

What We Learned from the Construction of Human Rights Council?

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Introduction

When on December 10, 1948, Eleanor Roosevelt knocked her hammer with authority on her desk, pronouncing the existence of the Universal Declaration of Human Rights, the world had a positive and hopeful regard for the thirty articles of the Declaration. In today's world, human rights activists, and researchers insist on the universal and international aspect of human rights. However, questions arose about the universality of human rights with the recent report of the Secretary General's High-level Panel on Threats, Challenges and Change, whose mission was to propose changes and reforms for the structure of the United Nations system. The report has indeed had an impact on the subject of human rights.

There are questions as to whether the form and the content human rights symbolized in an organization or materialized in a job

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position will go through severe changes and evolutions after this report, the comments made by the Secretary General of the United Nations (in Larger Freedom), the acceptance of this report, and the reform by state leaders during the 2005 General Assembly (The 2005 World Summit Outcome). The general consensus on the reform of the United Nations demonstrated very well that most of the changes will have an impact on human rights in the form of institutional and structural evolution. The effect will be more than an evolution or a revision of the content of universal human rights. Indeed most of the aforementioned written documents regarding the reform of the United Nations (report, ratifications) also deal with human rights and the reform of these rights within the UN system. Most of these writings and the consensus reached by world leaders have only taken into account the substitution of the Human Rights Commission and the recommendation that it be turned into a Human Rights Council, without considering the universal nature of international human rights. Meanwhile, one should bear in mind that the replacement of the Human Rights Commission by the Human Rights Council does not exclude a deep change of the nature of human rights. There are not only institutional changes at stake.

This paper looks to whether new structural and institutional modifications concerning human rights might improve the interpretations we have about the United Nations Charter and

perhaps lead to essential changes and advancement in the way our century regards human rights. This paper refers to the United Nations Charter's articles to consider and analyze the current UN structure and system and the forthcoming reform, in relation with the understanding of human rights. The report of the Secretary General, "In a Larger Freedom," that speaks about UN reforms, the documents of the President of the General Assembly and the outcome document of General Assembly in 2005 (which was ratified by the heads of member countries in September 2005) all indicate that the Human Rights Council will offer only one major change: for the propagation of human rights in the next century will rely on the structural evolution the United Nations and its human rights instruments. Yet, the effective reform of the human rights system requires not just revisions of these structures but also a reconsideration of the Universal Declaration of Human Rights. Efforts taken and the future efficiency and success of the structural reforms of the United Nations will therefore have an impact on the principle of universality of human rights.

A deep consideration of these proposals produces the following hypothesis: nations and elites of the Southern (underdeveloped and developing) countries, despite the offered reforms of the UN, are still concerned about the protection of their interests and do not believe their requests for a change of the content of universal human rights – as well as the structures through which it has been enforced – have been



heard. For those from the global South, it seems that their demands when the UN reforms and the structural reforms were proposed have not been met. Besides, it seems like most of the worries and requests of third world countries, such as Iran and other Islamic countries, were paid very little attention during the reform process.

The United Nations Charter

A. The Aims of the UN Charter

The memory of the two destructive wars of the 20th century and the emergence of a better understanding regarding human beings and their rights, such as women's rights, self determination, economic and social rights, the will of the victorious states to fight for human rights, the economic advancement and the new concerns about international security and justice resulted in the United Nations Charter that is heavily focused on human rights.¹ Indeed, human rights in the UN Charter are an essential aim and as the subliminal principle of the international community stated in the preamble to the UN Charter:

"We the people of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and; to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and; to establish

conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and ; to promote social development and better standards of life in larger freedom, and for these ends, to practice tolerance and live together in peace with one another as good neighbors, and to unite our strength to maintain international peace and security, and to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and to employ international machinery for the promotion of the economic and social advancement of all peoples, have resolved to combine our efforts to accomplish these aims”.²

Besides this preamble, there are some references to human rights in the Charter such as aliena 1, article 3:

“The purposes of the United Nations are to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”

These articles encourage the universal respect and the implementation of human rights.³

Chapter 9 of the UN charter, and particularly Article 55, which

addresses international economic and social cooperation, sets forth the human rights principles and freedoms to be universally respected. This article encourages the respect of fundamental freedoms of human beings with no distinction pertaining to race, sex, language or religion.⁴ Later, the Charter reaches its human rights climax in Article 56, which obligates states to commitment to international human rights: "All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55".⁵

B. The Organs of the Organization

The United Nations charter encourages UN organizations to propagate and develop international human rights. For example, Article 13 of the text constituting the General Assembly declares:

"The General Assembly shall initiate studies and make recommendations for the purpose of: promoting international co-operation in the political field and encouraging the development of international law and its codification; promoting international co-operation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion".⁶

There is another article committing to the propagation of human rights. According to Article 62,

"The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters to the General Assembly to the Members of the United Nations, and to the specialized agencies concerned. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all."⁷

The Human Rights Commission established and worked with these same principles.

The Human Rights Commission has always been perceived as one of the most important and most representative of the UN organs. Its activities dealt with the following domains: the ratification of laws and decrees concerning human rights: Standard Settings, and the observation of the respect and implementation of human rights and the supervision of the respect for human rights: Monitoring & Protecting.⁸ The Charter also provides that another UN organ, the Economic and Social Council, must be careful to respect the human rights in the world. Its mandate is laid down in Article 68: "The Economic and



Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.”⁹ Pursuant to Article 76:

“The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

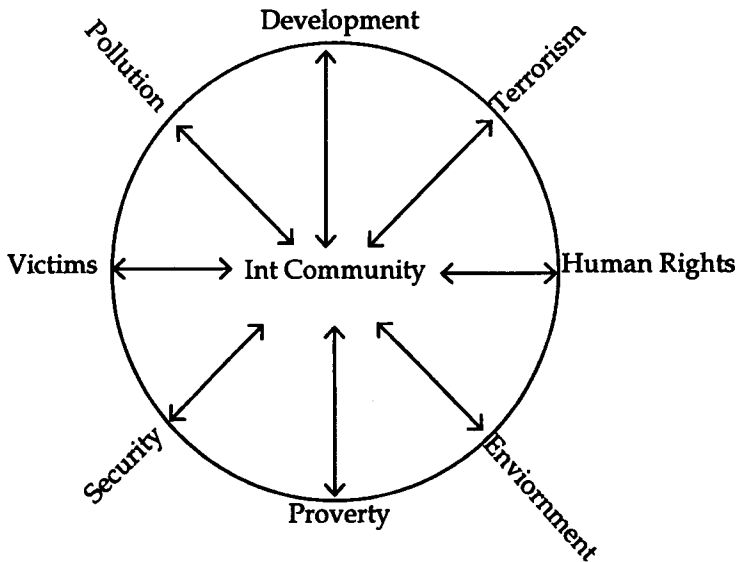
- a. to further international peace and security;
- b. to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;
- c. to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and
- d. to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80”¹⁰.

The New Structures

The Secretary General's High Level Panel, charged with considering the institutional and structural reforms of the United Nations, issued the report in 2004 entitled, *A More Secure World: Our Shared Responsibility*. This report addresses international issues linked to security and to international rights and duties. The report finds, for example, that the eradication of terrorism should not lead to an eradication of human rights protections. Likewise, the report finds that issues such as development and poverty have their roots in human rights and must also be addressed as part of the broader campaign for good governance.¹¹ This latest topic has been forgotten by the drafters of the 1945 UN Charter. Some politicians, intellectual elites and international functionaries underlined the importance of development and poverty. Instead of listening to them, the "eminent persons" charged with writing the new report have tried to change the structures of human rights, while only regarding the human rights of the Northern and Western world as the ones to be universalized. They have failed to take into account the rights of the citizens of the third world countries, particularly those from the global South.

The number of democracies within the international community has grown between 1975 and 2005; 147 countries are now considered to be democracies, whereas only 93 were in 1975.¹² This number is expected to increase and these democracies often have a positive

vision of human rights and their implementation. However the report of the reform of high-level panel and the new structures proposed has only taken into account a distinct subset of member states. In the new structural reform, issues such as poverty, democracy, terrorism, development and human rights are considered only minimally, though they are often the most important issues for the global South. The drafters of the report did not take into account the macro level of the international society. They have therefore reshaped the UN structures while taking into account only one vision of human rights.



The report of the High-level Panel set up by the Secretary General, mentions the threat of terrorism¹³ and its potential impact on the legitimacy of the Human Rights Commission; this threat

may impact the credibility of the United Nations.¹⁴ Later, the report mentions the human rights activities of the former structure. There were two main processes: the power to legislate and create human rights norms and the power to encourage the implementation and monitoring of human rights standards.¹⁵ The reforms proposed by the High-level Panel have altered this structure with some key concepts intended to end this threat of legitimacy and improve human rights monitoring. These reforms include:

1. Increasing the capacities of the Human Rights Council¹⁶
2. Bringing the attention of the international community to substantial realities of the Human Rights Council¹⁷
3. Supporting and encouraging the Secretary General and the Human Rights Commissioner to propagate human rights with United Nations' activities and to develop human rights institutions.¹⁸
4. Reminding states that membership in the Council requires a deep attachment to human rights¹⁹
5. Hiring consultants, experts and specialists of human rights in country missions and inviting them participate to the Human Rights Council.²⁰
6. Supporting the Council activities by a monitoring group, composed of 15 independent experts for a period of 3 years.²¹
7. Publishing an annual human rights report in the name of the Human Rights Commissioner.²²

8. Requesting from the Human Rights Commissioner a report concerning the enforcement of human rights norms and Security Council resolutions.²³

9. Increasing the budget of the human rights organ.²⁴

10. Reorganizing the structure of the Human Rights Commission and replacing it with the Human Rights Council, intended to become a main UN organ.²⁵ The members of this commission will be elected directly, with 2/3 majority vote of the General Assembly. The persons elected to the Council will also have to permanently monitor the enforcement of human rights. As a conclusion, the creation if the Council leads to the strengthening of the authority of human rights within the UN organization.

In this regard, members of United Nations ratified a resolution in General Assembly ON 3 April 2006 (A/Res/60/251), which:

"...1. Decides to establish the Human Rights Council, based in Geneva, in replacement of the Commission on Human Rights, as a subsidiary organ of the General Assembly; the Assembly review the status of the Council within five years;....²⁶

Change of the Charter, Continuity of the Declaration

Dr. Golamali Syaar, a former member of a number of Iranian UN delegations, spoke about his time at the UN. He said he remembered the time when the UN Charter was regarded as the Bible for political

unity and international order.²⁷ With time, though, there was an understanding that the sayings of this Bible had to be modified. Despite the efforts of some who offered changes to make the international order more realistic, the Charter's interpretations have not really been modified. According to two reports from the working group appointed by the Secretary General (High-Level Panel) and the report of the Secretary General (in Larger Freedom), there are 40 cases for reform concerning the charter and the structure of the United Nations. Also, Articles 86 to 91 of Chapter XIII of the Charter hardly have any impact anymore; eventually one of the six major UN organs, the Trusteeship Council, it would naturally become irrelevant and would disappear.²⁸ With time, the increasing needs of the world and the events since the new millennium require a revision of the whole structure. The time to change this revered text has arrived. The question is: can the Universal Declaration of Human Rights, long considered sacred and defended by men of virtue, be changed? The interesting part is that the men of the western and northern world who have been tasked with reforming the system have no approach of human rights beyond their own borders and have had an unforgivable attitude in the past. Even within their own frontiers, the topic needs rethinking because there are numerous human rights violations even within these countries. These countries are facing challenges such as immigrant rights, refugee rights, workers rights, social rights, women's rights, and the respect of international

conventions of the second and third generations of human rights. Despite all this, the countries of the west and the north claim to be the most advanced when it comes to respecting human rights standards. States prevent other states from expressing their views on the Universal Declaration of Human Rights at a time when the declaration needs urgent review and new, dynamic approaches.

In spite of many researchers and intellectuals' opinions that it is time to review the Declaration—to make it more universal—the same declaration colored by its drafting in the 1940s—is being kept as it is by those who see the world through a particularly narrow window of the western experience.²⁹ This declaration was written in peculiar conditions and could not satisfy all the requests of the international society. The Universal Declaration does not speak of positive rights, especially concerning women, and does not say a word about development or the right to peace and security. It does not make any allusion to environmental rights and religious rights. While the Universal Declaration was an important contribution when it was drafted in the 1940s, it can not be the touchstone of human rights for perpetuity.

How can this declaration, then, be modified? It is true that one can refer to the twelve other human rights covenants that are clearly quoted such as the Covenant on Civil and Political rights and the Covenant on Economic, Social and Cultural rights that tend to

hide the gaps of the Declaration. What must be said, though, is that when the Declaration was ratified only 56 countries represented by delegates were at the United Nations.³⁰ During the ratification of the two covenants during the Cold War period, there was again very few countries and they were at the time separated into camps. Today there are 191 countries at the United Nations representing many peoples. Who are these 56 to speak on behalf of the 191? The increasing number of states and the diversity within the United Nations requires changes and a multiplication of rights. Despite all these problems, the report given to the Secretary General asks for a decrease in the importance of the Human Rights Commission and its transformation into a council. Each new human rights institution must be globally representative, based on geographical diversity, cultural diversity and include a delegation representing the entire world. But with the weakening of the Commission, while keeping the same amount of delegates, one can fear that all the civilizations and all the nations might not be as creative as they wish on two issues: standardization and enforcement of human rights.

The Islamic world and in particular the Iranian civilization have new ideas about topics such as family law, women's rights, children rights, the right to development and environment. For example, in Iran women are not seen in a western, instrumental view, but rather as possessing special values unto themselves. So, the reforms in Shariat

for women rights in Iran are very progressive and revolutionary among Islamic countries in the region. These are rights that need to be fully incorporated into the international human rights movement.

The questions raised by the limited approach of the High Level Panel opens the debate on the revision of the Universal Declaration of Human Rights for a full participation of all nations in the commission or any other human rights institution. One has to notice that the structural changes to human rights within the United Nations are acceptable only when these structures evolve along with the texts. However, the group mandated by the Secretary General and the preface to the report written expect the content of human rights to remain the same; especially as the interests of the Western world have been protected at in spite of other cultures and civilizations. This static approach means that the Western world wishes to keep its definition of human rights and have new tools to control the other countries. The proposal of the drafters of the Human Rights Council, at a time where there us no covenant related to the right to development, family rights and other essential rights of human beings, clearly advantages Western countries.

The deepening of the human rights decrees and of the covenants demonstrates the opposition that existed at the time of the Cold War and the unilateralism of the West over human rights texts. Even the composition of the Human Rights Commission, the special rapporteurs,

and the people working for the Human Rights Commissioner Office follow a specific trend: all the civilizations of the world are not represented among them. The participation of Iran and the role of the Iranian civilization are unclear when it comes to international human rights texts. Even though in *A More Secure World* (the report of High-level Plenary Meeting of the General Assembly September 14-16, 2005), Kofi Annan's report: *In a Larger Freedom* and in *The 2005 World Summit Outcome* it is requested that all countries respect these documents and encourages the participation of all countries in reforms of the UN as mentioned in the reports. Due to this treatment we look at a very highlighted view which says to us: "Reforms in structure: Yes! Reforms in Concept: No!"

Iran, Islamic countries and other countries from the southern hemisphere should insist on having an affirmative roles "to check the structure and content" of human rights in order to attract attention to other issues of human beings. This process could be undertaken through a dialogue seminar between Iran and other Southern states with their Northern countries counterparts to exchanges views on human rights. The current structural changes only play in favor of an increasing role of the Western countries and there is no room left for a particular interpretation such as that of the global South. New human rights structures (no matter how you name them) should be created to ensure an equal opportunity for all countries and civilizations to play

a role in the standardization and legislation of human rights rules. The mechanism for the control of human rights law should also work like a jury in a tribunal; this means that the jury of a tribunal can choose to refer to customary law and to refer to public opinion. In short, the election of members of the Human Rights Council would work better if it were based on the model of the election procedures for judges of the International Court of Justice.

The Secretary General Report

Referring to the report of the high-level panel and the different reactions it stirred, the Secretary General of the United Nations published a report entitled "in A Larger Freedom: Towards Development, Security and Human Rights for All", in March 2005.³¹ This report contains six parts including a collection of essays from the working group. The report revisits topics such as the issue of development in this millennium,³² the importance of a multidimensional impact and the unique role of the United Nations on issues such as development, security and human rights.³³ This report is the base for the same structural evolutions proposed by the High Level Panel and on which state leaders have to decided whether to ratify or not. In reality, this report is the basis for the preparation of documents proposed by the president of the General Assembly. The state members had the opportunity to present proposals and amendments to the text. The fact



that all countries, regions, and political blocs had the chance to speak up on the proposed declarations could have deep impacts. The Islamic Republic of Iran is participating in this process and its permanent delegate to the United Nations said, "The document presented by the Secretary General, once all current misunderstandings cleared, could be a good basis to write a document that would be acceptable for all the leaders."³⁴

The main point is that the human rights issue has deeply influenced the Secretary General's report. Indeed in this report it is strongly recommended to rely on the United Nations to create an assurance regarding the respect of fundamental rights.³⁵ Altogether the right to development, security and human rights are all interconnected.³⁶ The structure of the report is such that the reader will have the feeling that human rights are the beginning of an order the United Nations tries to build. To be free from fears and to be willing to live in good conditions with dignity are essential steps for the United Nations and its organs in increasing their credibility. With this book and report, the Secretary General has offered a topic to revise the UN Charter. The fourth article of this report entitled "freedom to live with dignity" is made up of three fundamental points:

- Rule of Law
- Human Rights
- Democracy

The reshaping of human rights finds its roots in the fifth article of the report. Paragraph B deals with some human rights issues such as the increasing importance of human rights within the United Nations, the importance of the role of the human rights commissioner and the Human Rights Commissioner Office, the links between the Security Council and the Human Rights Commissioner Office, the technical help for the improvement of the enforcement of human rights, the state members role to bring resources to realize the aims and ideals of the Human Rights Commissioner office, and the coordination for the representation of states members for their reports concerning human rights contractual mechanisms that exist within the United Nations (in particular the revision, uniformity, coordination, and strengthening of the UN human rights institutions such as the Commission).³⁷ Adding to this Article 5, the Human Rights Council is suggested as a new UN element. In that part of the report, there is a historical detail of all the successful work of the Human Rights Commission from the beginning, along with all the activities and projects. Critics by state members are also expressed on the current functioning of the Human Rights Commission. Later, another topic is brought forward: do state members of the international human rights community give enough credit to issues of development and security? The Human Rights Council, therefore, has to take over the Human Rights Commission as an essential organ of the United Nations or an ad hoc organ of

the General Assembly. The members should be elected directly by the General Assembly with 2/3 majority vote. The creation of the Council strengthens the increasing authority of human rights within the UN system. The elected members of the new Human Rights Council should ensure the enforcement of human rights standards in a permanent fashion.³⁸ The organization of the Council gives a priority to the administrative corps of the UN. Even in this council, one will find that not all countries are represented and that this council is not universal.

Basing to this report the heads of countries adopted an outcome in September 2005 which considerate Human Rights Council. This council is started to work with the resolution A/Res/60/252 in 3 April. In this resolution the council replace by the Commission on Human Rights. Regarding this resolution, Human Rights Council creates an open-ended working group for promoting and monitoring human rights. So, the memberships of the Council are 47 member states, by a two-thirds majority of the General Assembly member. Further the Council shall meet regularly throughout the year and schedule no fewer than three sessions per year, including a main session, for a total duration of no less than ten weeks, and shall to able to hold special sessions, when needed, at the request of a member of the Council with the support of one third of the membership of the Council;...³⁹

The Difficulties and the Challenges

It is necessary at first to consider the previous structure and the future of human rights within the United Nations, and then one should try to feel how someone whose rights have been violated complains. How can a victim make his call heard by the United Nations? In fact, there is a heavy bureaucracy within the United Nations and there is an elitist approach of human rights. The mission of the UN institutions dealing with human rights is to ensure dialogues and meetings among the leaders of countries as well as with personalities and army leaders. Other tasks include translating documents and declarations, preparation of the budget, cooperation with state and non-governmental organizations, and eventually an annual report that has to be sent to New York. The UN Human Rights mechanism is complex and vast. For some, the differences between the Human Rights Committee, the Human Rights Commission and the Office for the Human Rights Commissioner, are difficult to grasp, even for some academics. Therefore, how could a victim of a human rights violation who is a citizen of a country in the third world know which organization he/she should address their grievances? It is important to underline that the United Nations is mostly a governmental organization that deals with politics rather than a legal organization working for people's rights. In this organization, Western countries have sovereignty and no country can interfere with their internal affairs.

Third world countries, however, have to give up on their sovereignty. Even in this type of scenario, a victim of a violation would not receive any direct help from the United Nations. This demonstrates how the human rights mechanism within the UN is more political than legal. The problems of the United Nations in the immediate past are likely to continue as the proposed reforms have not sufficiently answered the challenges of human rights. The role of a country within the UN, whether it belongs to the North or to the South of the world, and its political role in the international community will also have an impact. The new structure proposed by High Level Report will perpetuate that unfortunate reality.

In his project, the Secretary General links the participation as a member of the Human Rights Council to the respect of human rights standards. However the issue is to know how one can determine the conditions to evaluate this respect. Notably, the Secretary General does not refer to an essential matter, namely the emergence of multiple human rights standards among the members of the Human Rights Council. The main problem was that the Human Rights Commission resolutions have been based on Article 9 of the Commission which is not a sufficient rule of procedure. This leads to divisions in political groups and is upsets some countries with the new Council. Some countries insisted that the UN human rights structure should remain as it was.⁴⁰ Indeed the Human Rights Commission had some deficiencies

but the real problem is to identify them and solve them. It seems that the Human Rights Commission's problems were:

- An elitist and selective policy
- Inconsistent application of human rights; (double standard)
- The division of members into political groups, especially regarding resolutions under Article 9 of the Report
- The deficiencies of the Commission in identifying the progress of third world countries in the field of human rights
- The increasing need for a dialogue among the cultures and the civilization in the field of human rights
- Non-coordination regarding the support and the spreading of human rights
- The dramatization of the clash [naming and shaming] and the use of resolutions against countries
- The careless regard for internal collaboration inside the Commission
- The complexity of the mechanism of the Human Rights Commission, in particular regarding human rights violations
- The necessity to increase the coordination between the Commission and the Office for the Human Rights Commissioner.

It is necessary to consider that in all the aforementioned texts, there is no reference to the role of the subcommission on the Prevention of Discrimination and the Protection of Minorities that

helps in the support and geographical expansion of human rights. Will the Council keep on going with this mission? Besides understanding the meaning of the Consultation Council mentioned in the report, one can only guess what its relation will be to the sub-commission of human rights.⁴¹ In general, the meaning and the mission of the subcommission remain ambiguous. Furthermore, the proposal of the Human Rights Council that is mentioned in the working group report, the report of the Secretary General, and the preface of the book of the General Assembly's head has some gaps. The suppression of the Human Rights Commission and its replacement by the Human Rights Council does not alleviate the gaps and problems that existed in the Commission. One should also note that despite the increase of the presence of political blocs representing the members of the United Nations, there is no increase in such diversity with respect to the members of the Human Rights Council. This issue has not even been brought considered. Even the foreword of the book of the President of the General Assembly's said, "The number of Council members should be proportional to the number of members of the Human Rights Commission, and not proportional to the number of UN state members."⁴²

To put the Human Rights Council on equal footing with the General Assembly or one of the other organs means that the Human Rights Council will be separated from the Economic and Social

Council.⁴³ The result is a clearer distinction between economic, social and cultural rights on the one hand, and civil and political rights on the other hand. This means that the latter generation of rights will be put forward. It is clearly stated in the preface of the book of the head of the General Assembly. This makes it very clear that the gaps existing between the three human rights generations—political and civil rights, cultural and economic rights, and the rights to peace and development—will not be filled. It is for the very same reason that countries of the Southern hemisphere have met to make a proposal to the United Nations to curb this trend.

It is known within the United Nations that the organization can't meet the demands of third world countries belonging to the Islamic world, the Organization of the Islamic Conference, and other members of the UN to fill the gaps between these three human rights generations. There is no one that can avoid these challenges. It is important to underline that the foreword of the book written by the General Assembly's head offers some opportunities for discussion; the fourth and fifth parts were indeed prepared to be presented to the state leaders on September 14-16, 2005. In this text, all generations of human rights are taken into account as much as the right to development. The issue of the Human Rights Council appears in the fifth part.⁴⁴

The issue now is to know if the replacement of the Human Rights Commission by the Council will be in the interest of the world's nations.

This matter is brought forward at a time when there is increasing attention on the Office for the Human Rights Commissioner and its role regarding the enforcement and protection of human rights in the world. This attention has led to immediate help to victims of human rights violations and to technical support as well as collaboration. With the structural changes affecting human rights within the UN, all the attention is now on human rights.

The Council has therefore more opportunities regarding certain actions. For example, it is the responsibility of the Council to periodically monitor compliance with commitments of countries regarding human rights and to grant the issue an important place in the content and structure of the United Nations.⁴⁵ The Council also has the opportunity to benefit from the opinions of NGOs which come before the ECOSOC. The Council can also now take care of the specific mechanism process of the reports divided in different topics. This happens at a time when the third world countries request the suppression of resolutions against countries that seem to provoke clashes (naming and shaming). So the former process under the Human Rights Commission of naming and shaming goes on and is even expected to be more radical, leading to the widening of gaps between countries of the Council. In reality, the Human Rights Council will become more and more political and the political and cultural divisions will become more evident and radical. The preface of the Assembly General's head also mentions the structure

of the Council with the Western countries requests.⁴⁶ And this all happens at a time most countries are seeking a solution to the human rights challenges they face inside the Human Rights Commission; they would not like to see the challenges repeated in the new council. Despite all this, the new the Human Rights Council text was ratified during the sixth meeting of the UN General Assembly in 2005. Articles 157 to 160 of the sixth meeting document refer to the Human Rights Council and its activities. The Council will be responsible for the spreading, respect, enforcement, and support of universal human rights.⁴⁷ In this document one can also find a reference to the role of the Council regarding the state of human rights in the world today. A resolution voted in March 2006 clarified the members' numbers, the working methods, the composition and other issues related to the functioning of the Council.⁴⁸ One can only hope that the structural amendments and the new council will be successful in their tasks.

Conclusion

The revision of the United Nations Charter and the structure of the United Nations must be closely followed. New events are bound to occur in the 21st century and many opportunities will arise for the United Nations. These revisions will concern parties, organs, and institutions of the United Nations. The results of these changes will help countries and actors of the international system to realize their

aims regarding development, security, and human rights. Now we have the report, a book, and the foreword to a book to guide us. They have brought many critics against them, especially from third world countries criticizing Western countries. The structural changes of the United Nations are very important but there is also the issue of changes to the content of the documents and no change concerning the content of human rights document is planned. The offered structural changes have not suppressed the worries regarding new and past challenges. Despite the Secretary General and the working group's affirmations regarding the reforms, the Human Rights Declaration remains unchanged. The topic of human rights is only addressed through the lenses of structural or institutional changes dealing with the UN work mechanism. All the human rights novelties brought by other civilizations are not even mentioned. Family law, women's rights, or rights regarding the environment, development and peace are hardly ever mentioned in the Universal Declaration of Human Rights. Iran and other countries did not have their say in the structural changes and the working group missions. Consequently, these countries could not have an impact on the activities of the working group mandated by the Secretary General. Despite the work of Iranian scholars on these topics, there has been no official or institutional reaction from the Iran's Minister of Foreign Affairs has a responsibility towards this and has presented a text to the UN, along with other Islamic countries.

However, these countries need to be more active as they should have been during the sixth meeting of General Assembly when the report was ratified. They should have sought enlightenments regarding the text and the activities of the forthcoming Human Rights Council.

According to the new text on the Human Rights Council, it is necessary to have a transparent and open dialogue to enlighten the human rights situation for some member states, the future activities of the council, and other missions. This document has partly answered many of the worries of the third world countries and there is the possibility for one to go to the Council and speak. However, there should be more consultations with Iran and other similar countries as to have a deep revision of the Council. It is indeed necessary to strengthen the Iranian impact on the Council. The research and scientific institutions of Iran should focus to determine issues and directives regarding details on the power and authority of the Council and its agenda. The consultations should be determined during the activities program of the United Nations. The document ratified by state leaders within the General Assembly should be checked by experts and professionals in Iranian research centers; Iran should be able to go to New York or Geneva with a chart, an agenda, and its own requests. The more we wait to react, the less opportunities we will have to present these requests and to encourage a new stance on human rights. □

Notes:

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4. *Ibid.*, pp. 33-34.
5. *Ibid.*
6. Nations Unies, *Les nations unies et les droits de l'Homme 1945-1995*, New York: Nations Unies, 1995, p. 10.
7. Nations Unies, *Charte des nations unies et statut de la Cour Internationale de Justice, op.cit.*, p. 37.
8. See Mehdi Zakerian, *Human Rights in the Millennium (in Persian)*, Tehran: Tehran University Press, 1999, pp. 116-123.
9. Nations Unies, *les Nations Unies et droits de l'homme, op.cit.*, p. 39.
10. Nations Unies, *Charte de nations unies et statut de la Cour Internationale de Justice, op.cit.*, pp. 44-45.
11. Katerina Dalacoura, *Engagement or Coercion? Weighing Western Human Rights Politics towards Turkey, Iran and Egypt*, London: The Royal Institute of International Affairs, 2003, p. IX.
12. Freedom House, *Freedom in the World 2006*, Selected data from freedom House's annual global security of political rights and civil liberties. February 2006. pp. 2-7.
13. United Nations, *A More Secure World: Our Shared Responsibility*, Report of the Secretary-General's High-Level Panel on Threats, Challenges and Change, New York: United Nations Publications, 2004, p. 5.
14. *Ibid*, pp. 14-15 and pp. 47-48. articles 21, 145, 147, 148.
15. *Ibid*, pp. 14-15 and pp. 47-48. article 90.
16. United Nations, *A More Secure World, op.cit.*, pp. 88-89. articles 282-283
17. *Ibid*, p. 89. article 283.
18. *Ibid*, article 284.
19. *Ibid.*, article 285.
20. *Ibid.*, article 286.
21. *Ibid.*, pp. 89-90. article 287.
22. *Ibid.*, p. 90.
23. *Ibid.*, article 289
24. *Ibid.*, article 290.
25. *Ibid.*, article 291.
26. Resolution adopted by the General Assembly, 60/251. Human Rights Council, A/Res/60/251, 3 April 2006, p. 2.
27. Lori Fisler Damrosch, "The Interface of National Constitutional Systems with International Law: An Institution on Using Military Forces: Changing

Trends in Executive and Legislative Powers", in Charlotte ku, *op.cit.*, p. 45.

28. See: - Kofi A. Annan, *In Larger Freedom: Towards Development, Security and Human Rights*, New York: United Nations, 2005.

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29. Jane K. Cowan, Marie Benedicte Dembour and Richard A. Wilson, *Culture and Human Rights*, Cambridge: Cambridge University Press, 2001, p. 75.

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31. Kofi A. Annan, *In Larger Freedom*, *op. cit.*

32. Kofi A. Annan, *We the Peoples: The Role of the United Nations in the 21st Century*, New York: United Nations, 2000.

United Nations, *Millennium Declaration*, New York: United Nations, 2000.

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34. See: Mohammad Javad Zarif, Iranian view on UN reforms, *Hamshari Newspaper*, (in Persian), 21 June 2005, p. 2.

35. Kofi A. Annan, "In Larger Freedom", *op.cit.*, p. 5.

36. *Ibid.*, p. 6.

37. *Ibid.*, pp. 50-52.

38. *Ibid.*, pp. 63-64.

39. A/Res/60/252/ 3 April 2006, *op.cit.*, p. 4.

40. See for example US position in this regard.

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41. <http://www.unhcr.ch/humanriglits.htm>.

42. The President of the General Assembly, *op.cit.*, p. 21.

43. *Ibid.*

44. The President of the General Assembly, *op.cit.*, p. 17.

45. *Ibid.* pp. 21-22.

46. <http://www2.dw-world.de/persian/iran/acktuell..71.129696.1.htm>.p. 1.

47. United Nations, Resolution adopted by the General Assembly, 60/1. 2005 World Summit Outcome, A/RES/60/1, 24 October 2005, p.33.

48. *Ibid.*