



# TRIGGERS FOR URGENT ACTION BY THE UNITED NATIONS HUMAN RIGHTS COUNCIL

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Members of a migrant caravan walk into the interior of Mexico after crossing the Guatemalan border on October 21, 2018. Photo by John Moore. Credits: Getty Images

***"The human world is not governed by emotions, it is not governed by outrage over human rights violations. That's not the case; it is reacting to triggering factors in a political mind "***

**- UN Expert, 2021**



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Photo by the authors

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## **ABBREVIATIONS**

*ACLU - American Civil Liberties Union*

*ASEAN - Association of Southeast Asian Nations*

*EU - European Union*

*GSNGO - Government-Sympathetic Non-Governmental Organisations*

*INGO - International Non-governmental Organization*

*IO - International Organisation*

*NAM - Non-Aligned Movement*

*NGO - Non-governmental organisation*

*OIC - Organisation of Islamic Cooperation*

*OPT - Occupied Palestinian Territory*

*TAN - Transnational Advocacy Network*

*TNA - Transnational actors*

*UN - United Nations*

*UNCHR - United Nations Commission on Human Rights*

*UNHRC - United Nations Human Rights Council*

*UNSC - United Nations Security Council*

*UPR - Universal Periodic Review*

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*Figure 1. Number of special sessions and urgent debate per year*

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## EXECUTIVE SUMMARY

This report is a written output of a nine-month long applied research project in association with CIVICUS: World Alliance for Citizen Participation. The UNHRC is the foremost body when it comes to human rights. One of its mandates is to address human rights emergencies, which it does through special sessions and urgent debates. This 'urgent action' mechanism allows the Council to address emerging human rights crises rather than merely dealing with their aftermath. Yet, the UNHRC addresses human rights emergencies unevenly, giving some regions and situations much more attention than others. In order to understand why, this research seeks to identify "unofficial" triggers that lead to urgent action.

Data was collected through the analysis of UN documentation and 11 semi-structured interviews between July and November 2021. Our interviewees included six NGO representatives, five state delegates and two UN experts. The data from our interviews was compared to the existing literature and synthesised into codes, which formed the basis of our criteria for urgent action. Our research was conducted from the principle of abductive reasoning, where inferences informed by the literature are used to generate the most likely hypotheses. Data from our interviews allowed us to refine these.

The identification of triggers influencing urgent action at the Council was pursued through the investigation of two cases, namely human rights violations in Myanmar and Ethiopia. Throughout this research, seven triggers were identified:

### **1. Intra-council Procedures**

Our data has shown that the Council's internal procedures need to be considered while examining the call to urgent action. We have found that issues already addressed through other UNHRC mechanisms are less likely to trigger urgent action, unless actors involved within the mechanism call for it. The UNHRC's agenda is also highly relevant: special sessions are less likely to take place around the time of a regular session. They do sometimes still happen however, as is the case for Myanmar in early 2021. Moreover, some experts suggested that diplomats are less involved in the UNHRC around the holidays. Nonetheless, here too we see exceptions, such as with the special session on Afghanistan in August 2021.

### **2. Issue Emergence**

Not all human rights issues are treated equally at the UNHRC. We identify two reasons for this: the perceived scale and urgency of an issue. A human rights situation must reach a certain level of gravity, usually high casualties or high political saliency, for the Council to act. Urgent action, therefore, takes place when there is a change in the "status quo". The political status of a situation is also relevant. Consensus on an issue significantly increases its chances of a successful outcome.

States not only need  $\frac{1}{3}$  of delegations to agree to a special session but also a majority of votes for the future outcome. Thus a situation that is relatively 'uncontested' has a higher chance of being addressed repeatedly. Situations that are already being monitored, and of which state delegates have pre-existing knowledge, also have a lower threshold for urgent action.

### **3. Transnational Advocacy Networks**

Following Keck and Sikkink's model, we found that the existence and good functioning of a Transnational Advocacy Network (TAN) is key to success in calling for urgent action. A TAN is a decentralised assemblage of local, regional, and international NGOs working together in order to circumvent a blockage for civil society advocacy in a certain country. There are a number of features that we found to be essential. Firstly, strong cooperation between all actors in the network is a prerequisite. Secondly, state delegates must see NGOs as crucial actors for information dissemination and legitimation of their action. Thirdly, informal communication between NGOs and delegations is crucial. It should also be noted that TANs are dynamic structures, and that certain actors can be both local and international at once.

### **4. Regional Blocs**

Regional blocs continue to play an important role at the UNHRC, as they have historically. It follows that they play a significant part in the call for urgent action too. They have however become more dynamic, with groups such as the cross-regional groups gaining in importance. Some blocs wield much influence in leading the call for action and setting the Council's agenda. The existence and strength of a regional bloc, as well as the behavior it might adhere to, is of strong relevance when it comes to addressing issues within its region. It is therefore imperative for actors engaging with the Council to not only be aware of these regional dynamics but also to actively engage with them and their concerns. In doing so, they generate opportunities for cooperation and compromise that increase the chance of success of enabling urgent action.

### **5. Geopolitics**

Geopolitics has been identified as one of the most important triggers for urgent action. The role of political and economic considerations has been recognised though deplored by most of our interlocutors. Additionally, disagreements seem endemic between Global North and Global South countries as to which action is most appropriate. Moreover, Great powers are rarely if ever addressed in urgent action (the urgent debate on racism targeting the United States is a notable exception). Well-connected states are also often able to escape scrutiny; more worrying even is the coercion exerted by some states onto others in order to silence concerns on human rights issues. In contrast, states with little geopolitical interest in a given issue are more easily swayed by NGO advocacy, offering unique opportunities.

## ***6. Regional and Parallel Human Rights Mechanisms***

The UNHRC does not exist in a vacuum and therefore other human rights mechanisms also influence which issues reach the Council. Firstly, there are a number of mechanisms and bodies within the UN whose action affects the proceedings of the UNHRC. There is an informal delegation of tasks between the UNSC and the UNHRC, especially regarding politically contested situations. Pre-existing engagement from other UN mechanisms with an issue might also deter action. Secondly, there exist regional human rights mechanisms outside of the UN that also have an impact on the agenda of the UNHRC. This may partially explain why certain regions receive little to no attention when it comes to urgent action or why certain situations are not addressed by the Council. While regional human rights channels can have highly positive outcomes, they may also be misused to shield a country from broader scrutiny.

## ***7. Communication and Media.***

We have found effective communication to be essential when it comes to calling for urgent action at the Council. NGOs have noted that, as they have a significant level of influence at the UNHRC, joint communication is especially valuable. Joint advocacy documents have the potential to increase pressure on states while also giving credibility and legitimacy to an issue. Similarly, media communication plays a significant role in enhancing the transmission of information. Delegations often receive some of their information on an issue through media outlets, which thereby complements the action of NGOs. Additionally, media coverage of an issue may increase its sense of perceived urgency, placing it higher on the Council's agenda. This dynamic may be used advantageously by civil society organizations as part of their efforts to pressure states into agreeing to support the call for urgent action.

## ***Conclusion***

This research constitutes the first effort to comprehensively map triggers for urgent action at the UNHRC. Throughout our research, our interlocutors agree as to their importance. While some of these factors have been discussed in previous literature, some elements within them have been neglected. Moreover, some triggers identified in this research have been largely absent from scholarly research, while others have not been applied to the context of the UNHRC. We have furthermore shown the importance of contextualizing human rights situations at the UNHRC, while demonstrating the need to appreciate the dynamic nature of the Council. We hope that this work will prove useful to scholars, human rights practitioners, civil society actors, and state delegates alike.

## INTRODUCTION

“Aung San Suu Kyi detained as military seizes control”.<sup>1</sup> Eleven days later, the United Nations Human Rights Council (hereafter UNHRC or the Council) decided to hold a special session on the human rights situation in Myanmar. While the Council addressed this political situation, the situation in the province of Tigray was deteriorating quickly and did not gain enough traction to allow states to call for urgent action at the UNHRC, despite civil society formulating a joint letter calling for a special session on the situation.<sup>2</sup> These two critical human rights situations developed simultaneously but only one was addressed through the urgent mechanisms of the Council. This asymmetric response to crisis situations is not an exception. The unequal approach of handling human rights violations at the UNHRC is a matter that sparks curiosity and is at the center of this applied research project. The aim of this project is to understand the “unofficial” triggers that lead to urgent action and why certain situations, such as the one in Ethiopia, have not been able to gather enough support for urgent action at the UNHRC, in February 2021.

The UNHRC is a United Nations body that was founded in 2006 (Res 60/251) as a successor to the United Nations Commission on Human Rights (UNCHR). It is the world’s foremost body

in addressing human rights violations around the globe. It is composed of 47 member states, distributed proportionally between regions, who are elected by the General Assembly every three years. The Council addresses human rights issues through its tri-annual regular sessions, lasting a total of ten weeks in February/March, June, and September. During these sessions, the UNHRC addresses a set of recurring agenda items related to human rights. This includes the Universal Periodic Review (UPR), special procedures, and the good functioning of the Council.

One of the responsibilities of the UNHRC is also to respond to emergencies and grave violations of human rights. This mandate allows the member states to address human rights violations that they perceive to urgently demand the Council’s attention. For the purposes of this research, urgent action refers to the call for either an urgent debate or a special session at the UNHRC. During regular sessions, member states can ask for an urgent debate in cases where issues need immediate action. The request is directed by the President of the UNHRC and submitted to the membership’s vote. In the case of special sessions, a leading state needs to gather support from 16 out of the 47 member states to call for an extraordinary session to address urgent human rights violations. Even though mechanisms for urgent action were established before 2006 under the Commission, the threshold to call for a special session was high

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<sup>1</sup> “Myanmar Coup: Aung San Suu Kyi detained as military seizes control”, BBC, February 1, 2021. <https://www.bbc.com/news/world-asia-55882489>.

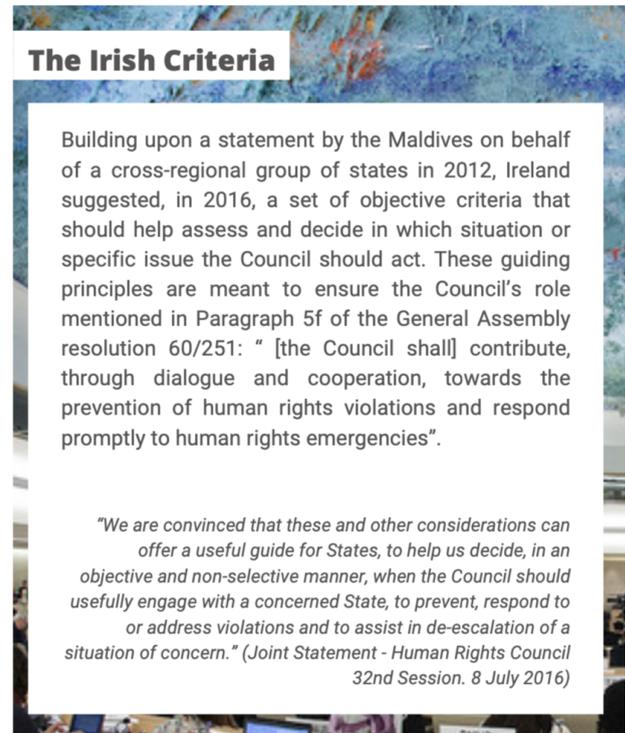
<sup>2</sup> “Joint NGO Letter call for a Special Session on the deteriorating human rights situation in Ethiopia”. January 28, 2021. GCR2P.

and only five special sessions were held during its existence.<sup>3</sup> With the adoption of Resolution 60/251 and the creation of the UNHRC, the special session procedure changed and now requires one-third of the member states to support it. As of November 2021, thirty two special sessions and six urgent debates were held. As mentioned by Tistounet, the majority of the sessions were “country-specific” and two sessions were around thematic issues.<sup>4</sup>

Calls for urgent action are important because they stand out from the content of regular sessions of the Council. These urgent mechanisms primarily define which human rights violations are prioritized and deemed as an “emergency”. On a broader level, when these issues come up as special sessions or urgent debates, they garner vast attention from international media and civil society. In addition to this, they also play a significant role in spotlighting regional issues in a global forum, further enabling opportunities for dialogue and compromise.

Despite their importance, triggers to call for special sessions and urgent debates are at best unclear. Some violations have garnered more attention than others, posing challenges to human rights practitioners and victims of violations. A statement brought forth by Ireland on behalf of 32 out of 47 members enunciated guidelines to improve clarity and set objective

criteria for Council action, however their implementation is voluntary and often disregarded.<sup>5</sup>



Thus, there exists no clear guidelines on which situations should lead to urgent action and several “unofficial” triggers might orient the call for urgent action. Access to the UN human rights system is fundamental to addressing human rights violations worldwide. Consequently, any barriers to issue adoption that exist can result in uneven and incomplete addressing of violations. This applied research project in partnership with *CIVICUS: World Alliance for Citizen Participation* aims to understand the different factors that influence the urgent action by UNHRC. Identifying these factors will enable non-state actors and

<sup>3</sup> Eric Tistounet, *The UN Human Rights Council: A Practical Anatomy* (Edward Elgar Publishing Ltd, 2020), 55.

<sup>4</sup> *Ibid.* 57.

<sup>5</sup> Ireland Department of Foreign Affairs. (8 July 2016). Joint Statement Human Rights Council 32nd Session Concluding Statement. Department of Foreign Affairs.

member states to adapt their strategies to call for urgent action and to bring attention to particular human rights issues. More importantly, this project also intends to pave a path for countries to receive equitable attention at the Council.

As mentioned by Tallberg et al., it is the response to “where, how, and why IOs open up” that will enable us to address the deficits of global governance.<sup>6</sup> Bringing about more transparency and accountability to the UNHRC is essential in addressing human rights issues worldwide. To that end, this research aims at producing a detailed report on the various criteria that trigger urgent action at the Council and offer a set of evidence-based recommendations for actors to more effectively address human rights violations at the international level.

## RESEARCH OBJECTIVES AND QUESTIONS

To understand the trends at the UNHRC, all the previous urgent mechanisms taken by the Council since its creation in 2006 were recorded. This first data collection through UN documentation has illustrated the asymmetric applicability of the Council’s call for action, such as the high number of sessions (44.74%) that were held on the Occupied Palestinian Territory

(OPT) and the Syrian civil war. Thus, the purpose of this research is to determine and critically analyze what informal criteria precedes the call for urgent action and explore what influences the decisions inside the UNHRC.

Therefore, there is a special focus on exploring which kind of human rights situations get priority over others. Furthermore, along with looking at urgent actions that were successfully called, this research also considers the situations that did not gain enough traction. Analysing the process of calling for urgent action is relevant for two reasons. First, as of December 2021, not a single resolution brought by urgent action has been rejected. This is indicative of the advocacy work done behind the scenes by state and non-state actors. Second, there is uncertainty regarding the number of situations that did not gain enough traction to trigger urgent action. This is relevant because it may reflect issue-adherence by the Council, both in terms of what kind of human rights violations gain attention (or not) and in terms of the geopolitics at play. To that end, our research builds upon a comparative analysis of the call for urgent action on the human rights situation in Myanmar and Ethiopia, mentioned in our introduction. This case study also showcases that the Council does not act in a vacuum: while arguably both situations deserved urgent action, the Council decided to only address the less contentious situation, in this case Myanmar.

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<sup>6</sup> Jonas Tallberg et al, “Explaining the Transnational Design of International Organizations”, *International Organisations* 68, no 4 (2014): 741-74.

Therefore, the primary research question driving this report is: ***What are the triggers for urgent action at the United Nations Human Rights Council (UNHRC)?***

With the purpose of answering the above-mentioned research question, seven mechanisms influencing urgent action at the UNHRC were identified: intra-council procedures; issue emergence; transnational advocacy networks; regional blocs; geopolitics; the existence of regional and parallel human rights mechanisms; and communication and media. Each theme will be discussed individually in our analysis.



## Special sessions in 2021

Credits: Getty Images

When this research started only one special session had been conducted in 2021. While finalizing this report, three more special sessions were called questioning the appearance that urgent mechanisms had been falling out of fashion since 2015 (see Figure 1). Urgent actions were extensively used in the first five years of the Council but then their regularity decreased. Since 2020, this tendency is seen to have reversed. Understanding this changing pattern remains a question that needs to be addressed by future research. Several explanations were speculated, such as Covid-19 and remote work, the paralyzation of the Security Council in New York, the familiarity of delegations with the tool, and the increasing recognition and maturity of the Council, however the trend remains unclear.

### NUMBER OF SPECIAL SESSIONS AND URGENT DEBATES PER YEAR

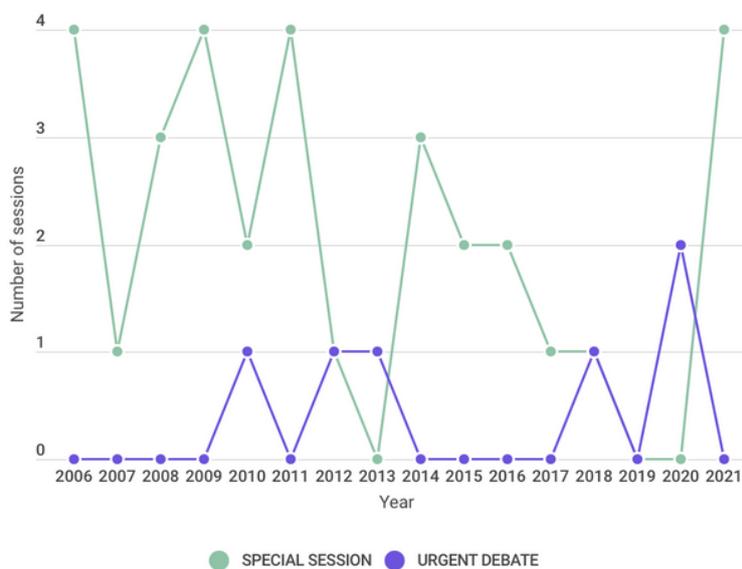


Figure 1. Capstone data collection based on OHCHR data

## EXISTING RESEARCH AND LITERATURE REVIEW

### Literature on the UNHRC and Urgent Actions

Overall, the literature on the UNHRC is relatively incomplete, particularly when it comes to special sessions and urgent debates. This has much to do with the relative infancy of the UNHRC; until recently, sufficient data across time to identify trends has been limited. Existing research has mainly focused on questions of efficacy<sup>7</sup>, politicisation<sup>8</sup> and comparison to the preceding UNCHR.<sup>9</sup> Research on the UNHRC's urgent action has remained relatively state-centric.<sup>10</sup> That is not to say that the role of NGOs at the Council has not been broached. Rathgeber very explicitly takes an NGO perspective in his work.<sup>11</sup> Landolt's analysis of rival TANs at the UPR offers further insights useful to the study of

NGOs at special sessions.<sup>12</sup> Further, Freedman has observed that, during interventions by non-state actors, the representatives of member states seem much less attentive.<sup>13</sup> This might be indicative of a historical marginalisation of NGOs at the UNHRC process discussed in the literature.<sup>14</sup> In turn, this may have implications for the triggering of urgent action at the Council, as NGOs play a crucial role in this process.

As for urgent debates, they have received no attention beyond passing mentions such as by Rathgeber.<sup>15</sup> Rathgeber considers urgent debates to be an informal development of the Council's action, similar to fact-finding missions. These tools have, according to him, brought in some cases "an assessment of human rights situations in countries as well as on thematic issues" that is closer to the reality on the ground.<sup>16</sup> However, Rathgeber lays no link between urgent debates and special sessions as a form of urgent action.

Early scholarship, with few exceptions, tended to focus on the new mechanisms given to the UNHRC when compared to its predecessor. Ghanea recounts the history of the UNCHR and the UNHRC, describing the reasons for the former's failure and the latter's innovation. While she notes that the UNHRC was formed

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<sup>7</sup> Theodor Rathgeber, "Performances and Challenges of the UN Human Rights Council: An NGO's view", *International Policy Analysis*, (2013).

<sup>8</sup> Laura Landolt, "Rival Transnational Advocacy Networks and Middle East Politics at the UN Human Rights Council". In *Routledge Handbook on Human Rights and the Middle East and North Africa*. edited by Tirado Chase, 156-169, (New York: Routledge, 2017; Rathgeber), "Performances and Challenges of the UN Human Rights Council".

<sup>9</sup> Marisa Viegas e Silva, "The UN Human Rights Council: Six Years On", *SUR International Journal on Human Rights* 10, no 18. (June 2013); Nazila Ghanea, "From UN Commission on Human Rights to UN Human Rights Council: One Step Forwards or Two Steps Sideways?", *The International and Comparative Law Quarterly* 55, vol 3 (2006): 695-705.

<sup>10</sup> Rosa Freedman, "Improvement on the Commission? The UN Human Rights Council's Inaction on Darfur", *U.C. Davis Journal on International Law and Policy* 16, (2009); Rosa Freedman, "New Mechanisms of the UN Human Rights Council", *Netherlands Quarterly of Human Rights* 29, no 3, (2011); Rosa Freedman and Ruth Houghton, "Two Steps Forward, One Step Back: Politicisation of the Human Rights Council", *Human Rights Law Review* 17, no 4, (October 2017)

<sup>11</sup>Rathgeber, "Performances and Challenges of the UN Human Rights Council", 3-4.

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<sup>12</sup> Landolt, "Rival Transnational Advocacy Networks", 156.

<sup>13</sup> Freedman and Houghton, "Two Steps Forward, One Step Back", 762.

<sup>14</sup> Rathgeber, "Performances and Challenges of the UN Human Rights Council"; Landolt, "Rival Transnational Advocacy Networks"; Freedman and Houghton, "Two Steps Forward, One Step Back".

<sup>15</sup> Rathgeber, "Performances and Challenges of the UN Human Rights Council", 3.

<sup>16</sup> *Ibid.* 9.

“not based on a fully considered analysis of the reasons for the UNCHR’s discreditation”, she expresses the hope that member states will live up to the expectations placed upon them.<sup>17</sup> Similarly, Viegas e Silva, is descriptive throughout their paper, including the position of the Council within the UN and the early functioning of some of its features. In a short section on politicisation, they argue that this dynamic has effectively been transferred unabated from the Council’s predecessor.<sup>18</sup> Much of the early scholarship follows Viegas e Silva’s example and has been critical of the UNHRC’s outcomes. Rathgeber also argued that it had “largely failed to respond to a majority of human rights crises and chronic situations of human rights violations”.<sup>19</sup> More recent work has noted an improvement in the Council’s functioning, as will be discussed further below.

## Geopolitics of the UNHRC

The term ‘politicisation’ has acquired a life of its own in the institutions of the United Nations. Lyons notes that “[politicisation] is so loaded with pejorative connotations that serious questions arise about its academic utility”.<sup>20</sup> Viegas e Silva’s observation that politicisation is still featured “in UN lingo” with much the same

connotation suggests that this has not changed.<sup>21</sup> Consequently, for the sake of clarity, we use the term “geopolitics” to denote the international political dynamics orienting the UNHRC’s work. We intend it to be synonymous with the concept of politicisation as expressed in the literature. “Geopolitics” has the additional advantage of implying a dimension of interstate relations.

Much of the research into geopolitics at the UNHRC has been done by Freedman. Her earliest work examines the special session on Darfur in 2006 and notes that Arab and African states have played an active role during the session in deflecting blame away from the government and onto non-state actors. Freedman is highly critical of the stance of the Organization of Islamic Cooperation (OIC) against greater humanitarian assistance, intimidation of non-OIC states, and ultimately harming the credibility of the newly-formed UN body.<sup>22</sup> While similar to other work in denoting the novel character of these mechanisms, she goes further by problematising to a much greater degree their implementation and subsequent misuse by certain member states.<sup>23</sup> Freedman’s most recent publication on the UNHRC, published together with Houghton, is more hopeful in tone. She notes that politicisation has decreased post-Arab Spring, with greater attention devoted to violations in

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<sup>17</sup> Ghanea, “From UN Commission on Human Rights to UN Human Rights Council”, 704.

<sup>18</sup> Viegas e Silva, “The UN Human Rights Council”, 108-10.

<sup>19</sup> Rathgeber, “Performances and Challenges of the UN Human Rights Council”, 4.

<sup>20</sup> David A Baldwin, Donald W. McNemar and Gene M Lyons, “The “Politicisation” Issue in the UN Specialized Agencies”, *Proceedings of the Academy of Political Science* 32, no 4, (1977): 85.

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<sup>21</sup> Viegas e Silva, “The UN Human Rights Council”, 97.

<sup>22</sup> Rosa Freedman, *The United Nations Human Right Council. A Critique and Early Assessment* (New York: Routledge 2013): 128.

<sup>23</sup> Freedman, “New Mechanisms of the UN Human Rights Council”.

Arab states and increased involvement from more moderate Latin American and African states. Yet, other developments have impeded the Council's good functioning: Syria has joined OPT in receiving disproportionate attention.<sup>24</sup> The underlying dynamics driving politicisation have thus not been neutralised. It follows that politicisation would still have a profound influence on UNHRC's urgent action.

Landolt has similarly made findings about the politicisation of NGOs in the UNHRC system. She has noted that, during sessions, member states have attempted to disrupt the contributions of NGOs by frequently calling for points of order during their testimony.<sup>25</sup> Similarly, authoritarian governments have been wielding sympathetic NGOs to defend their actions in front of the Council and attack critical NGOs.<sup>26</sup> She thereby demonstrates that member states violating human rights attempt to instrumentalise the UNHRC human rights process for their own ends. However, she has focused on the UPR mechanism and given no attention to NGO participation in urgent action. As such, the applicability of Landolt's work to the latter mechanism is unknown.

Also relevant to the geopolitical dimension of UNHRC urgent action is the issue of bloc voting. Blocs of countries cooperating to advance their interests had been a heavily criticized feature of the UN Commission on Human Rights. Hug and

Lukacs argue based on quantitative analysis that "the problems faced by the UNHRC's predecessor [...] have reappeared".<sup>27</sup> However, Jordaan argues in 2019 that the African bloc, which had previously obstructed the Council's work, is now more willing to address country-specific human rights violations.<sup>28</sup> Rathgeber concurs with the dynamic nature of bloc voting in the Council. He argues that certain political, religious, and geopolitical groups, such as the OIC, the Non-Aligned Movement (NAM), and the European Union (EU) have superseded the traditional regional blocs that dominated the UNHRC in its first four years.<sup>29</sup> He is cautiously optimistic that the emergence of cross-regional initiatives will lessen politicisation and bloc voting.<sup>30</sup> Overall, the relevance of bloc politics to UNHRC urgent action seems to have received little direct attention. Much like the role of urgent actions, it represents a critical gap in the literature that needs to be filled in order to understand the triggers for urgent action.

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<sup>24</sup> Freedman and Houghton, "Two Steps Forward, One Step Back", 21.

<sup>25</sup> Landolt, "Rival Transnational Advocacy Networks", 161.

<sup>26</sup> *Ibid.*

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<sup>27</sup> Simon Hug and Richard Lukacs. "Preferences or blocks? Voting in the United Nations Human Rights Council", *The Political Economy of International Organisation* (2010): 1.

<sup>28</sup> Eduard Jordaan. "African States at the Human Rights Council in 2017", *South African Institute of International Affairs* (2019): 12-13.

<sup>29</sup> Rathgeber, "Performances and Challenges of the UN Human Rights Council", 4-5.

<sup>30</sup> *Ibid.*

## Transnational Advocacy Networks (TANs) and the Role of NGOs

TANs and the role of NGOs are addressed by some scholars in the literature as an influencing factor for the Council's behavior. According to Keck and Sikkink, who conceptualized TANs, they are "networks of activists, distinguishable largely by the centrality of principled ideas and values in motivating their formation".<sup>31</sup> Their members are bound together by shared values, common discourses, and collaboration on specific issues. They function based on information exchanges and are especially effective in contexts of informational uncertainty. Typically, TANs exist when local civil society actors are unable to work with their governments due to an institutional blockage of some sort. This often has to do with the authoritarian governance style of said state. In such a case, civil society actors can share information with an international NGO, which then does advocacy with states and intergovernmental organizations. Ideally, the latter will then pressure the original state to accede to the civil society actor's demands. This dynamic of bypassing the institutional blockage is called the "boomerang pattern"<sup>32</sup>. In our case, we are studying the interactions between NGOs and states at the level of the UNHRC.

Scholars have since nuanced Keck and Sikkink's work by denoting functional tensions between different members within one network.

Notably, certain states are linked to NGOs organised or funded by them. At the UNHRC, these Government-Sympathetic Non-Governmental Organisations (GSNGO) represent an attempt to exert state control over formal and informal mechanisms that exist to increase NGO involvement. These GSNGO TANs then compete with already-existing TANs for space and attention.<sup>33</sup> Thus, the existence and form of a certain TAN, as well as its relation to other actors, is crucial to the success or failure of an urgent action proposal.

Innovative research has been done on the question of the openness of IOs and the evolution of access from transnational actors (TNAs). Tallberg et al. highlights the increase of TNAs since the end of the Cold War. They argue that the openness to TNAs in the 90s comes from the need for their services, the end of blockade between the East and the West, the conflicts of the 90s, and the increase of democratic states.<sup>34</sup> With an analysis of access to IOs between 1950 and 2010, they found three main factors impacting openness. First, the demand for resources and services from TNAs. Second, the domestic standards in the membership of IOs. And third, the state's concerns with national sovereignty.<sup>35</sup> It illustrates that in 2010, the area of human rights was the most open to TNAs. Moreover, the domain of human rights was a pioneer in TNAs access. Accordingly, IO bodies related to this

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<sup>31</sup> Kathryn Sikkink and Margaret E. Keck, *Activists Beyond Borders*, (Attica: Cornell University Press, 2004): 10.

<sup>32</sup> Sikkink and Keck, *Activists Beyond Borders*, 20-22.

<sup>33</sup> Landolt, "Rival Transnational Advocacy Networks", 158-59.

<sup>34</sup> Tallberg et al, "Explaining the Transnational Design of International Organizations", 757.

<sup>35</sup> *Ibid.* 743.

domain often feature a relatively greater openness to TNAs.<sup>36</sup> While this study does not mention specifically the UNHRC, understanding the evolution of access to IOs remains crucial for our research. Openness to TNAs translates into greater influence for their actors. Therefore, greater openness in the field of human rights would translate into a relatively greater influence exercised by NGOs at the UNHRC. Consequently, it is possible that TANs and their associated NGOs are becoming increasingly able to set the agenda for urgent action at the Council.

### **'Issue Emergence' and International Support**

Issue emergence is defined as "the construction and acceptance of specific problems as international issues in the first place."<sup>37</sup> Building on the distinction between problems, issues, and campaigns made by Keck and Sikkink, Carpenter focuses on the phase between the issue definition and adoption. To reach the adoption stage, he suggests, a powerful actor has to adopt the issue at the global level.<sup>38</sup> Carpenter argues that international actors, such as NGOs, hold a certain authority in defining a problem as an issue and adopting it in its agenda. They define this process of shaping the global agenda as "gatekeeping".<sup>39</sup> The gatekeepers, therefore, have the power to

decide and promote certain issues over others. Carpenter's observations on gatekeepers seem to match those of DeMars on opportunistic transnational actors.<sup>40</sup>

Adopting a "social movement" approach, Bob focuses on the connection between local and transnational actors and the ability of local actors to receive international support.<sup>41</sup> His research aims at explaining the variation in international activism depending on the human rights violation: why some abuses are brought on the international scene and others are not.<sup>42</sup> According to him, two main structural obstacles exist for local actors to be supported. First, some regions (e.g Africa, Latin America, Asia) attract less attention from journalists.<sup>43</sup> Second, international support is usually given to violations that fit the human rights expressed in the International Covenant on Civil and Political Rights.<sup>44</sup> Bob's analysis helps us understand that the ability of local-level human rights regimes to gain support from transnational human rights actors depends on two main factors: international visibility and the coherence of the group's grievances with recognized human rights abuses.<sup>45</sup> This analysis becomes pivotal in this research as it enables us to understand how certain issues are raised at the Council and supersede the regular session discussions into an urgent action.

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<sup>36</sup> *Ibid.* 749.

<sup>37</sup> R Charli Carpenter, "Governing the global agenda: 'gatekeepers' and 'issue adoption' in transnational advocacy networks," in *Who Governs the Globe?*, ed. Deborah D Avant et al (Cambridge: Cambridge University Press, 2012), 209.

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.* 236.

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<sup>40</sup> Demars, W. *NGOs and Transnational Networks: Wildcards in World Politics*. (London: Pluto Press, 2005).

<sup>41</sup> Clifford Bob, *The Marketing of Rebellion: Insurgents, Media, and International Activism*, (Cambridge: Cambridge University Press:2005), 133.

<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid.*

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.* 134.

The existing literature on the UNHRC, TANs, and issue emergence, serve as a strong starting point for our research. It helps us situate the structure of the UNHRC and identify the politics that surround it. However, it is significant to mention the relevant gap in literature not only on urgent action at the UNHRC but also on other mechanisms which actively influence the functioning of the Council. As we have noted at the start of our literature review, good data across time for scholarly analysis has, until recently, been limited; as such, our research contributes to a critical gap in academic knowledge on the Council. It does so by analysing data collected from experts and practitioners involved with the UNHRC.

## METHODOLOGY

### Data Collection

While the literature shows that some aspects have been investigated in terms of the UNHRC geopolitics, transnational networks, and membership, a gap exists in understanding the call for urgent action. In addition to engaging with the existing literature, an in-depth analysis of UNHRC documentation was conducted for this project. All urgent action instances since the Council's creation in 2006 until early December 2021, which comprises 32 special sessions and 6 urgent debates, were analyzed. This was done with the purpose to look for recurring patterns that could be considered triggers for urgent action. We have built a dataset taking note of which countries were responsible for requesting urgent action, which states or blocs supported the call, whether the situation was recurring, which NGOs supported action, and the nature of human rights violations in each specific context. We have found that the majority of urgent action focuses on human rights violations happening in the Middle East, and most of those concern country-specific situations in Syria and OPT (Figure 2).

### URGENT ACTION BY REGION AT THE UNHRC

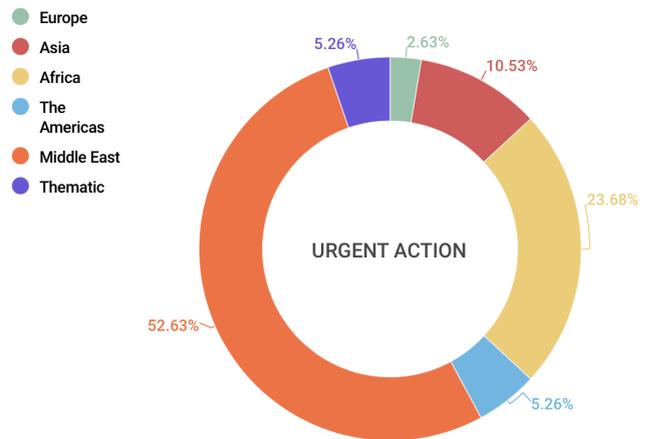


Figure 2. Capstone data collection based on OHCHR data

To understand what informal criteria triggers urgent action, we analyzed the process for the call for urgent actions and whether it succeeded. We conducted eleven semi-structured interviews from July to November 2021. Two of them took place with two speakers at the same time. Our interviewees consisted of two UN experts, six civil society organisation's representatives working in four international NGOs and two regional NGOs, and five state delegates (two western and three non-western). For confidentiality purposes, our interviewees are anonymous and only their affiliation will be mentioned. Our data was managed with the intention of keeping the information private and secured, taking into account the interviewee's preferences and consent. In addition to interviews, this research relies on the analysis of official documents from special sessions and urgent debates at the UNHRC, NGO reporting

around specific issues, countries, and regions, and media coverage on human rights violations worldwide.

Given the particularity of the data this research is based on, we have faced several issues in the collection process. The advocacy done by civil society and state delegates is mostly done in informal spaces. Thus, even if we conducted interviews, it is possible that interviewees concealed some information for confidentiality or political reasons. Political dynamics have also been part of our limitations. Our interviewees have a political position that was considered by our data analysis. Moreover, even if our research offers a large panel of the various actors involved in the process, it is not possible to generalize our findings to all actors at play at the UNHRC. Despite the limitations to our approach, our research has allowed us to perceive and understand better the informal spaces and the dynamics between the different actors present. Recognizing the social and political position of the interviewees also led us to reflect on our position as researchers. As a group with different origins and backgrounds, we had to think about our individual positioning while undergoing this project. Conducting such research in groups is a strength because it fosters discussions and reflexivity.

## **Data Analysis**

The identification of factors influencing urgent action at the Council was pursued through the investigation of two cases, namely human rights

violations in Myanmar and Ethiopia. These two cases were selected because they correspond to an attempt at urgent action that was successful and one that failed, respectively. Moreover, the selection was also motivated because Ethiopia and Myanmar are not within the Middle East, which is the region that frequently gains more attention from the Council. Despite using this case study to guide our investigation on the different triggers, we still refer to other situations where human rights were violated during our analysis.

For this research, whether urgent action is taken represents our dependent variable and the mechanisms that trigger the call for urgent action are our independent variables. As previously mentioned, our evaluation methods include analysis of media coverage, official UN documents, NGO activity, and interviews to which information was categorized in themes to create codes to guide our analysis. Codes are condensed forms of the original data that was organized into overarching themes according to their similarity. These patterns were used to identify factors that influence the call to urgent action at the Council.

This research was conducted from the principle of abductive reasoning, where the present research used inferences informed by the literature to generate likely hypotheses. According to Delrieux, abduction is “the inference process that goes from observations to explanations within a more general context”.

In other words, abductive reasoning is an inference to the best explanation. It seeks the most reasonable hypothesis that, within a theoretical framework, allows for deduction from the observations.<sup>46</sup> Furthermore, data obtained from interviews allowed us to refine our hypotheses. Interviews were conducted until conceptual saturation occurred. This entails that the process of interviewing continued until no new themes emerge. Just as with the interviews, the documentation pertaining to urgent actions was subjected to categorization by themes in order to identify existing patterns. Letter requests from the states calling for urgent action at the UNHRC were especially useful here, as they mention the member states who supported the session as well as note the ones who rejected or abstained from supporting them.

## ANALYSIS

### 1. Intra-council Procedures

While our literature review has highlighted that the political dynamics and relationship between the different stakeholders influence the process of addressing an issue at the Council, our data analysis has shown that the Council's procedures and agenda need to be taken into account to understand the call for urgent action.

#### *UNHRC procedures*

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<sup>46</sup> Claudio Delrieux. "Abductive Inference in Defeasible Reasoning: A Model for Research Programmes". *Journal of Applied Logic*, 2 no. 4 (2004): 412.

To be able to understand what specific situations can lead to urgent action, we have to evaluate the other procedures the Council has undertaken for the human rights violations at stake or against a particular state violating international law. Indeed, the UNHRC is an institution designed to address and prevent human rights violations not only through urgent action but also through different mechanisms such as the UPR, special procedures, treaty bodies not to mention the regular sessions happening tri-annually.

Our data shows that, on one hand, if a state or a human rights situation is already under investigation through another channel of the UNHRC, it will be harder to address it through an urgent action because states will be reluctant to take action when another procedure is underway. However, if the human rights situation has been denounced through another channel and the call for action has been made, for instance, from a special rapporteur, it can be easier to justify the necessity of urgent action. For example, in the context of Myanmar, the state was already under scrutiny in the UNHRC through the Independent Investigative Mechanism for Myanmar (IIMM), established in September 2018 through resolution 39/2.<sup>47</sup> Therefore, the past implication of all of the UNHRC procedures, in a particular place or for a particular violation, has a clear impact on the feasibility of calling for urgent action and needs to be taken into account by actors leading the call for action. We will be discussing the other

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<sup>47</sup> "Independent Investigative Mechanism for Myanmar". n.d. OHCHR.

UN human rights mechanisms outside the UNHRC further.

Yet, while the past and current UNHRC procedures affect the call for action on a particular issue, what is going on in these other channels can be instrumentalized by the targeted state – or other states opposed to such a request – to avoid scrutiny by the Council. While Landolt<sup>48</sup> mentioned this instrumentalization concerning other UNHRC processes, our research has shown that States usually highlight other UNHRC procedures to avoid urgent action.<sup>49</sup>

### ***UNHRC agenda and ‘logistics’***

Our interviews have revealed that not only the UNHRC procedures but also the agenda and the logistics of the Council have an influence on urgent action.<sup>50</sup> As surprising as it may seem, the period of the year when a human rights violation occurs could affect the feasibility of getting this violation managed through an urgent procedure.

First, regular sessions happen three times a year for approximately three weeks. Experts point out that when a regular session is about to take place, there is more hesitation to conduct a special session. According to our sources, states argue that, in such cases, organizing a special session “does not make sense” because the issue

can be discussed during the regular session.<sup>51</sup> Avoiding special sessions because of the imminent regular session can be used either for strategic reasons - being the target of a special session constitutes a higher degree of scrutiny at the Council than the traditional UPR process - or for practical reasons. As mentioned in the introduction, addressing human rights violations through urgent action is valuable not only because regular sessions are not always the appropriate medium but also because it can send a more impactful message to the international community. Yet, we observed a slight decrease of special sessions when regular sessions occur, not the month before (Figure 3).

Indeed, special sessions can occur right before a regular session. The recent session on Myanmar, for example, was called 14 days before the Council was supposed to meet. One of the justifications we received for this exception was the consensus in the international community about the need to denounce the military coup and the risk of quick deterioration of the human rights situation.<sup>52</sup> Moreover, waiting for the regular session and crafting a resolution would have taken too much time. It should also be noted that two special sessions in a row rarely happens.

Moreover, some experts have suggested that when diplomats are away for holidays, it is

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<sup>48</sup> Landolt, “Rival Transnational Advocacy Networks”.

<sup>49</sup> International NGO representative in discussion with the team, July 2021.

<sup>50</sup> International NGO representative in discussion with the team, July 2021, August 2021. Regional NGO representative in discussion with the team, September 2021.

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<sup>51</sup> International NGO representative in discussion with the team, July 2021.

<sup>52</sup> Regional NGO representative in discussion with the team, September 2021; Western diplomats in discussion with the team, November 2021.

harder to accomplish special sessions. As mentioned in one of our interviews “I think people do take their summer holidays more seriously than human rights violations.”<sup>53</sup> While this has been mentioned in several of our interviews<sup>54</sup>, it was not a unanimous statement and our data suggests that December is the month when most calls for urgent action happened (Figure 3). Yet, our data also shows that no session has ever been called between the 23rd of December and the 9th of January. If such data does not enable us to affirm that logistical factors contribute to the feasibility of calling for urgent action, it nonetheless highlights that they should be considered.

### NUMBER OF SPECIAL SESSIONS PER MONTH OF THE YEAR

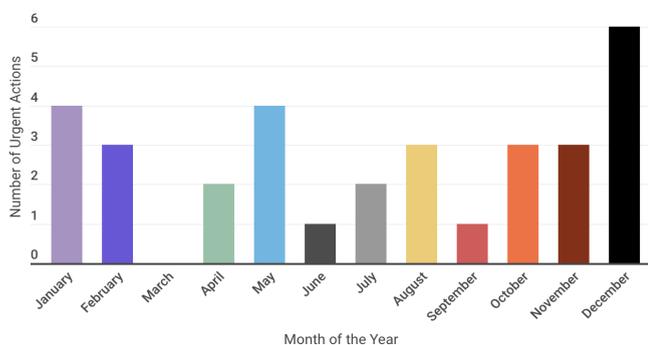


Figure 3. Capstone data collection based on OHCHR data

## 2. Issue Emergence

As the literature has highlighted, not all human rights violations are discussed at the international level and the very nature of the

<sup>53</sup> Regional NGO representative in discussion with the team, September 2021.

<sup>54</sup> Regional NGO representative in discussion with the team, September 2021. International NGO representative in discussion with the team, July 2021.

violations play an important role. Thus, to understand what human rights violations are addressed through urgent action at the UNHRC, it is essential to analyze the nature of the issue. In other words, it is significant to look at which specific types of human rights violations are addressed by the Council through urgent action. Notably, some specific violations gain more attention than others or at least are more likely to be brought to the Council. Our data analysis has highlighted two main features that are present in most of the human rights violations addressed by an urgent action: the scale and urgency of the violation, as well as the political status of a particular state and issue at the Council. Since issue emergence covers a lot of our discussion, here we will delve into the nature of the violation. Other aspects of issue emergence, such as geopolitics and communication, are going to be discussed further in our analysis.

### *The scale and urgency of the violation*

Leaving behind its prevention mandate, the UNHRC most frequently acts when a situation is already a human rights or humanitarian crisis. We have found that even when a situation is critical it still takes “something really bad and really big”<sup>55</sup> to trigger urgent action. Often that can either be a high level of casualties or an action with a perceived significant political salience, for example the military coup in Myanmar.<sup>56</sup> These two factors involve a change

<sup>55</sup> Regional NGO representative in discussion with the team, September 2021.

<sup>56</sup> Non-western diplomat in discussion with the team, November 2021.

in the “status quo” of the situation and could explain the urgent need to respond to a quick deterioration, because this change in the “status quo” can lead to human rights violations.

Additionally, as mentioned by an NGO representative, when commonly accepted standards like the Irish criteria are met or when crimes under international law are committed, it can be easier for Council members to make a case for urgent action.<sup>57</sup> A case in point would be the four consecutive sessions on Syria which were held from 2011-12, to discuss human rights violations committed by the Syrian Arab Republic.

### ***The political status of an issue***

As mentioned in the literature review, once the issue has gained the attention of civil society, gatekeepers, in this case states, have the power to decide what will be discussed or not at the UNHRC. To understand what types of issues are considered by the gatekeepers, we should consider the political status of the issue and the state targeted. As stated earlier, for the UNHRC to agree to discuss a situation, the latter needs to generate some consensus at the Council to reach 1/3 of the member states. In addition to the 1/3, leading states need to be sure to have enough votes to pass an adequate resolution.<sup>58</sup> This points towards all the human rights violations that are “uncontested” at the UNHRC or that are non-confrontational between other

states.<sup>59</sup> This criterion explains why some issues have been brought several times at the Council since 2006. If a situation has previously reached the 1/3 threshold in the Council, it can be easier for the same situation to be denounced because there might already exist a group of states ready to support the call.<sup>60</sup>

When a situation is “ongoing” it is more likely that a call for action will succeed. This “ongoing” status implies that states are already monitoring a situation not only for its violations but also because of the interests of the state for the state concerned.<sup>61</sup> Which means that diplomats are familiar with the situation, information has already been collected, and updates are regularly occurring. In other words, they may often have more evidence compared to newer human rights situations where information might be lacking. Thus, when a violation has recently occurred or has not been monitored by several states, bringing the issue to the Council will probably be more difficult.

To understand this criterion, it should be noted that most urgent action by the Council targets a particular state or situation. Only two out of thirty-two special sessions were called on thematic issues. One of the reasons brought forward to explain this pattern is the

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<sup>59</sup> It should be noted that the consensus can occur in the UNHRC but not in other UN mechanisms, such as the UNSC. Discussion about the dynamics between the different UN procedures when a deadlock takes place in one of the instances can be found in the section about Regional and Parallel Human Rights mechanisms.

<sup>60</sup> International NGO representative in discussion with the team, July 2021.

<sup>61</sup> Western diplomat in discussion with the team, November 2021; Non-western diplomat in discussion with the team, November 2021.

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<sup>57</sup> International NGO representative in discussion with the team, July 2021.

<sup>58</sup> UN expert in discussion with the team, November 2021.

unwillingness for states to change the established rules and the challenge thematic issues bring in regards to accountability.<sup>62</sup> In addition, the role of the concerned state by the urgent action is of extreme importance. From our interviews with all the delegations, we gauge that it is important to consider the reaction of the concerned state towards resolving the issue at hand domestically. This is because we have found that this impacts the way delegations make their decisions about supporting the urgent action.

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<sup>62</sup> Western diplomat in discussion with the team, November 2021.



## COVID-19 and its impacts on urgent action

“Diplomacy is not meant to take place virtually”, noted a western diplomat we interviewed as they went on to explain to us how the lack of physical contact has affected negotiations within the Council. They stated that it has been much easier for delegates who have been at the Council for a “long time”, to operate during COVID times as opposed to newer ones who have just entered the council. Similarly, another diplomat stated that informal spaces like the cafeteria was an important avenue for the diplomats at the Council to exchange ideas about what each of them were working on. They mentioned that it was “more of an effort” to participate in these exchanges in formal spaces and that delegates are always more open to talk informally than in formal settings. Additionally, it was also mentioned that getting sixteen signatures while working virtually takes more time because of the coordination of response from the capital.

Although the COVID-19 crisis was not a subject for urgent action at the Council, the pandemic has had significant impacts on its functioning. Notwithstanding that there were obvious delays in communication, the virtual convening of the UNHRC sessions has also increased accessibility in a number of ways. As pointed out by an NGO representative, people who could not attend sessions because of lack of accessibility, now are able to communicate virtually. Furthermore, the virtual format enables many experts to be included in the negotiations processes.

At the same time, the pandemic strongly affected the functioning of many formal and informal negotiation spaces. An NGO representative we interviewed considered it a threat to civil society organizations because of the lack of engagement with the UN body in-person. They stated that this serves as a medium of exclusion since it is now easier for states to neglect communication from civil society organizations and escape accountability. One NGO representative stated how diplomats now reply less to emails or even switch off their cameras during briefings with civil society representatives. The lack of a physical presence has therefore at times led to greater disengagement between states and NGOs at the Council. The NGOs are finding it difficult to communicate with the states about leading calls for urgent action. Moreover, with time, the fatigue of online meetings and phone calls has added to this disengagement.

In contrast, most delegates we interviewed, however, stated that the lack of physical presence has not affected NGO relations from their perspective. Two even denied the effect of COVID on the call for urgent action while acknowledging that this year has seen the highest number of special sessions in the Council. They seemed to be more affected by its effect on diplomatic relations rather than State-NGO dynamics. Another NGO representative noted that after the March 2021 session got postponed, states actively called for lesser resolutions as a direct effect of lesser spaces of negotiations. This in turn also affected inter-state engagement at the Council.

### 3. Transnational Advocacy Networks

We found that the form civil society advocacy takes at the UNHRC conforms closely to the Transnational Advocacy Network (TAN) developed by Keck and Sikkink. Three interactions between transnational actors are recurring in our interviews: between local, regional, and international NGOs, between INGOs and state diplomats, and between INGOs themselves.

#### ***Local-International***

Keck and Sikkink have argued that Transnational Advocacy Networks act when a blockage exists between civil society within a country and its political elite (Keck and Sikkink, 1998). This seems to match the observations of INGO representatives: not only do they see themselves as a link between local NGOs and member states, but they also frame UNHRC urgent actions as corresponding to a higher escalation of action, designed to keep non-compliant states accountable. However, these distinctions are more blurry than they might seem. INGOs will often strive to involve local NGOs not just in information-gathering but in addressing the delegates at the Council.<sup>63</sup> It should furthermore be noted that some NGOs can have both a local and international character. For instance, Amnesty International and Human Rights Watch, while represented in Geneva, also enjoy a mass membership in national sections with an ability to exert

influence on a local level. As a result, a sort of vertical integration of TANs can happen, where many of its actors are part of one organisation. Alternatively, a powerful local civil society organization such as the American Civil Liberties Union (ACLU) may have the ability to conduct advocacy with member states as an INGO would traditionally do. This highlights both the fluidity that can exist between local and international civil society, as well as highlighting the advantages that come from the capacity to conduct advocacy at multiple levels, which are relevant to the call for action.

#### ***International-Diplomat***

Advocacy with diplomatic missions is one of the core missions of INGOs at the UNHRC. This relationship is not just one of pressure and tension: states may need civil society to lead on issues in order to legitimise their own action. Some interlocutors have additionally expressed a preference for working with certain states that they consider friendly to them, or entertain informal links with diplomats whom they might consult on strategies for advocacy with states.<sup>64</sup> States also need NGOs when it comes to data collection and dissemination. This is especially true when blockages prevent the free flow of information from reaching delegates. Civil society organisations are furthermore perceived to offer a non-politicised source of authority.<sup>65</sup> At the Geneva level the weight of INGO-diplomat relations (formal and informal)

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<sup>63</sup> International NGO representatives in discussion with the team, July 2021; Regional NGO representative in discussion with the team, September 2021.

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<sup>64</sup> International NGO representatives in discussion with the team, July 2021.

<sup>65</sup> Non-western diplomat in discussion with the team, November 2021.

cannot be understated: NGO representatives and state delegates both seem highly conscious of the key role the former play in the call for urgent action.<sup>66</sup>

However, multiple interviewees have expressed frustration at the behaviour of diplomats with NGO representatives and especially with human rights defenders. One NGO representative complained about having to run after diplomats to obtain codes for Zoom meetings; another interviewee expressed doubts as to whether they were paying attention at all to briefings, as their cameras were off.<sup>67</sup> This matches Freedman's observation that, when NGO workers or human rights defenders would speak in UNHRC sessions, diplomats would pay less attention.<sup>68</sup> This suggests that there exists an endemic issue among some member states regarding their doubts as to the value of input from civil society. This challenges civil society and states' call to action at the Council. In turn, this might be a point on which long-term advocacy by NGOs should focus. According to NGO representatives, it is essential to discover which state delegations are open for interaction as some suggest that acquiring personal contacts in the different state missions in Geneva is "like

hitting the jackpot"<sup>69</sup> for fostering advocacy in an informal way. On the other hand, outreach is more formal – and less promising – if a personal relationship does not exist.

### ***International-International***

In line with Keck and Sikkink's model of TANs, data collected from our interviews shows that horizontal interaction between INGOs is significant. According to one NGO interviewee, it is unusual for INGOs to engage in advocacy on their own. Rather, during the early stages, it is more common to seek other NGOs to collaborate with.<sup>70</sup> Such engagements happen at varying degrees of (in)formality, ranging from private discussions to drafting letters to the UNHRC or member states calling for urgent action. It should be noted that civil society actors do not occupy fixed positions in a TAN. Rather, depending on their networks and expertise, they might occupy more or less leading or supporting roles for a certain issue. The crucial nature of collective action, as well as the dynamism of inter-NGO relations, was brought up often in our interviews: one interviewee commented upon the need for demands at the Council that are useful for all of civil society.<sup>71</sup> Highlighted here is the importance of joint action by NGOs and INGOs at all levels of advocacy to pursue urgent action

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<sup>66</sup> International NGO representatives in discussion with the team, July 2021; Regional NGO representative in discussion with the team, September 2021; Non-western diplomats in discussion with the team, November 2021.

<sup>67</sup> NGO representative in discussion with the team, July 2021. Regional NGO representative in discussion with the team, September 2021.

<sup>68</sup> Freedman and Houghton, "Two Steps Forward, One Step Back", 762.

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<sup>69</sup> International NGO representatives in discussion with the team, July 2021

<sup>70</sup> NGO representative in discussion with the team, July 2021.

<sup>71</sup> Regional NGO representative in discussion with the team, September 2021

at the UNHRC as is observed in the special session on Myanmar in 2021.<sup>72</sup>

#### 4. Regional Blocs

As previously discussed in the literature, bloc politics and regional dynamics are one of the factors that influences the Council's behaviour. Most experts agree that regional groups play a significant role in the Human Rights Council. Coalition groups such as the African group, the OIC, the Latin American and Caribbean bloc, and the EU continue to politicize the Council in a way comparable to its predecessor, the Commission. However, as pointed out by experts, regional and thematic blocs have become more dynamic with the creation of the Council.<sup>73</sup> Other groups that pursue coordination on thematic or ideological basis such as the group of Like-Minded states and the Non-Aligned Movement have become increasingly influential in pursuing action as well.<sup>74</sup> Understanding this reality is important for both INGO's attempting to persuade states into voting in favor of urgent action or state delegations that hope to engage on an issue or halt action altogether. NGO officials also point out that liaising with states leading action at the Council is imperative in the process of pursuing special sessions and urgent debates.<sup>75</sup>

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<sup>72</sup> Regional NGO representatives in discussion with team August, 2021 and September 2021.

<sup>73</sup> Western diplomat in discussion with the team, November 2021; UN expert in discussion with the team, September 2021.

<sup>74</sup> Western diplomat in discussion with the team, November 2021.

<sup>75</sup> International NGO representatives in discussion with the team, July 2021; Regional NGO representatives in discussion with team August, 2021 and September 2021.

#### **Regional behavior**

From the information gathered from NGO representatives, the OIC continues to dominate action in the Council in regards to urgent action with both Pakistan and Egypt often ready to coordinate with different Islamic states to either pursue or block action. For example, some experts point out that the reason it is so common to have special sessions on the situation of OPT derives from Pakistan's willingness to coordinate and lead the OIC in supporting the vote.<sup>76</sup> They also noted that the Latin American and Caribbean bloc is increasingly more relevant and influential in the process of calling for urgent action.<sup>77</sup> One expert highlighted Uruguay's willingness to lead and support special sessions and urgent debates.<sup>78</sup> When it comes to the African group, there is no consensus on the level of cohesion expected, some experts suggest African states do not always vote in unity, while other experts, nonetheless, emphasize these states' commitment to pursuing "African solutions to African problems".<sup>79</sup> From the data gathered, it appears that African states continue to be reluctant in voting in favor of country-specific action. One expert pointed out that the call for an urgent debate on systemic racism and police brutality was only made possible through the leadership and solidarity from members of the African group, who supported discussion on the

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<sup>76</sup> International NGO representatives in discussion with the team, July 2021.

<sup>77</sup> *Ibid.*

<sup>78</sup> International NGO representative in discussion with the team, July 2021.

<sup>79</sup> Western diplomat in discussion with the team, November 2021.

issue.<sup>80</sup> This is significant because despite being a thematic issue, the call for that urgent debate arose following the death of George Floyd and Breonna Taylor and the subsequent unrest over structural racism and police violence in the United States. The ability to target a superpower like the United States in urgent action at the Council further exemplifies the influence regional coordination can have at bringing forth mechanisms for action.

### **Regional interests**

As previously mentioned, uncontested country situations are easier to gain traction at the Council. Conversely, country situations that are politically contested often struggle to get a session or urgent debate. For instance, in the case of Ethiopia's situation in Tigray, political considerations were very influential within the African group, given Ethiopia's role in the region as a strong economic actor and its position as the host of the headquarters of the African Union. Having a greater level of influence such as Ethiopia does, can shield states from ever being scrutinized by the Council.<sup>81</sup> Another important consideration pointed out by experts is the need to understand the priorities and interests of each state. Leveraging state interests opens an opportunity for dialogue and compromise. Nonetheless, political considerations continue to negatively influence some of the informal negotiations that happen

bilaterally between stakeholders.<sup>82</sup> Some experts point out that Western states often dominate discussions and utilize their political clout to leverage their interests, in some cases hindering opportunities for collaboration.<sup>83</sup>

In addition, experts highlight the importance of engaging with regional networks to ensure legitimacy and collaboration on a wider scale.<sup>84</sup> NGOs and state delegations attempting to pursue urgent action on an issue or country specific situation must, therefore, note the regional dynamics at play to successfully call a special session or urgent debate. As one NGO representative emphasizes "it all comes down to a chess game".<sup>85</sup>

## **5. Geopolitics**

### ***International politics at the Council***

All interviewees agree that international politics continue to represent a major factor within the UNHRC, with one NGO representative arguing that political calculations represented 90% of decision-making by states on human rights.<sup>86</sup> The notion that economic and political interest both drive and constrain states' decisionmaking on human rights, though deplored, was accepted as a given by all our interlocutors. One state delegate alluded to what he called a

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<sup>80</sup> International NGO representative in discussion with the team, November 2021.

<sup>81</sup> UN Expert in discussion with the team, September 2021.

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<sup>82</sup> Non-Western diplomat in discussion with the team, November 2021

<sup>83</sup> *Ibid.*

<sup>84</sup> Western diplomat in discussion with the team, November 2021; International NGO representatives in discussion with the team, July 2021.

<sup>85</sup> International NGO representative in discussion with team, July 2021.

<sup>86</sup> *Ibid.*

“Global South perspective”. That is to say, the notion that the “human rights ecosystem” in its design is influenced by the Global North, leading to stronger action within the ecosystem when it suits the political interests of the latter region.<sup>87</sup> Related to the saliency of national interest is the degree at which decision-making takes place. Policy is usually made by national governments in state capitals, more so for votes perceived to be high-stakes for the concerned state. Rather than being a decision-making centre, Geneva often serves as a seat for information gathering and dissemination.<sup>88</sup> It follows that a major component of NGO advocacy at the Council is about this very collection and spreading of information.

### ***Great Power politics and coercion***

As noted by multiple of our interviewees, powerful states often manage to evade scrutiny when it comes to human rights issues. China, with its alleged human rights violation in Xinjiang, is a prime example. Similarly, multiple interlocutors considered that the situation in Kashmir has so far evaded scrutiny due to political and economic interests of key players. One interviewee identified India’s political clout as well as its partnership with Western states as a balancing factor to China’s influence as a cause.<sup>89</sup> The urgent debate on racism, which focused on the United States, is a notable exception to this dynamic, as previously

discussed. Experts attributed the feasibility of an urgent debate targeting the United States to the instrumental role of the African group leading action and harnessing support from other Global South members as well as the United States’ fragile diplomatic position at the time.<sup>90</sup> They highlighted that under the Trump administration, the United States disengaged from the Council and their diplomatic capacity and legitimacy was undermined.<sup>91</sup>

States allied to powerful states, or fulfilling valuable roles in the latter’s foreign policy, are similarly unlikely to face scrutiny.<sup>92</sup> Cameroon is a prime example: the country is experiencing a grave human rights crisis in its Anglophone regions. Yet, according to one NGO interlocutor, criticism within the Council has remained muted due to Cameroon’s partnership with Western powers on anti-terrorism.<sup>93</sup> Ethiopia similarly plays a role in international anti-terrorist efforts, while also hosting the African Union and enjoying the support of other African states.<sup>94</sup> This should be nuanced by the fact that AU members maintain what one delegate calls “a constructive position” among each other. It entails a local, state-centric approach that integrates dialogue with the concerned state as the first step.<sup>95</sup> Rather than

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<sup>87</sup> Non-western diplomat in discussion with the team, November 2021.

<sup>88</sup> NGO representative in discussion with the team, July 2021.

<sup>89</sup> NGO representative in discussion with the team, September 2021; Non-western diplomat in discussion with the team, November 2021.

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<sup>90</sup> Non-western diplomat in discussion with the team, November 2021.

<sup>91</sup> UN expert in discussion with the team, November 2021.

<sup>92</sup> Regional NGO representative in discussion with the team, September 2021.

<sup>93</sup> NGO representative in discussion with the team, July 2021. NGO representative in discussion with the team, September 2021.

<sup>94</sup> NGO representative in discussion with the team, September 2021.

<sup>95</sup> Non-western diplomat in discussion with the team, November 2021.

merely being a strategy to evade scrutiny, then, this approach might represent a difference in philosophy. Nonetheless, it is still evident that powerful states will use their influence to deflect attention to human rights violations they commit, either by making concessions or threats, further compromising the Council's legitimacy as well as highlighting its inaction on specific situations.

### **Geopolitical disinterest**

Another interesting dimension regarding triggers for urgent action relates to the role that geopolitically uninvolved states can play. One NGO representative noted that countries with little direct political interest offer opportunities when it comes to advocacy.<sup>96</sup> In such scenarios, missions in Geneva may have more influence on the final decision coming from national governments. It follows that advocacy by NGOs in Geneva with these member states has a high potential for success, highlighting the need to identify them during the advocacy and negotiation phases.<sup>97</sup> The fostering of informal relationships between missions and NGO representatives discussed above would be particularly crucial here.

## **6. Regional and Parallel Human Rights Mechanisms**

One factor not previously anticipated by this research is the role regional and parallel human rights mechanisms have played in deterring or

encouraging issue adoption by the Council. This naturally influences the process of calling for urgent action at the UNHRC. These regional or parallel human rights mechanisms were mentioned by all 11 experts as an important factor on whether a special session or urgent debate was pursued.

### **Parallel Human Rights Mechanisms**

While not formally a human rights mechanism, the UNSC agenda influences that of the Council where an issue adopted by the UNSC often is not discussed in Geneva.<sup>98</sup> When the UNSC is paralyzed on an issue, Geneva may act instead. It is also common for the UNSC to informally delegate situations for the UNHRC to evaluate when these are difficult or controversial. For example, one expert mentioned that multiple situations concerning human rights violations in OPT are handled by the Council because the UNSC is unable to foster dialogue.<sup>99</sup> Moreover, when these two institutions are not interacting, their lack of communication can also be an issue according to experts.<sup>100</sup> In addition, the existence of preexisting engagement from other mechanisms such as fact-finding missions and commissions of inquiry may deter urgent action being taken.<sup>101</sup> States may be reluctant to put another state under scrutiny if there is a possible alternative for the issue to be

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<sup>96</sup>International NGO representative in discussion with the team, July 2021.

<sup>97</sup>*Ibid.*

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<sup>98</sup> International NGO representatives in discussion with the team, July 2021.

<sup>99</sup> *Ibid*; Regional NGO representative, September 2021.

<sup>100</sup> International NGO representatives in discussion with the team, July 2021.

<sup>101</sup> *Ibid*; Non-western diplomat in discussion with the team, November 2021; UN expert in discussion with the team, September 2021.

addressed through other channels.<sup>102</sup> The Council's lack of coordination with fact-finding missions and commissions of inquiry can also pose obstacles for NGOs and states to collect the evidence they need to call for urgent action.

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### **Regional Human Rights Mechanisms**

The existence of regional human rights mechanisms plays a role in discouraging urgent action as there is often a preference for situations to be addressed at the regional level.

<sup>104</sup> Therefore, bodies such as the African Commission on Human and Peoples' Rights, the ASEAN Intergovernmental Commission on Human Rights, the European Court of Human Rights, and the Inter-American Commission on Human Rights impact the Council's ability to adopt issues. States' intuition is that if the regional mechanism is already inquiring about a situation, then not much would be achieved by calling for urgent action on the same topic.<sup>105</sup>

For instance, experts suggest that one of the reasons why the human rights situation in Tigray did not trigger a special session was because the African Commission on Human and Peoples' Rights already planned to pursue a fact-finding mission of inquiry on the situation in Ethiopia.<sup>106</sup> Therefore, the states were aware of this development even though it was

operationalised much later.<sup>107</sup> Further, since there is no such mechanism in the Middle East, this criterion may explain why most country-specific situations which received a special session in the Council were disproportionately on countries in this region. Nonetheless, while it is often celebrated when the region takes the lead on a human rights issue, many experts pointed out that there are processes happening on a national and regional level that states use as a political strategy to divert attention and international scrutiny stemming from urgent action at the Council.<sup>108</sup>

## **7. Communication and Media**

As previously discussed in the literature, one can note that at the core of the Council's decision-making process lies the communication and management of information. However, a UN expert and NGO representative highlighted the lack of information sharing and communication not only within and between state missions, but also between the UNHRC and UNSC<sup>109</sup>. In spite of the wide arena of information sharing, this hinders the response of the system as a whole towards a certain issue. Upon talking to various NGO officials, one of the common sentiments that resonated with all of them was about how NGOs have a greater degree of influence in Geneva in comparison to New York. Since

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<sup>102</sup> *Ibid.*

<sup>103</sup> International NGO representatives in discussion with the team, July 2021.

<sup>104</sup> Regional NGO representative, September 2021; International NGO representative in discussion with the team, July 2021.

<sup>105</sup> UN expert in discussion with the team, September 2021.

<sup>106</sup> Regional NGO representative in discussion with the team, September 2021.

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<sup>107</sup> Source: CIVICUS.

<sup>108</sup> International NGO representatives in discussion with the team, July 2021.

<sup>109</sup> International NGO representative in discussion with the team, July 2021; UN expert in discussion with the team, November 2021.

NGOs are included in the formalized structure of the UNHRC, they feel that their voices have a greater impact and are given the space to engage in the Council's activities.<sup>110</sup> Therefore, joint letters issued by civil society organizations have proven to be of significance at the Council with regards to giving attention to a specific issue. Joint advocacy documents and private briefings by NGOs which put up a united front, have the ability to push States to take decisions and render matters as 'urgent' to act upon.<sup>111</sup> According to an NGO representative, NGOs collaborating for joint advocacy statements build credibility and legitimacy to the issue. This consequently, fuels the need to call for urgent action.

Similarly, a western state delegate indicated that the media does not have a direct influence. However, other delegations and NGO representatives stated that the media does play a significant role in increasing a sense of alarm and consequently pressurizing states to act on an issue. Another NGO representative explained how civil society organisations play an important role in communicating on the ground information to delegations and formally supporting it through voices and testimonies in the media.

Media complements the advocacy of the organizations. A case in point is the 31st special

session on Afghanistan, which received immense coverage from the media, not only on mainstream news but on social media channels like Instagram, Twitter, and Facebook as well. Footage of people falling off a plane taking off from the Kabul airport helped in rendering the situation as an 'emergency' and pressured States in the Council to act on it. Similarly, the media coverage and information dissemination on the situation in Myanmar played an important role in putting public pressure on the Council to call for a special session to discuss the coup in 2021.<sup>112</sup> The latter was highly covered by dominant media houses which gave it a center stage on an international level so much so that one of the delegates we interviewed who was actively involved in calling the special session on Myanmar stated how they did not require additional pressure from civil society organisations for calling the special session. This led to creating an additional sense of alarm about the issue as opposed to Ethiopia, which hardly had any coverage in the international press and suffered from an information blockage. NGOs may also report to large news agencies like BBC or Reuters, in order to bring attention to an issue in an attempt to trigger dialogue at the Council.<sup>113</sup> This in turn, plays a crucial role in creating a situation where States can not ignore the presence of the information and are therefore compelled to call for urgent action.

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<sup>110</sup> International NGO representative in discussion with the team, July 2021.

<sup>111</sup> International NGO representative in discussion with the team, July 2021; Regional NGO representative in discussion with the team, September 2021.

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<sup>112</sup> Regional NGO representative in discussion with the team, September 2021.

<sup>113</sup> Western diplomat in discussion with the team, November 2021; International NGO representative in discussion with the team, November 2021.

## **Case Study: Myanmar and Ethiopia**

As mentioned earlier, a comparison of the calls for urgent action on Myanmar and Ethiopia is reflective of the asymmetric response of the Council towards addressing human rights violations. A detailed study of these two situations has served as a framework for this applied research so far as the identification of proposed factors is considered. Our analysis has shown that Ethiopia's political importance, in particular because of its role in the African Union, was an influencing factor. Moreover, the presence of a regional human rights mechanism which was investigating the situation in Tigray was instrumentalized to rally other states against the call for a special session. The strong presence of a regional bloc also aided in making the issue a "regional" one. Furthermore, Ethiopia's reluctance to cooperate in regards to the special session significantly influenced the call's failure.

In contrast, the call for the special session on Myanmar involved the Burmese delegates at the Council actively advocating for it. As opposed to Ethiopia, Myanmar also had the support of the non-western states in the UNHRC. Consequently, it was an "uncontested session" as put forward by one of our interviewees.<sup>114</sup> Hence, this increased the chances for the session to get enough support. As per our analysis, the absence of a mature regional human rights mechanism in Asia

influenced the case for Myanmar's special session. Along with highlighting the role of regional mechanisms, geopolitical influence and intra-council and regional politics, this case study also presents us with the influential role of the media.

Our case study is all the more interesting because we were able to observe the evolution of the situation over nine months. We witnessed a shift of support from states to the call for urgent action on the situation in Tigray. Experts now suggest that the possibility of obtaining a special session on Ethiopia is much greater than in February 2021.<sup>115</sup> This is due, in particular, to geopolitics being redefined.

## **CONCLUSION**

We have thus identified a set of seven "unofficial" triggers that we consider to be central to the call for urgent action at the UNHRC. While matching existing research on the points of geopolitics, TANs, and bloc politics, this research goes further by emphasizing their multiplicitous dimensions and the necessity to contextualize every situation to understand the dynamics around it. It is true that political considerations are a highly significant factor when it comes to action at the Council; however, political disinterest is also significant as it offers possibilities for advocacy. Likewise, regional and cross-regional blocs continue to

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<sup>114</sup> International NGO representative in discussion with the team, July 2021.

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<sup>115</sup> UN Expert in discussion with the team, November 2021.

play a dominant role though they feature a greater diversity and dynamism.

Other triggers have furthermore received little to no attention within our context. We have found that the Council's existing agenda as well as logistics have a significant impact on urgent action. Furthermore, media visibility of an issue increases the chance of urgent action. Our findings on the interactions between human rights mechanisms also offers a fascinating glimpse into a global architecture of human rights.

Still other triggers have not been applied to the UNHRC. NGO-state delegate relations seem to match Keck and Sikkink's model of TANs while demonstrating the need for close cooperation between all actors. The concept of issue emergence, meanwhile, showcases here that urgent action must be perceived as responding to a grave situation while also being expedient.

Our research constitutes the first effort to comprehensively map the "unofficial" triggers driving urgent action at the UNHRC. Our NGO and state delegate interviewees concur as to their importance. We hope that this work will prove useful to civil society actors and state delegates engaging with the Council, particularly on urgent action.

Future research should focus on the applicability of these criteria to UNHRC action as a whole. Our research has also highlighted the necessity to consider the quality of the outcome stemming from urgent action. This includes both specific procedures, the content of resolutions, as well as the effect of urgent action upon further UNHRC activity. Further evaluation on human rights mechanisms inside and outside of the UN likewise shows promise for future research.



## RECOMMENDATIONS

Town hall meeting with UN Secretary-General António Guterres and Civil Society on the margins of CSW62. By Ryan Brown. Credits: UN Women

1. **Pursue cross-regional coalitions to increase the likelihood of acceptance of a particular call for urgent action.** Our research on the cross-border politics at the Council shows us that the chances for urgent action to be pursued are more likely when there are coalitions across regional blocs. This comes from the understanding that regional blocs are extremely significant in leading action and negotiations at the Council.
2. **Mobilize and gather support at the regional and local level before calling for urgent action.** Upon analysing the requests that gained support at the Council, it is clear that regional NGOs and local civil society's support is instrumental to raise an issue at the international level.
3. **Advocate for a united civil society front.** Joint letters from larger NGOs, like Amnesty International and Human Rights Watch, leading the call to action together with complimentary information provided by smaller and local NGOs have a greater impact and legitimacy at the Council.
4. **Share information and knowledge among stakeholders to create the possibility to pursue urgent action at the Council.** Relaying information between NGOs, state delegations, UN experts, regional and parallel human rights mechanisms, is essential to improve monitoring on human rights situations on the ground and to promote knowledge exchange on best practices.
5. **Foster involvement and support of bigger states for a call for action.** Support from bigger delegations with more resources at hand, often garners more attention at the Council and consequently has more chances of collecting the sixteen votes required for urgent action. Therefore, bigger states should support and spotlight the concerns from smaller states and smaller states should engage and seek support from bigger states to take the lead.
6. **Go beyond country-specific issues.** Given the politicisation of the Council, stakeholders should pursue innovative ways to address human rights violations that go beyond country-specific situations. For instance, framing issues thematically could potentially lead to a greater consensus at the Council.

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