

*Retreat of Algiers
on the review of the work and
functioning
of the Human Rights Council*

*Sheraton Hotel Club des Pins
Resort and Towers
Algiers From 19 to 21 February 2010*



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Abbreviations

ACABQ	Advisory Committee on Administrative and Budgetary Questions
CoC	Code of Conduct for Special procedures Mandate
GA	General Assembly
HLS	High Level Segment
HR	Human rights
HRC	Human Rights Council
HRC Res.	Human Rights Council resolution
HRC Review	Review of the HRC foreseen by operative paragraph 16 of UNGA Res. 60/251
IBP	Institution Building Package of the Human Rights Council as set out in its resolutions 5/1 and 5/2 of 18 June 2007
IGWG	Intergovernmental Working Group of the Council set up by HRC res. 12/1
JIU	United Nations Joint Inspection Unit
NHRI	National Human Rights Institutions
LDCs	Least Developed Countries
OHCHR	Office of the High Commissioner for Human Rights
op	Operative paragraph
pp	Preambular paragraph
Res.	Resolution
SUR	State under review
UNC	United Nations Charter
UNGA	United Nations General Assembly
UNGA Review	Review of the HRC as per operative paragraph 1 of UNGA Res. 60/251
UNSC	United Nations Security Council
UPR	Universal Periodic Review
UPR Review	Review of the UPR required by art. 14, footnote (a) of HRC Res. 5/1

Introduction

The Spirit of Algiers

The Ministry of Foreign Affairs of Algeria organized an informal Retreat at the Club des Pins in Algiers on 20 and 21 February 2010 with the participation of Heads of Permanent Missions to the UN Office in Geneva, other Ambassadors, and Chargés d’Affaires a.i of 103 countries and organizations covering a broad and representative segment of United Nations Member States, both Members and Observers of the Human Rights Council. The Retreat was co-sponsored by the Permanent Missions of Norway and of New Zealand to the United Nations Office in Geneva.

The goal of the Retreat was to reflect collectively on the scope and content of the review of the work and functioning of the Human Rights Council after it was set up UNGA Res. 60/251 in March 2006 and established in June 2006.

The purpose of the Retreat was not to draw-up a position paper, as such position papers are drawn up during the pre-negotiation phase or during negotiations through normal group processes. Rather the purpose of the Retreat was to promote confidence-building between countries and the established groups. It was not intended to create new coalitions, but to understand the diverse views of participants on the issues and options for the review and to pave the way for consensus at a later stage. The aim was also to give to all regional groups and their Member States a sense of equal participation in the review process by through promoting transparency and inclusiveness discussions. The Retreat of Algiers will, it is hoped, contribute help to alleviating the alienation some delegations experience at times in human rights debates within the United Nations.

At the Retreat the positions of all participants were equally welcomed and views were articulated by all participants, including some whose voices are seldom heard in the Human Rights Council.

As the time had to be well managed, participants were invited to be concise and to focus on specific questions or recommendations of issues and options.

Any idea that either made ‘political sense’ or even was merely ‘common sense’ was welcome. There was no hierarchy of speakers or ideas nor was there to be any attribution of statements made in recording the ideas put forth at the Retreat.

This report constitutes a summary of the outcome of the Retreat that has been prepared by the Moderator¹ based on the wide range of views, ideas and proposals expressed at the thematic meetings of the Retreat of Algiers that were spread over a period of two days. The views expressed are recorded to serve as background material aimed at assisting States in choosing by design, and not by default, the issues and options that they may wish to uphold, or to distance themselves from, when finalizing their negotiating positions on the review exercise;

¹ Ambassador Idriss Jazaïry, Permanent Representative of Algeria to the United Nations Office in Geneva.

The meeting considered the following eight general themes:

I. Review of progress of Human Rights Council and an assessment of achievements and constraints since its establishment in 2006

II. The institutional aspects of the review

III. The substantive aspects of the review: UPR mechanism, Special Procedures and subsidiary bodies

IV. Inputs of civil society: the participation of national human rights institutions and NGOs

V. The methods and culture of work of the HRC: Challenges and their impact on the efficiency of the work of the Council, and remedies

VI. Enhancing dialogue and cooperation as indispensable tools for the work of the HRC

VII. The balance between preventive and remedial action by the HRC with respect to human rights violations

VIII. Effective coordination and mainstreaming of human rights within the United Nations system: A primary responsibility of the HRC

Some of these themes were further divided into sub-themes as detailed hereafter.

The discussion of each theme included presentations by three or four participants followed by an interactive dialogue.

The present outcome document is an attempt by the Moderator to capture the collective wisdom expressed during this congenial and productive meeting to which all participants effectively contributed and to enhance transparency through unrestricted dissemination.

I. Review of Progress of the Human Rights Council and Assessment of Achievements and Constraints since its Establishment in 2006

Subtitle: From the Commission on Human Rights to the Council: Improvements and remaining challenges

Numerous participants expressed the view that the HRC, while still young, had recorded major achievements even though it also faced some constraints. It was stated that there was still room for further enhancement or fine-tuning of its efficiency and effectiveness.

It was recognized that the Human Rights Council had heralded a new era of solidarity. The Council's was seen as an improvement over the Commission it replaced. Several participants welcomed this development. Several speakers noted that the review should be undertaken in a manner that preserves the achievements of the Council and the consensus reached in HRC Res. 5/1 and 5/2. It was suggested that the Council needs fine-tuning and not an extensive overhaul.

Issues raised:

- The need for flexibility through Council resort to alternative instruments when dealing with serious HR situations.
- Membership of the Council (op 7 UNGA Res. 60/251).
- The UPR as a forum for engagement and cooperation (op 4 of UNGA Res. 60/251).
- The effectiveness of the UPR and the Special Mechanisms (op 5(e) UNGA Res. 60/251).
- The issue of dialogue and consultation needed to move HRC forward and foster greater understanding (op (b) and (f) of UNGA Res. 60/251).
- The issue of equitable geographic distribution (op 7 of UNGA Res. 60/251) in all human rights bodies and organs.
- The issue of sessions being dedicated to specific themes.
- The role of political will for continuing to enhance the HRC.
- The need for the HRC to promote consensus, inclusiveness, persuasion, trust and confidence.
- Politicization, confrontation, selectivity, and double standards (pp 9 of UNGA Res. 60/251): a case of agreement on terms but of disagreement on content according to political positions.
- Inadequacy of cooperation by countries concerned with relevant country mandate-holders (pp 10 of UNGA Res. 60/251).
- Regional Group dynamics that lead to competition (op 7 of UNGA Res. 60/251).
- Lack of inclusiveness due to resource constraints of smaller islands or law looked States and more broadly a lack of capacity for LDCs and some developing countries (pp 10 and 5(a) of UNGA Res. 60/251).
- Lack of cooperation between the Council and special procedures.
- Lack of coordination between the Council and treaty bodies.
- How to ensure more complementarity between the HRC, treaty bodies and Special Procedures.
- Lack of implementation of Council decisions on the ground.
- Lack of mechanism to address the right to development.
- Lack of adequate cooperation with NHRIs.
- Technical difficulties with the Speakers' List during UPR.
- The continued practice of "naming and shaming". Part of HRC toolbox if cooperative approaches lead to naught?
- Lack of constructive engagement with NGOs.

- Lack of respect of Code of Conduct by Special Procedures mandate holders.
- How to ensure a better cooperation between the HRC and the OHCHR.

Options and suggestions:

- The HRC Review should be aimed at making the HRC more likely to address the concerns of victims.
- The review should not aim at reinventing the HRC but to enhance its credibility and efficiency, including through practical changes that could have significant impact on the work and functioning of the HRC.
- HRC must cultivate a world view and base its work on the common values enshrined in the core international human rights instruments.
- The HRC must enhance dialogue and broaden understanding among civilisations (pp 4 and 7 of UNGA 60/251).
- Universality of membership: not an immediate issue but a limited expansion of membership preserving the present geographic distribution, which is satisfactory overall could be considered.
- International and trans-regional dialogue in the field of HR must be strengthened. Purpose of such trans-regional dialogue: to take account of legitimate regional interests or values of existing groups or to co-opt some of their members into other groups? to seek and promote compromise solutions between expressed group positions when they differ?
- All countries must be engaged in the assessment process with special attention given to countries lacking adequate resources.
- Implementation on the ground must be strengthened.
- HRC principles and intergovernmental character should be preserved.
- The HRC Review should be inclusive (of all States as well as of the views of NHRIs, NGOs and academics) (pp 7 and 11, op 5(h) and 11 of UNGA Res. 60/251)
- The HRC Review process must not be overburdened by amendments.
- The balance between prevention and protection of human rights, i.e. between promotion of human rights and protection of victims: Should it be improved? Or is there no ideal balance between promotion and protection as this depends on specific conditions prevailing in each country? Is the distinction established between preventative and remedial action by HRC legitimate?
- The participation of national NGOs should be enhanced but their credentials need to be scrutinised as is scrutinised the performance of States.

II. The institutional aspects of the review

Although the HRC has adopted Resolution 12/1 establishing an open-ended IGWG on the review of the work and functioning of the HRC, the scope of the review is still unclear. There are numerous outstanding questions concerning whether the HRC Review should address a broad range of institutional aspects (recommendations to the GA on status, review of membership, funding, relationship HRC/OHCHR) of the HRC or whether it should be limited to a narrow interpretation of the phrase “work and functioning” found in given by op16 of UNGA Res. 60/251. The coordination of the timing of the HRC Review and of the UNGA Review is also problematic.

A. The HRC Review and UNGA Review (op 1 and 16)

Issues raised:

- Dovetailing of the UNGA Review (UNGA Res. op 1) and the HRC Review (UNGA Res. op16) in light of their different but complementary mandates.
- Should it be recommended that the UNGA Review be delayed or postponed until after the HRC Review has been submitted to the GA?
- Should the review process be considered as an integral process with two phases?
- The need for some (informal) coordination mechanism between New York and Geneva.
- The problematic nature of calendars in New York and Geneva.
- Is there a lack of congruence in scope and timing of the HRC Review and the UNGA Review?
- The necessity to avoid that excessive time is devoted to the HRC Review which might interfere with regular functions of the HRC.
- The strengthening of the HRC’s capacity to deliver cooperation for which there are insufficient resources.
- Two five-day meetings of the IGWG may not be sufficient for the HRC Review, hence the need for a road-map for the review.
- The insufficient availability of statistical data for the HRC Review.
- The extent of the review.

Options and suggestions:

OP 1 and op 16 of UNGA resolution 60/251:

- There should be no interfering with the calendar of the UNGA Review process in New York. The review processes of New York (UNGA Review) and Geneva (HRC Review) should be kept completely separate.

or

- Coordination between New York and Geneva review processes (Ref. to op 1 and 16 of UNGA Res. 60/251) must be ensured. Is the HRC competent to submit its own recommendations to the General Assembly on status issues? While some considered that the review process under op 16 is distinct from, and unrelated, to that of op 1, there was broad recognition that deadlines set for these two review were not conducive to systemic enhancement (The op 1 review is to be completed by 15 March 2011 while op 16 review cannot take place before 21 June 2011). If the HRC can submit its recommendations to the GA on op 1, and since resolution 12/1 of HRC provides that the first meeting of the open-

ended Working Group would take place after the June session of 2010, how could it submit any possible recommendations in time for the 65th session of the GA in September 2010?

Even if it makes no recommendation to the GA on the status issues, how can the HRC present its report in time for the September 2011 session of the GA (66th session) as its report can only be adopted after 19 June 2011, by which time, the June HRC session would normally be concluded and an adoption at the September session of HRC would require a special waiver to be considered by the GA during the same month.

The question arises however whether a September 2011 hypothetical deadline for submission of the HRC Review to the GA would make it possible to submit a complete package in view of provisions of para. 14 footnote (a) of HRC Res. 5/1 which would imply that the review of the modalities and periodicity of UPR should take place in the HRC in its March 2012 session at the earliest.

- The HRC should be given the opportunity to provide its opinion on its ‘status’ to the GA.
- The President of the HRC could consult with the President of the GA to coordinate both review processes (UNGA Review based on op1 and HRC Review based on op16).
- It was pointed out that the coordination between New York and Geneva processes should also be ensured by Member States themselves.
- Duplication and contradiction between the UNGA Review and HRC Review should be avoided.
- In light of these intricacies it was suggested that the President of the HRC elaborate a road-map for the HRC review process at the earliest. It was emphasised that the deadline for finalization of HRC review is flexible: While op 16 of UNGA resolution provides that the HRC review should take place in the year following 19 June 2011, HRC resolution 12/1 indicates in op 6 that the IGWG (presumably after its second meeting) will report on the progress of its implementation to the 17th session of the HRC (usually first half of June 2011). In light of the progress achieved, the 17th or the 18th session of the HRC may decide either to approve the review and submit it to the next session of the UNGA or to continue work on it over the year to June 2012 (five years after the establishment of the HRC) or part thereof. This would have the advantage of permitting compliance with the provisions of the footnote (a) of para. 14 of HRC resolution 5/1 on the time set for the review of modalities and periodicity of UPR.
- It was suggested not to engage too early in the negotiation mode of the review process so as to provide the Council and UN Member States with sufficient time to be prepared for the process and in order to avoid that the review process affect the Council’s capacity from fulfil its regular mandate.

The depth of the review with regard to the IB text:

- The HRC Review should ‘refine and fine tune and not reopen’ issues that have already been decided. The HRC Review should not be a ‘full fledged reopening’ of the IB text, which offers a ‘delicate balance’ and a tight compromise.
- The IB document should not be reopened. Rather problems should be settled through detailed elaboration and interpretation of the its provisions with possible additions.
- It was suggested that all interpretative resolutions, decisions, and Presidential statements adopted by the HRC to develop the IB package be incorporated to this document..
- A review ‘is not a reform’.
- The HRC Review should be ‘pragmatic and not too ambitious.’
- The HRC Review should be ‘open, inclusive and transparent.’
- Decisions in the context of the HRC Review should be taken by consensus.

or

- Consensus decision making in the HRC Review will facilitate decisions making in the UNGA Review.

- The HRC Review should consider the enhancement of the implementation of the provisions of the IBP.

or

- The decision to open the IBP depends on the result of its review.

or

- If reopened, the balance of the IBP should be preserved.

or

- The ability of the HRC to constantly adapt and improve the modalities of its work and functioning should not be ignored and would avoid to overburden the review process.

Other aspects:

- There is a need for changing the culture of work in the HRC to provide for more room for diplomacy and dialogue
- The OHCHR should provide a broad range of statistics on inputs and outcomes for the HRC Review including relevant bases for comparison with inputs and outcomes under the Commission on Human Rights.
- The contributions of informal consultations on the HRC Review should be shared on the OHCHR website.

B. The Status of the Council

Issues raised:

- Upgrading the HRC's status to a main body of the UN.
- Reconciling the HRC's *de jure* position as a subsidiary body, with its *de facto* operation as a main body.
- Is it 'pragmatic' or not for the HRC to consider recommending a revision to the UN Charter concerning this matter?

Options and suggestions:

- The HRC should be upgraded to a main body through amending the UN Charter. It was however underlined that the option of amending the UN Charter was not easily implementable as it would open other issues.

or

- The 'status quo' should be maintained, i.e., the HRC should remain for the present time a subsidiary body of the UNGA as the current status of the HRC is not problematic. Besides, a change in the status was seen as being neither possible nor feasible at the moment.

- Amendment to the UN Charter could be considered as part of the ongoing UN Reform process.

or

- It is too early or not realistic to consider "main organ option" at present. Possible link between this issue and universal membership of the Council and problems of non representation of about 30 UN Member States in Geneva.

or

- Op1 of UNGA Res. 60/251 reserves consideration of the HRC's status to the UNGA and the issue of 'status' should not be considered in the HRC Review.

C. Membership of the HRC

Issues raised:

- The competence of the HRC in reviewing the question of its membership.
- The size of the membership of the HRC: Maintaining the current membership, or its expansion or its universality.
- The equitable geographical distribution
- "Quality" of Members approach *versus* "number" of Members approach.
- The appropriateness of attempting to draw up objective criteria for the election to the HRC.
- Reconciliation between implication of HRC's limited membership (almost 1/4th of the UN membership) with the Third Committee's universal membership.

Options and suggestions:

- Some considered the review of the membership of the HRC falls outside of the mandate of the HRC review.

or

- Universality of membership implies additional challenges to the participation of developing countries particularly LDCs as it raises the problem of non representation of about 30 UN Member States in Geneva.

or

- The membership of the HRC should be expanded to 54 members or to 64-65 members with due respect for maintaining the present equitable geographical representation (which cannot be achieved with 54 members).

or

- The membership of the HRC should not be reviewed. The current size of HRC, i.e. 47 members, should be maintained with focus on quality of Members rather than numbers.
- Some considered that focus should be put on a "quality" of Members rather than their number. This view triggered expressions of concern that this approach might reintroduce politicization, selectivity and self-appointed censors of sovereign member States.
- An effort should be made to enhance the level of participation of 'Observer States', particularly Small Island States and LDCs, and to reduce the chasm between Member and Observer States.

D. Funding

Issues raised:

- In the current situation the HRC is not consulted on the budget lines for its operations, those of its Advisory Committee or for the financing of its recommendations.
- op16 does not explicitly refer to the issue of funding.

or

- Availability and predictability of funding as an issue of the HRC Review. Elements of funding (deliberation, predictability, etc.).

- The problem of funding for major activities of the HRC (interpretation, translation) and the ACABQ constant position against piecemeal approach to the HRC requests. Timeline difficulties with the GA reacting with 6 to 16 months delay to the proposals of the HRC were also raised.
- Many human rights activities are funded from voluntary and not assessed contributions, therefore exposing them to donor conditionality

Options and suggestions:

- Funding should ‘definitely’ be reviewed.
- As adequate financial capacity is crucial for the implementation of the mandate of the Council, funds should be made available in a timely manner for the implementation of all HRC decisions and resolutions.
- Deliberations in the HRC should take into account the budgetary implications of action.
- There is a need for coordination between the OHCHR, the Geneva Conference services, HRC and the Fifth Committee regarding the Council’s budget lines.
- The predictability of resources is crucial.
- The HRC can recommend to the UNGA ‘the provision of a financial contingency calculated on the basis of the additional funding made available to implement HRC resolutions during the last planning period.’
- The Secretariat should provide the HRC with an ‘advance notice of the relevant draft budget lines.’
- The President of the HRC should consult with the UNGA President on the way of fast tracking approval by the UNGA of HRC resolutions with financial implications.
- There is a need to reduce the ratio of 65% of the OHCHR budget coming from voluntary contributions through enhancing regular UN budgetary funding.
- The budget of the OHCHR should be transparent and subject to the Council’s discussion

D. Reporting lines

Issues raised:

- Allocation of the reports of the HRC to UNGA Third Committee or to the Plenary
- Duplication of activities, particularly as concerns the special procedures mandate holders who make similar reports to the HRC and to the Third Committee without reporting on HRC debate outcome in the latter.
- Clarification of reporting lines is the remit of the UNGA.

Options and suggestions:

- Recommend no change to the present decision made by the General Committee of the GA regarding the allocation of the reports of HRC and recommendations to the Third Committee and to the Plenary.

or

- Allocate annual reports of HRC directly to the plenary of the UNGA, except for recommendations that should be allocated to the Third Committee.
- Avoid duplication of reporting presentations in HRC and at the Third Committee by special procedures

- Provide clarity on criteria for the GA to “take note” rather than to “approve/endorse” HRC recommendations/ resolutions. Possibility of re-grouping HRC resolutions with financial implications for “approval”.
- Possibility of fast-track approval for urgent decisions so that HRC recommendations presented in September of one year do not have to wait till December of the next year for financial approval.

E. The relationship between the HRC and the OHCHR

Issues raised:

- While the independence of the OHCHR was considered as a given by all participants without any exception, coordination and dialogue between the HRC and OHCHR were raised as issues for discussion.

Constraints:

- In relation to the work of the OHCHR, op 5(g) of UNGA Res 60/251 stipulates that the Council shall assume the role and the responsibilities of the Commission of Human Rights which inter alia reviewed the Strategic Framework of the OHCHR.
- The JIU accordingly recommends in its report JIU/REP/2007/8: “The OHCHR should seek the advice and the views of the HRC in the preparation of the proposed strategic framework and the associated budget requirements for Human rights activities prior to finalization of these documents.”

Options and suggestions:

- The relationship between the HRC and OHCHR should not be reviewed.

or

- The review may deal with the OHCHR regarding its functions as Secretariat of the HRC, i.e. the OHCHR should be reviewed only in its capacity of Secretariat of the HRC as per rule 14, VII, HRC Res. 5/1 and not in relation to the responsibilities of the HRC with respect to OHCHR as per op 4 of UNGA Res. 48/141 and op 5(g) of UNGA Res. 60/251.

or

- Guidelines for the relationship between the HRC and OHCHR are included in the UNGA Res. 48/141 and also in op 5(g) of UNGA Res. 60/251 which provides that HRC assumes the roles and responsibilities of the former Commission on Human Rights relating to the work of the OHCHR. One of the responsibilities exercised by the Commission was to express its views on the biennial Strategic Framework of the OHCHR. The JIU in recommendation 2 its report 2007/8 proposes language to give content to op 5 (g) in this respect. The High Commissioner agreed to take the requisite action on consulting HRC on her Strategic Framework. It was stated that rejection of JIU recommendation 2 would require amending 5 (g) of UNGA Res. 60/251 to preclude the Strategic Framework from the mandated transfer of responsibilities from the Commission to the HRC.

or

- The provisions of op 4 of UNGA Res 48/141 and op 5 (g) of UNGA Res. 60/251 should be fully implemented.

or

- It was suggested that the creation of the HRC with an enhanced status necessitates updating UNGA Res. 48/141 to better reflect the new reality and its relationship with the OHCHR so as to ensure better synergy, coordination and cooperation between the HRC and the OHCHR with full respect for their respective mandates.

or

- The view was expressed that it is desirable to strengthen OHCHR's accountability to the HRC through regular presentations of its different units on their activities.
- If provisions of op 5 (g) UNGA Res. 60/251 above are maintained with respect to the Strategic Framework, it was suggested that an item on the Strategic Framework be included in the Programme of work of the Council every two years at the end of its March session. Tribute was paid to the commitment made by the High Commissioner to seek the views of the Members and Observer States on the Strategic Framework. However, a practical difficulty was raised in discussing the Strategic Framework at the HRC level given the current calendar of HRC meetings (March is too early and June too late).
- The capacity of the OHCHR should be enhanced to provide for better assistance to interested states for the purpose of implementing recommendations from HRC mechanisms.
- The existing dialogue between the HRC and the OHCHR should be enhanced through informal interactive meetings and briefings between HRC sessions. In this regard, the fact was highlighted that the current High Commissioner had gone much beyond UN requirements to discuss her Strategic Framework with the Council and that she had even engaged with the HRC many occasions. On consultations on her Strategic Management Plan which was not mandatory.
- The HRC should guide the work of the OHCHR as a part of UN's Human Rights machinery.
- The recommendations of the JIU report (UN Doc. JIU/REP/2007/8) should be taken into account.

III. The substantive aspects of the review: UPR mechanism & Special Procedures

A. The UPR

There was general agreement that the UPR is a valuable and innovative tool for the HRC. The discussion focused on how it could be enhanced and on the need not to tinker too much with it as it is still at an early stage.

The assessment of the mechanism:

The following positive aspects were identified in assessing the UPR:

- The active involvement of Member States reviewed to date and their high-level representation (usually at the ministerial level) in the exercise.
- The universal, cooperative and non politicized nature of the mechanism and the principle of equal treatment on which it is based with the full involvement of the State concerned, in all cases.
- The role of the UPR as a encouraging the ratification by States of various international human rights instruments, the withdrawal of reservations, and the establishment of National Human Rights Institutions based on the Paris Principles.
- The momentum created both at the national and at international levels for the SUR for self assessment and mutual assessment. At the national level, before, during and after the review through broad consultation process and involvement with stakeholders of the national civil society and between different levels of government; at the international level, through dialogue initiated between member and observer States of the Council and the SUR.
- The catalyst role played by the UPR for improving national performance, particularly of civil society stakeholders and for impacting on governments' general approach to policy making on human rights.
- The opportunity given by the UPR for delegations, on the basis of information contained in the national report and the two compilations, to raise frank questions and to make pertinent recommendations to the SUR.
- The opportunity given by the UPR, through a comparison exercise between the written documents for the UPR, the outcome of the UPR Working Group and the list of recommendations, to identify the gaps and to have a close approximation as to where the SUR stands in its human rights policy as well as in defining the priorities to be addressed.
- The opportunity given to the State under review to explain in public and in all frankness its national reality and why some recommendations have been accepted and others not.
- The considerable potential of the UPR to develop into a positive force that can foster improvements on the ground.
- The chance given by the UPR in terms of wide sharing of good practices.
- The gaps filled thanks to the UPR in terms of the possibility offered to assess the human rights situation in countries that are not party to some international human rights instruments.
- The process of UPR preparation had itself major national impact even before the review.
- The UPR mechanism was identified as a tool to spread the culture of human rights

The following aspects were also highlighted in assessing the UPR mechanism:

- The entire added value / assessment of the UPR can be fully measured and conducted only after completion of the whole cycle of the review or even of the two cycles to get feedback as to the implementation by all countries of recommendations approved by them in the first cycle.
- The need to be more ambitious in assessing the UPR mechanism which can still be improved.
- The real success of the UPR depends on how preparations are made, and recommendations used, at the national level.

Issues raised:

- The review of the modalities of the UPR as part of, or distinct from, op 16 of GA resolution 60/251 review in conjunction with the footnote (a) of para. 14 of HRC resolution 5/1 and the implication on the time path for HRC review finalisation and its submission to the GA.
- The future periodicity of the cycle of UPR for which a trial period of four year was approved for the first cycle. The question was raised whether a five year period for the second cycle would not provide greater professionalism in dealing with a reasonable work load and solve inter alia the problem of inscription on the speakers' list.
- The modalities of reporting on the follow-up of the approved recommendations in the first cycle during the second cycle of the review. This would require an adjustment of section I of HRC decision 6/102.
- Monitoring role of HRC. Should midterm reports on follow-up of approved recommendation become a rule for the second cycle or remain optional?
- The need for stronger focus on follow-up and how to strengthen the second cycle
- Should there be a linkage between UPR approved outcome and other human rights mechanisms (treaty bodies and special procedures)? Opposing views were expressed for and against such a linkage.
- The participation of developing countries, LDCs and the problem faced by countries without missions in Geneva.
- The need to operationalize the UPR Trust Funds to indicate how trustees are appointed and to provide it with resources was emphasized (HRC 6/17).
- The role of the troika: Should it keep its role or should it try to regroup the high number numbers of recommendations in consultation with authors of such recommendations.
- The timely availability of documentation of the UPR in all working languages.
- Time allocated for the review. The lack of time in general during review process in Geneva was identified as an issue as the time allocated does not allow for real dialogue on specific issues with SUR who has also not enough time for responding to questions and recommendations.
- Lack of pertinent questions.
- Recommendations (number, formulation and their possible standardization, manipulation and danger of political selectivity in their formulation, possible adjustment of recommendations by the Troika to comply with the Basis of the review (para. 1 and 2 of HRC Res. 5/1).
- Inadequacy of responses given to recommendations received, e.g. excessive refusal of recommendations or acceptance of recommendations contrary to international standards/obligations.
- Fear were expressed that the UPR stays a Geneva process – “another “Geneva bubble” – if systematic focus both on proper preparation and follow-up at the national level, and on feed back to HRC are not ensured.
- Role of OHCHR and the whole UN system in the follow-up procedure
- The problems of the speaker's list
- Avoidance of protection / coverage gap between the two cycles of the review

- Standardization of the UPR Working Group's reports
- The full involvement of the State under review at all stages of the process.
- Concern about the lack of capacity of some States to prepare for the UPR (op 5 (e) of UNGA res. 60/251)
- The order of States should be reviewed in the second cycle.
- The UPR is an appropriate mechanism to monitor human rights situations on the ground.

Constraints

- Para. 6 of HRC Res. 5/1 states that the order of the review should reflect the principles of universality and equal treatment". Whether the UPR is maintained at 4 years or extended to 5 years, the above over-riding principle can only be respected if the order of reviews is maintained as during the first cycle. If all members of the Council are reviewed as per para. 8 of HRC Res. 5/1 during their term of membership, then some States could be reviewed twice during one cycle (during a four year cycle) and others could not be reviewed for 7 or 8 years (if the new cycle is of 5 years).

Options and suggestions:

Standardization:

- Guidelines on drafting the national reports should be adopted. The implementation of the accepted recommendations should be stressed. Voluntary pledges, approved recommendations and recent human rights developments should be included in the review.
- Establishing standards in the formulation and the presentation of the recommendation (number, rationalization).
- Focus, in the following reviews, on the follow-up by of States of recommendations accepted as voluntary commitments.
- Avoid duplication between the content of the initial report of the SUR and its report at the next UPR cycle, as well as duplication in the work of the UN bodies and mechanisms dealing with human rights.
- Compilation of the document prepared by OHCHR: documents prepared by the OHCHR should be a compilation and not of an analytical nature. All contributing NGOs should be given comparable space in the compilation.

Speaker's list:

- Choice between building up a list of speakers ensuring equitable geographical distribution while resorting to the drawing of lots thus excluding some members.
- Registration two or three days before the review and then a drawing of lots for first speaker on an alphabetical list with cut-off beyond a certain number.
- Organization of a plenary session, chaired by the President of the Council, for the presentation of the national report by the considered State. After this plenary session, the delegations would be divided into two groups in two different rooms. (The Troika can proceed to the sharing). The meeting of the first group will be chaired by the President of the Council and the meeting of the other group will be chaired by one of the Vice Presidents. At the end of meetings, the recommendations and the questions will be collected as clustered and submitted to the SUR. The feedback of this country will be viewed by video in the second room.
- Give less than two minutes to each speaker in order to enable the other speakers to take the floor with the time available.

- Extension of the duration of the review at two sessions of three hours with a proportion of one-third of the time for the SUR; 15 minutes may be given to the SUR's presentation and forty-five minutes for its answer to the questions asked by the Member States.
- Give priority to Members of the Council.

or

- Ensure participation of all UN Member States in the interactive dialogue.
- The expansion of the time allocated to the interactive dialogue from two to three hours without increasing the one hour time for the SUR.
- A five year cycle would provide the additional time for all interested States to intervene during the UPR

Assistance in the implementation of UPR approved recommendations:

- Assistance for States in the process of implementation of their human rights obligation with regard to the accepted recommendations through capacity-building and technical assistance upon request of the SUR.
- Implication or not of the UN bodies and bilateral cooperation with UN agencies and programmes in the follow-up and the implementation of approved recommendations of the UPR: a joint track or separate tracks.
- Enhancing the resources of the UPR Voluntary Trust Funds in order to facilitate the participation of developing countries, particularly the least developed countries, in the UPR mechanism and in order to facilitate the implementation of the recommendations these countries have approved.
- The voluntary contributions to Trust Fund for UPR implementation set up by the HRC should be enhanced and HRC should indicate how the trustees are appointed.
- The possible role of OHCHR as a focal point in providing assistance to SUR in implementing accepted recommendations.

The follow-up of approved recommendations in the first cycle of the UPR

- The follow-up of the first cycle approved recommendations is voluntary but not optional.
- In order to ensure a more systematic process on follow-up, it was suggested that as currently some of the time allocated to the adoption of WG reports in regular HRC sessions is not being used. This time could be allocated for UPR implementation issues. Some suggested that the UN system at large, through UN country teams, be more systematically involved in the process of the implementation of UPR recommendations. Others advocated separate tracks. The possibility for the involvement of independent expertise, civil society and NGOs in the follow-up process was suggested.
- Some suggested that a linkage be created with Special procedures for the follow-up of recommendations. Others proposed maintaining separate tracks.

The Troika:

- Maintaining the current role of the Troika.

or

- Broadening the role of the Troika: a possible role to merge recommendations or group them into clusters, in consultation with States making the recommendations.

NGOs and independent expertise involvement in the UPR process:

- Enhancing the participation and the contribution of NGO's to the UPR process.

or

- Maintaining the current modalities of NGO participation at the following five stages: a) during the national preparatory process, b) when submitting information to be compiled by the OHCHR, c) by attending to the UPR working Group, d) by making general comments before the adoption of the Working Group report in the plenary, and e) through participating in the implementation and promotion of the review approved recommendations.
- NGOs among “other stakeholders” as per para. 31 of resolution 5/1 should be unconstrained in exercising their right to make general comments at the plenary meeting of HRC adopting the review outcome, except for respecting UN rules of courtesy and decency in the expression of their opinions.
- The question of the benefit to be derived from independent expertise to assess the level of Implementation of the recommendations was also debated.

Synchronisation between the HRC and the UPR reviews:

- The UPR Review process has to be completed after its first cycle (art. 14 of HRC res 5/1) but that cycle will not be finalized before March 2012: Question: Should the UPR be up for separate review after the conclusion of the first cycle as provided for in footnote (a) of para. 14 of HRC resolution 5/1 or should the review of the modalities and periodicity of UPR take place before the conclusion of the current cycle so as to be included in the op 16 review process, i.e by September 2011?

If it is decided to present the outcome of the HRC review to the September 2011 session of the UNGA, then the HRC will have to amend footnote (a) above. This is an argument for reopening the IB text.

Periodicity of the review:

- Four years may be too long in the view of some participants who prefer a cycle of three or even two years. For others participants, it would be better to let this periodicity as it is or to increase it to 5 years, taking into account the related workload.
- The review of the UPR mechanism even if the cycle has not been completed, should be included in the general review under op 16 of UNGA Res. 60/251.

- Avoid creating a gap between the first and the second cycle.

or

- Introduce a moratorium of one or two years between the end of the first UPR cycle and the beginning of the second. This moratorium would allow fixing the modalities for the second cycle.
- Para 14 of HRC Res. 5/1 allows a review by the Council of the modalities and periodicity of the mechanism after the first cycle including the order of the States to be reviewed. It is difficult to conceive of a new algorithm which could incorporate simultaneously the parameters of the first and of the second cycles under section C,I of HRC Res. 5/1. Therefore it was suggested that in order to provide a reasonable preparation and implementation period by SUR as per para. 13 of HRC Res. 5/1, the order followed for the second cycle whether of four or five years, be the same as for the first cycle except that in any given year priority of consideration be given to the UPR of Council members listed for

that year who would be reviewed first, followed by listed non members, each list being ordered by a drawing of lots.

Management of the number of recommendations:

- On the issue of proliferation of recommendations, it was proposed to create a working group in charge of the classification and clustering of the recommendation with regard to the emergency of the recommendation.

or

- The troika could streamline, merge or otherwise cluster recommendations in consultation with initiating States.
- It was suggested that recommendations be clustered as urgent and non urgent.

Other aspects:

- States should or should not present midterm reports on the implementation of approved recommendation. Views were divided on these options. A possible middle ground would be to encourage States to report voluntarily on the implementation of UPR recommendations approved at any main session (March) of the Council.
- States wishing to do so could make the status of implementation of approved recommendations available on the net, to facilitate identification of good practices.
- The need for more synergy and linkage between UPR and the system of special procedures and treaty bodies versus the sufficiency of the existing linkage were two opposite options that were argued.
- Creating a joint permanent mission for small states in Geneva to facilitate their participation to the UPR was an option that enlisted broad support.
- It was suggested that implementation compliance review of approved UPR recommendations be addressed by taking into account best practices of other International agencies, in particular WTO.
- Enhancing the interactive nature of the review by devoting a smaller portion of the time allocated to the SUR to opening speeches and a larger portion to responding to questions or clusters of recommendations.
- Only if there is a move from peer review to peer engagement will the success of the UPR mechanism become sustained.
- It was underlined that the UPR cannot be relied on to monitor emerging human rights situations on the ground due to the long period (4 years) between the reviews.
- The efforts of the OHCHR and the Swiss government in supporting the UPR process of States without Missions in Geneva were highlighted.

[III. Substantive aspects of the review (cont'd)]

B. Special Procedures

Issues raised:

- General assessment of the importance of special procedure system for the work of the Human Rights Council.
- How to promote their independence, impartiality and objectivity.
- How to give content to the notion of accountability to the Council, as per the Code of Conduct (HRC Res. 5/2)?
- Cooperation between mandate holders and States.

- Rationalisation, review and improvement of the mandates.
- Should the collective involvement of thematic mandate holders be regarded as an alternative to the appointment of a country mandate as an outcome of a special session on the human rights situation in a particular country?
- Current selection and nomination process.
- Link and cooperation with other HRC mechanisms and treaty bodies.
- Need to ensure added value of studies and reports presented by mandate holders to the Third Committee in light of their discussions in the HRC.
- Rationalize time management of debates with Special Procedures to ensure proper interactive dialogue during Council sessions.
- Ensure better engagement and mutual respect between mandate holders and States.
- Avoid duplication by streamlining reporting to the Third Committee and HRC.
- Ensure sufficient and adequate financial and human resources for Special Procedures..
- Avoid duplication of mandates.
- Avoid weak definition of, and ensure adherence to, mandates.
- Ensure professionalism of mandate holders.
- Ensure understanding and knowledge of specificities on country concerned.
- The importance strict adherence in the process of selection and nomination of special procedures it is very important to strictly adhere to the principle of equal geographic representation among mandate-holders.
- The view was expressed that Special procedures need to pay more attention to the cooperation and consultation with the government concerned in a constructive and considerate manner.

Options and suggestions:

- Consultative Group as per para. 47 of HRC Res. 5/1 could be mandated to interview candidates for special procedure vacancies to enhance the quality of their recommendations to the President of HRC.

or

- Maintain the current modalities for the appointment of special procedure mandate holders.

or

- While recognizing that the current process of selection Special procedures selection, nomination and appointment is satisfactory in so far it is in compliance with the IBP and does not require drastic changes, it was underlined that there always can be room for improvement. In this regard, it was suggested that the Council may wish to strengthen its role in finalizing the list of nominees prepared by the President of the HRC. It was also suggested to have the elections of Special Procedures by the members of HRC. The importance of resorting to the principle of equal geographic representation among mandate holders was highlighted.
- States and other stakeholders should submit more candidates to the public list.
- One presentation by mandate holders, to HRC as a rule? When presentations are made also to the Third Committee should they not reflect the outcome of the debate in the HRC on the mandate holder's presentation?
- Allocate more resources to special procedures by OHCHR (con's: possible reduction of resources for other HRC mechanisms).
- Moratorium on new mandates and/or the appropriateness of considering drawing-up of criteria for the creation of new special procedures.
- Discontinue country mandates.

or

- Maintain country mandates when approved (a) by country concerned or (b) by regional organisation or regional human rights body concerned.

or

- Reinforce country mandates by extending them from one year (para. 60 of HRC resolution 5/1) to two or three years.
- Avoid re-nomination of the same expert to different mandates which would circumvent the two term limit (para. of res. 5/1).
- Avoid politicisation of country mandates.
- Set up special mechanisms with regional mandates as a means to end allegations of politicization and selectivity of the treatment by the HRC of country situations (con's: reminiscent of country mandates).
- Establishment (based on equitable geographical distribution) of an HRC 'Advisory committee of magistrates' to address complaints of non-compliance by mandate holders with the CoC (pro's: professionalize special procedures system) (con's: concern to avoid undermining independence or to intimidate mandate holders. The question is whether legal advice on compliance would not in fact protect the independence of mandate holders from politically motivated attacks in the Council).²
- Criteria for engagement/ code of engagement of States with mandate holders and vice versa.
- Standing invitation/ cooperation with mandate holders as criteria for HRC membership.
- Establish criteria/ indicator to evaluate cooperation of States with mandate holders.

or

- Stick to the present requirements as the introduction of criteria to evaluate cooperation raises the issue of adjudicating authority.
- Special Procedures to give more attention to the cooperation and consultation with the government concerned in a constructive and considerate manner.
- Awareness raising by OHCHR of provisions of the COC with mandate holders.
- Should there be a role for mandate holders in the assessment of follow-up to UPR recommendations/ at the request of the SUR/ at their own initiative?
- Strengthen the role of special procedures in early warning and prevention of human rights violations.
- Joint visits of UN mandate holders with their regional counterparts (pro's avoid duplication and the burden on States resulting from multiple visits, efficiency in addressing the issues).
- The necessity to ensure a sustainable resource base for the Special Procedures. It was suggested that all funding should be channelled solely through the OHCHR and their provision be transparent. It was indicated that to be truly independent, Special Procedures should refrain from raising funds on their own and should rely on regular UN budget funding not from voluntary contributions.

C. Complaints procedure

Issues raised:

² This proposal was made at an earlier informal meeting at Wilton Park (UK) on 15 January 2010 by one of the most serious Special procedure Mandate Holder of the Council in recognition of the fact that the HRC and the Coordinating Committee of Mandate Holders could not be both judge and jury.

- The view was expressed that a large number of complaints are submitted. Their processing is very slow. Most complaints are dismissed without indicating reasons to the complainants and the few complaints that reach the HRC have not been acted upon by the latter. The view was also expressed that while the complaints procedure was deemed to be satisfactory overall, its confidentiality could be undermined if complaints are, as is at times the case, under consideration at the same time by other confidential or non-confidential mechanisms.
- Duplication with other HRC mechanisms.
- Overload of complaint procedure.

Options and suggestions:

- Abolish one of the two working groups involved in the complaints procedure;
- Expand membership of the remaining working groups.
- Communicate the reasons for dismissal of cases to the complainant;

or

- Maintain current system as it is and ensure that issues under consideration under the confidential procedure be not simultaneously considered by other confidential or non-confidential procedures.

D. Advisory Committee

Issues raised:

- The need for enhanced interaction between Member States and experts.

Options and suggestions:

- In reviewing the work of the Advisory Committee, it could be useful to recall the recommendations made by the Sub-Commission on its reform in 2006 during the institutional building process

E. Expert mechanism on the rights of indigenous people

Issues raised:

- The need to address the existing overlap and duplication of the functioning of this mechanism with the work of the Special Rapporteur on indigenous people and the UN Permanent Forum on Indigenous Issues.

Options and suggestions:

- It was suggested that the model of the “Forum on Minority Issues” be followed whereby the Expert mechanism on indigenous people would be a platform for promoting dialogue and cooperation as well as providing thematic contribution to the work of the Special Rapporteur who would guide the work of the mechanism and participate in its annual meeting.

F. Social Forum:

Issues raised

- The agenda of the Forum needs to be complete and concise and should not overlap with the Commission on Social Development agenda

Options and suggestions:

- More organized expertise should be provided during the Forum's sessions.
- The Council may wish to establish a core group from 5 to 10 persons consisting of representatives of relevant stakeholders bearing in mind equitable geographical representation. The core group would be entrusted by the HRC with task of preparing one particular subject to be discussed at the Form's annual session.

G. Forum on Minority issues:**Issues raised:**

- The sessions of the forum are too short (two days)

Options and suggestions:

- While maintaining the structure and methods of work of the forum, it was suggested that consideration be given to the extension of its sessions.

IV. Inputs of Civil society: the participation of National Human Rights Institutions and NGOs

There was general agreement that NHRIs and NGOs play an active role in the development and enhancement of public awareness about situations of human rights. It was also generally agreed that their permanent assessment of the human rights situation on the ground contributes significantly to the attainment of the goals of the HRC. Concerns were expressed about actions that may be contrary to their consultative status.

It was pointed out that the nature and the spirit of involvement of the NGOs were defined as follows in para. 38 of the Vienna Declaration and Programme of Action “Non-governmental organisations and their members genuinely involved in the field of human rights should enjoy the rights and freedoms recognized in the Universal Declaration of Human Rights, and the protection of national law... these rights and freedoms may not be exercised contrary to the purposes and principles of the United Nations.” It was also pointed out that NGO participation is based on ECOSOC Res. 1996/31, UN Doc. E/1996/31 (1996).

Issues raised:

- Insufficient representation of civil society by National Independent Human Rights Institutions and local NGOs rooted in the civil society of the countries whose views are claimed to be represented in the HRC.
- Cases of non-compliance of NGOs with General Assembly Rules of Procedures applicable to its Committees and with ECOSOC resolution 1996/31 of 25 July 1996 (Res. 5/1, VII, rule 7) including avoidance of country situation presentations in thematic debates.
- Lack of transparency in funding.
- Inability or limited ability of NGOs, especially from the South, to participate in all sessions due to resource constraints.
- Insufficient predictability of the Council’s work.
- Not enough time and resources are devoted to disseminating and replicating good practice to ensure effective Government - NHRIs and NGOs cooperation and dialogue.
- Some States that argue for more participation of NGOs in HRC have blocked NGOs participation in Conference on Disarmament and in the International Forum on Refugees and IDPs.
- The view was expressed that the UPR Working Group is a peer governmental forum and this is not a limit to NGO presence but to their participation in the debate at that stage.
- The concern was raised with regard to the fact that NGOs often do not speak on the subject under discussion.

Options and suggestions:

- The participation of NHRIs and NGOs should continue on the basis of existing arrangements, including Economic and Social Council Resolution 1996/31.

or

- It was suggested that provisions of ECOSOC resolution be completed by complementary provisions taking into account the specificities of the human rights discourse through a complementary Code of conduct and ethics to be elaborated in consultation with NGOs, or through other means.
- Concerns were expressed by some participants that a Code of conduct might restrict unduly the activities of NGOs. However, there was broad acceptance of the need to promote best practices in this regard.

- There is a need for the HRC to receive full information on sources of funding of NGOs participating in its activities.
- However, all agreed that NHRIs and NGOs should maintain proper decorum and respectful dialogue in their statements to the Council.
- Need for the Council and the Secretariat to do more to ensure that NGOs follow the rules and do not politicize their interventions. NGOs should be encouraged to speak on agenda items being discussed, and refrain from “naming and shaming.”
- Need to focus more on building of partnership and capacity –building for human rights in the engagement with NHRIs and NGOs.
- OHCHR to promote the participation of national NGOs and NHRIs, especially from developing countries.
- Provide help to NGOs from least developed countries to ensure participation of their NGOs in the Council’s work
- Diversify the scope of participating NGOs in terms of their representation of different of societies.
- It was recognized that the experience of NHRIs and NGOs in the assessment of the situation on the ground as well as to participate in the definition of the needs and priorities of the States under review were valuable inputs.
- It was underlined that the HRC should consider NGOs as valuable and reliable partners in the implementation and follow-up of its decisions, especially in the context of the UPR.
- The contribution of NGOs, NHRIs and other actors of civil society, such as experts and academics, in the enhancement of dialogue and mutual understanding on certain difficult issues was highlighted.
- It was suggested that more time be allocated to the participation of NGOs and NHRIs before the adoption of the outcome document of the UPR in the plenary of the HRC. The possibility for small national NGOs to participate through video-conference within the time accorded to their peers in Geneva was suggested.
- Governments should consider enhancing interaction with NHRIs and NGOs and maintaining a fruitful dialogue with them not only on the specificities of their own national situation but also on the general framework of the promotion and protection of human rights.
- The resort to points of order in plenary sessions of HRC in connection with statements by NGOs should be used only in extreme situations and not to be tolerated as a general practice.
- States should consider the possibility of allocating more time to the participation of NGOs before the adoption of the outcome of the review if not during the deliberations of the UPR Working Group.
- The participation of NGOs needs to be focused on substance not on form.
- Providing NGOs a greater voice might limit their lobbying States to represent their views.
- The participation and contribution of NHRIs in the discussions of the HRC should be further encouraged because they can provide important insights into the realities of their countries. These national institutions also have important tools to improve the mainstreaming of Council action at the national level.
- It was suggested that the funding of NHRI’s be enhanced through an external fund that supplements national funding.

V. The methods and culture of work of the HRC: Challenges and their impact on the efficiency of the work of the Council and remedies

The discussion of the methods and culture of work of the HRC focused on how the HRC can be made more effective, efficient, and participation enhanced. Several participants suggested that both the working methods of the HRC and its coordination with other UN bodies and their meetings need to be improved.

There was general agreement that much could be achieved to alleviate the workload, reduce duplicative work and generally improve the efficiency, credibility and impact of the Council by pursuing on a priority basis the discussions engaged on the methods and culture of work of the Council.

For reasons of efficiency and confidence-building it was suggested that another short retreat be devoted to this theme as a matter of priority.

A. The programme of work of the Council

Issues raised:

- To what extent and how Institutional Building Package (IBP) should be reopened?
- The High Level Segment lacks focus. There is no real high-level interactive dialogue.
- Should items on the agenda of the HRC be merged?
- Can the number of the sessions and the calendar of HRC be reconsidered? Two thirds of the HRC and the UPR sessions take place from January to June and raises difficulties as to how coordinate with other meeting taking place in Geneva at the same time (ILO, WHO, ECOSOC sessions).
- Sessions repeat one another and many resolutions are repetitive.

Options and suggestions:

- Need to reopen the IBP but with caution as this is mainly a review of overall implementation and not a reform.
- The programme of work of HRC needs to be reviewed to ensure efficiency.
- There is need to rationalize the use of time, to discuss the agenda in a flexible manner and to resort to other work formats (e.g. “Special sittings” and other informal meetings with OHCHR between sessions)
- Set a thematic focus for the HLS and encourage informal interaction on the fringes of the latter for more dialogue opportunities.
- Merge the agenda items 4 and 7 as they are both country mandates.

or

- No need to change the agenda, as item 7 is not related to a country mandate. It relates to human rights situations under foreign occupation
- Submit the main report of OHCHR at the March session of HRC for an annual interaction with Member States and ensure that updates at other sessions just cover human rights issues and action by OHCHR since the previous session so as to focus HRC debates under item 2.
- Special sessions: para. 10 of UNGA Res. 60/251 does not specify the purpose of special sessions nor does the IB text (paras. 119 and following). Hence the proposal to specify that Special should be devoted to addressing human rights emergencies.
- Too many sessions overload the HRC.

- The need to better distribute all sessions throughout the year. It was suggested to have two sessions of five weeks each.
- The overload of the programme of work constitutes excessive pressure on delegations and should be addressed.
- Some suggested that delegation may wish to abandon their plea not to use the October-November segment when many go to New York for the GA session. Others disagreed.

B. The availability of documentation

Issues raised:

- Overload of documentations: 12,000 pages and 814 documents in 2009. This represents an increase of 20% of the number of documents in comparison with the Commission on Human Rights. Insufficient time to read documentation and discuss it in a professional manner.
- Documentation is submitted very late which makes things worse.
- Non availability of documentation in all working languages.
- Redundancy of routine resolutions and increase of the number of resolution by 30% since the creation of the HRC

Options and suggestions:

- Reduce the quantity of documentation: 10% across the board.
- Bi-annualize some of the High Commissioner's reports.
- Reduce the length of resolutions.
- Review the repetitious resolutions and cluster them into one all-encompassing resolution except if there are important new developments.
- Set rules to further limit the size of reports to be submitted to the Council.
- Prepare in a timely manner the reports to be submitted to the Council before its session and make their translation into the UN official languages, 15 days in advance of any session mandatory for inclusion in its programme of work (Strengthening para. 117 (c) of res. 5/1)
- Resolutions now reintroduced on an annual basis may be taken up every two or three years instead.

C. The number of sessions

Issues raised:

- The optimal number of HRC sessions.
- The role of special sessions.

Options and suggestions:

- Keep the same number of sessions (i.e. three).

or

- Reduce the number of the sessions to two but keep the number of weeks, i.e. ten weeks (March/April: 6 weeks, September: 4 weeks).(Con's: resolutions adopted by the HRC at the September session and which have financial implications would only be acted upon by the GA at the end of the following year).
- Reduce the number of sessions to only one.
- Avoid the politicization of the special sessions by exploring related informal consultative formats.

- Explore other work formats (panels, seminars, side events and briefings) for better interaction and encourage free speaking sessions.

D. Culture of work

Issues raised:

- Politicization.
- Insufficient dialogue with special procedures mandates holders.
- Avoiding politicization and confrontation.
- Encouraging dialogue and cooperation.
- Issues of transparency.

Options and suggestions:

- Group positions avoid marginalization of developing countries in a context of accelerated political integration leading to blocks of advanced countries. This together with the undermining of regional groups of developing countries was considered by some as impeding discussion and consensus building.
- Encourage cross regional initiatives to offer compromise solutions in case of persisting differences between regional or other groupings without undermining the latter.
- Maintain meetings of the regional coordinators.
- Country mandates were considered by some as too short and in need of being prolonged to two or three years.
- It was suggested that country specific resolutions be adopted by a qualified majority of 2/3 Member States present and voting
- The process of informal consultation on resolutions was considered by some to be neither transparent nor inclusive.
- It had to be recognized that the HRC is a political forum with a political perspective.
- Coordination between the HRC and the UNGA (Third and Fifth Committees) needs to be improved.
- Other work formats (panels, seminars, side events and briefings) could be explored for better interaction.
- The Bureau: Should be more open and proactive? Or should it remain as is?
- Differentiate between issues that are technical in nature and issues that seem to be technical but have political underpinnings.
- Improve the culture of work does not necessarily have to lead to reopening the IBP.
- Cooperation and exchange of best practices could be enhanced through the organization of panels.
- HRC could consider testimonials from the field through live video conferences. Problem of who select them.
- Have more informal meetings where delegates can exchange views without the usual formal constraints.
- Avoid the misuse of the political perspective of the HRC.

E. Visibility of the Council

Issues raised:

- Enhancing the HRC's visibility.
- Some issues are cross cutting in nature and need the contribution of other Geneva based UN bodies in the work of HRC.

- Financial constraints.

Options and suggestions:

- Improve the coordination and linkage between the HRC and other UN bodies.
- Enhance its visibility by having some meetings in New York such as meeting of UPR or subsidiary bodies of the HRC.
- Enhance its visibility by holding one session of the HRC in New York each year and in a developing country from time to time.
- Provide opportunity for small delegations that do not have representation in Geneva to be involved in the work of HRC as all countries are represented in New York.
- Meetings in New York would enhance coordination between New York delegates and Geneva based diplomats.

Concluding the discussion of section V.

There was general agreement that much could be achieved to alleviate the workload, reduce duplicative work and generally improve the efficiency, credibility and impact of the Council by pursuing on a priority basis the discussions engaged on the methods and culture of work of the Council. It was also one of the less controversial themes of the review. For both reasons of efficiency and of confidence-building, it was suggested that another short retreat be devoted to this theme as a matter of priority.

VI. Enhancing dialogue and cooperation as indispensable tools for the work of the HRC

Several speakers expressed the opinion that that the HRC was work-in-progress and should be allowed to continue to develop. There was agreement on increasing its visibility. Diverse opinions were expressed on the importance of dialogue and cooperation in relation to other tools at the HRC's disposal.

A. Role of the President of the HRC and of the Bureau

Issues raised:

- President's capacity and mandate.
- Independence of the Bureau.

Options and suggestions:

- President should follow States when leading [as Ghandi: "There goes my people, I have to follow them for I am their leader"].
- President's mandate is not merely restricted to procedural matters.
- President can be invited to make field visits to States.
- President can consider exercising good-offices to mediate in instances where he/she might be able to facilitate protection or promotion of human rights.
- The President should be absolutely impartial in mediation processes.
- Provide senior staff to Bureau, (cost consequences of doing so will require further discussion with the GA).
- President can play role in highlighting in UN the leading role of HRC in human rights.
- The Bureau must guard against politicization.

B. Ways and means to promote consensual outcome of the action to be taken by the HRC

Issues raised:

- Confidence building.
- Coordination with other UN bodies.

Options and suggestions:

- Achieve a balance between cooperation and dialogue in the field of human rights.
- The balance between cooperation and dialogue is not the problem.
- Need for commitment from States.
- Recognize that States bear the main responsibility for upholding human rights.
- Need for better coordination with other UN bodies and specialized agencies.
- While approaches based on cooperation, dialogue and consensus-building in the Council are important, they are not ends in themselves but are preferred means of promoting human rights situations on the ground. Therefore, when such approaches, while sustained, do not achieve this purpose, all institutional tools of the Council should be resorted to in order to address grave and systematic situations of violations of human rights (incl. op 3 and 8 of UNGA Res. 60/251)

C. Other aspects

- Some recommendations are not implementable in the absence of resources necessary for implementation. Sometimes States need assistance that makes it possible for them to implement resolutions.
- However compliance with international human rights instruments to which a State is party or to UPR recommendations approved by it is mandatory. The absence of serious State effort to comply cannot be justified by unavailability of requested technical assistance.

VII. The balance between preventive and remedial action by the HRC in the field of human rights

There was discussion about the validity of the distinction between preventive and remedial action in the field of human rights. It was also suggested that these two forms of action need to be defined differently, for example, as promotion as compared to protection of human rights.

Some suggested that the search for balance between these two forms of action, however defined, was inappropriate as there was no predetermined recipe for the relationship between them. The relationship, it was suggested, should be custom-made to adapt to specific human rights situations.

Issues raised:

- Preventive and remedial action.
- HRC is not an international Court. It has no mandated powers to take direct preventive or remedial action nor does it have mandated remedial or preventive powers.
- Relationship between monitoring of human rights and cooperation and dialogue.
- Tools that the HRC disposes of for protecting human rights.
- The role of the OHCHR in providing support to the HRC.
- Technical assistance: its role and implementation.
- Need for HRC to invest in cooperation among peers, dialogue and mutual understanding rather than in criticizing and finger pointing. However the latter with decorum was felt by some to be part of the HRC mandate.
- Financial constraints can undermine the capacity of HRC to fulfil its mandate. They should be addressed.

Options and suggestions:

- Focus on the protection of victims of human rights violations.
- Ensure the highest possible impact for HRC human rights promotion activities as a preventive tool
- Think about the purpose of cooperation when it is recommended in the context of human rights.
- Improve both capacity for responding to, and for preventing, human rights violations.
- Need for more dialogue to improve understanding of different views between States, including through cross regional dialogue when it can promote compromises between group positions.
- Increase attention given to interventions and assistance aimed at directly addressing some human rights deficits such as through eradicating illiteracy.
- Enhance the ability of the HRC to respond in a timely manner to serious human rights violations through the use of all tools at its disposal
- As HRC is one component of the UN human rights machinery, a comprehensive analysis of the balance between the preventive and remedial actions should include all relevant mechanisms.
- A more flexible and simpler format for dealing with country specific situations might contribute to mitigating confrontation and mistrust. Country situations approaches could be coordinated with relevant regional human rights institutions.

Tools:

- There is a need to identify tools that can be used by the HRC for prevention mode and those that can be used to remedy human rights violations.
- The HRC and the UN human rights machinery have adequate tools for fulfilling their preventive role and for providing remedies whenever needed. They need to make more effective use of the full range of these tools.
- Need to use thematic resolutions, thematic Rapporteurs, human rights education, country Rapporteurs, country resolutions to remedy gross and systematic violations, and even expulsion from the Council (op 8 of UNGA Res. 60/251) as an extraordinary measure when the country committing the gross and systematic violations is a member thereof.
- There is a need to fund technical cooperation from the regular budget of UN.
- There is a need to agree on an overall framework and strategy for technical cooperation within the UN.
- Among remedial or preventive action, views differed as to whether to enhance country mandates and country specific special sessions or to reduce them.
- There is a need to enhance the UPR as a preventive tool to promote human rights
- There is a need to make more use of informal tools such as briefings or informal interactive dialogues on country situations between HRC and other human rights mechanisms.
- There is a need to foster more 'political will and determination' from countries to implement their human rights obligations. This can be done through mobilizing national resources, through involving civil society, and through the provision of external assistance.

Technical Assistance:

- Technical assistance and cooperation are important tools to help countries to set up and improve their domestic human rights mechanisms, to assist people affected by human rights violations, and to foster development in general.
- Technical assistance and cooperation can have a positive impact on the promotion of human rights and on the prevention of their violation.
- Assistance to countries should be needs-based and based on what countries request.
- If requested by the country concerned, assistance from the international community could be provided by multiple actors, including OHCHR, UN agencies, other technical assistance agencies, and donor countries.
- The provision of assistance should be coordinated and discussed with the country concerned so as to guarantee that the assistance is delivered in accordance with national priorities and needs.
- An international coordinating body chaired by the High Commissioner could be given the responsibility to rationalize assistance for human rights.
- Need to ensure the highest impact possible for HRC activities that are of a preventive nature/ that promote human rights.
- Some considered that the mix between preventive and remedial actions of HRC is very important as it relates directly to ending selectivity and politicisation.

VIII. Effective coordination and mainstreaming of human rights within the United Nations system: A primary responsibility of the HRC

Speakers expressed views about the general need to further enhance coordination and to mainstream human rights in the UN system. Several speakers stressed the need to use all available tools and that at the moment these tools were not being used as effectively as possible.

Concern was also expressed for the need to enhance the coordination of human rights work within the United Nations system.

Issues raised:

- The implementation of recommendations, decisions and resolutions of the HRC.
- The consistency of the human rights pillar within the entire UN system.
- Coordination of human rights within the overall UN system: Article 62 (2) and 63 (2) of the UN Charter entrust this responsibility to ECOSOC and op 3 of UNGA Res. 60/251 entrust it to HRC.
- Human rights is a common responsibility of the entire UN system.

Options and suggestions:

- Increase interaction with other UN components such as UNHCR, ILO, WHO, UNESCO, UNDP.
- Use all available UN tools to promote and protect human rights.
- Focus on facts and progress made by States.
- Fund more human rights activities undertaken by the UN from regular budget.
- Improve coordination of human rights work between HRC and UNSC, UNGA, and the peacekeeping activities of UN.
- Assist UN bodies to reorder priorities to include human rights.
- Promote interagency dialogue.
- Promote dialogue between donors and recipients that are represented in various UN agencies' governing bodies to keep human rights among the priorities of these agencies.
- Strengthen the public voice of the HRC by enhancing the President's ability to promote the HRC.
- Enhance integration of the human right dimension in all activities of the UN system, including at the country level.
- Mainstream human right within the UN system through the coordinated efforts of the ECOSOC, the OHCHR and the HRC.
- HRC to consider to devoting a half day panel at least once a year to interact with Heads of UN Agencies on specific human rights themes. This would enable the Council to emphasize related issues requiring further coordination or mainstreaming system wide: the outcome of the panel could be a negotiated President's declaration involving also all attending Agency Heads to address emerging human rights challenges.

It was suggested that the HCHR might chair a standing Inter-Agency task force that would report to the HRC at its annual panel sessions.

- Finally, it was recalled that 16 UN peace keeping missions set up by Security Council have human rights component whose content and implementation follow-up could be assisted by the UN Human rights mechanisms.

Concluding Note

The Retreat of Algiers was an opportunity for the Representatives of States to the UN in Geneva from all parts of the world to come together to share their views in an inclusive, open, and informal atmosphere.

Although no views were attributed to specific actors, the Retreat of Algiers provided the opportunity for an enhanced understanding of different views expressed. The present non-attributed compendium reflects the existence of a collective will to enhance understanding and cooperation among all States as they stand on the threshold of the review of the Human Rights Council. It is a first step towards what is hoped will be a pragmatic endeavor by all UN Member States to endow the Council with the most effective contribution possible to improving the human rights of peoples in all countries consistent with the proclamation of the UN Charter Preamble starting with “We the peoples of the United Nations....”

It is hoped further that this initial effort at involving broad and diverse segments of UN Member States to build understanding for the important task of reviewing the Council will be relayed by other Missions in Geneva in the same spirit, the Spirit of Algiers that many participants kindly referred to during the Retreat. Nay more, it is hoped that this broad intergovernmental consultation while be expanded at a forthcoming stage to encompass representatives of NHRIs and NGOs so as to further promote the transparency and inclusiveness of the review process in keeping with the approach followed by Ambassador de Alba who then became HRC’s first President launching an open, transparent and inclusive process which led to the consensus adoption of the IB text.

As aptly suggested by a distinguished participant in the Retreat, the review must not end with the completion of the HRC mandate under op 16 of UNGA Res. 60/251. Reviewing one’s performance to adapt to an evolving reality is a culture that the HRC must make its own by annually holding a Public Forum to be addressed by Elder Statesmen and as well as distinguished representatives of NGOs, academia, and opinion builders from all parts of the world.

May the Human Rights Council thus be assisted in accelerating its transition towards driven becoming truly and exclusively value-driven.

ANNEXES

Programme of Work

Friday 19 February 2010

08:00: Departure from the Geneva International Airport

Saturday 20 February 2010

0900-0920: Opening ceremony

- Opening statement by H.E Mourad Medelci Minister of Foreign affairs
- Meeting facilitator: H.E. Idriss Jazaïry, Ambassador, Permanent Representative of Algeria

0930- 1045:

I. Review of progress of the Human Rights Council: Assessment of achievements and constraints since its establishment in 2006: From the Commission on Human Rights to the Council: improvements and remaining challenges

- √ Presentation by H.E Alex Van Meeuwen, President of the Human Rights Council
- √ Presentation by H.E Martin Ihoeghian Uhomobhi, Ambassador, Permanent Representative of Nigeria to the United Nations, Geneva
- √ Presentation H.E Najla Riachi Assaker, Ambassador, Permanent Representative of Lebanon to the United Nations, Geneva

Interactive dialogue

1045-1100: Coffee break

1100-1300:

II. The institutional aspects of the review:

- GA resolution 60/251: Op1 *versus* op 16, the respective responsibilities of the General Assembly and the Human Rights Council in the process of the review
- The coordination and consistency of the review process between the Council and the GA
- The status of the HRC
- The membership of the HRC.
- Funding of the HRC, including the status, role and control of its various Trust Funds.
- Reporting lines
- The relationship between the HRC and OHCHR (GA resolution 48/141)
- Other aspects

- √ Presentation by H.E Idriss Jazaïry, Ambassador, Permanent Representative of Algeria to the United Nations, Geneva
- √ Presentation by H.E Bente Angell-Hansen, Ambassador, Permanent Representative of Norway to the United Nations, Geneva
- √ Presentation by H.E Zamir Akram, Ambassador, Permanent Representative of Pakistan to the United Nations, Geneva

Interactive dialogue

1300-1445: Lunch

1450-1630:

III. The substantive aspects of the review

The UPR mechanism: achievements, challenges and future (§ 1 to 38 of 5/1)

- √ Presentation by H. E Md. Abdul Hannan Ambassador, Permanent Representative of Bangladesh to the United Nations, Geneva
- √ Presentation by H.E Hisham Badr, Ambassador, Permanent Representative of Egypt to the United Nations, Geneva
- √ Presentation by H. E Christian Strohal, Ambassador, Permanent Representative of Austria to the United Nations, Geneva

Interactive dialogue

1630-1645: Coffee break

1645-1830:

III. Substantive aspects of the review (*cont'd*):

Special procedures:

- Enhancing effectiveness, including through dialogue and cooperation with member States (§39 to 64 of 5/1)
- The Code of conduct (5/2)
- How to address allegations of non compliance with the Code of conduct
- Other aspects

Complaints procedure: Needs for improvements? (§85 to 108 of 5/1)

Subsidiary bodies of the HRC: Challenges and ways forward

- √ Presentation by H.E Valery Loshchinin, Ambassador, Permanent Representative of the Russian Federation to the United Nations, Geneva
- √ Presentation by H.E Jean-Baptiste Mattéi, Ambassador, Permanent Representative of France to the United Nations, Geneva
- √ Presentation by H.E , Ambassador, Lee Sung-Joo, Permanent Representative of the Republic of Korea to the United Nations

Interactive dialogue

1930: Dinner hosted by H.E. Mourad Medelci, Minister of Foreign Affairs

Sunday 21 February 2010

0900-1045:

IV. Inputs of Civil society: the participation of National Human Rights institutions and NGOs

- √ Presentation by H.E Evan P.Garcia, Ambassador, Permanent Representative of the Philippines to the United Nations, Geneva

- √ Presentation by H.E Arturo Hernandez Basave, Ambassador, Deputy Permanent representative of Mexico to the United Nations, Geneva
- √ Presentation by H.E. Chitsaka Chipaziwa, Ambassador, Permanent Representative of Zimbabwe, to the United Nations, Geneva

Interactive dialogue

1045-1100: Coffee break

1100-1250:

V. The methods and culture of work of the HRC: Challenges and their impact on the efficiency of the work of the Council and remedies

- The Program of work of the Council (the workload of documentation and the number of resolutions) (§117 of 5/1)
- The availability of documentation
- The number of the sessions and their possible streamlining (§117 of 5/1)
- Other aspects

- √ Presentation by H.E Abdulwahab Abdulsalam Attar, Ambassador, Permanent Representative of the Kingdom of Saudi Arabia to the United Nations, Geneva
- √ Presentation by H.E Arcanjo Maria Do Nascimento, Ambassador, Permanent Representative of Angola to the United Nations, Geneva
- √ Presentation by H.E Hannu Himanen, Ambassador, Permanent Representative of Finland to the United Nations, Geneva
- √ Presentation by H.E Dian Triansyah Djani, Ambassador, Permanent Representative of Indonesia to the United Nations, Geneva

Interactive dialogue

1300-1400: Lunch break

1405-1530:

VI. Enhancing dialogue and cooperation as indispensable tools for the work of the HRC:

- Role of the President of the HRC and of the Bureau (§114 and 118 of 5/1)
- Ways and means to promote consensual outcomes of the action taking by the HRC (§114 and 118 of 5/1)
- Other aspects

- √ Presentation by H.E Babacar Carlos Mbaye, Ambassador, Permanent Representative of Senegal to the United Nations, Geneva
- √ Presentation by H.E Javier Garrigues, Ambassador, Permanent Representative of Spain, to the United Nations, Geneva
- √ Presentation by H.E Gopinathan Achamkulangare, Ambassador, Permanent Representative of India to the United Nations, Geneva

Interactive dialogue

1530-1545: Coffee break

1545-1700

VII. The balance between preventive and remedial action by the HRC in the field of Human Rights violations:

- What preventive role could be played by the HRC and what tools could be put at its disposal to this end?
- How could the HRC ensure that its remedial action effectively contributes to the protection of human rights on the grounds?
- The role of cooperation and technical assistance to improve human rights situations on the ground.
- Other aspects

- √ Presentation by H.E Rodolfo Reyes Rodriguez, Ambassador, Permanent Representative of Cuba to the United Nations, Geneva
- √ Presentation by H.E Jürg Lauber, Ambassador, Deputy Permanent Representative, Permanent Mission of Switzerland to the United Nations, Geneva
- √ Presentation by H.E Maria Nazareth Farani Azevêdo, Ambassador, Permanent Representative of Brazil to the United Nations, Geneva
- √ Presentation by H.E Kenichi Suganuma, Ambassador, Deputy Permanent Representative of Japan to the United Nations, Geneva

Interactive dialogue

1700-1800:

VIII. Effective coordination and mainstreaming of human rights within the United Nations system: A primary responsibility of the HRC.

- What options could be proposed to allow the HRC fulfill its responsibility to ensure a coherent UN system of Human Rights? (Op 3 of GA resolution 60/251)

- √ Presentation by H. E Laura Mirachian, Ambassador, Permanent Representative of Italy to the United Nations, Geneva
- √ Presentation by H.E Carlos Portales, Ambassador, Permanent Representative of Chile to the United Nations, Geneva
- √ Presentation by H.E Liu Yuhe, Ambassador of China in Algeria

Interactive dialogue

1800-1830:

Closing remarks by the Facilitator, H.E Idriss Jazaïry, Permanent Representative of Algeria to the United Nations, Geneva

1830: Departure for the Hotel

1900: Departure for the International Airport of Algiers

2000: Take off

2145: Arrival to Geneva

الجمهورية الجزائرية الديمقراطية الشعبية
REPUBLICUE ALGERIENNE DEMOCRATIQUE ET POPULAIRE



*« Retraite » informelle sur la révision
des méthodes de travail et du fonctionnement
du Conseil des Droits de l'Homme*

Alger 19-21 février 2010

*Allocution d'ouverture
de
S.E.M. Mourad MEDELICI
Ministre des Affaires Etrangères*

Alger, le 20 février 2010

**Monsieur le Président du Conseil des droits de l'homme,
Excellences Mesdames et Messieurs les Représentants permanents,**

Au nom de M. le Président de la République et en mon propre nom, je saisis cette précieuse opportunité de vous compter parmi nous en Algérie, pour vous adresser une chaleureuse et amicale bienvenue à Alger. Aujourd'hui, vous entamez un exercice exaltant d'échanges de vues entre professionnels de la diplomatie des droits de l'Homme sur les enseignements à tirer du premier quinquennat du Conseil des droits de l'Homme. Nul n'est mieux qualifié que vous-mêmes, ainsi que vos collègues des Nations Unies à New York, pour le faire en étroite coordination les uns avec les autres.

La Représentation algérienne à Genève avait eu l'insigne privilège de participer activement en tant que Coordinatrice du Groupe africain à l'édification institutionnelle du Conseil. Notre invitation à la présente réunion informelle ne vise qu'un seul objectif : celui d'imprimer au processus de réexamen du fonctionnement du Conseil un esprit d'ouverture et de transparence dans les consultations préparatoires. Cette initiative s'est inspirée de celle prise dans un esprit de collégialité transcendant les clivages traditionnels par celui qui devint le premier Président du Conseil, l'Ambassadeur Alfonso de Alba et qui conduisit au consensus des résolutions 5/1 et 5/2 du Conseil. Nous n'avons fait que suivre son exemple.

Je remercie chacun de vous d'avoir accepté notre invitation et je tiens à exprimer notre appréciation, tout particulièrement, à Leurs Excellences, Mesdames Bente Angell-Hansen, Représentante Permanente de la Norvège et Dell HIGGIE, Représentante Permanente de Nouvelle Zélande qui ont co-sponsorisé avec l'Algérie cette rencontre.

C'est, je crois la première fois qu'un si grand nombre de Représentants permanents d'Etats de toutes les régions du monde et de toutes les tendances politiques, ayant le statut de Membres et d'Observateurs au sein du Conseil des droits de l'Homme et en particulier son Président en exercice, l'Ambassadeur Van Meeuwen que je salue tout particulièrement, se réunissent informellement dans un pays en développement. Peut-être, cette rencontre sera-t-elle annonciatrice de la tenue, dans l'hémisphère sud, de temps à autres, de réunions officielles du Conseil.

Notre initiative en tous cas vaut affirmation de notre volonté de revendiquer pour les pays en développement la qualité de partie prenante de plein droit dans la problématique des droits de l'Homme. Parce que universels et liés à la nature humaine, ces droits ne sont l'apanage d'aucune région du monde ou d'une quelconque culture ou civilisation génératrice exclusive de démocratie et de droits de l'Homme. Ils ne sauraient être des concepts forgés par un centre émetteur exclusif et universel pour être imposés à une périphérie, simple et passive consommatrice de valeurs et normes qui puisent, pourtant, leur force et leur pertinence dans la diversité de nos civilisations.

Notre devoir est, avant tout, de les faire respecter chez nous, à travers une appropriation contextuelle et au rythme d'une dynamique, certes irréversible, mais harmonieusement ajustée aux évolutions sociales, culturelles et économiques de nos pays. L'expérience a démontré que les processus démocratiques les plus aboutis ont toujours puisé leur pérennité dans le génie du peuple et l'action résolue de ses élus.

C'est pour cela que l'on affirme, à juste titre, que les valeurs qui sous-tendent ces droits et dont sont porteurs les seuls instruments internationalement reconnus, sont universelles.

A contrario, les violations des droits de l'homme ne sont pas l'apanage des plus démunis. L'Histoire, cette grande donneuse de leçons, nous enseigne que nulle partie du monde ne peut se prévaloir d'une virginité absolue ou d'une exemplarité pourvoyeuse du droit à la dénonciation, souvent sélective.

Non loin d'ici, dans le prestigieux empire Mandingue, le Roi Sundjata KEÏTA a établi, au 13^{ème} siècle, la Charte du Manden, un code des droits de l'Homme, où se reconnaîtraient les militants modernes les plus exigeants de la protection de la personne humaine.

En Algérie, ce fût un dirigeant parmi les plus brillants du XIX^{ème} siècle, en l'occurrence l'Emir Abdelkader, qui, après avoir lutté 17 ans contre l'invasion coloniale, sauva, en 1860, au péril de sa propre personne, la vie aux minorités chrétiennes et juives en danger de mort à Damas, sa terre d'exil. Il expliqua que son action avait été dictée par les préceptes du Saint Coran et par ce qu'il appelait, déjà, « les droits de l'humanité », un concept préfigurant ces droits de l'Homme qui nous réunissent, aujourd'hui et au-delà, le Droit International Humanitaire.

En Algérie, la lutte de libération du peuple algérien, entre autres, fut conduite au nom du premier de ces droits de l'homme, le droit à l'autodétermination qui figure aux articles 1^{ers} du Pacte international sur les droits civils et politiques et du Pacte international sur les droits économiques, sociaux et culturels. C'est ce droit que nous avons revendiqué pour nous-mêmes et au prix fort, pour mettre fin à la colonisation. Cohérents avec notre passé, nous n'avons cessé, depuis notre indépendance, de revendiquer ce même droit pour les autres peuples sous occupation étrangère.

En définitive aucun de nos pays, riches ou pauvres, par delà leurs appartenances civilisationnelles et leurs particularités culturelles et quelles que soient leurs orientations politiques, ne peut prétendre être indemne de violations de droits de l'Homme.

Certes, il n'y a pas nivellement de ce fléau. Il existe, à des degrés divers, à travers l'espace de nos jours et revêt un caractère dangereusement contagieux en ce sens que sa violation, dans certaines parties du monde, entraîne, par réaction d'autres violations, ailleurs. Sa gravité fluctue aussi dans le temps à travers le vécu de chacun de nos pays.

Tirant les enseignements d'un vécu douloureux, l'Algérie, pour sa part, est déterminée à promouvoir et protéger les droits de l'Homme, en dépit des contingences qui l'assailent, et de veiller à leur respect par tous. Les délibérations du Conseil des droits de l'homme sont, pour nous, une précieuse source d'inspiration à cet effet.

Ils le seront pour tous nos pays si nous réussissons à faire en sorte que prévale un sentiment d'appropriation collective et solidaire des mécanismes des droits de l'homme par l'ensemble des partenaires, y compris les pays en développement de toutes tendances.

Aujourd'hui, l'invocation ou l'utilisation des droits de l'Homme à des fins politiques relève de l'esprit désuet de la guerre froide. Nous sommes tous d'accord, certes, pour dénoncer la politisation, la sélectivité et la politique des deux poids deux mesures, mais ces critiques recouvrent, selon les pays qui les formulent des réalités souvent opposées. Il nous appartient, à tous, d'unir nos efforts, sinon contre la politisation des droits de l'Homme, somme toute difficilement évitable, du moins contre leur instrumentalisation dans le cadre d'une confrontation idéologique d'un type nouveau, imposée cette fois, aux pays du Sud.

L'appropriation des mécanismes des droits de l'Homme, par tous les partenaires, signifie aussi leur appropriation par les instituts nationaux des droits de l'Homme. Par un milieu associatif aussi, qui doit être de plus en plus enraciné dans la réalité vécue de nos pays où leur siège doit être implanté pour pouvoir légitimement porter la voix de nos sociétés civiles.

En répondant si massivement à notre invitation, vous démontrez que vous partagez notre préoccupation d'enraciner durablement l'esprit d'ouverture et de confiance et de promouvoir le dialogue ouvert et la coopération au sein du Conseil et autour de ses débats.

Certes, la tâche n'est pas aisée tant sont lourdes les contraintes engendrées par la pression des intérêts et des opinions, populistes parfois, et tant sont contraignants les impératifs de consolidation de l'unité nationale et du développement.

Excellences, Mesdames et Messieurs ;

Le Conseil des droits de l'Homme, véritable pivot institutionnel des droits de l'Homme, offre un cadre idoine pour stimuler une action internationale ambitieuse en vue de prévenir les violations de ces droits. Il lui incombe d'établir, à cet effet, les normes nécessaires en complément des 9 instruments internationaux existants. Il a, également, le devoir d'œuvrer à la protection des victimes pour que soit mis un terme, par le dialogue et la coopération aux violations là où elles se produisent. Il vous appartiendra de déterminer, au demeurant, le juste équilibre entre les actions de prévention et celles de protection des droits de l'homme.

En interaction avec le Haut Commissariat aux droits de l'Homme, actuellement dirigé par Mme Navi Pillay, à qui je tiens à rendre un hommage mérité, le Conseil doit réaliser un impact accru sur le terrain comme la Haute Commissaire le rappelait récemment.

J'ajouterais que, pour ce faire, les actions conjuguées de ces deux mécanismes des droits de l'Homme devraient converger vers l'atteinte d'un impact horizontal plus grand à travers tout le système des Nations Unies. Car, c'est en favorisant l'intégration des « droits de l'Homme » selon une même démarche cohérente dans toutes les agences des Nations Unies, qu'il sera possible d'intérioriser cette composante cruciale et déterminante dans leurs activités.

Restera la question lancinante de la manière de remédier aux violations chroniques et délibérées de droits de l'Homme qui ont fait l'objet d'envois de missions d'établissement des faits par le Conseil. Comment, autrement dit, le Conseil des droits de l'Homme, qui n'est pas une instance judiciaire, peut-il promouvoir la justice qui constitue la finalité de ces droits ?

En conclusion, il ne faut pas perdre de vue que la résolution 60/251 de l'Assemblée générale comme les résolutions 5/1 et 5/2 du Conseil des droits de l'Homme, tout en étant de précieux gisements de travail, comportent des imperfections voire quelques incohérences. Ceci n'est vraisemblablement pas le reflet d'une quelconque erreur ou omission des concepteurs de l'architecture institutionnelle du Conseil. C'est plutôt le résultat des compromis politiques qui ont été nécessaires pour parvenir à un consensus. Vouloir les corriger pourrait remettre en cause le consensus par lequel les textes ont été adoptés.

On doit reconnaître, en tout état de cause que, globalement, le Conseil des droits de l'Homme a pris un bon départ. L'Algérie a eu le privilège d'avoir bénéficié, après l'évaluation par les Pairs de l'Union africaine, d'une des premières évaluations du Conseil, dans le cycle de l'évaluation périodique universelle. Nous avons souscrit à la plupart de ses recommandations et nous ferons rapport sur leur mise en œuvre au Conseil en temps utile. Déjà les situations de plus de la moitié des États Membres de l'ONU en matière de droits de l'Homme ont été passées en revue avec succès. L'effet d'émulation et la promotion des meilleures pratiques en la matière commencent à faire sentir leurs effets sur le terrain à travers le monde.

Je vous engage à œuvrer au perfectionnement de ce précieux et incontournable outil institutionnel qu'est le Conseil, au renforcement du rôle du Président et de son Bureau, à celui aussi du Haut Commissariat aux Droits de l'Homme et à la promotion de l'indépendance et de l'objectivité des mécanismes spéciaux du Conseil.

Je vous engage, enfin, et tout particulièrement, à renforcer les moyens de faire prévaloir la compréhension mutuelle et de dégager des fonds placés sous son autorité pour permettre au Conseil d'apporter une assistance technique aux nombreux pays qui la demandent.

Puisse la rencontre d'Alger se tenir sous le signe d'un partenariat ouvert, multiforme, convivial et fécond, au service exclusif des droits de l'Homme, partout dans le monde, à travers des échanges porteurs de passerelles de confluences et d'esprit d'élévation, pour rester fidèles à l'idéal commun porté par la Déclaration Universelle des Droits de l'Homme.

Je vous remercie de votre attention et souhaite plein succès à vos délibérations.

List of Participants

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Permanent Observer Mission of the Holy See to the United Nations Office and other International Organizations in Geneva

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Intergovernmental organizations having received a standing invitation to participate as observers in the sessions and the work of the General Assembly and maintaining a permanent office to the United Nations Office at Geneva

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- Mr El Habib Yakhdan, First Secretary
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