



## **An initial attempt at a practical application of the 5f prevention principles**

12<sup>th</sup> December 2016

This analysis is an initial attempt at applying the guiding principles identified in the [cross-regional statement](#) delivered by the Maldives during HRC20, and the supplemented considerations put forward in the [cross-regional statement](#) delivered by Ireland, on behalf of seventeen States, during HRC32. As part of the effort to begin serious discussions on how the Council could improve its preventative efforts in accordance with its mandate paragraph 5f of GA resolution 60/251 (to ‘contribute, through dialogue and cooperation, towards the prevention of human rights violations and respond promptly to human rights emergencies’), these statements proposed objective criteria to determine when ‘a situation of emerging concern’ reflects a need for the Council to take preventative action.

The cross-regional statement, delivered by Ireland on behalf of seventeen States provided a set of guiding principles for the Council to determine when preventative action is needed, including *inter alia*:

- Whether there has been a call for action by the UN Secretary General, the High Commissioner for Human Rights or a relevant UN organ, body or agency;
- Whether a group of Special Procedures have recommended that the Council consider action; - whether the State concerned has a national human rights institution with A-status; [and whether that institution has drawn the attention of the international community to an emerging situation and called for action];
- Whether the State concerned has been willing to recognise that it faces particular human rights challenges and has laid down a set of credible actions, including a timetable and benchmarks to measure progress, to respond to the situation;
- Whether the State concerned is engaging in a meaningful, constructive way with the Council on the situation;
- Whether the State concerned is effectively cooperating with HRC Special Procedures, including by allowing country visits;
- Whether the State concerned is engaging with OHCHR, including in the field of technical assistance and effective engagement with the UN Human Rights Treaty Bodies;
- Whether a relevant regional mechanism or institution has identified a situation as requiring the attention of the international community; or whether the State concerned is cooperating with relevant regional organisations;
- Whether the State is facilitating or obstructing access and work on the part of humanitarian actors, human rights defenders and the media.



For the purpose of this analysis, the URG has applied these guiding considerations to three emerging human rights situations (Burundi, DRC, and South Sudan) raised during the informal conversation with the High Commissioner held on 30 November 2016 in room XX, Palais des Nations, a new initiative started in 2015. The informal briefing provides an opportunity for the High Commissioner to brief the Human Rights Council on recent country visits by senior OHCHR officials, and to shine a light on deteriorating human rights situations. During this meeting the High Commissioner, the Deputy High Commissioner, and the newly appointed Assistant Secretary-General for Human Rights, briefed the Council on recent developments. The High Commissioner and other OHCHR senior officials raised the deteriorating situation of human rights in Burundi and the Democratic Republic of Congo, while Council Members raised the deteriorating situation of human rights in South Sudan from the floor.

For the purpose of this analysis, ‘red’ has been used to indicate where a criterion suggests preventative action should be considered; ‘amber’ where the result partly suggests preventative action should be considered; while the indicator has been left blank if there is insufficient information to indicate preventative action should be considered. The analysis is based on independent and objective data. The origin of the data is primarily official UN documents and information produced and collected by other international organisations.

## Burundi

Guiding considerations	Indicator	Description
Whether there has been a call for action by the UN Secretary General, the High Commissioner for Human Rights or relevant UN organ, body or agency.		<p>The High Commissioner for Human Rights, Mr Zeid Ra’ad Al Hussein, issued a statement on the release of his Office’s report in June 2016 noting the deterioration of human rights in Burundi, including ‘extrajudicial executions, murder, enforced disappearances, arbitrary arrest and detention, torture and other forms of ill-treatment,’ and urging ‘for an end to the violations of human rights that are devastating the lives, hopes and future of the people of the country; and resolution of this crisis through a truly inclusive national dialogue.’<sup>1</sup></p> <p>During the informal conversation with the High Commissioner on 30 November 2016, he once again raised concerns over Burundi, noting, ‘In</p>

<sup>1</sup> "Statement by Zeid Ra'ad Al Hussein, United Nations High Commissioner for Human Rights, on the Situation in Burundi." . OHCHR, 19 June 2016. Web. 05 Dec. 2016.  
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20215&LangID=E>.



		<p>Burundi, a worst-case scenario looms before us, with growing fear among the population, a swelling exodus of refugees, and sharply curtailed engagement by the Government with the international community. Since the September release of the independent experts’ report, measures have been taken to further restrict democratic space, including bans and suspensions of NGOs. The Government has also announced plans to launch a review of the “ethnic balance” in all public and semi-public institutions, requiring all staff to declare their ethnic identity – a potentially very dangerous move.’<sup>2</sup></p>
<p>Whether a group of Special Procedures, or Commissions of Inquiry, Fact-finding missions and Investigations have recommended that the Council consider action.</p>		<p>During HRC33 (September 2016), the United Nations Independent Investigation in Burundi (UNIIB)<sup>3</sup> published a report describing the ‘abundant evidence of gross human rights violations, potentially amounting to crimes against humanity, by the Government of Burundi and people associated with it,’ and ‘urged the Government of Burundi, the African Union, the UN Human Rights Council, the Security Council and other international actors to take a series of robust actions.’<sup>4</sup></p>
<p>Whether the State concerned has a national human rights institution with A-status (and whether that institution has drawn the attention of the international community to</p>		<p>The Burundian Independent National Commission on Human Rights (CNIDH) was last accredited with A-status in August 2016.<sup>5</sup> However, reports published since then - including that of UNIIB and NGOs - highlighted allegations of partiality and concern that the CNIDH is downplaying gross human rights violations by the State.<sup>6 7</sup> According</p>

<sup>2</sup> 'Informal briefing to the Human Rights Council' OHCHR, 30 November 2016. Web. 09 Dec. 2016. <[www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20952&LangID=E](http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20952&LangID=E)>

<sup>3</sup> The UN Independent Investigation on Burundi (UNIIB) was established by the Human Rights Council on 17 December 2015 (resolution A/HRC/S-24/1) to undertake “an investigation into violations and abuses of human rights with a view to preventing further deterioration of the human rights situation.”

<sup>4</sup> "Burundi: UN Investigation Urges Strong Action in Light of Gross, Widespread and Systematic Human Rights Violations." OHCHR, 20 Sept. 2016. Web. 05 Dec. 2016. <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20534&LangID=E>>.

<sup>5</sup> "Chart of the Status of National Institutions." Global Alliance of Human Rights Institutions, 5 Aug. 2016. Web. 05 Dec. 2016. <[http://www.ohchr.org/Documents/Countries/NHRI/Chart\\_Status\\_NIs.pdf](http://www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIs.pdf)>

<sup>6</sup> Report of the United Nations Independent Investigation on Burundi (UNIIB) established pursuant to Human Rights Council resolution S-24/1. A/HRC/33/37. UN Human Rights Council, 20 Sept. 2016. Web. 05 Dec. 2016 <[http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session33/Documents/A\\_HRC\\_33\\_37\\_E\\_AUV\\_.docx](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session33/Documents/A_HRC_33_37_E_AUV_.docx)>



<p>an emerging situation and called for action).</p>		<p>to the report of UNIIB, the status of the Commission was due to be reviewed by the Global Alliance of NHRIs' sub-committee on accreditation in November 2016: 'in view of the allegations of partiality levelled against it by international and Burundian human rights organisations.'<sup>8</sup> While expressing concern at the deterioration in relations between UN Human Rights institutions and the State, CNIDH have not made any calls for action regarding the emerging situation.<sup>9</sup></p>
<p>Whether the State concerned has been willing to recognise that it faces particular human rights challenges and has laid down a set of credible actions, including table and benchmarks to measure progress, to respond to the situation.</p>		<p>Burundian officials have repeatedly noted there is 'peace and security throughout the region,' rejected the 'purposefully and politically exaggerated reports on alleged human rights violations,' and ignored recommendations by UN human rights institutions providing actions the Government could take to respond to the situation.<sup>10 11</sup></p>
<p>Whether the State concerned is engaging with OHCHR, including in the field of technical assistance and effective engagement with UN Human Rights Treaty Bodies.</p>		<p>In October 2016, the Burundian Government issued a statement, suspending all cooperation with the OHCHR.<sup>12</sup> In addition, Burundi has announced its intention to withdraw from the Rome Statute of the International Criminal Court; has rejected the UNIIB and declared the investigation's three experts <i>persona non grata</i>; has rejected cooperation with the COI established by the HRC; and has suspended cooperation with the UN Human Rights Office in Burundi.<sup>13</sup></p>

<sup>7</sup> *Repression and Genocidal Dynamics in Burundi*. International Federation for Human Rights, Nov. 2016. Web. 05 Dec. 2016. <[https://www.fidh.org/IMG/pdf/burundi\\_report\\_english.pdf](https://www.fidh.org/IMG/pdf/burundi_report_english.pdf)>

<sup>8</sup> *Report of the United Nations Independent Investigation on Burundi (UNIIB) established pursuant to Human Rights Council resolution S-24/1. A/HRC/33/37*. UN Human Rights Council, 20 Sept. 2016. Web. 05 Dec. 2016 <[http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session33/Documents/A\\_HRC\\_33\\_37\\_E\\_AUV\\_.docx](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session33/Documents/A_HRC_33_37_E_AUV_.docx)>

<sup>9</sup> "Commission Nationale Indépendante Des Droits De L'Homme." CNIDH. Web. 05 Dec. 2016. <<http://cnidh.bi/>>.

<sup>10</sup> "Burundi Rejects UN Report on Country's Human Rights Situation as 'purposefully and politically exaggerated'" *UN News Center*. United Nations, 24 Sept. 2016. Web. 05 Dec. 2016. <<http://www.un.org/apps/news/story.asp?NewsID=55111#.WEVxcKlrJZ0>>.

<sup>11</sup> "Burundi: Government Investigations Ignore State Abuses." Human Rights Watch, 21 April 2016. Web. 05 Dec. 2016. <<https://www.hrw.org/news/2016/04/13/burundi-government-investigations-ignore-state-abuses>>.

<sup>12</sup> Act to Protect Civilians, UN Experts Urge Burundi Government." OHCHR, 29 Nov.2016. Web. 5 Nov. 2016. <<http://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20947&LangID=E>>.

<sup>13</sup> Ibid.



		<p>During the UN Committee Against Torture’s Special Review of Burundi in July 2016, Burundi refused to participate in the second session of dialogues.<sup>14</sup> Burundian lawyers participating in the review were also threatened with disbarment, according to civil society reports.<sup>15</sup> As a member of the Human Rights Council, Burundi has participated in less than 5% of panel discussions, general debates, and interactive dialogues.<sup>16</sup></p>
<p>Whether the State concerned is effectively cooperating with HRC Special Procedures and Commissions of Inquiry, fact-finding missions and Investigations, including by allowing country visits.</p>		<p>Burundi provided access to the United Nations Independent Investigation on Burundi (UNIIB), which conducted two visits (with the latest visit conducted in June 2016) prior to the publication of the mechanism’s report in September 2016. After publication, the Burundian authorities rejected the report and banned the independent experts (Mr Christof Heyns, Ms Maya Sahli-Fadel, and Mr Pablo de Grieff) from entering the country, as of October 2016.<sup>17</sup></p> <p>16 out of 20 country visits by Special Procedures mandate-holders were completed, out of those requested between 1998 and July 2016. This is a relatively strong historical record, which highlights the scale of the recent deterioration in cooperation.</p>

<sup>14</sup> “Burundi: UN Committee against Torture to conduct special review” OHCHR, 25 Jul. 2016.

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20300&LangID=E>.

<sup>15</sup> “Burundi | Gross Human Rights Violations and Flagrant Non-cooperation Warrant HRC Suspension.” ISHR, 26 Oct. 2016. Web. 05 Dec. 2016. <<https://www.ishr.ch/news/burundi-gross-human-rights-violations-and-flagrant-non-cooperation-warrant-hrc-suspension>>.

<sup>16</sup> “Burundi.” YourHRC, 26 July 2016. Web. 05 Dec. 2016. <<http://yourhrc.org/country-detail/?country=Burundi>>.

<sup>17</sup> “Burundi Bars UN Investigators over Report on Human Rights Abuses.” BBC News, 10 Oct. 2016. Web. 05 Dec. 2016. <<http://www.bbc.com/news/world-africa-37614790>>.



<p>Whether a relevant regional mechanism or institution has identified a situation as requiring the attention of the international community; or whether the State concerned is cooperating with relevant regional organisations.</p>		<p>In November 2016, the <i>African Commission on Human and People’s Rights</i> adopted resolution ACHPR/Res.357 (LIX) which expressed deep concern about the human rights and security situation in Burundi and called on the ‘African Union and the international community to continue their efforts to resolve the crisis in Burundi.’<sup>18</sup></p>
<p>Whether the State is facilitating or obstructing access and work on the part of humanitarian actors, human rights defenders and media.</p>		<p>Since April 2016, there have been reports of widespread harassment of human rights defenders, journalists and media organisations in Burundi, according to both UN and civil society reports: radio stations have been shut down;<sup>19</sup> NGOs and civil society organisations have been banned from operating;<sup>20</sup> journalists have faced arbitrary arrest and detention; and there have been reports of attacks against human rights defenders and many have been forced into exile.<sup>21</sup></p>

<sup>18</sup> "357: Resolution on the Human Rights Situation in the Republic of Burundi - ACHPR/Res. 357(LIX) 2016." African Commission on Human and Peoples' Rights, 04 Nov. 2016. Web. 05 Dec. 2016. <<http://www.achpr.org/sessions/59th/resolutions/357/>>.

<sup>19</sup> "HC Statement at Security Council Briefing on The Situation In Burundi 9 July." OHCHR, 9 July 2016. Web. 05 Dec. 2016. <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16221&LangID=E>>.

<sup>20</sup> "Burundi Government Suspends Permanently Five Local NGOs." IWACU, 24 Oct. 2016. Web. 05 Dec. 2016. <<http://www.iwacu-burundi.org/englishnews/burundi-government-suspends-permanently-five-local-ngos/>>.

<sup>21</sup> "Burundi, a Country of Fear and Violence." Human Rights Watch, 22 Nov. 2016. Web. 05 Dec. 2016. <<https://www.hrw.org/news/2016/11/22/burundi-country-fear-and-violence>>.

## Democratic Republic of Congo

Guiding considerations	Indicator	Description
<p>Whether there has been a call for action by the UN Secretary General, the High Commissioner for Human Rights or relevant UN organ, body or agency.</p>		<p>In September 2016, the Deputy High Commissioner for Human Rights, Ms Kate Gilmore, outlined the ‘grave human rights violations’ in the Democratic Republic of the Congo (DRC), and expressed the need for the Council and the international community to ‘take and encourage steps to prevent further incidents,’ and called for the Council to ‘augment its scrutiny of the human rights situation,’ and ‘join the call for investigations into the country.’<sup>22</sup></p> <p>During the informal conversation with the High Commissioner for Human Rights on 30 November 2016, the Assistant Secretary General for Human Rights, Mr Andrew Gilmour, briefed the Council and its Members on his recent country visit to the DRC (November 2016).<sup>23</sup> During his briefing, the ASG expressed ‘deep concern over recent developments,’ and encouraged ‘members of the Human Rights Council to remain seized of the situation in the DRC to prevent a further escalation of violence and human rights violations.’<sup>24</sup> Finally, he stressed that ‘the recent visit of Security Council members to the DRC indicates that a shared concern and commitment to a peaceful solution that fully respects the human rights of all Congolese. The International Community should explore all means at its disposal to support this effort.</p>

<sup>22</sup> "Remarks by Kate Gilmore, Deputy High Commissioner for Human Rights, at the 33rd Session of the Human Rights Council on the Democratic Republic of Congo." OHCHR, 27 Sept. 2016. Web. 05 Dec. 2016.

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20592&LangID=E>.

<sup>23</sup> 'Informal briefing to the Human Rights Council: Statement by Andrew Gilmour, Assistant Secretary General for Human Rights' OHCHR, 30 Nov. 2016. Web. 09 Dec. 2016.

<http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=20955&LangID=E>

<sup>24</sup> Ibid.



		<p>But let’s be clear: there is a profound and widespread concern that in three weeks time – 19<sup>th</sup> December marking the end of the second and last term of President Kabila – there may be mass demonstrations in many parts of the country. They may be met in a similar way to the demonstrations in September – in which case we could see a truly terrible escalation. This is why confidence building measures need to be implemented now, to head off that scenario.’<sup>25</sup></p>
<p>Whether a group of Special Procedures or Commissions of Inquiry, Fact-finding missions and Investigations have recommended that the Council consider action.</p>		<p>Several Special Rapporteur mandate-holders (incl. the SRs on the situation of human rights defenders; freedom of peaceful assembly and of association; and protection of the right to freedom of opinion and expression) have called for action from the Government of the DRC, particularly to 'lift an unjustified ban on protests' as it restricts the ‘rights to freedom of expression and the freedom of peaceful assembly and of association.’<sup>26 27</sup> No direct or specific recommendations for Council action from Special Procedures mandate-holders have been identified.</p>
<p>Whether the State concerned has a national human rights institution with A-status (and whether that institution has drawn the attention of the international community to an emerging situation and called for action).</p>		<p>A National Human Rights Commission was appointed by Parliament on 1 April 2015, over two years after the enabling legislation was promulgated (March 2013).<sup>28</sup> DRC has received recommendations to ‘ensure that the National Human Rights Commission is fully operational, including through the allocation of appropriate financial and</p>

<sup>25</sup> Ibid.

<sup>26</sup> ““Fragile” DRC at risk as government clamps down on critics, UN expert warns” OHCHR, 8 Dec. 2016. Web. 06 Dec. 2016  
<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20969&LangID=E#sthash.Yb2u66He.dpuf>

<sup>27</sup> “DRC: UN rights experts urge end to ‘unjustified’ ban on protests” OHCHR, 3 Nov. 2016. Web. 06 Dec. 2016  
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20823&LangID=E>

<sup>28</sup> “Situation of human rights and the activities of the United Nations Joint Human Rights. Office in the Democratic Republic of the Congo” UNHCHR, A/HRC/30/32.



		<p>logistical capacity, and that it works in line with the Paris Principles.<sup>29</sup> There has been no application for A-status accreditation by the national human rights institution.<sup>30</sup></p>
<p>Whether the State concerned has been willing to recognise that it faces particular human rights challenges and has laid down a set of credible actions, including table and benchmarks to measure progress, to respond to the situation.</p>		<p>During the informal conversation with the High Commissioner for Human Rights on 30 November 2016, the Assistant Secretary General for Human Rights, Mr Andrew Gilmour, stated his concern by 'the tendency of the various DRC authorities to delegitimize and denigrate civil society organisations, the opposition and all demonstrators. They accused the United Nations Joint Human Rights Office (UNJHRO) of being the mouthpiece, or in the pocket of the opposition and human rights defenders. Conversely, they accused the opposition and the NGOs of being in the pay of foreign powers.'<sup>31</sup> IN addition he stated that he was 'gravely disappointed' to see the killing of demonstrators, which, 'hardly indicate that those assurances were given in the good faith we hoped for.'<sup>32</sup></p> <p>In September 2015, during the presentation of the OHCHR report on the situation of human rights in the Democratic Republic of the Congo (A/HRC/30/32), some States welcomed progress made by the DRC, including 'the creation of an Ombudsman and a unit for human rights defenders, the adoption of an action plan to combat sexual violence by armed forces, and the adoption</p>

<sup>29</sup> Situation of human rights and the activities of the United Nations Joint Human Rights. Office in the Democratic Republic of the Congo" UNHCHR, A/HRC/30/32.

<sup>30</sup> "Accreditation of National Human Rights Institutions." OHCHR, 05 Aug. 2016. Web. 05 Dec. 2016. <<http://www.ohchr.org/Documents/Issues/HRIndicators/NHRI.pdf>>.

<sup>31</sup> Informal briefing to the Human Rights Council: Statement by Andrew Gilmour, Assistant Secretary General for Human Rights' OHCHR, 30 Nov. 2016. Web. 09 Dec. 2016. <<http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=20955&LangID=E>>

<sup>32</sup> Informal briefing to the Human Rights Council: Statement by Andrew Gilmour, Assistant Secretary General for Human Rights' OHCHR, 30 Nov. 2016. Web. 09 Dec. 2016. <<http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=20955&LangID=E>>

		<p>of a law on the prosecution of genocide and crimes against humanity.<sup>33</sup> Nonetheless, according to a UN preliminary investigative report released on 21 October 2016 - conducted by the UN Joint Human Rights Office of MONUSCO - around 422 victims of human rights violations was documented in the preliminary investigation.<sup>34 35</sup></p>
<p>Whether the State concerned is effectively cooperating with HRC Special Procedures and Commissions of Inquiry, Fact-finding missions and Investigations including by allowing country visits.</p>		<p>The DRC does not have a Standing Invitation to Special Procedures. 17 out of 21 requested country visits by Special Procedures mandate-holders have been completed since 1998.<sup>36</sup> DRC's last completed SPs visit was the visit of the Independent Expert on foreign debt, in 2011.<sup>37</sup></p>
<p>Whether the State concerned is engaging with OHCHR, including in the field of technical assistance and effective engagement with UN Human Rights Treaty Bodies.</p>		<p>Noting the 20th anniversary of the OHCHR's presence in the DRC, the High Commissioner characterised the relationship with DRC, as a 'a relationship characterised by openness and honesty – as true partnerships should be marked, even at times when disagreements can be stark' during his visit to the DRC in July 2016.<sup>38</sup></p>

<sup>33</sup> "Human Rights Council Discusses Situation of Human Rights in the Democratic Republic of the Congo and in Libya." OHCHR, 29 Sept. 2015. Web. 05 Dec. 2016.

<<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16527&LangID=E>>.

<sup>34</sup> "DRC: UN Reports Reveal Clear Use of Excessive Force, Rife Impunity for Rights Violations." OHCHR, 21 Oct. 2016. Web. 06 Dec. 2016. <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20724&LangID=E>>.

<sup>35</sup> "'Fragile' DRC at risk as government clamps down on critics, UN expert warns" OHCHR, 8 Dec. 2016. Web. 06 Dec. 2016

<<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20969&LangID=E#sthash.Yb2u66He.dpuf>>

<sup>36</sup> "Democratic Republic of the Congo." *Special Procedures Country Visits*. OHCHR, 30 Nov. 2016. Web. 09 Dec. 2016.

<[http://spinternet.ohchr.org/\\_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=COD](http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=COD)>

<sup>37</sup> "Democratic Republic of the Congo." *Special Procedures Country Visits*. OHCHR, 30 Nov. 2016. Web. 06 Dec. 2016. <[http://spinternet.ohchr.org/\\_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=COD](http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=COD)>

<sup>38</sup> "Opening remarks by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein at a press conference during his mission to the Democratic Republic of the Congo" OHCHR, 21 July 2016. Web. 06 Dec. 2016.

<<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=20293#sthash.868ueALM.dpuf>>



At HRC33 (September 2016), the DRC stated its 'will to promote and protect human rights in all circumstances and throughout all of its territory. To that end, the Government remains committed to cooperate with the Office of the High Commissioner for Human Rights. It welcomed that the report referred to progress achieved in the field of human rights, but regretted the inclusion of some negative aspects that had not been clearly documented. The authorities were committed to ensure accountability, and no-one enjoyed impunity for power abuses', according to the DRC representative.<sup>39</sup>

During the Interactive Dialogue on the *Situation of Human Rights in the DRC* under HRC33, several States expressed 'serious concerns about the ongoing conflict,' and the 'the human rights violations committed,' while calling on DRC to strengthen cooperation with the international community.<sup>40</sup>

Since September 2016, serious human rights violations have continued - particularly related to right to life, to physical integrity, to the liberty and security of the person, peaceful assembly and expression, according to several recent OHCHR reports.<sup>41 42</sup>

During the informal conversation with the High Commissioner on Human Rights on 30 November 2016, the ASG expressed appreciation of the DRC authorities 'for

<sup>39</sup> "Human Rights Council Discusses Situation of Human Rights in the Democratic Republic of the Congo and in Libya." OHCHR, 29 Sept. 2015. Web. 05 Dec. 2016.

<<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16527&LangID=E>>

<sup>40</sup> Ibid.

<sup>41</sup> "DRC: UN Reports Reveal Clear Use of Excessive Force, Rife Impunity for Rights Violations." OHCHR, 21 Oct. 2016. Web. 06 Dec. 2016. <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20724&LangID=E>>.

<sup>42</sup> "'Fragile' DRC at risk as government clamps down on critics, UN expert warns" OHCHR, 8 Dec. 2016. Web. 06 Dec. 2016

<<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20969&LangID=E#sthash.Yb2u66He.dpuf>>



		seriously engaging in discussions,' during his visit to the country, while noting that 'we are deeply concerned over some recent developments, especially their refusal to open the democratic space, and their restrictions on fundamental freedoms.' <sup>43</sup>
Whether a relevant regional mechanism or institution has identified a situation as requiring the attention of the international community; or whether the State concerned is cooperating with relevant regional organisations.		A delegation from <i>The African Commission of Human Rights</i> visited the DRC in August 2016. The Commission commended the DRC for its cooperation and for certain positive developments made since its previous visit in 2011, but highlighted remaining concerns. <sup>44</sup> The African Union urged the DRC to 'promote and protect human rights' following violent events in September 2016. <sup>45</sup> The African Union has been facilitating a National Dialogue, which resulted in a signed agreement in October 2016 that allows for the creation of a transitional coalition. The DRC has cooperated on this to date, according to reports from the Southern African Development Community (SADC). <sup>46</sup>
Whether the State is facilitating or obstructing access and work on the part of humanitarian actors, human rights defenders and media.		Several civil society and non-governmental organisations have expressed 'deep concern at the deterioration of the human rights situation in the Democratic Republic of the Congo (DRC), in particular the clampdown on peaceful activists and political opponents ahead of the presidential election scheduled for November 2016.' <sup>47</sup> According to several

<sup>43</sup> Ibid.

<sup>44</sup> "Press Release on the Promotion Mission of the African Commission on Human and Peoples' Rights to the Democratic Republic of Congo." African Commission on Human and Peoples' Rights, 14 Aug. 2016. Web. 06 Dec. 2016. <<http://www.achpr.org/press/2016/08/d310/>>.

<sup>45</sup> "Joint Statement on the DRC (AU, UN, EU, OIF)-African Union - Peace and Security Department." *African Union, Peace and Security Department*. African Union, Peace and Security Department, 26 Sept. 2016. Web. 06 Dec. 2016. <<http://www.peaceau.org/en/article/joint-statement-on-the-drc-au-un-eu-oif/>>.

<sup>46</sup> "The DRC Signs a Historic Agreement Following Reaching Consensus in the National Political Dialogue." South African Development Community, 18 Oct. 2016. Web. 06 Dec. 2016. <<http://www.sadc.int/news-events/news/drc-signs-historic-agreement-followiing-reaching-consensus-national-political-dialogue-18-october-2016/>>.

<sup>47</sup> "Human Rights Council: Address the Deteriorating Human Rights Situation in the Democratic Republic of the Congo (DRC)." International Federation for Human Rights, 26 Feb. 2106. Web. 06 Dec. 2016.



		reports, journalists and HRDs have faced harassment, arbitrary arrests and detention. <sup>48</sup> Broadcasts of radio stations have been reported to be disconnected, while restrictions have been put in place on international media operating in the country. <sup>49 50</sup>
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### South Sudan

Guiding considerations	Indicator	Description
Whether there has been a call for action by the UN Secretary General, the High Commissioner for Human Rights or relevant UN organ, body or agency.		<p>In July 2016, UN Secretary General, Ban Ki Moon called on the 'the Security Council and the entire membership of the United Nations to rise to this moment and protect the human rights of South Sudanese.'<sup>51</sup></p> <p>Since July 2016, Members of the HRC-mandated Commission on Human Rights in South Sudan began its operations. The Commission was established during HRC31 in March 2016, to 'monitor and report on the human rights situation in South Sudan, to establish a factual basis for transitional justice, and to provide guidance to the Transitional Government of National Unity of South Sudan on transitional justice. The Commission noted that it had 'followed recent events in South Sudan with</p>

<<https://www.fidh.org/en/international-advocacy/united-nations/human-rights-council-address-the-deteriorating-human-rights-situation>>.

<sup>48</sup> "DRC: UN Reports Reveal Clear Use of Excessive Force, Rife Impunity for Rights Violations." The United Nations Office at Geneva, 21 Oct. 2016. Web. 06 Dec. 2016.

<[http://www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear\\_en\)/COB9BF29EB48D752C12580530041F163?OpenDocument](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/COB9BF29EB48D752C12580530041F163?OpenDocument)>.

<sup>49</sup> "Informal Briefing to the Human Rights Council: Statement by Andrew Gilmour, Assistant Secretary General for Human Rights." OHCHR, 30 Nov. 2016. Web. 06 Dec. 2016.

<<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20955&LangID=E>>.

<sup>50</sup> "'Fragile' DRC at risk as government clamps down on critics, UN expert warns" OHCHR, 8 Dec. 2016. Web. 06 Dec. 2016

<<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20969&LangID=E#sthash.Yb2u66He.dpuf>>

<sup>51</sup> "'Time to Massively Reinforce UN Action' on South Sudan, Ban Says Ahead of Security Council Meeting." *UN News Center*. United Nations, 11 July 2016. Web. 06 Dec. 2016.

<[http://www.un.org/apps/news/story.asp?NewsID=54434#.WEktuqIrL\\_Q](http://www.un.org/apps/news/story.asp?NewsID=54434#.WEktuqIrL_Q)>.



		grave concern. It calls on all parties to end the violence, to honour their commitments under the Agreement on the Resolution of the Conflict in South Sudan (ARCSS) in all its dimensions, and cease attacks on civilians. <sup>52</sup>
Whether a group of Special Procedures or Commissions of Inquiry, Fact-finding missions and Investigations have recommended that the Council consider action.		In December 2016, the UN Independent Commission on Human Rights in South Sudan called for the international community to prevent ethnic cleansing in South Sudan and expressed grave concern over the 'epic proportions of sexual violence in the conflict in South Sudan.' <sup>53</sup> The Commission expressed its intention to, 'call for the establishment of a special investigative team to go to South Sudan to collect evidence of the rapes so as to form the basis of prosecutions for the future. The Commission urges the Government of South Sudan and those in control of opposition territories to give UN investigators unfettered access to all areas of the country.' <sup>54 55</sup>
Whether the State concerned has a national human rights institution with A-status (and whether that institution has drawn the attention of the international community to an		Limited information is available on the functioning or independence of the South Sudan Human Rights Commission. There has been no application for A-status accreditation for the South Sudanese NHRI. <sup>56</sup>

<sup>52</sup> 'HRC-mandated Commission on Human Rights in South Sudan begins operations.' OHCHR, United Nations, 22 July 2016. Web. 09 Dec. 2016  
<<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20296&LangID=E#sthash.BtzwjaJ6.dpuf>>

<sup>53</sup> "UN Experts call for UN special investigation into epic levels of sexual violence in South Sudan" OHCHR, 02 Dec. 2016. Web. 06 Dec. 2016  
<<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20979&LangID=E#sthash.z3lkhp8.eGkFrFPO.dpuf>>

<sup>54</sup> "UN Experts call for UN special investigation into epic levels of sexual violence in South Sudan" OHCHR, 02 Dec. 2016. Web. 06 Dec. 2016  
<<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20979&LangID=E#sthash.z3lkhp8.eGkFrFPO.dpuf>>

<sup>55</sup> "UN human rights experts says international community has an obligation to prevent ethnic cleansing in South Sudan" OHCHR, 01 Dec. 2016. Web. 06 Dec. 2016  
<<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20970&LangID=E#sthash.nf8SsfYc.dpuf>>

<sup>56</sup> "Accreditation of National Human Rights Institutions." OHCHR, 05 Aug. 2016. Web. 05 Dec. 2016.  
<<http://www.ohchr.org/Documents/Issues/HRIndicators/NHRI.pdf>>.



<p>emerging situation and called for action)</p>		
<p>Whether the State concerned has been willing to recognise that it faces particular human rights challenges and has laid down a set of credible actions, including table and benchmarks to measure progress, to respond to the situation</p>		<p>According to the Assessment mission report by the OHCHR to improve human rights, accountability, reconciliation and capacity in South Sudan* (A/HRC/31/49) despite, 'repeated commitments to end the violence, protect civilians and punish perpetrators, to date, there is no evidence or available public information of any genuine efforts by the Government to investigate, prosecute and punish violations and abuses, some of them amounting to international crimes.'<sup>57</sup></p> <p>The Government of South Sudan recently denied UN allegations of ethnic cleansing, according to media reports.<sup>58</sup></p>
<p>Whether the State concerned is effectively cooperating with HRC Special Procedures and Commissions of Inquiry, Fact-finding missions and Investigations including by allowing country visits</p>		<p>During the initial visit of the United Nations Commission on Human Rights in South Sudan (September 2016) to the country, the Commission thanked the Government for its cooperation, but expressed serious concern: The members of the Commission noted that, 'overall, we remain concerned by the diminishing space for journalists and civil society members who are subject to intimidation and harassment; by the lack of access for UNMISS and humanitarian actors to reach the most vulnerable; the escalation of sexual violence against women and girls... Above all, we are concerned about the ongoing impunity and lack of accountability for serious crimes and human</p>

\* The present report was submitted after the deadline in order to reflect the most recent developments.

<sup>57</sup> *Report of the High Commissioner for Human Rights on the Assessment mission by the Office of the United Nations High Commissioner for Human Rights to improve human rights, accountability, reconciliation and capacity in South Sudan.* A/HRC/31/49. OHCHR, 10 March 2016. Web. 06 Dec. 2016

[http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A-HRC-31-49\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A-HRC-31-49_en.doc).

<sup>58</sup> "South Sudan Denies UN Allegations of 'ethnic Cleansing'" Al Jazeera, 01 Dec. 2016. Web. 06 Dec. 2016. <<http://www.aljazeera.com/news/2016/12/south-sudan-denies-allegations-ethnic-cleansing-161201182935132.html>>.



		<p>rights violations in South Sudan, without which lasting peace cannot be achieved.’<sup>59</sup></p> <p>South Sudan has no Standing Invitation to Special Procedures. Only 1 out of 3 requested country visits by Special Procedures mandate-holders have been completed out of those requested since 2011.<sup>60</sup></p>
<p>Whether the State concerned is engaging with OHCHR, including in the field of technical assistance and effective engagement with UN Human Rights Treaty Bodies</p>		<p>The report on the assessment mission by the OHCHR to improve human rights, accountability, reconciliation and capacity in South Sudan noted that the mission had faced, ‘considerable challenges in conducting its work: lack of cooperation from the Government, limited access to conflict areas and serious victim and witness protection issues.’<sup>61</sup> In the report, the High Commissioner for Human Rights, ‘reiterated the recommendations made in previous reports to the Human Rights Council which remain largely unimplemented and remain valid.’<sup>62</sup></p>
<p>Whether a relevant regional mechanism or institution has identified a situation as requiring the attention of the international community; or whether the State concerned is cooperating with relevant regional organisations</p>		<p>South Sudan has not yet signed the African Charter on Human and People’s Rights.<sup>63</sup></p> <p>According to media reports, the Government of South Sudan has said ‘it will cooperate with the African Union to create a hybrid Court to try individuals accused of war crimes.’<sup>64</sup></p>

<sup>59</sup> “Human rights expert group concludes first visit to South Sudan” OHCHR, 16 Sept. 2016. Web. 06 Dec. 2016 <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20509&LangID=E#sthash.Y6mqgi2X.ei43DwNC.dpuf>>

<sup>60</sup> “South Sudan.” *Special Procedures Country Visits*. OHCHR, 30 Nov. 2016. Web. 06 Dec. 2016. <[http://spinternet.ohchr.org/ Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=SSD](http://spinternet.ohchr.org/Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=SSD)>.

<sup>61</sup> *Report of the High Commissioner for Human Rights on the Assessment mission by the Office of the United Nations High Commissioner for Human Rights to improve human rights, accountability, reconciliation and capacity in South Sudan*. A/HRC/31/49. OHCHR, 10 March 2016. Web. 06 Dec. 2016 <[http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A-HRC-31-49\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A-HRC-31-49_en.doc)>.

<sup>62</sup> Ibid.

<sup>63</sup> “African Charter on Human and Peoples’ Rights.” African Commission on Human and Peoples’ Rights, Oct. 2016. Web. 06 Dec. 2016. <<http://www.achpr.org/instruments/achpr/>>.

<sup>64</sup> “South Sudan Committed to Hybrid Court for War Crimes.” Sudan Tribune, 05 Sept. 2016. Web. 06 Dec. 2016. <<http://www.sudantribune.com/spip.php?article60131>>.



<p>Whether the State is facilitating or obstructing access and work on the part of humanitarian actors, human rights defenders and media</p>		<p>According to civil society reports, South Sudan has made 'little progress' to protect freedom of expression and recalled that 'authorities... continue to harass, intimidate, and arbitrarily detain journalists.'<sup>65</sup> In addition, it is reported that the Government has shut down several news organisations.<sup>66</sup> The UN Humanitarian Coordinator for South Sudan has expressed 'deep concern over bureaucratic impediments and access constraints' that prevent the United Nations Mission in the Republic of South Sudan (UNMISS) and other humanitarian workers from carrying out their work.<sup>67</sup> According to the Panel of Experts on South Sudan (established pursuant to Security Council resolution 2206 (2015)), there have been a series of threats and attacks against UNMISS, other UN agencies, and humanitarian workers by South Sudanese soldiers.<sup>68</sup></p>
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<sup>65</sup> "South Sudan: UPR Submission." Article 19, 6 Apr. 2016. Web. 08 Dec. 2016.

<<https://www.article19.org/resources.php/resource/38328/en/south-sudan:-upr-submission>>.

<sup>66</sup> "South Sudan." Human Rights Watch, 27 Jan. 2016. Web. 06 Dec. 2016. <<https://www.hrw.org/world-report/2016/country-chapters/south-sudan>>.

<sup>67</sup> "South Sudan: Bureaucratic Obstacles Hindering Relief Work Must Stop, Says Senior UN Official" United Nations, 30 Nov. 2016. Web. 08 Dec. 2016. <<https://refugeesmigrants.un.org/south-sudan-bureaucratic-obstacles-hindering-relief-work-must-stop-says-senior-un-official>>.

<sup>68</sup> *Security Council Sanctions Committee Concerning South Sudan Meets with Coordinator of Panel of Experts, Special Representative on Sexual Violence in Conflict.* S/2016/793. United Nations Security Council, 19 Sept. 2016.