

## [HRC | The General Assembly's consideration on the question of the status of the HRC](#)

06.04.2021

**In an open letter to all UN Member States, the President of the Human Rights Council (Council), UN Secretary-General and UN High Commissioner for Human Rights, NGOs from across the world raised concerns that a more extensive 'review' of the Council's work and functioning carries serious risks for the Council's impact, accessibility and effectiveness. They highlighted that the shortcomings in the work of the Council to promote and protect human rights worldwide are not due to shortcomings in its mandate, but rather a consequence of the lack of political leadership by States.**



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On 17 June 2011, the General Assembly adopted a [resolution](#) which decided *"to maintain the status of the Human Rights Council as a subsidiary body of the General Assembly and to consider again the question of whether to maintain this status at an appropriate moment and at a time no sooner than ten years and no later than fifteen years"*.

**Our organisations\* wish to express their position regarding the expected consideration of this question by the General Assembly between 2021 and 2026.**

While recognising the political difficulties in an amendment to the UN charter, elevation of the Human Rights Council (the Council) to a principal organ of the UN could have a positive effect, such as strengthening the Council's contribution to the improvement of the human rights situation on the ground, and more prioritisation of funding for human rights.

At the same time, we would like to emphasise that the most significant **shortcomings in the work of the Council to promote and protect human rights worldwide are not due to shortcomings in its mandate, but rather a consequence of the lack of political leadership by States** on key issues such as non-competitive slates in the elections for Council members, addressing particular human rights situations in countries of concern and full cooperation in good faith with the Council and its mechanisms.

Furthermore, we would like to underline that, in line with General Assembly *resolution 65/281*, the scope of the General Assembly's consideration should remain focused purely on the question of the status of the Council, and not be further expanded to cover its work and functioning.

We consider that a more extensive 'review' of the Council's work and functioning carries **serious risks for the Council's impact, accessibility and effectiveness, and would be a major drain on the resources of small State delegations and civil society**. Such processes are particularly challenging to manage for civil society organisations, specifically for those not based in Geneva, who always have to expend considerable efforts at simply getting a seat at the table. At the same time, we consider at this point that much more can be done to protect and promote human rights worldwide without altering the mandate of the Human Rights Council.

More formal review and reform processes, including the institution-building process and the 5-year review of the Human Rights Council's work and functioning **have resulted in limited or no tangible outcomes due to a lack of consensus on meaningful reforms**. Many of the improvements to the Council's work methods to date have been a result of **incremental and practical strengthening**.<sup>u</sup> None of the recent [proposals](#) by several civil society organizations for enhancing the impact of the Council would require institutional reform, but could be achieved with sufficient political will and individual State and civil society leadership within the current institutional framework.

A more extensive review of the Council's work and functioning, going beyond the limited scope intended by the

General Assembly, would entail significant risks. These **risks include old attempts to limit civil society participation and to weaken the Council's functioning, particularly in relation to its protection mandate**. We are specifically concerned by the possibility of revisiting attempts to reduce the Council's ability to address country situations and independence of mandates of Special Procedures.<sup>44</sup>

There are therefore valid concerns that a so-called 'review' of the Council's work and functioning would result in a less- rather than more- effective, accessible and responsive Human Rights Council. Accordingly, States committed to ensuring that the Council is more accessible, effective and responsive **should prioritize taking the following actions** rather than a so-called 'review' of the Council's work and functioning:

- Respond to human rights situations based on their merits, applying objective and human rights-based criteria in determining whether and how the Council should respond to a situation of concern, and take leadership and responsibility in initiating action to prevent and respond to violations when such criteria are met;
- Encourage competitive elections for all regional groups in Council members' elections, and refrain from any collaboration within regional groups to arrange noncompetitive slates;
- Pledge to only vote for State candidates that fulfil membership criteria as outlined in General Assembly *Resolution 60/251*. This includes pledging to refrain from voting for any State credibly accused of committing gross and systematic violations of human rights, or flagrantly refusing to cooperate with the Council and its mechanisms, including for committing reprisals;
- Do more to hold Council member States to their human rights obligations and commitments, including in regard to membership pledges
- Engage robustly to prevent and address acts of intimidation and reprisals by raising particular cases of reprisals in Council debates, ensure that the HRC Presidency and Bureau consistently address and follow-up on cases of reprisals related to HRC engagement, and ensure meaningful and broad civil society participation at the Council including through video statements.

Finally, we recognise the value of the **General Assembly receiving substantive expert guidance as it proceeds to consider the important question of the status of the Council**. In this context, we consider that an expert report could usefully inform the discussions, and that the High Commissioner and the Secretary-General should be invited to draft such a report, with inputs from States, civil society, national human rights institutions and other relevant stakeholders. The report could address how the Council has achieved its mandate, identify best practices and challenges and present recommendations on how to enhance its impact on the improvement of the human rights situation on the ground. This would ensure the General Assembly has the comprehensive and evidence-based guidance it needs to make a decision, while ensuring efficiency and avoiding the Council's time and resources being overly diverted from the fulfilment of its core mandate.

**\*ENDORSEMENTS:** African Centre for Democracy and Human Rights Studies; Amnesty International; Asian Forum for Human Rights and Development (FORUM-ASIA); Asian Legal Resource Centre; Association for Progressive Communications - APC; Cairo Institute for Human Rights Studies; Centre International de Conseil, de Recherche et d'Expertise en Droits de l'Homme (CICREDHO); Centro de Estudios Legales y Sociales - CELS; Child Rights Connect; CIVICUS; World Alliance for Citizen Participation; Commonwealth Human Rights Initiative (CHRI); DefendDefenders (East and Horn of Africa Human Rights Defenders Project); FIDH-International Federation of Human Rights; Human Rights House Foundation; Human Rights Watch; ILGA World; Institute on Statelessness and Inclusion; International Catholic Child Bureau; International Commission of Jurists; International Service for Human Rights (ISHR); MENA Rights Group; Southern Africa Human Rights Defenders Network; Together (Scottish Alliance for Children's Rights); World Evangelical Alliance; Women's International League for Peace and Freedom.

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<sup>44</sup> For example, the use of intersessional panels, side events, informal briefings by the High Commissioner, joint reports by the Special Procedures, as well as civil society efforts such as the UPR pre-sessions.

<sup>45</sup> Given that past efforts by some States during the institution building phase and the 2011 review to remove country mandates or impose qualified majorities for creating new ones, and the high risk of imposing

measures to restrict civil society participation which, unfortunately, have been [hallmarks](#) of previous institutional reform processes.

*Photo: Anne Laure Lechat- UN Photo*

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