

SEVENTEENTH ANNUAL STUDENT HUMAN RIGHTS CONFERENCE

UN Human Rights Council: Ten Years On

Panel 1 - The political dynamics of the Council: a continuing legacy of the Commission?

Chaired by Hina Ali, Student Conference Committee Member

Politics beyond human rights: regional alliances within the Universal Periodic Review

Michaela Jurakova, LLM Candidate, University of Nottingham

Ms Michaela Jurakova began by discussing the concept of politicisation in the context of the Human Rights Council, stating that it encapsulates the situation whereby unrelated controversial issues are introduced to the debate by States seeking to pursue their political interests. As a concept, politicisation may be viewed in a number of different ways, including as an organisational defect, an indicator to be understood (and therefore not automatically negative), a bargaining tactic to be dealt with or a form of protest. Ms Jurakova submitted that politicisation becomes a problem when an organisation is not able to fulfil its mandate as a consequence.

In relation to the possibility of 'de-politicisation', Ms Jurakova quoted Lyons' description of the 'myth' that UN specialised agencies should not be politicised and Member States and delegates themselves cannot be de-politicised because inter-governmental organisations are inherently political. Speaking on the argument that human rights and politics are inter-related, Ms Jurakova highlighted Humphrey's assertion that human rights cannot be divorced from politics and noted Abebe's suggestion that politics may be used to express a form of protest as, in his opinion, human rights are shaped by Western States.

Ms Jurakova went on to discuss regionalism as a form of politicisation and reiterated the idea that politicisation is not necessarily negative, noting Rosa Freedman's statement from the morning's plenary session that regionalism as politicisation is important for understanding the Human Rights Council (HRC).

Ms Jurakova then explained that in 1963, five geographical regional groups were established at the UN to ensure proportionate representation at UN bodies. This also includes regional 'political' alliances such as the Organisation of Islamic Cooperation (OIC) and the Non-Aligned Movement (NAM). She stated the importance of noting the global North-South divide in this regard, since collective power is used to pursue interests as the OIC and African Group have thus dominated the HRC proceedings.

Ms Jurakova went on to note that the new HRC, which replaced the Commission on Human Rights in 2006, has the same inter-governmental character as its predecessor. She stated that one could

question if the body is still politicised and noted that this has led some to brand the HRC as 'new wine in an old bottle'. Ms Jurakova highlighted the fact that Abebe has drawn attention to the elevated status of African States at the HRC, which has led to greater participation for these States.

Ms Jurakova discussed the fact the UPR, which was outlined in HRC Resolution 5/1 (UN Doc A/HRC/RES/5/1), was supposed to be revolutionary and, importantly, 'non-politicised'. She stated that its objective was to improve the human rights situation on the ground and that its principles were based upon the promotion of human rights explaining that this new interactive cooperative mechanism utilises soft law and aims to shift away from 'naming and shaming' towards learning.

Ms Jurakova highlighted the patterns of regional bloc dynamics within the UPR that have emerged, such as the differences in the global North-South divide and the emphasis on universality and cultural relativism of the two groups respectively. Discussing the divergence of views on the role of NGOs and other stakeholders in the UPR, Ms Jurakova used the example of the African Group who has attempted to limit the participation of other stakeholders in the process.

Elaborating, Ms Jurakova discussed how regional alliances have utilised a number of tactics in order to achieve their objectives such as: shielding themselves or their friends from scrutiny; avoiding sensitive or controversial issues; and pursuing their own agendas. Explaining further, Ms Jurakova provided examples of the tactics used in this regard including: deploying laudatory statements; utilising arguments based on cultural relativism in relation to culturally sensitive issues, particularly those of sexual orientation and gender discrimination; and raising political issues unrelated to or marginally connected to the States' review. Ms Jurakova also stated that soft power has been utilised by Western States for these purposes.

In conclusion, Ms Jurakova noted that there have been mixed reviews of the first cycle of the UPR and that since the HRC remains an inter-governmental organisation, regional alliances retain considerable force. She concluded by stating that moving forward, a balance needs to be struck between the various actors involved in the process.

Curing the plague of delayed reporting: a step towards implementing effective human rights

Justin Jos, University of Exeter

Mr Justin Jos began by noting that the treaty body reporting system is currently not working very well. He submitted that an effective means of dealing with this problem would be to consistently implement the existing treaty body mechanisms and reinforce the system which is based on the rule of law. He suggested that the rule of law is extremely important to human rights, as it is in itself a fundamental principle of human rights law in general.

Mr Jos further stated that, in implementing the rule of law, human rights institutions have a very important role to play. He cautioned however that the nature of the rule of law has been disputed, highlighting the statements of Rwandan President Paul Kagame, who spoke of differences between perceptions of what the rule of law is.

Mr Jos went on to discuss the issue of delayed reporting. He stated that delays have been plaguing the human rights treaty body system since the 1980s and States have regularly been late in submitting their reports due to administrative incapacity or a lack of political will or sometimes both. As a result, Mr Jos stated, treaty bodies face significant backlogs.

Mr Jos also noted that, the growth of workloads for states is of concern. If a state has ratified all the core human rights treaties, it will be required to submit two reports a year, yet a large number of state reports are overdue. Mr Jos outlined a number of explanations that have been offered for this, including: the long interval between the submission of a report and its examination which results in the report needing to be updated in this time; the lack of certainty that the report will be considered in a timely fashion which leads to States being tempted to be less specific in their reporting; and institutions not acting upon reports due to problems with their administrative capacity and a lack of specialists.

Mr Jos recommended, as has been proposed in the past, that having one standard unified treaty could potentially take on a larger case load, have stronger mechanisms and better follow-up procedures, but noted concerns that this could result in less attention to specific rights holders. He also noted the proposal that the system of reporting could be eliminated and replaced by questions and answers sessions; or that States should consider setting up a framework for consideration of all human rights reports at the same time.

Mr Jos submitted that a reporting calendar could be introduced with a single 5 year cycle, the result of which would be that no more than two reports would be due in any given year. Strict adherence to the word or page limits of reports and simplified reporting could also be introduced, although Mr Jos suggested that there is a lack of political will to do so given that this would rely on cooperation between states and treaty bodies.

Mr Jos concluded by submitting that if states were obliged to present one report per year then some of the problems outlined above could be reduced. Mutual respect and cooperation between treaty bodies and states would also be greatly beneficial. He reiterated that the problems are related to implementation of the mechanisms as opposed to the mechanisms themselves. Taking steps to do something as simple as reducing translation costs would be a welcome improvement according to Mr Jos.

Report by Dominic Bent, LLB Candidate, Law with South East Asian Law.