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The African Group on the United Nations Human Rights Council: Shifting geopolitics and the liberal international order

Eduard Jordaan

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Abstract: During the early years of the United Nations Human Rights Council, formed in 2006, the African Group obstructed efforts to scrutinize and improve human rights in specific countries, notably in the cases of Darfur and the Democratic Republic of the Congo. However, in recent years the African Group has become willing to address country-specific human rights violations, particularly in Côte d'Ivoire, Libya, and Eritrea. This article documents the African Group's shift and asks why it occurred. Against the backdrop of debates about whether the liberal international order can survive a decline in American dominance, the study of the African Group's shift grants us insight into the elements that underpin liberal internationalism. Three explanations for the African Group's shift are considered: an improvement in the domestic human rights profile of African Group members, changes to the internal dynamics of the African Group, and the influence of the United States. The article concludes that American power was decisive, a finding that raises doubt about whether the liberal international order will survive a decline in American power.

In 2005, former Secretary-General of the United Nations, Kofi Annan, described the organization's Commission for Human Rights (CHR) as 'increasingly undermined by its own lack of credibility and professionalism'.¹ Many states, Annan argued, were using the CHR not to promote human rights but to protect themselves from criticism, thereby damaging the reputation of the entire UN system.² Annan proposed replacing the CHR with a Human Rights Council (HRC). The new body was created in 2006. The HRC was supposed to 'redress' the faults of its predecessor, but initially seemed no better.³ In the assessment of Bertrand Ramcharan, a former acting UN High Commissioner for Human Rights:

A key problem of the Council is that the African and Asian groups have been allocated 26 out of the 47 seats. Many countries in these two regions have severe governance problems and have experienced numerous conflicts and situations of gross human rights violations [T]hey band together to prevent discussions of situations of gross human rights violations and forthright criticism of such violations. The present majority is unlikely to give up its numerical advantage. Unless the HRC can get over this difficulty, however, it will continue to be constrained in its capacity to act fairly to situations of gross violations.⁴

Since Ramcharan made this statement in late 2010, appraisals of the HRC have become more favourable.⁵ A widespread view is that 'despite a shaky start, [the HRC] is generally seen to be performing well'.⁶ Following Ramcharan, the HRC's increased responsiveness to human rights problems depended on some early obstructers becoming less antagonistic. Indeed, in recent years the African Group on the HRC has become increasingly willing to address human rights problems in specific countries. This article asks why this shift occurred.

Since the Second World War, human rights have eroded norms of state sovereignty.⁷ The spread of human rights has been deeply rooted in the post-war liberal international project.⁸ In turn, the creation and maintenance of the liberal international order has depended on the leadership and preponderance of a 'liberal Leviathan', the United States. However, the increasing movement of wealth and power to developing countries has eaten into American dominance and has ushered in a less hierarchical world.⁹ While there is little doubt that the future will 'look less American', will it 'also look less liberal'?¹⁰ John Ikenberry, a leading liberal international relations theorist, maintains that the liberal features of the international order can survive detached from their American impetus.¹¹ Realists, by contrast, see a much closer connection between international norms and state power. Citing examples that span five centuries, Stephen Krasner argues that international human rights regimes have only been consequential when the most powerful states have enforced the regime's prescriptions.¹² The realist view that 'when American power declines, the institutions and norms that American power has supported will decline',¹³ spells the 'endtimes of human rights', a reassertion of national sovereignty against human rights universalism.¹⁴ A study of the African Group's shift from illiberalism to liberalism allows us to gain insight into what sustains liberal values in international relations. This article considers three possible explanations. Research on voting in the CHR and HRC suggests that democracies and countries with good human rights records are more likely to support resolutions criticizing rights-abusing states.¹⁵ This research leads to the first potential explanation: the African Group's shift stemmed from an improvement in the domestic human rights records of the African HRC members. Informed insiders have echoed the aforementioned research,¹⁶ while International Relations theory presents two sets of reasons to explain the link between domestic and foreign human rights policy. The first set is liberal in character and directs our attention to an institutional make-up that makes pro-human rights foreign policy more likely.¹⁷ A second set of reasons emphasizes the influence of ideas, whereby foreign policy support for human rights is a reflection of the values and self-understandings characteristic of democratic countries. The claim that ideas are determinants of a state's international behaviour is most closely associated with the constructivist perspective, but is also present in ideational variants of liberalism.¹⁸

A second possibility is that the African Group's improvement stems from changes internal to the Group, but that, unlike in the first explanation, these changes are less connected to domestic respect for human rights. Research on South Africa's regressive actions on the HRC reminds us that countries that support human rights at home might oppose these rights internationally.¹⁹ In other words, our focus should fall less on the regime type and more on the influence and role of specific delegations and diplomats in Geneva. In Geneva, unlike in New York, the African Group is not so quick to announce its position,²⁰ which allows more room for argument and choice. The second explanation is harder to place theoretically, but its emphasis on human agency brings it closest to liberalism.²¹

The theoretical literature on international organizations directs us towards a third possible explanation for the African Group's embrace of country-specific scrutiny. The standard view of international organizations is that they are repositories of state action, designed to give states, particularly the most powerful ones, considerable control.²² The link between international organization and hegemonic power is most tightly drawn by advocates of realism. For John Mearsheimer, international organizations roughly reflect the distribution of power in the world and are domains in which power relations are acted out.²³ In a unipolar world, international institutions do not primarily serve international interests, but rather the national interest of the most powerful state.²⁴ The realist understanding of international organizations directs us to ask whether the US is behind the African Group's shift on the HRC.

This article finds that changes in the domestic human rights profiles of African Group members do not account for the Group's increased willingness to address severe human rights problems in specific countries. In line with the second possible explanation, changes within the African Group, specifically the diminished sway of group members with regressive agendas, did matter, but were not the crucial factor.

Rather, the influence of the US, which became a member of the HRC in 2009 after having disengaged from this body during the Bush administration, was decisive in pushing African countries towards a willingness to support country-specific initiatives. Such a finding corresponds most closely to the realist perspective and casts doubt on the endurance of the liberal international project in the context of hegemonic decline.

Beyond what it might reveal about what supports liberal values in the international order, the very fact of the African Group's change of course is significant for at least two further reasons. First, the African Group's recent support for country-specific scrutiny is a movement away from a post-colonial history in which strong norms of sovereignty and non-interference kept African governments from criticizing one another over human rights violations.²⁵ It is also a movement that continues a tentative trend of African states allowing greater outside intrusion over human rights, as evidenced by the adoption of the African Peer Review Mechanism, an interventionist African Union Constitutive Act,²⁶ the 'responsibility to protect', the Brahimi Report on peacekeeping, and the Rome Statute to create the International Criminal Court.

Second, the African Group's acceptance of country-specific scrutiny points to improved relations between Africa and the UN. There has been a feeling that Africa has too little influence in the organization – 'global apartheid' according to Adekeye Adebajo²⁷ – while simultaneously being on the receiving end of many UN decisions – an imposition of Western cultural hegemony in Ali Mazrui's view.²⁸ These imbalances are also visible in UN human rights forums where African states are often examined while scrutiny of the human rights consequences of Western actions has remained weak, for example in Iraq or Afghanistan.²⁹ African states have responded by acting as a bloc because failure to do so would 'spell disaster for weaker countries'.³⁰ Despite abovementioned inequities and vulnerabilities, on the HRC the African Group has adopted an instrument it used to decry as a vehicle for Western meddling, has become less inclined to vote as a bloc, and has worked in closer partnership with Western states.

The article consists of four parts. Part 1 demonstrates the African Group's initial opposition to unwelcome country-specific scrutiny, and then Part 2 shows the Group's recent willingness to address country-specific human rights problems. With an eye on the three possible explanations of the African Group's shift, the first two parts draw attention to the actions of specific delegations, US influence, and instances where non-democratic African countries were more supportive of human rights than democracies, while Part 3 directly examines the three possible explanations. The concluding section considers the implications of the findings.

In addition to the usual documentary sources, the article draws on twenty open-ended interviews. Eleven took place in 2013, during which questions focused on the African Group. Eight interviews are drawn from a 2012 research project on South Africa's role on the HRC, while one is drawn from a 2014 research project on sexual orientation rights at the UN, and is included because it touched on matters relevant to the present article. Nineteen interviews took place in Geneva, and one in Bern. Four interviews were with African diplomats, four with Western diplomats, six with human rights activists, four with international civil servants, and two with academics. Most of my interview requests to diplomatic missions in Geneva (African or otherwise) were unsuccessful. The disappointing number of interviews with African diplomats is mitigated by interviews with human rights activists and UN officials familiar with the African Group. Many interviewees from these two groups expressed support for causes that Western states tend to resist, such as the Durban process on racism and the right to development, which should assuage concerns about pro-Western bias.

The article understands human rights as universal, individualistic, and with an emphasis on civil and political rights. Amnesty International's positions are used to guide judgements about which are the

stronger human rights options on the HRC. Freedom House scores are used to indicate a country's human rights situation³¹ and its level of democracy.³² Freedom House measures the level of political rights and civil liberties in countries, scales them from 1 to 7 (with 7 being the least free) and categorizes countries into 'free', 'partly free', and 'unfree'. Countries that Freedom House regards as 'free' (with an average score between 1 and 2.5) are here taken as 'democracies', while 'partly free' and 'not free' states are regarded as non-democratic. Twenty-seven African states served on the Council between 2006 and 2013. Seven were 'free' during their tenure (Benin, Botswana, Ghana, Mali, Mauritius, Sierra Leone, and South Africa). Senegal was 'free' during the first two years of its six-year membership. Of the non-democratic states, nine (Algeria, Angola, Cameroon, Congo, Egypt, Ethiopia, Gabon, Mauritania, and Tunisia), excluding Libya and Djibouti, were classified as 'not free'.³³

The early years

This section presents four prominent early examples of the African Group's attempts to weaken HRC scrutiny of human rights problems in specific countries. During the HRC's institution-building first year, the African Group worked to weaken the HRC's investigative system and to shield states from criticism under the HRC's new instrument: the Universal Periodic Review. On the cases of Darfur and the Democratic Republic of the Congo (DRC), the African Group protected the respective governments and tried to limit the involvement of the HRC.

Established in 1967, the special procedures represent the 'crown jewel' in the UN human rights system.³⁴ Special procedures mandate holders are independent human rights experts appointed to investigate and report on human rights in a specific country or on a particular theme. They also draw the attention of governments to alleged violations, develop international human rights standards, perform human rights advocacy, and provide technical advice. The African Group led the attack on the special procedures. It sought to strengthen the hand of states and restrict the ability of mandate holders to investigate and publicize human rights abuses. The most serious aspect of the African Group's attack was its proposal of a code of conduct, ostensibly to clarify 'the principles and rules governing the behaviour of mandate holders'. A code of conduct, the African Group said, would 'strengthen the capacity' of the mandate holders and enhance 'their moral authority and credibility'. Although the African Group reaffirmed that the independence of mandate holders was 'absolute in nature',³⁵ the code of conduct was widely perceived as an attack on their independence.³⁶ According to the African Group proposal, mandate holders were to prepare for a country visit in 'close collaboration' with the government's mission in Geneva, 'finalize the official programme of their visits with the host country representatives', and, while on mission, remain, for security reasons, 'in the care of the host authorities at all times'.³⁷ As critics noted, such 'close collaboration' might compromise the anonymity of sources of information and might lead to the moving of witnesses before the mandate holder's arrival.³⁸ The African Group further required mandate holders to respect the national legislation of the host country and rejected the suggestion that such compliance should depend on whether it was in accordance with international human rights principles.³⁹

The proposed code of conduct also tried to restrict communications from special procedures mandate holders. Mandate holders were to direct urgent communications exclusively to the relevant state's mission in Geneva, rather than, say, to a particular government department. Mandate holders were to avoid public allegations of human rights violations 'that have not been previously addressed to the concerned state with adequate time for investigation, reply and, when appropriate, action',⁴⁰ a provision that implied 'a delay of many months'.⁴¹ Crucially, the proposed code of conduct also opened up various fronts on which to criticize mandate holders, who had to behave 'in such a way as to maintain and reinforce the trust they enjoy from all stakeholders', to 'show restraint, moderation and discretion', and to avoid statements that might 'undermine a constructive dialogue among stakeholders'.⁴² At the same time, the African Group

rejected the suggestion that states should be subject to a code of conduct in their dealings with mandate holders,⁴³ while South Africa in particular rejected the suggestion that HRC members should extend standing invitations to all who held special procedures mandates.⁴⁴

The African Group further attempted to render the HRC's new mechanism, the Universal Periodic Review, as unthreatening to states as possible. Developing countries frequently complained that the CHR was a vehicle for the West to single out and “shame” its opponents. Resolution 60/251 therefore created the Universal Periodic Review, a ‘cooperative mechanism’ to assess the human rights performance of all UN members.⁴⁵ Resolution 60/251 left many of the details for the HRC to decide during its first year.

The Universal Periodic Review works in the following way. All UN members are reviewed once every four years. The review is conducted by the Universal Periodic Review Working Group, which consists of the HRC's 47 members. The state under review is assisted by a troika of states, drawn by lot. The review is based on a national report drawn up by the state, UN sources such as treaty bodies or special procedures reports, and information provided by NGOs and national human rights institutions. After the Working Group's review, the troika and the state under review draw up an outcome report, which includes recommendations to the state under review. The plenary of the HRC then adopts the final report. NGOs may attend and, although they may not speak during the Working Group meetings, they may make statements during HRC's regular sessions when the outcome reports are considered.⁴⁶

The Universal Periodic Review has proved to be a weak mechanism.⁴⁷ Had the African Group had its way, it would have been even weaker. During the institution-building phase, the African Group repeatedly stressed that the Universal Periodic Review should be ‘cooperative’, not ‘confrontational’,⁴⁸ meaning tough criticism should be avoided. The African Group further tried in numerous ways to obstruct scrutiny and criticism of states. It wanted each state to draw up its own report, complemented by UN documents. However, it did not want the Office of the High Commissioner for Human Rights to compile these documents, which effectively would have excluded treaty body and special procedures reports.⁴⁹ Initially, the African Group did not make provision for contributions from NGOs at the national level,⁵⁰ but later accepted NGO involvement in a state-directed process.⁵¹ It opposed NGO input at the international level,⁵² which would have translated into ‘zero input in those states where NGO input is most required’.⁵³ African states further opposed the involvement of independent experts in the review because this, apparently, would reduce state ‘ownership’ and make the process more accusatory.⁵⁴

The African Group further wanted the candidate country's regional group or its ‘friends’, rather than randomly assigned countries, to assist with the initial report. Regarding the frequency of reviews, the African Group argued that developing countries would need more time to prepare and implement recommendations and should therefore be on a longer cycle than industrialized states, which again amounted to reduced scrutiny where the human rights were generally worse.⁵⁵ The African Group maintained that the adoption of the outcome report, and thus the recommendations contained therein, should be with the consent of the concerned state, thus giving the state under review a veto over an HRC decision.⁵⁶ As for questions about non-compliance with Universal Periodic Review recommendations, the African Group invoked the need to avoid confrontation and politicization.⁵⁷

Despite massive human rights violations in Darfur during the HRC's initial years, the HRC struggled to address these problems in the region and elsewhere in Sudan. The African Group, alongside the Organization of Islamic Cooperation (OIC), were the prime obstructers of HRC action. A Secretary-General's report on Darfur released in November 2006 found that Sudanese government forces and associated militias were responsible for human rights violations that ‘may amount to crimes against humanity’.⁵⁸ On 29 November 2006, Kofi Annan suggested to the five-month-old HRC that they shelve their obsession with Israel – up to that point, the HRC had had held three special sessions, all on Israel –

and pay attention to Darfur.⁵⁹ Twenty-nine HRC member states, including nine from Africa, duly signed a call for a special session on human rights in Darfur, which was held on 12–13 December 2006. The African Group claimed that such widespread support showed that the HRC was putting ‘people before politics’,⁶⁰ but in reality the African Group, despite a dissenting minority, was set on shielding the Sudanese government.

The African Group identified the purpose of the special session as making an ‘objective diagnosis’ of the situation in Darfur, allegedly distorted by ‘propaganda’ and ‘media-driven interpretations’.⁶¹ The European Union (EU) pointed out that the problems in Darfur were well-documented and the special session should therefore focus on implementing existing recommendations on improving human rights.⁶² However, the EU, having two weeks before decisively lost a vote related to Darfur,⁶³ accepted the decision to send only a fact-finding mission to Darfur. Khartoum’s delight with this outcome testified to the weakness of the chosen course of action.⁶⁴

Next, conflict arose over the composition of the fact-finding mission. The African Group wanted to send state representatives to Darfur, apparently to prove the HRC’s seriousness and ‘incontrovertibly’ to establish the facts.⁶⁵ The EU wanted to send independent experts. After an initial vague compromise and another month of wrangling, Nobel Laureate Jody Williams was appointed to lead a six-person team, which problematically included the Indonesian ambassador who had previously defended Khartoum.⁶⁶ Significantly, he resigned nine days after the mission had begun its work. Furthermore, Sudan refused to furnish the mission with the necessary visas, objecting that one of the mission’s members, Bertrand Ramcharan, was biased because during a stint as Acting High Commissioner of Human Rights he had overseen a report suggesting Sudan had committed acts possibly amounting to crimes against humanity.⁶⁷ Williams would not let Sudan dictate the membership of the mission. Unable to enter Darfur, the mission conducted interviews in Addis Ababa, Geneva, N’Djamena, and refugee camps in eastern Chad.

The Williams mission concluded that the Sudanese government and its militias were the primary perpetrators of war crimes and crimes against humanity in Darfur.⁶⁸ However, the HRC spent little time on the report’s findings. Rather, the debate got stuck on whether or not to adopt the report. While Cameroon, Ghana, Nigeria, Mauritius, Senegal, and Zambia favoured adopting the report, Algeria, Egypt, and Tunisia were opposed, arguing that the report lacked legitimacy because the mission had not gone to Darfur, the Gabonese ambassador had not visited Chad, and the mission was not regionally representative (the Indonesian ambassador had not been replaced). Moreover, the ‘controversy surrounding the mission’ ran counter to a ‘consensual approach’, which ‘in itself’ cast doubt on the report.⁶⁹

Although the African Group had split on the matter, there were enough African and Islamic countries, plus a few others, to obstruct the report. As a compromise, it was agreed to ask seven special procedures mandate holders to assist the Sudanese government with implementing previous UN human rights recommendations. In November 2007, the expert group reported that despite ‘very good cooperation’ from the Sudanese government, various recommendations had not been implemented and that government efforts had, despite ‘very few exceptions ... not yet led to an improvement’ of human rights in Darfur.⁷⁰ The African Group, however, commended Sudan’s ‘concerted efforts’ and asserted that ‘the time ha[d] come for ending the proliferation of human rights mechanisms in Sudan’.⁷¹ Another EU–African Group compromise terminated the expert group’s mandate and placed it under that of the special rapporteur on Sudan. The African Group stated their satisfaction with this arrangement, but warned of its general opposition to country-specific mandates. Indeed, in September 2008, the African Group claimed that the situation had improved enough to end the Sudan mandate.⁷² Another EU–African Group compromise extended the mandate for nine months, rather than the usual twelve. In June 2009, the African Group tabled a resolution to terminate the Sudan mandate.⁷³ However, an EU amendment to extend the mandate for another year was adopted by 20–19–8 (yes–no–abstain). Zambia and Mauritius

voted in favour, Burkina Faso, Ghana, Nigeria, and Senegal abstained, while seven African states, including South Africa, voted no. The subsequent resolution was then adopted 20–18–9, with Mauritius and Zambia voting in favour; Angola, Burkina Faso, Gabon, Ghana, Madagascar, and Senegal abstaining; and South Africa and Nigeria among those opposed.

During the HRC's initial years, the African Group also managed to end HRC scrutiny focused on the DRC. In his February 2008 report, the independent expert on human rights in the DRC paints a miserable picture: 'flagrant' impunity, increased sexual violence, massive internal displacement, child soldiers, no 'concrete improvement' in political and civil rights, and economic rights a 'distant dream' for most.⁷⁴ In March 2008, however, the African Group opposed extending the independent expert's mandate. They argued that the mandate had 'no clear achievement', whereas the DRC had made 'significant' political progress, had held presidential elections that provided a 'democratic environment conducive to the promotion and protection of human rights', and had undertaken 'serious measures' to realize economic, social, and cultural rights.⁷⁵ Behind the African Group's claims lay the DRC government's opposition to the mandate. The DRC, however, was willing to consider mechanisms other than a country-specific mandate and hence agreed to receive recommendations from seven thematic mandate holders.

Before the seven mandate holders could even submit their first report, due in March 2009, renewed violence broke out in eastern DRC. In response, the HRC convened a special session on 28 November 2008, which the African Group opposed. During the session, the EU tabled a draft resolution asking the Special Rapporteurs on extrajudicial executions and on torture to visit the region and report back.⁷⁶ However, the African Group tabled a rival draft,⁷⁷ which did not ask for a specific investigation. A compromise resolution called for the seven mandate holders and the High Commissioner to report in March 2009, but there was to be no specific investigation.

In March 2009, the mandate holders reported, as they would in 2010 and 2011, that human rights in the DRC had not improved. In each report, the mandate holders recommended the creation of a mandate focused exclusively on the DRC.⁷⁸ In 2009, the EU and Canada included this recommendation in a draft resolution,⁷⁹ but the African Group won a procedural vote to make its draft, which contained no such recommendation, the basis of discussion. The EU then proposed amendments to the African draft that included asking the seven mandate holders to monitor progress on human rights and to coordinate their assistance to the government,⁸⁰ but the amendments were rejected 18–21–8. Although Burkina Faso, Ghana, Mauritius, Senegal, and Zambia abstained on the amendments vote, all thirteen African members voted for the eventual resolution. In 2010 and 2011, there were no more attempts – at least in the plenary – to establish a country mandate on the DRC. In March 2011, the group of mandate holders again recommended creating a mandate specific to the DRC and asserted that they had achieved all they could under the present mandate. The African Group duly used this latter assertion as a 'recommendation ... to terminate' any specific HRC focus on the DRC.⁸¹

An improved showing

As shown above, during the HRC's early years the African Group sought to weaken and obstruct external scrutiny of human rights in specific countries. However, in late 2010 the HRC began to adopt stronger, more clearly pro-human rights resolutions, including on country-specific situations. This section discusses the cases of Côte d'Ivoire, Libya, and Eritrea as evidence of the African Group's increased support for country-specific efforts in the HRC, but it is worth noting that there are many other examples of the African Group supporting such initiatives from 2011 onwards. In 2012, an African Group resolution invited a High Commissioner's report on Mali, while in 2013 an African Group resolution asked an Independent Expert to monitor human rights in the Central African Republic. In March 2011, the African Group registered no objection when the HRC established a mandate on human rights in Iran, the HRC's

first new country mandate. The resolution passed 22–7–14; eight African states abstained, Mauritania opposed, and Senegal and Zambia voted in favour. On the 2012 Iran resolution, nine African states abstained, while Benin, Botswana, Mauritania, and Senegal voted in support. In 2013, nine African states abstained, while Botswana, Gabon, Libya, and Sierra Leone voted yes.

The African Group has also gone along with resolutions on Belarus, which became stronger after the first was adopted in June 2011. Only once did an African state vote against the resolution: Nigeria, in June 2011, alleging selectivity.⁸² The resolution was adopted 21–5–19, with Gabon, Mauritius, and Zambia in favour. In 2012, Nigeria joined seven other African states in abstaining, while Benin, Botswana, Burkina Faso, Congo, and Mauritius voted yes. In June 2013, most African states abstained, but Benin, Botswana, Burkina Faso, Congo, and Gabon voted in favour.

Most African states have also voted for the twelve (strong) resolutions on the civil conflict in Syria that the HRC adopted between 2011 and 2013. Only once did African states (Gabon and Mauritania) vote against a Syria resolution, while Angola and Cameroon abstained a number of times, Ethiopia abstained on all three of its votes, and Uganda on ten out of eleven. Whereas in 2009 most African states successfully helped to shield Sri Lanka during a special session on human rights in the country, in March 2012 the US led the HRC to adopt a resolution calling on Sri Lanka to examine and address alleged human rights violations that occurred during the country's civil war. Benin, Cameroon, Mauritius, and Nigeria voted for the resolution; Angola, Botswana, Burkina Faso, Djibouti, and Senegal abstained; and Congo, Mauritania, and Uganda voted against. The 2013 Sri Lanka resolution was adopted 25–13–8, with Benin, Côte d'Ivoire, Libya, and Sierra Leone voting in favour, five African states abstaining, and the same three as in 2012 voting against.

The HRC's response to the violent conflict that erupted in Côte d'Ivoire in late 2010 marked a change in the African Group's approach to human rights crises. In December, Laurent Gbagbo, the incumbent, and Alassana Ouattara, his challenger, both claimed victory in the country's presidential election, plunging the country into chaos. On 23 December 2010, the HRC, at the instigation of Nigeria (on behalf of the African Group) and the US, convened a special session. The HRC unanimously adopted an African Group resolution that asked the High Commissioner to report on the Côte d'Ivoire situation in March 2011. Although the resolution lacked the urgency some critics wanted,⁸³ the African Group's request contrasts with its blocking of a European effort in 2006 to have the High Commissioner report on Darfur, which the African Group then painted as an effort to 'name and shame'.⁸⁴

The High Commissioner's report described the 'drastic deterioration in the human rights situation' in Côte d'Ivoire⁸⁵ and recommended creating an international commission of inquiry to investigate human rights violations with the aim of holding such perpetrators to account.⁸⁶ This recommendation was taken up in a unanimously adopted African Group resolution.

By the HRC's June 2011 session, Gbagbo was under arrest, Ouattara installed as president, and the situation somewhat calmer. Led by the African Group, the HRC created an independent expert on human rights in Cote d'Ivoire, a positive step although the mandate was restricted to assisting the Ivoirian government in implementing the commission of inquiry's recommendations.⁸⁷ Whilst Côte d'Ivoire continued to declare its commitment to human rights and to cooperate with the HRC, reports that Ouattara-linked forces were killing, torturing, and arbitrarily detaining former Gbagbo supporters were mounting.⁸⁸ The African Group's June 2013 resolution did not link the Ouattara government to attacks on Gbagbo supporters (the report did),⁸⁹ but was still relatively even-handed in its expression of 'grave concern' about attacks on (pro-Gbagbo) republican forces and its condemnation of attacks on civilians and displaced persons.⁹⁰

In February 2011, as protests and violence broke out in Libya, the African Group went along with strong HRC action against the country. On 22 February, Muammar Gaddafi appeared on Libyan television promising to 'purge' the 'rats' increasingly protesting against his rule.⁹¹ On 25 February, the HRC held a special session on Libya. The African Group was less enthusiastic about this special session than the one on Côte d'Ivoire, with Senegal and Tunisia the only African states to join the call for a special session. In its statement, the African Group accepted the need for HRC involvement on Libya, condemned violence against peaceful protesters, and mentioned African efforts to resolve the Libyan conflict. Western states, along with Israel and Palestine (but no African sponsors), then tabled a draft resolution that strongly condemned the 'extremely grave human rights violations' in Libya, called for a Commission of Inquiry and a High Commissioner's report, and recommended Libya's suspension from the HRC. Although the resolution was adopted without a vote, the African Group stated 'firmly' that the adoption of such a resolution 'should not become a precedent'.⁹²

At the HRC's March 2011 session, the African Group condemned the Gaddafi regime's indiscriminate use of force but found itself at odds with the West. In its statement, made three days before the Security Council authorized 'all necessary measures' to protect civilians in Libya, the African Group insisted that the problems in Libya required 'urgent African action' and argued against 'foreign external intervention'.⁹³ The African Group's unease with the prevailing line on Libya continued when the Commission of Inquiry presented its report in June 2011. The African Group condemned the Gaddafi regime's violence during the early days of the conflict, but nevertheless tried to provide the regime with some breathing space. The African Group emphasized that both sides had committed human rights violations, such as torture, and expressed its 'serious concern'⁹⁴ over the Commission of Inquiry's finding that violations committed by opposition forces 'were not part of any widespread or systematic attack against civilians and did not amount to crimes against humanity'.⁹⁵ A week later, HRC members had to consider a draft resolution, which, among other things, sought to extend the Commission of Inquiry.⁹⁶ Although six of the resolution's 55 co-sponsors were African (Botswana, Mauritania, Morocco, Nigeria, Senegal, and Zambia), the African Group found some parts of the resolution 'very difficult'. The African Group objected to the implied recognition of the National Transitional Council and mention of the International Criminal Court. There was also the insistence, as previously, that this was Africa's problem to solve.⁹⁷ The African solution at that time, which included a ceasefire and political dialogue,⁹⁸ would no doubt have been better for Gaddafi than where events were heading. Ultimately, the African Group stated that they would not call for a vote on the draft resolution,⁹⁹ a mild expression of displeasure and disagreement.

The HRC's actions against Eritrea are remarkable because they are examples of African states leading the HRC in criticism and scrutiny of another African state. In July 2012, the HRC adopted a resolution that 'strongly condemned' human rights violations in Eritrea and appointed a special rapporteur on human rights in the country.¹⁰⁰ Djibouti, Nigeria, and Somalia had sponsored the resolution. More than thirty countries joined as co-sponsors, including two more from Africa (Côte d'Ivoire and Namibia). Eritrea opposed the resolution and the 'unfounded allegations' therein,¹⁰¹ yet the resolution was adopted without a vote, as it would be in 2013.

The African Group's willingness to install a strong mandate against the wishes of another African state is a sharp reversal of earlier African Group positions. While Eritrea's human rights record is poor enough to warrant a mandate,¹⁰² the Eritrea mandate is not decisive proof of the African Group's new-found commitment to human rights. Before the adoption of the Eritrea resolutions there were no African Group statements, which suggest that the Group is divided on the matter. Moreover, Eritrea is diplomatically isolated.¹⁰³ Furthermore, although the US no longer designates Eritrea as a 'state sponsor of terrorism', Eritrea has been classified as 'not cooperating fully' with US counter-terrorism efforts.¹⁰⁴ Finally, the mandate is a clear example of 'politicization', that is, using human rights problems to punish an

adversary. It could hardly have gone unobserved that Somalia and Djibouti also have poor human rights records.¹⁰⁵ In its statement, Ethiopia, another of Eritrea's neighbours, could not even keep human rights and regional politics in separate sentences, imploring the international community to 'hold the Government of Eritrea accountable for its gross and systematic human rights violations against Eritreans and its blatant acts against the peace and security of the region'.¹⁰⁶

Accounting for the improvement

The preceding two sections demonstrated that the African Group has moved from obstructing to supporting initiatives that scrutinize country-specific human rights problems. This section considers the three possible explanations for this shift that were presented in the introduction and argues that US influence was decisive.

The first potential explanation is that the African Group's shift stems from an improvement in domestic human rights records of its members. However, this explanation is not plausible. Votes related to Sudan, the DRC, Belarus, Iran, and Sri Lanka contained examples of African countries with poor domestic rights records voting in a more pro-human rights way than African democracies. More significantly, Table 1 shows that although the African Group has become more supportive of country-specific human rights scrutiny, since 2006 the human rights profile of the thirteen African HRC members has deteriorated: a rise in their aggregate Freedom House scores, a decline in the number of 'free' African members and a rise in the number of 'not free' African members. Surprisingly, the African Group's profile reached its nadir in 2010–11, just as it made a turn towards support for country-specific initiatives.¹⁰⁷

Table 1

Freedom House aggregates and categories of HRC members, 2006–13

	2006– 7	2007– 8	2008– 9	2009– 10	2010– 11	2011– 12	2013*
Aggregate of African Group (13 members)	48.5	48	50	52.5	57	54**	57.5
Number of 'free' states in African Group	5	5	3	3	2	3	2
Number of 'not free' states in African Group	5	3	3	4	6	5**	5
Aggregate of all members, excluding African Group (34 states)	99	104	100	98	101.5	99.5	87.5
Number of 'free' states, excluding African Group	20	18	19	20	16	17	20
Number of 'not free' states, excluding African Group	6	7	6	8	7	6	3

* During the first five cohorts, a third of HRC members were replaced in June or July each year. However, during 2011–12, a third of the cohort was only replaced in December 2012, leaving the third to replace them to start in January 2013. For each cohort, countries are scored at the beginning of their term:

for example, the scores for the 2006–7 term uses the Freedom in the World 2007 report, as it refers to conditions in 2006.

** Gaddafi was overthrown in 2011. Under Gaddafi, Freedom House scored Libya 6.5. After Gaddafi's removal, Libya scored 4.5 ('partly free'), the score used here.

Source: Adapted from Freedom House's various 'Freedom in the World' reports.

The second potential explanation – that changed dynamics within the African Group, especially the reduced influence of regressive states, led to the Group's change of course – holds part of the answer. The expense of maintaining a diplomatic mission in Geneva¹⁰⁸ puts better-resourced delegations such as Algeria, Egypt, and South Africa in a position of influence over smaller African delegations.¹⁰⁹ These three states, all three with regressive agendas, were particularly influential during the HRC's first years. Algeria was African Group coordinator during the Council's first year. Algerian ambassador Idriss Jazaïry is a charismatic and skilful diplomat who kept the African Group on a tight leash.¹¹⁰ The African Group's push for a code of conduct for special procedures mandate holders was 'ultimately his personal project'.¹¹¹ Jazaïry was also 'at the heart' of the African Group's positions on Darfur.¹¹² Egypt was the African Group coordinator from 2007 to 2009. In this leadership role, Egypt sometimes made claims in the name of the African Group beyond those to which the Group had actually assented.¹¹³ Moreover, Egypt exerted a powerful and, according to an American internal report, 'heavy-handed' influence over the African Group, while the Egyptian ambassador allowed his delegation to be 'harsh and aggressive'.¹¹⁴ Egypt was central to the African Group's obstruction of stronger action on the DRC.¹¹⁵

South Africa is a 'key player' in the African Group,¹¹⁶ with the Group unlikely to adopt a position without South Africa's consent.¹¹⁷ The characterization of South Africa as regressive might surprise some, especially considering Nelson Mandela's early promise that the 'light' of human rights would guide democratic South Africa's foreign policy,¹¹⁸ but there is much evidence. During South Africa's first membership stint, from 2006 until 2010, South Africa shielded the governments of the DRC, Sri Lanka, and Sudan, repeatedly abstained on resolutions pressuring North Korea, and supported deep restrictions on the right to free expression.¹¹⁹ In June 2011, South Africa led the HRC to adopt the first-ever UN resolution on sexual orientation, a progressive but exceptional action that stemmed from a South African miscalculation three months before when it tried to suppress the discussion of sexual orientation throughout the UN.¹²⁰ Since rejoining the HRC in 2014, South Africa has abstained on resolutions on Belarus, Iran, North Korea, Sri Lanka, and Syria, and has supported efforts to weaken resolutions related to the right to peaceful protest and to the protection of free expression on the Internet.¹²¹

However, the regressive influence of these three states did not last. The ending of Algeria's membership in June 2007 and an African counter-reaction to Egypt's overbearing leadership reduced the influence of these two countries.¹²² Moreover, the 2011 Egyptian revolution also softened some of the country's positions,¹²³ while South Africa's leadership on the sexual orientation resolution, which the African Group vehemently opposed, cost South Africa 'friends and allies'¹²⁴ and reduced the Group's confidence in South Africa.¹²⁵

While the reduced influence of these three regressive states contributed to the African Group's shift,¹²⁶ it is an inadequate explanation. For one thing, the timing does not quite fit. The African Group persisted in obstructing country-specific action long after Algeria's membership expired. Although unhappiness about Egyptian leadership predated the Côte d'Ivoire crisis, South Africa's leadership on sexual orientation and the Egyptian revolution happened after. Furthermore, changes such as a declining propensity of states to vote along regional lines,¹²⁷ and Maldives breaking with the OIC, which paved the way for other Islamic

countries to break with OIC positions,¹²⁸ suggest the influence of elements beyond the African Group. The main external event around this time was the return of the US to the HRC.

In 2006, the Bush administration declined to seek membership of the HRC but nevertheless undertook to contribute to and engage with the new body. However, in April 2008, the Bush administration withheld the American share of the HRC's budget and two months later announced its disengagement from the HRC, except for on matters of significant national interest.¹²⁹ Not being a Council member limited US influence; disengagement reduced it further.¹³⁰

Under the new Obama administration, the US became an HRC member in June 2009. While initial US disengagement had allowed the likes of Egypt and Algeria to come to the fore,¹³¹ the US's entry put the anti-human rights lobby on the defensive and threatened the past influence of 'unfriendly' delegations, 'South Africa chief among them'. Some African states even began asking the US to push other African Group members towards positions that the US itself supported.¹³²

American influence went beyond the African Group. After the September 2009 session, numerous delegations told the US that the session had been the Council's 'most successful in memory and that the US presence had made the difference'.¹³³ Over the longer term, US engagement made 'a valuable contribution' to pushing the HRC in a stronger human rights direction, according to Amnesty International, Human Rights Watch, and Freedom House.¹³⁴ We can place the US at the scene of many of the HRC's successes. US influence reversed a tendency to avoid country-specific scrutiny,¹³⁵ successfully leading new resolutions on Iran, Syria, and Sri Lanka. The US also negotiated an end to the divisive defamation of religion resolutions and led on the creation of a special rapporteur on freedom of association and peaceful assembly.¹³⁶ The US also looms over the three African cases discussed earlier: the US and the African Group called for a special session on Côte d'Ivoire; American leadership lay behind the condemnation and suspension from the HRC of Gaddafi's Libya;¹³⁷ and Eritrea had incurred the displeasure of the US through its association with terrorism.

What was the nature of US influence? The realist conception of power – using material resources to get others to do what they otherwise would not – dominates the field of international relations.¹³⁸ American diplomats I interviewed deny the use of aid as a bargaining tool on the HRC. Indeed, mention of using aid to buy influence on the HRC is rare.¹³⁹ When asked about material inducements, a diplomat from a major European power explained that for his country it was a 'general relationship issue'.¹⁴⁰ In other words, material inducements are present, but only diffusely. Presumably the same goes for the US as research linking US aid and voting coincidence rates in the UN suggests.¹⁴¹ Even so, 'multiple forms of power are simultaneously present in international politics'.¹⁴² Soft power – getting what one wants not by coercion or payment but through the attractiveness of a country's culture, policies, and political ideals¹⁴³ – can exist alongside hard power¹⁴⁴ and, in the case of the US on the HRC, it has. Eileen Donahoe, US Representative to the HRC (2010–13), noted that her task was made easier by a 'very deep reservoir of goodwill' towards the US, an 'association' of the US with human rights, and the message of hope and change that surrounded Obama's election as US president.¹⁴⁵

However, power does not automatically translate into the necessary votes and resolutions. Diplomacy is needed. Donahoe was central to developing a diplomatic strategy that centred on 'human skills'.¹⁴⁶ This strategy entailed extensive lobbying, willingness to work with any delegation to advance an issue,¹⁴⁷ and respecting and listening carefully to other perspectives.¹⁴⁸ The US further tried to crack bloc loyalties¹⁴⁹ and to build cross-regional support on issues.¹⁵⁰ To prevent opponents from characterizing an initiative as a Western imposition, the US avoided first turning to their Western allies for support.¹⁵¹ In the American assessment, their approach yielded 'tremendous results'.¹⁵² The American approach of listening carefully and working cross-regionally seems to have resonated with the African Group's dislike of 'self-appointed

custodians of human rights' and its 'pining' for 'shared ownership' and inclusion as 'effective joint stakeholders'.¹⁵³

Did power or diplomacy make the difference? For Ted Piccone, 'effective US diplomatic strategy' led to increased country scrutiny.¹⁵⁴ While the US's 'human skills' approach was well chosen, and certainly more productive than the 'arrogant' unilateralism of the Bush years,¹⁵⁵ one should not overlook that this diplomacy was attached to American power. Diplomacy alone, no matter how appropriate and skilful, would have been unlikely to push the HRC in a more pro-human rights direction. Compare, for instance, recent US diplomacy to that of the EU during the HRC's early years. The EU was expected, during the US's initial absence, to be a leader in the HRC.¹⁵⁶ Although the EU's 'outreach' to other countries was not optimal,¹⁵⁷ the EU was pragmatic, engaged 'moderate' developing countries, sought consensus, tried to build cross-regional support on country mandates, and compromised extensively. In other words, the EU's strategy was not unlike the US's, yet the EU failed to play a leadership role.¹⁵⁸ Whilst there are a number of contextual factors to consider, including varied post-colonial relationships, differences in US and EU power seem an important reason for these different outcomes.

Conclusion

The history of Africa's engagement with the UN has been marked by strain, bloc voting, an insistence from African countries on the principles of sovereignty, self-determination, and non-interference, and a sense that Africa has little say in matters that affect them. Despite this past, at the HRC the African Group has in recent years become less inclined to vote as a bloc. The African Group has also become increasingly willing to support intrusive measures to attend to human rights violations in developing countries, and, when addressing such problems in Africa, has often assumed leadership. Moreover, during recent HRC initiatives on African states, African and Western states have acted more cooperatively than during early efforts in the HRC to address human rights problems in Sudan and the DRC.

This article found that the African Group's movement from obstructor to supporter of country-specific scrutiny did not stem from an improvement in the domestic human rights records of the Group's members. The loss of influence among influential regressive states is part of the reason for the African Group's shift, but as preceding voting records and American diplomatic cables show, the African Group had no outstanding human rights champions poised to take the lead.¹⁵⁹ Rather, it appears that the combination of US power and apposite diplomacy drew an African Group less influenced by regressive states in a pro-human rights direction.

The HRC's poor record before the US joined, the centrality of the US to the African Group, and the HRC's later shift towards human rights, challenge the liberal claim that a less American world will remain a liberal world. Although realism's conception of power is too narrow to capture all aspects of US influence, the findings of this article nevertheless support the realist view that hierarchy is necessary for the realization of liberal internationalism.

The case of the HRC shows that if US power was necessary, so was US engagement. However, herein resides a potential problem for sustaining the HRC's liberal trajectory. According to HRC rules, members serve a three-year term and may not be re-elected immediately after two consecutive terms. After six years as member, the US left the HRC in 2015. In the US, there exists a tradition of antagonism and mistrust towards the UN. Although this is usually associated with the Republican Party, even within the Obama administration the decision to join the HRC was 'very contested'.¹⁶⁰ Thus, there is a chance that the US will disengage from and not seek re-election to the HRC. In so far as the African Group's shift is the result of US influence rather than changes internal to Africa, the African Group could be expected to revert to its earlier illiberalism in the not unlikely event of a US retreat from the HRC.

It is possible that a strengthening of democracy across Africa, which implies a deeper commitment to human rights as well as more space for civil society, will generate support for human rights at the UN. However, the prospects are not encouraging. A 2015 Freedom House report informs us that, globally, civil and political rights have been in decline for nine consecutive years. Moreover, democratic ideals are 'under greater threat than at any point in the last 25 years'.¹⁶¹ Africa has seen a few positive developments, most notably Tunisia's democratization, but the continent-wide trend does not point towards stronger civil freedoms and political rights.¹⁶²

Finally, the US's impact on the HRC dents frequent claims that the superpower's influence is on the wane. Contrast, for instance, US influence on the HRC with the struggle of China, the US's main geopolitical rival, to assert itself in the same institution. During the HRC's early years, China kept a low profile. However, faced with the implications of the 2011 Arab Spring for social unrest at home, China became more assertive at the HRC. China has long opposed intrusive country-specific measures, but after the Arab Spring became more active in attacking resolutions linked to political protests. For instance, in June 2012, China threatened to call a vote on a resolution on human rights and the Internet, but eventually declined to do so.¹⁶³ In June 2014, China proposed a hostile amendment to a follow-up to the human rights and the Internet resolution, but it was defeated 15–28–4, with only four African states voting with China.¹⁶⁴ In March 2014, China and its allies tabled hostile amendments to a resolution on human rights and peaceful protest. However, the amendments were rejected and the resolution was adopted by a wide margin, 31–9–7, with only two African states voting alongside China.¹⁶⁵ In other words, although China has begun to 'show some power',¹⁶⁶ its efforts have not won major support, even among African states. China's lack of success is significant because at the same time as it was becoming a more assertive player on the HRC, the US re-engaged with the HRC and managed to steer it in a more liberal direction, with important consequences for the conduct of the African Group on human rights.

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