



**Global Observatory**  
on Human Rights  
UPR Watch

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## THE REVIEW OF THE HUMAN RIGHTS COUNCIL

19 recommendations for a credible, coherent  
and efficient system



Jean-Louis Roy

Global Observatory on Human Rights  
UPR Watch



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## THE REVIEW OF THE HUMAN RIGHTS COUNCIL

*19 recommendations for a credible, coherent and efficient system*

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## INTRODUCTION

*In the fall of 2011, the United Nations General Assembly will be reviewing the status of the Human Rights Council. Without questioning the institutional package, this review must provide more credibility, coherence and efficiency to the UN human rights system. To this end, the General Assembly will have to promote more convergence between the work of treaty bodies and that of the Universal Periodic Review. The idea is i) to stop the development of two parallel mechanisms, often contradicting one another, ii) to put an end to the waste in human and financial resources induced by this development, iii) to assess the states' ability to establish a national human rights policy and account for it to international bodies responsible for examining their conformity with international human rights law.*

***The Global Observatory on human rights (UPR Watch)<sup>1</sup>*** is neither suggesting the withdrawal nor addition of existing bodies. The recommendations in this working paper call for a genuine review of their mandate, the end of duplication in their current activities and the research of an equilibrium between the complementary work of the political class and experts. Through the upcoming work of the General Assembly, we see the opportunity to instil renewed credibility, coherence and efficiency into the UN human rights system.

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<sup>1</sup> Created in 2008 by Jean-Louis Roy, the Observatory is located at University of Montreal's *Centre de recherche en droit public* and its work can be consulted here: <http://upr-epu.org>. This report also depended on the contribution of Jonathan Burnham – coordinator and translator, of Saïd Hammamoun – senior legal advisor and of Jérôme Lankoandé – researcher at UPR Watch.



## THE HUMAN RIGHTS COUNCIL

The UN General Assembly's decision to replace the Human Rights Commission with the Human Rights Council (HRC or Council) aimed at rectifying a political situation that had become intolerable. That decision stemmed from the need, among others, to give its full meaning to the concept of **universality**, one that is inclusive of all humankind and that can take into account both its unity and diversity. The need, as well, to set up forms of dialogue likely to replace the practices of selectivity and double standard when it comes to standards that should in effect apply to all, without distinction or discrimination. The Universal Periodic Review (UPR) mechanism, major component of the new HRC, met those requirements. This analysis is dedicated to that mechanism, but since it is part of the Human Rights Council, our first comments will focus on the latter.

### *THE STATUS OF THE HUMAN RIGHTS COUNCIL*

The current status of the Council is **mediocre, insufficient and inadequate**. In its review, the General Assembly must ensure that this status from now on reflects the central place human rights occupy within the action of the UN as well as the importance of the values and aspirations inscribed in the UN Charter, the Universal Declaration of Human Rights and the Treaties that find their origin therein. The General Assembly must also ensure that this status meets the expectations of a multitude of men and women from every spiritual, cultural, social and economic horizons all over the world. It must, furthermore, ensure that this status is in no contradiction with the oft-repeated affirmation that “... **security, development and human rights are the pillars of the United Nations system and the foundations for collective security and well-being, and recognizing that development, peace and security and human rights are interlinked and mutually reinforcing**” (preamble to Resolution 60/251).

Although it is constantly repeated, that rhetoric remains contradicted by the disparity in status reserved to the bodies that, within the United Nations, are responsible for the domains identified above as “pillars” of the Organization: security, development and human rights. The status awarded to the body in charge of human rights is clearly inferior to the other two. The time has come to rectify such an institutional dysfunction, image of an order that has become obsolete.

The HRC is a subsidiary organ of the United Nations General Assembly. That status has put an end to the « impossible » situation that had relegated the defunct Human Rights Commission to



the level of a “technical commission”, among others, of the Economic and Social Council. That needed to be changed. The Human Rights Council could not be assimilated to another council’s technical commission. It is neither a specialized agency nor a UN program. The same goes for the “subsidiary organ” category in which it finds itself since its inception in 2006, alongside the United Nations University (Resolution 3081, XXVIII) and the Trade and Development Board (Resolution 1995, XIX).

Such a situation cannot last indefinitely. The Human Rights Council’s status must become the same as those of the Security Council and the Economic and Social Council’s. The General Assembly would fail in its responsibility if it ignored that issue or if it did not regulate it satisfactorily during the debate on the HRC’s status review. It would also give a troubling indication of the little importance it really gives to the promotion and protection of human rights throughout the world.

#### **RECOMMENDATION 1**

***Given the paramount importance of human rights, as enshrined in the UN founding documents, and the HRC’s attributions and modalities of action, the General Assembly should set up a think-tank with the mandate of evaluating the ways and means that will allow for the Council’s establishment at the same level than the Organization’s main bodies. Consequently, its status should be in line with that. Such normalization would place the HRC in the first category of General Assembly bodies, on par with the Security Council and the Economic and Social Council.***



### ***MEMBERSHIP OF THE HUMAN RIGHTS COUNCIL***

Any United Nations member state is eligible for a seat at the HRC for a 3-year mandate, renewable once. That possibility must be upheld in principle. It expresses and enshrines the common obligation of all states to promote and protect human rights and their universality.

Currently, nothing legally prevents a state from presenting itself and from being elected at the Human Rights Council even if it has neither signed nor ratified major international human rights instruments or if it circumvents some policies and procedures enacted by the UN in that regard. That situation is deplorable and unacceptable. It appears normal, essential even, that for a state to present its candidacy, that state must comply with precise requirements as a token of its adherence to the values expressed in the Universal Declaration.

Some are of the opinion that such a requirement is not realistic and that the states will refuse it. What would those people say about a state seeking membership in the UN and being admitted all the while disregarding its obligations under the Charter? What organization would accept to appoint to one of its most important council a member that publicly and officially refuses to sign its founding documents or that would distance itself from some of its main policies or procedures? The current situation is unbearable. It must be adjusted as a result of the General Assembly's review of the Human Rights Council.



## **RECOMMENDATION 2**

**Any UN member state presenting its candidacy at the Human Rights Council must at least meet the following requirements:**

- (1) Accede to the International Covenant on Civil and Political Rights as well as that on Economic, Social and Cultural Rights or make a commitment to that effect that would take place within a reasonable timeframe (the 18 months following its election to the HRC, for example). That condition is minimal. Truth be said, a state that claims to be contributing to the UN responsibility in terms of human rights should normally subscribe to all the conventions related to international human rights law.***
- (2) Extend a standing invitation to the Special Rapporteurs and make a commitment to answer favourably, except in exceptional circumstances, to their visit requests.***
- (3) Have a national institution for the promotion and protection of human rights that meets the Paris Principles requirements; create one if it doesn't exist or upgrade it if it exists but with shortcomings, within a timeframe of 18 months following its election to the HRC.***



## THE UNIVERSAL PERIODIC REVIEW MECHANISM

The UN human rights system combines international human rights law with different procedures and mechanisms (treaty bodies, Special Procedures, UPR), aiming to enable the system to fully deploy its responsibilities for all human rights issues. The Universal Periodic Review is the most recent of these mechanisms.

Four characteristics distinguish the UPR from the other mechanisms:

(1) **the universal nature of its mandate** and of its work, which concern each country without exception and which cover the entirety of human rights;

(2) **the collection of available knowledge** about the state of human rights promotion and protection in any given country and in all the 192 UN member states. First, the knowledge of each state, which has to produce a national report dedicated to its policies and institutions related to human rights promotion and protection. There are also two summaries prepared by the OHCHR, the first being a compilation of UN knowledge, the second a compilation of observations issued by NGOs;

(3) **the nature of the interactive dialogue**, which constitutes a major element of the UPR. All the members of the Human Rights Council, and all the UN member states for that matter, are invited, if they so wish, to assess the national institutions and policies of the reviewed country and to issue recommendations;

(4) **the obligation for all states to account for the implementation** of their voluntary commitments and of the accepted recommendations, given that a state has the possibility to reject or accept the recommendations it received at its review.

Major program of the Human Rights Council, the UPR benefits from the works and observations of two other UN mechanisms for the promotion and protection of human rights:

**Treaty bodies**, expert committees responsible for the implementation of obligations stemming from the states' signature and ratification of international human rights instruments (the treaties).

**Special Procedures**, high-level experts mandated to assess the human rights situation in a given country or with regards to a specific theme: torture, Indigenous peoples, migrants, to name but a few examples.



The creation of the Universal Periodic Review was an answer to the following two requirements:

**Asserting the universality of rights** with a mechanism that confirms the obligation of all states, and all the obligations of each state, with regards to human rights, without distinction, exclusion or exception. The new mechanism puts an end to a regime built on selectivity and it dissolves the mere rhetoric about universality – which used to be just that, rhetoric – by putting forth the requirements and potential of true universality. No other mechanism of the UN’s human rights system can perform that role.

**Create a global public space for the exercise of responsibility**, each and every state having to render accounts of their general policy, including on the field, as a result of their obligation to promote and protect the rights of their citizens. No other mechanism of the UN’s human rights system can perform that essential role.

### *THE UPR’S ASSETS*

Is the creation of the UPR sufficient to strengthen substantially, and in sustainable fashion, the universal quality of the UN’s human rights system?

The mechanism that has been in use since 2008 – its strengths and weaknesses will be assessed below – has probably contributed to improve the effectiveness of international human rights law. Indeed, in a 4-year cycle, from 2008 to 2011, all 192 UN member states will have accepted to be submitted to the same standards, to undergo the same evaluation aiming at filling the gaps between their national human rights institutions, their policies, and international human rights law.<sup>2</sup>

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<sup>2</sup> As of April 15<sup>th</sup> 2011, 159 countries submitted themselves to the UPR.



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The mechanism gave new life to national and global debates about human rights promotion and protection since every UN member state, as mentioned above, have the right to intervene, during the review of any country, about that country's human right institutions and policies, or lack thereof. Furthermore, NGOs, INGOs and national human rights institutions also contributed to that debate on the national and international levels. Finally, the webcast of the UPR's interactive dialogue gave visibility and accessibility to those debates and allowed different groups of human rights defenders across the world to follow and appreciate them. The treaty bodies need to adopt that procedure because their work is indeed compromised by its quasi-confidential character and the lack of accessibility and transparency that ensues.

The mechanism plans that each and every UN member state will normally come back to face the Council again in a second UPR cycle that will take place as of 2012. The states will report on the implementation of their voluntary commitments and of the recommendations they accepted during their first UPR.

In view of these accomplishments, it seems reasonable to contend that the UPR mechanism contributes to the strengthening of the UN human rights system's universal dimension as well as the strengthening of the Organization's obligations in that regard. With respect to its impact on the national policies of the 192 countries, we will have to wait for the second cycle for a reliable assessment. However, the Observatory's analyses allow us to suggest, still carefully at this stage, that this impact is real and significant.

***RECOMMENDATION 3***

***All the treaty bodies' deliberations should be broadcast live, as are those of the Human Rights Council during UPR sessions.***



### ***THE UPR'S LIABILITIES***

At the end of this year, the UPR's first cycle will be completed, with all UN member states having most likely, by that time, been submitted to the review without exception. Although that first cycle is not yet completed, its deployment since 2008 still allows to assess its performance, even if only temporarily.

**As a method of intergovernmental work** implicating every UN member state, the undertaking can be considered a success. For a majority of these states, that was a first. Indeed, before the UPR, they never had to submit to such comprehensive and public review of their policies and the quality of their human rights institutions. For every state, it was a question of accepting and participating in an interactive dialogue, and not only with all their peers, but as well with stakeholders, NGOs, INGOs and national institutions. Furthermore, that dialogue was regarding a sensitive domain for sovereign states: the effective promotion and protection of their citizens' rights, or lack thereof. The mechanism deployed without crisis or objection.

We must wait for the second cycle in order to reliably and exhaustively analyze the UPR **as a tool for the promotion and protection of human rights**. However, as was already stated and given the information at our disposal, it appears that the UPR was not without its effects in that promotion and protection of rights in a number of countries. At this point, though, it remains impossible to establish its effectiveness and to clearly identify the improvements and the real results in terms of human rights promotion and protection in each and every UN country.

**Notwithstanding all of the above, which demonstrates the UPR's specific value, its implementation has revealed weaknesses that, if left uncorrected, could compromise the mechanism or even disqualify it for good. It could as well compromise the UN human rights system as a whole, hence the need for a substantial and exhaustive review.**



- The first such weakness is **political**. Indeed, contrary to the other two mechanisms of the UN human rights system, the treaty bodies and Special Procedures, which rest essentially on the work of international experts, the UPR mechanism for its part rests on the work of representatives of the political class and diplomats. That method creates a setting in which states become judges and defendants, hence the difficulty to undertake a balanced and objective evaluation of the human rights situation.

- The second concerns the **lack of expertise**, evident during the interactive dialogue between the state under review and the other UN member states. This too often brings about deplorable generalities and useless repetitions during the UPR, as well as the ignorance by states of the conclusions and recommendations of the other two human rights mechanisms and even some recommendations that contradict international human rights law. This situation calls for immediate and substantial corrections. The UN human rights system has at its disposal a great number of experts in every field of the human rights domain. The Council should also be interested in their competence during UPR sessions. This is not about imposing their views but simply a reminder of their existence. It is about taking advantage of their availability for the system and recognizing that they can bring a value-added in terms of knowledge, which the HRC greatly lacks during sessions of the Universal Periodic Review.

- The third concerns the **system of rules and procedures**: absence of standard about the nature of what is a recommendation, rejection of some of these by the states without serious justification, no common framework to be followed by the states in order to account for the effective implementation of recommendations.



***Recommendations constitute the UPR's pivotal element. They mark the completion of each and every country's review and are the primary reference when it comes to evaluating the states' implementation of those reviews' outcome. Yet the absence of rigorous and common norms leads to the most unfortunate confusion between good wishes, congratulations, encouragements and genuine recommendations.<sup>3</sup> The Human Rights Council must put an end to this parade and clarify the notion of recommendation, for the benefit of all***

***Finally, the liberty of each state to accept, reject or declare the recommendations it receives as moot must also be regulated and the exercise of that freedom has to be made stricter. No state must be authorized to take a position that places it in contradiction with its international human rights law obligations. Nor should it be placed in contradiction with past commitments or with conclusions and recommendations issued by the other two mechanisms because that would mean accepting a regression in the promotion and protection of fundamental rights.***

Hundreds of documents and hours of interactive dialogue, of private and public diplomacy, have produced an abundance of recommendations; 7,667 in the first 7 sessions, maybe 15,000 by the end of the 1<sup>st</sup> cycle. Many of them are concerned with the very essence of state responsibility towards human rights promotion and protection. Others are marginal and/or imprecise and unlikely to be instrumental in the exercise of that responsibility. Lastly, some contradict the human rights obligations of states.

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<sup>3</sup> See Saïd Hammamoun's communication in the Report of procedures emanating from the conference on the improvement of the implementation and follow-up of the UN human rights mechanisms, organized by UPR-Watch, the *Brookings Institution* and the *Open Society Justice Initiative* ([http://upr-epu.com/medias/Geneva\\_Report\\_of\\_Proceedings\\_FINAL.pdf](http://upr-epu.com/medias/Geneva_Report_of_Proceedings_FINAL.pdf)).



This typology raises serious questions when it comes to the nature of a recommendation defined as an implementable proposition. **If the UPR mechanism is to impose itself as an essential element of the UN's human rights system, a substantive framework for the recommendations must be established, thus making possible an evaluation that would otherwise be stained by this lack of rigour and responsibility.**

The **responsibility and accountability** of states with regards to the implementation of recommendations received and the precise conditions of that responsibility have been so far neglected, to say the least. An essential step of the UPR is to **reframe these qualities**. If that step is overlooked, the entire exercise is devalued and reduced to high-level rhetoric without a chance to ensure the least progress in human rights promotion and protection. Such failure would be much more than a mere weakness of the mechanism; if it isn't repaired by substantial norms, it will not only devalue but disqualify that system.

To this day, only a limited number of states have produced an interim implementation report. And none, including those who are to sit in front of the Council to report on the follow-up they reserved to the recommendations they received in the 1st UPR cycle, know the norms and procedures that will apply in the 2nd cycle. These procedures must be debated, decided upon and integrated in the mechanism as soon as possible.

The UPR is a mechanism that is controlled by the states. The recommendations stemming from it do not have the mandatory force other normative instruments do. That voluntary positioning is not likely to change significantly, hence the importance of defining the boundaries of the UPR to prevent it from sinking into repetition, laziness and irresponsibility.



**RECOMMENDATION 4**

*The Human Rights Council should petition the Office of the High Commissioner for Human Rights in order to receive an updated list of the recommendations, conclusions and other observations produced by the treaty bodies and Special Procedures with regard to the 192 UN members.*

**RECOMMENDATION 5**

*The Human Rights Council, while in UPR sessions, should benefit from the presence of experts, especially that of national rapporteurs holding or having held a mandate.*

**RECOMMENDATION 6**

*The Human Rights Council should have guidelines that clearly define what constitutes a recommendation and what does not.*

**RECOMMENDATION 7**

*The Human Rights Council should apply itself to come up with a reasonable framework of accountability with regard to what are the expectations towards a state that rejects one or many recommendations it received.*

**RECOMMENDATION 8**

*The recommendations issued to states during their UPR should be clustered thematically.*



**RECOMMENDATION 9**

*The recommendations issued at the UPR should not contradict the conclusions and/or recommendations of the other two mechanisms, the treaty bodies and the Special Procedures, nor should it come in contradiction with the UPR's very objective. Moreover, these recommendations have to be verifiably implementable.*

**RECOMMENDATION 10**

*The HRC should encourage the good practice of the interim report on the implementation of recommendations received and accepted at the end of the reviews.*

**RECOMMENDATION 11**

*The national report that is to assess, in the second cycle, the implementation of the recommendations received and accepted by a country should be made available two months before the UPR of said country in order for the stakeholders to refer to it in their own evaluation of that implementation; the stakeholders' evaluation should be synthesized and made public by the OHCHR.*

**RECOMMENDATION 12**

*The HRC should develop a model that allows it to evaluate the effective implementation of recommendations received by the states in the first cycle.*

**RECOMMENDATION 13**

*The HRC should pay specific attention to the inclusive aspect of the UPR mechanism in the upcoming 2<sup>nd</sup> cycle, especially when it comes to the stakeholders' implication in the follow-up of 1<sup>st</sup> cycle recommendations.*



## THE UN HUMAN RIGHTS MECHANISMS

Here are, within a single organization, three mechanisms that share the same doctrine, the same objectives and the same scant human and financial resources. These 3 mechanisms function as in silos, without a common strategic aim, without an integrated communication and information system and without systematic exchanges. So they approach the states without coordination. Of course, each has its own mission, more general in the case of the UPR in that sense that no human rights dimension are left out of its reach; more sectoral in the case of the treaty bodies since their responsibilities can be found exclusively in the content of the treaty to which they are bound; national and thematic for the Special Procedures, according to the mandate received by the experts.

Even if it can be explained historically, this situation remains untenable. Overlap, repetition of initiatives already undertaken by another mechanism, work of the same nature but accomplished in parallel, without ever connecting: these are among the many effects of a lack of institutional cohesion. And we failed to mention the confusion, the overload and, unfortunately, the disinterest of a great number of states, as is demonstrated in recent and conclusive research.<sup>4</sup>

**The sudden arrival of the UPR mechanism generated quite a problematic situation, intolerable even. Forgetting its mandate's substance – bringing added value to the existing system – it literally borrowed from the works of the other mechanisms but in a partial, insufficient and biased way. How can such a situation be ended? How can we give the system the minimum of rigour it presently lacks? What convergence must we establish between the three human rights mechanisms in order to combine their specific qualities and give full effect to a system which is currently splintered?**

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<sup>4</sup> *From Judgment to Justice: Implementing International and Regional Human Rights Decisions*, David C. Baluarte and Christian M. Devos, Open Society Foundations, November 2010.



### *TREATY BODIES*

**Treaty bodies constitute the primary mechanism of the UN human rights system and must remain so. For more than three decades, they contributed to the implementation by states of the commitments they took when they signed or ratified binding treaties. The treaty bodies' mission and functions are essential and must be maintained, their fields of intervention have to be targeted and, consequently, their relations with states and with stakeholders are to be clearly identified. Their knowledge is a priceless thesaurus and as far as we can see in the future, treaty bodies remain the necessary levers of the UN human rights system. Undeniably, their work and observations constitute the foundations of that system.**

However, their lack of cohesion, the fact that they remain vital but splintered out and that they can't count on the benefits of belonging to a system of convergent knowledge and interventions, the fact as well that their work sessions are not webcast live undoubtedly diminish their impact and productivity. Again, lastly, the lack of coordination in their relations with states should be, for each of the treaty bodies and their experts, a major concern. Ultimately, the respect of each state's situation and the quality of the relation with all of them is a must for the success of their work. That quality is not here put in doubt. What matters is that this relation be deepened, disciplined and that it takes into account the situations and real resources of each country. Such renewed quality between states and treaty bodies aims at the only objective that counts: the improvement of the effective promotion and protection of fundamental rights.

*"The High Commissioner noted that treaty bodies' own success over the past four decades was now staining the system at its seams. She explained that resources have not kept the pace with the system's growth in size, output, and visibility. With the establishment of the 10th treaty body this year, she said the system was probably not far from reaching its limits. The High Commissioner highlighted that the ongoing fragmentation of the system and the multiplication of procedures increased the vulnerability of the system to become unwieldy, cumbersome and unpredictable."<sup>5</sup>*

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<sup>5</sup> HUMAN RIGHTS TREATIES DIVISION WEEKLY UPDATE, 7-13 March 2011, [www.ohchr.org](http://www.ohchr.org).



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The situation is made worse by the treaty bodies' lack of coordination and cohesion. Important work has been undertaken to analyze and implement the necessary changes for each treaty body, initiatives that are accomplished and supported by the Office of the High Commissioner for human rights and which are to be lauded and in turn supported.

The Meeting of treaty bodies Chairpersons has been taking place for the past 10 years. It keeps stumbling on the experts' desires for more autonomy, which condemns these meetings to the most unfortunate of standstills. Of course, it allows useful exchanges and the sharing of good practices. But each of these bodies has its own rules and procedures. Each addresses states and stakeholders with different and uncoordinated methods and requirements. This lack of cohesion and convergence compromises the system as a whole and the results it should normally produce.

**In its review of the Human Rights Council's mandate, the General Assembly must become quite demanding towards the treaty bodies, especially because of the importance of their work for the Council. It must, among other things, reassess the appointment method of their members. It must furthermore make sure that the treaty bodies are not ten principalities but rather the components of a credible, coherent and efficient system with common norms, shared planning and evaluation tools, that they feel involved in its communication and focused on the production of real results, i.e. a continued and verifiable improvement of the rights of one and all. That system does not exist today. It lacks the authority that will able it to take decisions, an authority that should normally be exercised by the treaty bodies chairpersons.**



### ***SPECIAL PROCEDURES***

Special Procedures are an important mechanism of the UN human rights system; they too are part of the indispensable resources of that system and their contribution is priceless. The mandate holders allow for vital updates on the real and often complex, tragic and urgent situations in a given country. The thematic mandate holders meet other requirements. They especially answer the needs for reliable knowledge, for comprehensive inventories and proposals that are likely to strengthen the protection of the rights included in these themes. Furthermore, some procedures substantially contribute to the comprehension and assessment of new domains calling for the protection of fundamental rights.

However, Special Procedures suffer from a severe shortage of resources. This is the context in which they work, in a way completely incommensurate with the importance of the mandates for which they are responsible and with the risks faced by the mandate holders in many cases. The Special Procedures also suffer from the UN human rights system's lack of cohesion and from the absence of a convergent knowledge system.



## OF INSTITUTIONAL COHESION

The specialized or sectoral character of the mechanisms that existed before the creation of the UPR is undeniable: situation in a country, thematic questions, treaty implementation, etc. These missions are essential and are not questioned by the UPR, quite the contrary. They must continue to be fully exercised. The UPR was asked to bring added value to the system. What can that value-added be?

To the more technocratic functions held by the treaty bodies and Special Procedures experts, the Human Rights Council, when in UPR session, must add a political dimension that is, after all, its specificity. The desired value-added could, at first, consist of a follow-up to all the conclusions and recommendations issued by the 2 other mechanisms to states as well as a verification of their implementation. Then, the HRC could call upon states with regards to issues not covered by the other 2 mechanisms.

That way of proceeding would guarantee the cohesion of the UN human rights system, as well as its strengthening. It would also reinforce the work of the 2 other mechanisms and enrich them with new contributions since they could take into consideration fields that their current specific mandates don't allow them to cover. It would also provide additional pressure towards the signature and ratification of treaties, the lifting of some states' reservations and the implementation of obligations stemming from their adherence to these international instruments. It would have the effect of reminding the Special Procedures' conclusions, of inciting states to issue standing invitations to them or to follow up on their recommendations.

That way of proceeding would put an end to the circumstantial, partial and random ways the UPR borrows from the other two mechanisms. It would have the effect of defining in clear fashion the domains that are specific to the UPR. Finally, and all the while maintaining the autonomy of the three mechanisms, it would create the conditions of their reciprocal reinforcement, of their convergence, sense of belonging and contribution to a credible, coherent and efficient system. That method could include the following elements:



- a unique method of preparation and production of national reports focusing on the specificities of each mechanisms, each report helping in the strengthening of the knowledge already available;
- a unique and public undertaking of compiling the conclusions and recommendations issued to all 192 UN member states by the Organization's 3 human rights mechanisms and including as well the states' responses to these conclusions and recommendations;
- a policy that would put a stop to the recycling of conclusions and recommendations already formulated by one of the mechanisms, unless it is as a reminder or reference.

These few elements in no way sacrifice the independence, autonomy and specificity of the three mechanisms. They are likely to limit the repetitions, the waste of resources and the confusions they generate.

The coordination of such a system is ensured by the OHCHR with an obligation to report annually to the HRC which, must it be reminded, has the general responsibility of coordinating the activities of the UN human rights system.

**The HRC “should also promote the effective coordination and the mainstreaming of human rights within the United Nations system” (Resolution 60/251).**

That desired coordination fits into the policy of meetings already undertaken by the HRC and the chairpersons of the treaty bodies to whom representatives of the Special Procedures should be associated.

In this reorganization, we will also have to assess what is asked of the OHCHR and link additional mandates with financial and human resources unless we consent to the erosion of its capacity to support human rights protection and promotion initiatives. This reorganization must reinforce the OHCHR rather than transform it in a specialized service agency with neither vision nor clout. On this issue, it is worth reading again the meaningful intervention of the High Commissioner for Human Rights in Geneva on March 7th 2011.<sup>6</sup>

#### **RECOMMENDATION 14**

***That in the review of the HRC's status, the UN General Assembly make all the necessary arrangements and take all the decisions that will strengthen the cohesion and efficacy of the***

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<sup>6</sup> *ibid.*



*treaty bodies as part of a whole, with common standards, shared planning and evaluation tools; that this whole feels involved in its communication and focused on the production of real results, i.e. a continued and verifiable improvement of the rights of one and all. These arrangements should be extended to the review of the selection modes of the treaty bodies' committee members.*

**RECOMMENDATION 15**

*That in the review of the HRC's status, the UN General Assembly ask the Council to define more precisely the UPR's tasks by taking into account those of the treaty bodies. The HRC, when in UPR session, could first verify the implementation, or lack thereof, of the conclusions and recommendations of the treaty bodies and Special Procedures. The Council could then resume the UPR and devote it to the fields that are not covered by the conclusions and recommendations of the other two mechanisms.*

**RECOMMENDATION 16**

*That in the review of the HRC's status, each mechanism annex to its own conclusions and/or recommendations those formulated by the other two mechanisms when they concern the same state obligations.*



**RECOMMENDATION 17**

*That the OHCHR equip itself with a coordination unit dedicated to ensuring the cohesion and coherence between the three UN human rights mechanisms with regard to their work method, their relations with countries, the compilation of their conclusions and recommendations as well as the countries' replies to these, with the ensuing verifications of their effective implementation. That, based on the work of this unit, the OHCHR report annually to the Human Rights Council.*

**RECOMMENDATION 18**

*That in the review of the HRC's status, the UN General Assembly take into account the financial needs of the UN system of human rights promotion protection. The resources currently allocated are largely insufficient and, if maintained at that level, could well constitute a serious impediment to that primary mission of the Organization: create the conditions for the acknowledgement and effective implementation of the rights of one and all on a planetary scale. That realization of the financial needs cannot be limited to a mere overall finding or sweeping wishes. It must materialize via a thorough examination of the financial needs of the UN human rights system.*

**RECOMMENDATION 19**

*That the HRC incite countries to identify, during the implementation phase of the 1st cycle's recommendations, their needs in terms of institutional capacity reinforcement in order to render operational their request for technical assistance.*



## APPENDIX

### RECOMMENDATIONS FROM THE GLOBAL OBSERVATORY ON HUMAN RIGHTS – UPR WATCH

#### **RECOMMENDATION 1**

*Given the paramount importance of human rights, as enshrined in the UN founding documents, and the HRC's attributions and modalities of action, the General Assembly should set up a think-tank with the mandate of evaluating the ways and means that will allow for the Council's establishment at the same level than the Organization's main bodies. Consequently, its status should be in line with that. Such normalization would place the HRC in the first category of General Assembly bodies, on par with the Security Council and the Economic and Social Council.*

#### **RECOMMENDATION 2**

*Any UN member state presenting its candidacy at the Human Rights Council must at least meet the following requirements:*

- (1) Accede to the International Covenant on Civil and Political Rights as well as that on Economic, Social and Cultural Rights or make a commitment to that effect that would take place within a reasonable timeframe (the 18 months following its election to the HRC, for example). That condition is minimal. Truth be said, a state that claims to be contributing to the UN responsibility in terms of human rights should normally subscribe to all the conventions related to international human rights law.*
- (2) Extend a standing invitation to the Special Rapporteurs and make a commitment to answer favourably, except in exceptional circumstances, to their visit requests.*
- (3) Have a national institution for the promotion and protection of human rights that meets the Paris Principles requirements; create one if it doesn't exist or upgrade it if it exists but with shortcomings, within a timeframe of 18 months following its election to the HRC.*



**RECOMMENDATION 3**

*All the treaty bodies' deliberations should be broadcast live, as are those of the Human Rights Council during UPR sessions.*

**RECOMMENDATION 4**

*The Human Rights Council should petition the Office of the High Commissioner for Human Rights in order to receive an updated list of the recommendations, conclusions and other observations produced by the treaty bodies and Special Procedures with regard to the 192 UN members.*

**RECOMMENDATION 5**

*The Human Rights Council, while in UPR sessions, should benefit from the presence of experts, especially that of national rapporteurs holding or having held a mandate.*

**RECOMMENDATION 6**

*The Human Rights Council should have guidelines that clearly define what constitutes a recommendation and what does not.*

**RECOMMENDATION 7**

*The Human Rights Council should apply itself to come up with a reasonable framework of accountability with regard to what are the expectations towards a state that rejects one or many recommendations it received.*

**RECOMMENDATION 8**

*The recommendations issued to states during their UPR should be clustered thematically.*



**RECOMMENDATION 9**

*The recommendations issued at the UPR should not contradict the conclusions and/or recommendations of the other two mechanisms, the treaty bodies and the Special Procedures, nor should it come in contradiction with the UPR's very objective. Moreover, these recommendations have to be verifiably implementable.*

**RECOMMENDATION 10**

*The HRC should encourage the good practice of the interim report on the implementation of recommendations received and accepted at the end of the reviews.*

**RECOMMENDATION 11**

*The national report that is to assess, in the second cycle, the implementation of the recommendations received and accepted by a country should be made available two months before the UPR of said country in order for the stakeholders to refer to it in their own evaluation of that implementation; the stakeholders' evaluation should be synthesized and made public by the OHCHR.*

**RECOMMENDATION 12**

*The HRC should develop a model that allows it to evaluate the effective implementation of recommendations received by the states in the first cycle.*

**RECOMMENDATION 13**

*The HRC should pay specific attention to the inclusive aspect of the UPR mechanism in the upcoming 2<sup>nd</sup> cycle, especially when it comes to the stakeholders' implication in the follow-up of 1<sup>st</sup> cycle recommendations.*



**RECOMMENDATION 14**

*That in the review of the HRC's status, the UN General Assembly make all the necessary arrangements and take all the decisions that will strengthen the cohesion and efficacy of the treaty bodies as part of a whole, with common standards, shared planning and evaluation tools; that this whole feels involved in its communication and focused on the production of real results, i.e. a continued and verifiable improvement of the rights of one and all. These arrangements should be extended to the review of the selection modes of the treaty bodies' committee members.*

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**RECOMMENDATION 19**

*That the HRC incite countries to identify, during the implementation phase of the 1st cycle's recommendations, their needs in terms of institutional capacity reinforcement in order to render operational their request for technical assistance.*