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**Open-ended Intergovernmental Working Group  
on the Review of the Work and Functioning  
of the Human Rights Council  
First session, 25 to 29 October 2010**



**Statement by  
Ms. Kyung-wha Kang  
Deputy High Commissioner for Human Rights**

Geneva, 25 October 2010

President,  
Distinguished Representatives,  
Ladies and Gentlemen,

*[Introduction]*

Thank you, Mr. President, for providing OHCHR with an opportunity to make a presentation at the first session of this intergovernmental working group.

The High Commissioner is unfortunately away from Geneva and has asked me to convey her regrets for not being able to be with us today. Over the past year, she has closely followed the debates on the Council review with strong interest. She has made suggestions whenever she has had an opportunity to do so, and some of these have permeated the thinking of participants in the number of informal brainstorming discussions on the review organized at the initiative of member States and academic institutions during the past year.

I recognize that the outcomes of these discussions are reflected in some of the contributions formally submitted to the President for consideration by this Working Group. A number of new, concrete and interesting proposals have also been submitted by Member States and other stakeholders.

*[Approach to the review]*

Excellencies,  
Ladies and Gentlemen,

Although there is no need to reinvent the wheel, this exercise should be a true evaluation conducted in an inclusive, constructive and transparent manner. Any recommendations should flow from a credible and realistic self-evaluation exercise. Critical thinking and suggestions are needed, but more importantly we should also reflect on lessons learned from the Council's achievements so far and seize this opportunity to make adjustments to address any shortcomings identified.

Importantly, the review should take into account the perspective of those who are not here, including the millions of people whose human rights have been violated. One should ask whether the Council has responded to both chronic and urgent issues facing vulnerable groups and victims.

*[Tools to deal with chronic and urgent issues]*

Highlighting the importance to enhance its ability to take up both chronic and urgent human rights violations, the High Commissioner has consistently called for flexibility to be introduced into the work of the Council. This is the benchmark against which we should measure the success of the Council, particularly from the perspective of those outside Geneva. She has been encouraging the Council to be creative and take full advantage of opportunities for discussion, including through convening of in-session

or inter-sessional briefings or discussions, as well as organizing panels during or in-between sessions. Resolutions are not the only means the Council has of addressing issues of concern. For instance, the Council could hold special sessions without an outcome or increase its recourse to presidential statements or declarations. We are encouraged by the fact that the Council has already developed such modalities during its recent sessions. The Council's work does not have to be confined in this room. A fact-finding or advisory mission by members of the Council could also be considered.

Engaging the media and the public at large will be crucial in this effort. The complexity of the UN system and procedures in general and the geographical distance between the UN and people around the globe makes this particularly challenging. This is why consideration could be given to the possibility of holding one short session of the Council outside Geneva every year, possibly at one of the UN regional offices on a rotational basis. This would allow the Council to gain a better understanding of human rights issues relevant to the region, while being closer to stakeholders, including UN and civil society actors in the region.

*[Working methods]*

Excellencies,  
Ladies and Gentleman,

This review should also be an opportunity for the Council to further adjust and improve its working arrangements and methods of work, such as in relation to interactive dialogues with mandate-holders and general debates, in order to enhance its effectiveness and make the maximum use of the time at its disposal. Possible options, which are reflected in many of the written contributions submitted to the Working Group, include the bi- or triennialization of resolutions and substituting written with oral reports, especially if these are progress reports, and bi- or triennialize requests for written reports. The annual programme of work of the Council and its calendar of meetings might be revisited, particularly as it has been increasingly difficult for all involved to follow the pace of the Council.

*[Complaint Procedure/Advisory Committee]*

Excellencies,

In terms of the Complaint Procedure there has been a concern that since its establishment only a very limited number of cases have reached the Council and these have been dismissed. Taking full advantage of the parameters of resolution 5/1 the review of the Council could contribute to making this procedure more efficient, visible and transparent, and ensuring that it meets the needs of victims. As for the Advisory Committee, the Council may wish to re-think whether it is using the expertise of the Committee to its fullest potential and in the best possible manner. Thought should be given to involving the Committee more into activities of the Council, such as panels or briefings.

### *[Special Procedures]*

The review provides an opportunity to take stock of the value of the contributions of the special procedures mandate holders through their reporting, fact-finding and cooperation with States. Their independence and expertise must be cherished and upheld, as the special procedures system is a vital component of the international human rights system.

One of the primary objectives of the review should be to enhance the impact and effectiveness of this system as independent, expert Council mechanisms. We hope the review will result in recommendations directed to enhancing States' interaction and cooperation with the special procedures. In this regard, it would be useful to identify ways to evaluate objectively the level of cooperation of States with the procedures. In view of the complementarity of the work of the special procedures with other human rights mechanisms, greater linkages between the special procedures and the UPR could also be explored. The High Commissioner has urged and will continue to urge all countries to invite and welcome the visits of mandate-holders, and fully cooperate with them. The review could also make recommendations to enhance the selection procedure for mandate holders. Ways to ensure that the Council is able to take full advantage of mandate holders' expertise could also be considered. This might include increasing the time allocated to interactive dialogues with individual mandate holders, rather than clustering dialogues as is the case at present.

### *[Universal Periodic Review]*

The UPR has become widely acknowledged as the hallmark of the HRC. The review of the Council should build on its success, but also address any shortcomings. One of the challenges facing the UPR is to ensure that it results in discernible improvements in human rights conditions on the ground, especially for victims of violations. It is important to streamline, synthesize, and clarify UPR recommendations - which in some cases have reached unmanageable numbers. This may have the adverse effect of blurring priorities rather than enhancing protection. There is also room to make the process more user-friendly, transparent, and easily understandable.

This brings me to the challenge of implementation of recommendations at the national level. Although responsibility for implementation rests primarily with States, a diverse array of national stakeholders can help Governments in this demanding task. Wide participation in this process will also ensure that the UPR debate moves from the international stage to the national level, where it can stimulate a sense of ownership and positive effects for domestic human rights constituencies and affected individuals and groups.

As one of my colleagues will make a presentation on the UPR from the perspective of the secretariat, I would simply stress the importance to ensure that those countries to be reviewed in 2012 are in a position to report on time to the Council both on their general human rights situation and on measures adopted to implement the recommendations made during the first round of the UPR. Extending the next cycle over a period of five years, starting in the spring of 2012, will allow for more time for interactive dialogues and proper dialogue within the Working Group. The working

group should also consider ways and means to instill further levels of expertise in the UPR process by ensuring that human rights experts as part of the delegations participating in the UPR.

*[Governance issues concerning the relationship with the General Assembly]*

The overall process of the review, including the GA review should consider working relationship and interaction between the Council and the General Assembly, in particular its Third Committee. There is a disconnect between Geneva and New York. This has created expectations, on the part of sponsors of Council resolutions that new activities, mandates or bodies that emerge from its three yearly sessions and many special sessions throughout the year that they can and must be resourced. It is often not appreciated that for a new mandate to be operational, it needs to be endorsed by the General Assembly, which traditionally has considered proposals of the Council only once a year.

The current arrangements have practical and financial implications for the HRC's work, as well as direct impact on OHCHR which is tasked to assist in the implementation of a significant number of resolutions adopted by the HRC. Increasingly, some of the new activities and mandates decided upon by the HRC have had to be postponed or implemented by diverting resources allocated for other activities on a temporary basis. The Council's decisions should not be compromised by a lack of dedicated resources.

*[Conclusion]*

On behalf of the High Commissioner, I would like to assure you that OHCHR stands ready to provide suggestions and advice whenever this would be considered useful in the process ahead. Mr. President, under your able leadership, I am confident that the Council will conduct the review in a constructive and inclusive manner and produce an outcome which will be remembered as a milestone in the many years to come.

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