

# THE U.N. HUMAN RIGHTS COUNCIL: IS ITS MANDATE WELL-DESIGNED?

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## REMARKS

This essay is about the design of the mandate of the United Nations Human Rights Council, which was hammered out after a year of negotiations within the General Assembly and then another year within the newly-created Council itself. The latter negotiations were completed only in June 2007, so the Council is a relatively new enterprise.

Within the overall context of the human rights work being done by various actors within the United Nations (U.N.) system today, what is unique about the Council that can enable it to contribute effectively to the overall goal of securing better practical observance of human rights? How good were the measures enacted during the two-year reform process? Are further improvements needed in its mandate or work program to enable it to achieve more of what might reasonably be expected of an intergovernmental U.N. body in this field?

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I start with a few background reflections on human rights and then look more closely at the Council's priorities and their specific components, and whether there is a good balance among the elements of its workload. Do the most important functions have sufficient priority and resources? Are there other things the Council should be doing, in order to take advantage of its built-in strengths and its unique place within the U.N. system? Do parts of its mandate need to be re-designed during the scheduled 2011 review, or even sooner? I close with recommendations.

### I. HUMAN DIGNITY AND HUMAN RIGHTS

During the sixty years since the Universal Declaration of Human Rights, the fundamental concept underlying the Declaration has continued to gain support across nations and continents: that every human being has equal intrinsic worth, and that the best way to ensure respect and protection for this worth is through laws and institutions to safeguard basic rights.<sup>1</sup> Thus, rights are not themselves the ultimate foundation for the effort to protect them, nor do we protect rights for their own sake; protecting rights safeguards something deeper—the human essence found in every human being in equal measure, the immediate source of our value—something which today we usually call human dignity. Rights are expressions of this dignity in society.

The authors of the Universal Declaration also recognized, in a general way, that a proper observance of rights contributes to the achievement of another natural human goal by better enabling people to achieve a multi-dimensional fullness of life for themselves and their families, and for the community—which is another way of describing the common good. While rights protection does not by itself guarantee this result, long experience in many different cultures has shown that where rights and duties are correctly understood and respected, a society is more likely to build a more authentically human civilization. There are many possible ways to do the building, and concrete political and legal institutions can vary from country to country and culture to culture, but the basic rights themselves are universal.

Part of the foregoing evolution has been an increasing acceptance of the necessity for institutions representing the entire community of states, acting as a community, to promote practical observance of rights in and by individual states, particularly in cases of extreme and systematic violation, while still upholding the principles of national sovereignty and international subsidiarity. What is different today from the world of 1948, and for that matter also 1978, is the stronger and more widely held conviction that the community of states

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1. Universal Declaration of Human Rights, G. A. Res. 217A, U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc. A/810 (Dec. 12, 1948).

must function more effectively *as a community* when fundamental human rights are violated or threatened. The 2005 World Summit considered what kind of United Nations human rights institution(s) are needed in the twenty-first century to do what the U.N. should be doing in a world in which the principle of state sovereignty is still a fundamental component of world order. The Human Rights Council is one result of that consideration.

## II. THE INSTITUTIONAL CONTEXT

Thirty years ago, halfway between the Universal Declaration and the recent sixtieth anniversary commemoration, there was little mainstreaming of human rights in U.N. institutions. Outside of the Human Rights Commission, the International Labor Organization, and the General Assembly Third Committee, little was heard about human rights within the U.N. system. The picture is dramatically different today.

Since the 1990s the Security Council has exercised responsibility for human rights as part of complex peace operations in states torn by civil war or collapse, starting with the right to be free from arbitrary lethal violence. It has at times even assumed temporary governmental responsibility for a people and territory, including legal and institutional protection of human rights. The 2005 World Summit established a Peacebuilding Commission whose mandate includes establishing a rights-protective framework in conflict-shattered countries after the fighting ends. At the same Summit, heads of state and government affirmed that the United Nations has a general responsibility to protect the right to life of people experiencing or imminently threatened by genocide, war crimes, crimes against humanity or ethnic cleansing.<sup>2</sup> The International Criminal Court prosecutes violations of human rights that occur under any of the first three of these headings. The U.N. now has a Special Advisor for the Prevention of Genocide, a Democracy Fund, and various expert committees to monitor the implementation of particular human rights treaties. The United Nations Children Fund (UNICEF) and the United Nations Educational Social and Cultural Organizations (UNESCO) have human rights offices and activities. The U.N. Development Program and even the World Bank have incorporated some human rights guidelines into their activities. And of course regional intergovernmental organizations do a great deal more in human rights than they did sixty or even thirty years ago.<sup>3</sup>

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2. G.A. Res. 59/314, ¶ 138, U.N. Doc. A/RES/59/314 (Oct. 26, 2005).

3. The spread of democracy, which is closely related to heightened worldwide respect for human rights, is another important reason for the general improvement in governmental human rights performance since the end of the Cold War, but space limitations preclude its discussion here.

## III. THE COUNCIL'S COMPOSITION AND POTENTIAL CONTRIBUTION

In order not to exaggerate expectations, we need to bear in mind that the Human Rights (HR) Council's powers cannot exceed those of the body that created it, namely the General Assembly. Thus, the HR Council does not have the enforcement powers of the Security Council, nor can it direct the vast financial resources of the World Bank or the U.N. Development Program, or make binding rules for world trade like the World Trade Organization, or indict and try rights violators like the International Criminal Court. Still, it is the only single-purpose intergovernmental body dedicated to human rights within the U.N. system. The 2005 Summit called for its creation in the Outcome Document;<sup>4</sup> in 2006 the General Assembly outlined its general purposes and functions but decided to elect the Council and let it determine its own priorities and work program.<sup>5</sup> The Council spent its first year doing just this, resulting in a detailed 123-paragraph resolution plus rules of procedure and two annexes.<sup>6</sup>

Human rights are universal, but we exercise and enjoy them in one place at a time, and so it is states, as territorial sovereigns, that have primary responsibility for enacting laws and policies to protect them. It is now recognized that states may be held accountable, not only by and to their own people for how well they do this, but also by and to the organized community of states of which each state is a member. States have accepted this concept legally through ratification of binding international human rights conventions and politically through participation in consensus adoption of the 2005 Summit Outcome Document<sup>7</sup> and the 1993 Vienna Declaration and Program of Action on Human Rights.<sup>8</sup> These documents were negotiated and approved by states, not by civil society organizations or NGOs; only states vote in multilateral conferences, only states ratify treaties, and only states authorize action to be taken on behalf of the community. States, in community, approve human rights budgets, and elect and oversee the work of the intergovernmental agencies they created. This is why the system needs an intergovernmental body to develop policy, establish programs, and provide oversight.

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4. See G.A. Res. 59/314, *supra* note 2, ¶ 16.

5. G.A. Res. 60/251, ¶¶ 2, 14, 15, U.N. Doc. A/RES/60/251 (Mar. 15, 2006).

6. U.N. Human Rights Council, *Report to the General Assembly on Fifth Session of the Human Rights Council*, U.N. Doc A/HRC/5/L.11 (June 18, 2007) [hereinafter *Human Rights Report*].

7. G.A. Res. 59/314, *supra* note 2.

8. World Conference on Human Rights, June 14–25, 1993, *Vienna Declaration and Programme of Action*, U.N. Doc. A/CONF/157/23 (July 12, 1993).

#### IV. THE COUNCIL'S MANDATE AND PRIORITIES

Among the ten broadly-phrased tasks assigned to the HR Council by the General Assembly in Resolution 60/251,<sup>9</sup> the Council decided in its Institution-Building Resolution to give priority to four: Universal Periodic Review (UPR), review and supervision of special procedures and mandate holders, direction of the Advisory Committee, and administration of the confidential complaint system.<sup>10</sup> Each is discussed in turn in the following sections.

In its resolution 5/1,<sup>11</sup> the Council did not list among its priorities the other functions assigned to it by the Assembly, including “[to] promote the effective coordination and mainstreaming of human rights within the United Nations system,”<sup>12</sup> “promote human rights education . . . advisory services, technical assistance and capacity building,”<sup>13</sup> “make recommendations to the General Assembly for the further development of international law,”<sup>14</sup> and to “contribute . . . towards prevention of human rights violations and respond promptly to human rights emergencies.”<sup>15</sup> The Council has continued to adopt resolutions and decisions on some of these matters. Not identifying them as priorities is perhaps not surprising, since they are all among the specific responsibilities assigned to the High Commissioner for Human Rights in the 1993 Assembly resolution establishing that post.<sup>16</sup> It might be logical to infer that the Assembly expects the Council and the High Commissioner to develop a productive partnership in these areas, a subject explored later in this essay.

Another probable reason for the Council's omission of “the further development of international law”<sup>17</sup> from its priority areas is that this activity, traditionally called “standard-setting,” formerly occupied a large part of the time and attention of the predecessor Human Rights Commission. Given the vast array of binding and non-binding standards now on the books, there is a broad consensus within the community of states that little more needs to be done in the way of drafting new instruments. A 2002 U.N. compilation lists ninety-four universal human rights instruments on a wide range of specific

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9. G.A. Res. 60/251, *supra* note 5, ¶ 5.

10. *Human Rights Report*, *supra* note 6, at 3, 4, 11, 19.

11. *Id.*

12. G.A. Res. 60/251, *supra* note 5, ¶ 3.

13. *Id.* ¶ 5(a).

14. *Id.* ¶ 5(c).

15. *Id.* ¶ 5(f).

16. G.A. Res. 48/141, ¶ 1, U.N. Doc. A/RES/48/141 (Dec. 20, 1993).

17. G.A. Res. 60/251, *supra* note 5, ¶ 5(c).

subjects.<sup>18</sup> To return to the level of drafting activity of fifteen or twenty years ago would be to take a great deal of time away from implementation—now regarded as the greatest need—and would also risk leading the Council toward expending energy on establishing what some might call “boutique rights.”

## V. UNIVERSAL PERIODIC REVIEW (UPR)

Despite all of the changes brought about by an emerging transnational civil society, economic globalization, and the information and communications revolutions, the fact most relevant to human rights observance on the ground is that the human family is organized within 192 independent and juridically equal political communities. There are no longer any empires and there is no world legislature. Many people outside of government can influence the making of international law and policy through various channels, but decision-making still rests primarily with states and with organizations comprised of states. Therefore, if one wants to devise a system to hold governments to account for their conduct toward their citizens, the system most likely to produce good results is one involving review and judgment by one's peers acting in community, or, as in the case of special procedures mandates, one involving agents chosen by the peer group for particular tasks and accountable to that group.

As already noted, in addition to a state's multiple responsibilities toward its own people, it also has responsibilities toward other states and the international community of states. States have multi-dimensional relationships, both bilateral and multilateral, with each other across a range of substantive fields, and a state's well-being and that of its people depend importantly on the character of those relationships. Good relations ordinarily produce benefits; bad relations ordinarily entail costs. But the quality of the relationship in one substantive area can affect the quality of relations in other areas. For instance, a government's human rights abuses, harboring of terrorists or support of nuclear weapons proliferation can induce other governments to reduce or eliminate cooperation in trade, investment, official travel, arms sales, and the like. The benefits of a good relationship can be withheld by a state or group of states from another state unilaterally or through established international institutions; states have a broad zone of discretion in determining this. A government widely regarded by its peers as a major rights violator always struggles to cover up the violations, to explain them as misinterpreted, exaggerated, or unintended, or to claim that it has launched efforts to reduce or eliminate them. Governments are not proud of doing terrible things to their

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18. OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, HUMAN RIGHTS: A COMPILATION OF INTERNATIONAL INSTRUMENTS, at v-x, U.N. Doc. ST/HR/1/Rev. 6 (Vol. 1, Parts 1 and 2), U.N. Sales No. E.02.XIV.4 (2002).

people. They are aware that widespread knowledge of such acts by their own people could eventually affect their hold on power. Critical judgments by an organization of peers will usually have considerable impact on subsequent conduct, although it may be necessary to sustain the criticism for some time to underscore the community's seriousness.

A process of peer judgment needs to be, and be seen to be, impartial, transparent, and even-handed in order to have practical impact. The new UPR contrasts favorably in these respects with the former practice in the Commission under the public "violations anywhere" agenda item in which states engaged in ad hoc open political warfare, in a rising crescendo of charges, counter-charges, counter-counter-charges, and so on. In the year when a report is due under UPR, the country under review has an additional incentive to improve performance where it might be falling short, and an additional incentive also to cooperate with the Council in providing information when asked.

The Council is authorized ten weeks of meeting time per year. Council Resolution 5/1 provides for six weeks of UPR activity by a "Working Group" of all Council members; this is presumably in addition to the basic ten weeks, although the Resolution does not say this.<sup>19</sup> One wonders whether the present arrangement, even if the Working Group meetings are additional to the basic ten weeks, will leave sufficient opportunity for Council consideration of the special procedures mandate-holders, the work of the High Commissioner's office, complaints under the confidential procedure, and its other work. In any event, UPR will demand a major commitment of the Council's time and energy. It seems clear that the overriding priority will be to complete reviews of forty-eight countries per year, while other activities will take place in whatever time is left. The Council will therefore need to take care to manage its overall time carefully in order to retain the ability to accomplish human rights goals outside the UPR framework.

## VI. SPECIAL PROCEDURES

Systematic peer review is good, but of course serious problems can arise in the interval between four-year reviews. The High Commissioner for Human Rights has a general mandate to address all violations of universally-recognized rights, whenever they occur, but the practice of establishing specialized mandates has made available a range of additional mechanisms that have proven their worth for nearly three decades. States today accept the legitimacy of inquiries and investigative and intercessory visits on human rights matters

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19. In 2008, the Council plenary met for eight weeks and the UPR Working Group met for six. The Council is also authorized to convene special sessions on urgent topics with the endorsement of one-third of the membership. Ten such sessions, most lasting one day, have taken place as of March 25, 2009.

by duly-authorized representatives, such as the High Commissioner or the dozens of special procedures mandate-holders. There is a great deal of such travel, of contacts with governments and victims, and of reporting to responsible intergovernmental bodies. This often contributes to a cooperative attitude and better rights performance by governments. Ordinary people are the winners in this, but in a sense states win, too, because there are political and psychological rewards for being seen as a rights-respecting state that cooperates with legitimate international institutions and procedures, for being a good international citizen in a community of civilized states.

As of January 1, 2009 there were thirty-eight special procedures carried out by mandate-holders under various titles: special rapporteurs, independent experts, special representatives of the Secretary General (SG), working groups, and special mechanisms. As the names suggest, some are carried out by individuals, others by small groups. They have in common that their mandates were designed and approved by the Council (or by the predecessor Commission and continued by the Council), and that most of the mandate-holders are appointed directly by the Council, ordinarily by the Chair after consulting member delegations.<sup>20</sup> In addition to their assigned responsibilities, mandate-holders meet annually to exchange information and experiences, and to discuss cross-cutting issues and possible joint action. Since 2005 they have also elected a Coordination Committee from their number to assist in these matters on a year-round basis as well as to help as needed in dealing on their behalf with the High Commissioner and other elements of the U.N. system.

A mandate-holder concentrates on a particular thematic issue or country. (Of the current group, thirty have thematic mandates and eight focus on a single country). Most have considerable scope for initiative and flexibility in carrying out their tasks, including standing authority to initiate contact with governments and to seek information on matters within their mandates, as well as to undertake urgent action procedures where speed is crucial. The Council has a more explicit monitoring responsibility for mandate-holders than it does in the case of the High Commissioner. The Office of the High Commissioner provides technical and administrative support to mandate holders, including research assistance, but the mandate-holders report formally to the Council (not to the High Commissioner) on what they have done, obstacles they have encountered, progress achieved, and the path ahead as they see it. In a sense, they function as "little high commissioners" in their realms of responsibility.

During the long years of debate leading to creation of the High Commissioner's post, some participants had proposed that the High Commissioner assume the duties of the special procedures mandate-holders, and direct and

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20. If they are appointed by the Secretary General that is because the Council chose this option for reasons particular to the case.

coordinate their work as part of the new office's responsibilities. But those supporting this recommendation envisaged the High Commissioner as an autonomous official, a sort of world ombudsman responsible directly to the General Assembly, rather than as a senior civil servant subordinate to the Secretary General. In 1993 the General Assembly decided for the latter arrangement, but it kept the special mandate-holders independent of the High Commissioner. Experience has shown the value of the Assembly's decision on the latter point.

## VII. ADVISORY COMMITTEE ON HUMAN RIGHTS

In its Resolution 5/1 the HR Council created a successor to the former Sub-Commission on Promotion and Protection of Human Rights, but it produced a mere shadow of the predecessor body. The Sub-Commission, a think tank of independent experts elected by the intergovernmental Commission, was as this writer witnessed as the U.S. Government observer at the month-long annual sessions, a vigorous laboratory of ideas, initiatives, and autonomous action. The Sub-Commission's work had considerable impact on the development of the international human rights system over the years, as well as on rights-related events occurring in various countries during its sessions. States took it seriously and accorded it considerable respect. However, the scope and boldness of Sub-Commission initiatives and activities occasionally rankled governments who found it a bit too independent, and a view developed that its mandate should be curtailed. This opinion prevailed in designing the new Advisory Committee. Ironically called a think tank in Resolution 5/1, it is not to do much thinking on its own: It is to conduct research only on topics specifically requested by the Council, and only in compliance with Council resolutions and under Council guidance. The scope of its advice is to be limited to thematic issues (i.e., no countries are to be mentioned). The Advisory Committee is forbidden to adopt resolutions or decisions, though within specified limits it may forward "suggestions" to the Council. It is to meet for only ten working days a year (instead of twenty for the former Sub-Commission).

The Advisory Committee is also precluded from establishing subsidiary bodies on its own (another of the perceived sins of the former Sub-Commission). The Council subsequently created four new mechanisms, under its immediate control, to replace the former Sub-Commission working groups on indigenous populations, slavery, minorities, and the Social Forum.

Whether this tame and well-caged committee will be of much use in advancing the cause of human rights is yet to be seen, but this writer expects little. To give the Advisory Committee something to do and dissuade it from trying to stretch the limits imposed on it, the Council assigned it a major share

of responsibility for the initial phases of the new confidential complaint procedure, a function also performed by the old Sub-Commission. But as discussed in the following section, the value of this assignment is questionable, as is the contemporary value of the complaint exercise itself.

### VIII. THE COMPLAINT PROCEDURE

The Economic and Social Council adopted the Resolution 1503 procedure in 1970<sup>21</sup> to address the growing number of complaints submitted to the U.N. by individuals and groups alleging "a consistent pattern of gross and reliably attested violations of human rights"<sup>22</sup> in one or another country. Governments in that period were able to prevent public discussion at the U.N. of their respective domestic human rights practices and they established the procedure as confidential. Still, many human rights advocates saw creation of the new procedure as a step forward.

Because the multi-stage screening procedure could take years, it was not of much use in bringing relief to actual victims, but it probably influenced some governments to take measures to reduce the level of violations, at least of the kind that had prompted the complaint. This writer can attest that the relatively few cases that finally reached the stage of full closed-door consideration by the Human Rights Commission were regarded very seriously by the member states. Governments targeted in complaints that got to this final stage tended to respond positively to criticisms by their peers, and to promise improvement in the hope that the Commission would vote to drop their case or at least merely "keep it under review," i.e., put it on the agenda for next year's meeting, without establishing a supplementary mechanism such as a special rapporteur who would stay on the case in the interim (albeit still working conditions of confidentiality).

The entire four-stage process consumed huge amounts of time of Secretariat officials, government delegates to the Commission, and the Sub-Commission which conducted the first two screening levels to select cases for Commission consideration. Over time, a view developed that other approaches were needed. The Commission opened more opportunities for public discussion of human rights violations during its annual sessions. It also established the first "special procedures" mandates, discussed above. The Civil and Political Rights Covenant's Optional Protocol<sup>23</sup> provided another avenue for individual complaints. In 1993, the High Commissioner's post was created.

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21. U.N. Econ. & Soc. Council Res. E/48, U.N. Doc E/4832/Add.1 (May 27, 1970).

22. *Id.*

23. G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (Dec. 16, 1966).

The 1503 procedure was no longer the only place in the U.N. for victims to turn and its anachronistic character argued for its discontinuation.

But, perhaps illustrating the adage that bureaucratic processes seem to be self-perpetuating, the General Assembly instructed the new Council to continue along very similar lines. The new process begins with initial screening for admissibility by the Secretariat together with the Chair of a Working Group of the Advisory Committee; cases selected are then sent to the state concerned for response and are also screened by the entire Working Group; those that survive this screening are referred to a Working Group of the Council, which is to report to the full Council and recommend some or no action. The process can take two years from the time the Advisory Committee's Working Group Chair first sends a document to the state concerned. This hardly seems an effective way to try to bring about a halt to violations, nor does it seem much of a disincentive to a potential violator.

Just having an extra but ineffective procedure does not add anything of value to a human rights protection system and can detract from its overall efficiency by absorbing limited resources of time and personnel. Complaints can also be directed to one of the special procedures mandate-holders, who have authority to take action as described above, or to the High Commissioner, who also has authority to take initiatives in response to complaints. To this writer, discontinuance of the confidential complaint procedure should be on the agenda for the scheduled General Assembly review of the Council's institutions in 2011.

#### IX. THE COUNCIL AND THE HIGH COMMISSIONER

The establishment of the High Commissioner's post, with its broad universal mandate, has gone a long way toward remedying previous shortcomings in U.N. human rights implementation machinery. The High Commissioner has authority to initiate preventive action within his/her mandate and to respond urgently to violations; to direct the U.N. Human Rights Center, which since the mid-1990s has been given additional staff and budgetary resources, including field offices; to conduct expanded advisory services and technical assistance programs; and several other important functions. The way the Assembly referred to the High Commissioner's functions in the resolution establishing the HR Council would seem to imply that the Assembly wants the Council to monitor how well the High Commissioner is carrying out these tasks.<sup>24</sup>

I believe the Council should start doing more of this; just receiving an annual written report and listening to a presentation thereon does not seem

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24. G.A. Res. 60/251, *supra* note 5, ¶ 5(g).

adequate. States should delegate but not abdicate their authority when they establish community institutions. The Council should develop a relationship with the High Commissioner more like that of a Board of Directors *vis-a-vis* a Chief Executive Officer (CEO), even if in this case it did not appoint the CEO and cannot replace him or her. Another analogy might be that between a U.S. Congressional oversight committee and a Cabinet officer. The Council already has a good oversight relationship with the special procedures mandate-holders, whom it does appoint and whose mandates it writes and approves.

The Council should exercise enough oversight to satisfy itself that the High Commissioner's field offices, providers of advisory services and technical assistance, and human rights education programs are in fact properly pursuing authentic human rights objectives as these are understood by the community of states. At the same time, it must guard against the temptation to micromanage the office, which could stifle the initiative the post was created to exercise. It is a matter of finding and maintaining the right balance of oversight and flexibility. As an intergovernmental body, the Council is a politically accountable institution and its members directly answerable to their home governments. This is not the case with the Secretariat, expert committees, courts, or of course with NGOs. The Council should engage the High Commissioner in bracing, issue-oriented dialogue during his/her appearances, with searching questions and possible criticisms. The present "interactive dialogue" is perhaps too anodyne.

Neither General Assembly Resolution 60/251 nor Council Resolution 5/1 says anything about reviewing or commenting on the proposed budget for the Office of the High Commissioner. Would this not be an additional way to exercise reasonable oversight responsibility? The Assembly ultimately approves the budget, but should not the Council have a way to determine whether the proposal reflects the Council's priorities? Council review could strengthen the quality of the budget presentation and enhance support for it. Unfortunately, in March 2008 outgoing High Commissioner Louise Arbour informed the Council that it has no role in reviewing any part of the U.N. system-wide Strategic Management Plan or the High Commissioner's own internal management plan, both of which include budgetary matters. This seems a bit too territorial for the good of the human rights effort. The Council could make a legitimate case that its remit from the General Assembly cannot be fulfilled properly without having meaningful input into the budget process.

Finally, in placing the post of High Commissioner "under the direction and authority of the Secretary General" when it established the post in 1993, the General Assembly made the holder of this office essentially a senior civil servant, with all of the limitations and advantages this entails.<sup>25</sup> The Secretary

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25. G.A. Res. 48/141, *supra* note 16, ¶ 4.

General de facto appoints the High Commissioner, as the General Assembly votes on only one nominee, typically without debate. Of course the Secretary General conducts advance consultations, but this is hardly a true election. I believe this system should be changed to a more democratic process, perhaps during the General Assembly's 2011 review of the Council's mandate. However, we should begin considering this matter well before then.

#### X. RECOMMENDATIONS

1) The Human Rights Council should develop a constructive oversight relationship with the High Commissioner and her/his office, focusing on how well the operations of the office are keyed to mainstream human rights goals and priorities. To make this oversight more effective, the Council should seek and obtain the right to review and propose amendments to the draft budget of the office before it is submitted to the General Assembly Fifth Committee.

2) The Council should examine and monitor the working relationships between special procedures mandate-holders and the High Commissioner to determine whether they are optimally-organized to enable both parties to achieve the purposes of their respective mandates, and should recommend any needed improvements.

3) The Council should recommend to the General Assembly that the method of election of the High Commissioner be made more democratic, with nominations by member states and competitive elections.

4) The Council should bear in mind the need to achieve and maintain a good balance between the Universal Periodic Review and its other responsibilities, so that it can take full advantage of the opportunities afforded by its mandate to advance the practical observance of human rights.

5) The Council should revise the mandate of the Advisory Committee to allow more scope for initiative by the Committee to realize its potential to generate new approaches and methods for the implementation of human rights. It should let its think tank think.

6) The Council should recommend and the General Assembly should decide at the scheduled institutional review in 2011 to discontinue the confidential complaint procedure unless it can be shown convincingly that it has produced recognizable benefits for human rights victims and for better protection of human rights, and that other U.N. procedures cannot achieve these goals as well or better.

7) The Council should recommend that the General Assembly expand the existing U.N. Voluntary Fund for Victims of Torture to cover victims of state-caused disappearance, if they reappear, or their immediate families if they do not. The Fund should also provide assistance to the families of victims of summary or arbitrary execution. U.N. human rights special procedures

mandates to investigate and halt these atrocities have existed for over twenty-five years, and it is time to complement them with a mechanism to extend a helping hand to the victims or their families. Eligibility should not be limited to persons winning cases under the Optional Protocol to the Covenant on Civil and Political Rights involving these offenses.