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# Rising Powers and Human Rights: The India-Brazil-South Africa Dialogue Forum at the UN Human Rights Council

EDUARD JORDAAN

*In the official declarations of the India-Brazil-South Africa Dialogue Forum (IBSA), the three states claim a shared understanding of human rights and a deep commitment to the international promotion and protection of these rights. This article considers these two propositions in light of the actions of the IBSA states on the United Nations Human Rights Council. After examining the positions of the IBSA states on seven controversial country-specific cases (Belarus, Darfur and Sudan, Iran, Israel, North Korea, Sri Lanka, and Syria) and four controversial thematic domains (economic rights, racism, freedom of expression, and sexual orientation), I conclude that the three states do not have the same views about human rights. Furthermore, I find that the IBSA states often do not support pro-human rights initiatives in the Council, although Brazil stands apart from India and South Africa for its greater willingness to support stronger human rights positions.*

## Introduction

On March 30, 2006, a few days before the official establishment of the United Nations (UN) Human Rights Council (HRC), India, Brazil, and South Africa pledged “their commitment to ensuring that it fulfils the expectation of the international community” (IBSA 2006a). A few months later, after the first summit of the newly established India-Brazil-South Africa (IBSA) Dialogue Forum, the three states announced that the Human Rights Council “will benefit from the coordinated contributions” from the IBSA states. The three states further claimed that they had “a common understanding regarding the Council’s agenda and structure” and “common visions regarding the promotion and protection of human rights” (IBSA 2006b). In subsequent summit declarations, the IBSA states continued to assert their commitment to human rights, the centrality of the HRC, and the importance of coordinating their efforts on this body.

The aim of this article is to evaluate the records of the three IBSA states on the HRC, asking, firstly, whether they share the “common vision” they claim, and secondly, about the extent of their support for human rights. There is a small literature on IBSA, with themes related to soft-balancing against the United States, political economy, and

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South-South cooperation featuring most prominently (Flemes 2009; Taylor 2009; Vieira and Alden 2011; Nel and Taylor 2013; Vieira 2013). However, there has been hardly any general discussion of IBSA in connection with the international promotion and protection of human rights,<sup>1</sup> while the literature on the role of human rights in the foreign policies of the individual IBSA countries is tiny (Forsythe 2000; Mohan 2007; Brysk 2009; Brookings 2011; Engstrom, 2012).

It may well be that IBSA will soon be buried in the graveyard of irrelevant acronyms, but it remains useful to ask about the human rights commitments of these states. The IBSA states are democracies of which we might expect a certain commitment to the international promotion of human rights, but they are also developing countries that associate with the Global South, a group with many authoritarian members and little appetite for promoting human rights in other countries. After World War II, there was a greater acceptance of human rights, signaled, for instance, by the adoption of the Universal Declaration of Human Rights in 1948. While there were many factors behind this expansion, human rights was part of the liberal postwar order that the United States created and led (Ikenberry 2011: 246–247). The centrality of the United States to the promotion of human rights thus raises the question of what happens when the United States declines in power, which many think has been happening. Hopgood, for instance, has few doubts. He predicts a reassertion of national sovereignty against the universalist claims of human rights, an “endtimes of human rights” that will arrive because, with the passing of the unipolar moment, “the institutions that are built on liberal hegemony are fatally at risk” (Hopgood 2013: 142). However, not all are as convinced that the growing influence of leading developing countries will result in the end of the liberal international order (Ikenberry 2008). As the United States declines in power, it might seek to lead more inclusively (Ikenberry 2010: 42), which will leave influential developing countries with the choice of whether to move closer to the liberal center or whether to resist it. The records of the three IBSA states on the HRC therefore do not only matter for what they tell us about the commitment of these countries to international human rights but also for the clues they give us about the relation of these countries to the wider liberal international order.

The approach adopted here—using the records of the IBSA states in the HRC to assess their commitment to human rights—faces two potential objections. First, once we recognize the link between the international rise of human rights and Western power, human rights might seem to be a form of cultural imperialism, that is, a set of values and practices that claim universality but is in fact the imposition of a specifically Western perspective on the rest of the world (Hopgood 2013: xiii). Preis (1996: 288–289) addresses the cultural imperialism concern by rejecting an understanding of culture as homogenous, coherent, and closed, a view that results in a rigid “us” and “them” dichotomy when cultural “contact” takes place. Rather, Preis (1996: 298) argues, cultures are rife with internal contradictions, inconsistencies, and conflicts. Moreover, cultures are also porous, and human rights form an important part of the perspectives that are exchanged between the West and the developing world (Preis 1996: 290). Donnelly (2003: 51–52) agrees and finds that there exists an “overlapping” and uncoerced consensus among almost all contemporary societies that recognizes that every person is endowed with equal and inalienable rights. Donnelly sees evidence of this in the worldwide endorsement of the Universal Declaration of Human Rights, to which one might add the frequent endorsement of human rights in the constitutions of developing countries, as is the case of the three countries in this study (Brazil 1988: Article 4[II]; South Africa 1996: Chapter 2; Human Rights Watch 1999).

A second objection might come from a realist perspective and might suggest that an international institution such as the HRC is merely a vehicle through which the hegemonic center advances its interests, which means that the records of developing countries on the HRC reflect their responses to Western pressure rather than their foreign policy commitment to human rights. Although not a homogenous group, the West has been guilty of selectivity in the way it has used the Council and its predecessor, the UN Commission for Human Rights, to address international human rights problems.<sup>2</sup> However, the Council is not simply an instrument of the West: First, developing countries are hardly powerless. On the Council, the Western European and Others Group (WEOG) occupy only 7 of the 47 seats on the Council. While WEOG can rely on the support of European Union members in the Council's Eastern European regional bloc, they remain outnumbered by developing countries. The latter group has used its superior numbers to scupper numerous Western initiatives and to push through various proposals bent to its interests (Smith 2010: 234). Second, realism dismisses the influence of ideas and values in international relations, yet convictions around religion, gender, and sexuality influence state behavior on the Council and jumble West-versus-the-rest voting patterns.<sup>3</sup> Third, over the seven years of the Council's existence, there has been a perceptible change in the resolutions to come out of it (Human Rights Watch 2011a: 1–4), for example, from 2006 until 2010 three country-specific mandates were terminated (Belarus, Cuba, and the Democratic Republic of the Congo) and none were added, while, since 2011, the Council has established mandates on Belarus, Cote d'Ivoire, Eritrea, Iran, Mali, and Syria.

The answers to whether the IBSA states share a “common vision” of human rights and whether they support the universal promotion of these rights will be based on an extensive selection of the controversial issues in the Council's work, divided into country-specific and thematic issues. In the analysis, voting records as well as statements before the Council are taken as important. Attention to country statements before the Council can add nuance to the starkness of a vote and further allows us to consider the participation of the IBSA states during times when they were not members of the Council and thus could not vote.<sup>4</sup> This article relies on the public statements of Amnesty International and Human Rights Watch (HRW) as a guide to what counts as the most pro-human rights option on the various topics discussed below. Apart from publicly available UN documents and video archives, the research is also based on observations I made while attending the Council's twenty-second regular session (March 2012) as well as interviews with diplomats, international civil servants, academics, and human rights activists on two related research projects.<sup>5</sup>

## **Country-Specific Cases**

Country-specific resolutions can be divided into two types. The first type criticizes, pressures and usually sets up a mechanism to monitor the human rights situation in a specific country judged to be resistant to improving its poor human rights record. A second type of country-specific initiative, adopted under Item 10 of the Council's agenda, limits the role of the international community to providing “technical assistance” and “capacity building.” The second type of approach leaves the relevant government in control of the process and implies that the government is committed to improving its rights record, irrespective of evidence to the contrary.

Developing countries oppose the “naming and shaming” of the first type of country engagement — except when it comes to Israel — and prefer the second, less invasive type (Non-Aligned Movement 2012: 41). While the IBSA states too have “reiterated their commitment” to the technical assistance and capacity-building approach (IBSA 2011), they have not consistently followed their own guidelines. Before the Council, India and South Africa have spoken in favor of the second approach, while also speaking against installing intrusive mandates in countries that do not welcome such action. Brazil also prefers the cooperative spirit of resolutions adopted under Item 10 but recognizes that “cooperation won’t be able to solve all human rights problems” and that “monitoring activities” and “condemnations” are sometimes necessary (Brazil 2009a, 2010a, 2011a). These differences among the IBSA group can be seen in the detail of their engagement with specific country situations, seven of which are discussed below: Belarus, Darfur/Sudan, Iran, Israel, North Korea, Sri Lanka, and Syria. Two other contentious cases — Myanmar and the Democratic Republic of Congo (DRC) — are left out because resolutions on these two countries were adopted without a vote (except for one procedural vote related to the DRC). Nevertheless, the positions adopted by IBSA states on Myanmar and the DRC do not contradict the pattern apparent from the seven cases discussed below.

### ***Belarus***

In December 2010, Alyaksandr Lukashenko was re-elected as president of Belarus, a result foreign ministers of neighboring countries said had “no democratic legitimacy whatsoever” (Bildt et al. 2010). Protests followed, to which the government responded with an extensive crackdown. In March 2011, the Council asked the UN High Commissioner for Human Rights and various special procedures mandate holders to report on human rights in Belarus. The resolution was adopted 25 to 5 (19 abstentions), with Brazil voting in support (United Nations Human Rights Council [UNHRC] 2011a). When the resolution on Belarus was again adopted a year later, Brazil was no longer a member. However, India was a member again and was one of only five countries to vote against the resolution. South Africa left the Council in June 2010 and hence did not vote. However, the Council inherited from the Commission a mandate on Belarus—it was terminated in 2007 as part of a deal to get Russia to support the Council’s institution-building package—on which the Council heard a report in June 2007. South Africa (2007a) had used this occasion to argue against all country mandates.

### ***Darfur and Sudan***

Despite the massive human rights violations that took place in Darfur during the mid-2000s, the Council on various occasions could offer only a tepid response. The Organization for Islamic Cooperation (OIC) and various influential states in the African Group were the key obstructers in this sorry tale (Ghana, Mauritius, and Zambia were commendable exceptions). South Africa consistently sided with the obstructers in the African Group, notably Algeria and Egypt. Brazil, for its part, was inconsistent, voting against the pro-human rights option on Darfur in 2006, but then later supporting stronger human rights positions. On Darfur and Sudan, India was less supportive of the stronger human rights options than Brazil, but more than South Africa.

After Kofi Annan (2006) reprimanded the Council for its excessive focus on Israel — the Council devoted its first three special sessions to Israel — it quickly convened a fourth special session, on Darfur, in mid-December 2006. Although the holding of the special session on Darfur had cross-regional support, strong action was always unlikely. Two weeks before, the Council had adopted by a vote of 25 to 11 (10 abstentions) Decision 2/115 that refused to assign to the Sudanese government any specific responsibility for the human rights of its citizens and that declined to ask the High Commissioner for Human Rights to report on the situation in Darfur, as the Europeans had wanted (UNHRC 2006a). All three the IBSA states voted for this decision, whereas the WEOG states voted against.

During the special session on Darfur, most developing countries danced around the Sudanese government's role in the atrocities in Darfur. India repeatedly stressed the need for "all parties" to refrain from violence, whereas Brazil maintained that assigning blame for the human rights violations in Darfur would be inappropriate. During the special session, there was also a widespread denial of well-established facts about the situation in Darfur. The denial came mostly from the African and Islamic blocs (see Algeria 2006), but Brazil (2006), too, reiterated the need for an "impartial" establishment of the facts. The purpose of the special session thus turned into sending a fact-finding mission to Darfur even though extensive documentation already existed (OHCHR 2006). South Africa (2006) did not join in the denial of the facts about Darfur but used its statement to call for international support for the African Union's underpowered and ineffectual peacekeeping mission in Darfur, rather than for a UN force, as Zambia did and Sudan would not allow.<sup>6</sup>

After the special session, it took another month to agree on the composition of the fact-finding mission. Sudan then refused to grant the mission the necessary visas (UNHRC 2007a: 7–8) while one of the six mission members, the Indonesian ambassador, who was known for his support for Khartoum,<sup>7</sup> withdrew after the mission had already begun its work. Unable to travel to Darfur, the mission visited the refugee camps in Eastern Chad instead. The mission found that both government and opposition forces were guilty of war crimes and crimes against humanity but identified a violent campaign waged by the government and its associated militias as the "principal pattern" in the conflict (UNHRC 2007a: 25). Sudan (2007) dismissed the report as the result of a "conspiracy," while Algeria disputed the report's legitimacy. South Africa remained silent but related voting patterns and statements of allegiance to Algeria—in 2008, the South African ambassador to the Council said that it had been "a great source of inspiration to work closely with [the Algerian] delegation for the common cause of promoting and protecting all human rights throughout the world" (South Africa 2008) — showed where it stood on the matter. India implicitly denied the report's legitimacy when it expressed the hope that some modality could be found to allow the mission to visit Darfur and to report at the Council's next session (India 2007a). Brazil (2007), however, argued that the fact-finding mission's report "must be considered." Failure to do so would constitute "a serious and regrettable incident" and would bring into question the credibility of the Council.

The stalemate over the fact-finding mission's report eventually yielded a decision, in March 2007, to ask an expert group to collaborate with the Sudanese government to implement previous UN human rights recommendations. This approach showed some promise (Human Rights Watch 2007), but its mandate was ended in December 2007 and the expert group's work transferred to the Special Rapporteur for Sudan, thus diluting the focus on Darfur.

In September 2008, the Special Rapporteur on Sudan described the human rights situation in Sudan as "grim" (UNHRC 2008a: 19), yet, Egypt (2008), speaking for

the African Group, claimed that human rights in Sudan had improved enough to warrant ending the mandate on the country. None of the IBSA states opposed Egypt's assessment. In the end, the mandate on Sudan was extended by only nine months, not the usual 12. In June 2009, the African Group tabled a resolution to end the mandate on Sudan, to which the European Union responded with an amendment to extend the mandate for another year. The European Union's amendment was adopted 20 to 19 (eight abstentions), with Brazil voting in favor, South Africa voting against, and India abstaining. The resolution was subsequently adopted 20 to 18 (nine abstentions), with the IBSA states voting the same as on the amendment (UNHRC 2009a).

In October 2010, the story repeated itself. The Special Rapporteur on Sudan reported a general deterioration in the human rights situation in the country, while the African Group claimed considerable improvement (Nigeria 2010). The African Group again presented a resolution to terminate the mandate on Sudan, to which the United States proposed an amendment to extend the mandate for another year. The amendment was adopted by 25 to 19 (three abstentions) and the resolution by 25 to 18 (three abstentions) (UNHRC 2010a). Brazil, the only Council member from IBSA at the time, voted for both the US amendment and the final resolution. In a statement, Brazil (2010b) sugar-coated its vote, "strongly commending" Sudan for its cooperativeness, and presented its vote not as criticism but to suggest that there "was still room for improvement" in Sudan. In 2011, the mandate on Sudan was converted into a "technical assistance" matter and has been adopted by consensus since then.

### *Iran*

In March 2011, the HRC established a mandate on the human rights situation in Iran, the Council's first new country-specific mandate since its formation in 2006 (UNHRC 2011b). The resolution, with main sponsors Macedonia, Moldova, Panama, Sweden, and the United States, was adopted 22 to 7 (14 abstentions). The resolution relied on a Secretary-General's report that emphasized the regime's repressiveness and its lack of cooperation with the UN (UNHRC 2011c). Brazil (2011b) supported the resolution, arguing that UN members must cooperate with special rapporteurs. While Brazil accepted that Iran "deserves" the Council's attention, Brazil also reminded the principal sponsors of the resolution "to apply the same standards" in future instances of uncooperativeness or government repression.

When the mandate on Iran was renewed in 2012, the resolution met with slightly less opposition and was adopted 22 to 5 (20 abstentions). India, the only Council member from IBSA at the time, abstained. One year later, in March 2013, the resolution was adopted by the biggest margin yet: 26 to 2 (17 abstentions). Brazil, having become a Council member again, voted in favor, while India abstained. India did not explain its vote, while Brazil spoke of the importance of cooperating with the Council (OHCHR 2013). South Africa has never had to vote on the Iran resolution but a leaked diplomatic cable from 2010 reveals that South Africa did not support a resolution on Iran (US Government 2010).

### *North Korea*

Since 2008, the Council has annually adopted a resolution on North Korea. Although the resolution has grown in toughness,<sup>8</sup> it has also gained in support. In 2008, the resolution

was adopted 22 to 7 (18 abstentions) but has since 2012 been adopted without a vote. South Africa and India had to vote on the resolution between 2008 and 2010. These two countries always abstained. Brazil has had to vote four times. On three occasions, Brazil voted, alongside the West, in favor of the resolution. In 2009, however, Brazil abstained but nevertheless issued a firm statement to explain its abstention. Expressing “deep concern” about human rights in North Korea, Brazil urged the country to implement recommendations on how to improve human rights in the country and said that it expected North Korea to allow entry to the various Council mandate holders. Brazil’s abstention was intended to give to North Korea “an opportunity to cooperate” and to submit its Universal Periodic Review (UPR) report later in 2009 (Brazil 2009b). However, in 2010, Brazil (2010c) noted North Korea’s “absence of commitment” to the recommendations that came out of the UPR and thus returned to voting for the resolution.

### *Sri Lanka*

In May 2009, a few days after the Sri Lankan government’s defeat of its opponents, the Liberal Tigers of Tamil Eelam (LTTE), in the country’s 26-year civil war, the Council convened a special session to address the human rights situation in the country. The final months of the conflict had given rise to allegations of widespread human rights abuses by both sides. The request for a special session was supported by 17 states, which included Argentina and Mauritius, but no IBSA states. Indeed, India expressed “serious reservations” about the purpose of the special session. For India (2009a), the goal of the special session was to promote healing and reconciliation after conflict, but the holding of a special session had “unfortunately” led to a “politicization” of the Council’s work. South Africa (2009a) argued that “double standards” were eroding the integrity of the Council, since there had been no special session to address the “humanitarian crisis, loss of life, and internal displacement of more than one and a half million people during a war promoted as a counter-terrorism measure.”

All three IBSA states spoke in support of the Sri Lankan government. India (2009a) stated that the Council should not hesitate to hold nonstate actors accountable for their human rights violations but did not demand accountability from the government. South Africa (2009a) was “encouraged” by Sri Lanka’s “commitment and efforts” to resettle internally displaced persons (IDPs) within six months and by its “determination” to allow the delivery of humanitarian aid. Brazil and South Africa further referred to a meeting between the Secretary-General and the Sri Lankan president a few days prior (United Nations Secretary-General [UNSG] 2009), which South Africa (2009b) took as an indicator that “there is an agreed process that will deal with the accountability issue” and Brazil (2009c) saw as showing “the readiness of the Sri Lankan government to cooperate” with the international community. However, unlike its IBSA partners, Brazil (2009d) did not give the Sri Lankan government a free pass, noting that the conduct of the Sri Lankan army had “raised concerns about serious violations of human rights” and stressing the importance of impartially investigating alleged human rights violations and holding accountable perpetrators on both sides.

On the second day of the special session, Sri Lanka submitted its own draft resolution. India cosponsored the resolution, as did China, Cuba, and Egypt. Brazil also added its name as a sponsor. Sri Lanka’s resolution asserted the country’s sovereignty, condemned LTTE attacks on civilians, was “encouraged” by the government’s response to humanitarian needs, promised to resettle the “bulk” of the IDPs in six months and to provide access “as may be appropriate” to international



humanitarian agencies (UNHRC 2009b). In reply, Germany (2009) proposed amendments that sought to reduce the emphasis on sovereignty, called for unobstructed humanitarian access and emphasized the need for accountability for human rights violations. However, Cuba (2009) responded to Germany's proposed amendments by introducing a motion to end the entire discussion. Cuba's proposal was adopted 22 to 17 (seven abstentions). The original sponsors of the special session opposed Cuba's motion. India and South Africa supported the motion, but Brazil (2009c) abstained, explaining that all issues deserve to be discussed.

With the amendments defeated, the resolution as originally proposed by Sri Lanka was adopted 29 to 12 (six abstentions). Brazil joined India and South Africa to vote for the resolution, while Western states voted against. In explaining its vote, Brazil (2009c) felt that Germany's proposed amendments repeated issues to which the Sri Lankan government had demonstrated an "openness," while the adopted resolution "contained the commitment of the Sri Lankan government to cooperate and implement the necessary measures to promote and protect the human rights of all people in the country."

In May 2010, Sri Lanka established a Lessons Learnt and Reconciliation Commission (LLRC). However, the commission lacked independence, did not offer protection to potential witnesses, and its mandate did not require the investigation of allegations of widespread human rights violations committed by both sides during the last months of the war (UN 2011: 117–118). The resultant report was predictably flawed but nevertheless made some "sensible recommendations" (International Crisis Group 2011).

In April 2012, the United States presented a resolution to push Sri Lanka to implement the LLRC's recommendations and to address alleged violations of international law. The mild resolution was adopted 24 to 15 (eight abstentions) (UNHRC 2012a). Surprisingly, India supported the resolution. However, India's vote did not herald a new policy on country-specific resolutions but was in response to pressure from Tamil political parties back home. Moreover, in a subsequent letter to the Sri Lankan president, the Indian prime minister claimed that after the Indian delegation had "spared no effort" it managed to dilute the resolution or, as the prime minister put it, to "introduce an element of balance in the resolution" (NDTV 2012).

In 2013, India again voted for the Sri Lanka resolution. After initially working to weaken the resolution, India launched a late effort to toughen it after the government came under pressure from a coalition of Tamil parties (Hodge 2013). Brazil, back on the Council, also voted for the resolution. The weak text was adopted 25 to 13 (eight abstentions, one absence).

## *Syria*

On April 29, 2011, as the Syrian government's crackdown on antiregime protests intensified, the Council convened a special session on human rights in the country. The draft resolution, tabled by the United States, condemned the use of lethal force against peaceful protestors, called for greater political freedom and asked the Office of the High Commission for Human Rights (OHCHR) to investigate all allegations of human rights violations in the country (UNHRC 2011d).

The special session took place at a time when the Brazil, Russia, India, China, and South Africa (BRICS) countries had already begun to sour over NATO's intervention in Libya, which began in late March 2011. Earlier in April, the BRICS partners had accused NATO of exceeding their Security Council mandate (O'Brien and Sinclair 2011: 16) and had called for an end to NATO's bombing of Libya

(Kent 2011). South Africa seemed opposed to the holding of a special session. South Africa (2011) regarded the special session as a case of selective scrutiny and warned, “Continue this selectivity and the credibility of this Council will continue to be questioned.” Although acknowledging the responsibility of all governments to allow peaceful protests, South Africa failed to finger the Syrian government for its leading role in the conflict, instead calling for restraint by “all parties.” India and Brazil repeated South Africa’s accusation of selectivity, but, unlike South Africa, India (2011a) specifically called on the Syrian government to “act with restraint.” Brazil, despite its misgivings over selectivity, voted for the resolution, which was adopted 26 to 9 (seven abstentions).

On August 22, 2011, the Council held a second special session on Syria to discuss the report commissioned at the previous special session. A draft resolution sought to create an independent international commission to investigate allegations of human rights violations with the aim of holding accountable those found guilty (UNHRC 2011e). China and Russia requested the resolution be put to a vote. It was adopted 33 to 4 (nine abstentions). Of the IBSA states, only India could vote. India abstained. India found the deteriorating situation in Syria “regrettable” but again suggested that Council scrutiny of Syria was selective and not objective. India stated that in bilateral talks and as part of an IBSA delegation that visited Syria on August 10, 2011 it had urged restraint, efforts that, according to HRW (2011b), “achieved nothing.” India nevertheless argued that it is the prerogative of states to decide “on the best course of action to maintain internal law and order and prevent violence” (India 2011b), ignoring that the state was the principal instigator of violence in Syria.

In early December 2011, two months after the IBSA states had abstained on a Security Council resolution on Syria, the HRC considered the independent commission’s report at a third special session on Syria. Although the Syrian government refused the commission permission to enter the country, the commission nevertheless found that government forces had committed gross human rights violations (UNHRC 2011k: 1). The special session also established a Special Rapporteur on Syria, with the resolution adopted 37 to 4 (six abstentions) (UNHRC 2011f). India again abstained. India (2011c) expressed reservations about the commission’s report and pointed to unspecified “procedural irregularities.” India said that, although it did not condone human rights violations, it was in principle opposed to country-specific resolutions. To India, constructive dialogue is more productive than “finger-pointing and intrusive monitoring.”

In March 2012, India again abstained on a regular session vote on a resolution—it was adopted 37 to 3 (three abstentions)—that expressed concern at the humanitarian situation in Syria and strongly condemned the government’s heavy-handedness (UNHRC 2012b). India’s vote came after the IBSA states had voted in favor of a Security Council draft resolution on Syria, on February 4, 2012, which China and Russia in the end vetoed.

Following a massacre in the Syrian town of El-Houleh, the Council held, in June 2012, its fourth special session on Syria. The resultant resolution strongly condemned the killings and asked the commission of inquiry to investigate events at El-Houleh (UNHRC 2011g). Although South Africa (2012) “welcomed” the holding of the special session and supported an investigation into the massacre, it could not bring itself to single out the Syrian regime for criticism, twice urging “all parties” to refrain from violence. India (2012) “strongly condemned” the El-Houleh incident and expressed the expectation that

the commission of inquiry would identify those responsible for the “heinous attacks.” Unlike usual, India voted for the resolution, which was adopted 42 to 3 (two abstentions). However, in March 2013, when it came to voting to extend the mandate of the commission of inquiry, India abstained. The resolution was adopted 41 to 1 (five abstentions) (UNHRC 2013a). Unlike India, Brazil voted in favor of the resolution.

### *Israel*

The plight of the Palestinians, the conflict between Israelis and Palestinians, and some of Israel’s actions beyond its borders (for example, during the 2006 war with Hezbollah) deserve the HRC’s attention for the human rights dimensions of the aforementioned situations (see Amnesty International 2007), but the amount of attention Israel gets from the HRC is disproportionate. Of the Council’s first 12 special sessions, six were related to Israel. Roughly 40 percent of the Council’s country-specific resolutions have involved Israel. The Israeli occupation is even 1 of the 10 standing items on the HRC’s agenda, which ensures that Israel is the topic of extensive discussion at each of the Council’s regular sessions.

Given the vast number of resolutions on Israel, it is possible here to make only a few general observations. Resolutions on Israel are typically scathing and one-sided. For instance, in the resolution that came out of a special session on the Israel-Lebanon war of 2006 — the special session was titled “The Grave Situation of Human Rights in Lebanon Caused by Israeli Military Operations”—there is no mention of the role of Hezbollah in the origins of the war (UNHRC 2006b). In the report commissioned by the aforementioned resolution, the authors note that “any independent, impartial and objective investigation . . . must of necessity be with reference to all belligerents involved,” but, given the “express limitations of its mandate, the Commission [of Inquiry] is not entitled, even if it had wished, to construe it as equally authorising the investigation of the actions by Hezbollah in Israel” (UNHRC 2006c: para. 6; para. 15). Similarly, a former Special Rapporteur on human rights in the occupied Palestinian territories regrets that his mandate “requires him to report on human rights violations committed by the occupying Power and not by the occupied people” and thus prevents comment on human rights violations committed by Palestinians against Israelis or other Palestinians, and on the actions of Fatah, Hamas and the Palestinian Authority (UNHRC 2007b: 8).

Many of the states that vote for Israel-related resolutions do not do so out of a general concern for human rights. Many of the states that loudly condemn Israel and bemoan the plight of the Palestinians oppose country-specific scrutiny elsewhere. Part of the story is that Israel-related resolutions are attacks on a Western proxy with an undeniably problematic human rights record (Amnesty International 2012). Although Western states do not defend Israel with equal intensity, with some willing to vote closer to the developing world (Switzerland and Norway most notably), the West’s general alignment with Israel undermines Western criticism of other regimes that violate human rights. Furthermore, Western support for Israel also depends on the issue. Resolutions that condemn Israeli settlement building have received the support of most Western states, while investigations into Israel’s attack in 2010 on the humanitarian flotilla heading for Gaza have enjoyed partial support from the West. However, Western states have not supported resolutions related to Israeli military action in Gaza or on human rights in the Syrian Golan. Nevertheless, the Council’s typically one-sided treatment of Israel means that Western states

will remain wary of Israel-related initiatives and thus will continue to provide an example of Western double standards.

The IBSA states, despite their reservations about intrusive country resolutions, their clamor about objectivity and nonselectivity, and their talk about the counterproductivity of “naming and shaming,” have voted in favor of all Israel-related resolutions. The three states clearly see themselves as agreeing on Israel-related issues, as all but one of their joint statements to the Council have been related to Israel. While all three states have called on Palestinians to also refrain from violence, Brazil has been the only one to mention the Council’s one-sided treatment of Israel, arguing that “addressing the issue in a partial manner . . . would jeopardize the legitimacy” of the Council (Brazil 2008a).

## **Thematic Resolutions**

Developing countries prefer to organize human rights problems thematically, rather than according to country. While some thematic mandates elicit little controversy (for example, mandates related to children’s rights, persons with disabilities, and human trafficking), other thematic areas are more fraught. This section addresses four controversial areas: economic rights, free speech, racism, and sexual orientation.

### ***Economic Rights***

Although the former Commission only began to create mandates on economic issues in the mid-1990s, current Council mandates on housing, education, extreme poverty, food, foreign debt, health care, contemporary slavery, hazardous waste, transnational corporations, and safe drinking water attest to the extent to which the Council now pays attention to the economic dimensions of human rights. The IBSA states, like other developing countries, are enthusiastic supporters of initiatives that address the economic aspects of human rights. The IBSA states frequently repeat the claim, taken from the UN Vienna Declaration of 1993, that there should be a balance between civil and political rights on the one hand and economic, social, and cultural rights on the other. As IBSA, the three states have sponsored a resolution on access to affordable medicine (UNHRC 2009c). Furthermore, already in their first summit declaration, the IBSA (2006b) states declared their intention to “realize” and “operationalize” in international law the right to development, which they consider central to efforts to address poverty.

While it is easy to see how economic issues might impinge on the realization of human rights, claims about economic rights are about more than simply human rights; they are also about challenging the liberal economic precepts favored in the West. Dressed up in the language of human rights, these economic demands and criticisms are hard for the West to refute without appearing smug about the poverty beyond its borders. Developing country criticisms range from the general, such as the charge that the benefits of globalization “are very unevenly shared and costs unevenly distributed” (UNHRC 2007c: p. 1), to the specific, such as Brazil’s criticism of European agricultural subsidies. Developing countries also use the language of human rights to foist various demands on the industrialized world: greater global redistribution, increased development aid, technology transfer, a democratic international economic order, even the “imperative for every nation, according to its capacities, to make the maximum effort possible” to close the gap between industrialized and developing countries (UNHRC 2011h). Finally, developing countries also resist the liberal emphasis on the domestic causes of poor economic performance and instead attempt to push more of the

responsibility for development onto the international community, a tension India (2007b) has dismissed as being of “limited importance.” Judging by the resolutions that come out of the Council, developing countries seem to have had some success in transferring to the international community the duty to achieve development. While the most recent resolution on the right to development asserts “the primary responsibility of states for the creation of national and international conditions favorable to the realization of the right to development” (UNHRC 2012c), the 1986 Declaration of the Right to Development put this duty more clearly at the national level, declaring that “the creation of conditions favorable to the development of peoples and individuals is the primary responsibility of their states” (UNGA 1986).

### ***Racial Discrimination***

South Africa and Brazil are leaders in the Council on initiatives against racism. In 2006, Brazil was the main sponsor of a Council decision on the incompatibility between democracy and racism. As members of the Non-Aligned Movement, India and South Africa are cosponsors of the prominent “From rhetoric to reality” series of resolutions on racism, which Brazil, in 2010, joined as a cosponsor. While Western states agree on the importance of countering racism, the racism issue has also been used as a stick with which to beat them, and, in this regard, Brazil emerges as the least confrontational of the IBSA states. A 2007 resolution on racism told Western states that the “surge” in racism “in certain regions of the world” was deplorable, that they should stop “posturing” about racism, and that their “lack of political will was regrettable” (UNHRC 2007d: p. 1). This resolution was adopted 28 to 13 (five abstentions), with the West voting against, South Africa and India voting in favor, but Brazil abstaining (UNHRC 2007d).

The most controversial aspect of Council action on racism relates to the Durban process, named after the city that hosted the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR). The lead-up to this conference was controversial for accusations that Israel was a racist state and because of efforts to diminish the significance of the Holocaust. Although the final conference document, the Durban Declaration and Program of Action (DDPA), does not go beyond mentioning Israel’s right to security and the Palestinians’ right to self-determination (UN 2001: 13), the association of Israel with a document about racism remains a source of Western resistance to the Durban process.

The IBSA states, however, insist that the DDPA is “the most instructive” UN document on racism (IBSA 2011). The refusal to countenance another approach thus locks Western states into a process that contains elements with which they are uncomfortable, thus allowing developing countries to say that they are “absolutely convinced that the failure by states to translate the Durban commitments into concrete action and tangible results is attributable to a lack of political will” (UNHRC 2007d: p. 1).

In 2006, the General Assembly asked the UNHRC to review the achievements of the DDPA. Although Western countries opposed the chosen format, a conference, the IBSA states and other developing countries pressed ahead. In February 2009, two months before the review conference, the draft outcome document still contained numerous proposed paragraphs on Israel, prompting Canada, Germany, Poland, the Netherlands, and the United States to withdraw from the conference. At the conference, the Iranian president, Mahmoud Ahmadinejad, pushed the expected buttons, calling Israel a country of “genocidal racists” and said Western support for the creation of Israel was an attempt to compensate for racism in Europe (BBC 2009). Ahmadinejad’s speech prompted the

walkout of various Western delegates. In response, all three IBSA states were critical of those who boycotted and those who walked out and thus, in Brazil's words, "refuse to strengthen the common cause of combating racism" (Brazil, 2009e). Of the three, however, Brazil (2009e) was the only one to criticize Ahmadinejad for "sowing intolerance in a conference about tolerance."

### *Freedom of Expression*

Whereas the IBSA states largely agree on the issues of racism and economic rights, they differ on matters related to freedom of expression. Brazil and India are not the Council's strongest champions of free expression, but their commitment is stronger than that of South Africa, which is surprisingly eager to curb free expression.

The differences between the IBSA states, as well as the limits of their support for free speech can be seen in a March 2008 vote on a resolution, cosponsored by Brazil and India, to extend the mandate of the special rapporteur on freedom of expression. Before the vote, the Organization for Islamic Cooperation (OIC) proposed an amendment to request further reporting "on instances where the abuse of the right of freedom of expression constitutes an act of racial and religious discrimination" (UNHRC 2008b: p. 1). India (2008a) pointed out that the proposed amendment "seeks to shift the focus of the mandate from the promotion and protection of the right to freedom of opinion and expression to limitations thereof." The OIC's proposed amendment was adopted 27 to 17 (three abstentions), with South Africa voting in favor, but Brazil and India against. As a result of the adoption of the OIC amendment, Brazil and India withdrew their cosponsorship. Surprisingly, Cuba then tabled a further amendment. To a paragraph emphasizing the importance of the media for exercising free expression, Cuba proposed adding that it is important for the media "to report and to deliver information in a fair and impartial manner" (Cuba 2008). The Cuban amendment was adopted 29 to 15 (three abstentions), with all three IBSA states voting in favor. The twice-amended resolution was then adopted 32 to 0 (15 abstentions). Most of the original sponsors abstained, but Brazil and India joined South Africa in voting for the resolution.

At the heart of disagreements in the Council over the right to free expression has been the "combating defamation of religions" resolutions. Driven by the OIC, these resolutions, on which the Council voted annually from 2007–2010, claim that the "defamation of religions is a serious affront to human dignity leading to a restriction on the freedom of religion" (UNHRC 2010b: p. 2). The resolutions further express concern about statements attacking Islam, the equation of Islam with terrorism, the monitoring of Muslims by state security agencies, and the media's portrayal of the religion and its adherents. The resolutions also intend to extend Article 19(3) of the International Covenant on Civil and Political Rights (ICCPR) to hold that the right to free expression "should be exercised with responsibility and may therefore be subject to limitations as provided by law and necessary for respect of the rights or reputations of others, protection of national security or of public order, public health or morals *and respect for religions and beliefs*" (UNHRC 2007e: p. 3, proposed extension in italics).

Brazil and India abstained on each Council vote on a defamation of religion resolution, while South Africa always voted in favor. Western states always voted against the resolution. In explaining their votes, India and Brazil raised the usual concerns over the defamation resolutions. For India, these resolutions were too focused on Islam, could be used to suppress free speech and oversimplified matters by seeing "defamation" as "a manifestation of racism" (India 2007c, 2008b, 2009b). Brazil noted

that followers of religions other than Islam were also experiencing increased discrimination, whose plight ought to carry the same weight. Brazil further argued that the notion of “defamation of religions” had been “unfruitful,” contained “conceptual difficulties” and contravened the right of any person to subscribe to a religion of choice. Brazil also pointed out that its national legislation does not protect a religion as such, but the individuals who adhere to a religion. Importantly, current ICCPR provisions were adequate for dealing with religious intolerance, hate speech, and incitement to violence. Rather than restricting free expression, Brazil suggested that the promotion of interfaith and intercultural dialogue was likely to be more constructive (Brazil 2008b, 2010d).

In its defense of the defamation resolutions, South Africa used many of the arguments its IBSA partners saw as misguided. South Africa typically sought to connect the “defamation” of religions to racism. South Africa (2007b) has attempted to address the criticism that defamation applies not to a religion but to false truth claims that damage an *individual’s* reputation and livelihood, but its attempt simply continued to conflate the two issues. Moreover, South Africa (2007b) has frequently invoked its constitution as an example of how to balance freedom of expression and freedom of religion, arguing that, while the South African constitution guarantees free expression, “incitement to imminent violence and advocacy of hatred that is based on race, ethnicity, gender or religion and that constitutes incitement to cause harm” are not permitted. Indeed, but such an argument misses the point as the defamation resolutions are not concerned with incitement to violence. Moreover, the stoking of hatred to cause harm is already prohibited by article 20b of the ICCPR. South Africa has also dismissed the worry that the resolution’s potentially legitimizes repression, claiming that states that wanted to curtail freedoms “would behave that way regardless” (US Government 2009).

### ***Sexual Orientation and Gender Identity***

South Africa and Brazil have driven what has been a highly divisive issue in the Council: human rights around sexual orientation. In June 2011, South Africa, with Brazil in support, presented a draft resolution that expressed grave concern at violence and discrimination committed against people because of their sexual orientation, called for a report on such violence and discrimination and for a discussion of the report’s findings. Resolution 17/19 was adopted 23 to 19 (three abstentions) (UNHRC 2011i). The resolution won support from the Latin America and Caribbean Group but met with opposition from the African Group and the OIC.

Whereas Brazil has a history of trying to promote rights related to sexual orientation internationally — in 2003 Brazil tabled the first UN resolution on the matter—South African foreign policy is littered with examples of betraying this cause (International Service for Human Rights [ISHR] 2011). South Africa certainly did not initially intend for its June 2011 resolution to become as progressive as it did. Three months before the adoption of Resolution 17/19, South Africa had presented a draft resolution to create a working group to define “sexual orientation” and to clarify the term’s relation to international human rights law (UNHRC 2011j). The working group was to be the “single modality and framework”; in other words, there was to be no discussion in the Council of matters related to sexual orientation until the working group had completed its work. Fearing that the issue would be buried in a committee, the United States threatened to table a counter-resolution. South Africa withdrew its draft, which then bought time for civil society, the

United States, and other states to pressure South Africa towards the progressive resolution of June 2011.

India was not a Council member in June 2011, but it is unlikely that it would have supported its IBSA colleagues on the sexual orientation issue. A series of UN petitions in support of sexual orientation rights gives a snapshot of where the three IBSA states stand on the issue. In March 2011, Colombia read a joint statement in the Council in support of sexual orientation rights. Colombia's statement built on similar previous statements: one in the Council in 2006 and one in the General Assembly in 2008. Brazil signed the 2006, 2008, and 2011 statements; South Africa reluctantly signed the 2011 statement; while India did not sign any of the three.

## **Conclusion**

The disagreements discussed above represent a large proportion of the hard cases with which the Council has had to grapple. The evidence contradicts the IBSA group's claim that they share a "common vision" of human rights. Of the seven country-specific cases discussed above, the IBSA states voted differently on all except Israel and partly on Sri Lanka ("partly" because Brazil abstained on Cuba's no-action motion during the 2009 special session, which India and South Africa supported). Of the thematic cases, the IBSA states concurred on economic and antiracism initiatives, although Brazil, through an abstaining vote on a 2007 antiracism resolution, its comments at the Durban Review Conference, and its frequent acknowledgement that racism was a problem everywhere, appeared uncomfortable with using the guise of antiracism to shame the West. The IBSA states disagreed on the defamation of religion resolutions and seem to differ on the matter of human rights and sexual orientation. Furthermore, on the Council, the three states have seldom acted as IBSA, apart from sponsoring a resolution on affordable medicine, and speaking as IBSA only on matters related to Israel and once, in 2011, on Libya.

The evidence above further indicates that the IBSA states often oppose or fail to support the strongest human rights positions, although Brazil comes closest to treating human rights as universal and to giving human rights greater weight in the sovereignty versus human rights trade-off. When the IBSA states do support contentious resolutions with generally positive implications for human rights (for instance, on race, economic duties, and Israel), these resolutions sometimes suffer from an incomplete presentation of the problem and digs at the West, although again Brazil stands out for seeking a more objective approach, such as on Israel and racism.

How do the actions of the IBSA states on the HRC fit into their wider foreign policies? The foreign policies of Brazil, India, and South Africa are all marked by competing traditions and visions of how to engage the outside world. In the case of Brazil, a recurring theme in discussions of the country's foreign policy concerns the extent of its conformity with the liberal international order (Hurrell 2010: 134–135; Engstrom 2012: 4; Soares de Lima and Hirst 2006: 24–25). De Onis (2008: 120) presents this question as a tension between Brazil's historical association with the West and the country's shift towards a more "independent" position whereby Brazil has stronger ties with the rest of the world, whereas Soares de Lima and Hirst (2006: 24–25) see Brazilian foreign policy as caught in a conflict between the goals of "credibility" and "autonomy," the former requiring cooperation with international rules and institutions while a search for autonomy dictates greater foreign policy assertiveness and flexibility. Foreign policy under President Luiz Inácio Lula da Silva became more assertive than it had been under the preceding Cardoso administration (Hurrell 2010: 134–135), while it would be appear that



President Dilma Rousseff, Lula's successor, is retreating from the independence that marked the Lula years (Stuenkel 2014). In the case of India, Bajpai (2003) describes four conceptions of international order in Indian thinking: Nehruvian internationalism, Gandhian cosmopolitanism, political Hinduism, and neoliberal globalism. Bajpai identifies Nehruvianism, which is statist, emphasizes respect for national sovereignty and regards international rules and institutions as useful for protection from the great powers, as the dominant tradition in Indian international thought but recognizes neoliberalism as becoming more influential (Bajpai 2003: 261). Sagar (2009: 802), in a more recent assessment but still using categories similar to those of Bajpai,<sup>9</sup> sees a "growing consensus" that the Nehruvian approach has been unfruitful. Sagar (2009: 813–815) argues that a liberal strategy—one that emphasizes economic openness, multilateralism, and reduced confrontation with the West—will become the default option in Indian foreign policy. As for South Africa, Nathan (2005: 363) has argued that the country's foreign policy draws on three paradigms: democratic, Africanist, and anti-imperialist. The latter two paradigms are rarely in conflict, but, when they clash with South Africa's democratic commitments, the democratic aspect typically gives way. Jordaan (2012: 286) argues that the more overtly political aspects of South African foreign policy are marked by a tension between liberal and "communitarian" values with the latter often winning out. According to this view, South Africa's communitarian commitments depart from liberalism in a tolerance for the curtailment of political freedom in pursuit of other political goals (e.g., political stability), in allowing sovereignty to trump human rights, and in allowing ample room for appeals to culture and context to justify departures from human rights.

In terms of the above, India's actions on the UNHRC corresponds most closely to the Nehruvian strain in the country's foreign policy, while South Africa's behavior on the UNHRC lends support to Nathan and Jordaan's claims about the country's turn away from liberal foreign policy precepts. By contrast, Brazil's record is much more in line with the West than that of India or South Africa, which, in Soares and Hirst's terms, reflects a Brazil in search of "credibility" rather than "autonomy." In short, within each IBSA country, there is a tradition that seeks proximity to the Western-dominated liberal international order, while, within each there are also traditions that resist such closeness. While these tendencies wax and wane within each of the three countries, this article showed that as far as the UNHRC is concerned, Brazil is more supportive of international liberalism than India and South Africa.

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## Notes

1. The most extensive discussion can be found in Jenkins and Mawdsley (2013).
2. One example of selectivity concerns Iraq: In 1991, shortly after Iraq's invasion of Kuwait, the Commission established a mandate on human rights in Iraq, which was then ended in 2004, one year after the United States-led invasion of the country. In addition, the human rights problems in Afghanistan, Bahrain, and Saudi Arabia merit Council scrutiny, but among Western states there is little appetite for addressing these matters (Interview, international civil servant, Geneva, March 25, 2013). The aforementioned cases have much to

- do with US foreign policy, but, as Smith (2010: 235) points out, EU states are also guilty of selectivity and double standards.
3. One example: On the Council, when a resolution comes to a vote, Cuba and the United States rarely agree, yet, in June 2011, the two countries voted the same way on the controversial Resolution 17/19 on sexual orientation.
  4. Membership terms: Brazil, June 2006–June 2011 and January 2013–December 2015; India, June 2006–June 2010 and January 2012–December 2014; and South Africa, June 2006–June 2010.
  5. One research project was on South Africa and the UNHRC, the other on the African Group and the UNHRC. The abovementioned interviews took place in Geneva in February 2012 and February–April 2013.
  6. Sudan only agreed to a hybrid African Union-UN force in late 2007.
  7. Indonesia had voted in support of Decision 2/115. See also Indonesia (2006a, 2006b).
  8. In 2013, the HRC established a commission of inquiry on human rights in North Korea (UNHRC 2013b). The Security Council might use the commission’s report to bring those responsible for human rights abuses in the country brought before the International Criminal Court.
  9. Sagar (2009) identifies four types: liberals, Hindu nationalists, “moralists” (which includes both Nehruvianism and Gandhism), and strategists/neorealists.

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