

UNITED NATIONS HUMAN RIGHTS COUNCIL: A STUDY OF ITS FUNCTIONS AND PROCEDURES

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Abstract:

The Human Rights Council is a between most important body inside the United Nations framework in charge of fortifying the advancement of human rights agenda far and wide and for tending to circumstances of human rights infringement and make proposals on them. It can talk about all topical human rights issues and circumstances that require its consideration consistently. The Human Rights Council is a between legislative body inside the United Nations structure, with an enrolment comprising of 47 states. The Council is in charge of fortifying the advancement and insurance of human rights the world over. It was made by the UN General Assembly in 2006 with the general target of tending to human rights infringement.

Board individuals are chosen by the 192 part conditions of the UN General Assembly. Any UN part state can be chosen to the Council in the event that it gets a flat out lion's share of votes. The 47 Council seats are intended to guarantee impartial land portrayal: 13 individuals are chosen from the African Group; 13 from the Asian Group; 6 from the Eastern European Group; 8 from the Latin American and Caribbean Group; and 7 from the Western European and Other States Group. The primary individuals from the Human Rights Council were chosen on 9 May 2006. The last Council races were hung on 12 May 2009, and the following decisions will be held in 2012. Individuals are chosen for three-year terms. They are not qualified for prompt re-decision subsequent to serving two sequential terms. The main notion of the paper is to study the various functions and procedures of united nation human

rights council and also study the origin of united nation human rights council and to analyse the efficiency of the functions and provisions of UNHRC.

Key Words:

Fortifying, circumstances, infringement, advancement, guarantee, impartial, portrayal, subsequent, sequential, effective.

Introduction:

The UN Human Rights Council (HRC) is the principle UN body for the advancement and insurance of human rights. The usefulness ascribed to the Council as per its standardising gauges, instruments and mechanisms raised elevated standards, which, to judge by the discourses in the scholarly community and among activists and political specialists, stay high. Consequently, since its commencement in 2006, the key inquiry has been the means by which far the HRC can satisfy its errand. In what manner can the HRC be made more effective in setting and actualising its regulating standards? In what manner can the HRC enhance participation between the part conditions of HRC so as to accomplish more noteworthy efficiency? The HRC has exhibited its energy to meet, to talk about and to dispatch studies and reports, while coercive measures are to the protect of the UN Security Council (UNSC). The HRC – like its antecedent, the UN Commission on Human Rights – has in this manner been air conditioning as far as tact, one of its primary instruments for changing certainties on the ground. In any case, a recorded outline would demonstrate that human rights have not by and large been a best state need anyplace. So, in what capacity would this be able to circumstance be changed? The writing and additionally the discussions at a progression of meetings and productions of the Friedrich Ebert Stiftung as a team with accomplice organisations have uncovered various components which have added to making governments more open to receiving such a need.¹ The main notion of the paper is to study the various functions and procedures of united nation human rights council and also study the origin of united nation human rights council and to analyse the efficiency of the functions and provisions of UNHRC.

¹ Organisation internationales DELA Francophonie, The human rights council: A practical guide (2015)

Methodology:

The present research is doctrinal in nature based on non-empirical design. The study was conducted using the secondary sources of data including books, articles, e-sources, journals and relevant provisions.

Review of Literature:

Organisation Internationale DE LA Francophonie, The Human Rights Council : A Practical Guide (2015) in this book the author explains the composition of HRC and its practical information and also they explain that mechanism of HRC, Advisory committee, Special procedures, complaint procedures.

Rosa Freedman, The United Nations Human Rights Council : A critique and early assessment (2013), in this book the author explains that the history of the commission on HR and reform proposal, council power, etc...,

Philip Alston, The United Nations and Human Rights A critical appraisal, (1992) Alston describing the concept of Ripe for evaluation, streamlining, development of the regime, origin, functions, procedures and performance of each of major UN organs dealing with human rights.

Creation of the Human Rights Council:

The Council is comprised of 47 United Nations Member States. On a yearly premise, the United Nations General Assembly (GA) chooses 33% of the individuals straightforwardly and separately by mystery vote for a time of 3 years.² They might not be qualified for prompt re-decision after two back to back terms.

While choosing individuals from the Council, the GA is considering the commitment of contender to the advancement what's more, security of human rights and their wilful vows and duties made thereto. In the event that an individual from the Council submits net what's more, efficient infringement of human rights, the GA may suspend its privilege of participation in the Council.

The structure of the Council depends on impartial topographical conveyance, and seats are disseminated as takes after among local gatherings:

² Alice Nolan, The United Nations special procedures system (2017)

- Group of African States: 13 seats;
- Group of Asian States: 13 seats;
- Group of Latin American and Caribbean States: 8 seats;
- Group of Eastern European States: 6 seats;
- Group of Western European and different States: 7 seats.

Human Rights Systems :

On 18 June 2007, one year after its first gathering, the Council concurred on a bundle that built up the methodology, instruments and structures that shape the premise of its work. Among these instruments, there are remarkably: he Universal Periodic Review Working Group;

- The Advisory Committee;
- The Special Procedures;
- The Complaint Procedure;
- The Expert Mechanism on the Rights of Indigenous Peoples;
- The Social Forum;
- The Forum on Minority Issues;
- The Forum on Business and Human Rights. These backup bodies report straightforwardly to the Human Rights Council. The Council likewise expect various components built up by the previous Commission of Human Rights, for example, the arrangement of the Special Procedures.

Mandate of the Council and the Creation of Its Mechanisms :

The Council was made by the United Nations General Assembly on 15 March 2006 by Resolution 60/251. Its first session was held from 19 to 30 June 2006.³ One year later, on 18 June 2007, the Council embraced the Human Rights Council "Foundation building bundle" determination to manage its work and set up its systems and components (determination 5/1, for example, :

- The Universal Periodic Review (UPR) is an instrument which is gone for inspecting the human rights records of every United Nation Member States;

³ Suzanne Egan, The United Nations human rights treaty system laws and practices (2003)

- The Advisory Committee, made out of 18 autonomous specialists, has been built up to work as a research organisation for the Council and to give ability and exhortation on various topical issues;

- The HRC Complaint Procedure tends to correspondences put together by people or associations that claim to be casualties of gross and dependably bore witness to infringement of every single human right and major opportunities or that have immediate, solid learning of such infringement;⁴

- The Special Procedures, built up by the previous UN Commission on Human Rights and now accepted by the Council, are comprised of command holders, for example, extraordinary rapporteurs, unique agents, free specialists and working gatherings. Their fundamental part is to screen, analyse, exhort and freely give an account of human rights circumstances in particular nations or regions (nation order) or on a noteworthy marvel of human rights infringement (topical command).

Other Subsidiary Bodies of the Human Rights Council:

The Council likewise accept various backup bodies, among these some were at first settled by the previous UN Commission on Human Rights:

The Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) was built up by the HRC in 2007 under Resolution 6/36. It comprises of five free specialists, including specialists of indigenous root, who are designated as per the technique set up for the choice of and arrangement of unique methods order holders. The Expert Mechanism gives topical guidance to the HRC and offers specialised ability on the privileges of Indigenous people groups. It additionally may recommend recommendations to the Council. The EMRIP holds a yearly session of five working days.⁵

The Forum on Minority Issues, set up by the HRC in 2007 under Resolution 6/15, gives a stage to advancing discourse and participation on issues relating to national or ethnic, religious and phonetic minorities. It likewise gives topical commitments and aptitude to crafted by the Special Rapporteur on minority issues that sends the suggestions for thought to the Council. The Forum holds a yearly session of two working days under the direction of an

⁴ Philip Alston, *The united nation and human rights: A critical appraisal* (1992)

⁵ B.G.Ramcharan, *The protection roles of un human rights special procedures* (2009)

administrator. For every session, another administrator is designated by the President of the Council among specialists on minority issues. This arrangement is done based on provincial revolution and in counsel with local gatherings.⁶

Status and Membership:

Arrangement of uncommon systems command holders happens before the Human Rights Council. Human Rights Council Resolution 5/1 points of interest the criteria for their determination and arrangement. General qualification criteria incorporate the chosen one's ability, involvement in the field of the command, autonomy, unprejudiced nature, individual uprightness, and objectivity. Particular criteria important to guarantee all order holders are "exceedingly qualified people" incorporate the candidate's built up ability, significant aptitude, and expert involvement in the field of human rights. The Human Rights Council likewise considers sex adjust, geographic portrayal, and portrayal of various legitimate frameworks while delegating command holders. Irreconcilable circumstances, for example, holding a situation in government, will exclude a person from thought.⁷

The OHCHR keeps up an open rundown of qualified possibility for the situation of uncommon methodology order holder.

Governments, provincial gatherings working inside the UN human rights framework, global associations or their workplaces, for example, the OHCHR, nongovernmental associations, other human rights bodies, and people may designate possibility to be exceptional methodology command holders. Determination 16/21 includes national human rights establishments that agree to the Paris Principles to the rundown of elements ready to designate applicants.

Next, the Human Rights Council designates a Consultative Group to survey all applications and propose a rundown of possibility to the President of the Council. In doing as such, the Consultative Group considers the perspectives of partners, including the present or active command holder, in choosing the specific necessities for each order.

Following the Consultative Group's suggestions, the President of the Council chooses a proper possibility for each empty order, with endorsement by the Council's Member States.

⁶ Gudmundus, The universal declaration of human rights (1999)

⁷ Gudmundus, The universal declaration of human rights (1999)

Universal Periodic Review :

The Universal Periodic Review (UPR) is a novel procedure which includes a survey of the human rights records of all UN Member States. The UPR is a State-driven process, under the protection of the Human Rights Council, which gives the chance to each State to proclaim what moves they have made, each 4 and a half years, to enhance the human rights circumstances in their nations and to satisfy their human rights commitments. As one of the fundamental highlights of the Council, the UPR is intended to guarantee square with treatment for each nation when their human rights circumstances are evaluated.

The UPR was made through the UN General Assembly on 15 March 2006 by determination 60/251, which built up the Human Rights Council itself. It is an agreeable procedure which, by October 2011, has looked into the human rights records of each of the 193 UN Member States. As of now, no other general component of this kind exists. The UPR is one of the key components of the Council which helps States to remember their obligation to completely regard and actualise every single human right and crucial opportunities. A definitive point of this system is to enhance the human rights circumstance in all nations and address human rights infringement wherever they happen.

The UPR Working Group holds gatherings three times each year and audits 14 nations for every session. The second cycle, which authoritatively began in May 2012, will reach an end in 2016, at its 26th session.

Special Procedures:

Unique systems, at first built up by the Human Rights Commission, are components that depend order holders to draft a report and to make suggestions on human rights issues with a topical or a nation point of view. These order holders are free specialists or uncommon rapporteurs. The arrangement of uncommon methodology is fundamental to the human rights component of the United Nations and covers every human right: thoughtful, social, financial, political and social. Toward the finish of the eighth cycle of the HRC (2014), there were 36 topical orders and 14 nation orders. Determination 5/1, received on 18 June 2007 by the HRC, contains airs identified with the choice and arrangement of command holders and also definite manners on the audit of all orders and exceptional techniques. The HRC likewise embraced Resolution 5/2 that sets up a Code of Conduct for command holders.

Since 2006, various new topical and nation commands were set up, for example, Independent Expert on the satisfaction in every human ideal by more seasoned people (2013); Special Rapporteur on the privileges of people with handicaps (2014); Special Rapporteur on

the negative effect of the one-sided coercive measures on the pleasure in human rights (2014); Special Rapporteur on the circumstance of human rights in Eritrea (2012); Independent Expert on the circumstance of human rights in Mali (2013); Independent Expert on the circumstance of human rights in Central African Republic (2013); Independent Expert on capacity building and specialised collaboration with Côte d'Ivoire in the field of human rights (2014).

The Human Rights Council's Special Procedures:

The United Nations (UN) Human Rights Council serves a few capacities, one of which is to advance and screen human rights worldwide through the foundation of unique methodology. Extraordinary methods are singular free human rights specialists, or gatherings of such specialists, who report and exhort on human rights issues. They are called by numerous names, including Special Rapporteurs, Special Representatives, Working Groups, and Independent Experts.⁸

Exceptional strategies have either topical or nation particular commands. As of September 2017, the Human Rights Council administers 44 topical commands and 12 nation particular orders. The joined work of the exceptional rapporteurs is sufficiently expansive to incorporate common, political, financial, social, and social rights.

Exceptional strategies command holders serve in their own abilities, which means they are not UN staff, are not paid a pay for their work, and don't speak to their nations of citizenship. Each order holder may serve for a most extreme of six years. This free status is proposed to enable these specialists to do their capacities with fairness.

In satisfying their obligations, command holders appreciate the help of the Office of the High Commissioner for Human Rights (OHCHR) and, on account of order holders in the scholarly community, may likewise profit by institutional help from their colleges.

The Human Rights Council expected oversight of the unique techniques made by its ancestor, the UN Commission on Human Rights, upon its foundation in 2006. The Human Rights Council has since made or broadened the commands of numerous nation particular and topical extraordinary systems.

⁸ INGRD NIFOSI The UN special procedures in the field of human rights (2000)

Complaint Procedure:

Determination 5/1 entitled "Organisation Building of the United Nations Human Rights Council" made another objection strategy instrument that tends to predictable examples of gross and dependably verified infringement of every single human right and every principal flexibility happening in any piece of the world and under any conditions. This dissension strategy is the special case that is viewed as widespread covering every human right and every single basic opportunity in any Member State of the UN.

The Strategy Might be Separated in Three Stages:

The Working Group on Communications (made up of five autonomous specialists individuals from the Advisory Committee; they are selected by their associates and they speak to every one of the five provincial gatherings) gets correspondences put together by a man or a gathering of people asserting to be the casualties of infringement of human rights and crucial flexibilities, or by any individual or gathering of people, including non-administrative associations, guaranteeing to have immediate and solid learning of the infringement concerned. The Working Group surveys their tolerability in view of the criteria set out in the previously mentioned determination, evaluates the value of the affirmations of infringement and furnishes the Working Group on Situations with a document containing every single acceptable correspondence and also suggestions.

The Working Group on Situations (made up of five individuals designated by the provincial gatherings, which are all an agent of the Council) settles on the importance of the correspondence, displays an answer to the Council on steady examples of gross and dependably bore witness to infringement of human rights and principal opportunities and makes suggestions on the strategy to take.

The HRC settles on the measures to take (remarkably, it might prescribe to the OHCHR to give specialised participation, designate a free and exceedingly qualified master, and so on.). Just Member States may participate in basic leadership, which is held in a shut entryway meeting.

Like the previous method 1503, the present protest technique is classified and along these lines guarantees the full participation of the concerned State. The new grumbling method has been enhanced keeping in mind the end goal to ensure that it is unbiased, objective, proficient, casualties situated, and directed in an opportune way.

Conclusions:

The Council serves as the main United Nations forum for intergovernmental cooperation and dialogue on human rights issues. Its focus is to help member states meet their human rights obligations through dialogue, capacity building, and technical assistance. The Council also makes recommendations to the General Assembly for further development of international law in the field of human rights. Through what is called a “Universal Periodic Review,” the Council assesses the situation of human rights in all 192 UN member states. It also has an Advisory Committee, which provides expertise and advice on thematic human rights issues which pertain to all parts of the world. Another element of its work is a “Complaints Procedure,” which allows individuals and organisations to bring complaints about human rights violations to the attention of the Council. The Council addresses specific country situations or thematic issues through a system called ‘special procedures.’ Currently there are 33 thematic and 8 country mandates.

REFERENCES:

1. Organisation internationale de la Francophonie, *The human rights council: A practical guide* (2015)
2. Alice Nolan, *The United Nations special procedures system* (2017)
3. Suzanne Egan, *The United Nations human rights treaty system laws and practices* (2003)
4. Philip Alston, *The United Nations and human rights: A critical appraisal* (1992)
5. B.G. Ramcharan, *The protection roles of UN human rights special procedures* (2009)
6. Gudmundus, *The universal declaration of human rights* (1999)
7. INGRD NIFOSI *The UN special procedures in the field of human rights* (2000)
8. Gil Loescher, *The UNHCR and world politics : State interest vs Institutional Autonomy*, (2001)
9. Bertrand, *The UN Human Rights Council*, (2013)
10. Andy Featherstone, *A review of UNHCR’s utilisation of the central emergency response fund*, (2014)
11. Friedrich Ebert Stiftung, *the performance and challenges of the UNHRC*, (2013)
12. Marc Liman and Hilary Power, *History of the UNITED NATION special procedure mechanisms, origin, evolution and reform*, (2014)
13. Rosa Freedman, *The UNHRC : A critique and early assessment*, (2013)
14. Aoife Nolan, *The United Nations special procedure system*, (2017)

15. Yearbook of the United Nation, (2007)
16. Geir Ulfstein, UN human rights treaty, Bodies and law legitimacy, (2012)
17. Report of the United Nation high commissioner for human rights, (2008)
18. Maria Riiskjalr, Review of UNHRC EFFORTS, (2008)
19. Aoife Nolan, The united nation special procedure system, (2014)
20. UN Reform : Hearing before the committee, (2006)
21. Dr.Lakshmi T and Rajeshkumar S “In Vitro Evaluation of Anticariogenic Activity of Acacia Catechu against Selected Microbes”, International Research Journal of Multidisciplinary Science & Technology, Volume No. 3 , Issue No. 3, P.No 20-25, March 2018.
22. Trishala A , Lakshmi T and Rajeshkumar S,“ Physicochemical profile of Acacia catechu bark extract –An In vitro study”, International Research Journal of Multidisciplinary Science & Technology, Volume No. 3 , Issue No. 4, P.No 26-30, April 2018.

