

UNA UK-UN FORUM 2010 EVENT, 12 JUNE 2010

**Panel: Is there accountability for human rights violations?**

Pleased to participate in this UNA annual forum. Bigger and better than ever.

Particularly good to be chaired by Lord Hannay. He was my Ambassador when I first served at the UN in New York as a baby diplomat. So naturally I have a healthy respect for him. And that year – 1992 - was also a high point for the UN. Lord Hannay calls it the crest of the wave in his book. So when I stand now with my feet sinking in the wet sand, and feel the drag of the ebbing waves around my ankles, I feel that somehow Lord Hannay would expect me and the UK to turn the tide. Which is probably good for us.

It's also an honour to speak alongside two friends and distinguished colleagues. Elizabeth Wilmshurst talked about court – the ICC – and Sir Nigel Rodley talked about expert, independent treaty monitoring bodies and UN Special Rapporteurs. I'm here to talk about something far more nebulous and far less expert - and pretty much without teeth.

How can a body of states sitting in Geneva, the UN Human Rights Council, play any real role in accountability? What's more, some of its members even challenge the whole idea of international scrutiny of human rights, and still call it unwarranted interference in internal affairs.

Actually, the UK has always believed the international community and bodies like the UN Human Rights Council play a legitimate and important role when it comes to accountability. You can look at this in two ways. One is a sense of mutual accountability of states to each other in respect of our international human rights obligations. Another is to remember what the UN is about - the "we the peoples" of the United Nations combining our efforts to accomplish the aims of the Charter and of the Universal Declaration of Human Rights. When it comes to human rights, we think the internal affairs of one State are the direct and legitimate concern of another.

As a party to main UN human rights treaties such as the International Covenant on Civil and Political rights, the UK holds other states to account for their implementation of treaties to which they are party. And we accept that other states should hold us to account. The Human Rights Council is the main body where states can do this – through debates and resolutions, and through mechanisms like the Special Rapporteurs and the Universal Periodic Review. And states do this ultimately on behalf of the people who have the rights. So it is important that their voices are heard within the UN Human Rights Council – through NGOs and independent national human rights institutions, for example, not just through diplomats and governments.

The UN Human Rights Council, and its predecessor the Commission, has always played a role in monitoring compliance with human rights standards, not just in standard-setting. The idea is that the international community should be kept aware of situations and human rights challenges so that it can

offer advice and technical assistance, but also shine a light on problems and put political pressure on a country to make progress.

These two sides of the same coin - assistance and pressure - are reflected in the agenda of the Human Rights Council and its mechanisms. Under agenda item 4 the Council looks at "countries of concern" and under item 10 it looks at the provision of "technical assistance" to countries. The country rapporteurs created under item 4 – on Burma and North Korea for example - are tasked with ensuring the Council has the latest information so it can push a country to put an end to violations. Experts appointed under item 10 focus more on giving practical help to states that want to improve.

In the main, the UN Human Rights Council and the Commission before it have evolved towards providing assistance to States in implementing their obligations rather than focusing on accountability for violations.

And there are some good reasons for that. Keen observers of the Human Rights Council (there may be some HRC anoraks in the audience) will know that the UK often adds language to UN resolutions reaffirming the primary responsibility of States for implementation of their human rights obligations. So while we believe there should be international accountability, the UN can't make up for a lack of national accountability mechanisms. Accountability should be about individuals being able to demand their rights and to challenge the decisions and actions of the state – which means there can be no substitute for embodying human rights in national law and maintaining strong national institutions to uphold them. It's quite right that the Human Rights Council should support states in doing that.

What happens, though, when states are not willing to cooperate? The Human Rights Council is a body of states without any real enforcement mechanisms. It's not a like court and still less is it an international police force. It's also rather far removed from most of the countries where human rights violations are taking place, even if the Special Rapporteurs act as its eyes and ears. So the main way the Council holds states to account is through political and peer pressure. That's why it's really important to have an opportunity to raise countries in the Council through our statements and to use other tools such as Special Sessions to raise the profile of our concerns and generate, we hope, political pressure.

But the concerns of one State or one region can be ignored much more easily than the concerns of a broader coalition of UN members. That's why we work extremely hard to broaden our expressions of concern and find support for them from members of the other UN regional groups. An example of success: Council consensus text of last September on Burma and Aung San Suu Kyi.

Despite our efforts, we cannot always find support from HRC members, and so serious situations can escape Council scrutiny. Many Council members prefer not to focus on an individual country. They argue, for example, that the West singles out countries for political reasons. Underlying this is a fear that one day the spotlight might turn on them. In this regard the accountability that the Council provides is only as good as the political will of the majority of its member states.

Where the will exists the Council can pursue a situation. We have seen this with the three recent fact finding missions mandated by the Council on Gaza. The UK believes the situation in Gaza and the OPTs deserves the attention of the Council but finds it hard to accept that so many Council members pursue this situation while arguing against focus on other serious situations. Imagine if we were able to instruct similar missions to all countries of concern!

But even with the Gaza missions, the UN relies on the cooperation of the State(s) concerned to accept and facilitate any inquiry. The real power remains, therefore, collective political pressure.

The Universal Periodic Review - a peer review of every UN member's human rights situation every four years - is an important development in providing another opportunity for the wider membership to encourage progress. Again the emphasis of the UPR is on helping States move forward with implementation and not to seek remedy for past violations. But the consultative, collaborative environment has encouraged States to approach the exercise seriously. And as the second round of reviews takes place, many States will feel a pressure to demonstrate to their peers some progress.

Finally, the Human Rights Council provides a platform not just for States to share concerns, but for Civil Society to be make its views known. NGOs have speaking rights that in some ways exceed those available in the old Commission. The Council's sessions are web-cast, so they can be watched all over the world and not just within the circular walls of the Council chamber in Geneva. In this way the Council should be able to generate even greater visibility for human rights concerns and link directly into domestic accountability mechanisms. So if you're interested in strengthening the Council's effectiveness in holding states to account, have a look at the web-cast and tell us what you think.

So yes, the Human Rights Council has a legitimate role in holding states to account. And yes, there's scrutiny, even if it's partial and dependent on the political will of states. And yes, it can be effective, but it could be far better. That's where the review of the Human Rights Council comes in.