

The U.N. Role in Human Rights: An Introduction

Felice Gaer

Human Rights as a Core Issue

The United Nations Charter identifies human rights as one of the four purposes of the world organization and calls specifically for the establishment of a Commission on Human Rights. Member states and the Organization itself are obliged to promote "universal respect for, and observance of, human rights and fundamental freedoms" [Art. 55 (c)], and the members are exhorted to take "joint and separate action . . . for the achievement of the purposes."

In a major departure from his predecessors, who shied away from addressing human rights during the cold war years, Secretary-General, Kofi Annan has put his rhetorical skills and institutional support behind the centrality of human rights in U.N. programming--calling for human rights to be mainstreamed throughout all U.N. programs; asking his High Commissioners for Human Rights to serve on the various executive and coordinating committees for core U.N. programs. Annan speaks not only about defending human rights but also of punishing those who abuse them:

We should leave no one in doubt that for the mass murderers, the "ethnic cleansers," those guilty of gross and shocking violations of human rights, impunity is not acceptable. The United Nations will never be their refuge, its Charter never the source of comfort or justification. They are our enemies, regardless of race, religion, or nation, and only in their defeat can we redeem the promise of this great Organization [U.N. press release SG/SM/99/91, 4/7/99].

In 2005, Mr. Annan has called upon Member states of the UN to "replace the Commission on Human Rights with a smaller Human Rights Council. . . . [T]he Commission's ability to perform its tasks has been overtaken by new needs, and undermined by the politicization of its sessions and the selectivity of its work. . . . [T]he Commission's declining credibility has cast a shadow on the reputation of the United Nations system as a whole, and . . . piecemeal reforms will not be enough. . . ." He urged them to "make the improvements that will enable our machinery to live up to the world's expectations." [Geneva, April 2005]

The High Commissioner for Human Rights

In December 1993, the General Assembly created the long-proposed post of U.N. High Commissioner for Human Rights. Stating that "the greatest threat to human rights is war," High Commissioner Mary Robinson argued in 1999 that today's challenge is "to prevent the tragic violations committed in the course of conflict and reconstruct the societies which conflict has destroyed." Knowing how to prevent it, she stated candidly, is not easy or obvious: "*Modern media technology has ensured that we can witness the atrocities as we go about our ordinary lives, but it has not given us the tools to halt them...*" [statement at the opening of the Commission, 3/22/99].

Special procedures and mechanisms of the Commission have been seen as the means to help address these matters, step by step. The Commission's reporting mandates, for example, give it a unique role in the U.N. system, by providing early warning. But to be effective, Robinson pointed out, the reports have to be noted elsewhere in the system, acted on "without delay" and implemented by other parts of the United Nations as well.

The Human Rights Machinery

The Commission on Human Rights, a functional commission of ECOSOC, mentioned by name in the Charter, has grown from 18 to 53 member states, elected for 3-year terms, and meets for 6 weeks annually. It adopts upwards of 100 resolutions during this period, and considers the entire UN human rights program, from setting standards to examining, discussing, and setting priorities on a wide range of human rights institutions and bodies. It also adopts country-specific resolutions in public and confidential procedures, and approves the creation of thematic and country-specific mechanisms to address human rights issues. It creates and reviews the performance of dozens of subsidiary bodies and mechanisms which meet throughout the year.

When the Commission on Human Rights first met, in 1946, one of its first resolutions declared that the Commission had no power to look into communications about individual human rights abuses. Instead, it would stick to drafting standards and stay out of the actual developments and problems of the Stalinist Soviet Union, the United Kingdom and its colonies, and the segregationist United States and other powers as well. Much has changed since that time: inch by inch a structure of legally binding treaties, special investigators, and mechanisms has been built up to hold countries to commitments to respect the human rights of their citizens, and be accountable for their actions.

Today there are six major human rights treaties negotiated within the UN, addressing civil and political rights, economic and social rights, racial discrimination, discrimination against women, torture, and the rights of the child. Many countries have ratified all six treaties, and the Convention of the Rights of the Child has virtually become universally ratified -- with 191 ratifications--every country but Somalia and the United States.

The challenge to human rights today, however, is not drafting more standards but implementing those that already exist. In each case, states that are parties to the treaties are required to submit periodic reports on compliance, and the experts elected to that treaty body ask questions of the state's representatives for anywhere from a few hours to two days. In this process, the experts rely heavily upon information, usually delivered informally, from diverse sources, including non-governmental organizations.

Significantly, since around 1980, the Commission has created a number of “special procedures” to look into violations of human rights on an urgent basis, conduct country investigations and report publicly on their findings. These “procedures” are staffed by experts, who are appointed in their individual capacity and thus independent of their governments. Some of the appointees are called "special rapporteurs" while others are known as "independent experts." One type of special procedure takes action on certain "thematic" human rights violations and other individuals serve as "country special rapporteurs."

The subjects covered by thematic rapporteurs are as diverse as torture, forced "disappearances," summary executions, arbitrary detention, violence against women, freedom of expression, racial discrimination, religious intolerance, the sale of children, independence of judges and lawyers, use of mercenaries, the right to education, the right to food, and the human rights of migrants, among many others. Many "thematic" mechanisms make urgent inquiries into specific alleged violations of relevant human rights in as many as 50 countries annually.

The special rapporteurs and thematic working groups, now amounting to about 35 different entities, are the leading edge of the U.N. human rights system, mandated to look into specific cases and allegations of human rights abuses on an emergency basis. Their status as independent experts gives them a freedom of action that governmental and intergovernmental employees do not have.

"Country rapporteurs" and “independent experts” are mandated to address about a dozen situations, including Belarus, Myanmar (Burma), Sudan, North Korea, and the Palestinian Territories (rapporteurs) and Democratic Republic of Congo, Haiti, Liberia, Somalia, Burundi (“independent experts”), and Cuba and Cambodia (Representatives of HCHR, SG). The findings are often the basis for U.N. action that ranges from censuring a country to providing it with targeted technical assistance to improve human rights conditions.

Strengthening the Human Rights Machinery

As the human rights mechanisms outlined above have grown in recent years, so has a strong backlash to them. Countries that had been subjected to unwanted scrutiny, or that opposed close review, began to propose ways of "rationalizing" or reining in the burgeoning human rights machinery at the United Nations. The 1993 Vienna World Conference on Human Rights called for creation of the post of High Commissioner, but the opponents of this post also made certain to create a working group to examine "adaptation" of the U.N.'s human rights machinery to improve its "coordination, efficiency, and effectiveness." To the uninitiated, this was a mere managerial call for a reform to make things work better; but, to the rejectionist states, it was a way to cut back the investigatory and public reporting functions of the independent experts and special procedures of the Commission.

Since the High Commissioner's post was created the UN has established human rights field presences in some 35 states around the world. While some of these are very small, others are sizable and some are even engaged in supporting the human rights components in peace missions. Efforts are underway to review and improve their methods of work, establish partnerships with local and national human rights institutions, and develop criteria for engagement and participation in stand-alone human rights offices. Still, the establishment of such bodies “in the field” marks a substantial departure from the “conference room diplomacy” of the past.

One thing is clear throughout the years of growth: UN human rights machinery has expanded: its areas of concern, its working methods, and its frequency of reporting are greater than in the past.

Today, there are often extensive reports on human rights violations in all parts of the world, and there may be special envoys and investigators visiting to examine situations first hand. The aim of these mechanisms is both to prevent future violations and to respond to current ones. It offers a "system" of protection to the world's people that reflects the energy and convictions of Eleanor Roosevelt and her contemporaries who founded the United Nations and made human rights one of the four purposes of the world organization. The interrelatedness of human rights, human security, and development is today recognized, most notably by the Secretary General in his recent report calling for reform of the entire UN (In Larger Freedom...”).

A Human Rights Council: Meeting the World's Expectations?

In the proposal for reform of the UN in 2005, Secretary General Annan has explained that considerably more effort and accomplishment is needed for the UN human rights system to achieve the expectations and goals set for it.

*“A Council will not overcome all the tensions that accompany our handling of human rights. A degree of tension is inherent in the issues. But the Council would allow for a **more comprehensive and objective approach**. And ultimately it would **produce more effective assistance and protections**, and that is the yardstick by which we should be measured.....*

*Human rights are the core of the United Nations' identity. Men and women everywhere expect us to uphold universal ideals. They need us to be their ally and protector. **They want to believe** we can help unmask bigotry and defend the rights of the weak and the voiceless. For too long now, we have indulged this view of our own capabilities.”*

The task of refining and negotiating the mandate, status, membership, and activities of the new body will require a review of whether a step-by-step approach will expand the UN's human rights protections adequately, or whether an entirely new way of addressing and responding to human rights violations can be achieved through the new Human Rights Council. At issue is whether it will be merely a renamed version of the Commission on Human Rights or whether there will be, as Annan has proposed, real value added to the UN's work.

The Jacob Blaustein Institute for the Advancement of Human Rights (JBI) of the American Jewish Committee, founded in 1971, strives to narrow the gap between the promise of the Universal Declaration of Human Rights and other international human rights agreements and the realization of those rights in practice. To this end, JBI strengthens scholarship designed to clarify basic human rights concepts; helps develop tools and strategies for protecting human rights; conducts programs that nurture and strengthen human rights organizations worldwide; and supports education and training programs to promote knowledge and use of international human rights instruments and institutions.

Robert S. Rifkind, Chair, Administrative Council.

Felice D. Gaer, Director.

THE JACOB BLAUSTEIN BUILDING • 165 EAST 56TH STREET • NEW YORK, NY 10026 • 212-891-1314 • FAX: 212-891-1460 JBI@AJC.ORG