



General Assembly Plenary
Topic 3: Reviewing the Human Rights Council¹

September 10, 2012

According to the United Nations Charter, the UN has four purposes:

1. To maintain international peace and security...
2. To develop friendly relations among nations based on ... equal rights and self-determination of peoples;
3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.
4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.²

Responsibility for each of the first three goals is shared between the General Assembly, in which each member state has one vote, and a council with limited membership. For example, responsibility for international peace and security is shared by the General Assembly (GA) and the Security Council. By contrast, responsibility for equal rights and self-determination is shared by the GA and Trusteeship Council.³

Responsibility for international economic and social cooperation and human rights was originally shared by the General Assembly and the Economic and Social Council (ECOSOC). In 2006, however, the human rights portion of this responsibility was split off and made the joint responsibility of the GA and a new Human Rights Council (HRC), which replaced the Commission on Human Rights (CHR) that reported to ECOSOC. The new HRC consists of 47 members appointed on a regional and rotating basis by the GA. Its mandate is to strengthen “the promotion and protection of human rights around the globe.”⁴

The Human Rights Council was created after the 2005 World Summit, a special session of the General Assembly attended by heads of state. At the summit, world leaders declared:

We acknowledge that peace and security, development and human rights are the pillars of the United Nations system and the foundations for collective security and well-being. We recognize that development, peace and security and human rights are interlinked and mutually reinforcing (Article 9).

In addition, the leaders stated:

We resolve ... to strengthen the United Nations human rights machinery with the aim of ensuring effective enjoyment by all of all human rights and civil, political, economic, social and cultural rights, including the

¹ This background guide was written by Karen Ruth Adams, faculty advisor, and Kedra Hildebrand (2009) and Jessica McCutcheon (2012), research assistants. Copyright 2012 by Karen Ruth Adams.

² “Charter of the United Nations,” 26 June 1945, Chapter I, Article 1, <http://www.un.org/en/documents/charter/>

³ The Trusteeship Council suspended operations in 1994, when Palau, the last remaining United Nations trust territory, became independent. United Nations Trusteeship Council, <http://www.un.org/documents/tc.htm>.

⁴ UN Human Rights Council, “The Human Rights Council,” <http://www2.ohchr.org/english/bodies/hrcouncil/>

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right to development... Pursuant to our commitment to further strengthen the United Nations human rights machinery, we resolve to create a Human Rights Council (Articles 123 and 157).⁵

Although this decision by world leaders was welcomed by many as an opportunity to resolve long-standing problems with the CHR, the final declaration did not include a phrase many considered essential. This phrase was, "The General Assembly shall review within 5 years whether the Council should be transformed into a principal organ."⁶ Instead, in the 2006 resolution creating the HRC, the GA simply declared that it would "review the status of the Council within five years."⁷ This was a compromise position between those who sought to give the HRC a status akin to the Security Council and those who wanted it to remain a subsidiary body of the General Assembly.

The Human Rights Council has now been in existence for six years. The required GA review of the HRC began with evaluation by a working group in October 2010 and February 2011 and ended with a GA resolution in July 2011 that extended the HRC's mandate until further review in 10 to 15 years. In the resolution, the GA largely maintained the HRC's structure and endorsed its work on human rights violations worldwide.

According to many observers, the Council's lack of authority and inclusion of human rights violators have fatally weakened it. For example, Human Rights Watch asserts that "The lack of goodwill to address the weaknesses in the work and functioning of the Council and the categorical refusal to even consider options that would improve the Council's performance are deplorable."⁸ To address these concerns, the GA could pass resolutions modifying the structure and practices of the HRC. In particular, it could elevate the HRC to a position similar to the Security Council.

History and Current Events

To understand why some states and many non-governmental human rights organizations wish to enhance the status of the HRC it is necessary to understand the history of human rights and the record of the UN's original Human Rights Commission, which the HRC replaced in 2006. In addition, one must understand the creation and structure of the HRC, the HRC's universal periodic review and complaint procedures, and the process for amending the UN Charter and the specific amendments that could be proposed.

The History of Human Rights and the Original UN Human Rights Commission

Human rights have been articulated for centuries in religious texts such as the Bible and Koran, and in philosophies such as Buddhism and Confucianism. They have also been expressed in governmental documents such as the British Magna Carta (1215) and Bill of Rights (1689), the French Declaration of the Rights of Man and Citizen (1789), and the American Bill of Rights (1791).⁹

In 1945, the founders of the UN declared that advancing respect for human rights was one of their main goals. To carry out this mission, in 1946 the GA established the Commission on Human Rights (CHR). Originally

⁵ UN General Assembly, "2005 World Summit Outcome," Resolution A/RES/60/1, 24 October 2005, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>

⁶ President of the UN General Assembly, "Revised draft outcome document of the High-level Plenary Meeting of the General Assembly of September 2005: Advance Unedited Version," A/59/HLPM/CRP.1/Rev.2, 5 August 2005, Article 138, http://www.un.org/ga/59/hlpm_rev.2.pdf

⁷ UN General Assembly, "Human Rights Council," Resolution A/RES/60/251, 3 April 2006, http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf

⁸ Human Rights Watch, "Review of the Human Rights Council: A deplorable lack of progress." February 9, 2011 <http://www.hrw.org/news/2011/02/09/review-human-rights-council-deplorable-lack-progress>

⁹ "Human Rights Here and Now: Celebrating the Universal Declaration of Human Rights," Nancy Flowers, ed., University of Minnesota: Human Rights Center, 1998, <http://www1.umn.edu/humanrts/edumat/hreduseries/hereandnow/Part-1/short-history.htm>

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composed of 18 members, it began under the chairmanship of former US first lady Eleanor Roosevelt. The CHR was later expanded to 53 members.

In 1948, the GA proclaimed the Universal Declaration of Human Rights (UDHR), which enumerates the political, civil, economic, social, and cultural rights that all people have in all times and places.¹⁰ For decades, UN member states and human rights organizations lobbied to make the UDHR binding. In 1976, that was achieved when the text of the UDHR was split into two treaties and opened for ratification as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights. Since then, five additional human rights treaties have been written and ratified by many UN member states, including the Convention on the Prevention and Punishment of the Crime of Genocide and the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.

According to historian Paul Gordon Lauren, from the beginning, attempts to establish and enforce universally accepted human rights were marked by “tension between those who desired to advance international human rights, on one hand, and those who insisted on protecting national sovereignty, on the other.”¹¹ The Commission on Human Rights, in particular, was criticized on several fronts. First, some argued the CHR used a double standard to select countries to scrutinize. In particular, it was argued that developing countries were being targeted, while the records of powerful states such as China (in Tibet), Russia (in Chechnya),¹² and the US (at the Abu Ghraib and Guantanamo Bay prisons) were ignored.¹³ Second, the effectiveness of the CHR was called into question by its lack of meaningful intervention in countries with blatant human rights violations such as Angola, Rwanda, Afghanistan, Bosnia Herzegovina, and Kosovo. Finally, the Commission was criticized for including among its 53 members a number of countries with poor human rights records, including Burma, Sudan, North Korea, Zimbabwe, Saudi Arabia, Congo, China and Uzbekistan.¹⁴

Creation and Structure of the Human Rights Council

In 2006, as a result of these criticisms and under the guidance of then-Secretary-General Kofi Annan, the GA replaced the CHR with the Human Rights Council (HRC). The structure and mandate of the HRC were developed to respond to the criticisms of objectivity, effectiveness, and credibility that had plagued the CHR.

To improve objectivity, the GA charged the HRC with reviewing the human rights record of each UN member state every four years. This process is known as universal periodic review.¹⁵ To improve its effectiveness, the HRC was ordered to meet more often than the CHR and rationalize the CHR’s many programs and procedures. Moreover, the HRC was tasked to report directly to the GA instead of indirectly through ECOSOC. According to Lauren, “this was seen as not only elevating the status of human rights and mainstreaming them within the organization as a whole, but also making the Council more universal, more transparent, more representative, and more legitimate than in the past.”¹⁶ Finally, to address concerns about credibility, new standards and voting rules

¹⁰ UN General Assembly, “Universal Declaration of Human Rights,” 1948, Articles 1 and 2, <http://www.un.org/en/documents/udhr/>

¹¹ Paul Gordon Lauren, “To Preserve and Build on its Achievements and to Redress its Shortcomings: The Journey from the Commission on Human rights to the Human Rights Council,” *Human Rights Quarterly*, 29:2 (2007), p. 12.

¹² Serena Parker, “Critics Worry U.N. Human Rights Commission has Lost Moral Authority,” Voice of America, April 6, 2004, <http://www.voanews.com/content/a-13-a-2004-04-06-39-1-66344322/545159.html>

¹³ Yvonne Terlingen, “The Human Rights Council: A New Era in the U.N. Human Rights Work,” *Ethics and International Affairs*, July 9, 2007, http://www.un-ngls.org/site/article.php3?id_article=332&var_mode=calcul

¹⁴ John Bercow, “Kick them out! John Bercow says that the increasingly discredited UN must expel members who deny human rights,” *The Spectator*, January 22, 2005, <http://www.highbeam.com/doc/1P3-884773161.html>

¹⁵ UN Human Rights Council, “Universal Periodic Review,” <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRmain.aspx>

¹⁶ Lauren, “To Preserve and Build on its Achievements,” p. 335.

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were established for states seeking to serve as HRC members. In addition, an independent advisory committee and a new complaint procedure were established.¹⁷

Despite these changes, the Council has been criticized for its failure to overcome many of the problems that plagued the Commission. For example, voting continues to be primarily on regional lines, with states supporting others in their region instead of applying objective standards. In addition, the HRC continues to have members with poor human rights records. Regional groups select the candidates for seats on the HRC and even countries with poor human rights records, such as Sudan, have been seated.¹⁸ Moreover, the regional distribution rules mean that many of the member states are Muslim. Thus the HRC has been quick to condemn Israel but slow to reprimand the Palestinians and Arab states such as Lebanon.¹⁹ While the HRC has been praised for prompt action in Syria, its failure to address situations in other Arab states such as Bahrain has met with criticism.²⁰

Universal Periodic Reviews

One of the loudest criticisms of the HRC's predecessor was that it focused on certain states while ignoring others. To rectify this situation, the GA charged the HRC with conducting reviewing human rights in each member state every four years, "with hearings held in public and webcast live."²¹ In September of 2007 the HRC adopted a calendar detailing the order in which all 192 UN Member States would be reviewed. By 2011 the first four year cycle of UPR (Universal Periodic Review) had been completed. Now the second round of UPRs has begun. UPRs are conducted by the 47 members of the HRC and are based on three documents:

- 1) information provided by the State under review, which can take the form of a "national report"
- 2) information contained in the reports of independent human rights experts and groups, known as the Special Procedures, human rights treaty bodies, and other UN entities;
- 3) information from other stakeholders including non-governmental organizations and national human rights institutions.²²

From these documents and from mandatory discussion with the state in question, three members of the UPR Working Group prepare a report and submit it to the HRC plenary for approval. Summaries of UPR reports are also submitted to the GA-3, which can take further action on them in the form of country-specific resolutions.

In general, the UPR process has been positive. According to the *Economist* magazine, "Most states prepared carefully; many fielded big delegations headed by a minister." Although the rules of procedure mean that "Some abusers could try to wreck the process by filibustering, ... that will be caught on camera. Serial offenders may tell their critics to get lost, but that does not mean that the process isn't being taken seriously--by the accused or

¹⁷ UN Human Rights Council, "The Human Rights Council."

¹⁸ Associated Press, "Sudan withdraws candidacy for UN Human Rights Council Seat after criticism on rights record," 31 August 2012 http://www.washingtonpost.com/world/middle_east/sudan-withdraws-candidacy-for-un-human-rights-council-seat-after-criticism-on-rights-record/2012/08/31/4e8e102c-f3b5-11e1-b74c-84ed55e0300b_story.html

¹⁹ Terlingten, "The Human Rights Council." See also Brett D. Schaefer, "U.S. to Seek Seat on the U.N. Human Rights Council," Heritage Foundation Web Memo #2375, April 1, 2009, <http://www.heritage.org/Research/InternationalOrganizations/wm2375.cfm>

²⁰ Human Rights Watch, "UN Human Rights council: Build on Recent Successes," 22 September 2011, <http://www.hrw.org/news/2011/09/22/un-human-rights-council-build-recent-successes>

²¹ "A screaming start: the UN and human rights," *Economist* 387:8577 (April 26, 2008), p. 78.

²² UNHRC, "Basic facts about the UPR," <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx>

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by the accusers. The review could sway decisions on multilateral aid, and embolden local activists.”²³ Yet HRC reports are simply recommendations; they are not binding unless the Security Council decides to enforce them.

The Chinese and American UPRs were among the first times that their policy makers had to discuss and defend their human rights before their peers. Interestingly, the main criticisms of the US UPRs came from US citizens, who were surprised to learn that the US government was reporting to the UN on Arizona border and deportation laws.²⁴ By contrast, the main criticisms of China were from human rights organizations, such as Human Rights Watch, which called the Chinese review a “farce.”²⁵

The Complaint Process

In addition to the UPR, the HRC has a complaint process that allows states with human rights abuses to be scrutinized more often than every four years. In the complaint process (also known as the 1503 procedure), the HRC Working Group on Communications receives complaints from individuals and groups about human rights violations in particular states. Those that are not anonymous or “manifestly ill-founded” and appear “to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms,” are transmitted to the HRC’s Working Group on Situations (WGS). The WGS consists of five HRC member states appointed by their respective regions. Twice per year, the WSG meets to review the items forwarded by the Working Group on Communications. These items include both the original complaints and the state responses. Finally, the WGS forwards to the HRC any items it deems worthy of attention.²⁶ At that point, the 47 members of the HRC decide whether to discuss the situation, appoint a special rapporteur to investigate the situation, and/or pass a resolution on the situation.²⁷

The situation in Syria has starkly illuminated the limitations of the complaint procedure, given the HRC’s current status. Regardless how many reports the Council writes, because they are only recommendations, efforts to impose sanctions and other methods to compel states to comply with international human rights law can be stymied by P-5 states, such as Russia and China, that are allies of the state in question.²⁸

Possible Amendments to the UN Charter

To address this situation, the GA could attempt to change the structure of the HRC and elevate it to the status of a principal organ of the UN. This would give it the same independent status as the GA, Security Council, ECOSOC, Trusteeship Council, and International Court of Justice, none of which reviews the work of the other.²⁹

²³ “A screaming start: the UN and human rights,” *Economist* 387:8577 (April 26, 2008), p. 78.

²⁴ Colum Lynch, “Arizona governor attacks U.S. for reporting immigration law to U.N.,” Turtle Bay blog, *Washington Post*, September 1, 2010, http://turtlebay.foreignpolicy.com/posts/2010/09/01/arizona_governor_attacks_us_government_for_fulfilling_its_legal_obligations

²⁵ Human Rights Watch, “China: Government Rebuffs UN Human Rights Council,” June 11, 2009, <http://www.hrw.org/news/2009/06/10/china-government-rebuffs-un-human-rights-council>

²⁶ UN Human Rights Council, “Human Rights Council Complaint Procedure,” <http://www2.ohchr.org/english/bodies/chr/complaints.htm>

²⁷ On special rapporteurs, see Terlingen, “The Human Rights Council.”

²⁸ For the most recent HRC report on Syria (August 2012), see UN Human Rights Council, <http://www.ohchr.org/EN/HRBodies/HRC/Pages/HRCIndex.aspx>. Both the HRC and the UN General Assembly have condemned the Syrian government’s use of force against civilians, but the Security Council has been paralyzed and unable to act on the situation due to two actual and other threatened Chinese and Russian vetoes. For the text of vetoed Security Council draft resolutions, scroll to the bottom of Security Council Report, “UN Documents for Syria,” <http://www.securitycouncilreport.org/un-documents/syria/>

²⁹ “Charter of the United Nations,” Chapter III, Article 7.

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According to Amnesty International, “Only if the Human Rights Council is conceived as a principal organ of the UN will human rights take their proper place next to development and security as one of the three pillars of the United Nations.”³⁰

Elevating the HRC to the status of a principal organ would require amending Chapter III, Article 7 of the UN Charter to list HRC among the other principal organs. In addition, it would require adding a new chapter to the Charter covering the purpose and powers of the HRC. In addition, UN member states could go farther and amend the Charter to make HRC resolutions binding and give it the ability to use force, sanctions, and other means to enforce its decisions.³¹

The process for amending the UN Charter is summarized in Chapter XIII of the Charter. Amendments require a two-thirds vote in the General Assembly and the assent of all permanent members of the Security Council. To come into effect, amendments must be ratified by two-thirds of all UN member states, including all five of the permanent members of the Security Council (often referred to as the P-5).

Given the importance of the permanent members of the Security Council in the amendment process, it is necessary to consider whether they would support elevating the status of the HRC. This would no doubt depend on factors unique to each state. But at the same time, the P-5 may share some a common interest in avoiding HRC scrutiny or in designating certain human rights situations security issues that they alone can decide.

The significance of the first issue – the desire of the P-5 to avoid HRC scrutiny – has been reduced to some extent by the creation of the universal periodic reviews. By contrast, the Security Council’s paralysis over Syria illustrates the continued interest of P-5 members in monopolizing UN decision making on enforcement operations. This situation would be overcome only if the HRC could implement enforcement operations against P-5 members. According to Amnesty International, the rights violations carried out by permanent five members in recent years include:

- China: imprisonment, torture, and execution of political protesters
- France: racial abuse and excessive use of force by police officers
- Russia: violence and intimidation against human rights activists
- United Kingdom: complicity in torture of prisoners of war
- United States: torture of prisoners of war, use of the death penalty, economic sanctions against Cuba³²

To reduce the concern of Security Council members about a reduction in their powers, an amendment elevating the HRC to the status of a principal organ could include language akin to that already in the section pertaining to the General Assembly, which states that

while the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests (Chapter IV, Article 12).

³⁰ Amnesty International, “UN: Proposed Human Rights Council must not be stripped of its essentials,” Public Statement, AI Index: IOR 40/024/2005, News Service No: 211, 4 August 2005, <http://www.un-ngls.org/orf/un-summit-amnesty-3.doc>.

³¹ When states join the UN, they agree to abide by Security Council decisions (UN Charter, Chapter V, Article 25). The resolutions of other UN bodies are simply recommendations. In addition, the Security Council can take steps to enforce its decisions (Chapter VII). The other principal organs can only urge member states to comply with their recommendations. The only exception to this is the GA’s ability to penalize states that fail to pay their UN dues (Chapter IV, Article 19).

³² Amnesty International, “Human Rights by Country,” <http://www.amnesty.org/en/human-rights/human-rights-by-country>, accessed 9 September 2012.

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This would reassure the Security Council that it remained “the UN’s premier body, charged with the most essential security tasks.”³³ Yet it would go against the idea that human rights are universal. In the UDHR, the GA proclaimed that “All human beings are born free and equal in dignity and rights.”³⁴ Similarly, in the 2005 World Summit Outcome, UN member states declared:

We reaffirm that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing and that all human rights must be treated in a fair and equal manner, on the same footing and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, all States, regardless of their political, economic and cultural systems, have the duty to promote and protect all human rights and fundamental freedoms.³⁵

It is important to note that it is not just permanent members of the Security Council that may wish to prevent the HCR from being elevated to the level of a principal organ. As Amnesty International’s UN specialist, Yvonne Terlingen explains,

Although many countries wished the Human Rights Council to have ... principal organ status, putting it on an equal footing with the Security Council was not a particularly welcome idea to some key developing countries. They did not look favorably upon linking the UN’s main human rights body to the all-powerful Security Council, which can take binding decisions.”³⁶

Thus another option would be to specify in the amendment elevating the HCR that HCR resolutions are only recommendations to states. There is precedent for this in the chapters of the Charter addressing the GA and ECOSOC. But if the HCR’s resolutions are only recommendations, would human rights really have been elevated to the same level as security issues?

Previous Committee Work on This Issue

During its March and June 2012 sessions, the HRC passed 61 resolutions, most of which concerned human rights situations in particular countries. Others addressed broader human rights issues such as “protection of human rights in protests” and “human rights of internally displaced persons.”³⁷

In May of 2010, Special Rapporteur Philip Alston released a report focusing on the use of targeted killing in the war on terrorism. The use of new technology such as pilotless drones creates particularly difficult problems for accountability in international law. Alston notes that a key element of this debate is identifying who qualifies as a direct participant in hostilities (DPH). According to IHL, direct participants may be targeted; however there are three controversies over DPH:

First, there is dispute over the kind of conduct that constitutes “direct participation” and makes an individual subject to attack. Second, there is disagreement over the extent to which “membership”

³³ Karen A. Mingst and Margaret P. Karns, *The United Nations in the 21st Century*, 3rd edition (Boulder: Westview, 2007), 27.

³⁴ UN General Assembly, “Universal Declaration of Human Rights,” Articles 1 and 2.

³⁵ UN General Assembly, “2005 World Summit Outcome,” Article 121.

³⁶ Terlingen, “The Human Rights Council.”

³⁷ Documents related to each Session of the Human Rights Council, <http://www.ohchr.org/EN/HRBodies/HRC/Pages/Sessions.aspx>

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in an organized armed group may be used as a factor in determining whether a person is directly participating in hostilities. Third there is controversy over how long direct participation lasts.³⁸

The US has advocated a position that accepts a broad understanding of DPH. This interpretation allows for the targeting of alleged members of terrorist organizations even though they might not actively be engaged in hostilities.

Among the situations in other states that certain P-5 members may not wish to have the HRC discuss is the situation in Israel and the Palestinian territories. Only after months of heated discussion did the HRC endorse a report on human rights abuses during the three-week war in the Gaza Strip in January 2009. The report detailed evidence of war crimes by both the Israeli army and Hamas fighters. According to the Rome Statute of the International Criminal Court (ICC), war crimes are “grave breaches of the Geneva Conventions of 12 August 1949” including torture, extensive destruction that is not militarily necessary, and intentionally targeting civilian populations.³⁹ According to Amnesty International, during the war, Israel used “battlefield weapons against a civilian population trapped in Gaza, with no means of escape,” and Hamas and other Palestinian groups “fired hundreds of rockets into southern Israel, killing three Israeli civilians, injuring scores and driving thousands from their homes.”⁴⁰ Of the 47 HRC members, 25 (including China and Russia) voted to endorse the report; six (including the US) voted not to do so; 11 abstained, and five (including the UK and France) cast no vote.⁴¹

The situation in the Darfur region of Western Sudan has also divided the HRC. Since 2003, more than 350,000 people have been killed, and more than 2 million civilians have been displaced.⁴² Yet the HRC did not pass a resolution about the situation until 2007. Even then, due to pressure from African and Arab states, as well as China, the resolution did not identify the Sudanese government and the Arab Janjaweed militias as the main source of the violence.⁴³ In 2009, the ICC indicted Sudanese President Omar Hassan al-Bashir with five counts of crimes against humanity.⁴⁴ According to the Rome Statute of the ICC, crimes against humanity involve “a widespread or systematic attack directed against any civilian population.”⁴⁵ In 2008, Sudan was the country with the largest number of internally-displaced people in the world.⁴⁶ As of then, most Sudanese IDPs were living in 65 camps established by international organizations with the permission of the Sudanese government. Others settled in

³⁸ Philip Alston, “Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston” 28 May 2010, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add6.pdf>

³⁹ International Criminal Court, “Rome Statute,” 1998, Article 8, available at <http://www.icc-cpi.int/Menus/ICC/Legal+Texts+and+Tools/Official+Journal/Rome+Statute.htm>

⁴⁰ Amnesty International, “Impunity for war crimes in Gaza and southern Israel a recipe for further civilian suffering,” 2 July 2009, <http://www.amnesty.org/en/news-and-updates/report/impunity-war-crimes-gaza-southern-israel-recipe-further-civilian-suffering-20090702>

⁴¹ Neil MacFarquhar, “U.N. Council Endorses Gaza Report,” *New York Times*, October 16, 2009, <http://www.nytimes.com/2009/10/17/world/middleeast/17nations.html?scp=1&sq>

⁴² UN High Commissioner for Refugees, “Chapter 7: Internally displaced persons: Box 7.2 Darfur,” *The State of the World's Refugees 2006*, 19 April 2006, <http://www.unhcr.org/4a4dc1a89.html>

⁴³ “Talking Darfur to Death,” *New York Times* (editorial), 31 March 2007, <http://query.nytimes.com/gst/fullpage.html?res=9C0DE7D81130F932A05750C0A9619C8B63&scp=4&sq=> See also Terlingen, “The Human Rights Council.”

⁴⁴ “World: Countries and Territories: Sudan,” *New York Times*, updated 20 October 2009, <http://topics.nytimes.com/top/news/international/countriesandterritories/sudan/index.html>

⁴⁵ International Criminal Court, “Rome Statute,” 1998, Article 7.

⁴⁶ UNHCR, “Internally Displaced People Figures,” <http://www.unhcr.org/pages/49c3646c23.html>

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neighboring towns or fled to the bush, where it is nearly impossible to receive aid.⁴⁷ In January 2011, government forces attacked the Zamzam camp for displaced persons near Darfur.⁴⁸

Even though Sudan has now been divided into Sudan and South Sudan, violence persists. The Darfur region continues to be mired in conflict. August 17, 2012 saw reports of renegade soldiers attacking civilians and looting. Disputes over an oil pipeline continue to make the relationship between Sudan and South Sudan tense. There has been growing talk that the regime of President al-Bashir is faltering. In May of 2012 the Security Council responded to the continuing violence with Resolution 2046, which calls for an immediate halt to fighting and threatens sanctions for noncompliance.⁴⁹ While the Security Council has acted in the situation in Sudan, it has been a slow process. If the HRC had greater authority, intervention might have occurred more rapidly.

Conclusion

In 2006, Secretary General Annan declared that “lack of respect for human rights and human dignity is the fundamental reason why the peace of the world today is so precarious, and why prosperity is so unequally shared.”⁵⁰ Upon his urging, the GA created the HCR and resolved to review its status within five years.

In the GA’s 2011 review of the HRC, no significant changes to the structure or power of the Council were made. As a result, many observers question the ability of the Council, like the Commission before it, to fairly and effectively enforce human rights law.

Today the question remains: are UN member states as committed to human rights as they are to security? Do the permanent five members of the Security Council share this commitment? If the answer to these questions is “yes,” the GA could work to amend the UN Charter to elevate the HCR to the status of a principal organ. If the answer is “no,” can the GA find other ways to ensure that human rights are respected so that the fourth goal of the UN is met? In developing your country’s position on this issue, consider the following questions:

- Did your country vote for the GA resolution authorizing the Human Rights Council? Is it currently a member of the Council?
- Which human rights treaties has your country ratified?
- Are people in your country currently experiencing human rights violations? If so, what is the nature of the violations, and why are they occurring? Has the HRC passed resolutions or taken any other action to address these violations?
- Is your country concerned with human rights violations in other countries? If so, what kinds of violations and/or what parts of the world are of particular concern? If not, why not?
- Is your country satisfied with the HCR’s resolutions regarding the situation in Syria, Sudan, and Israel? Why or why not?
- How can the GA best promote human rights? In particular, what can and should it do to make the HRC more objective, effective, and credible?
- Should the GA begin the process of amending the UN Charter to elevate the HRC to the status of a principal organ? Why or why not? If so, how should the Charter be amended?

⁴⁷ Amnesty International, “Displaced in Darfur,” January 2008, <http://www.amnesty.org/en/library/info/AFR54/001/2008>

⁴⁸ Human Rights Watch, “Sudan: New Attacks on Civilians in Darfur,” 28 January 2011, <http://www.hrw.org/news/2011/01/28/sudan-new-attacks-civilians-darfur>

⁴⁹ New York Times, “Sudan” 19 August 2012 <http://topics.nytimes.com/top/news/international/countriesandterritories/sudan/index.html>

⁵⁰ UN News Centre, “Annan Inaugurates U.N.’s Strengthened Human Rights Council with Appeal for ‘New Era,’” June 19, 2006, <http://www.un.org/apps/news/storyAr.asp?NewsID=18909&Cr=human&Cr1=right>

Recommended Reading

Amnesty International. "Human Rights by Country." Available at <http://www.amnesty.org/en/human-rights/human-rights-by-country>

Amnesty International is a non-governmental organization that works to promote human rights. This site is a good source of information on the human rights and refugee situations in most countries.

Annan, Kofi. "'The eyes of the world are upon you': excerpt from Secretary-General Kofi Annan's address to the first meeting of the Human Rights Council held in Geneva on 19 June 2006." *UN Chronicle* 43:3. Sept-Nov 2006. Available from Infotrac High School Reference.

In this speech, Secretary General Annan expressed his hope that the GA would elevate the HRC to a principal organ and highlighted the need for a "change of culture" to properly address human rights.

Human Rights Watch. "Review of the Human Rights Council: A deplorable lack of progress." February 9, 2011. Available at <http://www.hrw.org/news/2011/02/09/review-human-rights-council-deplorable-lack-progress>

In this article, Human Rights Watch castigates the UN for failing to carry out a thorough review and reform of the HRC. Search for similar articles and coverage of particular countries.

Terlingen, Yvonne. "The Human Rights Council: A New Era in the U.N. Human Rights Work." *Ethics and International Affairs*. July 9, 2007. Available at http://www.un-ngls.org/site/article.php3?id_article=332&var_mode=calcul

This article by Amnesty International's UN specialist reviews the history of the CHR and the creation of the HCR. It also details HCR's accomplishments and challenges during its first year of operation. It is a good source for ideas on reforming the Council.

United Nations General Assembly. "Human Rights Council." Resolution A/RES/60/251. 3 April 2006. Available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf

This is the resolution that created the HRC.

United Nations General Assembly. "Weathering Early Criticism, Human Rights Council has 'Carved a Niche For Itself': GA/10776." (November 4, 2008.) Available at <http://www.un.org/News/Press/docs/2008/ga10776.doc.htm>

This article summarizes the General Assembly's discussion of the HCR's 2007-2008 annual report. For more recent annual reports, see http://www2.ohchr.org/english/bodies/hrcouncil/annual_reports.htm

United Nations Human Rights Council. Website. Available at <http://www.ohchr.org/EN/HRBodies/HRC/Pages/HRCIndex.aspx>

This is the HRC's homepage. By clicking on the "Documentation" link, you can review UPR and complaint procedures documents for your country. You can also see the current list of HRC member states.

United Nations Treaty Collection. "Chapter IV: Human Rights." Available at <http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>

From this page, you can read the text of the 1948 UDHR and subsequent human rights treaties, which the HCR is charged with enforcing. You can also find out whether your state has ratified these treaties. If so, you may be able to read statements about how it interprets them.