluntary pledges and commitments. Available at: <http://undocs.org/en/A/71/572>.

1592 42nd HRC Session, Resolutions, decisions and President’s statements. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session42/Pages/ResDecStat.aspx>.

1593 Resolution 42/22 Arbitrary detention (2019).

1594 Refer to the table summarising the UK’s Participation at the 42nd HRC Session.

and prolonged detention, especially in reference to the immigration system in the country.¹⁵⁹⁵ The UK is one of only a handful of countries without a time-limit on immigration detention.¹⁵⁹⁶ While the Home Office policy states that their policy does not mean indefinite detention and that it must be used sparingly,¹⁵⁹⁷ thousands of people are reportedly detained every year, and some for lengthy periods.¹⁵⁹⁸ In 2019, It was reported that nearly 24,400 people entered immigration detention, which has been the lowest number in a decade and include nearly half of whom have claimed asylum.¹⁵⁹⁹ Nearly one-third of immigration detainees in the UK are held for longer than 28 days.¹⁶⁰⁰

In 2018, out of the total 26,440 people who left immigration detention, 33.7 per cent had been held for longer than 29 days and about 4.5 per cent were held for more than six months,¹⁶⁰¹ although the numbers were lower in 2019.¹⁶⁰² In October 2018, the England and Wales Court of Appeal held in the case of *R (on the application of Hemmati and Others) v. Secretary of State for the Home Department* that people held in the immigration centres, especially those who claim asylum, cannot be detained indefinitely and such a practice has been ruled unlawful.¹⁶⁰³ An appeal filed by the Home Secretary was dismissed by the UK Supreme Court in November 2019.¹⁶⁰⁴ Many of those held in immigration detention in the UK have been allegedly held in prison-like conditions and prolonged detentions have caused harm to their physical and mental health.¹⁶⁰⁵ At the end of 2019, 359 immigration detainees were detained in actual prisons¹⁶⁰⁶; in April 2020, this number was 340.¹⁶⁰⁷ In February 2019, the Home Office admitted to a trafficking victim being unlawfully detained for six months despite being “extremely vulnerable” which renewed calls for reform in the UK’s immigration detention system.¹⁶⁰⁸ The UK Parliament Joint Human Rights Committee had recommended the introduction of a 28-day time-limit on immigration detention.¹⁶⁰⁹ However, the Home Office rejected the recommendation stating that such a limit would constrain the ability to balance and maintain effective immigration control¹⁶¹⁰ although it received cross-party support.¹⁶¹¹

1595 CAT, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland, 7 June 2019. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/GBR/CO/6&Lang=En; see also, Gherson, ‘Serious concerns remain over treatment of immigration detainees in UK Law’, 18 June 2019. Available at: <https://www.gherson.com/blog/serious-concerns-immigration-detainees-uk>.

1596 UNHRC, ‘UNHRC’s evidence to the Home Affairs Select Committee’s inquiry into Brook House Immigration Removal Centre’, October 2017. Available at: <https://www.unhcr.org/uk/59ddd4ee4.pdf>.

1597 The Home Office, Government of the United Kingdom, ‘Media factsheet: Detention time limits’, 29 June 2020. Available at: <https://homeofficemedia.blog.gov.uk/2020/06/29/media-factsheet-detention-time-limits/>.

1598 AVID, ‘What is immigration detention?’. Available at: <https://bit.ly/30Rmpmq>.

1599 The Migration Observatory - University of Oxford, ‘Immigration detention in the UK’, 20 May 2020. Available at: <https://migrationobservatory.ox.ac.uk/resources/briefings/immigration-detention-in-the-uk/>.

1600 Ibid.

1601 The Home Office, Government of the United Kingdom, ‘Immigration Statistics year ending September 2018’, 29 November 2018. Available at: <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-september-2018>.

1602 The Home Office, Government of the United Kingdom, ‘Immigration Statistics year ending September 2019’, 28 November 2019. Available at: <https://www.gov.uk/government/publications/immigration-statistics-year-ending-september-2019/how-many-people-are-detained-or-returned>.

1603 The Guardian, ‘UK asylum seekers may have been detained unlawfully, rules Court’, 4 October 2018. Available at: <https://www.theguardian.com/uk-news/2018/oct/04/uk-asylum-seekers-may-have-been-detained-unlawfully-rules-court>; see also, *R (on the application of Hemmati and Others) v. Secretary of State for the Home Department* [2018] EWCA Civ 2122.

1604 *R (on the application of Hemmati and Others) (Respondents) v. Secretary of State for the Home Department (Appellant)*, [2019] UKSC 56. Available at: <https://www.supremecourt.uk/cases/docs/uksc-2018-0197-judgment.pdf>.

1605 The Tablet, ‘How suffering is ‘normalised’ in immigration detention’, 3 July 2020. Available at: <https://www.thetablet.co.uk/blogs/1/1513/how-suffering-is-normalised-in-immigration-detention>.

1606 The Migration Observatory - University of Oxford, ‘Immigration detention in the UK’, 20 May 2020. Available at: <https://migrationobservatory.ox.ac.uk/resources/briefings/immigration-detention-in-the-uk/>.

1607 The Home Office, Government of the United Kingdom, ‘Factsheet: Immigration detention and the response to coronavirus’, 2 April 2020. Available at: <https://homeofficemedia.blog.gov.uk/2020/04/02/factsheet-immigration-detention-and-the-response-to-coronavirus/>.

1608 Independent, ‘Home Office admits it unlawfully detained trafficking victim for six months’, 13 February 2019. Available at: <https://www.independent.co.uk/news/uk/home-news/home-office-human-trafficking-victim-detain-uk-a8777931.html>.

1609 Parliament of the United Kingdom, ‘Home Office rejects Human Rights Committee’s call for a time limit to immigration detention’, 31 July 2019. Available at: <https://www.parliament.uk/business/committees/committees-a-z/joint-select/human-rights-committee/news-parliament-2017/time-limit-immigration-govt-response-published-17-19/>; see also, House of Commons Home Affairs Committee Immigration Detention Report, paras. 221-222, March 2019. Available at: <https://publications.parliament.uk/pa/cm201719/cmselect/cmhaff/913/913.pdf>.

1610 The Home Office, Government of the United Kingdom, Government response to the Human Rights Committee’s report on Immigration detention, 23 July 2019. Available at: https://www.parliament.uk/documents/joint-committees/human-rights/correspondence/2017-19/Immigration_detention_Government_response.pdf.

1611 Parliament of the United Kingdom, ‘Home Office rejects Human Rights Committee’s call for a time limit to immigration detention’, 31 July 2019. Available at: <https://www.parliament.uk/business/committees/committees-a-z/joint-select/human-rights-committee/news-parliament-2017/time-limit-immigration-govt-response-published-17-19/>.

Other than the issue of immigration detention: in December 2018, with reference to the Julian Assange case, the UN human rights experts reiterated their call for the UK to abide by its international obligations in keeping with the 2015 opinion of the Working Group on arbitrary detention and allow Mr. Assange to walk freely without fear of arrest and extradition to the United States of America or Sweden.¹⁶¹² They stated that Mr. Assange was being arbitrarily deprived of his freedom for over six years and that detention during investigations must be limited, especially in the absence of any charge. They urged that Mr. Assange should be able to exercise his right to freedom of movement in an unhindered manner, in accordance with the human rights conventions the UK has ratified.¹⁶¹³ However, this opinion was not complied with and Mr. Assange was arrested at the Embassy in April 2019 and was sentenced to 50 weeks in jail for breaching his bail conditions.¹⁶¹⁴ The Working Group on arbitrary detention raised concerns about the disproportionate sentence imposed on Mr. Assange who is held in the Belmarsh prison as if he has been convicted of a criminal offence contravening the fundamental principles of necessity and proportionality.¹⁶¹⁵ Such similar concerns were raised about the Counter-Terrorism and Border Security Act 2019 which has created a new “Schedule 3” border security power which permits suspicion-less detention and searches based on the concept of “hostile activity” which has not been clearly defined.¹⁶¹⁶

In its voluntary pledges, the UK committed to ‘work towards promoting open societies and challenge threats to civil society’.¹⁶¹⁷ It consistently raised concerns about **intimidation and reprisals** against the civil society, human rights defenders and journalists around the world.¹⁶¹⁸ In the interactive dialogue with the Assistant Secretary-General for Human Rights, it underlined the need to create a safe and enabling environment for all HRDs to work freely and safely and to allow cooperation and transparent discussion and informed the Council of a document published by the UK Government¹⁶¹⁹ setting out its support for HRDs in all six official UN languages.¹⁶²⁰ While voting in favour of the resolution on *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*,¹⁶²¹ UK explained its vote by stating that reprisals against civil society or HRDs brings the entire human rights system into peril given the immense sacrifice that these individuals make to advance the rights and freedoms and added that the Council must do everything to combat acts of intimidation and reprisals, individually and collectively, to preserve the civic space.¹⁶²²

However, in light of UK’s commitment to champion the cause of human rights defenders and journalists globally, the civil society has raised concerns that it has remained reluctant to publicly speak against and condemn its own allies who target human rights defenders and media freedoms.¹⁶²³ The Special Rapporteur on the rights to freedom of peaceful assembly and of association, in his 2017 report, had reiterated the concerns that the Lobbying Act

1612 OHCHR, Press release, ‘UN experts urge UK to honour rights obligations and let Mr. Assange leave Ecuador embassy in London freely’, 21 December 2018. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24042>.

1613 Ibid.

1614 BBC, Julian Assange: A timeline of Wikileaks founder’s case’, 19 November 2019. Available at: <https://www.bbc.com/news/world-europe-11949341>.

1615 OHCHR, Press release, ‘United Kingdom: Working Group on Arbitrary Detention expresses concerns about Assange proceedings’, 3 May 2019. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24552>.

1616 Amnesty International, United Kingdom 2019. Available at: <https://www.amnesty.org/en/countries/europe-and-central-asia/united-kingdom/report-united-kingdom/>.

1617 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, Voluntary pledges and commitments. Available at: <http://undocs.org/en/A/71/572>.

1618 Refer to the table summarising the UK’s Participation at the 42nd HRC Session.

1619 Government of the United Kingdom, ‘UK Support for Human Rights Defenders’, July 2019. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819299/UK-Support-for-Human-Rights-Defenders.pdf.

1620 UK Mission to the United Nations Geneva, Human Rights Council 42: Interactive dialogue with Assistant Secretary-General Gilmour on the Secretary-General’s Report on Reprisals. Available at: <https://www.gov.uk/government/news/un-human-rights-council-42-interactive-dialogue-with-assistant-secretary-general-gilmour-on-the-secretary-generals-report-on-reprisals>.

1621 Resolution 42/28 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (2019).

1622 Office of the High Commissioner for Human Rights, Human Rights Council Extranet, 42nd Session of the Human Rights Council, Oral Statements, EVBV by the UK on A/HRC/42/L.22. Available at: <https://bit.ly/3bzQt0>.

1623 UK Parliament, Commons Select Committee – Foreign Affairs, “Media freedom is under attack”: The FCO’s defence of an endangered liberty, 9 September 2019. Available at: <https://publications.parliament.uk/pa/cm201719/cmselect/cm-faff/1920/192005.htm#footnote-047>; see also, Human Rights Watch, ‘Will next UK Government Stand Up for Human Rights Defenders?’, 19 July 2019. Available at: <https://www.hrw.org/news/2019/07/19/will-next-uk-government-stand-human-rights-defenders>.

documents seized by the police were “inappropriate”.¹⁶⁴¹ Some journalists have urged the Government to enable the press from carrying on their legitimate work and protect them from SLAPP lawsuits.¹⁶⁴²

In its voluntary pledges, the UK pledged to prioritise and advocate in favour of equality and non-discrimination, including on the grounds of freedom of religion.¹⁶⁴³ It was a part of the consensus that adopted the resolution *From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance*¹⁶⁴⁴ that raised concerns about the manifestations of racism and xenophobia precipitated by dangerous extremist, nationalist and populist ideologies.¹⁶⁴⁵ However, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, at the conclusion of her mission to the UK, stated that structural exclusion of racial and ethnic communities remains striking.¹⁶⁴⁶ The UK Government, responded that it has the “most robust legislation” anywhere for tackling hate crimes and highlighted its efforts such as Racial Disparity Audit, the Hate Crime Action Plan and other plans and policies to fulfil its legal obligations to substantive racial equality.¹⁶⁴⁷ The Special Rapporteur noted the efforts undertaken by the UK Government, while adding that there is much to do especially in the arena of addressing structural forms of racial discrimination and inequality.¹⁶⁴⁸ The report also highlighted the racial impact of laws and policies such as austerity measures, immigration, counterterrorism, criminal justice and BREXIT.¹⁶⁴⁹

The police in England and Wales recorded 103,379 hate crimes in 2018-19, an increase of 10 per cent than in 2017-18; racial hate crimes had increased by 11 per cent, while religiously motivated hate crimes increased by three per cent.¹⁶⁵⁰ The Home Office has reported that in addition to improvements in crime recording, the hate crimes in the country have seen a spike due to BREXIT and terrorist attacks in 2017.¹⁶⁵¹ The civil society has expressed concerns about the legal framework as there are different standards for prosecution of racially and religiously motivated hate crimes – the latter requires proof of intent.¹⁶⁵² This is likely to introduce evidentiary and accountability barriers in securing convictions for hate crimes.¹⁶⁵³ The criminal justice law and policy in the UK also has a racial impact despite efforts such as the Lammy Review¹⁶⁵⁴; more people from the Black, Asian and Minority Ethnic (BAME) backgrounds

1641 Ibid.

1642 DW, ‘British journalists slam use of ‘intimidating’ lawsuits’, 21 July 2019. Available at: <https://www.dw.com/en/british-journalists-slam-use-of-intimidating-lawsuits/a-49687510>.

1643 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, Voluntary pledges and commitments. Available at: <http://undocs.org/en/A/71/572>.

1644 42nd HRC Session, Resolutions, decisions and President’s statements. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session42/Pages/ResDecStat.aspx>.

1645 Resolution 42/29 *From rhetoric to reality: a global call for concrete action against racism, racial discrimination, xenophobia and related intolerance* (2019).

1646 OHCHR, End of Mission Statement of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance at the Conclusion of Her Mission to the United Kingdom of Great Britain and Northern Ireland, para 19, 18 May 2018. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23073&LangID=E>.

1647 Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance on her visit to the United Kingdom of Great Britain and Northern Ireland, Comments by the State: UK, 3 July 2019. Available at: <https://digitallibrary.un.org/record/3824592?ln=en>.

1648 OHCHR, End of Mission Statement of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance at the Conclusion of Her Mission to the United Kingdom of Great Britain and Northern Ireland, para 65, 18 May 2018. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23073&LangID=E>.

1649 OHCHR, 42nd HRC Session of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance on her visit to the United Kingdom of Great Britain and Northern Ireland, Summary, 27 May 2019. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/148/21/PDF/G1914821.pdf?OpenElement>.

1650 The Home Office, Government of the United Kingdom, ‘Hate Crime, England and Wales 2018/19’, p. 5, 15 October 2019. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/839172/hate-crime-1819-hosb2419.pdf.

1651 Ibid.

1652 Article 19, ‘United Kingdom (England and Wales): Responding to hate speech - 2018’, p. 20. Available at: https://www.article19.org/wp-content/uploads/2018/06/UK-hate-speech_March-2018.pdf.

1653 OHCHR, End of Mission Statement of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance at the Conclusion of Her Mission to the United Kingdom of Great Britain and Northern Ireland, para 9, 18 May 2018. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23073&LangID=E>.

1654 Ministry of Justice, Government of the United Kingdom, ‘Tackling Racial Disparity in the Criminal Justice System: 2020 Update’, February 2020. Available at: <https://bit.ly/39NFWdF>.

are reported to be targeted under the stop-and-search rules.¹⁶⁵⁵ Black people were nine and a half times as likely to be stopped and searched as white people.¹⁶⁵⁶ Nearly two-fifth (40%) of prisoners aged under 18 were Black or of mixed ethnicity, despite accounting for less than one fifth (17%) of the entire prison population.¹⁶⁵⁷ Additionally, anti-Semitic incidents in the UK have also reportedly increased by seven per cent between 2018 and 2019.¹⁶⁵⁸ The COVID-19 pandemic has caused a 21 per cent increase in hate crimes and racist incidents against Asian communities in the UK.¹⁶⁵⁹

The Special Rapporteur raised concerns about the adverse impact of immigration and border enforcement policies on racial equality. The report called the UK Government to urgently abandon its immigration strategy that foreseeably results in the exclusion, discrimination and subordination of groups and individuals on the basis of their race, ethnicity or related status.¹⁶⁶⁰ The “hostile immigration policy” resulted in the windrush scandal,¹⁶⁶¹ and not only had an impact on irregular immigrants, but also racial and ethnic minorities with a regular immigration status, many of whom are British citizens.¹⁶⁶² Recently, in a case, the Home Office had hired an immigration officer and then refused him the job based on ‘how many relatives he had in India’.¹⁶⁶³ The Immigration Tribunal found both direct and indirect racial discrimination in this decision by the Home Office.¹⁶⁶⁴ Eastern European students in schools in England and Scotland have experienced increased levels of racism and xenophobia since the Brexit vote.¹⁶⁶⁵ Race and ethnicity continue to impact both access to and success in respect of education.¹⁶⁶⁶ Mixed White and Black Caribbean, Gypsy / Roma and Irish Traveller pupils have had the highest temporary and permanent school exclusion rates.¹⁶⁶⁷ Racial disparities are also found to be prevalent in the health-care context. The failure of health-care professionals to accommodate linguistic, cultural and religious diversity has created structural barriers to minority communities’ access to health.¹⁶⁶⁸

In its voluntary pledges, the UK committed to “Translate 2030 Agenda for Sustainable Development into action that leaves no one behind by: tackling the scourge of **modern slavery** across borders (SDG Target 8.7).”¹⁶⁶⁹ The Global

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- 1655 Independent, ‘Black, Asian and Ethnic Minorities more likely to be targeted in stop-and search, Home Office report finds’, 17 October 2019. Available at: <https://www.independent.co.uk/news/uk/politics/stop-and-search-racist-bame-crime-home-office-a9160826.html>.
- 1656 Government of the United Kingdom, ‘Ethnicity Facts and Figures: Stop and search’, 19 March 2020. Available at: <https://www.ethnicity-facts-figures.service.gov.uk/crime-justice-and-the-law/policing/stop-and-search/latest>.
- 1657 Ministry of Justice, Government of the United Kingdom, ‘Statistics on Race and Criminal Justice System 2018’, p, 4, 28 November 2019. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/849200/statistics-on-race-and-the-cjs-2018.pdf.
- 1658 Politico, ‘Anti-Semitic incidents in UK at record high’, 6 February 2020. Available at: <https://www.politico.eu/article/anti-semitic-jewish-incidents-in-uk-at-record-high-hate-crime/>.
- 1659 The Guardian, ‘Anti-Asian hate crimes up 21% in UK during coronavirus crisis’, 13 May 2020. Available at: <https://www.theguardian.com/world/2020/may/13/anti-asian-hate-crimes-up-21-in-uk-during-coronavirus-crisis>; see also, CNN, ‘East Asian student assaulted in ‘racist’ coronavirus attack in London’, 4 March 2020. Available at: <https://edition.cnn.com/2020/03/03/uk/coronavirus-assault-student-london-scli-intl-gbr/index.html>.
- 1660 OHCHR, Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance on her visit to the United Kingdom of Great Britain and Northern Ireland, paras 52-61, 27 May 2019. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/148/21/PDF/G1914821.pdf?OpenElement>.
- 1661 Independent, ‘Caribbean immigrants who came to UK decades ago ‘criminalised’ due to ‘hostile’ government policy’, 12 April 2018. Available at: <https://www.independent.co.uk/news/uk/home-news/immigrants-uk-caribbean-immigration-hostile-environment-a8300236.html>.
- 1662 The Migration Observatory – University of Oxford, ‘Migrants and discrimination in the UK’, 20 January 2020. Available at: <https://migrationobservatory.ox.ac.uk/resources/briefings/migrants-and-discrimination-in-the-uk/>.
- 1663 Employment Tribunals in Mr V Patel v. Home Office (Case No. 2200952/2017). Available at: https://assets.publishing.service.gov.uk/media/5d9c9b98ed915d356c4f6fe3/Mr_V_Patel_-_v_Home_Office_Case_2200952_2017_-_full_final_reasons.pdf.
- 1664 Ibid; see also, <https://inews.co.uk/news/race-discrimination-employment-tribunal-home-office-352895>.
- 1665 The Guardian, ‘Xenophobic bullying souring lives of Eastern European pupils in UK’, 22 August 2019. Available at: <https://www.theguardian.com/society/2019/aug/22/xenophobic-bullying-souring-lives-of-east-european-pupils-in-uk>.
- 1666 OHCHR, Press release, ‘UN rights expert hails UK for anti-racism action but raises serious concerns over Immigration Policy, Prevent Programme and BREXIT’, 11 May 2018. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23074&LangID=E>.
- 1667 Government of the United Kingdom, ‘Pupil Exclusions’, 27 January 2020. Available at: <https://www.ethnicity-facts-figures.service.gov.uk/education-skills-and-training/absence-and-exclusions/pupil-exclusions/latest>.
- 1668 OHCHR, Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance on her visit to the United Kingdom of Great Britain and Northern Ireland, para 28, 27 May 2019. Available at: <https://undocs.org/A/HRC/41/54/ADD.2>.
- 1669 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, Voluntary pledges and commitments. Available at: <http://undocs.org/en/A/71/572>.

Slavery Index 2019 showed that the UK tops the list of countries taking the most action to respond to modern slavery.¹⁶⁷⁰ In the interactive dialogue with the Special Rapporteur on contemporary forms of slavery, it urged States to ratify the 2014 Protocol to the Forced Labour Convention and recognised the importance of looking to future challenges, including migration, climate change and shifts in global markets.¹⁶⁷¹ It also co-sponsored the resolution extending the mandate of the *Special Rapporteur on contemporary forms of slavery, including its causes and consequences*¹⁶⁷² that was adopted by consensus.¹⁶⁷³ It enacted the *Modern Slavery Act 2015* to combat the often hidden modern slavery offences.¹⁶⁷⁴ It increases the maximum penalties for such offences to life imprisonment and introduced further protection and support for victims.¹⁶⁷⁵

However, it has been reported that the number of potential modern slavery victims has risen by 52 per cent in a year to a record high; in 2019, a total of 10,627 potential victims of modern slavery were referred to the National Referral Mechanism (NRM) for identification and support, compared to 6,986 in 2018.¹⁶⁷⁶ Forced labour and labour exploitation, including criminal exploitation, sexual exploitation and domestic servitude are found to be the major categories of modern slavery offences in the UK.¹⁶⁷⁷ While the Act did raise awareness, concerns have been raised about its effective implementation.¹⁶⁷⁸ In an independent review of the Act ordered by the Home Office, it was found that low conviction rate, limited awareness among and training of professionals, and problems around data collection impeded the anti-slavery efforts.¹⁶⁷⁹ Similarly, the review also raised concerns over lack of sanction for non-compliant businesses and focus on providing better support for child victims.¹⁶⁸⁰ By October 2018, 40% of companies had not published a statement, especially with respect to their supply chains.¹⁶⁸¹ Confusion surrounding reporting obligations has also resulted in poor quality statements.¹⁶⁸² The Government had announced a plan to amend and revise the Act, especially on the requirement for reporting obligations and penalties for non-compliance¹⁶⁸³ and published its own statement under the Act assessing the risk of modern slavery across around GBP 50 billion of its annual spending on goods and services.¹⁶⁸⁴

In January 2019, the Special Rapporteur on contemporary forms of slavery sent a communication to the UK Government addressing concern about the reported ineffective and insufficient consultation with civil society organisations and

1670 Walk Free Foundation, Executive Summary of the 2019 Measurement, Action, Freedom Report. Available at: <https://www.globalslaveryindex.org/2019/findings/executive-summary/>.

1671 UK Mission to the United Nations Geneva, Human Rights Council 42: UK statement on the clustered interactive dialogue with the Special rapporteur on contemporary forms of slavery.. Available at: <https://www.gov.uk/government/news/42nd-human-rights-council-uk-statement-for-clustered-id-with-sr-on-contemporary-forms-of-slavery>.

1672 Resolution 42/10 Special Rapporteur on contemporary forms of slavery, including its causes and consequences (2019).

1673 OHCHR, 42nd HRC Session, Resolutions, decisions and President's statements. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session42/Pages/ResDecStat.aspx>.

1674 Government of the United Kingdom, Modern Slavery Act 2015. Available at: <https://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>.

1675 Office of National Statistics - Government of the United Kingdom, 'Modern Slavery in the UK', March 2020. Available at: <https://bit.ly/2X6nOGV>.

1676 The Guardian, 'Number of potential modern slavery victims in UK rises by 52%', 2 April 2020. Available at: <https://www.theguardian.com/world/2020/apr/02/number-of-potential-modern-slavery-victims-in-uk-rises-by-52>.

1677 The Home Office and Department of Justice, Government of the United Kingdom, '2019 UK Annual Report on Modern Slavery', October 2019, p. 10. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/840059/Modern_Slavery_Report_2019.pdf.

1678 Reuters, 'Is landmark UK law falling short in its fight against modern slavery?', 18 March 2018. Available at: <https://www.reuters.com/article/us-britain-slavery-law/is-landmark-uk-law-falling-short-in-fight-against-modern-slavery-idUSKBN1GV07V>.

1679 The Home Office, 'Independent Review of the Modern Slavery Act 2015: Final Report', May 2019. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf.

1680 Ibid; see also, Reuters, 'UK urged to sharpen slavery law to target business and help children', 22 May 2019. Available at: <https://www.reuters.com/article/us-britain-slavery-lawmaking/uk-urged-to-sharpen-slavery-law-to-target-business-and-help-children-idUSKCN1SS2C5>.

1681 The Home Office, 'Home Office tells business: open up on modern slavery or face further action', 18 October 2018. Available at: <https://www.gov.uk/government/news/home-office-tells-business-open-up-on-modern-slavery-or-face-further-action>.

1682 The Home Office, 'Independent Review of the Modern Slavery Act 2015: Final Report', May 2019. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf.

1683 The Compliance and Ethics Blog, 'UK Government to tighten Modern Slavery Act Reporting Requirements', 15 November 2019. Available at: <https://complianceandethics.org/uk-government-to-tighten-modern-slavery-act-reporting-requirements/>.

1684 Government of the United Kingdom, 'Modern Slavery Statement', March 2020. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875800/UK_Government_Modern_Slavery_Statement.pdf.

experts in developing the statutory guidance, which could be detrimental to effectively address the needs and the rights of victims of human trafficking.¹⁶⁸⁵ In November 2018, in the case of *AM and K v. SSHD*, the High Court of England and Wales held that the decision of the Home Office to cut weekly benefits of asylum-seeking victims of trafficking from 65 GBP to 37.75 GBP per week is unlawful.¹⁶⁸⁶ The Court also held the Home Office responsible for failing to issue statutory guidance on support to be provided to victims of trafficking and slavery, a requirement under the *Modern Slavery Act 2015*.¹⁶⁸⁷ Such a statutory guidance was published only in March 2020.¹⁶⁸⁸ In its concluding observations released in March 2019, the CEDAW expressed concerns that the definition of trafficking in the Act is conditioned on travel of the victim, and that despite reforms to the NRM many victims of trafficking and modern slavery remain unidentified. The Committee noted that the support provided to the victims is inadequate putting them at a risk of homelessness, destitution and exploitation.¹⁶⁸⁹ The UNICEF in its 2017 report pointed at serious shortcomings in the implementation of the “non-punishment principle” to protect trafficked children from further harm, including in safeguards against arrest or prosecution in the early stages of criminal justice process and low levels of awareness among prosecutors, police, defence solicitors and frontline practitioners.¹⁶⁹⁰ Human rights organisations have also raised concerns about the Government bringing in legislations that contradict or undermine the *Modern Slavery Act 2015*, such as the provisions in the Immigration Act 2016 that create the offence of illegal working, despite ample evidence that many victims’ insecure status makes them more vulnerable to traffickers.¹⁶⁹¹ In September 2020, however, the Government in its official response to the ‘Transparency in supply chains’ consultation set out new proposals to strengthen the *Modern Slavery Act 2015* to hold businesses and public bodies to account for tackling modern slavery in a better manner.¹⁶⁹²

VI. Conclusions

The UK participated actively in the various debates and deliberations at the 42nd HRC Session and co-sponsored three resolutions that were adopted by the Council during the session.

- The UK has not ratified two major human rights instruments: *International Convention on the Protection of the Rights of All Migrant Workers (CMW)* and *Members of Their Families and the Convention for the Protection of All Persons from Enforced Disappearance (CED)*.
- The UK is one of amongst the few countries that do not have a time-limit on immigration detention. Nearly one-third of immigration detainees in the UK are held for longer than 28 days. The UK Parliament Joint Human Rights Committee’s recommendation for introducing a 28-day time-limit on immigration detention was rejected by the Home Office stating that it would constrain the ability to maintain effective immigration control.¹⁶⁹³

1685 OHCHR, Mandates of the Special rapporteur on the situation of human rights defenders; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences; and the Special Rapporteur on trafficking in persons, especially in women and children. Available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24281>.

1686 *AM and K v. Secretary of State for the Home Department* [2018] EWHC 2951. Available at: <https://www.judiciary.uk/wp-content/uploads/2018/11/approved-judgment-k-am-co-2143-2294-2018.pdf>; see also decision of the High Court of Justice (Queen’s Bench Division – Administrative Court) in *DS v. SSHD*, [November 2019] EWHC 3046 (Admin), para 10. Available at: <https://dpglaw.co.uk/wp-content/uploads/2019/11/2584836-JUDGMENT-1.pdf>.

1687 *Ibid.*

1688 The Home Office, ‘Statutory guidance - Modern slavery: How to identify and support victims’, 24 March 2020. Available at: <https://www.gov.uk/government/publications/modern-slavery-how-to-identify-and-support-victims>.

1689 CEDAW, Concluding observations on the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland, para 33, 14 March 2019. Available at: <https://digitallibrary.un.org/record/3801131?ln=en>.

1690 UNICEF, ‘Victim, Not Criminal: Trafficked Children and Non-punishment Principle in the UK (2017)’, p.2. Available at: <https://www.unicef.org.uk/publications/victim-not-criminal/>.

1691 Anti-Slavery International, ‘Joint civil society report on trafficking and modern slavery in the UK to the Human Rights Committee’, January 2020. Available at: <https://www.antislavery.org/wp-content/uploads/2020/01/Submission-HRC-modern-slavery-in-UK-Jan20.pdf>; see also, <https://www.theguardian.com/global-development/2019/nov/22/british-hotels-accused-of-lack-of-effort-on-forced-labour-and-sexual-exploitation> and <https://www.birminghammail.co.uk/news/midlands-news/modern-slavery-victims-exploited-west-17321906>.

1692 The Home Office, Government of the United Kingdom, Government response to the Transparency in supply chains consultation, September 2020. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/919937/Government_response_to_transparency_in_supply_chains_consultation_21_09_20.pdf.

1693 The Home Office, Government of the United Kingdom, Government response to the Human Rights Committee’s report on Immigration detention, 23 July 2019. Available at: https://www.parliament.uk/documents/joint-committees/human-rights/correspondence/2017-19/Immigration_detention_Government_response.pdf.

- Despite many efforts such as the Racial Disparity Audit and the Hate Crime Action Plan, concerns have been raised about structural forms of racial discrimination and inequality, including through impact of policies in the areas such as austerity measures, immigration, counterterrorism, criminal justice and BREXIT.¹⁶⁹⁴

¹⁶⁹⁴ OHCHR, Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance on her visit to the United Kingdom of Great Britain and Northern Ireland, Summary, 27 May 2019. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/148/21/PDF/G1914821.pdf?OpenElement>.

Concluding Remarks

The assessment of the performance of the Commonwealth Member States in the 42nd Session underlines yet again the need for acceptable mechanisms to monitor human rights compliance by members as a means of indicating their commitment to the Council. The limited availability of reliable, objective and 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 the Commonwealth governments.

CHRI reminds Commonwealth Member States of their voluntary pledges and commitments to make the UN Human Rights Council stronger and more effective. CHRI urges all Commonwealth Member States to strengthen the Special Procedures mechanism 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 in time.

CHRI recommends that Commonwealth Member States shall:

- Submit voluntary pledges in clear and measurable terms and indicate specific steps taken to uphold their voluntary pledges.
- Ensure that their participation and voting is in line with their voluntary pledges submitted at the time of election.
- Accept pending requests from Special Procedures mechanism and ensure their independence.
- Comply with their reporting obligations to treaty bodies in a timely manner by submitting pending reports to the various human rights treaties and fostering constructive engagement during the reviews.
- Adopt, strengthen and implement national legislation that promotes human rights and public participation, in particular, access to information, freedom of speech and expression and association laws that enable citizens to effectively participate in human rights policy-making processes associated with the Council.
- 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.
- Organise public consultations before voting on an issue and providing publicly-accessible explanation or rationale for all votes.

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 for human rights, transparent democracies and Sustainable Development Goals (SDGs). CHRI specifically works on strategic initiatives and advocacy on human rights, Access to Justice and Access to Information. It focuses on research, publications, workshops, analysis, mobilisation, dissemination and advocacy and informs the following principal programmes:

1. Access to Justice (ATJ)

- * **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 enforcers of a regime. CHRI's programme aims at mobilising public support for police reforms and works to strengthen civil society engagement on the issues. In East Africa and Ghana, CHRI examines police accountability and political interference.
- * We are preparing to add a portfolio on anti-discrimination on the basis of colour, appearance and gender.
- * **Prison Reforms:** CHRI's work in prisons looks at increasing transparency of a traditionally closed system and exposing malpractices. Apart from highlighting failures of the legal system that result in overcrowding and unacceptably long pre-trial detention and prison overstay, we engage in interventions and advocacy for legal aid and policy changes to revive prison oversight systems. Attention to these areas can bring improvements to the administration of prisons and conditions of justice.

2. Access to Information

CHRI is acknowledged as a key organisation working on the promotion of Access to Information. 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, Ghana, and more recently, Kenya. In Ghana, CHRI is the Secretariat for the RTI civil society coalition. We regularly critique new legislation and intervene 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. We have experience of working in hostile environments as well as culturally varied jurisdictions; these enable us to bring valuable insights into countries seeking to evolve new laws on right to information. In Ghana, for instance, it has been promoting knowledge about the value of Access to Information and to campaign for the introduction of an effective law.

* South Asia Media Defender's Network (SAMDEN)

CHRI has developed a regional network of media professionals to address the issue of increasing attacks on media workers and pressure on freedom of speech and expression in South Asia, especially in rural areas. This network, the South Asia Media Defenders Network (SAMDEN) recognises that such freedoms are indivisible and know no political boundaries. Anchored by a core group of media professionals who have experienced discrimination and intimidation, SAMDEN is developing an interactive website platform to highlight pressures on media, issues of shrinking media space and press freedom. It is also working to mobilise media so that strength grows through collaboration and numbers. A key area of synergy lies in linking SAMDEN with the Right to Information movements and activists.

3. International Advocacy and Programming

CHRI monitors the compliance of Commonwealth Member States 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 Secretariat, the biennial Commonwealth Heads of Government Meeting, the Commonwealth Ministerial Action Group, the UN human rights mechanisms and the African Commission on Human and Peoples Rights. Ongoing strategic initiatives include advocating for and monitoring the Commonwealth reform, reviewing promised by Commonwealth members at the UN Human Rights Council and the Universal Periodic Review. We advocate for the protection of human rights defenders and civil society spaces and monitor the performance of National Human Rights Institutions in the Commonwealth while pressing for their strengthening.

Since the inception of the UN Human Rights Council (HRC), the Easier Said Than Done (ESTD) report series has reviewed the performance of the Commonwealth Member States at the HRC. The series provides a basis for evaluating Commonwealth States' engagement with the UN human rights mechanisms and examines if their voting behaviour in support of resolutions is consistent with their voluntary pledges and commitments and statements made at the HRC.

This edition of the ESTD report presents an analysis of the participation of eleven Commonwealth Member States at the 42nd Regular Session of the HRC: Australia, The Bahamas, Bangladesh, Cameroon, Fiji, India, Nigeria, Pakistan, Rwanda, South Africa, and the United Kingdom of Great Britain and Northern Ireland. It highlights the disparities between the human rights promises made by these Members and the extent of their actual fulfilment at the national level.

The report seeks to present a clear picture of the performance of the Commonwealth Member States at the HRC and track the thematic developments in international human rights policy-making, along with shifts in foreign policy approaches and priorities of these States on rights-related issues. It calls for greater accountability and resolve on part of the Commonwealth Member States to act in accordance with their own pledges and commitments made before the international community.



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