

## Worthy of membership? Rwanda and South Africa on the United Nations Human Rights Council

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**Summary:** *The election of human rights-abusing states to the human rights bodies of the United Nations has long been a source of dissatisfaction. There have been repeated calls that such states should not be members of the UN Human Rights Council. This article compares the HRC records of Rwanda, an authoritarian state, with that of South Africa, a liberal democracy. The focus falls on 12 country-specific situations and nine civil and political rights issues that appeared before the HRC from 2017 to 2019. It is demonstrated that Rwanda has been a much stronger defender of international human rights than South Africa. This finding contradicts various empirical and theoretical studies that posit a positive relationship between domestic democracy and respect for human rights, on the one hand, and international support for human rights, on the other. This finding further suggests that demands that the HRC should only have members with respectable domestic human rights records should be tempered.*

**Key words:** *African foreign policy; Rwanda; South Africa; United Nations Human Rights Council*

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## 1 Introduction

The election of human rights-abusing states to the human rights bodies of the United Nations (UN) – the UN Commission on Human Rights (CHR) and the organisation that replaced it in 2006, the UN Human Rights Council (HRC) – has long been a source of dissatisfaction. The reason why the CHR became dysfunctional, according to then UN Secretary-General Kofi Annan, was because states ‘sought membership of the Commission not to strengthen human rights but to protect themselves against criticism or to criticise others’.<sup>1</sup> Following negotiations about replacing the CHR with the HRC, when it became apparent that the new organisation’s membership rules would be similar to its predecessor’s, the US declared that it did not have ‘sufficient confidence’ that the new body would be better than the old and thus voted against the General Assembly Resolution that created the HRC.<sup>2</sup> More than a decade later Nikki Haley, the Trump administration’s ambassador to the UN, complained:<sup>3</sup>

Sadly, the case against the Human Rights Council today looks an awful lot like the case against the discredited Human Rights Commission over a decade ago. Once again, over half the current member countries fail to meet basic human rights standards as measured by Freedom House.

Haley demanded that the HRC change its membership rules (and do away with its exaggerated focus on Israel). When Haley’s reform initiative became failed, the US, midway through a three-year membership term, withdrew from the HRC.

South Africa is a liberal democracy. A commitment to human rights is enshrined in its progressive Constitution, elections are free and fair, its press and civil society enjoy extensive freedom, and the judiciary is independent and respected. South Africa is often looked upon – and indeed sees itself – as an international leader of Africa and the Global South.<sup>4</sup> Since 1994 Freedom House has consistently rated South Africa as ‘free’. In 2019 it was the fifth freest state in Africa.<sup>5</sup> Rwanda, by contrast, is highly authoritarian. While the rule of Paul Kagame and the Rwandan Patriotic Front has brought

1 K Annan ‘In larger freedom: Development, security and human rights for all’ Report of the UN Secretary-General, UN Doc A/59/2005 (2005) para 182.

2 72nd plenary meeting of the 60th session of the UN General Assembly, UN Doc A/60/PV.72 7.

3 N Haley ‘A place for conscience: The future of the United States in the Human Rights Council’ Remarks at the Graduate Institute of Geneva, 6 June 2017, <https://usun.usmission.gov/remarks-at-the-graduate-institute-of-geneva-on-a-place-for-conscience-the-future-of-the-united-states-in-the-human-rights-council/> (accessed 21 July 2021).

4 C Alden & M Schoeman ‘South Africa in the company of giants: The search for leadership in a transforming global order’ (2013) 89 *International Affairs* 111.

5 Behind Cape Verde, São Tomé and Príncipe, Mauritius and Ghana.

stability after the genocide of 1994, the regime has used enforced disappearance, torture, arbitrary arrest and detention, trumped-up legal charges and unfair trials to suppress dissent.<sup>6</sup> Freedom House has consistently classified Rwanda as 'not free'. In 2019 Rwanda was ranked the thirty-ninth freest state in Africa out of 54.

Based on their domestic rights records, South Africa appears to be the ideal member of the HRC. Rwanda does not. This article compares the voting records of these two countries during their 2017-2019 terms on HRC, Rwanda's only term on the HRC and the last three years of South Africa's 2014-2019 tenure.<sup>7</sup> It will be demonstrated that, contrary to what frequent criticisms of the HRC's membership lead us to expect, Rwanda has exhibited much stronger support for human rights in an international context than South Africa.

First, the article will give an overview of the literature regarding the relationship between a state's domestic respect for human rights and its voting record in international human rights forums. The subsequent two parts survey Rwanda and South Africa's voting records on country-specific and civil and political rights resolutions at the HRC, respectively. The focus falls on resolutions on which disagreement was substantial, defined here as resolutions or amendments on which three or more HRC members voted differently to the rest. Resolutions on economic rights and on the international system are not included in this survey, mainly because, in contrast to country-specific and civil and political rights resolutions, there is not much difference between Rwanda and South Africa's voting records on these issues and they often are adopted without a vote, preventing us from seeing where Rwanda and South Africa differ. The purpose of country-specific and civil and political rights parts is to establish the extent of Rwanda and South Africa's support for, or opposition to, international human rights. The concluding part assesses Rwanda and South Africa's records against general empirical and theoretical explanations about the relationship between a state's domestic human rights record and its voting on human rights at the UN, as well as against existing explanations of Rwandan and South African human rights foreign policies.

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6 Human Rights Watch 'Rwanda: Events of 2020' (2021), <https://www.hrw.org/world-report/2021/country-chapters/rwanda> (accessed 21 July 2021).

7 South Africa was also an HRC member from 2006 to 2010.

## 2 Domestic human rights protection and international human rights voting

Every year, as one-third of the seats on the HRC become vacant, the UN General Assembly holds elections to fill these seats. Human rights non-governmental organisations (NGOs) have often used the lead-up to these elections to make their case that domestic rights abusers do not belong on the HRC. In the process, these NGOs present their arguments about why they think that states are worthy of an HRC seat. Freedom House, a think-tank, categorises candidates as either 'not qualified', 'questionable' or 'qualified'. Freedom House's assessment is based on the domestic rights records and the voting in UN organs of the candidate states.<sup>8</sup> Amnesty International and the International Service for Human Rights (ISHR) have since 2012 hosted voluntary pledging events during which candidate states indicate and answer questions about how they intend to advance human rights if they were to be elected to the HRC.<sup>9</sup> To accompany these pledging events, the ISHR scores the various candidates in terms of their suitability for membership. Most of the ISHR's criteria focus on a candidate state's formal international human rights commitments and behaviour,<sup>10</sup> but domestic elements such as the presence of a national human rights institution or of protection of human rights defenders, for example, also figure in their list.

Scholars disagree on the relationship between a state's domestic human rights record and its international human rights voting, but the bulk of the research suggests that there is a positive relationship. Hug and Lukács find that a state's domestic rights record and, to a lesser extent, its level of democracy, is important for determining how a state votes on the HRC.<sup>11</sup> In a study of country-specific voting on the HRC, Seligman finds that democracies are more likely than

8 Freedom House 'Evaluation of 2008-2011 UN Human Rights Council candidates' 6 May 2008, <https://freedomhouse.org/sites/default/files/Eval2008HRC.pdf> (accessed 21 July 2021).

9 Amnesty International 'A majority of states running for the Human Rights Council participate in pledging event' 27 July 2016, <https://www.amnesty.org/en/latest/news/2016/07/a-majority-of-states-running-for-the-human-rights-council-participate-in-pledging-event/> (accessed 21 July 2021).

10 ISHR's international human rights criteria for assessing the suitability of candidate for HRC membership include a candidate state's pledges; its commitment to objectivity and addressing country-specific situations; its cooperation with special procedures mandate holders; its engagement with the Universal Periodic Review; and whether it has signed up to international human rights treaties. ISHR 'HRC elections: How do the candidates for 2021 rate and what have they pledged to do as Council members?' 28 July 2020, <https://www.ishr.ch/news/hrc-elections-how-do-candidates-2021-rate-and-what-have-they-pledged-do-council-members> (accessed 21 July 2021).

11 S Hug & R Lukács 'Preferences or blocs? Voting in the United Nations Human Rights Council' (2014) 9 *Review of International Organisations* 103.

authoritarian states to support country-specific resolutions. Seligman nevertheless cautions that one should distinguish between Western and developing world democracies, with the latter comparatively less inclined to support country-specific resolutions.<sup>12</sup> In line with the aforementioned research, Hillman and Potrafke argue that democracies are more likely to vote 'ethically' in the UN General Assembly.<sup>13</sup> In a study of the UN Commission on Human Rights over the period 1977-2001, Lebovic and Voeten find that states with good domestic human rights records are 'significantly more likely' to support resolutions that 'shame' other states over their rights records.<sup>14</sup>

A few studies question whether there is a relationship between domestic human rights and human rights voting at the UN. After studying 13 000 voting decisions in the General Assembly from 1980 to 2002, Boockmann and Dreher find that while 'democratic participation rights' matter, a country's domestic human rights record is 'not influential' for the way in which it votes on human rights.<sup>15</sup> In the context of a discussion of a liberal shift on the HRC that began in 2010, Jordaan points out that the African Group became more supportive of country-specific resolutions even though the overall domestic human rights profile of the Group had been steadily deteriorating.<sup>16</sup>

Theories of international relations offer various explanations for the above findings. Realism denies that there are universal standards of morality or that morality should guide the international actions of states.<sup>17</sup> To the extent that human rights appear to be a universal morality, it is the result of the preferences and prescriptions of the most powerful states.<sup>18</sup> Remove the state power that underpins international human rights and they will enter their 'end times'.<sup>19</sup> Realists further argue that for a state to try to adhere to a universal

12 S Seligman 'Politics and principle at the UN Human Rights Commission and Council (1992-2008)' (2011) 17 *Israel Affairs* 535.

13 AL Hillman & N Potrafke 'Voting in the absence of ethical restraint: Decoys and dissonance in the United Nations' Paper presented at the fourth annual conference on the Political Economy of International Organisation, Zürich, 27-29 January 2011.

14 JH Lebovic & E Voeten 'The politics of shame: The condemnation of country human rights practices in the UNCHR' (2006) 50 *International Studies Quarterly* 881.

15 B Boockmann & A Dreher 'Do human rights offenders oppose human rights resolutions in the United Nations?' (2011) 146 *Public Choice* 462.

16 E Jordaan 'The African Group on the United Nations Human Rights Council: Shifting geopolitics and the liberal international order' (2016) 115 *African Affairs* 507.

17 GF Kennan 'Morality and foreign policy' (1985) 64 *Foreign Affairs* 205.

18 S Krasner 'Sovereignty, regimes, and human rights' in V Rittberger (ed) *Regime theory and international relations* (1995) 141.

19 S Hopgood *The end times of human rights* (2013) 142.

morality in international politics would be misguided – international politics is about power and self-interest. Moral posturing and talk of human rights are mostly useful to mask or pursue the state’s self-interest.

Liberal international relations scholars explain democracies’ foreign policy commitment to human rights by directing our attention to the institutional environment in which such a policy is made – one marked by relative openness and in which a wide range of actors compete to shape foreign policy decisions and in which these decisions tend to be subject to more scrutiny than one would find in authoritarian regimes. Outside of government agencies, democracies typically contain an array of actors – newspapers, civil society organisations, human rights institutions, academics, and so forth – that are well-placed to participate in the foreign policy process and push for a human rights-supporting foreign policy.<sup>20</sup> Consistent with the liberal approach, Hillmann and Potrafke argue that while democracies might be tempted to vote ‘unethically’ at the UN, they are constrained by the facts of the matter, more so if the matter receives media attention.<sup>21</sup>

Constructivists see a state’s international behaviour as an expression of its national identity – an amalgam of history, political institutions and public values. In the conventional constructivist view, national identity is both a cause of, and a justification for, a state’s international behaviour.<sup>22</sup> A description of a state’s national identity will allow a researcher to infer the types of international actions that are likely to result. To the extent that respect for human rights is important to a state’s national identity, which is the case for democracies, one would expect that, consistent with this self-understanding, such states would support human rights internationally.

In closing, it is necessary to point to one important determinant of voting behaviour at the UN that does not fit neatly into any of the main international relations theories – conformity to a regional position, expressed through actions such as bloc voting and joining group statements. Lamenting the HRC’s disappointing record during its first few years, Ramcharan blames bloc voting:<sup>23</sup>

20 D Forsythe ‘US foreign policy and human rights’ (2002) 1 *Journal of Human Rights* 501.

21 Hillmann & Potrafke (n 13).

22 T Hopf ‘The promise of constructivism in international relations theory’ (1998) 23 *International Organisation* 175-177; K Sikkink *Mixed signals: US human rights policy in Latin America* (2003) 6-8.

23 BG Ramcharan *The UN Human Rights Council* (2011) 13.

A key problem of the Council is that the African and Asian groups have been allocated 26 out of the 47 seats. Many countries in these two regions have severe governance problems and have experienced numerous conflicts and situations of gross human rights violations ... [T]hey band together to prevent discussions of situations of gross human rights violations and forthright criticism of such violations.

Boockmann and Dreher find that a state's region matters greatly for how states vote on human rights. They explain that states vote in line with the average level of human rights that obtains in the group to which the state belongs. This means that a domestic human rights violator from a region in which human rights generally are respected will tend to vote for human rights resolutions whereas a domestic respecter of human rights will tend to vote against human rights if it is from a region in which human rights are generally violated.<sup>24</sup> In their analysis, region supersedes voting based on national identity and contradicts the frequent view that rights violators vote against human rights UN because they want to protect themselves from future scrutiny.

### 3 Country-specific situations

This part presents Rwanda and South Africa's votes related to country-specific resolutions. During the period under review resolutions on 12 countries are relevant: Belarus, Burundi, Eritrea, Georgia, Iran, Myanmar, Nicaragua, Philippines, Syria, Ukraine, Venezuela and Yemen. On country-specific situations, Rwanda's actions demonstrate much stronger support for international human rights than those of South Africa.

Approximately a quarter of the resolutions that the HRC adopts during a specific session relate to specific countries. The crucial element in a country-specific resolution is the level of international intrusiveness that it authorises. There are two types of country-specific resolutions. At the less intrusive end of the spectrum are resolutions that require the Office of the United Nations High Commissioner for Human Rights (OHCHR) to provide technical assistance or capacity-building to the country concerned. These resolutions fall under item 10 of the HRC's standing agenda. They are usually adopted without a vote and with the consent of the country concerned. These resolutions imply – a sometimes necessary pretence – that human rights violations are not wilful but stem from the government's lack

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<sup>24</sup> Boockmann & Dreher (n 15) 462.

of capacity and technical know-how and that the government is committed to remedying its human rights problems.

Much more intrusive and uncomfortable for the government in question are the resolutions adopted under item 4, 'Human rights situations that require the Council's attention'. These resolutions authorise investigations of the human rights situation in the particular country concerned.<sup>25</sup> Different measures can be taken. The softest option is to ask the OHCHR to write such a report, but a stronger option is to have an independent expert or group of experts – the so-called 'special procedures' mechanism – conduct an investigation. Such a special procedures mandate is a powerful instrument at the HRC's disposal. Stronger and more intrusive still are commissions of inquiry into human rights violations in a specific country. What sets these apart from special procedures investigations is that commissions of inquiry are usually mandated to conduct investigations and collect evidence aimed at holding accountable perpetrators of human rights violations.

Item 7 on the HRC's agenda is the 'Human rights situation in Palestine and other occupied Arab territories'. The HRC adopts more resolutions on Israel than any other country. From 2017 to 2019 the HRC adopted 16 Israeli resolutions. Over the same period, the second-most resolutions were on Syria (ten) and the third-most on Myanmar (six). Rwanda and South Africa's voting records on Israel-related resolutions are excluded from this analysis because these resolutions are so politicised and, therefore, are poor indicators of a human rights commitment.<sup>26</sup> Many states that support the always-strong Israeli resolutions usually oppose strong resolutions on other countries. In 2018, for instance, African states voted for Israeli resolutions 76 per cent of the time, but only voted for resolutions on other countries 23 per cent of the time.<sup>27</sup>

Belarus has been subjected to a special procedures mandate since 2012, renewed annually. In 2019 the Special Rapporteur on the Situation of Human Rights in Belarus reported that despite years of

25 Intrusive resolutions are typically adopted under item 4 on the HRC's agenda ('Human rights situations that require the Council's attention') but in recent years have also been adopted under item 2 ('Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General').

26 During its various HRC membership terms, South Africa voted for all Israeli resolutions. During its 2017-2019 term Rwanda had to vote on 16 Israeli resolutions. It abstained on 13 and voted yes on three.

27 E Jordaan 'African states at the UN Human Rights Council in 2018' South African Institute for International Affairs' 2 December 2020 12, <https://saiia.org.za/research/african-states-at-the-un-human-rights-council-in-2018/> (accessed 22 July 2021).



recommendations, there has been no significant improvement of human rights in the country, with torture and political repression continuing as before.<sup>28</sup> African states have shown almost no willingness to support the annual renewal of the Belarus mandate. In 2017 Ghana was the only African state to vote for the resolution; in 2018 Côte d'Ivoire was the only state. From 2017 to 2019 both Rwanda and South Africa abstained on each resolution vote.

In April 2015 Burundi's president Pierre Nkurunziza announced that he would seek a third term. Protests and a coup attempt followed. The government cracked down. After a Constitutional Court ruling in his favour, Nkurunziza was re-elected in July in a poll marred by violence and intimidation. Regime opponents increasingly used violence after Nkurunziza's re-election, as did regime forces. In September 2016 the HRC established a commission of inquiry to investigate recent human rights abuses and to identify the perpetrators to hold them accountable.<sup>29</sup> Burundi would not allow the commission to enter the country. Nevertheless, after conducting more than 500 interviews,<sup>30</sup> in August 2017 the commission reported various 'extremely cruel' violations, including extrajudicial executions, enforced disappearances, torture and sexual violence.<sup>31</sup> Government forces were the 'principal perpetrators'.<sup>32</sup> The commission recommended prosecuting these alleged perpetrators<sup>33</sup> and extending the mandate for another year to enable further investigations.<sup>34</sup>

Burundi rejected the report, objecting on the basis that it was 'biased and based on political motives' and that the commission lacked 'objectivity' and 'Cartesian logic'.<sup>35</sup> A European Union (EU) resolution proposed extending the commission's mandate by one year.<sup>36</sup> The African Group ran interference for Burundi by presenting a rival resolution. The African Group's resolution proposed sending three OHCHR experts to Burundi to provide technical assistance and do capacity building. Crucially, these experts were to gather information 'in cooperation with the government of Burundi, and

28 Report of the Special Rapporteur on the situation of human rights in Belarus, UN Doc A/HRC/41/52 8 May 2019 3.

29 Human Rights Council Resolution 33/24 Situation of human rights in Burundi, UN Doc A/HRC/RES/33/24 5 October 2016.

30 Report of the Commission of Inquiry on Burundi, UN Doc A/HRC/36/54 11 August 2017 3.

31 Burundi (n 30) 4.

32 Burundi (n 30) 6.

33 Burundi (n 30) 19.

34 Burundi (n 30) 18.

35 'Burundi statement to the Human Rights Council' 19 September 2017, <https://media.un.org/en/asset/k1q/k1qn5qpb4i> (accessed 22 July 2021).

36 Human Rights Council Resolution 36/19 Renewal of the mandate of the Commission of Inquiry on Burundi, UN Doc A/HRC/RES/36/19 4 October 2017.

to forward to the judicial authorities of Burundi such information in order to establish the truth and ensure that the perpetrators of deplorable crimes are all accountable to the judicial authorities of Burundi'.<sup>37</sup> In other words, the resolution gave the Burundi government, which was maintaining its innocence, a veto over the report and further trusted the Burundi government to investigate and prosecute its agents.

Both resolutions were adopted by vote, creating two investigative missions, yet only the mission established by the EU's resolution had a credible mandate. All African states except Botswana, which abstained, voted for the African Group's resolution and, thus, to protect Burundi from international scrutiny. Among African states, only Botswana and Rwanda voted for the EU resolution. Through this vote Rwanda was contradicting its vote on the African Group resolution – Rwanda was simultaneously protecting Burundi from, and subjecting it to, international scrutiny. By voting against the EU's resolution, South Africa remained consistent in its shielding of Burundi.

In 2018 the OHCHR experts were unable to table their report – mandated by the African Group-sponsored resolution of the previous year – as Burundi had cancelled their visas before they could begin their study.<sup>38</sup> With serious human rights violations continuing into 2018 and the Burundian judicial system unwilling and unable to hold perpetrators to account, the commission of inquiry recommended another extension of its mandate.<sup>39</sup> Rwanda was the only African state to support the resolution that put the commission's recommendation into effect.<sup>40</sup> South Africa abstained. In 2019 it was the same story. The commission of inquiry reported that serious human rights violations, including crimes against humanity, were continuing unabated and with impunity, and so recommended an extension of its mandate for another year.<sup>41</sup> Rwanda again was the only African state to support extending the commission's mandate, while five African states opposed the resolution and the rest, including South Africa, abstained.

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37 Human Rights Council Resolution 36/2 Mission by the Office of the United Nations High Commissioner for Human Rights to improve the human rights situation and accountability in Burundi, UN Doc A/HRC/RES/36/2 4 October 2017.

38 Human rights situation in Burundi: Note by the Secretariat' UN Doc A/HRC/39/40 20 August 2018.

39 Report of the Commission of Inquiry on Burundi, UN Doc A/HRC/39/63 8 August 2018 16.

40 Human Rights Council Resolution 39/14 Situation of Human Rights in Burundi, UN Doc A/HRC/RES/39/14 2 October 2018.

41 Report of the Commission of Inquiry on Burundi, UN Doc A/HRC/42/49 6 August 2019 17-18.

Despite positive human rights developments in Iran in recent years, the regime has remained highly repressive.<sup>42</sup> There has been a special procedures mandate on Iran since 2011. In recent years the vast majority of African states have abstained on the annual Iran resolution vote. In 2017 Rwanda and Botswana were the only African states to support the resolution. Rwanda, however, abstained in 2018 and 2019. South Africa abstained during all three years.

HRC resolutions on Georgia (2017-2019) and Ukraine (2014-2017, 2019) relate to countries that have experienced Russian military intervention and that contain areas controlled by Russian-backed separatists. These item 10 resolutions had the support of the Georgian and Ukrainian governments, respectively, and mandated the provision of technical assistance and capacity building.

The 2017 Georgia draft resolution, sponsored by Georgia and co-sponsored by mostly Western states, highlighted human rights violations in the disputed regions of South Ossetia and Abkhazia and recorded that UN human rights monitors had been denied access to these regions. The draft resolution demanded access for the OHCHR and asked for an OHCHR report.<sup>43</sup> Although OHCHR representatives were not allowed to enter South Ossetia and Abkhazia, the ensuing report expressed concern about the inability of persons displaced from these regions to return and found that the available evidence pointed to widespread discrimination on the basis of ethnicity.<sup>44</sup> The OHCHR also concluded that according to available information discrimination on the basis of ethnicity was widespread in the disputed regions.<sup>45</sup> The 2018 resolution on Georgia expressed concern at such discrimination and the fact that internally-displaced persons had not been able to return to their homes. The resolution requested another OHCHR report.<sup>46</sup> In 2019 the HRC's actions with regard to Georgia was a repeat of those of the previous years.

A 2014 OHCHR report remarked that human rights in Ukraine depended 'on the sovereignty and territorial integrity' of the country. The OHCHR concluded that Russia had acted in violation of these principles and thus was undermining 'the enjoyment of human rights

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42 Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, UN Doc A/HRC/40/67 30 January 2019 17.

43 Human Rights Council Draft Resolution 34/L.13 Cooperation with Georgia, UN Doc A/HRC/34/L.13 17 March 2017.

44 Report of the United Nations High Commissioner for Human Rights on Cooperation with Georgia UN Doc A/HRC/36/65 17 August 2017 7, 16.

45 Report on Cooperation with Georgia (n 44) 16.

46 Human Rights Council Resolution 37/40, Cooperation with Georgia, UN Doc A/HRC/RES/37/40 9 April 2018.

and fundamental freedoms' in Ukraine.<sup>47</sup> In 2017 the HRC adopted, as during the preceding three years, a resolution on Ukraine. The resolution, 'Cooperation with and assistance to Ukraine in the field of human rights', welcomed the OHCHR's reporting on Ukraine and asked the OHCHR to continue monitoring and reporting on the human rights situation in Ukraine.<sup>48</sup> There was no 2018 resolution on Ukraine, but the 2019 text was similar to that of 2017.

Even though these technical assistance and capacity-building resolutions had the support of the Georgian and Ukrainian governments, respectively, the aforementioned resolutions all went to a vote. Against the backdrop of intense major power interests in the conflicts in Georgia and Ukraine, many states remained on the margins, with about half of the HRC typically abstaining on resolution votes. South Africa has been one such state, having abstained on all the Georgia and Ukraine resolutions. While Rwanda abstained on all the Georgia resolutions, it was one of the very few African states to vote yes on the Ukraine resolutions.<sup>49</sup>

Following the Syrian government's crackdown on anti-regime protests that had sprung up as part of the Arab Spring, the country descended into civil war. The horrors and complexity of that conflict need not be recounted here.<sup>50</sup> In April 2011 the HRC began adopting resolutions on Syria. Since March 2012 the HRC has adopted a resolution on the Syrian conflict at each of its general sessions. In August 2011 the HRC created a commission of inquiry on Syria mandated to establish the facts and 'to identify those responsible with a view to ensuring that perpetrators of violations, including those that may constitute crimes against humanity, are held accountable'.<sup>51</sup> The Syria resolutions expressed concern about the victims, condemned the violence, listed the atrocities, renewed the commission of inquiry's mandate, and criticised the Syrian government's lack of cooperation with it. Between 2017 and 2019 the HRC adopted ten resolutions on human rights in Syria, one of which focused specifically on Syrian government's siege and

47 'Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine', UN Doc A/HRC/27/75 19 September 2014 8-10.

48 Human Rights Council Draft Resolution 35/L.10 Cooperation with and assistance to Ukraine in the field of human rights, UN Doc A/HRC/35/L.10 22 November 2017.

49 In 2017 Côte d'Ivoire, Ghana and Nigeria also voted for the Ukraine Resolution. In 2019 Rwanda was the only African state to do so.

50 Z. Laub 'Syria's civil war: The descent into horror' Council on Foreign Relations 17 March 2021, <https://www.cfr.org/article/syrias-civil-war> (accessed 23 July 2021).

51 Human Rights Council Resolution S-17/1 Situation of human rights in the Syrian Arab Republic, UN Doc A/HRC/RES/S-17/1 23 August 2011.

bombardment of Eastern Ghouta. These resolutions consistently passed with the support of an absolute majority. Despite the extent of the violence and violations in Syria, South Africa never supported the resolutions, abstaining on all ten. Rwanda's record on Syria, while not without blemish, clearly was in support of human rights. Rwanda voted for all ten resolutions in question. Rwanda's failures concern hostile amendments on the four Syria resolutions adopted in 2018. There were 17 such proposed amendments, all sponsored by Russia. The proposed amendments mainly complained about sanctions targeting certain Syrian government agencies and individuals and tried to characterise regime opponents as terrorists.<sup>52</sup> As in the case of South Africa, Rwanda abstained on all the amendment votes.

Since 1992 there has been a special procedures mandate on human rights in Myanmar. The plight of the Rohingya, a long-persecuted Muslim minority, was typically addressed as part of the annual Myanmar resolutions.<sup>53</sup> In June 2015 the HRC for the first time adopted a resolution that addressed the situation of the Rohingya more directly. This resolution, sponsored by the Organisation of Islamic Cooperation (OIC) and adopted without a vote, asked the OHCHR to report on human rights violations against the Rohingya.<sup>54</sup> The resulting report described extensive violations against the Rohingya but also noted that Myanmar was going through a political transition and thus recommended giving the new regime space to remedy the situation.<sup>55</sup> However, the persecution of the Rohingya did not let up.

In March 2017 the HRC, through a consensually-adopted resolution, dispatched a fact-finding mission to Myanmar to ensure 'full accountability for perpetrators and justice for victims'.<sup>56</sup> The ethnic cleansing of the Rohingya continued. In December 2017 the HRC called a special session. The UN High Commissioner for Human

52 Human Rights Council Amendments to Draft Resolution A/HRC/37/L.1, UN Docs A/HRC/37/L.2-5 2 March 2018; Human Rights Council Amendment to Draft Resolution A/HRC/37/L.38, UN Doc A/HRC/37/L.60 21 March 2018; Human Rights Council Amendments to Draft Resolution A/HRC/38/L.20, UN Docs A/HRC/38/L.28-31 4 July 2018.

53 Human Rights Council Resolution 28/23 Situation of human rights in Myanmar, UN Doc A/HRC/RES/28/23 2 April 2015.

54 Human Rights Council Resolution 29/21 Situation of human rights of Rohingya Muslims and other minorities in Myanmar', UN Doc A/HRC/RES/29/21 22 July 2015.

55 Report of the United Nations High Commissioner for Human Rights on the situation of human rights of Rohingya Muslims and other minorities in Myanmar, UN Doc A/HRC/32/18 28 June 2016 15.

56 Human Rights Council Resolution 34/22 Situation of human rights in Myanmar, UN Doc A/HRC/RES/34/22 3 April 2017.

Rights cited acts of ‘appalling barbarity’ against the Rohingya’.<sup>57</sup> An OIC-led resolution asked the UN High Commissioner for Human Rights for a report on the situation of the Rohingya and to monitor Myanmar’s cooperation with UN investigations.<sup>58</sup> The resolution was adopted with strong support: 33-3-9 (yes-no-abstain). A March 2018 resolution, adopted 32-5-10, criticised Myanmar for not cooperating with the international fact-finding mission.<sup>59</sup> In September 2018 the mission reported widespread ‘horrifying’ violations that ‘undoubtedly amount to the gravest crimes under international law’.<sup>60</sup> The mission recommended that ‘named senior generals of the Myanmar military should be investigated and prosecuted in an international criminal tribunal for genocide, crimes against humanity and war crimes’.<sup>61</sup> Following this recommendation, the HRC adopted a resolution (vote count 35-3-7), sponsored by the OIC and the EU, to establish a mechanism to expedite criminal proceedings, the Independent Investigative Mechanism for Myanmar.<sup>62</sup> Two 2019 resolutions, adopted with overwhelming support, called on Myanmar to cooperate with the various UN human rights mechanisms working in the country.<sup>63</sup> Rwanda voted yes on all six of the abovementioned resolutions. South Africa, despite the horrors visited upon the Rohingya, abstained in 2017 and 2018 and only in 2019 began to vote in favour of the Myanmar resolutions.

The Yemeni Civil War began in March 2015. After a number of stymied attempts,<sup>64</sup> in September 2017 the HRC adopted a Dutch-led resolution mandating a group of eminent international and regional experts to, among other things, ‘establish the facts and circumstances surrounding the alleged violations and abuses

57 Zeid Ra’ad Al Hussein ‘Statement: Special session of the Human Rights Council on the human rights situation of the minority Rohingya Muslim population and other minorities in the Rakhine State of Myanmar’ 5 December 2017, <http://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=22487&LangID=E> (accessed 22 July 2021).

58 Human Rights Council Resolution S-27/1 Situation of human rights of Rohingya Muslims and other minorities in Myanmar, UN Doc A/HRC/RES/S-27/1 8 December 2017.

59 Human Rights Council Resolution 37/32 Situation of Human Rights in Myanmar, UN Doc A/HRC/RES/37/32 9 April 2018.

60 Report of the Independent International Fact-Finding Mission on Myanmar, UN Doc A/HRC/39/64 12 September 2018 19.

61 Report on Myanmar (n 60) 1.

62 Human Rights Council Draft Resolution 39/L.22 Situation of human rights of Rohingya Muslims and other minorities in Myanmar, UN Doc A/HRC/39/L.22 22 September 2018.

63 Human Rights Council Resolution 40/29 Situation of human rights in Myanmar, UN Doc A/HRC/RES/40/29, 11 April 2019; Human Rights Council Resolution 42/3 Situation of human rights of Rohingya Muslims and other minorities in Myanmar, UN Doc A/HRC/RES/42/3 3 October 2019.

64 P Wintour ‘Renewed calls for inquiry into alleged human rights violations in Yemen’ *Guardian* 19 September 2016, <https://www.theguardian.com/world/2016/sep/19/renewed-inquiry-alleged-human-rights-violations-yemen-houthi> (accessed 23 July 2021).

and, where possible, to identify those responsible'. Significantly, the resolution did not state that the purpose of such information gathering was to bring perpetrators to account,<sup>65</sup> as was the case with resolutions on Burundi and Syria.

In August 2018 the expert group presented its report. It found that the governments of Yemen, Saudi Arabia and the United Arab Emirates (UAE) were perpetrating violations such as unlawful killing, arbitrary detention, rape, torture and enforced disappearance, and were in violation of principles of distinction, proportionality and precaution.<sup>66</sup> To help readers understand the conflict, the report contained a list of those involved on various sides. It was not an indictment, but with Saudi Crown Prince Mohammad bin Salman's name on the list, Saudi Arabia opposed a 2018 resolution to extend the expert group's mandate.<sup>67</sup> The 2018 resolution was adopted by a vote of 21-8-18. Unlike after the 2017 resolution, the government of Yemen now refused to allow the expert group to enter the country. Nevertheless, the expert group brought out its report, identifying Saudi Arabia, UAE, Yemen as well as the '*de facto* authorities' responsible for a range of human rights violations, many tantamount to war crimes. The expert group further identified persons who may have been responsible for international human rights crimes and gave the names to the High Commissioner for Human Rights. The 2019 resolution to extend the mandate of the expert group continued to receive pushback and was adopted by a margin similar to the previous year, 22-12-11. Yemen is the only country-specific situation where South Africa's record is superior to that of Rwanda. Both states abstained on the 2018 resolution. In 2019, however, Rwanda again abstained while South Africa voted yes.

Rwanda and South Africa also had to consider new resolutions on two Latin American countries. In response to the Nicaraguan government's brutal response to a series of protests that began in April 2018,<sup>68</sup> and in 2019 the HRC adopted a resolution asking the

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65 Human Rights Council Resolution 36/31 Human rights, technical assistance and capacity-building in Yemen, UN Doc A/HRC/RES/36/31 3 October 2017.

66 Report of the United Nations High Commissioner for human rights containing the findings of the Group of Eminent International and Regional Experts and a summary of technical assistance provided by the Office of the High Commissioner to the National Commission of Inquiry, UN Doc A/HRC/39/43 17 August 2018 14-15.

67 Human Rights Council Resolution 39/16 Human rights situation in Yemen, UN Doc A/HRC/RES/39/16 5 October 2018.

68 Human rights violations and abuses in the context of protests in Nicaragua: 18 April-18 August 2018, Report by the Office of the United Nations High Commissioner for Human Rights August 2018.



OHCHR for a report on human rights in the country.<sup>69</sup> The resolution was adopted without an absolute majority and a large number of abstentions, 23-3-21. Both Rwanda and South Africa abstained.

In 2018 the HRC adopted its first resolution on Venezuela<sup>70</sup> in response to the economic collapse and growing authoritarianism in the country.<sup>71</sup> The resolution asked the OHCHR for a comprehensive report on human rights in Venezuela. The resultant report listed human rights violations such the failure to secure the rights to food and health, extrajudicial executions, the lack of an independent judiciary, shrinking democratic space, and severe political repression.<sup>72</sup> The question was what to do about the report. Two options were put on the table.

The first was an Iran and Russia-sponsored resolution, 'Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela'.<sup>73</sup> Introducing the resolution, which had the support of the Venezuelan government,<sup>74</sup> Iran emphasised the importance of cooperation and respect for Venezuelan sovereignty. Indeed, the resolution hardly mentioned human rights violations, referring to them as 'concerns with regard to the situation of human rights in the country'.<sup>75</sup> The resolution asked the OHCHR for a report on human rights in Venezuela to 'ensure the accountability of perpetrators and redress for victims', but the duty of accountability was assigned to the Venezuelan government. Various Latin American states,<sup>76</sup> however, rejected the resolution by citing Venezuela's 'lack of genuine commitment to human rights' and urged other states to vote against it.<sup>77</sup> These Latin American states recognised the importance of international cooperation on

69 Human Rights Council Resolution 40/2 Promotion and protection of human rights in Nicaragua, UN Doc A/HRC/RES/40/2 4 April 2019.

70 Human Rights Council Resolution 39/1 Promotion and protection of human rights in the Bolivarian Republic of Venezuela, UN Doc A/HRC/RES/39/1 3 October 2018.

71 Human rights violations in the Bolivarian Republic of Venezuela: A downward spiral with no end in sight, Report by the Office of the United Nations High Commissioner for Human Rights June 2018.

72 Human rights in the Bolivarian Republic of Venezuela: Report of the United Nations High Commissioner for Human Rights, UN Doc A/HRC/41/18 9 October 2019.

73 Human Rights Council Resolution 42/4 Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela, UN Doc A/HRC/RES/42/4 3 October 2019.

74 'Iran statement to the Human Rights Council' 26 September 2019, <https://media.un.org/en/asset/k18/k18aqw8f4u> (accessed 22 July 2021).

75 Human Rights Council Resolution 42/4 (n 73).

76 Argentina, Brazil, Chile and Peru.

77 'Peru statement to the Human Rights Council' 26 September 2019, <https://media.un.org/en/asset/k18/k18aqw8f4u> (accessed 22 July 2021).



human rights, but insisted that there should also be accountability for those who violate human rights.<sup>78</sup>

The second response to the OHCHR's report was a resolution, sponsored by Peru, Canada and nine other Latin American states, to create an independent international fact-finding mission 'to investigate extrajudicial executions, enforced disappearances, arbitrary detentions and torture and other cruel, inhumane or degrading treatment since 2014 with a view to ensuring full accountability for perpetrators and justice for victims'.<sup>79</sup>

Rwanda and South Africa's records on Venezuela are both uneven, but with nothing to redeem South Africa's. Rwanda, at least, supported the 2018 resolution on Venezuela, whereas South Africa abstained. In 2019 both abstained from the vote to create a fact-finding mission and, by voting for Iran and Russia's resolution, shielded Venezuela from international scrutiny over its rights record.

In 2019 the HRC adopted its first resolution on the Philippines. It took the HRC three years to adopt such a resolution – upon assuming office on 30 June 2016, Philippine President Rodrigo Duterte immediately unleashed a vicious campaign of extrajudicial killing upon those allegedly involved in the local drug trade. Despite the extent of the violations in the Philippines, the tepid resolution asking the OHCHR for a report on the human rights situation in the Philippines passed with only weak support, 18-14-15. Rwanda and South Africa abstained.

The HRC adopted its first resolution on Eritrea in 2012.<sup>80</sup> It was sponsored by Djibouti, Nigeria and Somalia. The resolution was strong – it created a special procedures mandate on human rights in the country – and was adopted without a vote. In 2014 the HRC created a commission of inquiry to investigate violations of international human rights law.<sup>81</sup> In 2015 the commission's mandate was broadened, so the purpose of the investigations became to ensure 'full accountability' for human rights crimes.<sup>82</sup> The incisiveness of these resolutions and the ease with which they were adopted (always without a vote) reflected Eritrea's diplomatic isolation. In

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78 As above.

79 Human Rights Council Resolution 42/25 Situation of human rights in the Bolivarian Republic of Venezuela, UN Doc A/HRC/RES/42/25 8 October 2019.

80 Human Rights Council Resolution 20/20 Situation of human rights in Eritrea, UN Doc A/HRC/RES/20/20 17 July 2012.

81 Human Rights Council Resolution 26/24 Situation of human rights in Eritrea, UN Doc A/HRC/RES/26/24 14 July 2014.

82 Human Rights Council Resolution 29/18 Situation of human rights in Eritrea, UN Doc A/HRC/RES/29/18 22 July 2015.

2019, however, the usual African sponsors of the resolution melted away. This retreat was not the result of an improvement of human rights in Eritrea, but was an acknowledgment of improved relations between Eritrea and Ethiopia. The Netherlands stepped in to sponsor the Eritrean resolution<sup>83</sup> and ensure its continuation.<sup>84</sup> Eritrea objected to three paragraphs in the draft resolution and called for votes on these. The relevant paragraphs proposed extending the special procedures mandate, called on Eritrea to cooperate with the mandate holder, and asked the UN Secretary-General to support the mandate holder. Eritrea's proposals to excise these paragraphs were voted down. The resolution was also put to a vote. Rwanda and South Africa both failed to uphold human rights, abstaining on the paragraph and resolution votes.

In six of the 12 country situations discussed above, Rwanda's record demonstrated stronger support for human rights than that of South Africa: Burundi, Iran, Myanmar, Syria, Ukraine and Venezuela. In five cases, Rwanda and South Africa's records were the same: Belarus, Eritrea, Georgia, Nicaragua and the Philippines. There was only one country situation where South Africa's actions were more supportive of human rights than those of Rwanda: Yemen. During 2017 and 2018 South Africa almost always abstained; its only deviations were to protect the regime in Burundi. In 2019 South Africa's default position remained abstention, but despite a vote to protect the rights-violating government of Venezuela, South Africa displayed a slight but uncharacteristic turn towards human rights through its 'yes' votes on Yemen and Myanmar, the first time in the history of the HRC that South Africa voted 'yes' on an intrusive resolution on a country other than Israel. Rwanda's record is more varied than South Africa's, oscillating between abstention and support for country-specific resolutions. Only twice did Rwanda support an anti-human rights position: the 2017 African Group resolution on Burundi and the 2019 Iran and Russian-sponsored resolution to protect Venezuela.

#### 4 Civil and political rights

This part presents Rwanda and South Africa's records on civil and political rights. As in the previous part, the focus falls on resolutions on which there was voting either on the resolution or on proposals to amend it. Resolutions on civil and political rights, as well as on

83 Human Rights Council Resolution 41/1 Situation of human rights in Eritrea, UN Doc A/HRC/RES/41/1 17 July 2019.

84 'Netherlands statement to the Human Rights Council' 11 July 2019, <https://media.un.org/en/asset/k1d/k1dysgj88d> (accessed 22 July 2021).

economic, social and cultural rights, address human rights issues thematically as opposed to focusing on a specific country. Thematic resolutions typically describe a human rights problem, call on states and other actors to take action, and mandate a report on the issue, whether by the OHCHR or the special procedures mandate holder(s).

At the March 2017 session the HRC considered a draft resolution to extend the mandate of the Special Rapporteur on the Situation of Human Rights Defenders. The draft expressed ‘grave concerns ... with regard to the serious risks faced by human rights defenders due to threats, attacks, reprisals and acts of intimidation against them’ and criticised the use of legislation to hamper and criminalise the activities of human rights defenders.<sup>85</sup> Before the resolution could be adopted, however, Russia and China tabled five hostile amendments.<sup>86</sup> Some of the proposals opposed recognising human rights defenders for the work they do and singling them out for protection, proposing, for instance, to replace the term ‘human rights defenders’ with ‘those engaged in the promotion and protection of universally-recognized human rights and fundamental freedoms’.<sup>87</sup> Another amendment attempted to diminish the work and authority of the Special Rapporteur on Human Rights Defenders by seeking to replace ‘welcomes the work and takes note with appreciation of the report of the Special Rapporteur’ with the dismissive ‘takes note of the work and the report of the Special Rapporteur’.<sup>88</sup> All five the amendments were rejected through a vote. On the issue of human rights defenders, Rwanda’s record is superior to that of South Africa: Whereas South Africa abstained on all five votes, Rwanda opposed four of the amendments and abstained on a fifth.

The central component of the 2017 resolution ‘Human rights, democracy and the rule of law’ was a proposal for a forum discussion on the role of parliaments in advancing human rights, democracy and the rule of law.<sup>89</sup> The main dispute was over participants in the forum. The resolution’s sponsors preferred openness: UN institutions, academics, regional organisations, national human rights institutions, and NGOs ‘whose aims and purposes are in conformity with the

85 Human Rights Council Draft Resolution 34/L.5 Mandate of the Special Rapporteur on the situation of human rights defenders, UN Doc A/HRC/34/L.5 17 March 2017.

86 Human Rights Council Amendments to Draft Resolution L.5’, UN Docs A/HRC/34/L.42-L.45 & L.51 21 March 2017.

87 Human Rights Council Amendment to Draft Resolution A/HRC/34/L.5, UN Doc A/HRC/34/L.44 21 March 2017.

88 Human Rights Council Amendment to Draft Resolution A/HRC/34/L.5, UN Doc A/HRC/34/L.51 21 March 2017.

89 Human Rights Council Draft Resolution 34/L.20 Human rights, democracy and the rule of law, UN Doc A/HRC/34/L.20 20 March 2017.

spirit, purposes and principles' of the UN Charter. China, Pakistan and Russia, however, wanted to limit the types of NGOs that could participate. Seeking to exclude critical NGOs, the aforementioned states proposed that only NGOs that respected 'the sovereignty and territorial integrity' of states may participate.<sup>90</sup> South Africa supported their anti-human rights amendment, whereas Rwanda abstained.

Rwanda's actions on a resolution titled 'Civil society space' provide another example of it acting in a more human rights-supportive way than South Africa. An OHCHR report, published in April 2018, found that civil society organisations that participate in regional and international organisations (or seek to do so) often suffer reprisals or are thwarted by unclear accreditation procedures and decisions.<sup>91</sup> A July 2018 draft resolution addressed these problems by calling on states to respect and protect civil society organisations.<sup>92</sup> China, however, tabled three hostile amendments to the draft resolution. These sought to limit funding for civil society organisations,<sup>93</sup> demanded respect for the sovereignty of states,<sup>94</sup> and proposed to ignore the recommendations of the High Commissioner for Human Rights' on creating an enabling environment for civil society.<sup>95</sup> South Africa abstained on all three votes, whereas Rwanda abstained on only one and opposed two of the anti-human rights amendments.

In 2018 the HRC adopted another resolution in the series titled 'The promotion and protection of human rights in the context of peaceful protests'.<sup>96</sup> Unlike in 2014 and 2016, the 2018 resolution was adopted without a vote. However, there was a vote on a hostile amendment that had been sponsored by China and Russia. They proposed inserting a paragraph calling on states to 'ensure that organisers and leaders of protests are cognisant that they have duties and responsibilities with regard to the proper conduct of

90 Human Rights Council Amendment to Draft Resolution 34/L.20, UN Doc A/HRC/34/L.52 22 March 2017.

91 Procedures and practices in respect of civil society engagement with international and regional organisations: Report of the United Nations High Commissioner for Human Rights, UN Doc A/HRC/38/18 18 April 2018.

92 Human Rights Council Draft Resolution 38/L.17 Civil society space: Engagement with international and regional organisations, UN Doc A/HRC/38/L.17/Rev.1 4 July 2018.

93 Human Rights Council Amendment to Draft Resolution A/HRC/38/L.17/Rev.1, UN Doc A/HRC/38/L.37 5 July 2018.

94 Human Rights Council Amendment to Draft Resolution A/HRC/38/L.17/Rev.1, UN Doc A/HRC/38/L.38 5 July 2018.

95 Human Rights Council Amendment to Draft Resolution A/HRC/38/L.17/Rev.1, UN Doc A/HRC/38/L.39 5 July 2018.

96 Human Rights Council Resolution 38/11 The promotion and protection of human rights in the context of peaceful protests, UN Doc A/HRC/RES/38/11 16 July 2018.

those participating in the protests organised under their auspices'.<sup>97</sup> This amendment was familiar from previous years – its intention was to deflect from the responsibilities of states to protect the rights of protesting individuals.<sup>98</sup> Both Rwanda and South Africa supported the anti-human rights amendment, which was firmly rejected (23-14-8).

On another resolution dealing with the political process, 'Equal participation in political and public affairs', Rwanda and South Africa both cast the same anti-human rights vote, but South Africa's played a more active role in trying to undermine the resolution. The draft resolution remarked on the importance of 'equal and effective participation in political and public affairs' for democracy, the rule of law, economic development, gender equality, and 'for the realisation of all human rights and fundamental freedoms'. The text further endorsed OHCHR guidelines on the effective implementation of the right to participate in public affairs.<sup>99</sup> South Africa objected – spuriously (see next paragraph) – that there had been inadequate multilateral discussion on these guidelines.<sup>100</sup> South Africa joined China and Pakistan to introduce an oral amendment to emphasise that the OHCHR guidelines were voluntary.<sup>101</sup> Rwanda and South Africa voted 'yes' on the amendment.

In 2017 the HRC adopted three resolutions on racism. One of these – to renew the mandate of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia, and Related Intolerance – was adopted consensually. There was more disagreement on the other two resolutions, mainly over the criminalisation of racism. The first of these resolutions cited a 2016 General Assembly resolution<sup>102</sup> instructing the Ad Hoc Committee of the Human Rights HRC on the Elaboration of Complementary Standards to the International Convention on the Elimination of All

97 Human Rights Council Amendment to Draft Resolution A/HRC/38/L.16, UN Doc A/HRC/38/L.26 4 July 2018.

98 Human Rights Watch, 'Open letter to member states of the UN Human Rights Council' 26 March 2014, [https://www.civicus.org/images/letter\\_council\\_25\\_protest\\_oppose\\_amendments.pdf](https://www.civicus.org/images/letter_council_25_protest_oppose_amendments.pdf) (accessed 23 July 2021).

99 Human Rights Council Draft Resolution 39/L.14 Equal participation in political and public affairs, UN Doc A/HRC/39/L.14/Rev.1 28 September 2018.

100 'South Africa statement to the Human Rights Council 28 September 2018, <https://media.un.org/en/asset/k1f/k1fxx6l44> (accessed 23 July 2021).

101 'China statement to the Human Rights Council' 28 September 2018, [https://media.un.org/en/search?q=&filter-geographic=SOUTH+AFRICA&sort-by=date\\_desc&start=190](https://media.un.org/en/search?q=&filter-geographic=SOUTH+AFRICA&sort-by=date_desc&start=190) (accessed 23 July 2018).

102 General Assembly Resolution 71/181 A global call for concrete action for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action, UN Doc A/RES/71/181 31 January 2017.

Forms of Racial Discrimination to start negotiations on amending the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) to criminalise racist and xenophobic acts.<sup>103</sup> Western states felt that an expansion of ICERD was unnecessary. The EU remarked that it already criminalised certain forms of racism,<sup>104</sup> while the US maintained that the problem was not a gap in ICERD but the inadequate implementation of its provisions.<sup>105</sup> Some also complained about the process. Brazil – normally a supporter of African-led anti-racism initiatives – objected that the African Group, the resolution’s sponsor, was pushing ahead without having built the ‘necessary consensus’ and ‘common understanding’.<sup>106</sup> Unlike in the case of the ‘Equal participation in political and public affairs’ resolution, such haste did not bother South Africa which, along with Rwanda, voted for the resolution.

The second anti-racism resolution to be adopted by a vote, ‘From rhetoric to reality: A global call for concrete action against racism, racial discrimination, xenophobia and related intolerance’, covered numerous dimensions of racism.<sup>107</sup> The resolution repeated the demand that ICERD should be expanded so as to criminalise racist and xenophobic speech. Critics of this part of the resolution argued that ICERD was adequate and that more rather than less free speech was a better way to combat racist speech.<sup>108</sup>

On the HRC, both Rwanda and South Africa have positive records on matters related to sexual orientation and gender identity. Two resolutions are relevant. The first is a ‘Protection of the family’ resolution.<sup>109</sup> Dressed up as a concern about the family – a presentation of the issue that invites us to see opponents of the resolution as being against families – the resolution attacks the human rights of lesbian, gay, bi-sexual, transgender and intersex (LGBTI) persons. At the

103 Human Rights Council Draft Resolution 34/L.31 Elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination, UN Doc A/HRC/34/L.31/Rev.1 21 March 2017.

104 ‘Germany statement to the Human Rights Council’ 24 March 2017, <https://media.un.org/en/asset/k16/k1642osmo2> (accessed 23 July 2021).

105 ‘United States statement to the Human Rights Council’ 24 March 2017, <https://media.un.org/en/asset/k16/k1642osmo2> (accessed 23 July 2021).

106 ‘Brazil statement to the Human Rights Council’ 24 March 2017, <https://media.un.org/en/asset/k16/k1642osmo2> (accessed 23 July 2021).

107 Human Rights Council Resolution 36/24 From rhetoric to reality: A global call for concrete action against racism, racial discrimination, xenophobia and related intolerance, UN Doc A/HRC/RES/36/24 9 October 2017.

108 ‘Latvia statement to the Human Rights Council’ 29 September 2017, <https://media.un.org/en/asset/k1t/k1tysaj3st> (accessed 23 July 2021); ‘United States statement to the Human Rights Council’ 29 September 2017, <https://media.un.org/en/asset/k1t/k1tysaj3st> (accessed 23 July 2021).

109 Human Rights Council Resolution 35/13 Protection of the family: role of the family in supporting the protection and promotion of human rights of older persons, UN Doc A/HRC/RES/35/1 6 July 2017.

heart of the matter is the definition of the family. Egypt, the leader of the resolution,<sup>110</sup> defines the family as a unit with a married man and woman at its head. This denies that a family with parents of the same sex, for instance, in fact constitutes a family. In the past, opponents of the resolution tried to expand the resolution's definition of the family to include, among others, families headed by same-sex parents. In line with such past attempts, in 2017 the EU proposed to amend the 'Protection of the family' resolution by adding the recognition 'that, in different cultural, political and social systems, various forms of the family exist'.<sup>111</sup> South Africa supported the EU's proposal while Rwanda abstained. In a second proposed amendment, Switzerland sought to convey the plurality of family forms by proposing that part of the resolution's title be changed from 'role of the family' to the 'role of families'.<sup>112</sup> South Africa also supported this amendment while Rwanda again abstained. Both amendments were voted down. The resolution was adopted, with both Rwanda and South Africa, to their discredit, voting 'yes'.

The second and more directly relevant resolution is the 2019 text, 'Mandate of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity'.<sup>113</sup> Rwanda and South Africa's record on this resolution is far superior to that of their African peers. The draft resolution proposed extending the mandate of the Independent Expert by another three years and called on states to cooperate with the mandate holder.<sup>114</sup> The draft resolution was subject to ten OIC-sponsored hostile amendments. These amendments included proposals to cut the term 'sexual orientation' from the resolution,<sup>115</sup> to refocus the resolution on racial discrimination,<sup>116</sup> and to claim that sexual orientation and gender identity (SOGI) matters were 'private' and thus not an international human rights issue.<sup>117</sup> South Africa opposed

110 In 2017 the main sponsors of the 'Protection of the family' Resolution were Bangladesh, Belarus, China, Côte d'Ivoire, Egypt, El Salvador, Mauritania, Morocco, Qatar, the Russian Federation, Saudi Arabia, Tunisia and Uganda.

111 Human Rights Council Amendment to Draft Resolution 35/L.21, UN Doc A/HRC/35/L.45 20 June 2017.

112 Human Rights Council Amendment to Draft Resolution 35/L.21, UN Doc A/HRC/35/L.47 20 June 2017.

113 Human Rights Council Draft Resolution 41/L.10 Mandate of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, UN Doc A/HRC/41/L.10 5 July 2019.

114 As above.

115 Human Rights Council Amendment to Draft Resolution 41/L.10/Rev.1, UN Doc A/HRC/41/L.27 10 July 2019.

116 Human Rights Council Amendment to Draft Resolution 41/L.10/Rev.1, UN Doc A/HRC/41/L.30 10 July 2019.

117 Human Rights Council Amendment to Draft Resolution 41/L.10/Rev.1, UN Doc A/HRC/41/L.32 10 July 2019.



all ten hostile amendments while Rwanda opposed six and abstained on four. Both countries voted for the resolution.

Between 2017 and 2019 the HRC adopted numerous resolutions related to women's rights. All were adopted without a vote, but prior to adoption seven resolutions were subjected to hostile amendments: three on discrimination against women, three on violence against women, and one on forced marriage. Typical among the hostile amendments were proposals to delete a call on states to provide 'comprehensive sexuality education',<sup>118</sup> to condone marital rape by deleting mention of 'intimate partner violence' from a paragraph condemning gender-based violence,<sup>119</sup> and to diminish the rights of women to control matters regarding their sexuality.<sup>120</sup> In total, there were 18 hostile amendments related to the aforementioned seven women's rights resolutions. South Africa opposed 16 and abstained on two. Rwanda opposed 17 and was absent for one of the votes.

The HRC adopted resolutions on the death penalty in 2017 and 2019. The records of Rwanda and South Africa on these are uneven but overall affirmative of human rights. During both adoptions, the resolutions were subjected to various hostile amendment proposals – seven in 2017 and four in 2019. The amendments mostly concerned two issues: The first was to detract from the seriousness of the death penalty as a violation of the right to life by, for example, downplaying an OHCHR report on the death penalty<sup>121</sup> or seeking to change the sentence 'strongly deploring the fact that the use of the death penalty leads to violations of the human rights of the persons facing the death penalty'<sup>122</sup> to one that begins with 'strongly deploring the fact that the use of the death penalty may in some cases lead ...'<sup>123</sup> Second, a number of amendments insisted that the use of the death penalty was a national rather than an international decision.<sup>124</sup> In 2017 Rwanda's record clearly was more supportive of human rights than South Africa's. While both countries voted for the resolution, South Africa abstained on all seven hostile amendment

118 Human Rights Council Amendment to Draft Resolution 35/L.15, UN Doc A/HRC/35/L.40 20 June 2017.

119 Human Rights Council Amendment to Draft Resolution 38/L.1/Rev.1, UN Doc A/HRC/38/L.35 5 July 2018.

120 Human Rights Council Amendment to Draft Resolution 41/L.6/Rev.1, UN Doc A/HRC/41/L.46 10 July 2019.

121 Human Rights Council Amendment to Draft Resolution 36/L.6, UN Doc A/HRC/36/L.38 27 September 2017.

122 Human Rights Council Draft Resolution 36/L.6 The question of the death penalty, UN Doc A/HRC/36/L.6 22 September 2017.

123 Human Rights Council Amendment to Draft Resolution 36/L.6, UN Doc A/HRC/36/L.37 27 September 2017 (proposed addition in italics).

124 Human Rights Council Amendment to Draft Resolution 36/L.6, UN Doc A/HRC/36/L.41 27 September 2017; Human Rights Council Amendments to Draft Resolution A/HRC/42/L.37, UN Docs A/HRC/42/L.39-40 25 September 2019.



votes whereas Rwanda opposed five of them and abstained on the remaining two. In 2019 South Africa had the better record. South Africa opposed all four anti-human rights amendments and then voted 'yes' on the resolution. Rwanda similarly voted 'yes' on the final resolution but, inconsistent with this vote, supported three of the hostile amendments while opposing the fourth.

In four of the nine civil and political rights issues discussed above, Rwanda's record demonstrated a stronger commitment to human rights than that of South Africa: human rights defenders; democracy and the rule of law; civil society space; and equal participation in politics. In four of the cases Rwanda and South Africa's records were the same: peaceful protest; racism; women's rights; and the death penalty. South Africa had the better record on only one issue, namely, SOGI.

Rwanda's record was positive on six issues (human rights defenders; civil society space; racism; SOGI; women's rights; the death penalty) and clearly negative on two (peaceful protests and equal participation). South Africa's record was positive on four issues (racism; women's rights; SOGI; the death penalty) and negative on three (human rights defenders; peaceful protests; democracy and the rule of law).

## 5 Conclusion

On the HRC, Rwanda has been a much stronger defender of human rights than South Africa. Rwanda is an authoritarian state that is overall supportive of human rights at the HRC. South Africa is a democratic state that overall does not support human rights at the HRC.

The above conclusions are based on the general patterns of behaviour that Rwanda and South Africa displayed on the HRC from 2017 to 2019. In drawing these conclusions, the key consideration was whether or not Rwanda and South Africa's actions were supportive of pro-human rights voting options with the purpose of examining the frequent claim that only states that respect human rights domestically should be HRC members.

This article did not delve into the motivations for Rwanda and South Africa's actions. A brief reflection on possible explanations of Rwanda and South Africa's records might nevertheless be helpful.

There is a dearth of research on Rwandan foreign policy.<sup>125</sup> Moreover, at the HRC Rwanda seldom explained its votes – from 2017 to 2019 Rwanda made only 20 statements during the 30 weeks' worth of general sessions over this period.<sup>126</sup> Rwanda's statements mostly affirmed the importance of the responsibility to protect,<sup>127</sup> combating genocide,<sup>128</sup> sustainable development,<sup>129</sup> and the work of select human rights mechanisms and mandate holders.<sup>130</sup> In a few statements Rwanda disputed accusations of reprisals against government critics<sup>131</sup> and of Rwandan interference in the Democratic Republic of the Congo (DRC).<sup>132</sup> Nevertheless, existing scholarship on Rwandan foreign relations suggest at least three possible explanations of Rwanda's actions on the HRC. The first is that Rwanda is concerned with maintaining and exploiting a 'genocide credit' with the outside world. This involves emphasising Rwandan victimhood and reminding the international community of its failure to prevent the genocide in 1994. The purpose of this strategy is to forestall or deflect criticism of the regime and to gain leverage over international actors.<sup>133</sup> On the HRC, Rwanda regularly raises the issue of genocide and occasionally the international community's role in preventing it,<sup>134</sup> and in March 2018 co-sponsored the resolution 'Prevention of genocide'.<sup>135</sup> However, the 'genocide credit' explanation falls short. During the period under study, Rwanda did not invoke the 1994 genocide when responding to critics on the HRC.<sup>136</sup> This explanation also cannot account for actions in which neither Western guilt nor criticism of Rwanda is at stake.

125 A Bolin 'The strategic internationalism of Rwandan heritage' (2021) 15 *Journal of Eastern African Studies* 490.

126 This figure is based on the reports of the nine general sessions that took place from 2017 to 2019.

127 'Rwanda statement to the Human Rights Council' 8 March 2018, <https://media.un.org/en/asset/k1a/k1atn7tuyo> (accessed 13 November 2021).

128 'Rwanda statement to the Human Rights Council' 23 March 2018, <https://media.un.org/en/asset/k1n/k1n9x1cqin> (accessed 13 November 2021).

129 'Rwanda statement to the Human Rights Council' 19 June 2017, <https://media.un.org/en/asset/k1d/k1d103himi> (accessed 15 November 2021).

130 'Rwanda statement to the Human Rights Council' 28 June 2019, <https://media.un.org/en/asset/k1u/k1u3779xoi> (accessed 15 November 2021).

131 'Rwanda statement to the Human Rights Council' 19 June 2018, <https://media.un.org/en/asset/k1b/k1bxf29hxs> (accessed 14 November 2021).

132 'Rwanda statement to the Human Rights Council' 27 September 2018, <https://media.un.org/en/asset/k1z/k1zw254hec> (accessed 14 November 2018).

133 F Reyntjens 'Constructing the truth, dealing with dissent, domesticating the world: Governance in post-genocide Rwanda' (2011) 110 *African Affairs* 33; Bolin (n 125) 491.

134 'Rwanda statement to the Human Rights Council' 14 September 2018, <https://media.un.org/en/asset/k1i/k1irb63keg> (accessed 15 November 2021).

135 Human Rights Council Resolution 37/26, Prevention of genocide, UN Doc A/HRC/RES/37/26 6 April 2018.

136 'Rwanda statements to the Human Rights Council' 19 June 2018, <https://media.un.org/en/asset/k1b/k1bxf29hxs>, and 27 September 2018, <https://media.un.org/en/asset/k1z/k1zw254hec> (accessed 14 November 2018).

A second potential explanation holds that Rwanda is highly dependent on foreign aid. Thus, perhaps its pro-human rights record at the HRC is a case of pleasing the Development Assistance Committee (DAC) donors of the Organisation for Economic Co-operation and Development (OECD), which provide the bulk of Rwandan assistance. However, a number of considerations steer one away from this explanation. First, Rwanda has hardly been the only aid-dependent African country on the HRC, yet none match its support for international human rights.<sup>137</sup> Second, the emergence of China as a major donor to African states, including to Rwanda, has decreased Western leverage over it.<sup>138</sup> Third, despite its political repression at home and its aggressive actions in the DRC, Rwanda has remained such a 'donor darling' that its actions on the HRC are unlikely to have much impact on aid levels. Indeed, Grimm reports that Rwanda appears unconcerned about losing the DAC's support.<sup>139</sup>

A third, more convincing explanation has to do with maintaining good relations with influential international actors. Following Beswick's argument, the fear of the ruling Rwandan Patriotic Front (RPF) is that international donors will switch support to the RPF's domestic opponents or insist on political liberalisation. Both outcomes would weaken the RPF's hold on power. Indeed, in their analysis of why 'competitive authoritarian' regimes become more democratic, Levitsky and Way point out that strong Western linkages with regime opponents deeply threaten the incumbents.<sup>140</sup> One way for incumbents such as the RPF to keep influential Western actors on their side is, as Beswick points out, to show a commitment to ideals that are important to international donors. Participating in international peacekeeping is one such activity.<sup>141</sup> Indeed, at the HRC Rwanda regularly draws attention to its peacekeeping activities.<sup>142</sup> Another ideal important to the West is support for human rights. By supporting human rights on the HRC and being positive about the

137 E Jordaán (ed) 'African states at the UN Human Rights Council in 2017' South African Institute for International Affairs, 10 September 2019, <https://saiaa.org.za/research/african-states-at-the-un-human-rights-council-in-2017/> (accessed 15 November 2021); Jordaán (n 27).

138 S Grimm 'Aid dependency as a limitation to national development policy? The case of Rwanda' in W Brown & S Harman (eds) *African agency in international politics* (2013) 94.

139 Grimm (n 138) 87.

140 S Levitsky & L Way *Competitive authoritarianism: Hybrid regimes after the Cold War* (2010). It should be noted that Levitsky and Way do not regard Rwanda as a competitive authoritarian regime – its politics are not competitive enough.

141 D Beswick 'From weak state to savvy international player? Rwanda's multi-level strategy for maximising agency' in W Brown & S Harman (eds) *African agency in international politics* (2013) 163.

142 'Rwanda statement to the Human Rights Council' 13 September 2018, <https://media.un.org/en/asset/k1r/k1rneb7xze> (accessed 16 November 2021).

institution itself,<sup>143</sup> the Rwandan regime strengthens its relationship with Western donors and thereby reduces the likelihood of a 'perfect storm',<sup>144</sup> an alignment between donors and the domestic opposition. While this perspective might explain Rwanda's general record, it cannot account for short-term variations, such as Rwanda switching from a 'yes' to an abstention on the same issue from one year to the next.

What about South Africa's motivations on the HRC? One perspective suggests that South Africa's foreign policy indeed is supportive of international human rights if we understand human rights more expansively than the liberal version, which is to say, inclusive of 'broader questions of global socio-economic, political, and racial justice'.<sup>145</sup> However, even if one applied a broader conception, South Africa still would not qualify as an international defender of human rights. Opposing peaceful protest, for instance, cannot be defended from a human rights perspective, especially not from the perspective of the South African Constitution, which South Africa frequently invokes at the HRC. A second explanation sees South Africa as constrained by its desire to be a leader of Africa and the Global South.<sup>146</sup> These regions contain many human rights violators – if South Africa wants to be their leader it must shield these states by opposing country-specific and civil and political rights resolutions. However, such an explanation is unconvincing. The aforementioned regions do not all have the same human rights records nor do they all hold the same view at the HRC.<sup>147</sup> Such diversity means that South Africa has a choice about how it interprets 'African' or 'Global South' positions. Moreover, South Africa on occasion has voted against its usual allies to defend a position it believes in, such as on human rights related to sexual orientation and gender identity, a matter that damaged South Africa's relations with African states.<sup>148</sup>

A third explanation focuses on the influence of significant individual actors in the foreign policy-making process, such as presidents, foreign ministers, ambassadors, civil servants and civil

143 'Rwanda statement to the Human Rights Council' 9 March 2017, <https://media.un.org/en/asset/k1v/k1vkw6v2> (accessed 15 November 2021).

144 Beswick (n 141) 173.

145 F Nganje & O Ayodele 'South African foreign policy' Oxford Research Encyclopedia: International Studies (2021), <https://oxfordre.com/internationalstudies/view/10.1093/acrefore/9780190846626.001.0001/acrefore-9780190846626-e-611> (accessed 10 September 2021).

146 Alden & Schoeman (n 4).

147 Jordaan (n 27); Jordaan (n 137).

148 P Fabricius 'Human rights top SA's foreign policy' *Independent Online* 12 September 2011, <https://www.iol.co.za/the-star/human-rights-top-sas-foreign-policy-1135404> (accessed 13 November 2021).

society actors.<sup>149</sup> Such a perspective can account for changes in South Africa's HRC positions from one year to the next, but struggles to specify what has provided the consistency to South Africa's positions over the longer term. A fourth explanation argues that South Africa is motivated by 'anti-imperialism', a perspective that sees international politics as a conflict between the Global North and South. This perspective can explain South Africa's resistance to country-specific resolutions and to addressing human rights problems that are more prevalent in the Global South, such as violations of civil and political rights, and can also account for South Africa's support for addressing human rights problems that are found in all states (violations of the rights of women and LGBTI persons) or mostly in the West (racial discrimination against people of African origin).<sup>150</sup> One shortcoming of the anti-imperialism explanation is its difficulty in accounting for changes in South Africa's positions.

Rwanda and South Africa's behaviour on the HRC also poses difficulties for theoretical predictions on the relationship between domestic democracy and respect for human rights, on the one hand, and international support for human rights, on the other, discussed in part 2 above. Contradicting what liberalism leads us to expect, South Africa's open political system and access for human rights defenders to the foreign policy-making process did not result in a pro-human rights foreign policy, while a closed and repressive political system in Rwanda, one in which human rights defenders have been driven from the field, yielded strong support for international human rights. Constructivism can also not explain Rwanda and South Africa's records. Bluntly put, the prominence of human rights in South Africa's national identity did not find expression in a defence of human rights on the HRC. Rwanda defines itself as a 'post-genocide people'.<sup>151</sup> As noted above, matters related to genocide figure prominently in Rwanda's activities on the HRC, but this part of Rwanda's identity cannot explain its positive record on the HRC. Indeed, Rwanda's approach to preventing genocide is incompatible with human rights – Rwanda's need to prevent another genocide has justified repression at home and mass atrocities in the DRC.<sup>152</sup>

149 Eg, L Masters 'South Africa's post-apartheid foreign policy making and the role of the President' (2017) 36 *Politeia* 1.

150 E Jordaan *South Africa and the UN Human Rights Council: The fate of the liberal order* (2020).

151 JR Beloff 'Rwanda, Israel, and Operation Protective Edge' (2016) 10 *Israel Journal of Foreign Affairs* 105.

152 Reyntjens (n 133).

Realism can explain some of the actions of Rwanda and South Africa. From the realist perspective, human rights are useful for allowing states to mask their self-interest. One way to do so, as Kofi Annan has lamented,<sup>153</sup> is to use human rights to criticise one's enemies. Rwanda, for instance, used human rights to criticise<sup>154</sup> and support international pressure on Burundi, a neighbour with which Rwanda for two decades has had an antagonistic relationship<sup>155</sup> and with which at the time it had broken off diplomatic relations.<sup>156</sup> Similarly, other studies have documented South Africa's frequent and sharp criticisms of Western states on the HRC.<sup>157</sup> Furthermore, Beswick's above-mentioned argument – that Rwanda supports human rights at the HRC to maintain a good relationship with Western donors to prevent them from shifting their allegiance to the domestic opposition – also conforms to realism's allowance for using human rights instrumentally for reasons of national self-interest. What realism cannot explain is when states adopt a principled position that pits them against their friends and groups them with their enemies, such as South Africa's support for rights related to sexual orientation.

The records of Rwanda and South Africa on the HRC further challenge the findings of various empirical studies on the determinants of human rights voting at the UN. Most directly, Rwanda and South Africa's actions contradict studies that have found a positive relationship between domestic democracy and respect for human rights and voting on human rights at the UN. Rwanda's performance – but not South Africa's – also poses problems for those who see the region's human rights profile as the most important determinant of UN human rights voting. In 2019, for instance, only eight out of 54 African states were regarded as 'free',<sup>158</sup> while only two of the 13 African Group HRC members in 2019 were free.<sup>159</sup> According to Boockmann and Dreher, we should expect Africa's poor overall

153 Annan (n 1) para 182.

154 Rwanda statement to the Human Rights Council' 19 September 2017, <https://media.un.org/en/asset/k1q/k1qn5qpb4i> (accessed 14 November 2021).

155 F Reyntjens 'Path dependence and critical junctures: Three decades of interstate conflict in the African great lakes region' (2020) 20 *Conflict, Security and Development* 756.

156 F Reyntjens 'Burundi is trying to come in from the cold' *World Politics Review* 25 August 2021, <https://www.worldpoliticsreview.com/articles/29913/rwanda-burundi-relations-normalize-amid-ndayishimiye-s-charm-offensive> (accessed 10 November 2021).

157 Jordaan (n 150).

158 Botswana, Cape Verde, Ghana, Mauritius, Namibia, São Tomé and Príncipe, South Africa and Tunisia.

159 South Africa and Tunisia; Freedom House 'Freedom in the world 2020: A leaderless struggle for democracy' (2020), [https://freedomhouse.org/sites/default/files/2020-02/FIW\\_2020\\_REPORT\\_BOOKLET\\_Final.pdf](https://freedomhouse.org/sites/default/files/2020-02/FIW_2020_REPORT_BOOKLET_Final.pdf), (accessed 23 July 2021).

record to drag down Rwanda and, despite its domestic respect for human rights, South Africa as well. Rwanda, however, has managed to defy the drag of its region to post a positive record on the HRC.

Whatever the awkwardness that the cases of Rwanda and South Africa might cause for existing studies on human rights foreign policy, their inverted relationship between domestic and international support for human rights suggests that demands that the HRC should only have members with respectable domestic human rights records should be tempered because such an insistence might include states such as South Africa that are hostile to international human rights and exclude states such as Rwanda that are willing to defend international human rights. Although this conclusion is based on an analysis of two countries, a further analysis of the HRC records of democracies such as India, Indonesia and Namibia<sup>160</sup> is likely to reveal that the disjuncture described in this study may also be found elsewhere.

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<sup>160</sup> For older discussions of India's record on the HRC, see R Jenkins & E Mawdsley 'Democratic emerging powers and the international human rights system' Friedrich Ebert Stiftung (2013), <https://library.fes.de/pdf-files/iez/global/10202.pdf> (accessed 14 November 2021); E Jordaán 'Rising powers and human rights: The India-Brazil-South Africa Dialogue Forum at the UN Human Rights Council' (2015) 14 *Journal of Human Rights* 463.