

REFLECTING FOR THE FUTURE

Laura Dupuy Lasserre

- *Ten years of the United Nations Human Rights Council* •

ABSTRACT

To commemorate the tenth anniversary of the United Nations (U.N.) Human Rights Council, Laura Dupuy Lasserre reflects on its achievements and how it might be improved in the coming years. Dupuy Lasserre examines the Universal Periodic Review process and considers why it is such an important mechanism in the struggle for human rights. She notes that there must be improved coordination between regional human rights bodies in Africa, Europe, the Americas and the HRC in order to better focus issues in the international arena. The text highlights the positive role of Global South countries within the HRC, noting that the kinds of issues they have raised show the interdependency between economic, social and cultural rights and political and civil rights. She concludes that the HRC has provided a forum which offers a role to each individual country, while all working together to build a more just and fair world based on U.N. principles.

KEYWORDS

Human Rights Council | Global South participation | Achievements | Future

On the occasion of the tenth anniversary of the establishment of the United Nations (U.N.) Human Rights Council, it is worth reflecting on its achievements and the possible improvements that could be made to help meet the challenges related to ensuring the full enjoyment of all fundamental human rights and liberties by all people.

The Universal Periodic Review (UPR) of the human rights situation in all U.N. Member States is undoubtedly an innovative mechanism, based on peer reviews and with the involvement of high-level representatives at the time of the country reports. This, combined with the fact that civil society actors, such as non-governmental organisations (NGOs) or national human rights institutions, participate in one way or another in the different stages of the process, leads to a greater impact being made on the ground when it comes to following up on the recommendations made.

The UPR process tends to reflect the forms of social coexistence and political participation in each of the countries, and in turn, when undertaken in good faith, it has the potential to contribute to the strengthening of a democratic society as an opportunity for dialogue and social participation. The risk is that it may be conducted in a superficial manner, as if it were just one more procedure. In this case, responses that are sometimes void of content or insincere may be brought before the Council, without preliminary review at the national level, or the inter-institutional exchange of ideas with all branches of government and civil society representatives afterwards. As such, following up on all recommendations becomes very important. From the outside, treaty bodies, the special procedures of the Human Rights Council, the regional human rights system, as well as the offices of the OHCHR, the U.N., and NGOs - among others - can contribute to the follow-up process.

With regards to the international forum itself, it affords states the opportunity to publicly commit, once again, to its values; show the efforts they have made with the resources they had available; identify shortcomings that merit both new efforts and also the support – eventually - of the international community; and share best practices.

If there is one thing that has become clear, it is that every country - regardless of its level of development - can feel and demonstrate pride in their achievements, which can then serve as an inspiration for other countries.

The states that participate in the dialogue do so by offering constructive criticism as they seek to help their peers improve. This, in itself, represents a change in tone and spirit, moving away from isolated criticisms of issues or states towards stimulating the overall improvement of a country. This also allows for the identification of areas of priority or possible cooperation, in accordance with international human rights standards.

In addition to the UPR, it is worth highlighting the positive evolution of the commitment of countries - with some exceptions that, in our understanding, are

temporary - to democracy. A democratic society is one that is governed by the rule of law and provides guarantees for the enjoyment of human rights.

While this nexus between democracy, the rule of law, and fundamental human rights and freedoms is well known, political leaders have not always valued and articulated it.

There is no doubt that it is just as fundamental for a society to be stable and peaceful to prevent internal and external conflict. This is why, in the future, the human rights agenda should be advanced from the perspective that it is an investment, not an expense, and that it has high impact or prevention potential.

The emphasis on democracy (understood not solely as periodically held elections), the rule of law, and fundamental human rights and liberties is reinforced by various regional or sub-regional commitments. Hence the importance of human rights systems such as the European, inter-American, or African ones - which are strengthened through country reports and thematic analyses on sensitive issues in many societies - and other more recent systems currently under construction. These create synergies with the universal system of the U.N and coordination between these mechanisms must be increased. In addition to offering closer follow-up of situations in the region or sub-region, these systems can generate consensus on issues, which can later be conveyed as valuable input in the international arena.

This could be the case of the inter-American system, which is working to combat different forms of discrimination, either via legal instruments or as commitments from national authorities, such as when the health sector, for example, addresses the inclusion of LGBTI people. Such was the case in the decision made by the Pan-American Health Organization, which includes Caribbean countries, and which GRULAC later took to the World Health Organization.¹ This case provides an example of the need to go beyond long-standing national practices, policies, and norms that require revision in order to comprehensively and adequately address a health issue in accordance with rights protections. At the Human Rights Council in 2014, some Latin American countries took the initiative by calling attention to the issue of sexual orientation and gender identity in fighting violence and discrimination in order to promote social inclusion and respect for the rights of all people.

Similarly, through the exchange of valuable experiences at the intergovernmental level, countries from a given region can agree on political commitments to advance norms, public policies, or practices that have proven to be effective and efficient. Among these, one can cite the follow-up done in Latin America and the Caribbean, with the support of the Economic Commission for Latin America and the Caribbean, on the U.N. Cairo Declaration on Population and Development of 1994. It led first to the 2013 Montevideo Consensus, and now to an operational guide that addresses a wide range of issues, many of which are still sensitive, such as sexual and reproductive

health - a fundamental issue for women - and especially, the prevention of teenage pregnancy and preventable maternal mortality.

It is clear that developing countries have not avoided debates on sensitive issues in the Human Rights Council. It is true, however, that they tend to become unnecessarily polarised when many delegations reflect their national regulations or the positions of particular political leaders. Sensitive issues require cultural change, which rarely happens overnight as a result of a single public debate. Its public nature engenders the adoption of more rigid positions.

The commitment of other Global South countries can contribute to an evolution of national positions, especially if such a commitment does not impose one way of thinking on everyone, or make all cooperation dependent on the donor's area of interests. On a social level, this has shown itself to have been a success and is respectful of the human rights of all individuals.

The Sustainable Development Goals could serve as a framework for progress in this regard, as the human rights agenda permeates all of the goals.

Developing countries have been more forceful about bringing matters to the Human Rights Council that illustrate the interdependence of the enjoyment of economic, social, and cultural rights and the exercise of civil and political rights and fundamental freedoms. They have been pioneers on several issues such as the right to drinking water and sanitation, human rights and climate change, the right to adequate housing – all examples of social policy strategies to fight extreme poverty and poverty eradication and those strategies' relevance in crisis situations, etc.

Furthermore, because of their historical experiences, developing countries have vigorously worked toward the right to truth, negotiating a Convention on Enforced Disappearance, among others.

Despite there being great diversity in the world, the way forward is not cultural relativism in regard to values that are common to humanity and that are fundamental to the dignity of the person.

The Council has shown that every country in the international community has a role to play while all working toward the same objective, based on the principles and purposes of the U.N., and keeping in mind that the pillars of human rights, peace, security, and development are all interlinked.

NOTAS

1 • The United Nations Regional Group, in this case, is the GRULAC.

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H.E. Ambassador Laura Dupuy Lasserre was President of the United Nations Human Rights Council (from June 2011 to December 2012, 6th cycle, having been nominated by the GRULAC) and the Permanent Representative of Uruguay to the Office of the United Nations and other Specialized Organizations in Geneva (from October 2009 to October 2014). She was also President-Rapporteur of the Social Forum 2010 of the Human Rights Council: "Climate Change and Human Rights" (October 4 to 6, 2010). She is currently the Director General of Technical Administrative Affairs at the Ministry of Foreign Affairs of Uruguay.

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