

## Human rights financing: the UN's little pillar

31.10.2013

Today, the Human Rights Council is seven years old and, despite a shaky start, is generally seen to be performing well. One might, therefore, think the vision laid down in 2005 has been realised and that the implementation gap is well on the way to being closed.



In 2005, the then Secretary-General of the United Nations, Kofi Annan, presented plans for United Nations reform which elevated human rights to be one of the three pillars of the UN system – alongside economic and social development, and peace and security.

This represented an acknowledgement of the centrality of human rights to the work and ideals of the UN system: ‘we will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights’. The elevation of human rights also reflected a common determination to address the global human rights ‘implementation gap’ – i.e. the gap between the comprehensive global body of human rights norms and standards developed over the previous 60 years, and the ability of the international human rights system to secure the effective implementation of those norms on-the-ground.

The reforms presented by Kofi Annan, in particular the creation of the Human Rights Council, were designed, in large part, to enable the human rights system to fill this gap.

In a plan of action submitted in response to the Secretary-General's report, the High Commissioner for Human Rights, Louise Arbour, welcomed the reforms but noted that for them to be effective there must be a considerable increase in resources. She noted in particular, that the human rights programme received only 1.8 percent of the UN budget and that the bulk of the Office of the High Commissioner for Human Rights’ (OHCHR) resources, including for key activities mandated by UN bodies, were derived from extra-budgetary contributions. The High Commissioner therefore proposed a doubling of resources for human rights ‘over the next five to six years’.

Today, the Human Rights Council is seven years old and, despite a shaky start, is generally seen to be performing well. Resources made available for human rights have indeed doubled, and OHCHR now has 1118 staff in 59 countries (up from 190 staff in 1997). One might, therefore, think the vision laid down in 2005 has been realised and that the implementation gap is well on the way to being closed.

Such an assumption would, however, be wrong.

Curiously, the root of the problem is that the reforms foreseen by Kofi Annan eight years ago have proven, if anything, too successful. The higher profile attached to human rights and to the Human Rights Council, the success of the Council's new Universal Periodic Review (UPR) process, and the enthusiasm of States and NGOs to engage with the Council to drive new initiatives and establish new mechanisms, mean that instead of deepening its focus on implementation (as was foreseen), OHCHR resources are being spread more thinly across ever-widening demands.

In 2012, the Human Rights Council adopted more than 100 resolutions (up from around 50 in 2007), many of them calling on OHCHR to draft new reports or convene new meetings and panels.

At the same time, the number of special procedure mandates has increased to almost 50 (up from 38 in 2008), and the number of treaty ratifications has continued to rise while new treaty-based bodies, such as the Committee on Enforced Disappearances and the Subcommittee on the Prevention of Torture, have been established. One consequence of this is that the number of treaty body members has risen from 139 to 172.

The level of engagement with and interest in the UPR process has exceeded all expectations, numerous new resource-intensive fact-finding missions and commissions of inquiry have been established, and calls for

OHCHR to apply its expertise at a country-level around the world continue to grow.

While welcome, this enthusiasm for and determination to work with the Human Rights Council and its mechanisms, has once again brought OHCHR and the human rights system to a point where the High Commissioner's 2005 warning that the 'Office of the United Nations High Commissioner for Human Rights (is) chronically under-resourced and ill equipped' once again appears highly relevant. Within the Office, senior staff familiar with resource constraints talk of a 'train wreck waiting to happen', unless something is done to address the gulf between State demand and State largesse.

Indeed, at a time of growing demand, the OHCHR's budget is actually in decline. From an already low base, human rights, supposedly one of the three pillars of the UN, receives less than 3 percent of the regular UN budget – a figure the current High Commissioner, Navi Pillay, has described as 'scandalous'. Furthermore, human rights funding is set to see a 4.8 percent drop in funding in the next biennium (2014-2015). This leaves OHCHR increasingly reliant on unpredictable voluntary financing, even for supposedly 'mandated' activities (i.e. activities that the Office is told to do by States). Today, 40 percent of treaty body funding and 45 percent of special procedures funding comes from voluntary contributions. These figures rise to 91 percent in the case of OHCHR field operations, an area of work that can be described as largely un-mandated. Reliance on such funding creates financial and institutional insecurity, reduces the Office's strategic flexibility (much funding is 'earmarked' meaning it can only be spent on designated activities) and may also be used to question the Office's political independence.

In her foreword to the Office's 2013 Annual Report, the High Commissioner expressed alarm at this situation: 'Regular budget allocations are not keeping pace with the additional work that is mandated by the Human Rights Council. In 2012, total voluntary contributions to my Office reached US\$111.1 million, an insufficient amount to cover our expenditure. For 2012-2013, we have already cut our budget by US\$26.5 million. Unless voluntary contributions increase to US\$135 million, we will face a funding shortfall yet again in 2013.'

These numbers matter because of what they say about OHCHR's ability to fulfil its vital mandate and what they say about the human rights system's ability to address the implementation gap that drove reform back in 2005.

Talk to Special Procedure mandate-holders and many will tell you, for example, that they lack the human resources (some don't even have one full-time assistant) and/or budget to consider even the most basic types of follow-up after country visits. Others admit to not having the time or resources to deal with any but a handful of the hundreds of individual complaints and petitions they receive every month, never mind following-up with governments to secure remedy. Talk to members of treaty bodies and they will describe the backlog of State reports, their frustration at not being able to do more follow-up, or of the long delays in responding to petitions. Talk to OHCHR staff and you hear of existing field operations being cut back and new ones shelved, and of plans for regional and international events being abandoned.

It is clear that, after a long and painful economic downturn, the human rights system cannot expect huge injections of new money. It is equally true that there are significant inefficiencies in the system that also act as an important brake on implementation. However, even with this in mind, it is difficult to understand how the issue of human rights, which is now supposed to be the focus of a third of the UN's work and energy, is worthy of less than 3 percent of the organisation's budget.

Taking up this case, a group of 42 States led by Norway, Morocco, Turkey and Mexico have appealed, in statements to the 23rd session of the Human Rights Council and to the 2012 General Assembly, for 'a sufficient share of core financing' for human rights (i.e. activities mandated by States should be covered by the regular budget) and a corresponding reduction in the Office's reliance on unpredictable voluntary financing. While noting the importance of financial reform and greater strategic prioritisation by the Office, the States have also argued that 'we would do ourselves a disservice if we allowed the financial challenges of the UN and cross-cutting budget reductions to undermine the encouraging demand for the OHCHR's competence'.

Unfortunately, it seems unlikely in this biennium that such calls will be heeded. Ongoing budget discussions in the General Assembly's Fifth Committee seem likely to result in the elimination of over ten OHCHR posts. Meanwhile, the same General Assembly is approving yet more new mandates for the Office to implement.

However, in the medium and long-term there is every reason to hope that the funding situation can be brought to a level more reflective of human rights' status in the UN architecture. This is especially the case as the Human Rights Council nears its 10th anniversary in 2016, a moment when it may, and should, be elevated to become a main body of the UN. With human rights as one of the three pillars of the UN, with the Human Rights Council possibly becoming a main body of the UN, with States placing ever-increasing trust and responsibility in the hands of OHCHR, and with OHCHR's latest *Draft Thematic Strategies (2014-2017)* prioritising the need to focus resources on strengthening the implementation of norms through the human rights mechanisms, securing 5 percent of the regular budget for human rights in 2016-2017 is surely not unreasonable nor impossible.

As the High Commissioner herself recently said: 'the space for human rights has expanded greatly, but the means have not followed suit. Without additional resources, the great progress we have seen in human rights implementation may cease, and may even regress. I hope, then, that I can count on your support - financial, substantive and political - in making human rights a reality for all. Together, we have come a long way in 20 years; let us continue this important work together in the years ahead.'

*Professor Michael O'Flaherty is Chief Commissioner of the Northern Ireland Human Rights Commission and a former member of the UN Human Rights Committee. Marc Limon is Director of the Universal Rights Group.*