



FROM THE GROUND UP:

OPPORTUNITIES FOR STRENGTHENING AND LEVERAGING MEMBERSHIP OF THE UN HUMAN RIGHTS COUNCIL

Report of a one-day dialogue, held on 5 February 2019



With the support of HRCnet, a network of 16 NGOs and organisations working at the international level and across almost all regions.

FROM THE GROUND UP:

OPPORTUNITIES FOR STRENGTHENING AND LEVERAGING MEMBERSHIP OF THE UN HUMAN RIGHTS COUNCIL

Report of a one-day dialogue, held on 5 February 2019

Introduction	1
Part I: Strengthening adherence to Human Rights Council membership standards	3
HRC membership: does it matter?	4
Voting on the basis of human rights criteria	5
Competition	6
Greater scrutiny of HRC members	7
Recommendations	7
Part II: Leveraging a State’s membership of the Human Rights Council for national change	10
Membership of the Council as “a test not a reward”	10
Voluntary pledges and commitments	12
Bringing the HRC “closer to right-holders” in HRC member states	16
Recommendations	18

Amnesty International, Human Rights Watch and the International Service for Human Rights thank the Permanent Mission of Canada to the United Nations in Geneva for hosting the dialogue and for co-sponsoring, the Permanent Missions of the United Kingdom, Mexico, Uruguay and HRC-net for co-sponsoring, and all the participants for their valuable contributions to the discussions.

Introduction

The United Nations (UN) Human Rights Council (“the HRC” or “the Council”) is an international inter-governmental body with a critical mandate: to contribute to the prevention and monitoring of human rights violations and abuses; to monitor and support the implementation of human rights recommendations, commitments and obligations; to contribute to accountability for serious human rights violations; and to enhance access to remedy and justice for victims and survivors.

During the first one-day dialogue on “Strengthening the Human Rights Council from the ground up,” held in February 2018,¹ one of the key issues identified was the importance of the fulfilment of Council membership criteria set out in the Council’s founding document, the UN General Assembly (GA) resolution 60/251. Clearly, for the HRC to be effective, and to be credible and relevant to the wider human rights community, and the wider public, it needs members committed to the promotion and protection of human rights at home and abroad in its 47 seats, as foreseen by the GA resolution 60/251.

Since then, the composition of the HRC has captured significant public attention – with people around the world rightly asking: how can States accused of gross and systematic human rights violations become members of the UN HRC? And what does that mean for the credibility and effectiveness of this body? Notwithstanding these concerns, all regional groups put forward closed slates (that is, slates where the number of candidate States was equal to the number of vacant seats) for the October 2018 elections, raising serious concerns about the election process and resulting in the election of a number of States in likely breach of membership criteria. At the same time, the GA has consistently failed (with one notable exception²) to take adequate action in line with the provisions of the GA resolution 60/251, to suspend HRC Member States accused of gross and systematic human rights violations.

Of course, no State has a perfect human rights record. A wide and diverse range of States should be encouraged to address their shortcomings and enhance their commitment to human rights through HRC participation and engagement. While the argument does not apply to candidates that are in clear breach of the membership criteria, HRC membership may be an incentive for national-level change. This is particularly the case where States, as candidates, make voluntary pledges and commitments, and are willing and able to implement them. The framing and implementation of those pledges and commitments is, however, rarely discussed at national or international level.

It is against this backdrop that Amnesty International, Human Rights Watch, HRC-net and the International Service for Human Rights (ISHR) convened a second one-day dialogue to zoom in on the important issue of HRC membership. The dialogue, which was held under the Chatham House Rule, convened national level human rights defenders from eight countries, Geneva-based civil society actors, representatives of States, National Human Rights Institutions

¹ Meeting report available at <https://www.amnesty.org/en/documents/ior40/8262/2018/en/>.

² The GA suspended Libya from the HRC on March 1, 2011, based on a recommendation by the HRC. <https://www.un.org/press/en/2011/ga11050.doc.htm>.

(NHRIs) and the UN Office of the High Commissioner for Human Rights (OHCHR) to address two important and interlinked questions:

1. How can we encourage greater respect and application of the membership criteria set out in GA resolution 60/251?; and
2. How can a State's membership of the HRC be leveraged for positive change on human rights at the national level?

This report provides a non-exhaustive overview of the issues raised, and key recommendations made, with particular focus on those which are concrete and implementable, and which do not require institutional reform.

PART I: Strengthening Adherence to Human Rights Council Membership Standards

As an inter-governmental body, the Council's success depends on its members and their readiness to respond fully to the Council's strong mandate set out in the GA resolution 60/251. Clearly, for the Council to be credible and relevant to the wider human rights community, and the wider public, it needs members committed to the promotion and protection of human rights, both at home and abroad, in its 47 seats.

The composition of the Council has captured significant public attention over the past year. People around the world rightly asked: "How can States accused of gross and systematic human rights violations be members of the UN HRC? And what does that mean for the credibility and effectiveness of this body?"

Responding to these questions, most participants recognised the importance of respecting the clear membership criteria set out in the GA resolution 60/251, and the responsibility, particularly of UN Member States, to do more to ensure their application in practice. Some participants also underlined the importance of inclusive membership.

HUMAN RIGHTS COUNCIL MEMBERSHIP STANDARDS (GA RESOLUTION 60/251)

- The Council shall consist of forty-seven Member States, which shall be elected directly and individually by secret ballot by the majority of the members of the General Assembly (GA);
- Membership shall be based on equitable geographical distribution, and seats shall be distributed as follows among regional groups: Group of African States, thirteen; Group of Asian States, thirteen; Group of Eastern European States, six; Group of Latin American and Caribbean States, eight; and Group of Western European and other States, seven;
- Members of the Council shall serve for a period of three years and shall not be eligible for immediate re-election after two consecutive terms;
- Membership in the Council shall be open to all States Members of the United Nations;
- When electing members of the Council, Member States shall take into account the contribution of candidates to the promotion and protection of human rights and their voluntary pledges and commitments made thereto;
- The GA, by a two-thirds majority of the members present and voting, may suspend the rights of membership in the Council of a member of the Council that commits gross and systematic violations of human rights;
- Members elected to the Council shall uphold the highest standards in the promotion and protection of human rights, shall fully cooperate with the Council and be reviewed under the universal periodic review mechanism during their term of membership.

HRC Membership: Does it Matter?

There was broad recognition among participants that the quality of HRC membership is essential – not just for the Council’s effectiveness, but also for its public perception and credibility. Put simply by one human rights defender at the meeting: “who the members are matters”. Having States that are credibly accused of committing gross and systematic human rights violations sitting on the Council as members negatively impacts its credibility in the eyes of people around the world.

“Who the members are matters.”

Some participants highlighted the value in as broad a membership as possible, noting that 79 UN Member States have never been members of the HRC. One participant noted the creation of a new cross-regional “contact group,” aimed at encouraging more States to stand for election.³

Some participants emphasised that the exclusion of countries should always be a measure of last resort, noting that no State has a perfect human rights record, and all States should be encouraged to engage in dialogue to address their shortcomings and enhance their commitment to human rights through Council participation. One example given was the pressure felt by a certain State with a questionable human rights record at home to allow access to Special Procedures due to their membership of the Council.

However, there was general agreement that States who are in clear breach of HRC membership standards, or who refuse to cooperate with – and in some cases even attack – the Council and its mechanisms, including by committing acts of intimidation and reprisals, should not be able to use this argument in favour of their membership.

A few participants made the point that despite any issues there may be with membership, “we need to be clear that the HRC is still working,” citing “incredible results” in the past couple of sessions, and urged colleagues to “bolster rather than continually question its credibility.” One participant noted that Council membership does not necessarily shield States from scrutiny: the first ever resolution on Venezuela⁴ (September 2018) went ahead despite Venezuela being a member of the Council, and Saudi Arabia was not able to stop a resolution on Yemen being adopted (HRC36, HRC39), despite being a member of the Council.

Another participant noted the limited additional power of members, as opposed to observers. While members are the only States that can vote on resolutions, observers can also lead statements and resolutions. Members do not set the Council’s agenda or appoint its independent experts. Noting this, the participant said: “the Council’s outcomes, successes and failures are weighed on all States and not only Council members.” However, there was a general sense that Council membership confers leadership responsibilities and expectations.

³ See joint statement delivered by the Maldives on behalf of contact group at the 40th session of the HRC, https://www.ishr.ch/sites/default/files/documents/hrc40_membershipcontactgroup_jst.pdf.

⁴ HRC resolution 39/1, “Promotion and protection of human rights in the Bolivarian Republic of Venezuela,” adopted 27 September 2019, available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/39/1.

Voting on the Basis of Human Rights Criteria

Firstly, and most obviously, to ensure adherence to HRC membership standards, States should base their vote in the elections on “the contribution of candidates to the promotion and protection of human rights and their voluntary pledges and commitments made thereto.” They should 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 example by committing reprisals.

States should consult all available materials on the candidates’ human rights records and cooperation with the HRC and its mechanisms to guide their vote at the GA. For example, Amnesty International and Human Rights Watch annual reports and the ISHR candidate score cards were noted as valuable sources of objective qualitative information on candidates’ human rights records, which could be used to inform voting.

It was noted that there would also be value in any relevant regional bodies, for example the African Commission on Human and Peoples’ Rights, publishing their own commentary on countries running for Council membership from the region. In line with the GA resolution 60/251, States should also consider whether the State has made voluntary pledges, and if so should weigh those when casting their ballot.

To encourage greater focus on membership criteria during Council elections, a number of participants considered measures that would deepen scrutiny of the candidates, and their human rights records.

The annual pledging events held by Amnesty International and ISHR in Geneva and New York were identified as a valuable practice in ensuring engagement with, and scrutiny of, candidate States, and there were a number of ideas on how they could be further enhanced. One participant proposed a more formal format might result in higher participation, though others feared it might over-formalise proceedings, making them less interactive and less accessible to civil society. Another proposed that they should be held also at regional level – “particularly in Addis where key decisions are made that shape African Group membership.” The opportunity for national level civil society to engage with the event, both through webcast and by submitting questions in advance and during the event via social media, was considered to be very important.

One participant suggested the need for special attention to be paid to the issue of reprisals committed by Council candidates, which would be clearly incompatible with membership standards. It was suggested that the UN Assistant Secretary-General for Human Rights could be asked to give particular attention to Council candidates committing reprisals, for example by preparing a report on allegations of reprisals committed by candidates to be published ahead of Council elections.

A few participants emphasised the need for more transparent and timely public information about which States were running for election to the Council. This would allow national, regional and international civil society to engage in a more equal and informed manner.

Some participants indicated, however, that it was political will rather than the lack of information and scrutiny that was the issue. In some cases, one participant noted, States are voting in New York for the very States whose human rights records they are raising concern about in Geneva. One senior State representative noted the reality of “vote swapping,” suggesting more attention should be given to this damaging practice, particularly with regards to the HRC, where there are clear substantive criteria set out in the GA resolution. “You can trade influence,” the representative said, “but you cannot trade conscience, [and] in the end, the HRC should be about conscience.”

“You can trade influence, but you cannot trade conscience. In the end, the Human Rights Council should be about conscience.”

Some participants proposed that States could be encouraged to publicly disclose, on a voluntary basis, which candidates they voted for. One participant emphasised the role parliamentarians could play in asking questions of their Governments on which States they supported, particularly in situations where States accused of egregious ongoing human rights violations are candidates for election.

Competition

Many noted that competitive elections are an important ingredient to Members of the GA being able to apply the membership criteria in the GA resolution 60/251 when casting their vote and called for States to commit to competitive elections. One participant called on all regional groups “to ensure, as a matter of principle, at least two candidates for each available slot going forward.”

Competitive elections are only part of the solution, however. Competitive elections can also result in bad outcomes. One State emphasised the importance of the quality of candidates and called for “more focus on who the candidates are, rather than how many there are.”

Some noted that competition may put some States off running, with one State representative saying “honesty speaking, it is consequential for us to lose”. Others ascribed this to the fact that closed slates are the norm: “if each time half of the candidates were unsuccessful, it would be less of a taboo.” Clearly there needs to be a mindset shift.

However, it was noted that even on a closed slate – where there are the same number of candidates as seats – States should refrain from voting in favour of States that do not meet the membership criteria. However, as shown by past voting records, States have continued to vote for candidates in clear breach of membership criteria. As noted by one participant, “no State can be elected if a majority of States do not vote for them.” Even where there is no competition, there is no obligation for voting States to support all candidates, and States can leave the box blank for candidates that manifestly fail to meet the membership criteria, particularly States that have carried out gross and systematic violations and flagrantly refused to cooperate with – and even attack – HRC mechanisms, or that are persistent perpetrators of reprisals. A candidate on a closed slate could fail to obtain the 97 votes in the GA necessary to be elected – which would send a clear message.

A few participants underlined the need for more active engagement on HRC elections at the regional level to work towards competition and scrutiny of candidates being put forward. The role of the African Union was discussed as being important, as the only regional system to correspond to the UN regional grouping.

Greater Scrutiny of HRC Members

In answer to the question of “how to deter candidates lacking in commitment to human rights from running in the first place,” a number of participants stressed the value of deeper scrutiny of Council members throughout their terms, to reflect that membership comes with responsibilities. Participants noted that the GA resolution 60/251 anticipated heightened scrutiny of members during their terms, stipulating that “members elected to the Council shall [...] be reviewed under the universal periodic review mechanism during their term of membership.” While, due to scheduling and periodicity of the UPR, this has not been possible in practice, States should develop other measures to hold HRC members to heightened scrutiny. For example, there could be an annual report by the UN High Commissioner for Human Rights on cooperation by Council members with UN mechanisms on human rights, and other membership criteria. It was also suggested that the UN Assistant Secretary-General for Human Rights could emphasise the gravity of reprisals committed by Council members in his reporting to the HRC. Such measures would send a message to would-be candidates that HRC membership is not a free ride, and that it may open them up to more, rather than less, scrutiny.

“Membership is not a free ride.”

On the same note, the GA should act to consider the suspension of any Member State committing gross and systematic violations, as anticipated in resolution 60/251. This would not necessarily require immediate suspension but could also take the form of proposing actions to be taken by the State to ensure compliance with its membership obligations within a prescribed timeframe. The Council itself could also be more responsive where Member States fail to live up to membership obligations – for example, the HRC could hold an urgent debate and consider making recommendations to the GA on suspension where appropriate. One participant stressed that the mechanisms for suspension exist, however States are reluctant to use them, pointing to a lack of political will to address the issue, rather than the lack of a process.

Recommendations

1. ELECTIONS

- 1.1. When electing members to the Council, States should base their votes primarily on “the contribution of candidates to the promotion and protection of human rights and their voluntary pledges and commitments made thereto,” as stipulated by the GA resolution 60/251. Even in “closed slate” elections, States should refrain from voting in favour of candidates that manifestly fail to meet the membership criteria and would qualify for immediate suspension.

- 1.2. In light of the clear substantive criteria, set out by the GA, States should desist from the practice of “vote swapping.” NGOs should consider launching a campaign against vote-swapping, and States should individually pledge to end this practice when it comes to the HRC. Members of the GA could affirm their commitment to applying the membership criteria and avoiding vote-swapping in relation to the HRC through a joint statement.
- 1.3. States could pledge to publicly identify which States they voted for. Parliamentarians and civil society could put pressure on their Governments to do so.
- 1.4. There should be more transparency around HRC elections, with candidacies declared and information on candidates shared at least 6 months in advance to allow civil society, NHRIs, parliamentarians and others to engage more meaningfully in the process and to develop their pledges with broad and inclusive consultations with all relevant stakeholders.
- 1.5. A dedicated UN website could be set up with all information around HRC elections such as: declared candidacies for current and future elections, candidates’ pledges and commitments, information on the candidates’ degree of cooperation with UN mechanisms, information on allegations of reprisals and intimidation, and other relevant information.
- 1.6. There should be more active, inclusive and transparent engagement and discussion at the regional level to encourage competitive HRC elections, with candidates willing to cooperate with the HRC. For example:
 - o The holding of early “HRC pledging” events at the regional level in which States could declare their intention to run and present their pledges and commitments;
 - o efforts to encourage more States with a positive human rights record to put themselves forward for election;
 - o regional bodies could publish their own assessment of the human rights records of candidates from the region.
- 1.7. The High Commissioner should prepare an annual report providing information and analysis relevant to the assessment of each candidate States’ compliance with key membership criteria.
- 1.8. OHCHR and the Assistant Secretary-General for Human Rights could be asked to give particular attention to Council candidates committing reprisals, for example by preparing a report on allegations of reprisals committed by candidates to be published ahead of Council elections.
- 1.9. Candidate pledging events should be maintained and strengthened, and the participation of all candidates encouraged in Geneva and New York to ensure adequate scrutiny of candidates’ human rights records and pledges and commitments (more on this in part II). The candidacy of States which decline to participate should be discussed *in absentia*.

2. SCRUTINY OF HRC MEMBERS

- 2.1. During their term, there should be particular attention to the human rights situations in Council member States, to encourage compliance with membership obligations and to fulfil the expectation that their human rights situation would be reviewed during their term (originally anticipated as a role for the UPR). An expectation of heightened scrutiny, as envisaged by the GA resolution 60/251, could itself serve as a deterrent to States in violation of membership standards seeking Council membership. Such scrutiny could be applied through an annual report by the High Commissioner focused on cooperation by HRC members with UN mechanisms and reporting by the Assistant Secretary General for Human Rights on alleged reprisals by HRC members, which could be considered under Item 5.
- 2.2. The Council President and Bureau's role should be strengthened regarding Council members committing reprisals, such as by publicly identifying and denouncing specific instances of reprisals by issuing formal statements, conducting press-briefings, corresponding directly with the State concerned, publicly releasing such correspondence with States involved, and insisting on undertakings from the State concerned to investigate, hold the perpetrators accountable and report back to the Council on action taken.

3. SUSPENSIONS

- 3.1. Where there is evidence of a Council member State committing gross and systematic violations, the GA should take action to consider suspension of its membership, in line with OP8 of the GA resolution 60/251. This need not require immediate suspension but could also take the form of identifying actions to be taken by the State to ensure compliance with its membership obligations within a prescribed time frame.
- 3.2. The HRC itself should take action where a member is committing gross and systematic violations and refusing to cooperate with the HRC and its mechanisms – for example, by holding an urgent debate or special session, and considering making recommendations to the GA on steps to be taken, and suspension where appropriate.
- 3.3. States could commit, through a joint statement at the HRC or GA, to taking action to trigger at least the consideration of possible suspension if certain objective criteria are met. Such criteria might include, for example, if a Council-mandated mechanism, Special Procedures or the High Commissioner for Human Rights has concluded there are reasonable grounds to believe a Council member has committed international crimes or gross and systematic rights violations or has persistently violated its membership obligation of cooperation with the Council and its mechanisms.

PART II: Leveraging a State’s Membership of the Human Rights Council for National Change

A State’s membership of the Human Rights Council can be an important opportunity for strengthening the promotion and protection of human rights at the national level and starting important conversations on a range of complex issues. Through membership of the Council, States commit themselves to “uphold the highest standards in the promotion and protection of human rights,” and to fully cooperate with the Council and its mechanisms.⁵ They are also expected, as candidates, to put forward voluntary pledges and commitments on what they will achieve as members – at both domestic and international level – which should inform the decision of other States to support them in the elections (as addressed in part I).

However, this opportunity is often not appreciated and therefore often missed, for a range of reasons identified by participants throughout the one-day dialogue, including: States’ failures to develop meaningful and timely pledges and commitments in support of their candidacies, in close collaboration with a range of ministries and stakeholders; a lack of awareness among civil society, NHRIs and parliamentarians about the State’s candidacy and membership and the opportunities that brings; and, relatedly, a failure to ensure adequate follow-up and implementation of the pledges and commitments.

Furthermore, despite the clear stipulation that UN Member States should take candidates’ voluntary pledges and commitments, and their human rights records, into account when voting for them to take a seat at the Council, participants felt that very little attention is paid – at the national, regional or international level – to a State’s fulfilment of their membership obligations, and the voluntary pledges and commitments they make in support of their candidacy. This was identified as a significant missed opportunity.

Membership of the Council as “A Test not a Reward”

Participants agreed that HRC membership can add value as a “spotlight” on a country’s commitment to human rights at home and abroad, which, if leveraged effectively, can put pressure on a State to improve its human rights record. Participants noted that membership can offer a real opportunity to elevate human rights on the political agenda at the domestic level.

At the same time, other participants raised concerns about States using their election to the Council as a sign of international approval of poor human rights practices at home. For example, the Philippines’ Department of Foreign Affairs hailed their election to the Council as “a vindication of President Duterte’s campaign against illegal drugs,”⁶ a campaign which has left thousands dead and has been repeatedly condemned by national and international civil society, the Special Rapporteur on extrajudicial killings Agnes Callamard and the High

⁵ GA resolution 60/251.

⁶ See press release by the Department of Foreign Affairs, <https://www.dfa.gov.ph/dfa-news/dfa-releasesupdate/18160-ph-wins-bid-to-keep-seat-in-un-human-rights-council>.

Commissioner for Human Rights.⁷ In this case, the Philippines government used its election to the Council to legitimise its narrative on human rights violations at the national level and undermine efforts to hold the State accountable for serious human rights violations.

Responding to these opportunities and concerns, one State representative suggested a shift in narrative, contending that “Council Membership should be considered a test, not a reward, of a country’s human rights policy and practice.” Another added that “Council membership should not be a free ride,” but should be considered an additional responsibility and commitment on the part of Member States.

“Council Membership should be considered a test, not a reward, of a country’s human rights policy and practice.”

A number of participants noted that a State’s candidacy – and in particular the development of national pledges and commitments – can provide an opportunity to start or re-open important and sometimes difficult discussions on pressing human rights issues. One NHRI representative noted a positive shift in public attitude of their government on certain discussions on human rights since joining the HRC, which he attributed to their increased visibility. A State representative shared how their candidacy to the HRC forced them to improve their relations and outreach with civil society at the national level and allowed them to re-open difficult conversations in a constructive manner.

Participants considered Council membership as a moment with political momentum, similar to the Universal Periodic Review (UPR), that States and civil society can harness to leverage positive domestic level change. The preparation of the State’s candidacy could be a similar process to the UPR, where all relevant government actors, parliament, NHRIs and civil society make an assessment of the human rights situation and develop concrete proposals to address the challenges. States already have a variety of resources to rely on for this assessment, such as their UPR recommendations, Special Procedures communications or Treaty Body concluding observations.

It was noted that in addition to candidates’ voluntary pledges and commitments, some incoming members of the Council have committed to strengthening the HRC by signing the “incoming members pledge”.⁸ It includes commitments by HRC members to address human rights concerns based on objective criteria, to take leadership when these criteria are met, to cooperate with the Council and its mechanisms, to support civil society participation, among others. The pledge has gathered the support of 21 current HRC members.⁹ These initiatives could be strengthened by an annual assessment of whether the State signatories are adhering to the principles outlined in the incoming members pledge.

7 See full statement at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24265&LangID=E>.

8 See the full statement here: <https://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/statements/Documents/joint-statement-to-interactive-dialogue-with-hc-for-hr-incoming-members-pledge-8-march-2018.pdf>.

9 At the 37th session of the HRC, Australia delivered the joint statement on behalf of: Afghanistan, Angola, Chile, Mexico, Nepal, Peru, Senegal, Slovakia, Spain and Ukraine. At the 40th session, Fiji delivered the joint statement on behalf of: Austria, Argentina, Bulgaria, Czech Republic, Denmark, Italy, the Bahamas, Togo and Uruguay. https://www.ishr.ch/sites/default/files/documents/joint_statement_delivered_by_fiji_at_the_40th_session.pdf.

Voluntary Pledges and Commitments

GA resolution 60/251 stipulates that, when electing members of the Human Rights Council, Member States shall take into account the contribution of candidates to the promotion and protection of human rights, and their voluntary pledges and commitments made thereto. However, beyond this vague provision, the GA provided no further guidance and established no process or framework for the elaboration, presentation and implementation of the pledges and commitments. Drawing on “extensive discussions” and past practice, OHCHR has filled the gap by producing a guidance note on the elaboration of these voluntary pledges and commitments, recommending the inclusion of international and national level commitments.¹⁰ Participants noted the importance of the pledges including concrete commitments on national public policies, as well as foreign policies.

ELEMENTS TO INCLUDE IN VOLUNTARY PLEDGES AND COMMITMENTS

Some participants noted that, as recommended by OHCHR, States’ pledges and commitments should start with an evaluation of current domestic human rights policy and practice, and the identification of key human rights challenges. This should be informed by engagement with a broad spectrum of civil society actors and any NHRI (more on this below), as well as reports of Special Procedures, Treaty Bodies and UPR.

This should be followed by the development of a series of specific, measurable, attainable, realistic and time-bound (SMART) commitments to addressing those challenges. In this regard, participants made the following suggestions in terms of elements to include:

- States should include a commitment to open and constructive engagement with civil society and the promotion and protection of civil society space – at both national and international levels – and should include the State’s approach to the contribution of civil society in the formulation and implementation of the pledges.
- All candidates without an A-status NHRI should commit to setting down a realistic timeframe for and making demonstrable progress towards, having one by the end of their membership term, also in line with Sustainable Development Goal 16.
- States should demonstrate cooperation with the HRC and its mechanisms, such as the Special Procedures, and implementation of their recommendations as relevant and include specific targets for future cooperation, in line with membership obligations in that regard – for example to seek to host several country visits by Special Procedures during the membership term, and to respond substantively and meaningfully to all Special Procedures communications within 60 days.
- Other practical and measurable commitments on cooperation with the international human rights system could include, as recommended by OHCHR, the implementation of treaty bodies’ concluding observations and views, the ratification of human rights treaties to which the State is not party, the removal of reservations to treaties, and clearing any backlog of reporting to treaty bodies.

¹⁰ <https://www.ohchr.org/Documents/HRBodies/HRCouncil/Pledges.pdf>.

- Looking ahead to the implementation of their pledges and commitments (more on this below), one good practice cited was a commitment to create a National Mechanism for Reporting and Follow-Up to ensure the implementation of the pledges, along with recommendations, decisions, or resolutions from any relevant regional and international human rights mechanisms. Others included a commitment to develop a National Action Plan for Human Rights, or an inter-ministerial working group with civil society to develop a concrete action plan with assigned responsibilities and timelines for achieving the pledges.

FORMULATING THE PLEDGES AND COMMITMENTS

Many participants emphasised the importance of broad, inclusive, timely and meaningful consultations in the elaboration of voluntary pledges and commitments. Governments should engage with civil society, parliamentarians, the NHRI, a range of ministries, and the broader public to identify the key human rights challenges at national level, and concrete actions for the State to commit to taking to address them. In doing so, States will ensure their pledges and commitments are meaningful and encourage ownership by other actors to follow up on, and contribute to, their implementation. One State representative emphasised that the process of developing the pledges and commitments can provide a unique opportunity to build trust and to start conversations, where relationships have been difficult in the past, and to work together to identify specific human rights objectives. Another participant stressed the importance of finding creative ways to include the wider population in the discussion, including youth and children.

For these consultations to be meaningful, they must be held early enough and be substantive – “not a box-checking exercise after all decisions have been taken, and the pledges and commitments finalised.” The goal of the consultation should be for civil society, parliamentarians and the NHRI to have an opportunity to identify challenges and commitments to overcome them, and as a result to feel some sense of ownership.

To allow for meaningful engagement by civil society and others, transparency around the process is crucial. A number of participants complained about the lack of transparency of the whole process of a State running for election to the Council. One participant noted that “there is often little awareness – even among the domestic human rights community – that a State is running for election to the HRC, and the opportunities that it may bring.” In some cases, the first domestic civil society may know is when the State is elected, and often civil society will not be informed until after the decision has been made, and the pledges have been elaborated and shared at international level.

“There is often little awareness – even among the domestic human rights community – that a State is running for election to the HRC, and the opportunities that it may bring.”

It is critical that civil society and the population at large be informed as the process evolves, and consulted in a meaningful and timely manner, to allow their inputs to feed into the process (from the decision to stand, to the elaboration and process of implementation of pledges). The candidate State should identify a clear time-frame for the development and publication of pledges well in advance of Council elections, to allow a range of stakeholders to engage meaningfully with the process. One human rights defender noted that the support of international NGOs in capitals can often be key to opening up the space for discussion with their Government on their candidacy to the HRC and the elaboration and implementation national pledges and commitments. Nevertheless, the State bears the primary responsibility to present their candidacy in a timely manner and to hold inclusive and meaningful consultations with all relevant stakeholders, from the elaboration of pledges through to the end of their membership term.

Once the voluntary pledges and commitments are finalised, they should be published ahead of the elections, and widely disseminated at the national, regional and international levels. They should be disseminated in local languages among the general public and the media. One participant suggested that States could hold “pledging events” at national level to present its pledges and commitments, and its plan for implementing them. Civil society, parliamentarians, the NHRI and media could be invited to attend and participate, as well as in-country Ambassadors of other UN Member States.

IMPLEMENTATION

Most participants agreed on the need to do much more on follow-up and implementation of the voluntary pledges and commitments made.

One of the key challenges identified was the **lack of awareness among key Government ministries, civil society and the general public, about the pledges and commitments made**. One participant noted that “no one remembers what voluntary pledges and commitments were made after the elections, and there is no process in place for following up on their implementation.” This is often a result of the fact that the elaboration of pledges remains an exercise in “foreign affairs,” led solely by the Ministry of Foreign Affairs.

“No one remembers what voluntary pledges and commitments were made after the elections, and there is no process in place for following up on their implementation.”

Effective **coordination and collaboration are key to implementation of voluntary pledges and commitments**. Firstly, the effective implementation of a State’s national pledges and commitments relies on buy-in from and effective coordination among a range of ministries. For implementation to be successful, it is important for the process not to be seen merely as “foreign policy,” led by the Foreign Ministry alone. When elaborating the pledges and commitments, the Government should develop a clear action plan for implementation and ensure relevant ministries are informed and engaged in the dialogue from the beginning to ensure their buy-in and ownership. Secondly, meaningful engagement with civil society, parliamentarians and NHRIs from the very beginning of the process is a means of enhancing

follow-up and building momentum for implementation, giving them a sense of ownership, interest and empowerment to act as “watchdogs” on implementation.

A number of State and civil society participants proposed **commitments to immediately create a mechanism to ensure a coordinated follow-up and implementation process**. For example, the creation of a national mechanism for reporting, implementation and follow up where one does not already exist, which could facilitate the implementation of pledges across ministries and other State agencies, and in coordination with civil society, parliamentarians and any NHRI. Such a mechanism should also coordinate the implementation of recommendations, decisions, or resolutions from the regional (where relevant) and international human rights mechanisms. Another proposal was an inter-ministerial working group with civil society to develop a concrete action plan to meet the pledges, with clear responsibilities.

One participant proposed, based on a previous experience, that complementing the broader “HRC pledging events” by more focused events on individual candidate States – to be held at the national and/or international level – may allow for a more detailed and nuanced discussion of their voluntary pledges, and ideally provide an opportunity for early engagement by relevant domestic ministries and national civil society to consider implementation of the pledges and commitments.

It was proposed that **States should do more to hold each other to account for the pledges and commitments**, particularly where they have voted in favour of that State’s candidacy. In particular, participants suggested that UPR should be used to follow up on implementation, and in-country embassies should also follow up on the UPR recommendations and the pledges which should be aligned. One participant encouraged the OHCHR to dedicate a section in its UPR report on the implementation of pledges to facilitate this and encouraged States to request the State under Review to provide information on the steps they have taken to implement their pledges, as part of the UPR advance questions.

Much more could be done at the Council itself to enhance follow-up on the implementation of the commitments made. One good practice suggested was for **Council members to voluntarily submit an annual written statement on the implementation of voluntary pledges and commitments**, and how they had lived up to the membership standards elaborated in the GA resolution 60/251. Another idea was to have an **annual interactive dialogue focused on the fulfilment of membership standards and progress on voluntary pledges and commitments**. This could either be open to all each year or held in rotation (e.g. focused just on members in the second or third year of their term). It would provide an opportunity for States to share positive stories of change, and also be held to account for their membership standards, as envisaged in the GA resolution 60/251. In any case, States could use the interactive dialogues and general debates to report back to the Council on the efforts they are making in implementing their pledges.

Stock-taking exercises at the end of a State’s membership term – to be held at the national and international level – could provide an opportunity for the State and other stakeholders to report back on their achievements, challenges faced, and lessons learnt. Such discussions should be frank and include picking up on commitments that were not fulfilled and providing a roadmap for advancing on them going forward. States should be encouraged to bring their experiences back to the Council, highlighting the measures they have taken during their membership to improve

the human rights situation on the ground, as well as the challenges they have faced. This could be done through side events or during the debates in the Council.

It was proposed that the High Commissioner could play a role in increasing scrutiny over Council members by holding informal briefings on all Council members before and after their election or dedicating a section in the annual report and oral update on Council members, but also to provide technical assistance to States to assist them in their implementation of their pledges.

Participants also recognised the important role the Council and the OHCHR can play to provide capacity building and technical assistance to States with the political will to address their human rights challenges including implementing their pledges.

Bringing the HRC “closer to Right-Holders” in HRC Member States

A number of participants highlighted how a State’s membership of the HRC can provide an important opportunity for awareness raising about the work of the Council and its mechanisms at national level.

“The Human Rights Council is far away. Bringing Geneva closer to rights-holders in countries should be a priority for HRC Member States.”

It was generally felt that much more should be done by Council Member States to raise awareness among parliamentarians, civil society, media and the population at large about Council outcomes, engagement with Council mechanisms and the specific role of the State concerned at the Council, including their leadership, co-sponsorship and voting on resolutions. This was important both to build capacity to engage, but also to hold the State to account for their positions taken in Geneva. For example, where their resistance to a particular resolution contrasts with their domestic policy.

Voting patterns and co-sponsorship of resolutions can also be used effectively in advocacy at the national level. Progressive political parties can use HRC resolutions to put pressure on the ruling party, particularly where they supported it or it was adopted by consensus during their terms – (e.g. the resolution on environmental human rights defenders). Participants agreed that more needs to be done to improve effective communication and therefore implementation of Council outcomes.

One State representative noted that communication around the HRC could be improved by using language that resonates at the national level, rather than HRC jargon. Another noted the added complications in States that do not speak an official UN language, highlighting the importance of ensuring that Council outputs, and the State’s own pledges and commitments, are available in local languages. This of course would require resources, however.

Participants stressed that communication should be multi-faceted, varied and comprehensive. It could include *op-eds* from high-level officials, social media campaigning tailored to the local population, and information of the State’s engagement at the Council such as oral statements, resolutions sponsored by the State and explanation of votes. It should ensure that the Council’s

outcomes and the State's achievements are effectively communicated at the highest level in government as well as to national civil society and the broader population. One participant suggested that the Government should work with national civil society and any NHRI to develop effective communications strategies that are credible and resonate with the wider population.

One good practice highlighted was Ambassadors to the HRC raising public awareness about the Council and their engagement with it, through interviews with domestic TV channels, as well as face-to-face meetings with civil society, the judiciary and a range of ministries. Several participants highlighted the good practice of a number of States convening regular meetings for information sharing and substantive exchange with civil society ahead of and after every Council session, including through video-conferencing. They noted however that some of these meetings typically involve only the Ministries of Foreign Affairs, and are outward focused (i.e. not reflecting on domestic implementation of HRC outcomes). In some instances, the meetings are strictly for information sharing purposes rather than an opportunity to gather contributions, while in other instances States have provided the opportunity for civil society to provide input including on draft resolutions.

Some stressed the value in ensuring civil society had an opportunity to attend sessions of the Council. One State shared a good practice of providing funding for independent civil society representatives working on a diverse set of issues to attend each session of the Council.

The role of parliamentarians was highlighted as key. Participants suggested convening regular hearings at parliament to share information about Council outcomes and plans for domestic implementation, as well as the status of implementation of the State's pledges and commitments.

While the primary responsibility for following up on and implementation voluntary pledges rests on States, there is more NHRIs and international human rights organisations could do in this regard too. One participant encouraged Geneva-based NGOs to do more to share information with local and grassroots organisations. One participant highlighted that civil society in their country coordinates itself by convening pre-meetings to share information with grass roots organisations and discuss priorities and strategies, to ensure their meaningful contributions in the government-convened meetings. Others highlighted that they have organised trainings for civil society to enable them to meaningfully engage in the processes, including providing funding schemes to participate in the Council's sessions. Finally, it was suggested that a guidance document for national and local actors on the process of HRC membership (from announcing candidature to the end of the term) would be a great contribution the international NGOs could make.

Finally, the ability of civil society to leverage their countries' memberships depends on many factors, but significantly on funding and a safe and enabling environment existing to carry out their work. Some human rights defenders face reprisals and intimidation for engaging with the UN, and this can deter them from further engagement.

Recommendations

4. NATIONAL CONSULTATIONS AND THE ELABORATION OF “VOLUNTARY PLEDGES AND COMMITMENTS”

- 4.1. Before presenting their candidacy to the HRC, States should start a process to develop their “vision” for HRC membership in consultation with civil society, any relevant NHRI, and all relevant executive and legislative actors, and raise awareness among the media and general public of their intention. This includes setting out the expectations and responsibilities of Council membership as well as gathering “buy in” from all relevant actors to ensure that ownership is not confined to the Ministries of Foreign Affairs.
- 4.2. All candidates for HRC membership should develop voluntary pledges and commitments, to demonstrate that they take membership obligations seriously. These should be developed on the basis of broad, inclusive, timely and meaningful consultations with civil society, parliamentarians, the NHRI, a range of ministries, and the broader public. States should find creative ways to include the wider population in the discussion, including youth and children.
- 4.3. Candidate States should identify and make public a clear time-frame for the development and publication of pledges well in advance of Council elections, to allow a range of stakeholders to engage meaningfully with the process.
- 4.4. In addition to making pledges on international actions, the pledges and commitments should identify the key human rights challenges at national level, and specific, measurable, attainable, realistic, time bound (SMART) commitments to address them.
- 4.5. In addition to the context-specific SMART commitments, the following commitments should be considered for inclusion:
 - o Specific cooperation indicators, including for example issuing a standing invitation to Special Procedures; seeking and accepting at least two Special Procedures visits a year; seriously considering, and responding substantively, to all Special Procedures communications and demonstrating the implementation of relevant recommendations; ratification of all outstanding international human rights treaties.
 - o Ensuring the creation of an A-Status NHRI and provide the necessary resources to carry out its work (if one is not already in place).
 - o The creation of a National Mechanism for Reporting and Follow-Up and the development of a National Action Plan for Human Rights; and/or the creation of a unit at the national level to coordinate and ensure implementation of recommendations, decisions, or resolutions from any relevant regional (where relevant) and international human rights mechanisms along with the voluntary pledges and commitments.

- o Holding regular consultations and engagement with national civil society, the NHRI and parliamentarians on their initiatives and positions at the HRC, and implementation of HRC initiatives, as well as the voluntary pledges and commitments themselves.
- 4.6. NHRIs and NGOs should consider convening inclusive workshops to raise awareness among civil society and the broader public, and to gather comments and inputs on the draft pledges for input into the process.
 - 4.7. Voluntary pledges and commitments should be published at least four months ahead of the HRC elections, and widely disseminated at the national, regional and international levels. They should be disseminated in local languages, and accessible formats, among the national public and media.
 - 4.8. In the context of the “HRC pledging events” in Geneva and New York, States should be asked to elaborate on their plan and timeframe for implementation of their pledges and commitments.
 - 4.9. States could hold “pledging events” at the national level to present their pledges and commitments, and their plan for implementing them. Civil society, parliamentarians, the NHRI and media could be invited to attend and participate, as well as in-country Ambassadors of other UN Member States.
 - 4.10. Given the lack of awareness in some cases among national actors about the opportunities HRC membership may offer, international NGOs should consider producing a guidance document for national and local actors on “the journey of HRC membership” – from announcing candidature to the end of the term.

5. IMPLEMENTATION OF VOLUNTARY PLEDGES AND COMMITMENTS

- 5.1. States should hold each other to account for the fulfilment of their pledges and commitments, particularly where they have voted in favour of that State’s candidacy. The UPR should be used to follow up on implementation such as through advance questions, and OHCHR should dedicate a section in its UPR report on the implementation of pledges.
- 5.2. Follow-up events could also be held at national, regional and international level. For example, regular events to evaluate the performance and fulfilment of membership pledges and commitments by States mid-way through, and/or at the end of their terms.
- 5.3. An annual interactive dialogue could be held at the Council, focused on the fulfilment of membership standards and voluntary pledges and commitments. This could either be open to all each year or held in rotation (e.g. focused just on members in the middle year of their term). It would provide an opportunity for States to share positive stories of change, and also be held to account for their membership standards, as envisaged in the GA resolution 60/251.

- 5.4. Council members should voluntarily report to the Council under Item 5, including by submitting an annual written statement, on the implementation of voluntary pledges and commitments, and how they have lived up to the membership standards elaborated in the GA resolution 60/251.
- 5.5. Where States put themselves forward for re-election after a three-year-term, they should report on what has been done to fulfil and implement their voluntary pledges. Such voluntary reporting could identify challenges, and additional measures that still need to be taken, as well as identifying new areas of concern to be addressed. All of this should be done following inclusive national-level consultations.
- 5.6. The High Commissioner could play a role in increasing scrutiny over Council members by holding informal briefings on all Council members, before and after their election or dedicating a section in the annual report and oral update on Council members, but also to provide technical assistance to States to assist them in their implementation of their pledges.
- 5.7. The Council and the OHCHR can provide capacity building and technical assistance to member States with the political will to address their human rights challenges including implementing their pledges. This can be done through trainings and/or a guidebook compiling good practices on a range of issues relating to membership as well as a check-list for States preparing their candidacy.

6. BRINGING THE HRC CLOSER TO RIGHTS-HOLDERS

- 6.1. States should increase the visibility of their membership and efforts at the Council at the national level including widely disseminating information about their engagement with the Council in local languages. States, in consultation with civil society and NHRIs, should raise awareness about the Human Rights Council – including its mechanisms and outputs – and the role of their State as a member, with a view to making the HRC more accessible and the State more accountable.
- 6.2. Multi-faceted, varied and comprehensive strategies should be developed for communicating with the broader public about the HRC. This could include *op-eds* from high-level officials, social media campaigning tailored to the local population, and information of the State's engagement at the Council such as oral statements, resolutions sponsored by the State and explanation of votes.
- 6.3. Ambassadors to the HRC could work to raise public awareness about the Council and their engagement with it, through interviews with domestic media, as well as face-to-face meetings with civil society, the judiciary and a range of ministries.
- 6.4. States should convene regular meetings with domestic civil society ahead of each HRC session, including through video-conferencing. They should provide an opportunity to gather contributions and inputs on their engagement on specific initiatives.

- 6.5. States should strengthen the role of parliamentarians in ensuring accountability of the government's implementation of its pledges. For example, regular hearings should be convened at parliament to share information about Council outcomes and plans for domestic implementation, the positions taken by that State on specific issues at the HRC, as well as the status of implementation of the State's pledges and commitments.
- 6.6. States should consider the creation of funding schemes to build the capacity of independent civil society to meaningfully engage with the Council, including by attending HRC sessions in Geneva.
- 6.7. Candidate States for membership of the HRC should include in their pledges a commitment to ensuring that civil society organisations can conduct their work — including expressing views critical of State authorities — without undue restriction or fear of reprisal, harassment or intimidation.



© UN/Jean-Marc Ferré

www.hrw.org | www.amnesty.org | www.ishr.ch