

# Human Rights PEER REVIEW

- Draft Concept and Options Paper -  
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## Background:

The concept of a "peer review" has been put forward as a potential new mechanism to promote implementation of human rights, as part of broader efforts to reform UN human rights institutions.

## Objective of the paper:

This (draft) paper is put forward in order to stimulate discussion on the concept, options and modalities of a "peer review".

## Why a "peer review" ? Rationale and Purpose:

All UN members states have international obligations with respect to human rights under the UN Charter and the Universal Declaration of Human Rights. As such, all countries - without exception - should be subject to scrutiny.

While states are currently the subject of various and differentiated types of scrutiny (by treaty bodies as the case may be, the UNCHR and special procedures, etc.), there is currently not one common mechanism which is used systematically and applies in a similar manner to all states.

The objectives of a peer review would be to:

- enhance transparency and accountability in the implementation of human rights at the national level
- assess / discuss on a regular basis such implementation
- encourage further progress in implementation of human rights within all Member States.

Limitation: As with most other international human rights mechanisms, a peer review can promote and provide incentives for voluntary implementation of human rights obligations by states. In the absence of other instruments, it is not an enforcement mechanism.

## Links with existing mechanisms:

A peer review should not replace nor duplicate existing mechanisms, such as treaty bodies, special procedures of the CHR, etc.

Rather, a peer review should complement these other mechanisms. It should be different, bring value-added, and capitalize on the information and work of these other mechanisms.

To do so, a peer review should thus:

- Engage the state under review in an open discussion with its peers and stakeholders.
- Be carried out at regular and reasonably short intervals.
- Be mandatory and applied in the same manner to all states - no selectivity.<sup>1</sup>

**Scope:**

There are various options with respect to the scope of a peer review.

At one end of the spectrum, a peer review can be an extensive and rigorous undertaking, with emphasis on quantity and quality of information and assessment. For the purposes of this paper, we will refer to this as "Model A: The Comprehensive Approach"

At the other end of the spectrum, a peer review can be a light process, with emphasis on an open and frequent discussion amongst peers. We will refer to this as "Model B: The Interactive Dialogue".

This paper will highlight, in broad strokes, the characteristics, advantages and disadvantages of both models.

**MODEL A: The Comprehensive Approach**

**Basic Description:**

This model could borrow some of the features of the peer reviews conducted by organizations such as the WTO, the ILO, OECD or the African Peer Review Mechanism. It could include a choice or combination of:

- An expert group or panel of member states tasked with conducting research (including information already available through treaty bodies and CHR special procedures) and/or field trips and consultations with stakeholders in the country under review.
- A questionnaire to be answered by the state under review.
- The publication of a substantive and rigorous report, containing information, findings and recommendations.
- A formal open hearing, where the expert group or panel would present its views, the state under review would comment, and peers (all interested states) would comment as well.
- Conclusions and recommendations.

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<sup>1</sup> As a first phase, peer review could be mandatory for members of the main UN body responsible for human rights. Another option could be that members are reviewed more often than other states.

Advantages:

- The expert report would be an extensive, and presumably objective and authoritative assessment of a country's human rights performance.
- The conclusions of the peer review would serve as authoritative guidance and reference for follow-up and implementation by the state under review.

Disadvantages:

- Labour intensive and costly, both for the UN and for the state under review.
- Given the above, the number of states subject to a review every year would be rather limited; conversely, every state would thus come up for review at long intervals (every 5-8 years?)
- Potential for significant overlap with the work of treaty bodies and other mechanisms.

Risks:

- So cumbersome that it becomes difficult to launch and implement, with little results compared to the investment.

**MODEL B: The interactive dialogue**

Basic description:

A 3 hour session of interactive dialogue where:

- (i) the state being reviewed makes a statement / presentation on the state of human rights within the country, achievements, difficulties, challenges and plans;
- (ii) comments and questions by other states;
- (iii) responses by the state.

Preparation and information available:

- The state under review to publish a statement.
- OHCHR to make available information from the treaty bodies, special procedures, etc., and possibly provide a short summary of such information.
- Participating states, as well as civil society organisations, could issue statements, submissions or reports of their own.

Conclusion and Follow-up:

- A rapporteur of the session to publish a summary of the dialogue.
- A voluntary statement by the state reviewed, say 3-6 months after the dialogue, outlining its reaction, plans and commitments in light of the peer review.

Advantages:

- Simple and light to launch and implement, both for the UN and for states subject to review.
- Every state could come under review within at short intervals (every 2-3 years?).
- While no extensive and authoritative report/findings, the open debate allows for information from various sources to circulate freely (in the international, and possibly national arena).
- The process regularly provides incentives, through peer advice and public opinion, for states to improve their human rights performance.

Disadvantages:

- Not as rigorous / objective as review by expert group.

Risks:

- The dialogue may be influenced by considerations other than the actual human rights situation of the country under review. It will be up to each state participating in the dialogue to live up to the objectives and expected standards of the dialogue.

Potential Features of both models:

- The results of the peer review could be used as a basis to develop, upon agreement between the state reviewed and the OHCHR, a technical cooperation program to develop capacity and assist with the implementation of human rights.
- The peer review process would not/not conclude with an immediate resolution of any kind, so as to avoid participating states to think in terms of "political triumph" or "political defeat". However, the results of the peer review could be otherwise considered by the UN in deciding if further action is needed with respect to any country or situation.
- The concept of a "pledge" or "commitment" by states, or members of the main UN body responsible for human rights, is currently the subject of discussions. Such a "pledge" would outline how a state intends to meet its human rights obligations, and specific commitments thereof. If such a concept was to be endorsed, the "pledge" could become one of the basis for the peer review, both as input prior to the review and as an outcome or follow-up of the exercise.
- Hearing / dialogue by the full membership of the main UN body responsible for human rights, or by a "special chamber" or some kind ? The first would be time consuming for the entire membership and impact significantly on the agenda. Regardless, the hearing or dialogue should be public and open to the participation of all interested states.