

A United Nations Parliamentary Assembly: Basic Ideas & Current Points of Discussion

Claudia Kissling

December 2008

Claudia Kissling is Vice-Chair of the Committee for a Democratic UN (KDUN), has been a member of its board since its founding, and shared responsibility for the organization's management until 2008. She studied international relations at the Institute Universitaire de Hautes Etudes Internationales in Geneva and did her PhD at the Law Faculty of the University of Potsdam. She previously worked at the German Bundestag, the Inter-Parliamentary Union, and at the University of Bremen's Collaborative Research Center: "Transformations of the State". She is now employed at the Freie Universität Berlin.

This article is reprinted by permission of Claudia Kissling and KDUN.

"Curiously, while it would require a Charter amendment for the UN to increase the size of the Security Council by even one seat, a UNPA could be established without such a step in that Article 22 enables the General Assembly to 'establish such subsidiary organs as it deems necessary for the performance of its functions'. What better way to democratize the UN?"

~ **Joe Schwartzberg**,
World Federalist Institute Fellow

Introduction

Current developments on the global financial markets, the repercussions of the financial crisis in one country on the situation in other countries, and their culmination in a severe worldwide crisis — affecting the rich and the poor, the North and the South, the haves and the have-nots — make it clearer than ever before: the challenges and tasks which [hu]mankind faces today are global in nature and can only be solved at the global level. We need rules and regulations that are truly global and not restricted to the frontiers of a nation state. What is at stake is nothing else than the survival of humankind as such, be it economically or in view of the more and more limited natural resources on earth, of global threats such as the proliferation of weapons of mass destruction or borderless operating terrorists, or of the growing social disparity on the globe which risks to become an explosive ground for sparking off riots and tumults that eventually could lead into civil wars or a global war.

All these developments have made it visible that there is a gap with regard to global regulation and rule-making. Still more, there is a huge gap with regard to the democratic embedding of such rulemaking, generally called the democratic deficit of global decision-making. Global decision-making at the moment takes place primarily within the United Nations (UN), its specialized agencies, programs, funds, and other bodies, and within other global institutions. However, those institutions are not democratically shaped in accordance with direct or representative democracy, nor are they subject to direct democratic or parliamentary control. They are only driven by governments and their diplomatic representatives. Global democracy may be a value in itself, but currently much more is to be won or lost. Critical developments have taken such global dimensions that they cannot be solved any longer by national governments alone without the involvement of those directly affected. Global rulemaking can no longer be an isolated endeavour of some decision-makers. The participation of the people of the world, of civil society all over the globe has become vital for the pure survival of the human race. They are the ones who are affected, and they are the ones whose trust is necessary to make a global system work. However, wide parts of the globe's populations do not feel sufficiently represented at the global level by their governments alone. Yet, without the trust of the billions of people on earth, the peaceful living-together on the globe is endangered. And without a more direct involvement of those people, trust will probably not materialize.

A UNPA – Rights, Functioning, and Establishment

This is why more and more people, be they individuals, representatives of civil society organizations, elected parliamentarians, scholars, artists, sportsmen or -women, business men or women, and others observing the turmoil and repositioning of power of the last years vocally speak out for a Parliamentary Assembly at the United Nations (UNPA). A Parliamentary Assembly at the United Nations is an issue which has been proposed and discussed for many decades, but never has it become as urgent as at the present time. A UNPA is mostly conceived as an assembly with consultative functions at the outset, but which could and should gradually evolve over time into a true parliament with full legislative and oversight functions. The models in mind are regional parliamentary assemblies, especially the European Parliament, which has acquired more

NOTES:

1 See Bummel, Andreas / KDUN, "Developing International Democracy - For a Parliamentary Assembly at the United Nations", May 2005, (www.kdun.org/en/documents/unpa-paper.pdf).

2 See for example the establishment of the Conference of Community and European Affairs Committees of Parliaments of the European Union after the introduction of direct elections to the European Parliament, or the existence of the African Parliamentary Union as well as the Pan-African Parliament.

3 For more information about the discussion on the IPU role with regard to the UNPA proposal, see Bummel, Andreas, *The establishment of a UN Parliamentary Assembly and the role of the Inter-Parliamentary Union*, Background paper, September 2008.

4 <http://www.kdun.org/>.

5 <http://www.unpacampaign.org/>.

6 Please refer to <http://en.unpacampaign.org/appeal/index.php>.

7 European Parliament, resolutions A3-0331/93 of 8 February 1994, pt. 17 (www.kdun.org/en/documents/a3-0331-93.PDF), & P6_TA(2005)0237 of 6 June 2005, pt. 39 (www.kdun.org/en/documents/B6-0328-2005-EP-EN.pdf).

8 Pan-African Parliament, resolution of 24 October 2007 (www.kdun.org/en/documents/PAP_UNPA.pdf).

9 PACE, resolutions 1476 (2000) of 27 September 2000, pt. 13 (www.kdun.org/en/documents/1476-2000.pdf) and 1476 (2006) of 23 January 2006, pt. 11 (www.kdun.org/en/documents/CoE-PA_1476_2006.pdf).

10 Latin American Parliament, Commission for Political Affairs, declaration of 12 June 2008 (www.kdun.org/en/documents/PARLATINO_UNPA.pdf).

11 "Governance in a Global Society", report adopted by the XXII Congress of the Socialist International, São Paulo, 27-29 October 2003, pt. 39, 47 (www.kdun.org/en/documents/XXII-Socialist-International-2003.pdf).

12 Resolution adopted by the 53rd Congress of the Liberal International, Sofia, 14 May 2005 (www.kdun.org/en/documents/LI-Resolution-UNPA2005.pdf).

13 Global Greens 2nd Congress, São Paulo, 1-4 May 2008, final declaration, (www.kdun.org/en/documents/2008globalgreens.pdf).

14 38th Plenary Assembly of the World Federation of United Nations Associations, 10 November 2006 (<http://www.kdun.org/en/documents/WFUNA2006.pdf>).

and more legislative and oversight rights since its direct election in 1979, or the Pan-African Parliament which is meant to develop into a parliament with full and genuine rights of information, participation and control vis-à-vis the African Union. This means that a UNPA could first be given for example the right to draft and pass recommending resolutions without binding force and to submit these officially to the General Assembly, the Security Council or other UN bodies and agencies for information and further consideration, to be consulted by or to address questions to these bodies, or to discuss resolutions or decisions of these bodies and to recommend amendments. Later on, it could be awarded the right to submit draft resolutions to these bodies for further negotiation and adoption, to co-decide with regard to the adoption of the UN budget and/or with regard to the election of the UN Secretary-General, the right to participate in treaty negotiations or even to legislate at the global level, and the right to submit legal questions to the International Court of Justice.

A consultative Parliamentary Assembly at the UN could initially be composed of national parliamentarians. In a later stage, the Assembly could be directly elected, as soon as the technical and political conditions would allow such elections to take place. It is also conceivable to give countries the free choice to go for direct elections, as soon as they are able and willing to do so. A further discussion point in this regard is the question whether a UNPA should be open to all member States of the UN or only to so-called "democratic" States. Apart from the fact that the definition of the term "democratic" is highly political and arbitrary and that anyway the majority of member States meanwhile are democratic, a strong argument in favour of representation of all member States of the UN is made by pointing towards the democratizing influence within a UNPA and the explicit inclusion of opposition parties which otherwise would not be possible. In any case, a UNPA should give high esteem to the inclusion of and deliberation with civil society and its representatives as well as with national parliamentarians. Finally, a point of debate is the determination of the number of delegates per country in the UNPA. This in the end will have to be left to governmental negotiations. However, fairly reasonable proposals are on the table which limit the size of such an Assembly to about 900 delegates and opt for a graduation taking into account population size, the principle of equality among States, and the contribution to the UN budget. The costs of such an Assembly are in a first rough estimate calculated at around 100 to 120 million € per year¹.

A UNPA as discussed at the moment could be established very easily within the existing United Nations system. The easiest option would be to set up a secondary body of the UN General Assembly (GA) in accordance with Article 22 of the UN Charter. This would only require a simple majority of the GA member States. Another option would be to link such an Assembly to the UN system through a far-reaching cooperation agreement which would give it the before-mentioned parliamentary rights and functions. This might give such an Assembly more leeway with regard to its decisions, but probably also less influence. Furthermore, the validity of its decisions with regard to single States would need the agreement of the respective State through its signature to the corresponding treaty. This is why at the moment the legal option preferred by most people is the one through Article 22 of the UN Charter. Both ways, however, can be followed without making a change of the UN Charter necessary. Only if at a late stage it is envisioned to set up a UNPA as a main body of the UN, such a Charter change would be needed. Thus altogether, the establishment of a UNPA could be a quite easy endeavour, as soon as enough governments are convinced to vote in favour of such a body within the GA.

A question which often arises in this context is whether the Inter-Parliamentary Union (IPU), the existing world organization of parliaments, should or could take up the tasks of such a UNPA. This is principally conceivable, especially given the large institutional knowledge of the IPU. However, the IPU, at the moment seems to pursue the goal of representing national parliaments at the global level, of strengthening their ability to

exercise their oversight functions at the national level in international affairs, and not that of representing the world's people at the global level and of exercising legislative and oversight rights directly at the global level in its own right. It does so under the label of a "parliamentary dimension" to the United Nations. The representation of national parliaments at the global level and their information about global affairs will always be important, as developments at the regional level tell us². However, this does not substitute for a true global parliament³.

What Happened so Far and What Comes Next

In the last years, support for the proposal to set up a Parliamentary Assembly at the United Nations (UNPA) has been constantly growing. The proposal got a new impetus with the foundation of the Committee for a Democratic UN (KDUN)⁴ in 2003. KDUN is co-founder and Secretariat of the international Campaign for the Establishment of a United Nations Parliamentary Assembly (CEUNPA)⁵ which was launched in 2007. The Campaign is a global network of parliamentarians and non-governmental organizations advocating citizen's representation at the UN. The Campaign's participants are united in their support of the Appeal for the Establishment of a Parliamentary Assembly at the United Nations⁶. The call for a UNPA meanwhile is supported by 528 members of parliament, further 1674 individuals from 124 countries and 151 NGOs on all continents. The first international conference was convened in November 2007 in the Palais des Nations in Geneva under the patronage of former UN Secretary-General Boutros Boutros-Ghali.

Apart from this individual backing, meanwhile a number of regional parliamentary assemblies as well as global unions of political parties and other international networks have declared their support for the UNPA proposal. Thus, the European Parliament (EP)⁷, the Pan-African Parliament (PAP)⁸, the Parliamentary Assembly of the Council of Europe (PACE)⁹, the Commission for Political Affairs of the Latin American Parliament (Parlatino)¹⁰, the Socialist International (SI)¹¹, the Liberal International (LI)¹², the Global Greens Congress¹³, and the World Federation of United Nations Associations¹⁴ all have adopted resolutions in favour of a United Nations Parliamentary Assembly.

The next steps the Campaign will aspire to achieve certainly will include the growth of individual and institutional support and the coordination and joint strong utterance of this backing at the global level. Some of the nearer steps will include the enlargement of institutional support in national parliaments in form of a resolution in favour of a UNPA and the lobbying of governments.

Conclusion

What would be the added value of a UNPA? Certainly, such a body would be a vehicle for increased trust in the United Nations and global decision-making. By this way, it would enhance the legitimacy of the United Nations and strengthen its capacity to act. It would thus help the global system to function properly. Still more, it could also help to make it functioning not only in a proper, but also in a just way. The delegates in a UNPA would probably be less inclined to follow national lines of thought, but would rather think and act globally. Thus, they could on the one hand become a catalyst for reform and could drive governments to overcome their inertia and national bondage and to act. On the other hand, they could encourage governments to act in favour of the weak, the poor, the South, and the have-nots, since those are the ones delegates represent and those are the ones whose interests have to be balanced if humankind wants to survive. By this changed consciousness and understanding of global politics, a UNPA would overcome last but not least the democracy deficit at the global level and would transform the "We, the peoples..." at the beginning of the UN Charter into a lived and living experience.

Global Parliament Panel Debate

by Danielle D'Apice

WFI Research Associate

During the Citizens for Global Solutions annual meeting in Washington DC in March, CGS' World Federalist Institute presented a plenary session to discuss the topic, "Is the World Ready for a Parliamentary Assembly?" The panel included four speakers: Faye Leone, Program Officer for International Democratic Governance at the World Federalist Movement; Jeffrey Laurenti, Senior Fellow and Director of Foreign Policy Programs at the Century Foundation; Andrew Strauss, Professor of International Law at Widener University's School of Law; and Fernando Iglesias, Member of Parliament, Argentinian Low Chamber. The moderator for the session was Joseph Schwartzberg, Professor Emeritus in Geography at the University of Minnesota.

Ms Leone gave a brief history of the movement to create a United Nations Parliamentary Assembly (UNPA) and pointed out the key tension between the size of a parliamentary assembly and the size of the constituencies represented. Then Mr Laurenti expressed his skepticism about a global UNPA being successful. His key objection was that if more than half of the world operates under non-democratic regimes, what authority would a UNPA possess and why should serious policy-makers even participate?

Dr Strauss stated that the international status quo does not represent people and therefore lacks authority to deal effectively with global threats such as nuclear annihilation. Acknowledging Laurenti's point that initially a UNPA would lack decision-making power, Strauss argued that by representing citizens it would acquire more authority which would ultimately lead to political power. Pursuing the same logic, Mr Iglesias used the Spanish word "parlamento", derived from the Latin root "to speak", to emphasize that parliament is a place where discussion occurs, even if action cannot follow immediately. He recited several cases in history when social change seemed impossible but eventually was achieved through public debate and political pressure.

Ronald J. Glossop, Professor Emeritus of Philosophy and Peace Studies at Southern Illinois University-Edwardsville, is Chair of the Steering Committee of the World Federalist Institute of Citizens for Global Solutions. He is the author of *Philosophy: An Introduction to Its Problems & Vocabulary* (1974), *World Federation?* (1993) and *Confronting War* (4th ed., 2001).

Daniele Archibugi is Research Director at the Italian National Research Council in Rome, affiliated at the Institute on Population & Social Policy, and Professor of Innovation, Governance and Public Policy at the University of London, Birkbeck College. He works on the economics and policy of technological change and on the political theory of international relations. Having graduated in Economics at the University of Rome and taken his D.Phil. at the University of Sussex, he has worked and taught at the Universities of Sussex, Naples, Cambridge and Rome. In the academic year 2003-2004 he was Leverhulme Visiting Professor at the London School of Economics and Political Science, affiliated at the Centre for the Study of Global Governance; in 2004-2005, he was Lauro de Bosis Visiting Professor at Harvard University, in the Department of Government and the Minda de Gunzeberg Center for European Studies.



THE GLOBAL COMMONWEALTH OF CITIZENS: TOWARD COSMOPOLITAN DEMOCRACY, by Daniele Archibugi (Princeton: Princeton University Press, 2008)

BOOK REVIEW

The Global Commonwealth of Citizens: Toward Cosmopolitan Democracy

by **Daniele Archibugi**

Ronald J. Glossop

29 April 2009

Democracy is needed at the global level, not just within nations. That is the thesis of this book directed mainly to Western thinkers, especially in the United States. The governance of the world community should be in the hands of all its inhabitants, not just the small proportion found in earlier industrialized, earlier democratized richer countries.

The first chapter, "A Queen for the World", directs the reader to an idea put forth in 1840 by American William Ladd, the idea that world public opinion (what he called "the Queen of the World") rather than military or economic power should govern the world. Ladd's ideas on how to implement his vision were primitive compared with institutions that now exist such as the UN General Assembly and the International Court of Justice. Archibugi notes (page 2) that this book aims to explore "the chances of increasing the legitimacy of world politics by introducing the germs of democracy and subjecting world politics to the citizens' scrutiny. Under what conditions could public opinion become the queen of the world?" The goal is to develop institutions where the public controls the actions of national governments, international organizations, and multinational corporations.

Archibugi is concerned that the world is dominated by a small group of countries which contains less than a sixth of the world's population. He points to the "democratic schizophrenia" of the West which aims to promote democracy in other countries but which is by no means ready to apply the principles of democracy to the management of global affairs. The present challenge for the world community is to meld the lofty Western Enlightenment ideals of cosmopolitanism and democracy.

Part I focuses on "The Theory of Cosmopolitan Democracy". Its third chapter explores the tensions between democracy and the present global system while the fourth chapter addresses the "institutional architecture of cosmopolitan democracy". Here Archibugi discusses confederations and federations and then raises the question at the base of his own view, namely, whether there might be a third type of structure "more cohesive and demanding than a confederation but less rigid than a federation" (page 11 and pages 101-112). That third type would be something like the ever-evolving UN and the current European Union if they just don't move on to become centralized federations (page 110). Archibugi's model for a federation is a strong federation that has existed over a period of time and one strengthened by wars with external enemies: the United States of today, not as it was when first created. The result is that the third type of structure which he champions is virtually the same as the limited federation that most world federalists support.

Part II, "The Practice of Cosmopolitan Democracy", focuses on what needs to be done to promote cosmopolitan democracy in particular cases, such as how to make the United Nations and other international organizations more democratic. Military actions for humanitarian purposes should be based on cosmopolitan democratic principles rather than just the interests of a few dominant countries. Decisions on how best to spread democracy into new areas, how to advance ethnic self-determination, and how to protect

the rights of linguistic minorities require democratic decision-making at the global level. Ultimately global democracy requires a global language accessible to all, so Archibugi says that “democratic politics must be in Esperanto” (page 260).

He admits that there are other issues he has not discussed which need to be addressed by a global commonwealth of citizens rather than the oligarchy of rich countries which now exists. But he has discussed the central issues and has made his main point in a cogent way. The demo-

cratic nation-states which are so dominant in the world must apply their democratic principles of universal inclusion, responsibility to the governed, and rigorous impartiality beyond their national borders to the whole global community.

Revised Human Rights Structures at UN

Joshua Cooper

April 2009

Joshua Cooper, who has written reports for several previous issues of *Minerva*, is a lecturer at the University of Hawaii, teaching classes in Political Science & Journalism focused on International Human Rights Law, Nonviolent Social Movements, Ecological Justice in Oceania, and Indigenous Peoples' Rights. He is also a lecturer at the International Training Center for Teaching Peace and Human Rights, in Geneva, Switzerland, and he lectures on human rights in summer programs at Galway University, Ireland and University of the District of Columbia School of Law in Washington DC. Joshua Cooper is an elected member of the National Council of Chapters and Divisions of the United Nations Association-USA and serves on the Human Rights Task Force for the UNA-USA Board of Directors; he also is on the Board of Directors for Peace Action. He is an Area Coordinator for Amnesty International-USA and former chair of the AIUSA Indigenous Peoples Task Force. He is a senior advisor to the Unrepresented Nations and Peoples Organization, based in The Hague, and participated in the recent Indigenous Peoples' Global Summit on Climate Change, in Anchorage, Alaska (see page 56). Joshua Cooper has been selected to work with Nobel Peace Prize Laureate Al Gore on The Climate Project.

I - The United Nations Human Rights Council ~ A Humble Beginning; A Bold Responsibility for Humanity

The UN Human Rights Council is an important initiative in the UN human rights machinery. It was created to initiate a new culture of dialogue to prevent human harm in the future, and the people of the world whose rights are denied daily aspire for a global civic responsibility of direct action to protect people now.

Since its inception in 2006, the UN Human Rights Council has aimed for human rights to be an integral part of the international institution to secure peace. It is important to note how the new human rights body improves upon its predecessor, the UN Commission on Human Rights, and also important to continue to initiate bold action to be a voice for the voiceless.

Through three presidents of the UN Human Rights Council, it is possible to recognize the structure & schedule and examine potential strategies to promote and protect human rights better. The new supreme body survived its inaugural year to create institutions adopted in a dramatic midnight session under President Luis Alfonso de Alba. However, it will have to prove its existence to the people around the planet demanding fundamental freedoms and a life of dignity and equality. From an initial study by a Swiss professor and human rights professional, Walter Kaelin, the proposal worked through the UN labyrinth to be positioned to become a permanent third pillar along with the UN Security Council and Economic & Social Council.

The new body has reduced its membership from 53 in the Commission to 47 in the Council. While this was seen as an important component of the reform, the ambassadors pushing it failed to recognize the new balance of power among members of the UN Human Rights Council.

One of the most significant aspects of the new body is the frequency and length of meetings of the Human Rights Council. The Commission on Human Rights met in March/April for six weeks annually. The UN Human Rights Council has established three meetings per year averaging 10 weeks per year. The meetings take place around the calendar with sessions in March, June and September. This is quite significant as the UN Human Rights Council is emerging as a permanent sitting body in Geneva. The new mechanism of the Universal Periodic Review — where each state member of the UN will be reviewed every 4 years — is also significant.

The frequency of special sessions is quite impressive since in its first years it has conducted more special sessions than in the previous six decades of the UN Commission on Human Rights. Already there have been 10 special sessions. The special sessions have had two themes: The Impact of the Global Economic and Financial Crises on the Universal Realization and Effective Enjoyment of Human Rights and The Negative Impact on the Realization of the Right to Food of the Worsening of the World Food Crisis. The remaining eight sessions focused on human rights to specific states, with the majority focusing on violations of human rights relating to Israel's actions in the region. However, the HR Council has also examined The East of the Democratic Republic of the Congo, Myanmar and Darfur. The potential of UN Human Rights Council missions headed by eminent peacemakers will be an important development to monitor as well as the follow-up.

The UN Human Rights Council has continued the role of establishing human rights standards. The first resolution adopted by the new body was the International Convention for the Protection of All Persons from Enforced Disappearances. At the meeting, the mother of a disappeared son from Argentina spoke on the floor for the necessity of such an instrument and a future institution to monitor this important issue. The second resolution of international importance is the UN Declaration on the Rights of Indigenous Peoples. For eleven years, the previous body held the declaration in a working group of states constantly adjusting the articles to defend indigenous rights. The UN Human Rights Council had the courage to adopt this resolution. This tradition continues from its inaugural session with the adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, to commemorate the 60th anniversary of the Universal Declaration of Human Rights.

One major area of concern is Council continuation of the "special procedures" for human rights. The special rapporteurs for countries are under attack by certain states wanting to eliminate these positions. The theme-based rapporteurs also are being challenged with a code of conduct supported by states with questionable records of human rights. The vitality and independence of these experts are essential to the future of the Council. The tenth session, March 2009, brought creation of a new Individual Expert in the Field of Cultural Rights to serve the UN Human Rights Council.

The spirit of reform to realize human rights for all people is intoxicating. Yet, there is still more to be done.

The members of the UN Human Rights Council are still governments. Before, governments would horse-trade votes to maintain their seats. Now, each must stand for election and receive a majority of votes. To get elected, governments make pledges indicating their involvement in human rights and areas for improvement. No government can serve more than two terms of three years. There will be more governments attempting to attain these prestigious places in international politics. This gives an opportunity to elevate human rights on the global agenda. Also governments can be suspended for gross and systematic violations of human rights. Civil society is the key ingredient. NGOs must encourage governments to pledge efforts to be leaders in human rights. NGOs must make sure those promises are realized by the citizens of the world.

It is imperative for more individuals and groups representing the people to participate actively in the UN Human Rights Council. The multiple sessions do make it difficult for NGOs in the field to take part. It is necessary to partner with NGOs that have permanent representation in Geneva. It is also possible to keep up with developments via the webcast. One can either watch from their a computer or host community viewing parties in order to hold the members accountable to their role on the UN Human Rights Council.

Last summer, when the United States announced that it would no longer participate in sessions of the United Nations Human Rights Council, even in its observer status, unless "absolutely necessary", Kate Cronin-Furman and Amanda Taub, of the satirical blog **Wronging Rights**, commented ("US Decides Protecting Human Rights Too Much Trouble After All", 9 June 2008): "The US quietly informed its allies that it was planning to 'disengage' from the Council but then refused to confirm its policy change to reporters. Nobody quite knew how to deal with this sort of passive-aggressive behavior from an administration whose foreign policy usually has all the subtlety of an angry bull elephant Fortunately, Human Rights Watch managed to pull itself together and fire off a snippy press release ... point[ing] out that, given the Bush administration's militantly negligent attitude to human rights in its prosecution of the 'War on Terror', perhaps it might consider hopping on down from its high horse. And that, whatever the motivation behind the move, 'ceding the field to those who want to shield abusers from scrutiny' was hardly likely to help matters. Touché."

After the recent resolution against defaming religions demoralized many UN Human Rights Council well-wishers further (see page 41), a **New York Times editorial** (1 April), commented that the Obama administration's decision to run for a seat on the "highly dysfunctional" Human Rights Council "may be the best chance to shape up this international embarrassment, but it won't be easy. ... Rather than risk criticism of their own policies, members all too willingly enable each other's excesses — and call it respect for national sovereignty. And like too many other United Nations bodies, the council apportions membership on the basis of regional bloc politics, not merit or performance. ... Making the council credible will require countries that are genuinely committed to human rights to stand up to the relatively small number of egregious violators and the much larger group that gives them cover."

[continued, next column]

Citizens for Global Solutions congratulated the US at the beginning of April for its decision to seek a seat on the Human Rights Council in the May elections. "This action sends a strong signal to the international community that the Obama Administration is committed to defending human rights for all global citizens," said CEO Don Kraus. "This moves the US one step closer to returning to its previous role as a leader in the defense of human rights around the world ... [and] will substantially improve the UN human rights regime to the great benefit of the US and individuals across the globe." In CGS' view, "the Council will only be able reach its potential with the help of strong leadership from the United States. ... We enthusiastically applaud this decision and look forward to active US engagement in creating a stronger, more effective Human Rights Council."

On the eve of the election, **Vaclav Havel** complained that "only 20 countries are running for 18 open seats, ... thus ensuring there is no opportunity to choose the best proponents of human rights each region has to offer ... [even though] countries [had] agreed to take human rights records into account when voting... Now, it seems, principle has given way to expediency. Governments have resumed trading votes for membership in various other UN bodies, putting political considerations ahead of human rights. The absence of competition suggests that states that care about human rights simply don't care enough" (*NY Times*, 10 May 2009).

"The lack of competition sets a very poor precedent and risks a return to the regional endorsements and rubberstamping that allowed Zimbabwe and Sudan to sit in the Council's predecessor," said Elizabeth Sepper, **Human Rights Watch** UN advocacy fellow (IPS, 1 May 2009). "Western countries took the easy way out, a decision that will come back and bite them. ... [They] have undermined their own ability to encourage rights-respecting countries to compete with abusive regimes — a consideration that will be important next year when Iran reportedly will run for election."

The message of former UN Secretary General Kofi Annan at the Council's opening echoed the urgency of the newly created UN body responsible for protection and promotion of human rights among governments for the global citizens. He said, "It is hardly an exaggeration to say that the eyes of the world — especially the eyes of those whose human rights are denied, threatened or infringed — are turned towards this chamber and this Council. ... And a new era in the human rights work of the United Nations has been proclaimed." In a tone of calm and moral clarity, he noted, "I trust that all members of the Council are fully aware of the hopes that have thus been raised, and are determined not to disappoint them."

Annan understands the urgency of the undertaking at the UN and the opportunity offered through the open process to adopt an attitude of advocacy, "...The council's work must mark a clean break from the past. That must be apparent in the way you develop and apply the universal periodic review mechanism, in your willingness to confront hard issues and engage in difficult decisions, where these are necessary to remedy — or, even better, to prevent — human rights violations; and in your readiness to make good use of your ability to meet more frequently than the Commission did, and to call special sessions. What must be apparent, above all, is a change in culture."

In his conclusion, he said, "...this Council represents a great new chance for the United Nations, and for humanity, to renew its struggle for human rights. I implore you, do not let this opportunity be squandered."

The President of the UN General Assembly in 2006, Jan Eliasson, provided the measurement for success being the difference in the individual daily lives of citizen and the obligation of each government member of the Council to its citizens. "You, who created and inspired the creation of the Council, demonstrated foresightedness as well as a sense of compromise and responsibility during the arduous road to completion of our work," he said. "Now you have to show determination and courage to translate intentions and words to changing of realities and taking action. This requires from all of us statesmanship and preparedness not only to examine others but also to examine ourselves."

Eliasson concluded, "...we must place the human being in the center. It is human beings who suffer in conflicts. It is human beings who die in terrifying high numbers from hunger and disease. It is human beings who are oppressed and silenced. The United Nations Charter reminds us of our fundamental duty: to serve the peoples of the world. It is 'we the peoples' who give us the direction representing the voices of the afflicted men, women and children. Let us together prove that our new Human Rights Council will make a difference in their lives."

The launch of the UN Human Rights Council also marks a shift in the conscience of countries to recognize that the necessity of realization of human rights is connected with the mandate of the UN charter for world peace.

"To place human rights on the same level as peace and security and development and to stress the interdependence of all three pillars was an historical contribution to achieve security in a broader sense, a life in dignity to all," Eliasson said.

It is still too early to decide if the new intergovernmental body at the UN will fulfill its promises. The realization of human rights will be based on the bold or bad decisions taken by the governments serving in the Council, the UN High Commissioner for Human Rights, the NGOs participating in the sessions, and ultimately the ability of individuals to transform the decisions in Geneva to the grassroots community around the globe.



UN Human Rights Council discussion
(photo by Joshua Cooper)

II - Universal Periodic Review ~

An Innovation of the UN Human Rights Council;

An Invitation for Genuine Dialogue Among Governments & Global Civil Society

The call for reform in the human rights mechanisms did create replacement institutions at the United Nations. However, it remains to be seen if initiatives in these bodies can improve the lives of individuals and communities around the world.

One process with the most potential in the United Nations Human Rights Council is the Universal Periodic Review (UPR). The UPR is an opportunity to review the human rights record of each member state of the United Nations every four years. Each member becomes a state under review for a three-hour dialogue, receiving questions and recommendations from the 47-member states but also all UN members in a Working Group of the UPR.

The basis for the review discussion is three sets of documents provided from the global, governmental and grassroots level, allowing all voices of human rights to be heard.

The government is responsible for preparing a 20-page report (similar to the treaty body reports) that is comprehensive in nature, focusing on the framework for promotion and protection of human rights on the ground as well as priorities for the government to overcome challenges, and potential opportunities for capacity-building.

The Office of the High Commissioner for Human Rights (OHCHR) is responsible for the compilation and summation of information relating to the human rights record of the state under review for two 10-page reports.

The OHCHR UPR unit of the secretariat compiles information about the state under review from: the UN Human Rights Treaty Bodies' recommendations and rulings; the Special Procedures of the Human Rights Council, such as the country & theme Special Rapporteurs' reports based on visits and research; and the UN Specialized Agencies, Programs and Funds country activities and documents.

The second 10-page report consists of reports written by "other stakeholders" providing information about the state under review. The stakeholders consist primarily of non-governmental organizations (NGOs) based in the communities of the country or international associations operating in states or focusing on specific rights around the world. A single NGO issues a 5-page report to be submitted to the OHCHR. A coalition of NGOs provides a 10-page report to the OHCHR. The NGO reports are due roughly between 6 and 7.5 months before the actual convening of the Working Group of the UPR and the appearance of the government as the state of review.

The government can conduct a genuine review that would be a holistic human rights national discussion about how the state is doing and what can be done to improve the daily living of its citizens. While it is up to the state to choose the construction of the consultation with civil society, the government is "encouraged" to hold a "broad consultation process at the national level with all relevant stakeholders" that produces the most comprehensive report. As with the treaty body reporting process, it depends on the government — varying from no meetings to token consultations to genuine meetings of the minds examining the necessary actions needed to improve the human rights record of the state. A government usually draws from its various national agencies to create a steering committee chaired by either the Justice or Foreign Affairs Ministry. The reports are due to the OHCHR UPR Unit approximately 13 weeks or 4 months before the Working Group on the UPR. Many governments have built upon national steering committees of agencies to prepare a representative team of senior officials to represent the state in Geneva at the Working Group on the UPR.

The website of the National Human Rights Institutions Forum (www.nhri.net) — "an international forum for researchers and practitioners in the field of national human rights institutions" — offers:

- Key global and regional documents
- Documentation on the work of global and regional fora
- Information on and from national human rights institutions
- Bibliography and research materials
- Capacity-building and training resources

For more on NHRI participation in sessions of the Human Rights Council, see <http://www2.ohchr.org/english/bodies/hrcouncil/nhri.htm>.

For samples of NGO submissions to the Universal Periodic Review process, see "UN Human Rights Council Tenth Session: Compilation of statements by Amnesty International" (7 April 2009 www.amnesty.org/en/library/info/IOI41/011/2009/en).

The basic outline of the review is based on the standard areas of the state report and aspects covered by the summary compilations of UN information and NGO submissions by the OHCHR. The structure of the report and subsequent interstate dialogue includes: methodology and consultation model followed; domestic normative and institutional framework for promotion and protection of human rights; promotion and protection of human rights at the national level; identification of achievements, best practices, challenges and constraints; key national priorities, initiatives and commitments; and capacity building & technical assistance.

Under the domestic framework for human rights, the report should thoroughly cover the following: national political structures & governance; international human rights obligations under ratified treaties; incorporation of international rights in domestic law and national constitution as well as legislation; national human rights systems such as courts, national human rights institutions (NHRIs), NGOs; and creative mechanisms and government mechanisms to follow-up on UN human rights recommendations from various bodies such as treaty bodies, special procedures and the UPR.

Under human rights at the national level, the report should thoroughly cover the following comprehensive set of rights: equality & non-discrimination; civil and political rights & fundamental freedoms; personal liberties and security; torture and other cruel inhuman or degrading treatment or punishment; administration of justice; economic, social and cultural rights, covering health, housing, education, labor and social security; women's rights and gender equality; children's rights; and promotion and protection of rights of specific vulnerable groups such as migrants, disabled, minorities and indigenous peoples.

Under the category of achievements and best practices as well as challenges and constraints, the report should include: constitutional and legal reforms; human rights trainings for judicial, legal and government officials, from military to police and other officers of the state, as well

as popular human rights education to the general public and through institutions of the state such as schools; and public awareness & social engagements to ensure promotion and protection of human rights.

In the final two sections of priorities and initiatives and capacity-building, the report should be creative in illustrating actions by the state and encouragement of civil society to meet priorities. Also, it is important to note how assistance might be helpful to reach national aspirations and the potential for capacity-building partnerships among all involved in the preparation and follow-up of the UPR on the grassroots and global level.

The Working Group of the UPR meets three times a year for two weeks, reviewing 16 countries during each meeting. The Working Group meets at the beginning of every February & May and late November/early December. Written questions can be sent in advance to the state under review by any member state of the UN. The questions are transmitted through the secretariat by the Troika of rapporteurs, three governments of Human Rights Council members randomly selected from various regions to shepherd the state under review through the UPR. The Troika role is not investigatory or evaluative in nature but acts to facilitate through the UPR process.

The basis of the review is the UN Charter, the Universal Declaration of Human Rights, international human rights treaties to which the state is a party, voluntary pledges and commitments made by the states, and applicable international humanitarian law.

The state under review begins the three-hour process with an introductory statement and sometimes responds to the advance written questions. Each state under review has one hour of the three to present its report and to answer advance questions and questions posed during the interactive dialogue. It is up to the state how it splits the hour. Most begin with a 15–20-minute introduction. Then the states that have signed up pose questions and make recommendation. The state under review

may respond to questions in batches or wait until the speakers list is complete. The interactive dialogue usually consists of the state under review responding to a series of comments and questions, then allowing the next string of statements and questions to which it responds, throughout the three-hour period. The state under review usually manages its time to allow for a final concluding comment.

At the end of the session, a summary report is drafted by the Troika and OHCHR secretariat containing the questions posed and recommendations proposed by each participating government. The state under review has 48 hours to review the recommendations in the report and respond with either acceptance, consideration, rejection, or later response before the official adoption of the report in the plenary session of the Human Rights Council.

The state under review usually responds orally during the adoption of the report. There is also an option for the state to write a document (up to five pages) that becomes an addendum to the Working Group report that is adopted in the plenary session of the HR Council.

While at the Working Group on the UPR, only states can take the floor; at the UN Human Rights Council meeting, civil society has an opportunity to speak to matters raised concerning human rights in the UPR. NGOs and NHRIs can give an intervention regarding a specific issue or a series of questions and recommendations.

The devil will be in the implementation of the recommendations in the summary report. States have the obligation to improve the human rights situation between the two reviews. It is still too early to measure the next phase of implementation where, if a state does not do so, the Human Rights Council will deal with persistent noncooperation with the UPR.

In its first year, there have been changes. The advantage continues for the government. The government still has to turn in its report 13 weeks before its review in the Working Group on the UPR. The NGOs and stakeholders reports have to be sub-

mitted even earlier than in the first year of the UPR. For the November/December session, NGOs must submit reports 33 weeks ahead, roughly 7.5 months. For the February and May sessions, NGOs must submit reports 24 weeks ahead, roughly 6 months. This provides an advantage for governments in the review process. NGO strategy is exposed early and also is somewhat outdated by the time the government appears before the UPR Working Group.

In its inaugural year of three sessions, with 18 states reviewed each meeting and with the four-year periodicity of each state's review, it is an important time to reflect on the potential for the UPR.

The UPR is a major added value of the new Human Rights Council. It is a different way to address country situations. The UPR is a compromise from 18 months of negotiations between countries and civil society. Some wanted a closed, purely peer review process and some wanted an expert-led review process with thorough investigation and scrutiny of every country. It is important to seize every increment of opportunity in this international review initiative to make a real difference for victims in every country in every region of the world and to ensure that the global community confronts human rights problems and promotes improvements everywhere.

Some have dubbed the UPR the "universal praise review" as ally states have swamped the sign-up list to secure friendly comments instead of critical questions for the dialogue about the state under review. While this squanders the opportunity of the new UPR, many realize that failing to address the most serious issues and systematic gross violations provides authentic ammunition to those who seek to condemn the new council and weaken human rights as a permanent pillar of the UN. Every state has a responsibility to ensure that the review is candid, credible and constructive. Respectful tone turns aspirational questions and recommendations in the final report into a positive tool to measure progress in each state.

The initial skepticism has been reduced, with government delegations taking the

UPR seriously, bringing senior representation for the dialogue on key human rights topics. What is important now is the range of recommendations accepted and the follow-up from the UPR.

UPR has become an impetus for states to submit overdue reports to treaty bodies and even to ratify remaining human rights treaties, resulting in a focus of progress on human rights in each country. UPR has also resulted in a hook for national human rights review with an agenda for actions and national conversations among state agencies, NHRIs and civil society.

The comprehensive nature of the national review makes it a necessity for NGOs to expand the dialogue to encircle all actors in a democracy. It is an opportunity to ensure that the human rights framework is the lens to examine issues facing society and to provide solutions for dilemmas dominating our daily lives. The stakeholders can mobilize together to truly unite citizens to recognize the interconnectedness and indivisibility of issues relating to human rights.

The UPR is an opportunity to bring together the nation-state to have a country-wide conversation about how the government is living up to its international human rights obligations. The parrhesia approach between all elements of a society nurtures the essential dialogue to raise awareness about the rights of all peoples, the responsibilities of governments, and the ripe reconciliation potential to realize all human rights for all in the member-states of the United Nations.

The UPR does provide universal coverage of all members and a review of all human rights. Its intent is complementation not duplication of other human rights mechanisms. The intergovernmental process aspires to be a cooperative mechanism based on objective and reliable information with the full participatory involvement of the state under review. Ultimately, it is a new opportunity for organizing civil society and the state to engage in exceptional interaction to ensure human rights.

The UPR is one more potential mechanism to build the foundation of a state

rooted in freedom and human rights. The UPR can assist in cultivating an active citizenry, creating a genuine democracy with good governance embracing a positive paideia.

The first cycle of four years will be an important period to examine the ability of the UPR to promote and protect human rights. Every country will have sat in the seat as the state under review. Citizens of the world will be able to bring their concerns forward to countries to present their questions and recommendations in Geneva that are often ignored at home.

III - The UN Human Rights Council Advisory Committee ~ More Than Advice; Less Than Advocacy, So Far ...

In General Assembly Resolution 60/251 establishing the new UN Human Rights Council, there was no specific reference to continuation of the Sub-Commission on the Promotion and Protection of Human Rights, only mention of a "system of expert advice" to be created. The 18 members of the newly created UN Human Rights Council Advisory Committee are organizing to make sure that the expert body exerts its influence in the global movement for human rights.

The UN Human Rights Council Advisory Committee held its inaugural session in August 2008. The independent and intensive nature of the previous UN Sub-Commission on the Promotion and Protection of Human Rights is surviving, although the new UN Human Rights Council is firmly aiming to restrict its role. The struggle of expanding & engaging by the Advisory Committee versus the limiting & lessening by the UN Human Rights Council maintaining the mandate was witnessed throughout the session.

While the Advisory Committee still meets during the same time period as the former Sub-Commission, it splits the two-week annual session, with one week during the usual August session and one in January.

One part of reform proposed and pushed by states is efficiency, with elimination of some positions. The new Advisory Committee's 18 members — a reduction of

the 26-member size of the former Sub-Commission — represent regions: five from Africa and Asia, each; three each from Latin America and Western European & Other States; and two from Eastern Europe. Three of the regions were clean slates offering no choice of candidates (chosen by acclamation). Only four women serve on the Advisory Committee.

The spirit of resistance from the previous body remains in the new Advisory Committee, as seven members formerly served on the UN Sub-Commission. The seven veterans have accumulated leadership roles to navigate the new body through the rough waters of the reforms. Miguel Alfonso Martínez of Cuba was elected as the first chair of the Advisory Committee. All but one of the bureau were members of the former Sub-Commission.

The Advisory Committee is quite aware of the limits being placed on it. As one of the veterans noted on the opening day of the August session, “We have very limited room. ... We are operating under restrictions imposed by the UN Human Rights Council.” States also attended the meeting, peering over it and cautioning against overstepping the mandate. Meanwhile, NGOs participated to an amazing extent, freely advising the Committee in the drafting groups on the agenda items. The informal process allowed for unprecedented access in the discussion process of the drafting groups.

UN reform in the field of human rights was the most stringent and serious on the think-tank body providing expertise to the newly created UN Human Rights Council. While the Sub-Commission addressed human rights in specific countries and adopted resolutions, the new Advisory Committee’s limited mandate has created conditions where creative diplomacy allows for adopting recommendations and creating drafting groups to focus on important human rights issues.

India seems to be heading the governments’ movement to make sure the mandate is perceived in the most narrow interpretation, while experts of the Advisory Committee and NGOs from around the world mobilize to live up to the innovative and socially conscious legacy of its predecessor.

The main agenda item and immediate issue was a Draft Declaration on Human Rights Education and Training. In a large drafting group, over a series of meetings during the session, the conceptual framework was developed and a vision for the possible results was considered as well as the necessary elements that must be included. NGOs met throughout the session, talking directly with the experts, offering specific language, and engaging in informal exchanges to better understand the elements being proposed for the declaration.

The Advisory Committee did address other important issues such as the right to food and the right to self-determination. The drafting group on the right to food raised issues such as hunger refugees and a convention on peasants’ rights, asking to prepare studies in the future. It also adopted recommendations for pursuing a list of approved followup studies and publishing Sub-Commission studies completed but not yet printed.

At the conclusion of the first session, one veteran member claimed to be pleased with the flexible methods of work and the outcome. The expert noted that in 50 years at the Sub-Commission only five working groups were created but in the first Advisory Committee meeting two drafting groups were already feverishly wedging a space for action.

NGOs were also quite pleased with the openness for active participation with extended opportunities to share their expertise in drafting specific portions of the first Draft Declaration.

These initial sessions are essential for the new Advisory Committee to build upon the legacy of the UN Sub-Commission on the Promotion and Protection of Human Rights and to chisel a unique role for realization of human rights in its capacity as a creative think-tank providing advice to the UN Human Rights Council.

UN Human Rights Council: Defamation of Religions Controversy

Women Living Under Muslim Laws

7 April 2009

The Women Living Under Muslim Laws (WLUML) international solidarity network is deeply concerned about the United Nations Resolution on “Combating defamation of religions”.

This press release was issued by the WLUML International Coordination Office in London. Website: www.wluml.org

On 18 December 2007, the UN General Assembly adopted this resolution recommended by its Third Committee (Social, Humanitarian and Cultural), and long campaigned for by the Organisation of the Islamic Conference (OIC), which has a permanent delegation to the United Nations. In March 2009, the UN Human Rights Council once