Successes, failures and lessons to date

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By Ambassador Luis Alfonso de Alba of Mexico; first president of the UN Human Rights Council. Article translated from Spanish.

One year on from its first meeting, on 18 June 2007, still under my presidency, the Human Rights Council succeeded in adopting the ‘institution-building package,’ containing innovative elements that have guided its work over its first decade. The Human Rights Council (the Council) is undoubtedly the result of an enormous effort to preserve the legacy of the Commission on Human Rights – built from the adoption of the Universal Declaration of Human Rights in 1948 to the extinction of the Commission in 2006 – while simultaneously shedding practices and approaches that had gradually weakened the ability of the Commission to promote and protect human rights, in view of the polarisation, partiality and selectivity that defined its final years.

After ten years in existence, it is timely to ask: what have been the Council’s successes and achievements; its shortcomings and limitations? What can be done to improve its functioning? Reflection should draw both on the former Commission on Human Rights and on the new elements and approaches agreed upon in the institution-building package, in particular the Universal Periodic Review (UPR), the strengthening of the Special Procedures, the influence of the Council within the United Nations system, and its preventive work.

It is also timely to look into the conduct of the Council’s 47 Member States, as individuals and as a collective, in their participation in formal and informal groups. Consideration should be given to the extent to which they have respected the letter and the spirit of the agreed reforms, in particular the need to promote international cooperation in human rights, approaching the highest international standards with a sense of individual responsibility.

Some will see more achievements than failings or shortcomings. Others will maintain their eternal criticism in view of the inability of the Council to resolve all human rights issues or of its frequent silences when faced with gross and systematic violations. Whatever your position, it is important that any assessment of the Council’s first decade be honest, realistic and purposeful.

A critical assessment of the UPR is particularly pressing, as it concerns one of the main achievements of the institution-building package. This new mechanism must continue to serve for the review of the human rights situation in all UN Member States, avoiding double standards and promoting dialogue and cooperation. The UPR has already become part of regular work and has been casting off taboos, apprehensions and doubts. Countries now know that their human rights situation will be periodically analysed, without major
confrontation.

However, the UPR is facing challenges in the implementation and follow-up of its recommendations and can often become a routine or even superficial exercise owing to insufficient dialogue, the lack of analytical support from the Office of the High Commissioner (OHCHR) and, in particular, to not having developed a procedure for the timely follow-up of the recommendations made in each cycle, including those that were not accepted by the State in question.

Commitment to the UPR process allows for interactive dialogue with the participation of human rights experts. This should not be sacrificed for the sake of the increased participation of Observer States. The process also requires extremely high-quality input from diverse sources, including from civil society. There is no justifiable reason why, to date, no analysis is included from the OHCHR, which has limited itself to the provision of logistical support for this exercise.

A critical assessment of the Special Procedures that the Council inherited from the extinct Commission, and of those that it has created over its first ten years, is also essential. Their functioning is crucial to the credibility and effectiveness of the international human rights system. As such, the relevance of existing mandates and the need to coordinate with others should be periodically reviewed, to avoid fragmentation or duplication of work. Moreover, it is important to tackle some long-standing challenges with greater determination: the candidate selection process could still be further improved; greater financial resources and personnel are required to provide more uniform support to the work of Rapporteurs and Experts; increased cooperation between States and mandate-holders should be fostered, as should the respect for their work; the process for the selection and follow-up of country visits should be improved; and greater pressure should be directed towards States that fail to cooperate. These are just a few of the tasks that remain pending.

The effectiveness of human rights resides in their indivisibility and interrelatedness. However, a holistic culture within the UN human rights system has yet to be achieved. The Council’s preventive capacity must also be strengthened relative to its reactive capacity; and it should have a greater capacity to convene and influence. The number of special sessions has been declining and requesting a special session has become a politicised issue. Therefore, the president of the Council and the High Commissioner for Human Rights should have greater scope to convene meetings, even if informative or informal in nature.

Finally, although the institution-building package privileges dialogue over confrontation, it has not been possible to reduce polarisation when tackling various negotiations, such as the discussion of a programme of work, which seeks to make more efficient use of the three regular sessions of the Council; the review of the status of the Council, even if this is not considered viable in the short term; and a better, less precarious relationship, on a stronger basis, with the UN General Assembly and other bodies in the UN system, such as the Security Council.

It is also necessary to reduce the weight and influence of regional or negotiating groups, which, by definition, lead to decision-making based on the lowest common denominator. Furthermore, the role of human rights defenders and other civil society actors should be strengthened, as such actors, most notably groups representing women, young people, persons with disabilities and indigenous peoples, have played an essential role in the Council’s achievements over the last decade.

**Ambassador Luis Alfonso de Alba** was elected as the first president of the UN Human Rights Council – holding the mandate from 19 June 2006 to 18 June 2007, during which time the Council’s institution-building package was developed. Ambassador de Alba is currently serving as the Mexican Ambassador in Vienna, Austria.