



DEMOCRACY COALITION PROJECT

HUMAN RIGHTS COUNCIL REPORT CARD

Government Positions on Key Issues 2006-2007

One year after the creation of the United Nations Human Rights Council (the Council), ***the Democracy Coalition Project*** undertook to prepare the following independent analysis of positions taken by governments on key proposals made in 2006-2007.¹ The analysis was conducted in order to evaluate how member and observer countries at the Council are implementing their pledges to promote and protect human rights. The conclusions of the report underscore the need for strengthening member states' commitment to a credible and vigorous UN human rights system; the results will also help human rights advocates evaluate how governments measure up as candidates for election of new Council Members in 2008.

Methodology




The Democracy Coalition Project (DCP) chose to analyze a set of indicators that were identified by human rights advocates as top priorities for the Council's first year in operation:

- Establishing a credible universal periodic review mechanism;
- Maintaining the independence of the special procedures; and
- Addressing country situations, specifically the human rights situation in Darfur and continuing consideration of human rights situations in Iran and Uzbekistan.

These indicators aim to measure the dedication of member states to creating an independent and credible institution with increased roles for human rights experts and civil society in order to avoid the politicized nature of the former Commission on Human Rights. Furthermore, we chose to evaluate the Council's performance on selected country issues as a key test of member states' willingness to address serious human rights situations.

¹ DCP's report card was prepared by Dokhi Fassihian, Senior Policy Associate, with research support from Corinne Damlamian and Payal Patel, Research Assistants; Ted Piccone, Executive Director, provided editorial supervision.

Each indicator is broken down into two or three main points of debate for which we tracked government positions. In order to establish country positions, we consulted the summary of Council debates as reported in [Council Monitor](#) prepared by the [International Service for Human Rights](#), as well as statements and press releases made by countries posted on the [Human Rights Council webpage](#) and extranet and other credible sources of information.

Based on this information, each country was evaluated against the “preferred” position which at the time was considered by the human rights community as the best option for protecting human rights, marked with , , or  in the accompanying table. In cases where one country spoke on behalf of a regional group, all members of that group that were also members of the Council were assumed to support the group opinion, unless a country expressed an alternative view. While this approach of relying on publicly available information does not capture the more nuanced and at times positive role that some governments played behind the scenes, it was judged to be the best way to hold all member states accountable in a uniform way.

Analysis

Overall, the Council was divided on most of the indicators researched. As can be seen in the table, countries tended to align themselves along two poles. The European Union (EU), the Latin American countries (LA), as well as countries such as Canada, Japan, the Republic of Korea, Switzerland and Ukraine all tended to support the “preferred position” on most issues. On the other side, the members of the Africa Group (AG) and the Organization of the Islamic Conference (OIC), backed by states such as China, Cuba, India, and Russia, tended to support the contrary position. There were instances, however, when some countries disassociated themselves from a regional bloc position and chose to position themselves individually.

Establishing a Credible Universal Periodic Review Mechanism

The Universal Periodic Review (UPR) is a new process by which all UN member states are reviewed by the Council in order to establish their record on human rights in accordance with international human rights standards. The General Assembly Resolution establishing the UPR did not include details of how the process would be carried out and directed the Council to establish the mechanisms for the UPR. This issue was therefore an important debate within the Council during its first year.

The international human rights community urged member states to provide a key role for independent experts and civil society in providing information and in carrying out the review. This position was supported only by the European Union (EU) and a few Latin American countries. The majority of member countries from all regions felt that the UPR should be a State-led process. The Africa Group (AG) and the Organization of the Islamic Conference (OIC) broadly supported this position. Other countries such as Canada, the Republic of Korea, and the United States supported using information provided by experts and national and international human rights institutions as a basis for the review but thought that the review itself needed to be carried out exclusively by States. This is ultimately the position that was agreed upon in the Council’s fifth session in June 2007. The proposal to require consensus for adoption of UPR outcomes, fortunately, was dropped.

Protecting the Independence of the Special Procedures

The debate on strengthening the special procedures of independent experts and rapporteurs, what many consider the most important feature of the UN human rights system, opened the door to attempts by some states to weaken this mechanism. We focused on studying country positions regarding three issues of importance in ensuring the independence of the special procedures – method of selection of experts, regulating special procedures' activities, and the composition of a special mission to investigate abuses in Darfur, the Sudan.

The method of selection of mandate holders was divisive within the Council. One group of countries supported the appointment of mandate holders by the President of the Council from a list of candidates put forward by various stakeholders, a view endorsed by human rights advocates as the best way to depoliticize the process. This position was supported by the EU and some Latin American countries, and other supporting countries. The Africa Group and the OIC, and others, supported the election of mandate holders by the members of the Council, a change from previous practice which many human rights groups felt could hinder their independence. Over the course of the negotiations, some countries in both groups became more flexible and supported the idea of a “hybrid” model that would combine appointment with elections.

The African proposal to create a Code of Conduct to regulate mandate holders, opposed by many human rights groups, also divided the Council along similar lines. Once the resolution passed by a vote of 30-15 and 2 abstentions, negotiations began on the terms of the new code of conduct. The EU and many countries in Latin America and the Western Group supported a less restrictive Code of Conduct than the versions of the draft presented by the Africa Group.

The Special Session on Darfur in December 2006 resulted in a decision to dispatch a High-Level Mission to the Sudan but there was disagreement as to the composition of the Mission. The EU proposed a draft resolution for a Mission composed of independent experts and headed by the Special Rapporteur on Darfur, a position endorsed by human rights advocates to avoid politicization of the mission and protect the independence of the special procedures. This proposal was backed by several LA countries as well as Bangladesh and Japan. The Africa Group proposed a Mission headed by the President of the Council that would also include members of the Bureau and regional group coordinators, i.e., government officials rather than independent experts. Some members of the AG such as Ghana and Zambia in their statements did not express a preference in the composition of the mission. Finally a compromise between the two positions was proposed by the President of the Council and adopted without a vote.

Addressing Country Situations

The debate over upholding country mandates, which featured throughout the UNGA negotiations to create the Council, was also an important part of the negotiations during the Council's first year. Human rights advocates had fought successfully to maintain the Council's ability to address country situations but procedural negotiations in Geneva reopened the question. Countries in favor of abolishing country mandates and keeping only thematic mandates argued that this was necessary in order to avoid selectivity, overlap and inefficiency in the Council. They argued that the UPR would review all

countries individually and therefore country mandates were no longer useful. This position was supported by the Africa Group and OIC and other supporting countries. The EU and many countries in Latin America and the Western Group supported maintaining country mandates. They did not view overlap with thematic mandates as a problem, nor believed the UPR could be an effective substitute for country mandates that provided sustained, focused attention on a particular geographic location. In the end, the Council reaffirmed the decision to maintain country mandates.

Continuing Consideration of the Human Rights Situations in Iran and Uzbekistan

An issue of ongoing importance to human rights advocates is the Council's willingness to scrutinize the situation of specific countries in which human rights are under serious attack. Such consideration can take place under Item 4 of the Council's agenda (human rights situations that require the Council's attention), during special sessions, or under the confidential complaints procedure (previously known as the 1503 procedure). During the fourth session in March 2007, the Council considered in two closed meetings the reports and recommendations of the Working Group on Situations relating to the confidential complaints procedure. The Council had before it for consideration the situation of human rights in the Islamic Republic of Iran and Uzbekistan. In a closed vote, the Council voted to discontinue the confidential consideration of human rights in both countries as can be seen by the voting record shown in the table. In the case of Iran the vote was 25 to 14, with 7 abstentions; for Uzbekistan the vote was 25 to 15, with 6 abstentions. For both countries Gabon was absent from the vote. A number of governments that typically supported human rights monitoring – Japan, Mexico, Republic of Korea, Switzerland and Ukraine – abstained on one or both votes.

The Human Rights Situation in Darfur

The debate over actions to be taken regarding the situation of human rights in Darfur shifted the positions generally taken by members in the Council. In December 2006, 32 member states – double the one-third required -- signed a petition requesting a Special Session of the Council to discuss human rights abuses in the Darfur region of the Sudan. The list of states included countries typically against Council attention to country situations (other than Israel), such as Algeria, Cuba, and Tunisia.

The High-Level Mission to Darfur authorized by the Council, which the Government of Sudan refused to permit to enter the country, presented its Report at the Council's fourth session in March 2007. At that time, some countries opposed the admissibility of the report on procedural grounds. They argued that the Mission had not been able to complete its task because one of the members had resigned, and the Mission had not been able to enter Sudan. This position was supported by the League of Arab States and other countries, including India, China, and Cuba who favored reconfiguring the Mission to report back at a later session. It is important to note that on this issue, the Africa Group did not make a joint statement. Many of the African states (Ghana, Cameroon, Mauritius, Nigeria, Senegal, and Zambia) positioned themselves with the EU and the majority of LA countries in favor of admitting the Report. Subsequently, the Council came to an agreement to "take note" of the Report and also agreed to dispatch another Mission to Darfur composed of thematic experts and led by the Special Rapporteur on the Sudan.

Conclusion

The first year of the Human Rights Council concluded with the adoption of Resolution 5/1 on institution building at the end of the fifth session in June 2007. Members negotiated until the last minute to achieve a consensus, and the resulting text reflects compromises made between the two groups of states noted in this analysis.

In its first year, the Council was dominated by states that sought to preserve and strengthen their prerogatives at the expense of independent experts and civil society. This was seen in the negotiations on the UPR, the Special Procedures, and the composition of the High-Level Mission to Darfur. The opposing group was able to negotiate compromises on some points (submission of information for review by experts and civil society groups in the UPR, method of selection of mandate holders, upholding of country mandates) but the resulting Council mechanisms are not as strong as hoped.

The Council's initial reluctance to deal with country situations reflects this weakness although its willingness to hold several special sessions on grave situations, including the October 2007 Special Session on Myanmar/Burma, suggests a more positive trend. It will be important over the next year to continue to track the performance of the Council once these institutional mechanisms are set in motion. The UPR is scheduled to start in April 2008, and the High-Level Mission to Darfur is set to report to the Council at the end of 2007. Implementation of the institutional reforms and actions taken on urgent situations will test the credibility and effectiveness of the Human Rights Council and deserve ongoing close scrutiny.

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For a copy of the report card, please visit our website, www.demcoalition.org, or for more information, contact Ted Piccone or Dokhi Fassihian at the Democracy Coalition Project, 202-721-5630.