The UN Human Rights apparatus: Time to reform

The General Assembly established the United Nations Human Rights Council (UNHRC) in 2006, as a successor to the United Nations Commission on Human Rights (UNCHR), inaugurating it as one of the cardinal United Nations (UN) entities in charge of the protection and promotion of all human rights. Concurrently, the Office of the High Commissioner for Human Rights (OHCHR), established in 1993, considered part of the Secretariat of the UN, also implements a unique mandate of advocating and safeguarding all civil, cultural, economic, political and social rights under the principles of international law, specified in the Universal Declaration of Human Rights of 1948. It is managed and overseen by the High Commissioner for Human Rights, who obtains the role of the Chief United Nations Human Rights Official and acts in an independent capacity, having a separate mandate issued by the General Assembly. The High Commissioner for Human Rights additionally supervises the UNHRC.

The UNHRC and OHCHR have been widely regarded as the leading agencies in the field of human rights protection and peacebuilding, and thus praised for their achievements, transparency and accessibility; however, they have also been subject of extensive criticism on behalf of scholars, practitioners, governmental bodies and civil society, who have been calling upon the systematic reform of both bodies.

This paper will examine the controversial human rights record of the two UN entities by questioning and analysing the effectiveness and impact of its core mechanisms. First, the paper will provide a thorough description of their organisational units, objectives, implemented strategies, functions and instruments, and then it will closely scrutinize the derived results and decisions. It will review the replacement of the UN Commission on Human Rights with the UN Human Rights Council, and suggest that it is equally imperative that other backbones of the UN human rights system, such as the OHCHR, also undergo a reform. The paper will specifically focus on the OHCHR Report on the situation in Jammu & Kashmir, highlighting its serious methodological, factual and analytical shortcomings, which render its correctness, neutrality, and motives, highly dubious. It will further assess the levels of communication, assistance and cooperation between the UNHRC and OHCHR by analysing the degree of information-sharing between the two agencies. This paper will then examine to what extent non-governmental organisations (NGO) are given platform to express their views and opinions within the UN system, and it will criticise the oftentimes censorship or lack of access imposed on them, which obstructs their work. It will conclude with recommendations for improving the entry of NGOs towards UN bodies in order to enhance the relationship of civil society and supranational institutions, which will ultimately contribute to the more cohesive and close-knit observation and protection of human rights across the world.

UNCHR vs UNHRC: Key Differences

Issue	*Commission of Human Rights*	*Human Rights Council*
Body that elects members	ECOSOC – 54 members	General Assembly – 191 members
Election method	No vote, members selected by groups and elected by acclamation	Individual and direct vote, all members must stand for real elections
Election majority needed	Simple majority (through acclamation or 28 votes or fewer)	Absolute majority (96 votes)
Size	53 members	47 members
Number of meetings a year	One	No fewer than three
Duration of sessions	6 weeks	No less than 10 weeks total
Requirement for special emergency sessions	Majority of Commission members	1/3 of Council members
Suspension of members	None	2/3 majority vote can suspend privileges and rights of members who commit gross and systematic human rights violations
Criteria for candidates running for election	None	Contributions to the promotion and protection of human rights Voluntary pledges and commitments
Commitments of members	None	Uphold the highest standards in the promotion and protection of human rights Fully cooperate with the Council Be reviewed by the universal review mechanism during their term of membership
Scrutiny of the entire membership	None	Universal periodic review to be developed in the Council's first year
Change in membership	None	New members to be elected in May 2006
Special mechanisms	Existing framework	Council to review, rationalize, and improve one year after its first session
Working agenda	Includes Agenda Item 8 targeting Israel	Starts with a clean slate
Term limits	None	No more than two consecutive terms of three years each

(Source: United Nations Department of Public Information, March 2006.)

Human Rights Council vs Commission on Human Rights

The UN is an intergovernmental organisation, which aims to promote and safeguard international cooperation and thus establish and maintain international order. Its cornerstone lies in the advocacy for universal human rights, peace, security, and sustainable development.

The UN consists of six chief organs: the General Assembly (the main deliberative, policymaking and representative organ); the Security Council (responsible for the maintenance of international peace and security); the Economic and Social Council [ECOSOC] (the principal body for coordination, policy review, policy dialogue and recommendations on economic, social and environmental issues); the

Trusteeship Council (currently suspended its operations); the International Court of Justice (the principal judicial organ); and the Secretariat (with the Secretary-General as its primary administrative officer).

On 15 March 2006, the United Nations General Assembly (UNGA) officially established the UNHRC by Resolution 60/251, as a replacement of the poorly functioning and largely criticised UNCHR. The Commission's downfall was largely a result of the ongoing politicisation, double standards and lack of professionalism in regards to tackling human rights violations. Its actions and procedures were in controversy to its mandate, which stipulates the universal protection and promotion of fundamental human rights across the world, since most of its members who sat in the Commission were called responsible for the perpetration of such infringements, and as a result obstructed the work of the Commission by failing to put in place safeguarding mechanisms and measures necessary to prevent and tackle any gross human rights issues.

Another concerning matter was the fact that large segment of the aforementioned States pursued membership with the Commission in order to defend themselves from international criticism and even secure their power and influence to criticise other States, rather than strengthen their own human rights record.

As Dr. Nazila Ghanea, Associate Director of the Oxford Human Rights Hub, Associate Professor in International Human Rights Law at the University of Oxford and human rights consultant for the UN, UNESCO, OSCE, Commonwealth, Council of Europe and the EU, argues: *"Over time human rights violating States came to devise ingenious methods of evading censure"*. According to her, they succeeded in doing so by circumventing agenda Item 9 (Question of the violation of human rights and fundamental freedoms in any part of the world), by making sure they are not adjudged under it via various strategies such as, resorting to political favours in order to ensure that any passed resolution against them would be toned down; that resolutions will be adopted through votes and not a consensus; or enforcing the no-action motion for the purposes of suspending any external inquiry into the human rights situation in their countries. No-action motion is a technical procedure, which stands for the creation of a motion for adjournment of debate by States, which want to block any discussion on specific resolutions or decisions.

An additional issue was the Commission's Special Procedures system that was overburdened with workload. The Special Procedures are in essence, independent human rights experts, or a consortium of such experts, who investigate cases of human rights abuse and have the mandate to report and generate recommendations from a thematic or country-specific perspective. The system of Special Procedures is an essential component of the UN human rights apparatus, and recognized by many to be, as the then United Nations Secretary-General Kofi Annan, described them, the *'crown jewel'* of the international human rights machinery. Yet, during the operation of the UNCHR, the Special Procedures system experienced various hurdles, which as a result led to its inability to function effectively.

In the words of Toine van Dongen, Member of the Working Group on Enforced or Involuntary Disappearances:

> *"One cannot add more and better human rights mechanisms every year without ensuring that a minimum of servicing is available. There is a clear and present danger of 'arrosage général': you water all the plants, but each plant gets just too little water and they all die"*.

Therefore, since the Commission started losing its credibility, reputation and integrity due to the ongoing politicisation of decision-making on behalf of its Member States, whose main objective became avoiding criticism and pursuing sordid goals, instead of advocating and fostering the

protection of universal human rights, alongside with numerous other issues which led to its inefficacy and bias, the time for a reform became inevitable. As expected, the transition towards the new Human Rights Council underwent months of intense negotiations and deliberations before the adoption of Resolution 60/251. The desire for a reform was most vividly expressed by the then United States Ambassador to the UN, John Bolton, who said: *"We want a butterfly. We're not going to put lipstick on a caterpillar and call it a success"*.

Nevertheless, the question remained whether the dangerous double standards and loopholes that constituted the operational proceedings of the Commission were once and for all eradicated with the establishment of the UNHRC, or if it all was just maquillage.

The two major new mechanisms, which the UNHRC introduced in order to prove its potential and capability of overcoming and addressing the failures of its predecessor, are namely the Universal Periodic Review (UPR) and the Council's Special Sessions. By creating these instruments, the new UN body intended to manifest its commitment towards the universal protection, promotion and advancement of fundamental human rights, while trying to desist from the politicisation, selectivity and bias, which had inveigled the Commission and led to its demise.

Both these mechanisms warrant to be reviewed in the subsequent section in order to evaluate the extent to which the Council is complying with its founding principles. Alongside with describing the main features of the UPR and Special Sessions, the achievements, failures and challenges of these new instruments will also be discussed in order to assess to what extent the Council has managed to distance itself from its unfunctional predecessor.

Universal Periodic Review & Special Sessions

As per Resolution 60/251 adopted by the General Assembly on 3 April 2006, the Assembly decided that the Council shall, inter alia: *"Undertake a universal periodic review, based on objective and reliable information, of the fulfilment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States; the review shall be a cooperative mechanism, based on an interactive dialogue, with the full involvement of the country concerned and with consideration given to its capacity-building needs; such a mechanism shall complement and not duplicate the work of treaty bodies; the Council shall develop the modalities and necessary time allocation for the universal periodic review mechanism within one year after the holding of its first session"*.

In addition to that, members of the new Human Rights Council agreed on adopting an institution-building package, which described in-detail the framework according to which the new UN body should operate. Hence, as per Resolution 5/1 adopted by the UNHRC on 18 June 2007, the objectives of the review are:

(a) The improvement of the human rights situation on the ground;
(b) The fulfilment of the State's human rights obligations and commitments and assessment of positive developments and challenges faced by the State;
(c) The enhancement of the State's capacity and of technical assistance, in consultation with, and with the consent of, the State concerned;
(d) The sharing of best practice among States and other stakeholders;
(e) Support for cooperation in the promotion and protection of human rights;
(f) The encouragement of full cooperation and engagement with the Council, other human rights bodies and the Office of the United Nations High Commissioner for Human Rights.

In other words, the UPR is an evaluation and monitoring tool, which oversees the human rights situation in all 193 UN Member States, and tries to improve it in a four year cycle. This takes place through the establishment of Working Groups, which consist of the Council's 47 Member States, and conduct country reviews under the supervision of the President of the Council. According to Resolution 5/1, the documents on which the review should be based consist of a national report issued by the country in question, a report prepared by the OHCHR, containing information of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant stakeholders. In addition, all UN Member States are allowed to participate in the critical inquiry discussion with the reviewed States and ask questions, criticise, support or make recommendations towards the country in question. Each State review is facilitated by groups of three States, known as *'troikas'*, who act as rapporteurs and at the end prepare an outcome document on the review.

In essence, the UPR of a certain country comprises of the review of relevant documentation, followed by an interactive discussion and the preparation of a final outcome report, which may or may not include any specific recommendations, with the intent of strengthening the human rights record of the said country. Practically, the UPR sessions run like a moderated open dialogue, where countries get reminded of their obligations and advised on how to enhance their compliance with the UN system. Therefore, what becomes clear is that the chief objective of the UPR is the evaluation of the level of improvement, stagnation or deterioration of Member States in regard to their commitment towards the human rights standards generated by the UN, rather than the direct tackling of gross human rights violations.

Like many other UN instruments, the UPR is not punitive in nature, and does not imply any sanctions in case of non-compliance or non-implementation of the proposed recommendations; hence, none of these recommendations are virtually binding, thus giving freedom to the countries under review to decide whether to proceed or not with them depending on what suits their political objectives. Although, countries are obliged to communicate back their progress, there are little consequences if they fail to do so.

For example, the Islamic Republic of Pakistan, on 16 March 2018, during its 37th Session, the UNHRC adopted an outcome document of the third UPR of Pakistan. The outcome report conveyed 289 recommendations made by Member States, from which Pakistan accepted only 168 and *'noted'* 121. In comparison, during the first UPR in 2008, Pakistan received 51 recommendations, from which it accepted 43, while during the second cycle of the UPR, the country received 167 recommendations, from which it accepted only 126.

States under review could decide, which recommendations to accept or to *'note'*, which in essence means to reject. In addition, the countries in question are not required to give an explanation or rationalize their decision to reject specific recommendations, which is one of the major drawbacks of the UPR mechanism, since most often these recommendations address gross human rights violations and if taken into practice could contribute to a positive change. Thus, only recommendations, which have been accepted by the State could be subsequently closely monitored.

In the case of Pakistan, what remains an issue of grave concern is the fact that the country disregarded some of the most critical recommendations which should have been otherwise supported, given the serious human rights violations, which take place there and the country's political image at the international arena.

Among the recommendations, which Pakistan outrightly rejected during its third cycle, were Rec № 152.100 *"to dismantle special terrorist zones, safe havens and sanctuaries, and take verifiable actions,*

including on terror financing"; Rec № 152.289 *"to provide freedom to the people of "Pakistan-occupied Kashmir" by ending its illegal and forcible occupation"*; Rec № 152.161 *"to end the harassment of minorities and place procedural and institutional safeguards to prevent the misuse of the blasphemy laws"*; Rec № 152.171 *"to stop targeting political dissidents and legitimate criticism in Sindh, Baluchistan and Khyber Pakhtunkhwa"*; Rec № 152.139 *"to bar military courts from trying civilians and allow their monitoring by international observers and human rights organizations"*; *and* Rec № 152.*238 "to ensure that madrasas, within the territory of Pakistan, operate in line with the human rights obligations of Pakistan"*.

The rejection of the abovementioned recommendations further exposed Pakistan's duplicitous policy vis-à-vis terrorism and the Jammu & Kashmir conflict. Pakistan has been a significant force behind the growth of Islamic radicalism and extremism in Jammu & Kashmir and it is widely acknowledged by the international community that the Pakistani military and its Inter-Services Intelligence (ISI) agency have been covertly arming, training and financing violent extremist groups in Jammu & Kashmir since the early nineties in order to use them as strategic assets for their proxy war waged against India in the region. Pakistan's formal repudiation of cracking down the funding of terrorist groups, dismantling their safe heavens and putting an end to the targeting of individuals who legitimately criticise its establishment, exhibits the country's often talked about *'Double Game'*.

In addition, despite supporting the recommendations of Switzerland, Germany and Czechia for ensuring that all allegations of enforced disappearances and extrajudicial executions are thoroughly and independently investigated and those responsible brought to justice, Pakistan did not accept the recommendation of ratifying the International Convention for the Protection of All Persons from Enforced Disappearance, which was proposed by 12 other States. Although, signing the Convention might not necessarily put an end to the enforced disappearances and extrajudicial killings of civilians, human rights activists and journalists in Pakistan, it would at least, legally bind Pakistan to commit to certain international obligations and would provide victims with a platform, where they could put forward their cases and seek legal remedy.

The same is valid for Pakistan's rejection of ratifying the Rome Statute of the International Criminal Court, which would have made the country eligible for being prosecuted for the perpetration of international crimes such as genocide, war crimes and crimes against humanity.

On bringing perpetrators to justice, the United States recommended the tracking and reporting of the investigation and prosecution of security forces that commit human rights violations and abuses. Similarly, France recommended the adoption and implementation of administrative legal measures for the protection of journalists and human rights defenders, alongside with the effective investigation and prosecution of perpetrators. Unfortunately, both recommendations were merely *'noted'*.

Therefore, in lines with the observation of Ljiljana Stančić, Human Rights Officer at OHCHR Human Rights Council Branch: *"there is an inherent danger of this mechanism just becoming a talking shop…but this is how it works in politics"*, and using Pakistan as a case study, what becomes evident is that the UPR continues experiencing numerous drawbacks including superficiality and lack of punitive sanctions. Hence, the only way for this mechanism to prove successful is by addressing those deficiencies and encouraging Governments to collaborate through political determination and genuine belief in the system. For that reason, one should not forget that a certain number of countries indeed take part in the UPR in good faith. Yet, the argument here to display is how double standards, which had contaminated the former Commission, have appeared endemic to the Council as well, while the UPR was *de facto* created as a response to the criticism against the UNCHR regarding the selectivity and bias in its examination of the human rights situations of Member States.

Philip Alston, Faculty Director of New York University Law School's Center for Human Rights and Global Justice, and United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, has summarised it aptly:

> *"There is no better recipe for disaster than failing to undertake a systematic and accurate diagnosis of the pathologies of the old system. Failing to do so facilitates an arbitrary, selective and inevitably flawed set of recommendations and undermines our ability to conceptualise the type of regime that is needed in the future. The types of reform needed can only be appreciated in light of an understanding of how we reached the extremely important crossroads at which the system now stands"*.

In addition, looking at the other major mechanism designed to overcome the debacle of the Commission, namely the Special Sessions, other issues arise. The Special Sessions, in essence, allow the Human Rights Council to assemble outside of plenary sessions in order to discuss urgent country specific or thematic human rights crisis. The intention behind the development of this mechanism was to give certain flexibility and adaptability to the Council, which the Commission was previously lacking.

> As per Resolution 60/251, *"The General Assembly decides further that the Council shall meet regularly throughout the year and schedule no fewer than three sessions per year, including a main session, for a total duration of no less than ten weeks, and shall be able to hold special sessions, when needed, at the request of a member of the Council with the support of one third of the membership of the Council"*.

This was elaborated in Resolution 5/1, according to which the Special Session must be summoned on the request of a Member State, which enjoys the support of one third of Council members, and should take place between two and five days after the request is placed and not exceed six days. Attendance is open to Council members, Observer States, specialised agencies, NGOs, national human rights institutions and other specified non-State parties.

Numerous scholars have expressed their doubts and feelings of uncertainty in this instrument. For instance, according to Prof. Rosa Freedman, Professor of Law Conflict and Global Development at the University of Reading, UK and author of the book *"The United Nations Human Rights Council: A Critique and Early Assessment"*, the Special Sessions are highly prone to selectivity and politicisation, since *"requiring one third of Council members' support empowers dominant groups and alliances to use this mechanism to achieve political aims because the larger the group, the more easily the one-third threshold is achieved"*. She further used the example of the Israeli-Palestinian conflict, which constituted a large proportion of the convened Sessions.

Nevertheless, given that the current human rights system is intrinsically politicised, alongside with the fact that the UN is an intergovernmental body, which bears political dimensions, excessive criticism of *'politicization'*, appears rather looming.

As in 2003, during the 59th Session of the Commission, Sérgio Vieira de Mello, former UN High Commissioner for Human Rights, stated: *"Most of the people in this room work for governments or seek to affect the actions of governments. That is politics. For some to accuse others of being political is a bit like fish criticizing one another for being wet. The accusation hardly means anything anymore"*.

Therefore, what this paper argues is that if safeguarding strategies are adequately and competently put in place, alongside with sufficient resources dedicated to the development and amelioration of the aforementioned mechanisms and their subsequent rigid scrutiny, it could help disperse and reduce the negative counterproductive aspects of the said mechanisms.

In his inaugural speech to the newly created Human Rights Council in 2006, Kofi Annan, the then Secretary-General of the UN said: *''lack of respect for human rights and dignity is the fundamental reason why the peace of the world today is so precarious, and why prosperity is so unequally shared. With the creation of the Human Rights Council, a new era in the human rights work of the United Nations has been proclaimed"*. In order for the Council to live up to the ideal, envisioned by Kofi Annan, much care needs to be taken on behalf of all stakeholders in the interest of increasing and strengthening its stature.

Therefore, the following sections will examine the role of the OHCHR and the involvement of NGOs and civil society groups in the UN human rights machinery.

Office of the High Commissioner for Human Rights

The Office of the High Commissioner for Human Rights is the principal UN body responsible for the promotion, protection and advancement of fundamental human rights that are guaranteed under international law and stipulated in the Universal Declaration of Human Rights of 1948. The Office was established by the UN General Assembly Resolution 48/141 on 20 December 1993, in the wake of the end of the Cold War. The OHCHR, a part of the UN Secretariat and headed by the High Commissioner for Human Rights, provides logistical and administrative support, such as technical expertise, trainings, advice and guidance in the fields of administration of justice, legislative reform and electoral processes, to Governments, UN bodies and other entities, in order to foster the implementation of universal human rights standards across the globe.

The mandate of the Office derives from Articles 1, 13 and 55 of the Charter of the United Nations, the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights held at Vienna in June 1993.

As discussed in the previous section, the OHCHR is responsible for the collection of information (including Special Procedures reports, human rights treaty body reports, civil society accounts, and other relevant UN documentation), which examine the human rights situation in the States that undergo a UPR or apply for membership in the Council. In addition to that, the Office provides support to the *'troika'* in the preparation of the countries' outcome reports during every UPR sessions. Nevertheless, as argued by Ladan Rahmani-Ocora, Visiting Fellow of the Lauterpacht Research Centre for International Law at the University of Cambridge, *"currently, the OHCHR does not have adequate resources and operational capacities to fulfil such a role"*. And indeed, the workload imposed on the OHCHR is oftentimes not organised in a systematic way, since the sharing of information is not appropriately coordinated between different entities and resources are regularly insufficient, which ultimately leads to its poor performance.

This is also visible from the issuing of the first ever report on the situation of Jammu & Kashmir by the OHCHR in June 2018. In its Commentary of 22-06-2018, EFSAS thoroughly analysed the said Report and discussed its serious methodological, factual and analytical shortcomings, which rendered its correctness, neutrality and motives, highly dubious. The integrity of the Report was undermined by its narrow timeframe, inappropriate usage of UN terminology and the selective compilation of largely unverified information on which serious inferences had been subsequently loosely drawn.

The Report states that *"OHCHR conducted a small number of interviews to corroborate information; due to access issues and security concerns of witnesses, it was not possible for OHCHR within the timeframe available for producing this report to use direct witness testimony*". In addition, it argued that, *"as OHCHR was denied access to Kashmir, it was not possible to directly verify allegations"*.

Despite the OHCHR's acknowledgment that the information in its Report was ill-gathered, lopsided and thus skewed, the fact that the UN body had still proceeded with its publication speaks volumes about its bureaucratic deficiencies.

Moreover, the OHCHR's disregard for the vast amounts of valuable information, shared with the UNHRC, during its regular sessions by various NGOs, civil society groups and human rights activists from and about Pakistan Administered Jammu & Kashmir, further highlights the precarious relationship between human rights NGOs and the UN system.

The Role and Limitations of Human Rights NGOs at the United Nations

The Charter of the United Nations of 1945 distinctly says, *"We the peoples of the United Nations"*; yet, as Dianne Otto, Professor of Law, Director of the Institute for International Law and the Humanities (IILAH) and Co-Director of the IILAH International Human Rights Law Programme at the University of Melbourne argues, the current reality is primarily dictated by States, rather than by the civil society.

Since the role of NGOs is imperative for the provision of accountability and transparency in the present global geo-political landscape, their engagement with and contribution to the UN system appears indispensable, yet often neglected. The current section will discuss the primary functions and objectives of human rights NGOs, their role in the UN machinery, the barriers they encounter when trying to influence Governments and how they should subsequently overcome them.

The term *'non-governmental organisation'* came into existence in 1945 with the creation of the UN, since when drafting the UN Charter, a need was discovered of differentiating between the participatory rights of governments, intergovernmental bodies and private entities independent from governmental control. In addition, Article 71 of the UN Charter endorsed the participation of NGOs and let the ECOSOC be in charge with regulating this participation. Therefore, ECOSOC Resolution 1296 of 1968, and its subsequent update to Resolution 1996/31 of 1996, defined the eligibility criteria for obtaining a consultative status and the terms and conditions regarding the involvement in the wider UN system.

In regards to the engagement of NGOs with the UNHRC, some of the fundamental features and common objectives of human rights organisations include keeping under observation governmental activities and reporting any perpetrated violations, urging the Council to put an end to those violations, find a resolution to the committed offences, repatriate victims and hold Governments accountable. As Henry J. Steiner, an Emeritus Professor of International Law at Harvard University and founder of the Human Rights Program at Harvard Law School, has summarised it, *"NGOs have become a bridge between the real world of violations, 'what happens out there', and legal-political and bureaucratic institutions in the human rights world"*.

And indeed, NGOs play a crucial role in bringing to the fore human rights violations committed by State and non-State actors, and providing their expertise and support in trying to combat them, by using a hands-on approach; however, the biggest stumbling block they experience is the fact that they might attempt to reform certain governmental policies in order to improve the human rights situation in a particular country, yet at the end, Governments retain their right to desist from any change. In other words, States might consider it more suitable not to act upon any recommendations given, which translates in the inability of NGOs to bring about change in State policy. Therefore, it is essential for NGOs not only to expose human rights violations but also to make sure that the information they have gathered reaches supranational or intergovernmental agencies, which could further act upon it.

For that reason, the active participation of human rights NGOs in the UN system is of tremendous importance since they could become the catalyst of positive change. However, the current selection criteria of the ECOSOC body is subject to great controversy, favouritism and political partisanship as many States, particularly those which are oftentimes condemned and criticised by NGOs for human rights abuses, such as enforced disappearances, extrajudicial killings and torture, purposefully try to restrict the access and involvement of NGOs in the UN machinery and renounce the credibility of their findings.

Nevertheless, often the draconian limitations imposed by human rights violating Governments on human rights NGOs, actually become a sign of the latter's efficiency, validity and potential influence and the former's counterproductive strategy. Yet, as the impact and significance of those NGOs and civil society groups grow, the political struggle undertaken against them further exacerbates, leading to a perpetual vicious circle. What becomes clear is that the interests of States, especially some States, and peoples are not always overlapping.

Conclusion

The current UN human rights field faces a dangerous stalemate situation. As earlier discussed, politicisation has become an endemic trait of the international human rights system, often questioning the motives behind States' decision-making processes.

Mechanisms such as the UPR and the Special Sessions were created in order to diminish and eventually eliminate the selectivity and bias, which made the Commission captive to the political interests of those in power. From 51 recommendations during its first UPR in 2008, Pakistan received 289 recommendations made by Member States in 2018, from which the country accepted only 168 and *'noted'* 121, which makes it evident that so long such mechanisms are non-enforceable or do not bear any punitive sanctions in the case of non-compliance, recommendations and condemnations on behalf of other countries will continue to pile up without any further tangible action. Such cases make it indispensable for UN organs such as the UNHRC to acquire the willpower and dedication to tackle human rights violations in a just and righteous manner by ways of adopting the necessary safeguarding mechanisms in order to secure the legal obedience of human rights violating countries.

Despite being created in 2006, the UPR is still in its infant stages and finds itself vulnerable and susceptible to the machinations of corrupt and powerful countries. Such precarious scenario displays the weaknesses and deficiencies of soft power approaches and demonstrates how the non-binding nature of the UPR often makes it powerless and thus incapable of fulfilling its mission. In order to prevent the UPR sessions from becoming a mere *'talking shop'*, the Human Rights Council must endorse legally binding measures, which would also imply punitive sanctions in case countries do not comply with specific recommendations. Relying solely on the goodwill of human rights abusing States could turn the peer review mechanism into a subject of abuse itself.

In addition to that, other stakeholders should also bear the responsibility to overlook and scrutinize the proceedings and activities of the Council. Although the OHCHR virtually acts as the Secretariat of the UNHRC, it still experiences serious bureaucratic deficiencies. In order to overcome this and other inefficiencies, civil society groups and NGOs should be given a greater voice within the UN machinery, allowing them to be one of the main engines of advancement and safeguarding of fundamental human rights, leading to the overall improvement of the efficiency and capabilities of UN bodies. Currently, as the Report on Jammu & Kashmir drafted by the OHCHR exposed, the Office took no cognizance of the vast amounts of information, based on first hand experiences, shared by human right activists and

civil society groups from (and about) Pakistan Administered Jammu & Kashmir during the UNHRC sessions; hence, not only voice should be given to human rights NGOs, their voice should also be heard, listened and attended to.

> As Kofi Annan has said, *"A United Nations that will not stand up for human rights is a United Nations that cannot stand up for itself".*

It is of vital importance for the UN apparatus to reform and improve its human rights institutions in order to defend its credibility and legitimacy in the eyes of those it claims to protect and those who have entrusted it with the responsibility of safeguarding its inalienable, most valuable, rights.

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