

**REFLECTION GROUP ON THE STRENGTHENING OF THE HUMAN
RIGHTS COUNCIL
FIRST WORKING SESSION
*Mexico City, October 29-30***

**Preliminary Report
Under the Responsibility of the Co-Chairs**

The Reflection Group on the Strengthening of the Human Rights Council gathered 17 States from all regions, 3 international NGO's and the Office of the High Commissioner for Human Rights for its first working session in Mexico City. This meeting was an informal exercise the main objective of which was to exchange ideas on the ways and means of strengthening the Human Rights Council in view of the upcoming 2011 reviews. The debates were rich and reflected a diversity of views.

A. During the session, the **positive aspects** of the Human Rights Council's work and functioning were identified, including:

- The Council's normative contribution regarding the development of some human rights instruments.
- The creation of the Universal Periodic Review Mechanism as an innovative peer-review tool that increases accountability of States on an equal basis.
- The preservation of the special procedures system and the increased dialogue with them.
- The preservation of NGO participation.
- The enhanced criteria for the election of members of the Council (among others, the absolute majority of votes required from the General Assembly).
- The fact that efforts have been made to develop cross-regional initiatives.

B. At the same time, different **challenges** were identified in the implementation of resolutions 60/251 of the GA and the institutional package of the Council:

1. Functional Challenges

a) *Capacity to address country situations:*

- The capacity to react to situations of crisis is critical to the credibility of the Council. The assessment of chronic violations seemed to be difficult. The lack of regular debate on country situations was mentioned. In this context, the need for promoting confidence-building among members was underscored.
- The lack of effectiveness of the complaints procedure.
- It was suggested to use the different possibilities that the Council has to address these situations, by being more creative.
- These possibilities can be seen as a "toolkit" that includes means other than resolutions, such as Presidential statements, or debates with special procedures organized by the High Commissioner. It was suggested that the President or the High Commissioner could be more proactive in helping to look for solutions. Another suggestion was the possibility for meeting outside Geneva and/or making field visits.

- Such a toolkit would bring more flexibility to address sometimes very different situations.
- Regarding special sessions, remarks were made on:
 - The lack of cooperation by the concerned State.
 - The weak impact of these sessions in improving the situation on the field;
 - The fact that results are often not up to the expectations; and
 - The lack of follow-up to these results.
 - The threshold needed to convene a special session.

b) Resolutions:

- Rationalize and possibly cap the number of resolutions, their length, and the frequency of their presentation.

c) Universal Periodic Review Mechanism:

- The follow-up to UPR recommendations should be improved.
- Need to encourage the presentation of progress reports before the end of the 4-year cycle.
- Technical cooperation to help countries prepare their reports, facilitate their participation in the examination and follow-up of the recommendations.
- Need to improve the way of formulating recommendations, making them more concrete and oriented to cooperative results.
- Need to ensure that recommendations are consistent with international standards.
- Need to make the number of recommendations more manageable.
- Insufficiency of the 3-hour session in order comprehensively to carry on the exam (e.g. possibility to extend up to 6-9 hours, or dividing the working group into three smaller groups selected by drawing).
- Avoid misuse of the list of speakers.
- Reflect on involvement of NGO's during the UPR process.
- Enhance the role of the *troika*.

d) Special procedures:

- Need to improve the follow-up of the recommendations of special procedures.
- Need to strengthen the interactive dialogue with the special procedures.
- Need to strengthen the coherence of the system of the special procedures, by among others considering the concerns on reducing/creating special procedures.
- Lack of enough resources for the special procedures for an adequate accomplishment of their mandates.

e) Annual workload of the Council:

- Need to arrive at a manageable program of work (e.g. not to address all items of the agenda at each session, dividing themes between sessions).
- There is not enough time for reflection.
- Delegations' capability—problem with small delegations.
- Overload of work allowing sometimes very short time for preparation.
- Need to have a more manageable load of documents.

f) Elections:

- The rotation of Member States was seen as a positive element.

- The current system has not succeeded in avoiding the election of States that are not fully committed to human rights.
- The need to avoid clean slates.
- The criteria set out in paragraph 8 of resolution 60/251 and the voluntary pledges and commitments should be assessed more strictly.

g) Visibility:

- The increase in the number of sessions has not necessarily resulted in an increased visibility/credibility of the work of the Council.
- The need to better communicate the positive work of the Council in order to avoid attempts to undermine it.

h) Role of the Presidency:

- Need to strengthen the office of the Presidency.
- Benefit of the Presidency being proactive, including visits to countries and more visibility in terms of communication as well as his/her role in bridging gaps between groupings, confidence-building and promoting cross-regional cooperation.

i) Role of the Office of the High Commissioner for Human Rights:

- Increase the involvement of the OHCHR in the work of the Council.
- Possible role to play in the follow-up and implementation of the UPR (e.g. meeting with countries, giving assistance, being a “clearing house” for other cooperation programs)
- The need to convey more coherent support to activities of technical assistance and capacity-building, as a means to enhance the cooperative dimension of the OHCHR.

2. Behavioral challenges and working culture

Major challenges were identified regarding the States’ behavior (working culture) in the Council:

- Polarization and politicization:
 - Inherent and unavoidable political nature of the HRC due to its intergovernmental composition.
 - Politicization meaning guided by other interests different than the promotion and protection of human rights.
 - Sometimes this leads to a lack of addressing issues or not addressing them properly.
- Some possible solutions included:
 - Enhance dialogue in order to avoid polarization/confrontation and regional blocks.
 - Stress was put on the importance of encouraging cross-regional initiatives for this purpose.
 - The need to reflect on possible misuse of rules of procedure (no-action motions), points of order and rights of reply among delegations.
 - The need to use the diplomatic capacity of delegations in order to bridge gaps in benefit of the promotion and protection of human rights.

C. Regarding the **scope and procedure of the reviews**, the following was identified:

- The need to promptly clarify the calendar and modalities of the review processes.
- The need to consider both reviews as one coherent exercise.
- The importance that the New York process take into account the expertise of the Geneva discussions.
- The review by the General Assembly is a task that has to be carried out by the Plenary of the General Assembly and not the Third Committee.
- The review of the Council must be the result of an open, transparent and inclusive process.
- The benefit of informal exercises as a way to contribute positively to the review processes.
- The desirability of using all possible means and formats to arrive to a successful result.
- The desirability of adopting the result of the review by consensus.
- Regarding the review to be carried out by the Council, diverse proposals were formulated:
 - The scope of the review should be the implementation of resolution 60/251.
 - The need to assess the pros and cons of attempting to reopen the Council's institutional-building package.
 - The desirability that the UPR merits a specific analysis for its improvement towards the 2011 reviews.
 - Working Groups by subject could be created for the review of the Council.
- Regarding the review of the Council's status:
 - The desirability of elevating the hierarchy of the Council to a main body of the UN.
 - On the composition, both options of universality or maintaining the *status quo* were discussed.

The Reflection Group's second working session will take place in Paris and the third session will take place in Morocco.

Argentina also offered to host a subsequent meeting.

(Annexes: List of participants and program of the Mexico meeting.)