



**Reflection group on the strengthening of  
the Human Rights Council  
Second meeting  
25-26<sup>th</sup> January, Paris**

**Preliminary report  
Under the responsibility of the co-chairs**

The Second meeting of the Reflection group on the strengthening of the Human Rights Council took place in Paris on the 25th and 26th of January, 2010. This meeting gathered 21 country delegations from all regions, 5 NGOs, and the Office of the High Commissioner for Human Rights.

On the basis of the discussions that were held during the session in Mexico, in October 2009, this informal exercise allowed for an exchange of views on the ways to increase the efficiency of the HRC, in the view of the upcoming 2011 reviews. Delegations were invited to go further into the subjects and to make concrete proposals aiming at increasing the efficiency of the HRC.

This document aims at giving a comprehensive view of the different opinions expressed during the debates.

**I/ Evaluation of the protection of human rights by States: Review of the existing mechanisms**

**A/ The Universal Periodic Review**

- The UPR was identified as a valuable mechanism, due to:
  - The *universal* character of the process in reviewing all UN member states under the same criteria;
  - The “momentum” it creates at the national level regarding human rights in each country;
  - The opportunities it provides to NGOs in terms of engagement and access to the UN human rights system.
  - It encourages the exchange of best practices.
- Emphasis was made on the importance of ensuring adequate preparation, follow-up and implementation of UPR recommendations, as a means for the UPR to translate into real impact in the field. In this sense, it was suggested to identify key areas where the UPR has had impact and those human rights issues which would require greater attention during the second cycle as well as possible technical cooperation by the OHCHR at all stages of the UPR.

The following suggestions were made:

- Suggestions regarding the preparation phase:
  - To enhance the technical cooperation available to States in preparing their review.
  - To ensure the prompt and adequate availability of the UPR documentation to States, NGOs and the public in general in order to promote a better analysis prior to the review;
  - To further reflect on a consolidated compilation of information submitted by States, NGOs and the UN human rights mechanisms.

- Suggestions regarding the process of the UPR itself:
  - To ensure that all delegations have the opportunity to participate in the interactive dialogue, and that States under review have an adequate opportunity to reply. Possible options included:
    - Equally divide the available time among all delegations registered for speaking or impose time-limits to interventions;
    - Revising the current mode of registration to the list of speakers, including the possibility of providing HRC Member States with the opportunity to speak first;
    - Divide the UPR Working Group discussions into chambers, in order to maximize the available time for interventions;
    - Increase the review time devoted to each country (currently 3 hours).
  - Enhance the participation of NGOs, notably through video-conferences and other available resources.
  - Preserve the cooperative and non-confrontational nature of the UPR mechanism by ensuring the presence of the reviewed State at the moment in which the Working Group's report is adopted and guaranteeing wide participation.
  
- Suggestions regarding the UPR recommendations:
  - To cluster recommendations thematically and merge identical recommendations,
  - To filter and/or prioritize recommendations.
  - To avoid the unnecessary proliferation of recommendations, redundancy or potential contradiction in their content, with a view to make them more « manageable » for States.
  - To make a “quality-check” regarding the recommendations’ compatibility with international and HR law and their relevance to the situation on the ground.
  - To perform these tasks, emphasis was made on the importance of enhancing the role of the *troika*, as well as the expertise provided to it. The strengthening of the OHCHR’s role as secretariat regarding possible clustering and filtering of recommendations was underlined. Other suggested options included experts of the conventional committees or an ad hoc group of legal experts for screening of the recommendations.
  
- Suggestions made regarding implementation and follow-up:
  - To mobilize national authorities and the civil society as well in the implementation of the recommendations.
  - To help countries to develop the capacities needed for the implementation of the recommendations. To secure the involvement of all UN agencies and bilateral cooperation and development agencies in the follow-up and implementation of recommendations.
  - To strengthen the role of the OHCHR in this context: provide assistance and act as a “clearing house”, regarding the different cooperation and assistance programs.
  - To encourage states to provide mid-term reports (i.e. after 2 years) on follow-up of UPR recommendations, which could be posted on a specific UPR website to allow proper dissemination.
  - The members of the HRC should make their best efforts to play an exemplary role by accepting, as a rule, the recommendations presented within the context of the UPR and consistent with international human rights law.



- To encourage all States to exchange good practices concerning all aspects of the UPR process and follow-up of recommendations, with assistance of OHCHR.

## **B/ Special procedures**

- The relevance of special procedures was underlined, as they are “the eyes and ears” of the Council and a unique tool for the HRC to assess the situation on the ground. Emphasis was made on the importance of preserving their independence while ensuring enhanced professionalization and orientation regarding their interaction with Member States and with the Council as well as coordination between them.
- Suggestions:
  - To further “professionalize” special procedures mandate-holders. To provide them with background information on the scope of their mandates and ensure a transparent two-way communication between Special Procedures and Members States, bearing in mind the importance to preserve the independence of the Special Procedures. It was suggested that orientation could be given by the OHCHR or by a peer committee of special procedures.
  - To ensure that mandates of special procedures are worded in a detailed and precise manner, and to ensure that expectations in terms of professional qualifications remain at a high level.
  - To consider establishing regional-specific special procedures.
  - To enhance the briefing of the mandate-holders, in particular those with country mandates, in order to secure their awareness of political situations and facilitate cooperative and pragmatic interaction with states.
  - To increase the coordination among the existing Special Procedures.
  - Special Procedures are in a position to play an important role in providing assistance and advise on the implementation of UPR recommendations.
  - It was mentioned that the one-year mandate of country Rapporteurs raises a challenge as debates tend to focus on the renewal of their mandates rather than on their substantive work.
  - To strengthen the dialogue of the HRC with the special procedures in order to rely more systematically on their work prior to the adoption of resolutions on country situations.
  - The special procedures could be used as an early warning system, before a serious deterioration of the human rights situation in a country.
  - To encourage a sustained engagement with the academic and policy making communities involved in their issues.
  - To ensure adequate staff and budgetary resources for special procedures, including research support, and to bear in mind their limitations in this regard (pro-bono engagement, lack of supporting staff) when mandating them with specific tasks. It was underlined that additional resources could be useful to allow for more field visits by special procedures and more balance in the geographical coverage of their work.
  - To offer the Special Procedures a wider array of tools to collect and present information in compelling ways (charts, photos, videos...).
  - To consider formulating objective indicators on the degree of cooperation of Members States with the Special procedures (eg : number of visits, possibility for the SP to also meet with NGOs).

## **C/ Role of the OHCHR**

- There was a shared view about the pivotal role of the OHCHR in all aspects of the work of the Council as well as a concern regarding its resources. A distinction was made between the OHCHR's larger mandate and functions, i.e. advocacy, and its role as Secretariat of the HRC, emphasizing that it is this latter role which may be included in the framework of the 2011 reviews.
- Suggestions:
  - The OHCHR remains primarily accountable before the Council for the tasks it has been assigned in that context. Budgetary resources of OHCHR must in that perspective be also considered in the review process
  - To focus primarily on the HRC and the possible improvements of its mandate and work and only thereafter outlining the concrete implications for the OHCHR's future role and support.
  - To focus specifically on the important role of the OHCHR in supporting the UPR process with the preparation of necessary documentation and with opportunities for technical cooperation at all stages of the UPR (ante, during and ex-post, in the follow-up of recommendations). Regional and country field offices can be mobilized and their capacities reinforced to disseminate recommendations and provide such technical support, allowing for closer cooperation with national authorities.
  - To strengthen the capacities of the OHCHR, in particular field offices

## **II/ Regular functioning of the Human Rights Council: organization and efficiency**

### **A/ Annual work distribution of the HRC: number and rhythm of sessions, calendar, agenda**

- The quasi-permanent character of the HRC, due to its more frequent meetings throughout the year, was seen as an asset. Nevertheless, the "session fatigue" that this caused and the need to make the work of the HRC more visible was recognized.
- The number of regular sessions (at least three sessions for a total of at least ten weeks a year) was discussed.
  - Some considered that three sessions per year were adequate. Regarding their periodicity, mention was made to the possibility of exploring alternatives to reduce the long period between the September session and the March session.
  - Others suggested the possibility of redistributing the work of the HRC into two sessions a year in March and June, thus eliminating the September session and avoiding overlap with the work of the General Assembly.
  - To have monthly or bi-monthly mini-sessions of the HRC (1 to 3 days) with possible briefings by the OHCHR and discussion on follow-up actions, in order to complement special sessions while improving consistency of coverage;



- Explore the possibility of rationalizing or reorganizing the session-time of working groups and other mechanisms of the HRC.
- Regarding the Agenda of the HRC, diverse suggestions were made:
  - Not to reopen the agenda of the HRC, in order to maintain the balance that resulted from the complex negotiations that led to its consensual adoption during the institutional-building process.
  - To streamline agenda items 4, 7 and 10 into one single item dealing with country situations, in order to avoid double standards and forms of special treatment that undermine the HRC's credibility.
  - To merge agenda items 8 and 10 with item 3, and agenda item 6 with item 5.
- The importance of clarity and predictability regarding the calendar of work for each session was underlined as a way to enhance civil society participation. A suggestion was made to table resolutions ahead of the sessions in order to enhance transparency and inclusiveness.
- Delegations recognized that a better distribution of the work of the HRC throughout the year could improve its efficiency and make its work more manageable, avoiding repetitions and allowing for more time for negotiations. Proposals for this purpose included:
  - To better cluster the items addressed throughout the year and not deal with all agenda items in each session, while maintaining in any case the right of States to address matters of their particular interest corresponding to any item in any of the sessions. Suggestions in this sense included:
    - The possibility of not addressing one same Item in two consecutive sessions;
    - To address item issues 3 and 4 in the June session, item 6 in the September session, and items 7 and 9 in the March session;
    - To deal with some items jointly in order to reduce the lengthy time of the general debates.
- Other suggestions to enhance the effectiveness of the work of the HRC included:
  - To have sub-sessions within the regular sessions of the HRC, with limited participation, in order for the work of the Plenary to be lighter and to have shorter discussions among countries;
  - To increase time for the interactive dialogues with special procedures;
  - To increase work in informal formats.

#### **B/ How to enhance the visibility of the HRC?**

- The visibility of the HRC was acknowledged to depend more on the impact of the HRC's work on the field than on the promotion of its image. The weak impact of the HRC on the field was seen as a concern. The importance of the HRC to be able to react timely to country situations was highlighted.
- Suggestions to enhance the visibility of the HRC included:

- Strengthening the role of the President of the Council in terms of his/her visibility towards the media. The possibility for him/her to make field visits for information purposes. Emphasis was made on the need to strengthen the President's office and the possibility to include a public relations/media expert among its personnel.
- Issuing briefings/public statements to the media at the beginning or end of each session underlining the positive aspects of each session (media stakeout).
- Using the wide array of communication technologies available to disseminate the work of the HRC, including newspapers, magazines, television and internet, and include the use of new technologies such as YouTube. Make the best use of the HRC's Webcast, encouraging broad access to it and making it available in other languages.
- Presenting the HRC's priorities to the public opinion in a clearer manner/simpler language and terms, distinguishing the projection directed to the public in general from that directed to specialized press. Explore the possibility of disseminating the HRC's work to other sectors, such as the young population, parliamentarians (i.e. at a session of the International Parliamentarians Union), etc.
- Inviting leaders of opinion from different regions to participate in an HRC panel in order to disseminate a broad vision of the HRC and its work and encourage more frequent participation of high level dignitaries in the HRC's work beyond the High-Level Segment.
- Increasing the interaction of the HRC with other UN bodies such as WHO, UNHCR, etc. and regular contact between the President of the HRC and the President of other UN bodies such as GA and ECOSOC.
- Making the presentation of special procedures reports more visible, i.e. by providing each special procedure their own webpage to publicize their work.
- Exploring the possibility of holding sessions of the HRC outside Geneva in other regions (taking due account of the financial implications).

### **C/ Means of actions: resolutions, declarations, other options to be considered**

- Emphasis was made on the fact that the HRC has the necessary tools to adequately take action on different issues. A call was made for more creativity in the use and implementation of these tools.
- Regarding resolutions and other outcomes:
  - The need for them to be made fewer, shorter and more action-oriented was underlined, in order to avoid unnecessary proliferation and better quality for implementation and follow-up. Suggestions were made in order to make them biennial when possible.
  - Thematic resolutions could make use of expert advice ( "quality control"), in order to ensure they are consistent with international human rights standards and coherent among themselves.
  - Suggestions were made to refrain from adopting a resolution or a decision regarding thematic issues, if they can be dealt with through other means such as debates.
  - The importance of cross-regional dialogue in negotiations was underlined, as well as the benefits of avoiding regional blocks.



- A need to further in the implementation of the outcomes of the HRC was underlined.
- Cross-regional initiatives were encouraged;
- The need to strengthen the projection of the HRC's outcomes at the national level was underlined; mention was made to the possible role of UN field offices for this purpose.
- Other suggested possible means of action for the HRC include:
  - Closed meetings of small groups to advance positions;
  - Group discussions of the HRC on certain situations;
  - Panel discussions;
  - Briefings.
- Regarding country-situations, the need to encourage a combination of different tools of the HRC without lowering the level of attention was underlined. Emphasis was made on the need for the HRC to be able to respond timely to serious violations through these tools. Options included:
  - Lowering the existing procedural barriers to HRC engagement in country-specific situations;
  - Encompassing more forms of interaction regarding country situations, including briefings by OHCHR or by the country, calls for technical assistance, Arria-style debates (ad hoc invitation of experts or other relevant personalities), dialogues on specific themes, and making better use of independent fact finding and monitoring missions;
  - Engagement by HRC in broad array of country situations, to allay concerns about selectivity and politicization; and
  - Suggestion was made to establish a common set of tools for dealing with all country situations.

**D/ Quality of the cooperation between all the actors: role of the presidency, OHCHR, the NGOs, working culture and cross-regional dialogue**

- Delegations reiterated the importance of strengthening the role of the Presidency and the role of the OHCHR in its capacity as Secretariat of the HRC.
- Regarding States, emphasis was made on cross-regional dialogue as the essential element of the working culture in order to strengthen the effectiveness of the HRC. Transparency and diplomacy were also underlined as key elements. Cooperation of States, particularly Member States, with the mechanisms created by the HRC was underlined as a quasi-obligation for States.
- The need for the HRC to improve its cooperation with NGOs at the national level through a better use of the Webcast and UN field agencies was recognized. Also, the need to find creative ways to have a more diverse representation of national NGOs in Geneva was underlined.

**III/ Scope of the Reviews: paragraphs 1 and 16 of resolution 60/251**

- Some general elements were put forth for the analysis of the status and membership of the HRC:



- An upgrade of the HRC status as one of the main UN bodies could be considered and pursued to further mainstream human rights within the UN system, and remains an objective.
- The need to bear in mind that the HRC remains a relatively young body.
- Its effectiveness and credibility needs to be strengthened for it to become the reference point for concrete responses to human rights violations.
- Concerning the status:
  - A general opinion emerged on the need to focus primarily on consolidating the HRC work within the current format.
  - Various obstacles were raised regarding an upgrade in the status of the HRC, in particular the required reform of the UN Charter. A debate on the status might lead to a deterioration of the climate of negotiations between Member States.
  - Clearer performance and results condition the credibility of the HRC and must precede efforts pertaining to a potential upgrade of its status.
- Concerning the membership of the HRC, the following views were shared:
  - Enhanced quality in the work of the HRC is not conditioned by universal membership and difficulties presently faced by the Council are not linked with the current number of Member States. The primary objective of the HRC is and must remain to impact the human rights situation on the ground, a capacity which universal membership would not necessarily strengthen.
  - The concern was expressed that enlarged membership or universality would also de facto lead to lower requirements in terms of the HR commitments and records of Member States and would ultimately risk undermining the credibility of the HRC. Such process would be inconsistent with the standards which par. 7 to 9 of res. 60/251 provide for.
  - The lack of full representation of States in Geneva was discussed. Currently 30 States are not represented, although the number of delegations in Geneva is on the increase. Universal membership is secured in other Geneva-based UN bodies.
  - More than universality, the present discussion could focus on ways to improve the quality, the level of national and international commitments and accountability as the core elements of the membership:
    - Move towards effective application of paragraphs 7 to 9 of resolution 60/251 and concrete ways to improve their impact.
    - Request the OHCHR to collect and make available objective information to evaluate and keep track of the level of cooperation of States (HRC members or candidates) with the mechanisms of the UN human rights protection system.
    - Create an opportunity or a requirement for candidates to present their contributions and pledges in New York, in the context of the HRC election process. Such process would allow for all States to review the credibility of commitments.
    - Create a mechanism to ensure the review and respect of pledges, notably for States seeking re-elections at the HRC.
    - Avoid clean slates and encourage wider competition for elections to the HRC.

- With respect to work and functioning of the HRC:
  - Emphasis was made on the fact that resolution 5/1 already provides for a wide array of tools. It was also suggested not to rule out the possibility of revisiting/revising these tools.

#### **IV/ Calendar of reviews, coordination between Geneva and New York process**

- Openness, coherence, transparency, and inclusiveness should be guiding principles for both processes .
- There is a need to establish a clear roadmap and modus operandi. The process ought to be initiated in Geneva. There should be constructive dialogue between the HRC and UNGA (eg. at the level of their respective presidencies or through facilitators) to avoid overlap and ensure mutual information.
- The process should build on expertise from Geneva. The wish was expressed that an agreed document would be transmitted to New York for an overall pronouncement by the UNGA.
- The intergovernmental negotiations should take into account the results of informal exercises such as this Reflection Group and other similar initiatives. To this end, all contributions ought to be largely disseminated to Member States as well as to the Working Group to be established (possibly through an OHCHR web-based platform).
- A substantial contribution of OHCHR would be valuable.

#### **V/ Work of the Reflection Group on the Strengthening of the Human Rights Council - Follow up to the Paris meeting**

- A general opinion emerged that the Group should present a contribution to the formal intergovernmental negotiations.
- It also agreed that organizing further meetings after the formal negotiations have started would be valuable since the group provides a platform for cross-regional exchanges.
- Further meetings will be organized
  - in Morocco in the second half of May,
  - in the Republic of Korea early July,
  - in Argentina, tentatively in October, after the first meeting of the open-ended intergovernmental working group created by the resolution HRC 12/1.