

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

Date 19 October 2012
AI Index: IOR 40/022/2012

New UN Security Council members must safeguard gains and halt rollback in human rights in UN Body

Amnesty International appeals to the newly-elected members of the Security Council to commit to strengthening the role of this most powerful UN body in the protection of human rights and the consolidation of international justice.

Elected to serve for two years starting on 1 January 2013, Argentina, Australia, Luxembourg, Republic of Korea and Rwanda will join a Council that, despite the progress made in the last three decades especially to make human rights and human security part of its agenda, is still too often hobbled by selectivity and self-interested political wrangling when faced with gross violations and crimes under international law. The Council's inability over the last 18 months to unite and firmly demand an end to crimes against humanity, war crimes and other human rights abuses in Syria is appalling evidence of its most glaring problems. Its imperfect record of consistency towards the International Criminal Court and equally inconsistent approach to integrating human rights in the operations it mandates or endorses are persistent sources of concern, as is the ever present risk of backsliding on seemingly irreversible achievements.

And yet the Council since the end of the Cold War has acquired powerful tools to tackle violations of human rights and international humanitarian law, protect civilians in armed conflict, including children at risk, address gender-based human rights violations and ensure accountability for crimes under international law. The Council has, for example, asked the Prosecutor of the ICC to examine the situations in Darfur, Sudan in 2005, and Libya in 2011. These two referrals to the Prosecutor were all the more remarkable because three of the Council's permanent members, without whose acquiescence the referrals could not have gone ahead, are not parties to the Rome Statute, the treaty that established the ICC.

In another groundbreaking move, the Council in 2005 established its Working Group on Children and Armed Conflict, an innovative mechanism composed of all Council members that works to prevent the recruitment of child soldiers, obtain their liberation or demobilization, and facilitate their re-integration into society. In the event that its recommendations are not followed, the working group may request the Council to apply sanctions on governments or rebel groups using children to wage conflict.

The Security Council's action on the protection of civilians in armed conflict (PoC) was enshrined in Resolution 1674, unanimously adopted on 28 April 2006. The resolution reaffirmed the principle of each Member State's responsibility to protect its civilian populations and provided a legal and political framework governing possible Council intervention to end massive human rights violations. States are also obliged to end impunity and to investigate those who may be responsible for genocide, crimes against humanity, war crimes and other crimes under international law. The protection of civilians is now formally near the top of the Council's agenda, and is part of peacekeeping operations it has established. Indeed, it is the main priority of the UN peace mission in the DRC.

The Security Council recognised women as active agents of positive change in peace-making and building in resolution 1325 (2000) on women, peace and security, as well as resolutions 1820, 1888, 1889 and 1960. This means that the Council is bound to ensure its actions call for women to be included as active and full participants, on an equal basis with men, at all stages of conflict prevention, (formal and informal) peace processes, and in transitional justice efforts.

But formal acceptance of norms, standards and practices does not guarantee their consistent application. The Council acted quickly to protect civilians in Libya, yet it is paralysed on Syria, in part because of the way its mandate was discharged in the former. And despite the widespread recognition of the importance of the work of the different mechanisms created to address the situation of children involved in armed conflict, the Council on 19 September 2012 could not unanimously approve a traditionally routine resolution on the subject because a Council member objected to how it was portrayed in a report by the expert on children in armed conflict. This was another demonstration of how political considerations and sensitivities can still trump substantive concerns.

The backsliding on a number of areas compounds the negative effects some Council practices can have on protection of human rights, justice and dignity. The irresponsible use, or threat of use, of the veto, has come to the fore recently. Russia and China have used it repeatedly to prevent firm action on Syria, while the United States uses it repeatedly to shield the Israeli government in the Council.

In this tenth anniversary year for the ICC, its relationship with the Council has received special attention. In both the Darfur and Libya situations, the work of the ICC has been undermined by flaws in the relevant Council resolutions (respectively 1593 and 1970) and the failure of the Council to support the ICC's work and insist on state cooperation. In particular, there is no reasonable basis for the Council's decision only to urge and not require all states to cooperate with the Court, especially in the area of arrest and surrender of ICC suspects.

The newly-elected members cannot be expected to remedy all the Council's shortcomings. But any given configuration of the Council is only as good as its members. Elected members, though possessing lesser powers than the five permanent ones, can have considerable influence on the Council's agenda and operation. They also have a measure of legitimacy, and a responsibility of representation, conferred by the fact that they are elected by the full membership of the United Nations. Amnesty International looks to them to exercise leadership and responsibility in not only preventing any rollback of progress made in the Council to protect human rights and advance international justice, but to advance that work at every opportunity.

Amnesty International urges the newly-elected members to:

- support the referral of the situation in Syria to the ICC Prosecutor without further delay;
- call on permanent members not to use their veto power to block Council action aimed at preventing or ending genocide, crimes against humanity or war crimes;
- demonstrate strong support for the ICC by working towards a consistent approach to referrals from the Council to the ICC;
- follow-up on referrals by insisting on cooperation, including responding promptly to instances of non-cooperation referred to it by the ICC;

- safeguard the progress achieved in the area of children and armed conflict, and in particular the integrity of the mandate of the SRSG and the working group of the Security Council as well as the reporting mechanism of the Secretary-General;
- take concrete, measurable steps to ensure effective implementation of Council resolution 1325 (2000) on women, peace and security, as well as resolutions 1820, 1888, 1889 and 1960. This entails genuinely recognizing women as active agents of positive change, and to be included as active and full participants, on an equal basis with men, at all stages of conflict prevention, peace processes, and in transitional justice efforts. The Council must ensure accountability for violations of women's human rights and crimes of sexual violence in conflicts;
- ensure that all operations established, endorsed or renewed by the Council have adequate human rights components and guidance and are able to report publicly as appropriate on this aspect of their work