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Strengthening the Human Rights Council: The 2015 Presidency of German Ambassador *Joachim Rücker*

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I. Introduction

The United Nation's (UN) human rights pillar stands on solid grounds comprising:

- The Human Rights Council (HRC),¹ the main intergovernmental body responsible for the promotion and protection of human rights, with its Special Procedure mandate-holders and the Universal Periodic Review Working Group.
- The Universal Declaration on Human Rights (UDHR)² epitomising the indivisibility and universality of human rights.
- International human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR)³ and the International Covenant on Economic, Social and Cultural Rights (ICESCR),⁴ with their respective treaty bodies driving the process of integrating individual rights into our societies and acting as a constant reminder of States' human rights obligations.

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¹ United Nations General Assembly (UN GA) Res. 68/251 of 3 April 2006.

² Universal Declaration of Human Rights, 10 December 1948, GA Res. 217 A (III) of 10 December 1948 (UDHR).

³ International Covenant on Civil and Political Rights, 19 December 1966, UNTS 999, 171 (ICCPR).

⁴ International Covenant on Economic, Social and Cultural Rights, UNTS 993, 3 (ICESCR).

acting as guardian of these commitments and as a source for assistance and advice.

On 8 December 2014, Ambassador *Joachim Rucker*, Permanent Representative of Germany to the United Nations Office and the other international organisations in Geneva was elected to be President of the Human Rights Council for its 9th cycle in 2015.⁶ Since 1 January 2013, Germany has been a member of the Human Rights Council,⁷ serving for a period of three years, and it was re-elected by the General Assembly in fall 2015.⁸

II. The Human Rights Council

The Human Rights Council emerged in response to the failures of the former Commission on Human Rights with a view to strengthen the UN's human rights pillar and to implement the normative framework that had been further developed, in particular after the end of the Cold War and following the Vienna Declaration and Programme of Action of 25 June 1993.⁹

Following the World Summit in 2005, Heads of States and Governments decided therefore through General Assembly (GA) Resolution 60/251 to follow *Kofi Annan's*

⁵ GA Res. 48/141 of 7 January 1994.

⁶ See Statement of the then President-elect to the Human Rights Council, 8 December 2014, available at: <http://www.ohchr.org/E/N/NewsEvents/Pages/DisplayNews.aspx?NewsID=15423&Lang=D=E> (accessed on 27 December 2015).

⁷ GA, 67th Session, 34th Plenary Meeting, UN Doc. A/67/PV.34 (2012).

⁸ *Id.*, 70th Session, 42nd Plenary Meeting, UN Doc. A/70/PV.42 (2015).

⁹ Outcome of the World Conference on Human Rights, "Vienna Declaration and Programme of Action", organised by the United Nations between 14–25 June 1993, UN Doc. A/CONF.157/23 (1993). See also *Moghna Abraham*, A New Chapter for Human Rights: A Handbook on Issues of Transition from the Commission on Human Rights to the Human Rights Council (2006); *Theodor Kohler*, Performance and Challenges of the Human Rights Council: an NGO View, International Policy Analysis, Friedrich-Ebert-Stiftung, February 2013, available at: <http://library.fes.de/pdf-files/ica/09680.pdf> (accessed on 17 February 2016); *Hanns Schumacher*, Living Up to Our Own Standards?, URG Insights (2013), available at: <http://www.universal-rights.org/blog/living-up-to-our-own-standards-ambassadorschumacher/> (accessed on 11 February 2016).

and Human Rights for All", where he stated that

[t]he establishment of a Human Rights Council would reflect in concrete terms the increasing importance being placed on human rights in our collective rhetoric [...] would raise human rights to the priority accorded to it in the Charter of the United Nations [...] and would offer architectural and conceptual clarity.¹⁰

The Council was tasked to, *inter alia*, promote and protect human rights, to respond to urgent and chronic human rights violations in specific country situations in a timely manner, to promote mainstreaming of human rights, and to provide a platform for human rights defenders and civil society as well as for victims when their rights have been violated by governments.¹¹

The HRC as the main body responsible for the promotion and protection of human rights was also equipped with an innovative and unique peer-to-peer review mechanism for human rights – the Universal Periodic Review (UPR). Complementing the Special Procedure mechanisms, it represents an additional instrument available to the UN human rights system. Special Procedures, *i.e.* Working Groups, Special Rapporteurs, and Independent Experts, are experts created and mandated by the HRC that are dealing with specific human rights issues, thematic and/or country-situations, reporting usually once per year in Council sessions.¹²

The UPR on the other hand is a State-driven process, which provides the opportunity for each State to present their human rights record, to explain what actions they have taken to improve it, and to fulfil their human rights obligations.¹³ The UPR is designed to ensure equal treatment for every country when its human rights situations are assessed. The UPR will, at the end of 2016, conclude its second cycle and up to today, all UN Member States scheduled for review have presented their human rights

¹⁰ GA, Report of the Secretary-General, "In Larger Freedom: Towards Development, Security and Human Rights for all", UN Doc. A/59/2005/Add.1 (2005), I.

¹¹ GA Res. 60/251 of 3 April 2006, paras. 1–5.

¹² *Marc Limon/Ted Piccone*, Policy Report: Human Rights Special Procedures: Determinants of Influences, March 2014, available at: <http://www.universal-rights.org/urg-policy-reports/special-procedures-determinants-of-influence/> (accessed on 27 December 2015).

¹³ GA Res. 60/251 of 3 April 2006, para. 5 (e).

track record to the international community. Germany's last review, when more than 130 recommendations were addressed to Berlin, took place in 2013.¹⁴

In addition, the Human Rights Council also has a complaint mechanism to address consistent patterns of gross and reliably attested violations of human rights and fundamental freedoms occurring in any part of the world and under any circumstances; this so-called Working Group on Situations which is composed of one representative per region can refer cases to the HRC which are then reviewed in private meetings of the Council. Furthermore, the Council has an Advisory Committee, composed of eighteen experts that are elected by the HRC, which is mandated to provide expertise to the Council upon request, focusing in particular on studies and research-based advice.

The first session of the 47-member HRC took place in June 2006 and was opened by the then President of the General Assembly, *Jan Eliasson*. Ever since, the Council has held three sessions per year – each March for four weeks, when the high-level segment takes place, and each June and September for three weeks. In addition, by the end of its 9th cycle, 24 Special Sessions were held by the HRC.¹⁵

The Council's working methods and procedures are laid out in the institution-building package, adopted in 2007 through HRC Resolution 5/1.¹⁶ A first review of the HRC took place in 2011.¹⁷

¹⁴ Human Rights Council (HRC), Report of the UPR Working Group on Germany, UN Doc. A/HRC/24/9 (2013). See also *Berenike Schriewer*, Shining a Light on the Human Rights Situation in Germany: The Human Rights Council's Report on Germany in the Second Cycle of the Universal Periodic Review, *German Yearbook of International Law* 56 (2013), 513; *Petra Follmar-Otto*, Nach der UPR-Überprüfung Deutschlands im UN-Menschenrechtsrat: Vorschläge zum Umgang mit Empfehlungen, 2013, available at: http://www.institut-fuer-menschenrechte.de/fileadmin/_migrated/tx_commerce/Nach_der_UPR_Ueberpruefung_Deutschlands_im_UN_Menschenrechtsrat_Vorschlaege_zum_Umgang_mit_den_Empfehlungen.pdf (accessed on 17 February 2016).

¹⁵ See Office of the High Commissioner for Human Rights (OHCHR), United Nations Human Rights Council Sessions, available at: <http://www.ohchr.org/EN/HRBodies/HRC/Pages/Sessions.aspx> (accessed on 11 January 2016).

¹⁶ HRC Res. 5/1 of 18 June 2007.

¹⁷ HRC Res. 16/21 of 12 April 2011 and GA Res. 65/281 of 20 July 2011. See also *Kamelia Kemleva/Benjamin Lee/Claire Mabon/Chris Sidoti*, Expertise in the Human Rights Council: A Policy Paper Prepared under the Auspices of the Geneva Academy of International Humanitarian Law and Human Rights (2010), available at: <http://www.geneva-academy.ch/docs/expertise.pdf> (accessed on 17 February 2016); *Theodor Rathgeber*, Reviewing the Human Rights Council: Perspectives from Civil Society, International Policy Analysis, Friedrich-Ebert-Stiftung, November 2010, available at: <http://library.fes.de/pdf-files/icz/07625.pdf> (accessed on 17 February 2016).

III. The Human Rights Council Before Its 10th Cycle: Achievements and Challenges

Ten years on, the Council has managed to shed light on grave country-specific human rights situations and managed to put timely thematic human rights challenges on the agenda. On country situations the Council has achieved notable successes: Through the establishment of a Commission of Inquiry on the human rights situation in the Democratic People's Republic of Korea, for instance, the international focus, including in the Security Council, shifted from a purely security-driven outlook to a much more human rights-based one.¹⁸ Furthermore, since 2011, the Commission of Inquiry on the human rights situation in Syria has documented and reported on the gross human rights violations and abuses committed during the ongoing conflict and may one day help to establish accountability for the Syrian people.¹⁹ Another example includes the *de facto* or *de jure* abolishment of the death penalty in a number of countries as a result of UPR recommendations received.²⁰

On thematic issues, the Human Rights Council contributes, shapes, and initiates many important debates on human rights, including on timely topics such as climate change, sustainable development goals, terrorism, and the freedom of religion or belief. For instance, the HRC affirmed, as the first UN body, that the same rights people enjoy offline must be protected online,²¹ be it with regard to the right to privacy or the right to freedom of expression.

Despite such achievements, challenges for the young institution continue to impede its efficiency and effectiveness due to increasingly diverging aspirations. In particular among Western policy-makers and media, the HRC is criticised for not living up to its normative claim or providing effective remedies for human rights

¹⁸ See HRC, Report of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, UN Doc. A/HRC/25/63 (2014), and HRC Res. 22/13 of 9 April 2013.

¹⁹ See latest and 10th Report of the Commission of Inquiry on Syria, UN Doc. A/HRC/30/48 (2015), and HRC Res. S-17/1 of 22 August 2011, para. 13.

²⁰ See HRC, Press Release, Human Rights Council Holds High-Level Panel on the Death Penalty, 4 March 2015, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15640&LangID=E#sthash.bzNaTgC3.dpuf> (accessed on 11 January 2016).

²¹ HRC Res. 20/8 of 16 July 2016, para. 1.

lations.²² In addition, it is criticised for overemphasising the Israeli-Palestinian conflict by devoting a sole agenda item to this human rights situation. Others, particularly in the global South, remain sceptical of the Council, arguing that the body exceeds its mandate by interfering in domestic affairs, promoting thereby double standards, and, allegedly, impeding the principles of 'genuine dialogue' and 'cooperation' which ought to govern the HRC.²³

A. First Challenge: Membership

A first and important challenge to the HRC is the issue of *membership*. In 2006, then Ambassador of the United States to the United Nations, *John Bolton*, justified the American vote against GA Resolution 60/251 first and foremost with the fact that the resolution did not sufficiently address how to prevent the world's worst human rights abusers from becoming members in the HRC.²⁴ Indeed, past, present, and future members of the HRC hold the main responsibility for pursuing and fulfilling the body's important mandate, and thereby of "promoting universal respect for the protection of all human rights and fundamental freedoms for all."²⁵

Membership in the Council is based on equitable geographic distribution among the UN regional groups and members are elected for a period of three years.²⁶ Re-election is possible, but after two consecutive terms a minimum pause of one year

needs to be observed.²⁷ For instance, the United States of America will not be a member in 2016 after two consecutive terms; Germany will have to pause in 2019.

Until today, the question of membership remains a topic of debate that lets many question the overall credibility of the body in dealing with the promotion and protection of human rights worldwide.²⁸ Much attention was paid when in 2013 Saudi Arabia was elected by 140 votes to become a member of the Council²⁹ and even more when in 2015 the Saudi Ambassador took up a function in his personal capacity in the Consultative Group of the HRC, which is responsible for interviewing candidates for Special Procedure mechanisms.³⁰ Burundi received 162 votes in October 2015 to sit on the Council for the next three years as well.³¹

At the same time, it is noteworthy that members need to position themselves – for instance on women's rights, LGBTI rights, or on the death penalty – in front of the world community. Furthermore, through a HRC membership that reflects overall the composition of the entire community of States represented in the United Nations, the body can unfold more impact. Especially decisions of the Council that are reached through an inclusive, transparent, and cooperative process (approx. 70% of the Council's resolutions are adopted by consensus), are more likely to be implemented as well, instead of being only declared.

GA Resolution 60/251 did stipulate that "members elected to the Council shall uphold the highest standards in the promotion and protection of human rights, fully cooperate with the Council, and be reviewed under the universal periodic review

²⁷ *Ibid.*, para. 7.

²⁸ For further information see also *Ronen Steinke*, *Kompromisse mit Autokraten*, *Sueddeutsche Zeitung*, 13 September 2015; BBC News, *Concerns over new UN Human Rights Council members*, available at: <http://www.bbc.com/news/world-24922058> (accessed on 11 February 2016); *Asbley Couburn*, *Cartoons highlight anger at Saudi Arabia's position as head of key UN human rights panel*, *The Independent*, 3 January 2016, available at: <http://www.independent.co.uk/news/world/middle-east/saudi-arabia-execution-sheikh-nimr-al-nimr-cartoons-un-human-rights-a6794391.html> (accessed on 11 February 2016); *Lauren Vriens*, *Troubles Plague UN Human Rights Council*, *Council on Foreign Relations*, available at: <http://www.cfr.org/international-organizations-and-alliances/troubles-plague-un-human-rights-council/p9991> (accessed on 11 February 2016).

²⁹ GA, 68th Session, 51st Plenary Meeting, UN Doc. A/68/PV.51 (2013), 3.

³⁰ See HRC Res. 5/1 (2007) of 18 June 2007, II. A., paras. 47–52 and OHCHR, *Press Release*, *Clarification issued in response to media queries on the role of the Saudi Arabian Ambassador in the Consultative Group*, 24 September 2015, available at: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16496> (accessed on 11 January 2016).

³¹ GA, 70th Session, 42nd Plenary Meeting, UN Doc. A/70/PV.42 (2015), 4.

²² See, for instance, the position of the European Union as expressed at the 72nd GA meeting of the 60th session of the GA, GA, 60th Session, 72nd Plenary Meeting, UN Doc. A/60/PV.72 (2006), 9, reiterated at the 100th GA meeting of the 65th session of the GA, GA, 65th Session, 100th Plenary Meeting, UN Doc. A/65/PV.100 (2011), 24.

²³ See, for instance, the positions of Cuba as expressed at the 72nd GA meeting of the 60th session of the GA, GA, 60th Session, 72nd Plenary Meeting, UN Doc. A/60/PV.72 (2006), 3, and of China at the 100th GA meeting of the 65th session of the GA, GA, 65th Session, 100th Plenary Meeting, UN Doc. A/65/PV.100 (2011), 11.

²⁴ See the position of the United States of America as expressed at the 72nd GA meeting of the 60th session of the GA, GA, 60th Session, 72nd Plenary Meeting, UN Doc. A/60/PV.72 (2006) and reiterated at the 100th GA meeting of the 65th session of the GA, GA, 65th Session, 100th Plenary Meeting, UN Doc. A/65/PV.100 (2011), 7.

²⁵ GA Res. 60/251 of 3 April 2006, paras. 2 and 8.

²⁶ *Ibid.*, para. 7.

mechanism, during their term of membership”.³² In fact, the GA decided that while the Council shall be open to all Member States of the UN, countries should take into account, when making their choice, the candidates’ contribution to the promotion and protection of human rights and their voluntary pledges and commitments made hereto.³³ To put this into practice, civil society organisations launched public hearings with candidate countries on a voluntary basis to examine their commitments and voluntary pledges. Furthermore, the Universal Rights Group, a Geneva-based non-governmental organisation (NGO), has launched a website providing detailed information on a candidate’s human rights profile, including its track record in cooperating with the Council’s mechanisms and procedures.³⁴

In addition, Resolution 60/251 provides that the General Assembly, by a two-thirds majority of the members present and voting, may suspend the rights of membership in the Council if that member commits gross and systematic violations of human rights.³⁵ Until today, this has happened only once in the history of the Council, when Libya’s membership, upon recommendation by the HRC, was suspended in March 2011.

B. Second Challenge: Relationship Between Geneva and New York

A second challenge faced by the HRC is the *relationship between Geneva and New York*, which is linked to the overall institutional human rights architecture within the UN system.³⁶

Institutionally, the HRC is a subsidiary body of the GA. Every year, the President of the HRC presents the report of the Council to the universal body in New York;

³² GA Res. 60/251 of 3 April 2006, para. 9.

³³ *Ibid.*, para. 8.

³⁴ See the Universal Rights Group’s website, available at: www.yourhrc.org (accessed on 27 December 2015).

³⁵ GA Res. 60/251 of 3 April 2006, para. 8.

³⁶ See also *Baere Ndyiah*, *Wien +20: Menschenrechte sind immer noch unteilbar*, *Vercinte Nationen* 61 (2013), 147; Permanent Mission of Norway/Switzerland/Universal Rights Group, *Glion Human Rights Dialogue: Reflections on the Future of the UN Human Rights Pillar*, September 2014, available at: <http://www.universal-rights.org/urg-policy-reports/glion-human-rights-dialogue-reflections-on-the-future-of-the-un-human-rights-pillar/> (accessed on 17 February 2016).

any recommendation made to the GA is followed up by the Third Committee; and the Council’s financial demands are to be met by the Fifth Committee.

In practice, the legal status of the HRC as a subsidiary body of the GA does not reflect “the centrality of human rights to the broader mission of the United Nations”³⁷ and the body’s growing political weight. The current set-up also lacks conceptual and architectural clarity, given that the human rights pillar is standing next to the other two main pillars of the United Nations – peace and security and development – that are both governed by a principal Charter-based organ.³⁸ In 2021, at the time of the next review of the HRC, this matter, *i.e.* the institutional arrangement governing the Council, will be discussed again.³⁹

Other important facets of the relationship between Geneva and New York in the field of human rights relate to the resources made available to the UN human rights pillar, and the Council in particular. In this context, it is noteworthy that the UN regular budget devotes only around 3% to human rights.⁴⁰ This figure demonstrates that the financial reality has not kept pace with the political demand for promoting and protecting human rights worldwide.

Other important issues are the linkages between security and human rights, mainstreaming of human rights within the UN, for instance in its development policies and programmes, and the Human Rights Up Front initiative of the Secretary-General.

C. Third Challenge: Efficiency and Functionality

The third challenge is the Council’s ongoing struggle with its *efficiency and functionality*, primarily caused by the increasing ‘inflation of the agenda’, risking that the

³⁷ GA, Report of the Secretary-General, *In Larger Freedom: Towards Development, Security and Human Rights for all*, UN Doc. A/59/2005/Add.3 (2005), 1.

³⁸ *Ibid.*, 5.

³⁹ GA Res. 65/281 of 20 July 2011, para. 3.

⁴⁰ GA, Proposed Programme Budget for the Biennium 2016–2017, Section 24 Human Rights, UN Doc. A/70/6(Sect.24) (2015).

ouncil may become a victim of its own success.⁴¹ The annual programme of work of the HRC reflects this phenomenon.⁴² For instance, the Council adopts on average around 100 resolutions per year and deals with thematic issues as broad as climate change, sustainable development, privacy, the freedom of religion, racism, terrorism, violent extremism, migration, children's and women's rights, water and sanitation, the rule of law, etc.⁴³ Moreover, around 55 Special Procedures mandates, which have continued to expand in scope and sophistication, monitor, advise, and report on human rights issues on an annual basis.⁴⁴ In 2015, two new mechanisms – a Special Rapporteur on the Right to Privacy and an Independent Expert on the Enjoyment of Human Rights by Persons with Albinism – were established to promote, protect, and further advance these human rights issues and impact surrounding debates.⁴⁵ While it is important for the Council to be responsive to new challenges like privacy, (too) many mandates are simply continued year after year without genuine review or assessment whether the mandate should be maintained given the scarce resources and developments in specific areas.⁴⁶ Since the establishment of Special Procedures in 1967, and despite finite resources, the Universal Rights Group found that “only once have thematic mandates ever been discontinued: with the merger of the independent expert on structural adjustment policies and the Special Rapporteur on the effects of foreign debt (in 2000)”⁴⁷

⁴¹ *Subbas Gujadhur/Toby Lamarque*, Ensuring Relevance, Driving Impact: The Evolution and Future Direction of the UN Human's Rights Council's Resolution System, January 2015, available at: http://www.universal-rights.org/wp-content/uploads/2015/02/URG_Report_ERDI-Jan2015-int_layout.pdf (accessed on 29 December 2015).

⁴² HRC, Extranet, Calendar of Human Rights Council and Council related meetings 2015, available at: <https://extranet.ohchr.org/sites/hrc/PresidencyBureau/Pages/CalendarPoW.aspx> (accessed on 28 December 2015, username: hrc extranet, password: 1session).

⁴³ GA, Report of the Human Rights Council, UN Doc. A/70/53 and Add.1 (2015).

⁴⁴ OHCHR, Special Procedures of the Human Rights Council, available at: <http://www.ohchr.org/√/HRBodies/SP/Pages/Welcomepage.aspx> (accessed on 29 December 2015).

⁴⁵ GA, Report of the Human Rights Council, UN Doc. A/70/53 (2015), 45, 77.

⁴⁶ See also *Limon/Piccone* (note 12), 9 and 16.

⁴⁷ *Ibid.*, 16.

D. Fourth Challenge: Effectiveness

The fourth challenge relates to the *effectiveness* of the HRC. Progress with regard to efficiency, the relationship with New York, or the question of membership is not an end in itself, but a means to better focus on the substance of the Council's mandate and to be more effective. More effectiveness implies more time to respond to emerging and urgent crises and more opportunities to improve the Council's impact on the ground. Obviously, it is not only morally necessary to address human rights violations and to “name the shame”, as the High Commissioner said at the opening of the 2015 June Council,⁴⁸ but it is also in the international community's interest, as a glance at current crises shows: At the beginning of the civil wars in Libya and Syria was the flagrant disrespect of human rights, further propelled in the course of the disintegration of these authoritarian States. This applies *mutatis mutandis* to the refugee crises: “No one who is safe from arbitrary arrest, torture or rape, no one who has clean water and enough to eat, no one who is able to find decent work – in short, no one whose fundamental human rights are respected, would embark on such a perilous journey.”⁴⁹

Of course, proper implementation of the Council's decisions is in part also a question of means available to the young institution, that is, a question of political will, resources, and tools.

IV. The German Presidency 2015

Over the course of the year, the Presidency devoted much attention to these core challenges and set clear priorities and goals beyond acting as ‘Chair’ of the Council's meetings.⁵⁰

⁴⁸ High Commissioner for Human Rights, Opening Statement to the 29th Session of the Human Rights Council, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16074&LangID=E> (accessed on 9 February 2016).

⁴⁹ *Joachim Rüdiger*, Weniger Worte machen: der Menschenrechtsrat, Frankfurter Allgemeine Zeitung, 28 May 2015, available at: <http://www.faz.net/aktuell/politik/staat-und-recht/garbeitrag-weniger-worte-machen-13614868.html> (accessed on 11 January 2016).

⁵⁰ See Statement attributable to President of the Human Rights Council, 9th cycle, 21 December 2015, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16912&LangID=E#sthash.bNZYNrPk.dpuf> (accessed on 6 January 2016).

A. Membership

On *membership*, States play a key role with regard to the Council's credibility in fulfilling its mandate. Despite an increasingly polarised world, the Presidency strongly advocated for constructive engagement and cooperation with the Council, its mechanisms, and procedures and welcomed, in New York and Geneva, the public hearings organised by NGOs prior to the HRC elections in the GA.⁵¹ In this context, it is of particular relevance how countries interact with the Council, its mechanism, and procedures. For instance, "[a]s of 11 November 2015, 114 UN Member States and 1 non-Member Observer State had extended a standing invitation to thematic special procedures."⁵² To strengthen cooperation, the Chair of the Coordinating Committee of Special Procedures was for the first time invited to present the annual report of the Special Procedures to the Council,⁵³ including providing a comprehensive picture of what these procedures did in 2014, which States cooperated, and which key problems for the system's functionality were identified. By creating more transparency regarding cooperation of States with the Council and its procedures, as well as through the PR mechanism that serves as a yardstick for progress over time, the UN and its Member States have the tools and instruments at their disposal to effectively address and implement the requirements for membership under GA Resolution 60/251.

B. Civil Society Participation

In the wider context of membership, the Presidency also put a particular emphasis on *civil society participation*. Civil society at large helps the Council to stay responsive and relevant. In today's interconnected world, universal access to information means that people know better what they want; and people want their human rights. Civil society is at the core of human rights and at the core of the Human Rights Council's

⁵¹ See Statement attributable to the President of the Human Rights Council, GA, 70th Session, 53rd Plenary Meeting, UN Doc. A/70/PV.53 (2015). See also Statement of the President of the Human Rights Council at the Organizational Session, 7 December 2015, available at: <http://www.ohchr.org/EN/News/Centers/Pages/DisplayNews.aspx?NewsID=16850&LangID=E> (accessed on 28 December 2015).

⁵² See Statement attributable to the President of the Human Rights Council, GA, 70th Session, 53rd Plenary Meeting, UN Doc. A/70/PV.53 (2015).

⁵³ HRC, Report on the Twenty-First Annual Meeting of Special Rapporteurs/Representatives, Independent Experts and Working Groups of the Special Procedures of the Human Rights Council, UN Doc. A/HRC/28/41 (2015).

work. It provides a mirror for States while at the same time it keeps States' eyes and ears focused on early warning signs of impending crises. Undeniably, a strong civil society can help the HRC to have a strong impact on the ground. Therefore, reprisals or intimidation against those who cooperate or seek to cooperate with the Council and its mechanisms are unacceptable. The Presidency committed itself to proper follow-up in all cases that were brought to its attention throughout 2015, which were in relation to the Council, its mechanisms, and procedures, in order to ensure a safe environment for human rights defenders and civil society.⁵⁴ Proper follow-up included detailed documentation of each case, appropriate follow-up with States concerned, the Bureau, and the Council as well as submission of the documented cases and follow-up actions to the UN Secretary-General for inclusion of these cases in his report to the HRC.⁵⁵

C. Bridging the Institutional Gap Between New York and Geneva

In addition, the Presidency invited key actors from New York to Geneva to *bridge the institutional gap between New York and Geneva* and was actively engaged in strengthening the relationship with New York by raising the visibility of the Council's work and by devoting much time and effort to address institutional questions. In this context, the Presidency established regular exchanges with the President of the GA, the Secretary-General, and the wider UN Secretariat, delegations in New York, and the Third and the Fifth Committee.

The Presidency engaged, in particular, with the President of the GA and the Secretary-General to find a solution regarding HRC Resolution 24/24 on "Cooperation with the United Nations, Its Representatives and Mechanisms in the Field of Human Rights".⁵⁶ The Resolution provides, *inter alia*, for the establishment of an UN-wide focal point on reprisals. Following the adoption in the HRC in September 2013, the Third Committee adopted a text later that fall to "defer consideration of and action

⁵⁴ *Id.*, Report of the Secretary General on Cooperation with the United Nations, Its Representatives and Mechanisms in the Field of Human Rights, 17 August 2015, UN Doc. A/HRC/30/29 (2015), paras. 5, 31, 37, 48.

⁵⁵ *Ibid.*

⁵⁶ HRC Res. 24/24 of 9 October 2013, in particular para. 7.

on Human Rights Council resolution 24/24.⁵⁷ This was confirmed by the GA.⁵⁸ At the end of the 69th session of the GA, however, the matter was closed and not deferred to the 70th session of the GA.⁵⁹ Implementation of the Resolution is therefore expected soon.⁶⁰

On resources, the Presidency advocated for a strong and independent High Commissioner and Office that is adequately resourced and able to meet the rising demand for 'more human rights' worldwide.

Furthermore, the Presidency briefed for the first time the Organization of American States, and met with the European Parliament, the Working Party on Human Rights of the Council of the EU, in addition to addressing the Council of Europe. This was part of an effort to better inform these organisations about the Council's ongoing work and priorities and to create synergies with regional human rights mechanisms. This will be followed up in 2016, pursuant to a Council resolution on "Regional Arrangements and the Protection of Human Rights"⁶¹ taken in 2015.

D. Efficiency

With regard to *efficiency*, 2015 witnessed the first sustained quantitative contraction in the output of the Council since the body's establishment in 2006. For example, the number of resolutions adopted dropped compared to 2014 by 15%.⁶² Furthermore, the Council adopted – by consensus despite difficult negotiations – a President's Statement on "Enhancing the Efficiency of the Human Rights Council",⁶³ deciding *inter alia* to have a more comprehensive and transparent overview of the work of the

⁵⁷ GA Third Committee, Draft Resolution: Report of the Human Rights Council, UN Doc. A/C.3/68/L.75 (2013), para. 2, adopted by vote 87-66-22.

⁵⁸ GA Res. 68/144 of 18 December 2014, para. 2, adopted by vote 94-71-23.

⁵⁹ GA, 69th Session, 105th Plenary Meeting, UN Doc. A/69/PV.105 (2015), 6–7.

⁶⁰ See Statement attributable to the President of the Human Rights Council, GA, 70th Session, 53rd Plenary Meeting, UN Doc. A/70/PV.53 (2015).

⁶¹ HRC Res. 30/3 of 8 October 2015.

⁶² *Marc Limon*, The UN Human Rights Council in 2015: from Efficiency to Effectiveness, from Reaction to Prevention?, 31 December 2015, available at: <http://www.universal-rights.org/blog/the-council-in-2015-from-efficiency-to-effectiveness-from-reaction-to-prevention/> (accessed on 16 February 2016).

⁶³ HRC, Presidential Statement of 2 July 2015, UN Doc. HRC/PRST/29/1 (2015).

Council, its mechanisms, and procedures, also in relation to the Third Committee of the GA, where much duplication takes place, and to develop a more distinguishable website for the HRC. Furthermore, it was decided to introduce improved modalities for the appointment of Special Procedures. This was the first adoption of a text, outside of a formal review, dealing with institutional reform. These achievements were also a result of continuous informal discussions, involving all relevant stakeholders.⁶⁴

E. The Council's Institutional Responsiveness

As part of the *institutional responsiveness* of the Council, 2015 saw new and improved ways of realising the Council's mandate. For instance, the Presidency, jointly with the High Commissioner for Human Rights, introduced a new – though contested – format of more flexible and informal Council briefings, when deemed appropriate between the sessions. Accordingly, the Council addressed the migration and refugee crisis from a human rights perspective already in May and through an enhanced interactive dialogue in June. Other examples relating to responsiveness include Ukraine and Burundi. On Ukraine, the Council adopted by vote a resolution on "Cooperation and assistance to Ukraine in the field of human rights",⁶⁵ inviting the High Commissioner to present the findings of each of the periodic reports of the Human Rights Monitoring Mission in Ukraine, as part of interactive dialogues, even between formal Council sessions. On Burundi, the Council discussed the human rights situation in June, adopted a resolution in September, and acted again in December through a Special Session to uphold the pressure and to establish a human rights mechanism to monitor and report on the situation in Burundi. Both situations, Ukraine and Burundi, will further be discussed at the 31st session of the HRC in March 2016. The latter is also a good example on how the HRC and the UN Security Council can complement each other and mutually reinforce their actions. In the wider context of institutional responsiveness, the growing importance of the relationship between human rights, peace and security as well as the linkages between the

⁶⁴ See e.g. Permanent Mission of Norway/Switzerland/Universal Rights Group, Glion Human Rights Dialogue: The Human Rights Council at 10: Improving Relevance, Strengthening Impact, September 2015, available at: <http://www.universal-rights.org/wp-content/uploads/2015/08/Glion-2015-Report.pdf> (accessed on 4 January 2016).

⁶⁵ HRC, Resolution 29/23 of 3 July 2015, para. 10.

Human Rights and the Security Council were debated at a side event organised by Germany and Jordan, moderated by Ambassador *Rücker*, in the margins of the high-level week of the 70th session of the GA and are also part of a recently published research report by the think tank Security Council Report.⁶⁶

F. Effectiveness

On *effectiveness*, it is important to note, as it is often forgotten at the international level, that States are the primary recipients of calls made by the Council. States are first and foremost asked to take action and to cooperate with the Council, its mechanisms, and procedures. Throughout 2015, the Presidency aimed at raising awareness about this fact and to better enable the Council to address the long-standing 'implementation gap' – the difference between international norms and local reality – by focusing increasingly on implementation on the ground. For instance, as mentioned above, the Chair of the Coordinating Committee of Special Procedures was for the first time invited to present the annual report of the Special Procedures to the Council, resulting in a debate on key issues of effectiveness among members. In addition, the Presidency actively encouraged States to provide success stories and insights during general debates and side events to focus more on implementation, achievements, and best practices.

Furthermore, Germany initiated a series of informal discussions outside of the formal session of the Council to reflect on how to improve the bodies' effectiveness. More specifically, Council members and observers gathered to informally discuss effectiveness in regard to civil society participation, the overall architecture of the UN human rights pillar as well as the Universal Periodic Review. The informal discussion on the third cycle of the UPR, to start in 2017, focused thereby primarily on strengthening domestic implementation and on improving the measurement thereof. Overall, participants recognised that the UPR served as an important catalyst for discussions at the national level and facilitated coordination on human rights policies.

⁶⁶ Security Council Report, Human Rights and the Security Council: An Evolving Role, 25 January 2016, available at: http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/research_report_human_rights_january_2016.pdf (accessed on 16 February 2016).

In a world that is primarily occupied with managing acute crises, a human rights-based view to conflicts provides a much-needed medium to long-term perspective: It can contribute to identifying the causes of future crises before a catastrophe occurs and it can therefore help to define interests. In this sense, human rights policy is *Realpolitik*.

Strengthening the HRC and making it more efficient and effective is a permanent challenge for all stakeholders involved – States, civil society, the Presidency as well as the UN. And a stronger HRC and a stronger, more agile UN Human Rights pillar are needed if we want to uphold the universality of human rights and all fundamental freedoms and if we want to better implement the impressive normative framework established over the past seven decades – in the interest of the right holders, in the interest of all victims of human rights violations.