

NGO Proposal on the Structure for the 2011 Review of the Human Rights Council's Work and Functioning

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6 May 2010

Introduction

As the Human Rights Council begins discussions on the format and modalities for the review of its work and functioning as required by General Assembly *Resolution 60/251*, we would like to make some proposals for the review process.

The proposals are based on the emerging consensus among States that renegotiating the Council's institutional framework (*Resolution 5/1* and *Resolution 5/2*) should not be the basis of the review process. The review process should only supplement this framework where necessary to ensure that the Council fulfils its mandate to 'promote universal respect for the protection of all human rights and fundamental freedoms for all, without distinction and in a fair and equal manner' (operative paragraph 2 of *Resolution 60/251*).

The institutional framework was adopted by the Council, at the end of the arduous institution-building year, by consensus. It is a finely balanced framework that was agreed as a package. Similarly, the outcome of the review process should be achieved through consensus.

Our proposals are firmly rooted in the mandate and responsibilities given to the Council by the General Assembly. We believe that the Council's 'work and functioning' should be reviewed against this mandate as it sets the standard for what is expected of the Council.

The review process should focus on the identification of good practices and challenges with a view to making concrete proposals to improve the Council's work and functioning. The format for the review proposed below will ensure that the identification of good practices and challenges takes place against clear and established benchmarks, and not in a vacuum.

The Council's Mandate and Responsibilities

The Council's overarching mandate is to 'promote universal respect for the protection of all human rights and fundamental freedoms for all, without distinction and in a fair and equal manner'. The work of the Council is aimed at 'enhancing the promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development'. General Assembly *Resolution 60/251* elaborates on this overarching mandate in more detailed descriptions of specific elements of the Council's mandate and related responsibilities. These can broadly be divided into four categories or clusters, which can be used as the framework for the review of the Council's work and functioning.

The specific elements of the Council's mandate and related responsibilities can be clustered as follows. Under each heading are the relevant responsibilities identified in *Resolution 60/251*.

1. Promoting international human rights law, its development and its implementation

- Promote human rights education and learning (OP5a)
- Promote advisory services, technical assistance and capacity-building (OP5a)
- Serve as a forum for dialogue on thematic issues on all human rights (OP5b)
- Make recommendations to the General Assembly on development of international human rights law (OP5c)
- Promote full implementation of human rights obligations and follow up to human rights goals and commitments from UN conferences and summits (OP5d)
- Undertake a UPR of each State (OP5e)
- Make recommendations for promotion and protection of human rights (OP5i)

2. Addressing and preventing human rights violations

- Address situations of violations of human rights, including gross and systematic violations (OP3)
- Make recommendations on situations of violations of human rights (OP3)
- Contribute to prevention of human rights violations through dialogue and cooperation (OP5f)
- Respond promptly to human rights emergencies (OP5f)

3. Promoting coordination and mainstreaming of human rights

- Promote effective coordination and mainstreaming of human rights within the UN system (OP3)
- Assume roles and responsibilities of the Commission in relation to the work of OHCHR as decided by General Assembly *Resolution 48/141* (OP5g)

4. Working methods and rules of procedure

- Be guided by the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation with a view to enhancing the promotion and protection of human rights (OP4)
- Work in close cooperation with Governments, regional organisations, NHRIs and NGOs (OP5h)
- Members shall cooperate with the Council (OP9)
- Members shall uphold the highest standards in the promotion and protection of human rights (OP9)

- Meet regularly throughout the year (OP10)
- Hold three sessions per year for no less than ten weeks (OP10)
- Be able to hold special sessions (OP10)
- Apply the rules of procedure of the General Assembly, as applicable, until otherwise decided (OP11)
- Participation of and consultation with observers shall be based on arrangements, including ECOSOC *Resolution 1996/31* and practices observed by the Commission, while ensuring the most effective contribution of these entities (OP11)
- Methods of work shall be transparent, fair and impartial and enable genuine dialogue, be results oriented, allow for follow up discussions to recommendations and their implementation, and for substantive interaction with special procedures (OP12)
- Report annually to the General Assembly (OP5j)

Format for the Review

The following chart proposes a structure for how to review the Council's main areas of work against its mandate and responsibilities. The review of the four categories of the elements of the Council's mandate should examine how it has used relevant procedures and mechanisms at its disposal to fulfil its mandate. While this results in some limited overlap in the topics that will be discussed, it will allow for a review of the complementarity of these mechanisms, and how their interplay could be improved with a view to the Council better fulfilling its mandate.

Mandate	Responsibilities	Tools and mechanisms
1. Promoting international human rights law, its development and its implementation	<p>Promote human rights education and learning (OP5a)</p> <p>Promote advisory services, technical assistance and capacity building (OP5a)</p> <p>Serve as a forum for dialogue on thematic issues on all human rights (OP5b)</p> <p>Make recommendations to the General Assembly on development of international human rights law (OP5c)</p> <p>Promote full implementation of human rights obligations and follow up to human rights goals and commitments from UN conferences and summits(OP5d)</p> <p>Undertake a UPR of each State</p>	<p>Item 3, Item 5, Item 6, Item 8, Item 9, Item 10</p> <p>Special procedures</p> <p>UPR</p> <p>Advisory Committee</p> <p>Other subsidiary bodies (Social Forum, Minorities Forum, Expert mechanism on the rights of indigenous peoples)</p>

	(OP5e) Make recommendations for promotion and protection of human rights(OP5i)	
2. Addressing and preventing human rights violations	Address situations of violations of human rights, including gross and systematic violations (OP3) Make recommendations on situations of violations of human rights (OP3) Contribute to prevention of human rights violations through dialogue and cooperation (OP5f) Respond promptly to human rights emergencies (OP5f)	Discussions of situations of violations of human rights over the agenda and annual programme of work Special procedures Complaint procedure Special sessions UPR Advisory Committee (prevention)
3. Promoting coordination and mainstreaming of human rights	Promote effective coordination and mainstreaming of human rights within the UN system (OP3) Assume roles and responsibilities of the Commission in relation to the work of OHCHR as decided by General Assembly <i>Resolution 48/141</i> (OP5g)	Item 2 Relationship with the 3 rd Committee of the General Assembly and the plenary Relationship to other UN bodies and agencies, and relevant regional bodies and mechanisms
4. Working methods and rules of procedure	Be guided by the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation with a view to enhancing the promotion and protection of human rights (OP4) Work in close cooperation with Governments, regional organisations, NHRIs and NGOs (OP5h) Members shall cooperate with the Council (OP9) Members shall uphold the	Programme of work Working methods Rules of procedure Special sessions

	<p>highest standards in the promotion and protection of human rights (OP9)</p> <p>Meet regularly throughout the year (OP10)</p> <p>Hold three sessions per year for no less than ten weeks (OP10)</p> <p>Be able to hold special sessions (OP10)</p> <p>Apply the rules of procedure of the General Assembly, as applicable, until otherwise decided (OP11)</p> <p>Participation of and consultation with observers shall be based on arrangements, including ECOSOC Resolution 1996/31 and practices observed by the Commission, while ensuring the most effective contribution of these entities (OP11)</p> <p>Methods of work shall be transparent, fair and impartial and enable genuine dialogue, be results oriented, allow for follow up discussions to recommendations and their implementation, and for substantive interaction with special procedures (OP12)</p> <p>Report annually to the General Assembly (OP5j)</p>	
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Process for the Review

The review process must be transparent and inclusive. We therefore encourage the President of the Council to convene open informal meetings on the modalities and process for the review as requested by Council *Resolution 12/1* (paragraph 4). The framework should be clear and well defined. In particular it should enable the review to be conducted efficiently, without diverting the Council in any way from its substantive programme of work.

We believe that the Council must agree to the framework for the review as soon as possible to allow all stakeholders to prepare and be able to make effective and meaningful contributions to the process.

We propose that the first session of the open-ended Working Group on the review base its programme of work on the above framework dedicating one day to each of the four clusters. The Working Group would identify good practices, challenges and make proposals for improvement to the work and functioning of the Council in the four areas. We believe that these discussions would significantly benefit from the input of experts. We would therefore suggest that the sessions be organised around a panel discussion with short presentations from a range of stakeholders.

The second meeting of the Working Group could then discuss all the proposals made during the first session and identify the ones that would build on the best practices and address the challenges identified during the first session.