

THE BROOKINGS INSTITUTION

THE UNITED NATIONS HUMAN RIGHTS SYSTEM:
WHAT WORKS AT THE NATIONAL LEVEL

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P R O C E E D I N G S

MS. FERRIS: Good afternoon, everyone. My name is Beth Ferris. I'm a Senior Fellow here at Brookings and Co-Director of the Brookings-Bern Project on Internal Displacement.

Well, I'm delighted to welcome you this afternoon to the event on the "U.N. Human Rights System: What Works at the National Level." I'm particularly delighted to introduce my colleague, Ted Piccone, who's the author of this wonderful report which I hope that you have all seen, which looks at, evaluates the actions of Special Procedures of the Human Rights Council. Now "Special Procedures" is kind of a wishy-washy all-encompassing term, but it refers to independent experts who are asked by the Human Rights Council, formerly by the Commission on Human Rights, to investigate specific themes or countries in terms of their human rights.

Ted will present his report, and then we're delighted to have three wonderful speakers who will comment on it from different perspectives. Since we're going to have a PowerPoint presentation, I'll introduce Ted; he'll do the PowerPoint; and then we'll invite our panelists, and I'll say a few words although you have their bios with you.

Ted is a Senior Fellow here at Brookings and Deputy Director of Foreign Policy. He's Advisor to the Club of Madrid. Formerly, he was Executive Director of the Democracy Coalition Project. He spent eight years in the government with the Clinton Administration, including State Department, National Security Council and Department of Defense. He has written extensively on human rights, democracy and Latin America.

And Ted, congratulations on the report, and we look forward to hearing from you.
Thank you.

MR. PICCONE: Thank you, Beth and thank you all for coming out this afternoon.

So, as Beth explained, this is a report that has been some time in the making, and to my surprise no one else has done this kind of reporting to help us understand a little bit better how this part of the U.N. human rights system works. I'm going to walk you through these slides as quickly as I can. It is a lot of data. There is a lot more in the report, so, and hopefully we'll be able to cover more in the Q&A.

Here are just some quick pictures to give you a sense of some rapporteurs in action. I particularly wanted to point out Walter Kälin. He just finished his mandate on internal displacement, and we've had a very -- here at Brookings -- a very good, close relationship with him.

And of course here we have the new ceiling, very dramatic artwork, of the Human Rights Council.

So the core question of this research project was really to look at what contribution the Human Rights Council Special Procedures make at the national level to promote human rights.

And you know most people, when they think of the Human Rights Council, particularly here in the United States I have to say, think of one or two things. They think about the fact that a number of abusive governments sit on the Council and that this somehow taints its work, and a number of people also point out the bias against Israel. And both those things happen to be true, But the council is much more than those two elements.

I was particularly interested in looking at this mechanism -- these are individual experts who are appointed by the member states themselves -- and to see what kind of work that they actually do on the ground. If we think about one of the great achievements of the human rights system in the last half of the 20th Century it was the creation of these

international norms on human rights, but now we really need to look at implementation, and implementation at the national level is really the core question of this study.

It's also relevant, of course, to a process that's just getting underway in a week or two, which is the five-year review of the new Human Rights Council. So governments are stepping back and looking at the first five years of the Council and how it can be improved.

So who are they? We're talking about a collection of titles for what they do. They're appointed by the Council themselves. These are individuals who are nominated by -- now the new rule says anyone can nominate a candidate to be a rapporteur, but most importantly these are independent volunteers. They serve in their personal capacity. They're chosen for their expertise, for their reputation in the field, their experience, and they serve as unpaid experts. And this is particularly important because it's this combination of independence and carrying the U.N. flag when they visit a country, or when they write a letter of appeal to a government it's on that U.N. blue stationary. It's this interesting and unique combination of features that seems to make a difference in their ability to do their work.

Currently, there are 31 thematic mandates and 8 country-specific mandates. This is a change from previous years. In 2000, there were about 40 percent fewer thematic mandates and 40 percent more country-specific. So there's been a flip on that.

I should also point out that just recently two of the country mandates were extended, on Somalia and Sudan. This was a lot of heavy lifting by a number of countries and governments, including the United States. And also, two new thematic mandates were just created at the last Human Rights Council session -- one on freedom of assembly and one on, it was a working group on laws that discriminate against women.

What do they do? They do country visits. They do communications and a lot of reporting and press statements. Those are their key tools that they employ.

Just to give you a sense of how I went about my work, I did field research in five countries, and I chose these five countries because they represent a cross section of regions, of different stages of political development and, importantly, have received many different types of rapporteurs.

I conducted a number of interviews with former and current mandate holders and an additional 200 interviews with stakeholders. Most of these interviews took place in these different countries.

So country visits are a particularly important way for these experts to get a handle of what's going on, on the ground. They do roughly two visits a year. Of course, they can only visit if the state agrees, and there are more data we'll get into on that. And then their findings and recommendations are presented to the Council and to the General Assembly.

To give you a sense of the volume of work we're talking about, in 2006, there were 41 mandates going to 38 states, 46 country reports. In 2009, a slight decrease in mandates, but we have an incredible number of missions and 70 country reports. So the point here is that the thematic mandates are an important way to analyze and get at country-specific situations.

There is an awful lot of debating in Geneva about country-specific mandates versus thematic mandates, but in fact the thematic mandates are getting at a lot of country-specific situations and putting a lot of data on the table as the Council considers these different human rights situations.

So this is a quick snapshot of which states have received the most country visits, from Sudan on the left to the United States on the right. A lot of these are on this list because they have, or have had, country-specific mandates. If you think about the countries that do not have country-specific mandates, the high recipients of visits are countries like Turkey,

Ecuador, United Kingdom, Indonesia, Romania and Russia, just to give you a feel for that.

These are the states that currently have the most pending country visits. So rapporteurs make a request -- "We'd like to visit your country." And a lot of states don't respond or they say, "Sure, in principle, you can come visit, and we'll work out the details later," and later and later and later goes on, and a lot of time goes by, and the visit doesn't happen. So China and Thailand have the highest number of pending visits right now. The next group after Turkmenistan would include countries like Malaysia, Nigeria, Egypt, Ethiopia and Uzbekistan.

This is a group of 17, or 19 states rather, that have never accepted a request for a visit. Zimbabwe is the highest on this list. This is over a 12-year period.

I should just give a quick caveat. Syria is on this list, but after we did this data they've just received their first Special Rapporteur on the right to food. And the request for Namibia is quite recent.

So there's something called standing invitations, and states have been encouraged to make these standing invitations which basically any rapporteur can come visit at any time, and 72 states -- this number is growing -- have made these kinds of invitations. All of those 72 that have actually received requests to visit have said yes at least once.

The outlier on that list would be Iran. So Iran has accepted visits. They're on the standing invitation list, but they've not accepted a visit for the last five years, and they currently have seven pending visits.

So the question comes up: Well, why are they on the standing invitation list if they don't practice it in reality? But you know, in general, standing invitation states receive more visits, they have fewer pending visits, and those that are not on that list have accepted fewer visits and have more pending visits.

This is just to give you a quick sense of how it breaks down regionally. Geneva is a place where regional blocks are still very strong, and it would seem a logical place to look at this and get a quick snapshot. You know, Africa and Asia have the fewest on the standing invitation list. Most of those states on that four and seven group are states like south Africa, Ghana, Zambia, Mongolia, South Korea, and then across. In WEOG, there are only three states that have not issued standing invitations, and those are the United States, Israel and Andorra.

So just to come back to the methodology question, we also looked at communications. These are the written letters of allegation and urgent appeals that the rapporteurs send to governments, asking governments to look into this case or this human right situation. We studied over 8,700 of them over a 5-year period by 17 thematic mandate holders -- so an incredible, exhaustive review.

And I should really give special thanks to Emily Alinikoff, my research assistant, and there might be a couple of others in the room who also participated in that exercise -- a tremendous amount of data.

And what we did was we gave each government response a score in order to kind of give some kind of qualitative assessment to how states responded to these communications. These were the five scores, and just to group them together. "No Response" means no response; there's just nothing in the written record that indicated states responded. "Immaterial and Violation Rejected" -- really very little information to indicate that the government took it seriously. And then the last two were more positive steps where the government actually did an investigation, and a prosecution happened or there was some remedy to victims.

To give a sense of how these communications are distributed, this is just a quick list.

This is again in the report of the 17 states that have received more than 50 percent of communications.

How do states respond to these communications? So this is a quick snapshot of those states that do reply. Well, I'm sorry, that's a later slide.

So this is the overall picture. Many states do not reply. And for more positive replies, you get roughly 18 to 19 percent. Now this varies across, by mandate, and the report shows how it varies by mandate.

There is a working group on arbitrary detention that has a significantly better response rate. The working group has about a "No Reply" of 20 percent. So it's looking at how they do their work.

This is again a quick regional breakdown of this data, and the variance is pretty significant in certain categories. On the more positive side, you have on Africa, on the positive responses, a low of 7 percent and a range as high as 35 percent for the Western European group. And then on the "No Reply," as you can see, it goes from 69 percent down to 32 percent.

This is just another way of looking at the data. I used a definition that is used by the Community of Democracies, which is an intergovernmental forum of states that follow certain criteria for participation, for who is invited to their meetings. And democracies do have a better response rate, particularly on the positive side where it's 28 percent versus about 12 percent.

Just to give you a quick sense of how quickly states reply to these communications, most states reply within 6 months, over 80 percent. So states are, the states that do reply are, getting responsive fairly quickly.

So a quick word about Special Procedures and the Universal Periodic Review

because this is the newest mechanism that was created when the Council was created, this is a process by which every single member state is now reviewed in a peer review process, and various information is brought to the table. This review happens once every four years. Every country is reviewed once every four years. The United States will be reviewed for the first time on November 5th, and I'm sure we'll hear a lot more about that in the coming weeks.

This is to give you a quick sense of how this process relates to Special Procedures. The report is prepared by the Office of the High Commissioner, and it refers to the recommendations made by the Special Procedures. This is the first time that there's a systematic reference back to the reports of the Special Procedures. So in the first two years of this UPR, we saw 263 recommendations that were things like we request that you consider inviting this Special Rapporteur, that you implement this recommendation from this Special Rapporteur.

So there were 263 like that, and 106 of these have been accepted by the state under review. So there's beginning to be some traction in the U.N. human rights system following up these recommendations and all this reporting.

So, in general, the findings after all this data collection and qualitative review:

The value added of these rapporteurs is they serve as catalysts for converting what are in some cases abstract international norms into practical results.

They provide a U.N. vehicle for human rights victims to be heard. For many, it's their main and first entry point into the U.N. human rights system.

It's a flexible mechanism. You don't have to exhaust domestic remedies as you do with treaty bodies.

And you get, as we saw from the timeliness response, you get some response.

Also, their work motivates government agencies to pay attention and to take action.

I wanted to dwell a little bit on this because this is the kind of information that was really hard to collect, that I thought would be easier to find. There is some anecdotal information, but I tried to actually systematically get to this.

These are examples of impact. I'm sorry, I'm real slow here. Okay, examples of impact of their work that we felt confident really was a result of the intervention of the Special Rapporteur. Of course, there are many other factors that play into governments taking action, but where we could document that it made a big difference.

The independent expert on Afghanistan went and uncovered conditions of illegal detention of over 700 prisoners. Over 500 of them were released, and prison conditions were quickly improved. A similar case happened in Afghanistan where a women's prison, he uncovered really horrible conditions and got improvements in health conditions, food, medical attention, et cetera.

Protecting IDPs in Turkey, and Georgia I would add, this is an example where there was real policy change as a result of the intervention of the special representative on IDPs.

The torture mandate is particularly interesting and active, and these are cases -- I should mention in addition to Spain, Northern Ireland -- where a specific recommendation was made to install video cameras in detention centers, and this had an impact in reducing allegations of torture.

In Colombia, there was a very notorious scandal involving false positives where innocent, unarmed civilians were dressed in guerilla garb and killed and presented as body count in the conflict there. The rapporteur, Philip Alston uncovered some of this. Some of it was already known. He uncovered additional facts behind it, and as a result the political pressure built up enough that not only were there dismissals of military officials; there were

prosecutions and indictments.

Interventions where the rapporteur got in to see political prisoners and journalists, and as a result there was immediate improvement in their condition.

And this last example, protecting Indonesian migrants in Malaysia where the rapporteur was handed a secret document, an agreement between Indonesia and Malaysia that allowed Malaysian employers to withhold the identity documents of migrants, and when he said he would reveal this, they threatened to retaliate against him. He revealed it anyway, and the secret agreement was immediately annulled, and individuals got their passports.

So on communications, those were examples from country visits. These are examples from the written communications, and again these are further elaborated upon in the report. These are cases where we gave the score of steps taken the most positive scoring, and there are fairly good written documentation on these kinds of cases, and I'll just run them through here.

There is some interesting interplay that happens where if you all know a group called Freedom Now here in Washington, which has used the Working Group on Arbitrary Detention and other mechanisms to file cases, and have then taken a judgment that the working group made on whether someone had been detained illegally and then lobbied Capitol Hill, and got senators and congressmen to write letters to in this case, to Pakistan, to President Musharraf and built up a pressure to get this individual exonerated.

So just to quickly analyze what are the key factors for success when there is success, the credibility of the U.N. -- I mean here in the United States we don't really fully appreciate this, but in most parts of the world the U.N. is a really important actor and a positive one and gets a lot of attention when they show up in the country. So that is a key ingredient in the

success of the Special Rapporteurs, the timing of their visit or their communication. In a transitional state, a post-conflict situation, a new government comes to power, there's much more openness to this kind of international expertise and assistance.

The work of the rapporteurs themselves is a key factor, and here it really ranges. I mean some, frankly, are better at it than others. I think general aspirational recommendations don't go very far, but the really specific ones are something that people can get their teeth into and follow up after the visit.

The political will of governments, in some cases you'll have some governments accept these rapporteurs, thinking that they'll get a positive pat on the back, and it usually doesn't come out that way. So there are some treacherous waters, but sometimes you'll have a sympathetic official or a parliamentarian who will really make the most of it.

The capacity of civil society and the media, I mean this is very much an effort at political pressure on the government to take action. A local civil society that's well organized and well prepared can make the most of this visit, and a media that is well briefed and presents its information can really call attention, spotlight what the problems are and force the government's hand.

And then finally the cooperation of the U.N. country team and other parts of the U.N. system. The U.N. country team tends to keep the rapporteurs at arm's length. These are individuals in their personal capacity, and sometimes what they say is very provocative, and it's sensitive, and they really want to keep some distance from them. Sometimes there's a good kind of interplay of a bad cop-good cop relationship where the U.N. country team can come in behind the rapporteur's report and offer technical assistance to the government.

The challenges. The challenges that the rapporteurs face when it comes to having impact in their work:

The lack of state cooperation, the data that I gave you shows that pretty dramatically, and that is their biggest hurdle. And it goes as far as really direct attacks on the rapporteurs from member states who are not -- don't want to address the underlying substance of the report. They now have a code of conduct that the member states have approved and asked the rapporteurs to sign, which has had something of a chilling effect on the independence of the rapporteurs. It may also help to professionalize them, and I think it's a process that's ongoing. But we've seen a number of rather hostile attacks against the rapporteurs.

Inadequate resources, I mean I would say here we're basically doing human rights on the cheap for these many years. Only about 7 percent of the High Commissioner's budget goes to the Special Rapporteurs. That's about \$280,000 per mandate, and that really just covers staff and travel. As I said, they don't get paid themselves. In addition, there are new mandates that are unfunded, and so the same number of staff has to support new mandates. So it's a really under-resourced mechanism.

There is no follow-up built into the system other than what I mentioned before. This UPR is adding a new element there. But otherwise, the report is made, it gets filed and there's nothing in the system that triggers another look at it. That's a real problem.

Then finally, I would say that the rapporteurs themselves need some additional training and a better understanding of the local context in which they work. I came across a number of cases where the rapporteur's use of certain language had an effect on government officials that was entirely negative, and they just didn't want to hear the report, and they literally threw it in the garbage can and in some cases actually went on a campaign to delegitimize the rapporteur. So I think language is really particularly important.

And just very quickly to run you through some recommendations, some of them rather self-evident:

Improve state cooperation. One idea would be to actually make cooperation with Special Procedures a criterion for membership on the Council. So when you're running for a seat on the Council and you're making pledges and when states vote for members, this should be an explicit criterion for membership.

Problem here is that the tendency is toward uncompetitive slates. So a regional group will put forward their group of candidates, and there's no competition. So there's no way for governments to choose one over the other.

Where there has been competition, in a number of cases the state with the worst human rights record has been defeated. That took a lot of effort by civil society groups and some member states, but there are a number of examples of that.

Issue standing invitations. There should be more states doing that and cooperating with the visits and a better record on replying to communications.

And then a way to reward states that do cooperate, so that there's some type of positive incentive. There are other parts of the U.N. system or bilateral donors that could play a role in supporting states that do cooperate, with technical assistance, and I think that's something that should be looked at.

Resources. I think I've talked about why it's important to increase funding for staff and maybe get them up to three country visits per year. It would be helpful if states reduce the earmarking in which resources are directed only to certain mandate holders. So there is an inequity built across the mandate holders. Some get more; some get less.

More support from various U.N. agencies. If we're going to mainstream human rights at the U.N., they need to be connected in.

And then this last issue, transparency of extra U.N. support, this is where some rapporteurs have succeeded in raising money outside the U.N., and it's been critical to their

success. But there's really not much transparency about it and this does cause friction among the rapporteurs and with some governments that say well, "who is supporting you for this?" At some point, there needs to be some honest rendering of where the support comes from.

Follow-up. You know, it would be helpful if rapporteurs did more follow-up visits to the countries that they go to instead of just a one-off. It's hard to do, there are tradeoffs, but it can be done. I talked about the Universal Periodic Review and closer work with treaty bodies, mainstreaming human rights across the U.N., and then of course helping NGOs and national human rights institutions play their role in the country visits and particularly in the follow-up to the recommendations.

Finally, training. I think the rapporteurs, some of them are brilliant jurists, know their subject, but may not have the political and diplomatic experience to really be able to navigate these difficult political waters when they go to visit a country, and I think that would be helpful to them. And the ones that really have the experience are the ones who are best positioned to offer that kind of support to them.

. Thank you. (Applause.)

MS. FERRIS: Okay, let me invite our panelists up here, and you have their bios in your packets, as they're getting miked up.

Well, welcome to all of you, and we'll begin with Esther Brimmer who is Assistant Secretary of State for International Organizations and deals with a wide range of issues from peacekeeping to climate change, food security to human rights. Before taking this position, she was Deputy Director and Director of Research at the Center for Transatlantic Relations at SAIS at Johns Hopkins and has also worked in the State Department's Office of Policy Planning and was a member of the U.S. Delegation to the U.N. Commission on Human

Rights in 2000.

She'll be followed by Paolo Pinheiro who's presently the Commissioner and Rapporteur on Children for the Inter-American Commission on Human Rights in the Organization of American States. He served as Special Rapporteur in two cases, in Burundi and Myanmar, and in 2006 presented the U.N. Principles on Housing and Property Restitution for IDPs, Internally Displaced Persons, and is former Secretary of State for Human Rights in Brazil.

And finally, we'll hear from our own Richard Williamson who is a Nonresident Senior Fellow here at Brookings and also a principal in a consulting firm, Salisbury Strategies, previously served as U.S. Special Envoy to Sudan under the Bush Administration, previously was Ambassador to the U.N. for Special Political Affairs and Ambassador to the U.N. Commission on Human Rights and held various other foreign policy positions

It's a very knowledgeable panel who I'm sure have interesting things to say and will do so in only 7 to 10 minutes each, and then we'll have a question and answer which Ted will moderate. Thanks.

MS. BRIMMER: Great. Thank you very much for that introduction. I'd like to also thank Ted Piccone and Elizabeth Ferris for organizing this session, and thanks to Brookings for pulling this together and all of you for coming out for the discussion.

I'm delighted to be here with both Paolo and Rich. I look forward to your comments on this important topic.

I thought I'd start off by talking about general U.S. views of Special Rapporteurs and then refer to some of the ideas that have been brought out by this very interesting report.

Indeed, I think we say the key issues really will be looking at how we look at strengthening the procedures. This is, in a sense, a very timely conversation. As Ted has

already talked about, we are at the point where we are looking ahead towards how we strengthen the U.N. Human Rights Council overall. It's part of the 2011 review. One of those key issues will be how we strengthen different measures.

And I'll say that the Special Procedures have been very much on our minds, are very much part of our work at the State Department, our work at the Human Rights Council. Three of our highest priority issues at the session of the Council that just concluded October 1st involved either establishing or reviewing the mandates for the Special Procedures. In a sense, that's a testament to their value and the importance we place on these mechanisms.

Just to review, and Ted, you mentioned this, but I'll just highlight for a moment the work at the most recent session of the Council, including the effort to establish a Special Rapporteur on the freedom of assembly and freedom of association. As you know, Secretary Clinton called for this mechanism over the summer in her speech at the Community of Democracies. She talked about the importance and we need to have a special mechanism in this area.

As you know, this is important, particularly as many of you in this room well know, that many nongovernmental organizations and civil society institutions are crucial for supporting human rights issues, and recognizing the particular role of the freedom of assembly and association is a particularly important aspect of our work in October.

We also strongly supported the initiative brought forward by Mexico and Colombia, to establish a working group of experts on discrimination against women and looking at both law and practice. This working group will look at the situation of women around the world, will highlight places where the rights of women are threatened, will try to develop best practices both in legislation and in practice, and will try to work on efforts to defend the rights of women and particularly the importance of the rights of women as embedded in human

rights.

We also tabled a successful amendment which renewed the mandate for the independent expert on human rights in Sudan. Now this independent expert is the only person charged with a mandate to look directly at human rights in Sudan, and as Sudan approaches the referendum we think this is a particularly important mechanism.

I think all of us were particularly pleased when President Obama himself actually highlighted this mechanism at his ministerial meeting on Sudan in New York. He said, "We must promote the dignity and human rights throughout all of Sudan, and this includes extending the mandate of the U.N. independent expert on Sudan, because we cannot turn a blind eye to a violation of basic human rights." So it was I think for all of us it was quite exciting to have the President talk specifically about the importance of this particular special mechanism.

If we take a moment and look at examples of positive work by Special Procedures, they include a wide variety of examples. I'll just touch on them very quickly. We can talk about them more in the discussion.

I'll say just to pick up on the last six months alone, the Special Rapporteur for freedom of expression has spoken out on some of the most serious violations of freedom of speech, including in China and Venezuela, as well as drawing the link between freedom of expression and ending impunity and corruption.

The Special Rapporteur on torture has made many trips to many continents including some countries in Africa, focusing on prison conditions.

And the Working Group on Disappearances has clarified the whereabouts of many different people and particularly those involved in political disappearances, and the Special Rapporteur on Burma has helped the dialogue on that.

Now there are challenges as well. Unfortunately, we've been particularly concerned that the United Nations Special Rapporteur on the situation of human rights in the Palestinian territories has not been subject to the same safeguards of mandate terms and renewal of the other Special Procedures, and has issued some particularly politically motivated reports. But we think that it's important that we maintain the independence of all of our Special Rapporteurs.

I thought I'd take a moment and maybe comment particularly on recent U.S. cooperation on Special Rapporteurs and what we've been working on at State as well. Now first, we try to engage in an open and transparent manner with all the Special Rapporteurs. We don't always agree with the Special Procedures, but we do respect their independence, and we think that respect for their independence is a critical aspect of their work.

We try to make sure that we support their work, and we particularly note that the report places emphasis both on the role that governments and nongovernments can play in supporting the country visits by the Special Procedures, and we note particularly their ability to mobilize civil society, to drive media attention and bring human rights concerns to the highest political level.

Last year's visit of the Special Rapporteur on the right to adequate housing garnered quite a lot of press coverage here in the United States, both here in Washington and around the country, engaged civil society and the Department of Housing and Urban Development, and raised awareness for issues on housing.

Since January 2009, alone, the United States has hosted the visit of 4 Special Procedures. We hosted the Working Group on the Use of Mercenaries, visited Washington in July 2009, focused on the use of private security contractors by the U.S. government. They were received by the Under Secretary for Management, Pat Kennedy, at the State

Department, as well as the Department of Defense and the Department of Justice.

In October 2009, the Special Rapporteur on adequate housing, as I mentioned, visited. They had several meetings at the State Department, also met with the Secretary of Housing and Urban Development, Shaun Donovan, and traveled to New York, Los Angeles, New Orleans and Chicago as well as an Indian reservation in South Dakota, to meet local officials and civil society. And the visit was focused on interaction with civil society, and the Special Rapporteur held a series of town hall meetings.

Also, even yours truly has been involved as well. I hosted the Working Group on the People of African Descent in January 2010. This group conducted a thorough examination of many laws and policies at the state and local ends, as well as the federal level, and their impact on people of African descent. They also went to the Department of Justice, Department of Labor, Department of Education and the Equal Employment Opportunity Commission, as well as several civil society groups including the American Civil Liberties Union.

And just last week, I met with the Special Rapporteur on the sale of children, child prostitution and child pornography. She's examining issues concerning trafficking of anyone under 18 years of age for any purpose, as well as other laws that affect children. After coming to the State Department, she also has gone to the Department of Justice, Department of Homeland Security, Department of Education and is currently traveling to Los Angeles, Las Vegas and New Orleans and Atlanta to see local officials and civil society on these issues.

The Special Rapporteur on countering terrorism has asked to attend the October 2010 trial of Omar Khadr and we are working with the Department of Defense to make that happen.

We're also currently working on the visits of the Special Rapporteur on violence against women, who is due in January 2011, and the independent expert on the issue of human rights obligations related to the access to safe drinking water and sanitation is expected early next spring.

So although we support the visits of a variety of Special Rapporteurs, they're not without controversy. Some visits gain more discussion here in the U.S., and we appreciate the challenges here. Some of the more controversial visit requests, as you all know, involve a request to meet with prisoners or detainees in detention facilities in the United States. The Special Rapporteur in terms of reference that permits the human rights mechanisms vary, and we work the question of how to do that and how to work with detainees.

We have been able to offer rapporteurs visits to prisons and to Guantanamo, but the United States does not routinely guarantee private access to detainees, especially in state prisons, and this is one of the challenges as the federal government, their prisons are managed by states and where the federal government does not have authority. Because we've not been able to accommodate that condition, some of the Special Rapporteurs have said that they have not wanted to visit.

I did want to take up an issue that is often raised, and it's the question of standing invitations. As you noted, many countries have issued standing invitations. Our view is we want to work closely with all of the Special Rapporteurs and the special mechanisms, and we think it's more important to actually work with them and have them actually come to the country and accommodate their visits, something we're doing very actively, given the list I've just told you.

While we understand the interest in having standing invitations, we note there are countries that have issued them, but they have not actually admitted them. And we think

you should do what you actually say and what you actually committed to.

In addition to hosting visits, we also do reply to the requests, and we note the report talks about the rapidity of replying to requests. We do allocate persons to actually respond to requests from the Special Rapporteurs. We note that since January 2009 we've received 150 inquiries by Special Procedures and the Office of the High Commissioner for Human Rights. These vary from individual inquiries for our input to particular questionnaires. Particularly those that are most urgent, as in (inaudible) and so forth, are the ones that usually get the highest priority where we respond. We've not always responded to things that are just requests for input to particular resolutions because we usually do that through our mission in Geneva rather than directly from Washington.

I should also tell you and say we're taking very seriously the discussions and ideas from the Special Rapporteurs as we work out our Universal Periodic Review. As has already been noted, we will have our UPR on November 5th in Geneva, and we're using some of the recommendations and some of the ideas to help as we think about engagement for the UPR process.

I would just comment quickly and briefly, and we can come out in discussion, on just some of the areas we're about strengthening Special Procedures. We actually think there are some very good ideas in the report, and we're very interested in how we might try to strengthen the Special Procedures.

There are a couple of things we think we've looked at. One is allowing for better follow-up to the report to the Special Procedures. Following the country visit, we know now that many of the Special Rapporteurs don't have the time or resources to return to the country for follow-up. We think they should be encouraged to return to the country when they release a country-specific report, to be able to highlight the recommendations of the

report, and we want to look at what would be the appropriate way to look at resources to help the special mechanisms do this.

It would be one idea -- another idea to explore would be to could there be time during the plenary sessions to specifically follow-up on previous Special Procedures reports. Under the current system, they tend to all be clustered, and there isn't enough time for the discussion. We might want to look at that.

We might want to look at particular benchmarks for cooperation with Special Procedures that you talk about and the timeliness of response.

We agree very much with your idea about member states try to fulfill their obligation to actually facilitate the work of the Special Procedures.

We think we also might want to look at how we can help the Special Procedures prepare for their visits in advance and are there ways to help them when they're actually writing out their reports in terms of making presentations.

There could be a database on all communications and responses, something maybe the Office of the High Commissioner might perhaps run this, which would help establish a record on states' ability to cooperate with Special Procedures.

And indeed, when electing new members to the Human Rights Council, as you suggest in the report, this would be something to take into consideration when looking at states' commitments to their international human rights obligations.

And as we look at some of the other areas, we know the question of looking at how to use resources to help the Special Procedures. We might want to look at whether it would be appropriate to establish a special funding mechanism for the Special Procedures. We have to look at what would be appropriate, given that we want to maintain their independence but give them the resources to actually do their job correctly.

So I would say that I would stop there, but say that we very much appreciate the chance to read the report. It's an important piece of research about important mechanisms in our work for international human rights issues. Thank you.

MR. PICCONE: Great. Thank you, Esther, for that very comprehensive take on U.S. thinking on this. This is very helpful.

Paolo.

MR. PINHEIRO: First, thank you very much.

MR. PICCONE: Speaking from experience.

MR. PINHEIRO: I was thinking what I will say that has not yet been said. I will try.

Thank you very much for the Brookings Institution, for inviting me to be with my friends here in this debate.

The first thing that I think is important to remind is that everything that we are discussing is very new because in fact you have to take into consideration that this wonderful creation of the Commission on Human Rights, that was a gift of Ms. Roosevelt after the war because it was not in the plans of the founding fathers of the United Nations to have a Commission on Human Rights, but she was able to establish the Commission. But the Commission, between 1946 and 1979, didn't consider country situations or complaints by individuals.

The first Special Rapporteur was appointed in 1979. It was the perverse gift of Latin America because it was the mandate on Chile. And the first thematic rapporteur, that you have to consider that the thematic rapporteurs are universal -- they take all the countries in the world -- was appointed in 1982. There we are, considering an experience with less than 30 years. It's a very young mechanism because the Special Procedures also call it a mechanism.

I like very much because the states are artifacts. Then you have mechanisms to deal with the artifacts that are the states -- very strange creatures, beginning with the title.

Now Joanna Naples, a young student, discovered that this is a strange word because it's French (Speaking in French). It's not reporter. It was created by the organization, the International Labor Union, in 1999. It was the first entity of the world to have Special Rapporteurs, but no one knew it. Nobody understands why we are special, or you are special.

The question also, that we are independent, it's very tricky because now thanks to the wonderful report of Ted the states will understand better what are the Special Rapporteurs, because most of the states make a big confusion because they think that we -- I'm speaking "we" because I just left on Monday. We receive an honorarium from the U.N. And I remember the Minister of Foreign Affairs of Burundi, he was very angry with me and said, "Mr. Pinheiro can continue receiving his very high salary in the end, but he will never return to Burundi."

I was not receiving any salary, but I returned. I returned to Burundi. (Laughter.)

Then there are a lot of myths. Sometimes it's good because the states or government officials, they think that we have some power. We don't have any power, only symbolic power.

But we are not also very loved by the states, not only by autocracies or authoritarian regimes. I'll just give an example. The reaction of Spain vis-à-vis the iconic figure of Theo van Boven when he presented his report on torture, it was more or less the same reaction of North Korea considering our friend, Vitit Muntarbhorn. Love is not everywhere when we have democracies.

And sometimes governments use strange expressions. I will tell another anecdote.

Once the Minister of Foreign Affairs of Tanzania, who went to the podium to say, "Mr. Pinheiro behaves as a mad elephant in the territory of Africa."

Then I went to the podium. I said, "You didn't call me mad dog because in Brazil the same expression is mad dog, and I love elephants." (Laughter.)

Again, it's a delicate balance between this relationship between states and rapporteurs because you have to take in consideration that the Special Rapporteurs are creatures of the states, are the creatures of the Commission on Human Rights or the Human Rights Council.

And we cannot use megaphone diplomacy most of the time. Ted was very correct, reminding us about the media. We exist thanks to the media, but we have to be careful in terms of what we say. I think that, despite that, we are compelled to report. I think that some quiet diplomacy is also useful.

During my mandates, the work with all the permanent members of the U.N. was very important, and also to try to have the feeling of the region -- in my case, the Great Lakes or the countries around Burma/Myanmar. It was very important to have the approach of the regions in our performance.

Then some positive points. You know that human rights is in the end, is a territory of nonaccountability because the bar is very high. You have the International Court of Human Rights in The Hague. You have the International Penal Court. You have the ad-hoc tribunals. But in the Human Rights Council, all the treaty bodies, you don't have any sanctions. There are no reparations. Everything is moral, but of course we cannot just use embarrassment or shaming of countries.

And I think that the Special Procedures, the Special Rapporteurs, Kofi Annan called the jewel of the crown. I like this very much -- the jewel of the crown.

I think the mechanism was very imaginative, very creative, despite all the limitations that we have correctly reminded here, and what is most important, reliable for the victims because the victims like the reports of the Special Rapporteurs. Some people say nobody reads these reports. I know a journalist that was in prison in Myanmar for 12 years because he was circulating a report of a Special Rapporteur; the great poet, Thet Htwe. This happens.

But then many times the Special Rapporteurs in many contexts are the voice of the people that cannot say anything about the human rights relations in their countries.

Then the last thing that I'd like to say, the challenges. This a very diplomatic word -- challenges. First, the last time that we had the same debate, the tables comparing democracies and non-democracies are not very different, but I forgot what you answered. Then you can elaborate on that, because if you compare the two, how democracies and non-democracies react, communications to visits, the consideration is not very much different.

The relationship with the U.N. entities, I think this is despite that the human rights is officially one of the three pillars of the U.N., several people in the U.N. are not aware yet that human rights is one pillar. The first time that I arrived in Burundi there was a wonderful Mauritanian diplomat, Udub Dalab. He was the Special Representative of the Secretary-General. And I had no experience. I was appointed in two months before, and I was obliged to go to Burundi, and I was fit as a troublemaker.

A lot of people inside the U.N. think the mechanisms are very politicized. Not all are politicized. Another thing also is it's very strange to accuse of politicization. Our dear fellow and friend, Sérgio Vieira de Mello, he liked to say that one state accusing the other to politicize the debate in the Human Rights Commission, as it was at this time, is like one fish

accusing the other of being wet because all the fish are wet. (Laughter.)

Where you have states, you have politics. It's a midsummer's night dream to expect in that very dangerous new room of the Human Rights Council if all these icicles in the ceiling, that will be a sort of boat where you have ethics, good intentions and respect for human rights. This will be never the case.

The state is a contradictory being, entity, and we have to navigate in these contradictions. I think that these contradictions affect the performance of the Special Rapporteurs.

I think that one of the very important recommendations that the report proposes is a better cooperation with the U.N. country teams. In my several mandates between 1995 and 2008 I visited more or less 60 countries, and in the majority of them the U.N. country team was the best ally. But in some countries they don't understand at all. They treat the Special Rapporteurs very oddly.

The last thing that I will say is the responsibility of the states. The states, they don't like to give money to the Special Procedures. I am saying in the Office of the High Commissioner for Human Rights. You know that the human rights in the U.N. has just 2 percent of the budget. It was 1 percent when Louise Arbour began. It was doubled, for 2 percent. Of this 2 percent, only 7 percent goes to the Special Rapporteurs.

I think that states and democracies, particularly democracies who express more support to the functioning of the mechanism, with more resources. If you want the Special Rapporteurs to be more efficient, to deliver a better product in their work, I think that the assistance must increase.

And the last thing is the follow-up. The states are not very interested in follow-up because there is no follow-up. There was not in the Commission on Human Rights, and

there is not in the Human Rights Council.

I was very glad to hear that the United States, and this is not just to say something nice about the United States, but the United States compared to Europe is having a very creative policy inside the Human Rights Council. The United States, I think has understood that now in the Human Rights Council what is necessary is partnership -- is partnership -- and the Western Group cannot decide things alone. There are several, you gave several examples that this is happening in the Human Rights Council.

Then I think follow-up, for instance, of the special sessions; this is not present. And the High Commissioners proposed several suggestions for this follow-up. I think that is one of the most important recommendations of Ted.

And then finally, I was intending to say this in the beginning. It's extremely timely, this report. Why? Because of the review of the Human Rights Council. I think that the report is a very valuable tool for states, for civil society, for human rights defenders. It's something that, Ted, as you said, didn't exist, but now we have this wonderful instrument. Thank you.

MR. PICCONE: Thank you, Paolo, for all those pearls of wisdom from a crown jewel mechanism. (Laughter.)

Rich, please.

MR. WILLIAMSON: Thank you. Thanks. First, as a member of the task force, I want to just personally thank and acknowledge the leadership of Ted Piccone and Emily Alinikoff, who had the unenviable job of herding his cats, and they came up with a terrific report, Paolo for his service, and I want to thank Esther for her service. As a former Assistant Secretary for IO, I know how challenging it can be to lead a functional bureau, anyone, especially IO.

I'm a little intimidated because my friend Ambassador David Birenbaum is here, who knows more about U.N. reform than any of us, and Ambassador Wegger Strommen who

was a colleague of mine at the Security Council and also is extremely knowledgeable.

I want to take slightly a different approach because I suspect everybody in this room, or nearly everybody in this room, shares my view on the importance of multilateral diplomacy for the United States, shares my belief that the United Nations is a very valuable tool for U.S. foreign policy and believes that the U.N. role in human rights has been valuable. But that is not a consensus view, and it will be even more contentious in a couple weeks after the election. So I want to address a little bit of that and then come to some of the specifics because Ted and Esther went into great detail, so I won't try to repeat what they said.

But we have to acknowledge, as this report does, that despite the reforms in transition from the U.N. Commission on Human Rights to the U.N. Human Rights Council, there continue to be disappointments, with an emphasis on resolutions targeting Israel, a lack of attention to other alarming country situations, election of serious human rights abusers, though there have been some defeated, and certainly backsliding on freedom of expression issues as well as some others.

While the U.N. member states deliberated on various U.N. reform issues in 2000 and 2006, among the most important issues was the U.N. work in human rights. In fact, Kofi's Chief of Staff Mark Malloch Brown said at the time, "For the great global public the performance or nonperformance of the Human Rights Commission has become the litmus test of U.N. renewal." And so it remains, I would suggest.

So we have to remind ourselves that the debate is not over, about the decision of this administration to enter the Human Rights Council. While we can applaud the commitment to engagement in multilateralism, this is an issue not only prompted by the upcoming review of the mandate but something that Congress will consider in its budgeting, either to the benefit or detriment of advancing human rights.

I think America, even with an imperfect organization, and clearly the Commission was more imperfect than the Council, has to go to participate because human rights matter to us. They're central to America's founding documents, our history and our aspirations for all mankind. We have to go to the Human Rights Council to stand up for those fundamental values that have defined American exceptionalism and the rights of all mankind, not just the lucky few.

The Universal Declaration of Human Rights does embrace many of the same values contained in our founding documents and that have animated our history. And I believe it's not only in America's interest to respect these values but to promote these values and to advance human rights and freedom, and free and democratic states are more stable than repressive or authoritarian regimes. Nations that respect human rights of their own citizens are more likely to respect the rights of other countries that engage in adventurism. Countries that share our values are our natural friend and allies. Furthermore, I would argue it's our responsibility to stand up for human rights and to advance freedom.

Every administration goes through tradeoffs on this, and every administration during my life has made very disappointing decisions in some cases for legitimate, pragmatic interests. But at the time of my first ambassadorship, Ronald Reagan went to Westminster Hall, and his words I think are those words that any American president would have said, or should have said. He said, we're engaged in a great struggle -- this was the height of the cold War -- but it won't be won by bombs and naval battleships and missiles. It will be won by a conflict of ideas, the great ideas that have made us great -- respect for individual liberty, rule of law, faith under God.

But we have to remember that in this human rights area, because so frequently we're too anxious to trade it away -- and again I emphasize it's every administration where you can

pick examples. Therefore, while the Human Rights Council is an imperfect forum, we have to go and participate because we believe in human rights and this is an important platform for advancing human rights. And the struggles we engage in today, whether with terrorism or others, will be won by a test of ideas.

As has been noted by others, however, within the U.N. and in the Human Rights Council, some countries wear the values and commitments of the U.N. charter and the U.N. declaration quite lightly. There are a lot of rhetorical nods to human rights, not a consistent beacon to guide behavior. There are repressive regimes, and my view is that they don't want to be called out but should.

I think it's an unhelpful trend that Ted highlighted, that there are fewer country-specific mandates and special prosecutors. It's good that thematic ones address the problems in states, but there are bad actors who feel no obligation to honor those things in which they committed by joining the U.N. and are reflected in its charter, and not only in the universal declaration and subsequent documents. But history shows that the international community standing up for these rights and be willing to name and shame doesn't always prevail but certainly has consequences as it helps.

We get the story of U.N. human rights advocates, freedom advocates who are persecuted, put in jail, how important it is for that voice. And it's important for the United States, but it's even more profoundly important if the legitimacy of the U.N. is invoked in making those arguments and giving them substance.

And, as has been noted by Paolo, sometimes even repressive regimes feel a requirement to accommodate some of the criticism. So while some of the advance at times is glacial it still is an advance.

So it seems to me that as we look at the Special Procedures mechanism we look at

some of the progress that has happened between the reform, moving to the Human Rights Council, that we don't forget that ultimately human rights are denied by governments, and we should be willing to be aggressive in pursuing this.

Let me just note that, as the report finds, I do believe the human rights independent experts are human rights catalysts. I do think their performance is as important to the U.N. as the U.N.'s credibility is for them. As Paolo demonstrated in his service but also in his remarks, the quality and specificity of experts' research and recommendations are extremely important, and we certainly need an institutional mechanism for follow-up because those of us who followed it for some time have seen the disappointments in this area.

And finally, I think Ted was right to try to highlight the need for better training, and it's certainly an important issue to talk about increased staff and resources. But to have that increased staff and resources in support, in the United States we have to make the case, not only by how central human rights are but the constructive role that the Council plays. Thank you.

MR. PICCONE: Great. Thank you, Rich.

I'm looking at my watch, and I see we've been talking at you for quite a while now. So I think what we'll do is go ahead and open the floor to questions, and if you could identify yourself, and we'll do a feedback from the panel. There is someone with a microphone. So maybe you can just start in the middle there, and we can come forward.

QUESTIONER: Thank you. I'm Leon Weintraub, University of Wisconsin, Washington Semester on International Affairs.

I'd like to address something that Assistant Secretary Brimmer raised. She mentioned Special Rapporteurs on adequate housing and access to safe drinking water. I'm wondering if dealing with issues such as these risks veering off into areas that really address an issue

of adequate resources, for example, that are issues really of development and perhaps rather than more human rights.

I'm thinking of human rights that have usually been included such as freedom from torture, of assembly, freedom of speech, freedom of religion. These are rights that really don't demand much resource on the part of a government. But access to safe drinking water and housing -- what if governments decide they really want to spend their resources on building schools, upgrading roads or building hospitals, building airports, other indices of development? Are we risking spreading the net so far that we're really getting into issues of development rather than issues of human rights?

MR. PICCONE: Let's take a couple more, and then we'll come back. Okay, take T. Kumar and next to you.

QUESTIONER: Yes, T. Kumar from Amnesty International.

Ted, excellent presentation.

One thing I really liked, or shocked, was that Special Rapporteurs can raise funds on their own. So on that, I have a question for Minister Brimmer. Will the United States take a stand and take a leadership role at the Human Rights Council to stop that practice because that's going to hurt the impartiality and integrity of the human rights procedures?

I also have another question. You mentioned that you are so eager to work with human rights procedures to come to this country to investigate. If you are so eager, why are you so reluctant to have a standing invitation? Thank you.

MR. PICCONE: Let's take one more, next to you.

QUESTIONER: Hi. Kelley Currie from the Project 2049 Institute.

I'd actually like to follow up on Professor Weintraub's question a little bit, kind of going back to one of the first things that Ted said about how the Special Procedures are about

implementation of these norms, but that kind of assumes that we have an agreement on these norms. And you see the European Council on Foreign Relations, I believe, coming out with reports about the lowering of the coincidence of voting with the Europeans and other countries, all of these negative trends, the Chinese government and some other authoritarian regimes out there actively norm-shaping in the other direction.

How are these Special Rapporteurs and these special mechanisms dealing with these kinds of attacks basically on what we consider, and what Professor Weintraub mentioned, as the kind of basic human rights issues that we all are more concerned about? And this also gets to Ambassador Williamson's issue about support for these institutions in the United States.

MR. PICCONE: If we could take one more right here, Ambassador Wegger.

QUESTIONER: Wegger Strommen, I'm the Norwegian Ambassador to the United States.

I think I agree with Rich Williamson --

MR. WILLIAMSON: That's a first.

QUESTIONER: Yes, that's the first time. No, it's not the first time.

The Council is probably on balance better than the Commission, but I'd like your reaction to the following: Didn't we lose something? Even if we agree that the Council on balance is better, didn't we lose something? Because I remember in the Commission, for all its anarchistic streaks, it was a chaotic place, but it was a place that really states feared, in a way. I was there for many, many years, and I see that I have this feeling that states are calmer now.

I mean the Council is a more regulated place. You won't get thrown out if you're a very strange Special Rapporteur. You know, in the old Commission you could cook up -- if

you couldn't get a Special Procedure you might get a working group. If you could get nothing, you sent it to the subcommission where you never knew what could come out of the subcommission. So there was more of, what shall I say, a creative body. We might have lost something along the way.

I'm speaking like I shouldn't be an anarchist, but there is an element in human rights that you allow in a way everybody forward. Could you make a comment on that? Do you think we lost something, or are we better off with a more disciplined body?

MR. PICCONE: All right, why don't we come back to the panel? Esther, why don't you start? A number of these were directed at you.

MS. BRIMMER: Thank you. I'll try to pick up on some of the different questions and may weigh some things together.

First off, I'll take Leon's question about what sort of rights we uphold. We start off with the Universal Declaration on Human Rights, and that's really our core. We go back to the core document when we think about our approach to human rights, our priorities on the Human Rights Council. Indeed, if you look at the sorts of resolutions where we've been particularly active -- freedom of expression last year, freedom of assembly and association this year -- really go to really some of the really core elements within the human rights body. We tended to focus our energy in those areas in particular.

We do think there are important aspects that are also on the development agenda as well. We do tend to deal with those on the development side, but I do think that, as I say, we start off with the Universal Declaration.

I will note, just to reference the Ambassador's point at the end about the Commission and the Council, one of the things I can remember being only briefly though at the Commission compared to your long service there, but I had the job of serving on U.S.

delegations in previous years. One thing is you remember if you looked at actual agenda of the Commission, and this is wearing my professorial hat, if you actually looked at the agenda it followed the Universal Declaration. If you literally looked, you could take the Universal Declaration, look at the articles and look at the agenda. There was a real reason and logic to the agenda.

One of things is now that's no longer the case. The thing is if we think about what we take up that was a change. If you look at it, you don't have that same logic to the agenda, and the agenda probably could bear some further examination and improvement.

Just also this point about the Commission and the Council, some of the things that we gained was the Universal Periodic Review which is an important mechanism.

But you talked about the loss of the vibrancy and that. We do think it would be helpful if the Council did have more mechanisms, that it wasn't solely focused just on resolutions. We think there's a role for statements. We think there's a role for side events. There's a role for more mechanisms. We want to look at are there other tools that we have in other international organizations that could be revived or introduced to the Council to make it a more nimble organization.

One of the other changes, of course, is that it meets three times a year. The Commission, of course, would meet once a year but for five or six weeks, usually in the spring. So now the Council does meet three times a year, which does allow it to pick up issues around the year, which may be a benefit and one of the things we want to look at is how we use that, use the schedule -- so, pros and cons.

The fundraising point, indeed, I was interested in your report where it talks about that it is interesting question. I'd have to look at it much more deeply to understand what has actually happened and understand the record there.

But it does raise the question of what resources are provided to the Special Procedures, and indeed there is a bit of a dilemma there. I posed some questions towards the end because on one hand we want to look at how do we make sure that they're adequately resourced in a time of serious budget constraint, but how do we also make sure that we maintain their independence. So there are some real things that do have to be balanced, and I think do bear a closer examination.

On standing invitations, as I said, we've always said it was more important to actually admit people and work on making sure that they have a successful visit while they're here. Each time we get a request, we go through the process of evaluating and making sure we've aligned an important trip that involves both visits to Washington and around the country.

And finally, just a point, I think this may be more of a question for you on the voting trends, but I'll just pick up on what you raised in the end -- the importance of defending the principle of universality and that that is one of the fundamental parts of the Universal Declaration. I think it's important that member states do defend universality of human rights. When the U.S. had the opportunity to first sit in the Human Rights Council, in the first speech we made, we talked about the importance of defending universality. We really think that's really the core value that we need to defend in the United States. Thank you.

MR. PICCONE: Paolo, Rich, do you have anything?

MR. PINHEIRO: I enjoy very much the comment of my friend, the Ambassador from Norway because in fact I think that the distinction of the Commission on Human Rights was based in an illusion -- the illusion that you change a body and the behavior of the states will change. This was completely an illusion.

And of course the behavior of the states continued the same in the Human Rights Council, for us, for the democratic world, with some inconvenience because the GRULAG

and Western Group, they don't have any more the majority. You have also seen the revival of the nonaligned movement to the Group of the 77.

And the debate of politicization, that was used by both sides -- those that are not very respectful of human rights and those more democratic. But in fact what was done by both sides was a hijacking of the agenda. It was not that one side was politicized and the other wanted to do pure things.

But I agree entirely with you; that is, the killing of the subcommission by the Commission of Human Rights itself because when I arrived in the subcommission we are able to take country situations that were not dealt by the Commission. Then the Commission suppressed this, and we could just do about thematic resolutions. This was killed also.

Even these statements of the chair of the subcommission, I gave the last statement of a chair of the subcommission. It was my last opportunity. The killing of the subcommission, I think that it was not very imaginative. Today, there is a committee that has not a very clear mandate.

But something that I'd like to agree very much with you, the UPR -- I was very skeptical vis-à-vis the UPR, but I have seen in many countries that a lot of countries, a lot of states are taking very seriously the exercise. In the exercise, for instance, some countries help better interaction between civil society and the states, and there has been a real collaborative effort.

I think that UPR is a future jewel of the crown of the Council. I think it will be. And the number of states that have already passed it --

MR. PICCONE: A hundred percent. Well, 100 percent participation of those that have been up for review.

MR. PINHEIRO: Yes. I mean of course there is an avalanche of recommendations without any follow-up. But the exercise for many societies -- I have seen many countries in this area -- has been remarkable there.

I miss the Commission in more rights, but I think that there are some advantages in the presence of the Human Rights Council.

But we never will reach Human Rights Council just with angels. No state is an angel. Every state is perpetrator of some kind of human rights violation. Then we have to deal with an element of reality. We have to deal with perpetrators and more respectful states in any, in all human rights bodies.

MR. WILLIAMSON: I think the question which is the only one that was relevant to what I might comment on was Ambassador Strommen. First, a disclaimer, I'm from Chicago, so I like messy politics. (Laughter.) And I like the messiness of the Commission, frankly.

Wegger and I sat in way too many Security Council meetings that were pro forma; people read statements. A part of diplomacy is a pro forma dance. The Security Council was way over the top. But then there would sometimes actually be discussions, at least in the consultative room, and so you'd have progress. I think the Commission probably had more of that.

Now it can go too far. When I was in Geneva, one year when we passed a resolution, of course it had nothing to do with politics, addressing Cuba. (Laughter.) One of the Cuban's delegation cold-cocked an American, a Cuban-American, right outside the chamber. Then when the guards jumped on this guy, he started screaming, "Diplomatic immunity! Diplomatic immunity!" and two hours later he was a plane, leaving. So it can go too far.

But I do think there's a benefit in a vibrant situation. Part of the -- you get some advantage; you lose some, in any of these reforms.

I think Paolo's point is right. Every government, however self-righteous they like to think they are, is pursuing a political agenda. Hopefully, for many countries, especially the U.S., that political agenda means some fidelity to the values in the Universal Declaration and similar documents.

MR. PICCONE: Well, I'm going to take prerogative of the chair to do a little wrap-up in response to these questions, and then we'll recess.

Just to add a couple more points to what came out of this discussion, on the Universal Periodic Review as a value added, from the point of view of civil society on the ground, which I think it's critical that we constantly go back to who are the key actors on the ground that are involved in promoting human rights, they see it as mostly a net plus, as a value added, because it's mobilizing them to get issues on the U.N. agenda, and most importantly on the agenda of their governments. They tell me that for the first time they are meeting with the senior officials in government and having a dialogue on human rights issues that has never happened before.

It's also mobilizing agencies across government because the government has to prepare a report in front of their peers. That requires consultation with other ministries, which is also a novel thing in some countries.

So there are dynamics going on here that we don't always see that I think are positive and going in the right direction.

Its web casts -- so North Korea, for years, continues to deny any visitors, U.N. visitors on human rights, but they sat in the chair and they had to answer these questions in front of a camera in a way they never had to before. There is some value to that. It adds a new

kind of element. It needs to be strengthened, and we can go into that. It's not perfect, but it's at least moving in the right direction.

In terms of consensus on norms and economic, social and political rights and the combination there, I mean I loved to hear Esther talk a little bit more about that next time. But there's a real tension on those issues for sure, and you know the developing world has been pushing for some time for more of these mandates on economic and social rights, and they've gotten them. Housing and water are just two examples.

You know, many of these rights are rooted in the Universal Declaration of Human Rights. So it's worth looking at that document again. There is the right to education. There is the right to shelter. There is the right to health, et cetera, in the Universal Declaration of Human Rights. So even though we have in the United States a different way of addressing it, and we talk about resources and development, that's not how it's seen in other parts of the world.

And I think there is plenty of room for common ground on these issues, with a little bit of good will, and that's what's different about this administration. I want to give credit that the U.S. has moved away from its negative, negative position on these issues to at least softening it to allow a building of some consensus and allow this coalition-building to happen that we were talking about, that Paolo was talking about at the Council. I think that's a positive thing.

I have to comment on the resources question. So we had a discussion, and I failed to mention this in the beginning. I was very fortunate to have a group of experts accompany me on this process, and Rich and Paolo participated in that, and we talked about this issue quite a bit. The consensus was that you don't want to prohibit rapporteurs from being able to do the additional fundraising. In some cases, it's critical to their work and to having any

kind of effect, as long as they're so under-resourced.

I mean it would really -- to hold, to tie their hand behind their back and say you can't raise money outside, I think would be a problem. I think you do have to have more transparency around it, so at least we know where the money is coming from. But that will open a can of worms, and it will be politicized, as everything is at the Council. So there's going to be a battle around that, but I think that battle is going to come in the coming months.

Let me wrap it up there. Thank you all for coming. Thank you to our panelists, and we look forward to continued discussions. (Applause.)

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CERTIFICATE OF NOTARY PUBLIC

I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

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