

The utility of the UN Human Rights Council concerning Asia: Opportunities and Obstacles

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This essay had initially intended to shed light on the United Nations Human Rights Council and the so-called 2011 Review, under which the international system's apex human rights body was undergoing a reevaluation of its working methods and mechanisms. When the Council was established in 2006, to replace the discredited Commission on Human Rights, it was to undergo the so-called "2011 Review" after five years of existence, in order to address any lacuna in the system and to fine-tune or improve its mechanisms and working methods. The review actually began in 2010 and by the early days of 2011 it was becoming clear that it would lead to little change to the system, and that the status quo would prevail.

A few days ago, on 14 June 2011, the UN General Assembly adopted a resolution completing the review of the Human Rights Council, with 154 votes in favour to four against (Canada, Israel, US, Palau) and no abstentions. The final resolution contains only a few technical changes, but no significant new measures that would help improve the Council's functioning or, importantly, help to enforce the membership standards foreseen in Resolution 60/251 that established the Human Rights Council. Ensuring better enforcement of membership criteria had been one of the main sticking points of the negotiations, with Western States desiring a stronger outcome that would place more stringent requirements on States wishing to become members of the Council.

To many NGOs, the review process has been a disappointment, as there was an evident need to improve some key aspects of the system, alongside the membership issue mentioned above, in particular to strengthen the Council's Special Procedures—comprising independent experts and working groups on a number of key human rights themes and country situations—as well as to improve the way that the Council deals with urgent situations across the world and the way in which individual States cooperate with the Council as a whole. The Asian Legal Resource Centre (ALRC), the Asian Human Rights Commission's (AHRC) sister-organization, collaborated in a number of global civil society efforts to bring about such improvements, but the States conducting the review had little stomach to take on such a task at the time.

Conversely, and perhaps even perversely, given the frailty of human rights around the world, the fact that the status quo was reaffirmed was not in fact a terrible outcome. It could have been worse. The 2011 Review was also an opportunity for those States that act to undermine the strength and capacity for action of the international human rights system to wreak havoc in the system, imposing constraints on the Council's more functional, independent components. That this was avoided was a positive achievement, if perhaps hard to sell to victims of abuses around the world.

Given the relative lack of noteworthy outcomes from the 2011 Review, the initial purpose of the essay to concentrate on this process is less attractive now. Instead, it may be of greater interest to look at how effective the Human Rights Council can be concerning the range of human rights abuses, both acute and endemic, that are encountered across the

Asian region and the world. While the review of the Council was at best uninspiring, alongside this, the Council has in fact been acting more effectively and positively over the last year, although this has not always been the case. This following appraisal is based on over ten years of experience working for NGOs in Geneva, where the Council is based, as well as Asia, which have allowed me to attend nearly all of the sessions of the Human Rights Commission and the Human Rights Council since early 2001, and to chart its ups and downs.

It must be underlined that the ideas and views expressed below are the fruit of personal reflection and not the official position of the ALRC or AHRC. Different persons and NGOs have different expectations and levels of understanding about the Human Rights Council. A key obstacle for NGOs to make effective use of the system, in my view, is the lack of understanding of its political and systemic limitations and realities.

A decade of difficulties

I first participated in the then-Commission on Human Rights in March 2001. A few months later, on September 11, the terrorist attack on the twin towers of the World Trade Centre took place in New York and would have a profound impact on geopolitics and the struggle to advance human rights across the world. A key thing to understand is that which affects the global political climate, directly affects the Human Rights Council. As a political body, the struggles between nations and groups of nations, play out under the guise of discourse on human rights within the Council. The serious increase in tensions which have plagued the world since 9/11 have created disagreements within the Council that have stymied efforts to advance rights on many fronts.

Countries that had previously been amongst the standard-bearers for human rights at the international level, including members of the European Union (EU) and the US, began to question the absolute nature of the prohibition of torture and, as was later revealed, engaged in renditions and the outsourcing of torture to other countries. The effect that this has had on the prospect of the advancement of human rights globally has been significant. Even though the number of cases of torture attributable to the US, EU or their proxies may not be vast, notably as compared with the number that can be encountered in the many countries in Asia where torture is endemic, it is the lack of leadership at the global level concerning human rights that has held back a great deal of possible progress during the period since 9/11. When the US and EU falter in their leadership, no State from other regions steps up to fill the void. While it is easy to blame the US and EU for their actions, the lack of action by all other States is a sorry indicator of their lack of credibility concerning human rights, and shows the extent of the challenge ahead to make human rights a reality around the world. All States when speaking at the Human Rights Council claim to be champions of human rights in one way or another, but in practice this is, of course, far from the truth.

Backtracking on issues such as torture, arbitrary detention, forced disappearance, fair trial and extrajudicial killing that have all come as a result of challenges to human rights in the age of counter-terrorism, have provided those governments with little intention of

upholding human rights with tailor-made justifications that they have used, often with some success, to repel criticism of their use of torture, disappearances and other such violations. In this context, work at the international level, including with the UN's top human rights institutions, has been a frustrating pursuit. For a person working for an NGO that documents hundreds of cases of torture, disappearances and the like, trying to work to get such issues to move forwards against a prevailing climate of regression can be very trying. Having to sit in a room and listen to representatives of governments such as Bangladesh, Thailand, Sri Lanka, Pakistan or India, to name but a few, lecture the world on aspects of human rights and vote to decide the direction of decision-making on human rights standards at the international level, while they are engaged in carrying out or acquiescing to endemic, widespread and brutal human rights violations at the domestic level, leaves a particularly bad taste in the mouth. It is easy to be dissuaded from the international system as a result, or to argue that it is discredited, dysfunctional and a waste of time. But where does that leave us in terms of being able to address the many human rights abuses that continue to be perpetrated across the world and, in particular, here across Asia? To expect the Council to be better than its component parts—namely States, the majority of whom are engaged in widespread and numerous forms of abuse—is unrealistic. The key, in my opinion, is to use the Council as a means to pressure States into respecting human rights more than they would if they were left to their own devices, beyond international scrutiny of the type that the UN system provides.

From Commission to Council—Old dogs with new tricks?

During the decade since 2001, we have seen many fundamental rights challenged at the international level. Despite this, there was also pressure from many quarters to have the international system's human rights body reformed. While the system did need to be reformed, and in fact still does, the timing of the reforms undertaken was questionable. Many NGOs were increasingly being highly critical of the UN's Commission on Human Rights, which was seen as not being able to address human rights during this period of uncertainty. NGOs and some predominantly Western States wanted a UN body that could be more effective and called for the system to be reformed. However, this was seen by the majority of UN member-States, who remain at least suspicious and at worst openly hostile to human rights, as an opportunity to undermine the international system through reform, rather than to strengthen it. It can be seen as having been incredibly naïve to have engaged in reforming the UN human rights system at a time when many fundamentals were being questioned, when there was a lack of international leadership (notably with a weakening, expanding EU, and with the US being deeply anti-UN and isolationist under President Bush), and when significant tensions were evident at the international level as a result of a growing schism between the West and the Muslim world in the post 9/11 period.

As a result, the reform process risked producing a new international human rights system that was weaker than that which preceded it. The jury actually still remains out in some respects as to whether this is in fact the case or whether the Human Rights Council is an improvement upon its predecessor. Under the Commission on Human Rights' Item 9, strong resolutions on specific countries were possible. While many argue that this naming and shaming process was not constructive, and while it is true that these resolutions were

typically ignored by the countries in question, the stick and carrot approach was successful in several cases. The threat of having a country resolution issued against Nepal in 2005 resulted in the government there doing a deal to allow a country presence for the Office of the High Commissioner for Human Rights, for example, which had a significant positive effect in reducing forced disappearances and may have contributed to bringing about the end of the war there. The Human Rights Council favours cooperation over condemnation, and, given the typically non-cooperative nature of governments that are engaged in grave human rights violations, this process can be seen as being intrinsically flawed. The Council can be seen as being armed only with a carrot and lacking a much needed stick.

Ultimately, however, in reality States will only cooperate with the international system if it is in their interest to do so, and the threat of a country resolution by the Commission or Council is only a small additional factor compared with the more significant pressures and incentives that result from bilateral relations between States or groups of States. The international, multilateral system is only truly dependent on relations between States in order to function—the relation of any State with the UN is evidently significantly secondary. It can be easy to criticize the UN system if it appears to be failing in fulfilling its lofty objectives, but those who do so, often fail to pin the blame on the cause of this failure—the failure of relations between States to deliver positive outcomes.

In evaluating the role that the Human Rights Council can play, we therefore need to consider the geopolitical climate and to see how NGOs can play a role within this to bring about improvements. While the Commission has been replaced by the Council, the same old dogs—States—remain in place at the heart of the system. The UN is not an entity unto itself that has any real supra-national power—it remains a system that is controlled, financed and driven by States. Some of its components do have a certain amount of independence to speak and act, such as the High Commissioner for Human Rights and her office, but the UN's Human Rights Council is a body comprising States and only States. NGOs often look to this international body as if it is an expert body that can act with one voice to protect and promote human rights, and intervene to address their concerns with ease. However, it is not an independent expert body that acts without obstacle to intervene wherever there are human rights concerns. It is a body made up of States—often the very same States that were members of the discredited Commission on Human Rights. Therefore, we have to ask whether it is possible to teach old dogs new tricks?

States don't suddenly become altruistic when they step into the Council room. The Commission on Human Rights was discredited due to the double standards and selectivity that were rife within it. However, such politicization, double standards and selectivity can all still be seen in the Human Rights Council, and in fact go hand in hand with any system based on State membership. Should we therefore write off the Council too, or should we try to ensure that this set of realities can still operate in favour of human rights?

The Council is, in reality, driven by the interests of States, which are by definition political, selective and often beset by double standards. Action by the Council can only result when the aggregate of such interests is in favour of such action. In this way it does not differ at all from the Commission, except from the fact that the composition of the Council now

includes a greater proportion of States from Africa and Asia, which results in a more difficult process to gain a majority that is in favour of progressive human rights. Africa and Asia now each have 13 seats, which together gives them 26 seats—a majority in the 47-seat Council. It is therefore more vital than ever to ensure that Africa and Asia do not vote as a bloc, and that each member-State's record is scrutinized and it is held accountable for its voting positions at the international level. NGOs need to work at the domestic and international level to ensure that acting in favour of human rights is in the State's interests and that failure to play a positive role at the international level has a cost at the domestic level for governments. In democracies there are evident ways in which this can work. In many Asian nations, even those with nominal democracies, holding governments accountable for their actions concerning human rights at the domestic level, let alone the international level, has been shown to be a very difficult task. It is therefore not surprising, that the Human Rights Council does not function perfectly.

A new low—The failure to address gross violations in Sri Lanka

When looking at the Council's record to date, there has been one particular low that stands out amongst the rest, notably for those interested in how the system can help with human rights in Asia. During the final throes of the conflict between the government of Sri Lanka and the Tamil Tigers in 2009, as reports were surfacing of gross violations of human rights and humanitarian laws, including mass killings of civilians, the Human Rights Council held a Special Session on the situation of human rights in Sri Lanka on 26 and 27 May, 2009. The Sri Lankan government had been lobbying other governments hard and called in many favours. Due to the West versus the Rest schism that dominated relations between States and regional groups at the time in the Council, the majority of Asian and African States voted as blocs to support Sri Lanka, regardless of the reality of human rights on the ground. Sri Lanka had put forward a separate draft resolution text to that tabled by the States that had called for the Special Session. The government of Cuba called for a vote to block any text from the Western text being added to the text proposed by Sri Lanka, and won the vote. The resolution that resulted from this Special Session was therefore written by Sri Lanka and is an exercise in auto-congratulation that does not mention any grave human rights violations or the need for accountability or any follow-up by the international system. It was a complete white-wash of a situation that in retrospect is as damaging to the credibility of the UN as was its failure to act to prevent genocide in Rwanda or war crimes in Srebrenitsa in the Bosnian War. During the most recent session of the Human Rights Council, Amnesty International and Human Rights Watch held a side event in which they aired a new documentary produced by British Channel 4, entitled "Sri Lanka's killing fields" which shows compelling, credible evidence of war crimes by the Sri Lankan military during the end of the conflict, which I would suggest is a must see, although not for the faint of heart. It can be viewed here: http://www.youtube.com/verify_age?next_url=http%3A//www.youtube.com/watch%3Fv%3DnEYzH2yJkdg.

Beyond the failure of this Special Session to address in any credible way the terrible events unfolding in Sri Lanka, the outcome is seen as a political defeat for those Western States that called for the Special Session to be held. States do not like losing in this way, and since

this event, many Western States have been far more timid in seeking action by the Council on country situations, which has obviously damaged the council's capacity to address not only Sri Lanka's rights issues, but also those elsewhere.

Not all doom and gloom

All of the above conspirers paint a bleak picture of the functioning of the Human Rights Council. However, it is my firm belief that in order to make good use of the system, the difficulties must be understood, in order for those opportunities that are available to also be understood and seized whenever possible. Despite the evident range of challenges, there are a number of aspects of the Human Rights Council that give rise to hope. There are two main categories that can give rise to an improved international system: a better global political climate; and more effective mechanisms.

As has been shown above, the international system is a prisoner of international politics. Where global tensions increase, as they did under the Bush administration in the US and the War on Terror, the Human Rights Council increasingly becomes a political football used to score points against political rival groups. Where global tensions decrease, as can be seen happening as a result of the Obama administration's outreach to the Muslim world, for example, the chance for more effective action takes place. It is an unfortunate truth that so much depends on the US at present, but this is due simply to the lack of leadership elsewhere across the globe. For a more effective Human Rights Council in the long term, this dependency on the vagaries of the US political system need to be reduced by encouraging leadership on human rights to come from other parts of the world, including South Africa, Brazil, and dare I say it, the emerging powers in Asia (although the latter remains a distant prospect at present, admittedly).

In what is a significant development and source of hope, the series of pro-democracy and human rights popular uprisings in North Africa and the Middle East—the so-called Arab Spring—have led to a tangible improvement in the political climate within the Council. The March 2011 session of the Council was perhaps the most fruitful to date, as many governments in the African and Asian Groups, who are usually so active in blocking attempts to advance human rights, did not want to be seen as anti-democratic or anti-human rights at a time when revolutions were sweeping their regions.

Tunisia and Egypt have been negative voices in the Council, with Egypt in particular having had a significant impact on the positions of the African Group and those taken by the members of the Organization of the Islamic Conference, which comprises the world's majority-Muslim nations. The domestic politics of these two States have been dramatically changed by the revolutions that have taken place there, and the effect of these changes on their foreign policy is also beginning to be felt. Tunisia, for its part, has announced a number of pro-human rights steps, including the ratification of key international human rights legal instruments, the launching of reforms to institutions that have been at the root of human rights abuses, such as the police, as well as investigations into past abuses and a pledge to hold those responsible accountable. While many such pledges are made by a range of States, there is a new level of credibility to these promises being made by Tunisia.

Egypt has also begun to play less of a destructive role at the Council, and while it has yet to convert to a fully positive player, this shift towards a more neutral stand is already significant.

But the effect of the Arab Spring does not confine itself solely to those States that have been the scenes of successful revolutions. In a surprising statement made by Pakistan, on behalf of the OIC, during a Special Session of the Council concerning the situation of human rights in Libya in February 2011, the government representative addressed the Council as follows:

Mr. President,

The world is witnessing far-reaching developments in a number of OIC countries at present. It is a time of awakening; a time for reckoning. Muslims will no longer be denied their rights. Justice, equality and the rule of law must prevail, not only within Muslim societies but across the world.

Mr. President,

Recently developments in the Muslim world, provide a fitting rebuttal to those quarters that allege that Islam is incompatible with democracy. The Quran, our holy book, states in chapter 42 verses 38 to 43 that:

I quote

“they (the Muslims) conduct their affairs by mutual consultation and they keep open for the welfare of others what We have bestowed on them. And whenever gross injustice is inflicted, those who stand up for their rights and defend themselves are without blame; the blame is on those who oppress people and cause disorder on earth.”

Democracy, justice, freedom and morality thus constitute the core values of Islam...

...The Muslim awakening has emphatically stated that the Islamic world will no longer accept double standards and hypocrisy in the international sphere. Democracy, freedom and justice are immutable rights that cannot be promoted and protected selectively to serve the interests of some and not all. The international community will have to pay attention to the voices of the Muslim people and not just to their leaders...

...A new dawn has come. Rules of the game have changed. Those who do not embrace it, will be swept away.

These words remain only words, but are exceptional in their tone and content. Since 9/11,

the Human Rights Council has been embattled by debates on the cultural relativism of human rights and embroiled, notably following the Danish cartoon depiction of the Prophet Muhammad, in arguments concerning the freedom of expression versus the need to respect religious and cultural sensitivities. This conflict between the Muslim world and the West has dominated much of the Council's agenda for years, which is why the shift in language and position as exemplified by Pakistan's statement, is so interesting and encouraging. On the ground, this statement has likely had no impact—human rights in Pakistan and many other OIC-member States remain deplorable and the people there are likely totally unaware of their government's utterances in Geneva.

The change in discourse and reduction of obstructionism that has occurred as a result of the Arab Spring and changes in US policy towards constructive engagement, at least to date, have led to some palpable outcomes at the Council. Prior to the March 2011 session of the Council, as the result of serious violence and grave and widespread human rights violations in Libya, the Council held its 15th Special Session on February 25, concerning the "Situation of human rights in the Libyan Arab Jamahiriya". This resulted in the General Assembly suspending Libya's membership in the Human Rights Council, which is the first time a member has been suspended and represents a very important precedent and victory for human rights. Until this point, although the suspension of members was loosely foreseen as a possibility, it was deemed unlikely that this would ever take place in reality. That Libya was a member of the Council at all is of course cause for concern and underlines the need for an improved system concerning the selection of members. Libya's suspension also sends a warning to other States that they could also face the ignominy of suspension from the council should they seek membership at a time when they are involved in gross violations, which is useful in protecting the Council from membership by the worst sections of the international community.

The Council also witnessed another first during the March session. During the whole process of establishment of the Human Rights Council, the Special Procedures have come under sustained attack by those States seeking to weaken the international system. The Special Rapporteurs and Working Groups are, in my opinion, the most independent and important component of the mechanisms set up during the life of the Commission on Human Rights. This also means that they are the inevitable target of those with negative intentions. This is particularly true of the Special Procedures set up to look at human rights in a specific country, such as the Special Rapporteurs on Myanmar, the DPRK or Cambodia concerning Asia, for example. Many negative States are fundamentally opposed to any outside monitoring of situations within country borders, as they seek to shield themselves from prying eyes in order to be able to continue violating their peoples' rights in peace. However, given the change in climate within the international arena in early 2011, the Council was able to establish its first new country mandate: the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran. Of course, this was an initiative led by the US, which has a well-known agenda concerning Iran. However, this does not diminish the importance of this as a precedent though. States will always pursue their interests, including where human rights are concerned. What is important to note is the effect that such actions can have on the human rights situations concerned rather than getting overly embroiled in issues related to State interests, as such interests will always

seem dubious to NGOs, leaving little space for action.

For those who would seek to criticize the Council by claiming that it only takes action selectively concerning Western interests, the simple counter-argument is that it is always possible for African or Asian States to seek to establish a mandate on any country that they should desire. Their lack of action speaks more to their weakness concerning human rights than it does concerning problems with the system itself.

Another significant milestone that has been produced just last week, at the conclusion of the June session of the Human Rights Council, is the adoption of a resolution on human rights violations based on sexual orientation and gender identity. The resolution, presented by South Africa along with Brazil and 39 additional co-sponsors from all regions of the world, was passed by a vote of 23 in favour, 19 against, and 3 abstentions. The resolution is the first UN resolution ever to bring specific focus to human rights violations based on sexual orientation and gender identity. It is important to note that it has been a positive initiative led by South Africa and Brazil and not only represents a milestone in terms of the protection of specific rights, but is also a significant precedent in terms of establishing positive leadership from non-Western States, which must be applauded.

As mentioned above, the other category of developments that lead to hope for a more effective international system concerns the new mechanisms that have been established under the Human Rights Council, which give rise to opportunities for improved action to protect human rights in the future. Firstly, although there remain concerns about the weakness of the process of selection of members in the Council as expressed by Western States during the 2011 Review, there are opportunities within this process to put pressure on States to improve their records in order to merit membership. The suspension of Libya adds weight to this process. States vying for election to the Council are encouraged to make voluntary pledges to uphold human rights to the “highest possible standards.” NGOs can use these pledges to hold governments accountable at the domestic level and, should these pledges be broken, to campaign to block the State’s future membership in the Council. While the membership standards remain depressingly low in practice (otherwise it would be impossible to find 13 members each from Asian and Africa), NGOs have been able to campaign during the elections to ensure that the worst States are not elected. The AHRC is a member of the NGO Coalition for an Effective Human Rights Council, which has campaigned successfully to block the election of Sri Lanka, Belarus and Iran in recent years, for example. The quality of the Council’s membership has a direct impact on the body’s ability to function effectively and the success of NGO campaigns in this regard is significant in building a more effective Council.

As seen above, the role of Special Sessions is very important in ensuring that the Human Rights Council can respond to urgent human rights situations, either in countries or concerning new and urgent cross-cutting themes. While the Sri Lanka Special Session represented a blow to the advancement of rights in the country and beyond, the hang-over from this now appears to be over, with the Special Session on Libya and more recently on the situation of human rights in Syria, having contributed to bolstering the international system’s response to crises around the world.

Concerning the Council's processes, negotiations on resolutions are now open to monitoring by NGOs whereas they used to be behind closed doors in the commission. This enables greater transparency and also allows NGOs to be aware of the state of negotiations, in order to be able to conduct more effective and targeted advocacy to impact the direction of these negotiations in line with their human rights priorities.

Another new mechanism that is being lauded as a positive development is the Universal Periodic Review (UPR), under which all member-States of the UN are subjected to a review of their human rights records by a working group under the Council. From a political viewpoint, the UPR is very useful in that it treats each State equally, regardless of their size or human rights record. This goes some way to counter the argument that the Council is as selective in its approach as the now-defunct Commission. Of course, in reality, the system remains as selective as the interests of the States that comprise it, but at least the UPR system provides a veneer of fairness. The danger with the UPR system is that States that are committing human rights violations argue that the Council should not take any specific action concerning this, but rather only address country-situations under the UPR. Given that each State is only reviewed every four and a half years under the revised UPR system, such an argument is obviously flawed where there is an urgent need to intervene.

The interesting thing about the UPR system is that the majority of States are invested in it working, in order to show that the reforms have worked. This includes those States that do not want a stronger international system. Thus far, the majority of States have participated relatively well in the UPR process, and have generally accepted to implement a number of recommendations as a result. Although it is too early to tell whether the system will begin to fail when the actual implementation of recommendations comes into focus in the second round of reviews that will commence in 2012, at least for the moment there is more political will being shown by States in this system and more cooperation than typically encountered concerning the Special Procedures or the Treaty Bodies that monitor States' compliance with their obligations under ratified international legal instruments.

There are, therefore, some noteworthy opportunities for those who work to further human rights around the world to make use of the Human Rights Council to further their aims. There remain serious challenges, and a serious burden on NGOs to improve their understanding of the possibilities presented by the system and the current political climate.

Great expectations

NGOs have great expectations concerning the international system, as well they should. In particular, in Asia, which has no effectively functioning regional human rights system such as those seen in the European or inter-American systems, the role of the international system remains key and often the only avenue for those seeking protection from abuse and redress. However, it must be noted that many members of civil society have unrealistic expectations of the international system, which then lead to frustration with it, and even the abandonment of engagement with the system. NGOs that call for the Council as a whole to

intervene concerning a specific individual case of human rights abuse are likely to remain frustrated. The Council has a limited number of ways it can act, and these tend to involve the adoption of resolutions. It is unrealistic to expect the Council to pass a resolution on any given individual human rights violation. In fact, it is quite difficult to get the Council to pass a resolution on even serious and widespread situations of human rights violations, as such action typically requires a high level of consensus by at least a majority of member-States. This remains elusive as the majority of States resist action on country situations, as they seek to shield themselves from possible future action of that type. NGOs therefore need to have realistic expectations of the system if they are to use it effectively. Individual cases are best dealt with by the Special Procedures mechanisms.

NGOs also need to understand that to get results in the Council, a long-term strategy needs to be adopted. Many NGOs make statements at the Council and raise important issues, but unless this is backed up by concerted advocacy over the medium to long term, such issues are unlikely to become part of the actual decision-making agenda of the Council. While there is worth in raising issues publicly in such a forum, statements can easily get lost amidst the huge amount of information presented at each session. It is not enough to address the Council in the plenary, or even through a side event, and expect to have an impact on the discourse of the Council automatically. In order to make the Council more effective and able to protect human rights around the world, including in Asia, NGOs need to pursue concrete outcomes of the Council, or use their presence at the Council to engage different actors, including other NGOs, UN experts and States, to take up their issues outside of the Council's proceedings. As shown by the recent resolution on sexual orientation, it is vital to not only lobby the traditionally human rights-friendly States, such as those within the EU, for example, but increasingly NGOs need to reach out to different regional powers, such as South Africa and Brazil, notably as growing economic and political weakness in the EU is reducing its capacity to hold leverage over States in other regions of the world.

The challenge ahead

The Council is a global body and requires a global approach to ensure it is stronger and more able to address situations around the world. This remains the main challenge to us, as human rights defenders seeking a more effective international system. Thus far, this system has not been endowed with the political will to make it effective concerning many grave human rights situations in Asia, but there is no reason to believe that this remains impossible in future. The mechanisms are there and the global political climate is, at least temporarily, improving. The burden is now increasingly on civil society in Asia and elsewhere to ensure that their respective governments' behaviour at the international level is improved. There are those who criticize the international body for its political approach and would like it to act as an expert body. This remains unrealistic. NGOs and independent experts can provide the expertise, but need to know how to use their knowledge to get the best out of the essentially political system that is the Human Rights Council.

While it is easy to criticize the international system, it is the only one we have and we all have a responsibility to work to ensure that it becomes more effective, however slow and

frustrating that process may seem. The international system will only ever be as strong as its weakest members, and the strength of its members is a direct result of the strength of the civil society within these States. It is therefore imperative that NGOs across Asia pay greater attention to not only their governments' domestic human rights records, but also their foreign policy and positions at the international level, as a stronger international system benefits everyone. Popular movements, as seen in the Arab Spring, can clearly make a difference, which remains a great source of hope for us all.