



The Accountability Levels of Saudi Arabia towards United Nations Mechanisms (2009-2016)

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Abstract:

The Human Rights Council (HRC) is one of the sub-bodies of the UN General Assembly, whose duty is to point out human rights violation cases and promote the accountability of states in this regard. The UPR is the most important monitoring tools of the HRC with the aim of monitoring, promotion and protection of human rights in all states and based on dialogue and cooperation, and is based on reliable and targeted information and equal treatment of all states. With the use of this mechanism and based on an organized program, the commitment of all countries of the world be reviewed and assessed. Now to what level this process has been able to affect the accountability levels of Saudi Arabia is not something that can be clearly answered in the first place. With a review of Saudi Arabia's performance between the first and second rounds its UPR, the accountability levels of this country towards human rights bodies of the UN can be studied. For this purpose a review of the commitment levels of this country on the basis of its accepted recommendations in the first and second round of the UPR has been scrutinized in this article. With attention to conducted researches it seems that the promotion of human rights and increasing Saudi Arabia's accountability to human rights mechanisms, further than standardization, the international community needs to guarantee the implementation and make Saudi Arabia to be accountable in observation of human rights principles, and to show commitment level, can increase the speculation of the tool usage of these mechanisms for the purpose of the presentation of the unreal human rights picture.

The establishment of universal mechanisms for the protection of human rights, overall, must deemed as a positive step and hope that what is called the "Universal Periodic Review", can be seen as the accountability of states to international bodies.

Keywords: Human Rights Council, United Nations, Mechanisms, Saudi Arabia

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Introduction

Main Question

Has the Universal Periodic Review (UPR) resulted in an Increase in Saudi Arabia's Accountability?

Assumption

The UPR has resulted in an increase in Saudi Arabia's accountability towards human rights.

Main Variable: Saudi Arabia's accountability towards UN human rights mechanisms

Related Variable: Universal Periodic Review

Definitions and Theoretic Framework

With consideration of international documents and credible human rights texts, we can define these rights as follows: "human rights is a collective of international legal principles and rules which every time and everywhere protect the status and dignity of all individuals and or groups solely because they are humans, towards governments.

Human Rights are the fundamental and basic rights of each human being from the aspect of being human, regardless of color, race, language, nationality, geographical location, and the variable social conditions or the capability and suitable competence and individually and any other defect, the individual receives from God."

- *The Human Rights Council*

The Human Rights Council was set up on 15 March 2006 as an intergovernmental organization. Its duty is to monitor and implement

the contents of the Universal Declaration of Human Rights among UN member states. The headquarters of the Council is in Geneva, Switzerland. (www.ohchr.org)

The HRC has 47 member states. Each year a third of the membership are elected for a three year period. The HRC functions, as a successor the controversial Commission on Human Rights. Its duty is to monitor and implement the contents of the Universal Declaration of Human Rights among UN member states. For instance, in cases where there are doubts, this Council can send representatives for on the field inspection of the human rights situation of countries.¹

- *Universal Periodic Review*

The Universal Periodic Review is literally the universal review of human rights.² This mechanism deals with the universal periodic review of all 193 UN member states, which was created in March 2006 through UN General Assembly Resolution 60/251. According to this Resolution, the HRC was mandated to periodically review the implementation of commitments and obligations of each country with regards to human rights, based on credible information and impartially, in a pervasive and equal treatment.³

Theoretic Framework

As a school of thought in international relations, liberalism has roots in the optimism of enlightenment era of the 18th Century, economic liberalism of the 19th Century, and Wilsonian idealism of the 20th Century. According to liberalists, politics is made up of the art of good governance, or good govern-

1. Reviewed in the United Nations Decade for Human Rights Education on 16 June 2007

2. Golshanpazhooh, Mahmoudreza, Centre for Strategic Studies, International Relations Deputy/Democracy and Human Rights Research Group, November 2009.

3. Heidarimanesh, Seyed Jamaledin, senior international law expert and attorney at law, Universal Periodic Review and Islamic Republic of Iran's Commitments, September 2013.

ance and good politician is one whose practice is based on morality and human values. (Coulombis, and Wolfe , 1996, pp51-53)

As well as giving importance for governments as important players in the international level, liberalism believes that as well as governments, transnational players such as international organizations, NGOs, stakeholder groups, multinational companies and etc. must also be noted. The attentions of some international organizations – as players in the international order – create different explanations for the foundations and basis of their practice.

While stating the importance of there not being a central power, internationalist liberals do not see this issue as an obstacle in international cooperation. These groups of liberalists believe that international organizations such as the World Bank, International Monetary Fund, and International Energy Agency etc. can help reduce the selfish behaviors of governments and also encourage them to get important benefits through international cooperation.

What is interpreted from the idealist's school of thought is instead of stressing on natural coordination for the establishment of peace, they are in pursuit of a new international order in the shadows of an international organization.

In general, liberalists and liberal institutionalists in particular, stress on the role of international institutions and organizations, and contrary to the state oriented one dimensional view (as the main and or even the only players in the international order) realists believe in the importance of such institutions and organizations action components of the international order and or even politics. In liberals' view, the existence these international institutions and organizations is very effective in increasing the interaction and

cooperation of governments. For this reason pessimism is the rival of realists in relation with lack of effective cooperation has been reduced in an anarchist order, stress on the cooperation of the system's actors in a rational and logical system alongside international institutions and organizations.(Saraf Yazdi and Sabri, 2012, p47)

Universal Periodic Review Mechanism in the Increase Level of Accountability

The UPR has managed to create the hundred percent participation of states which is something important in comparison with treaty components. In the UPR sessions, all countries under review are present and in participate in their reviews in an increasing process. This fact indicates the seriousness and the respect levels of states towards this mechanism.

In fact the UPR's function indicates the full coverage of UN member states by this mechanism, in such a way that even those countries that are not members to the main international conventions, and those states that have not submitted their reports to treaty bodies, or have not participated in their sitings, are also covered by the UPR.

Different countries have adopted different approaches in providing answers to comments, recommendations and criticisms of their UPR. Nevertheless what is noted in an

Overall look is that with the passage of time and increase of the recognition and attention of countries, we have witnessed more serious, in depth and calculated recommendations of member states, and witnessed and observed more documented and explanatory responses of countries under review.

Responding to recommendations

Response to accepted recommendations by the country under review is very key for the

UPR process. Countries must prepare their responses until before the second round of the UPR with their clear answers for the facilitation of monitoring of the implementation of the recommendations.

Rejection of recommendations

Although the UPR is a mandatory process for every country that is committed to it, but at the same time it facilitates a vast amount of freedom for the decision making of the country under review. This is both the weak and strong point of this process, because the assumption is that recommendations can be rejected which potentially can be unrelated to and in conflict with international human rights. Although its weakness is that a number of strong and specific recommendations can create fundamental changes in the human rights working agenda in these areas, but it is also possible that the decision making freedom of the country under review might be rejected.

This will be understandable when governments are given an opportunity to explain the reason for their rejection of recommendations. In practice some governments are inclined to reject irrelevant recommendations, and those that are unsuitable.¹

The Overall Approach of Countries for Replying Recommendations

Overall, the approach of countries in replying recommendations can be classified under four areas:

a) Announcement of acceptance or rejection of recommendations during the UPR Session

According to HRC Resolution 115, states can accept some of the recommendations and reject some with explanations.²

b) Postponement of replies to all recom-

mendations in the shape of detailed report to the HRC

Alongside the importance of the UPR, the delegations of many countries representatives during their country's session, only give overall explanations regarding the recommendations and the proposed comments, and they postpone their detailed and denotative replies to the raised subjects, to another time.

c) The acceptance or rejection of some recommendations announcement and submission of brief explanations regarding actions that have been taken regarding another group of them during holding of session

d) Combined approach

Most countries in the past rounds of the UPR sessions, alongside brief explanations in the review session and announcement of acceptance or rejection of parts of the recommendations, postpone explanation of other parts of the recommendation to the submission of a written report to the next sessions of the HRC. Saudi Arabia has used this Approach.

Saudi Arabia and the UPR

During the first and second UPR since 2009 until 2013 of Saudi Arabia 98 States made 348 recommendations to Saudi Arabia (all UPR reviews).

Saudi Arabia accepted 240 recommendations out of 348 received in total. 133 recommendations received by Saudi Arabia contained a specific action.

A) Saudi Arabia and the first round of the UPR⁴

The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its fourth session from 2

1. Ghaneiee, Moshen, Analytical Evaluation of the Human Rights Council UPR, Ibid, p117

2. Golshanpazhooh, Mahmoodreza, the UPR: Statistical-Analytical Evaluation of the First Round, Research Journal 53, Human Rights 11, p19

3. <https://daccess-ods.un.org/TMP/9590113.75904083.html>

4. <https://daccess-ods.un.org/TMP/5694971.08459473.html>

to 13 February 2009. The review of Saudi Arabia was held at the 9th meeting on 6 February 2009. At its meeting held on 10 February 2009, the Working Group adopted report on Saudi Arabia.

B) Review of the submitted recommendations in the first round of the UPR

43 States made 113 recommendations to Saudi Arabia (1st UPR cycle only). Saudi

Arabia accepted 89 recommendations out of 113 received in total. 41 recommendations received by Saudi Arabia contained a specific action.

Saudi Arabia considers that some recommendations contained do not enjoy the support of Saudi Arabia because they do not conform to its existing laws, pledges, and commitments or do not refer to existing practices in Saudi Arabia.

Table 1

Response to received response 1st¹

	Response	Total Recommendations	% of 113 Recommendations
1.	Accepted	89	78.76
2.	Noted	24	21.24

Table 2

Issue of Recommendations²

Rank	Issue	Total Recommendations	% of 113 Recommendations
1.	International instruments	25	22.12
2.	Women's rights	25	22.12
3.	Migrants	11	9.73
4.	Freedom of religion and belief	11	9.73
5.	Labour	10	8.85
6.	Justice	10	8.85
7.	Rights of the Child	10	8.85

E) The Second Round of the UPR on Saudi Arabia

The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its seventeenth session from 21 October to 1 November 2013. The review of Saudi Arabia was held at the 1st meeting on 21 October 2013. The delegation of Saudi Arabia was headed by His Excellency Dr. Bandar bin Mohammed Aleiban, Chairman of the Human Rights Commission. At its 1st meeting held on 1 November 2013, the Working Group adopted

the report on Saudi Arabia.

F) Review of Saudi Arabia's National Report

The basic law of governance.

The Trafficking in Persons (Offences) Act: promulgated pursuant to Royal Decree No. M/40 of 14 July 2009, is consistent with the international and regional standards in place for combating such trafficking, which it defines as "the employment, recruitment, transfer, harbouring or receipt of persons for the purpose of exploitation" (art. 1).

1. https://www.upr-info.org/database/statistics/index_sur.php?fk_sur=149&cycle=1

2. <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SAindex.aspx>

Table 3:
*Issue of Recommendations*¹

8.	Torture and other CID treatment	10	8.85
9.	Death penalty	8	7.08
10.	ESC rights - general	6	5.31
11.	General	6	5.31
12.	CP rights - general	5	4.42
13.	Freedom of opinion and expression	5	4.42
14.	Public security	5	4.42
15.	Human rights education and training	5	4.42
16.	Statelessness and the right to nationality	5	4.42
17.	Civil society	5	4.42
18.	Racial discrimination	3	2.65
19.	Human rights defenders	3	2.65
20.	Special procedures	3	2.65
21.	Minorities	3	2.65
22.	Treaty bodies	3	2.65
23.	Freedom of association and peaceful assembly	2	1.77
24.	Other	2	1.77
25.	Technical assistance and cooperation	2	1.77
26.	Trafficking	1	0.88
27.	Impunity	1	0.88
28.	Right to housing	1	0.88
29.	Detention	1	0.88
30.	Right to health	1	0.88
31.	Counter-terrorism	1	0.88
32.	UPR process	1	0.88
33.	Freedom of movement	1	0.88

Also The Standing Committee on Trafficking in Persons was established at the seat of the Human Rights Commission, pursuant to Cabinet Decision No. 244 of 13 July 2009, and comprises representatives of the Ministries of the Interior, Foreign Affairs, Justice, Social Affairs, Labour, and Culture and Information. The regulation on domestic workers and persons of similar status.

G) Some activities of Saudi Arabia to the response of recommendations¹

On 28 June 2010, the Kingdom acceded to: The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; and The Optional Protocol to the Convention on the Rights of the Child on the

involvement of children in armed conflict, both of which were adopted by General Assembly resolution 54/263 of 25 May 2000. 16. On 28 May 2013, it also acceded to: The International Labour Organization (ILO) Convention No. 138 on the minimum age for admission to employment and work, adopted in 1973. This report also emphasise that have mention to the rights of women and children.

H) A review of recommendations presented in the second round of the UPR¹

93 States made 235 recommendations to Saudi Arabia (2nd UPR cycle only).

Accepted 151 recommendations out of 235 received in total. 92 recommendations received by Saudi Arabia contained a specific action (category 5).

1. <https://daccess-ods.un.org/TMP/3709935.2478981.html>

Table 4:
Response to Received Recommendations 2nd¹

	Total Recommendations	% of 235 Recommendations
Accepted	151	64.26
Noted	84	35.74

Table 5:
Issue of Recommendations²

Rank	Issue	Total Recommendations	% of 235 Recommendations
1.	Women's rights	71	30.21
2.	International instruments	44	18.72
3.	Rights of the Child	32	13.62
4.	Labour	30	12.77
5.	Justice	27	11.49
6.	Migrants	27	11.49
7.	Death penalty	20	8.51
8.	ESC rights - general	18	7.66
9.	CP rights - general	15	6.38
10.	Human rights education and training	13	5.53
11.	Freedom of religion and belief	12	5.11
12.	Freedom of association and peaceful assembly	11	4.68
13.	Civil society	10	4.26
14.	Freedom of opinion and expression	9	3.83
15.	Torture and other CID treatment	9	3.83
16.	Special procedures	8	3.4
17.	Detention	7	2.98
18.	Treaty bodies	6	2.55
19.	UPR process	6	2.55
20.	Trafficking	6	2.55
21.	Racial discrimination	5	2.13
22.	Right to education	5	2.13
23.	Corruption	4	1.7
24.	Public security	3	1.28
25.	Minorities	3	1.28
26.	Right to health	3	1.28
27.	Human rights defenders	3	1.28
28.	Technical assistance and cooperation	3	1.28
29.	Other	2	0.85
30.	General	2	0.85
31.	Freedom of movement	2	0.85
32.	International humanitarian law	1	0.43
33.	Counter-terrorism	1	0.43
34.	National Human Rights Institution	1	0.43
35.	Statelessness and the right to nationality	1	0.43
36.	Development	1	0.43
37.	Right to housing	1	0.43

1. https://www.upr-info.org/database/statistics/index_sur.php?fk_sur=149&cycle=2

2. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/160/88/PDF/G1316088.pdf?OpenElement>

Saudi Arabia and Real Promotion of Human Rights

Although Saudi Arabia has had an acceptable presence in the HRC sessions, acceptance of the recommendations and submitted its reports to the Council, however it does not mean that it has observed human rights indexes. With a review on UN documents with regards to human rights violations in the country, the speculations of the tools use from human rights institutions of the UN to present an unreal promotion of human rights in a country like Saudi Arabia becomes more highlighted. For example in the HRC document on civil society, the civil society indicators are as follows:

- 1 – Free and independent activities of civil society conditions

The fundamental conditions which underlie good performance and include: guiding public and political atmosphere, legal-supportive framework, free flow of information, common spaces for discourse and cooperation.

- 2 – Civil society activists and the civil society environment

A safe and empowering environment for the work of civil society must be backed by a strong national legal framework which has roots in the international principles of human rights. Freedom of expression, peaceful assemblies, the right of participation in general matters, are rights that empowers people for mobilization towards positive changes. Each individual alone or alongside others must enjoy these rights. These rights are the nucleus of civil society activity as inalienable components of human rights.

This is while with regards to Saudi Arabia, it can be said that none of these indicators have appeared in the bedrock of society.

According to some activities of this document, the main and fundamental obstacle in

the way of reaching a developed civil society is when confrontations take place with critical or opposing civil society and or retaliatory, unlawful intimidation takes place.

These oppositions show themselves in issues such as: arbitrary review of management and inner governance, threats, forceful shutting down of offices, search and confiscation of properties, heavy fines, fake legal prosecutions, arbitrary arrests and detention, travel ban, revoking of citizenship, restrictions or arbitrary crackdowns of protests and assemblies.

In fact Saudi rulers are indifferent to this important issue, that reaching development must take place in the primary bedrock of the realization of civil society. And in the event that this issue is imposed from the top layers to the intellectuals of society, serious damages will be inflicted on the development process.¹

Conclusion

There is no doubt that in the inefficiency and or weakness of international organizations, particularly in the area of the protection of human rights, the main problem lies with states that with lack of accountability cripple the said organizations and render them incapable.

With regards to the subject of this research it seems that the establishment of the HRC and mechanisms such as the UPR are big steps for confrontation with human rights violations through forcing countries such as Saudi Arabia to be accountable, however they are not deemed as a resolute solution.

In other words, the notion that with the establishment of the HRC human rights catastrophes are stopped and all countries are fully accountable to this body, is no longer a complete notion. Of course another point that

1. http://www.ohchr.org/documents/aboutus/civilsociety/ohchr_civilsocietyospace_farsi.pdf

must not be forgotten is that such an improvement must not be presented as less important, but on its own it does not result in the accountability of states.

With regards to Saudi Arabia, this country has had continuous and orderly presence in UPR working group and HRC sessions, and submitted its reports. Even though we are witness to Saudi Arabia's accountability to the HRC and submission of reports on accepted recommendations, a point that must be noted is that the Saudi rulers ignore the important issue that in order to reach development and promote human rights, it must be realized through the primary bedrock of civil society. And in the even that this is imposed by the top layers to the intellectuals of society, serious damages will be inflicted on the development process.¹ Now aside from accountability, how much this mechanism has managed to realistically promote the human rights situation of the country, which requires further study and cannot be discussed in this article.

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1. http://www.ohchr.org/documents/aboutus/civilsociety/ohchr_civilsocietySPACE_farsi.pdf