



General Assembly

Distr.: General
17 January 2020

Original: English

Human Rights Council

Forty-third session

24 February–20 March 2020

Agenda items 3 and 5

**Promotion and protection of all human rights, civil,
political economic, social and culture rights,
including the right to development**

Human rights bodies and mechanisms

The role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights

Report of the Human Rights Council Advisory Committee*

* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.

GE.20-00726(E)



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I. Introduction

1. The present report is submitted by the Advisory Committee to the Human Rights Council pursuant to its resolution 37/23, in which the Council requested the Committee to conduct a study on the role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights, and to submit a report thereon to the Council before its forty-third session.
2. At its twenty-first session, the Advisory Committee established a drafting group composed of Mohamed Bennani, Alessio Bruni, Ion Diaconu, Ludovic Hennebel, Xinsheng Liu (Chair), Ajai Malhotra, Obata Kaoru, Elizabeth Salmon, Dheerujall Seetulsingh and Changrok Soh. At its twenty-third session, the Committee heard presentations from experts on the topic.
3. In order to prepare the report, the Committee addressed a note verbale to States and other stakeholders in which it invited them to provide input. A total of 15 States replied to the invitation of the Committee: Australia, Canada, China, Côte d'Ivoire, France, Germany, Japan, Kuwait, Mauritius, Morocco, New Zealand, the Philippines, the Russian Federation, Switzerland and the United Kingdom of Great Britain and Northern Ireland. One human rights institution and three non-governmental organizations also replied to the invitation.

II. Definition and history of technical assistance and capacity-building

4. Technical assistance has been defined as a form of aid given to less developed countries by, in particular, the international community, represented by the United Nations and its specialized agencies and, to a lesser degree, by developed States and non-governmental organizations.
5. Capacity-building has been defined by the Handong Global University as the process of developing and strengthening the skills, abilities, processes and resources that organizations and communities need to survive, adapt and thrive in a fast-changing world.
6. According to the Office of the United Nations High Commissioner for Human Rights (OHCHR), technical cooperation refers to both technical assistance and capacity-building. It is aimed at identifying and addressing knowledge and capacity gaps by facilitating constructive dialogue and positive change with national counterparts. It is led by OHCHR at the request and with the agreement of States, and includes a comprehensive assessment of the situation of human rights in a given country, with a view to aligning laws, policies, institutions and practices with international standards and obligations (A/HRC/27/41, paras. 8–9).
7. Technical assistance and capacity-building may take different forms, such as training, scholarships, the organization of seminars and conferences on specific subjects, or country visits by experts.
8. Technical assistance and capacity-building cover different fields and subjects, such as improving domestic legislation and the administration of justice, monitoring political elections, promoting economic and social development in general, agriculture, health, education, employment, environment, training of public officials, improving places of detention and treaty reporting.
9. Technical assistance and capacity-building have a history that goes back to the conference of San Francisco of 1945. States at that conference were aware that building and maintaining peace and security in the world required the promotion of economic, social and humanitarian development, especially of less developed countries, since there was a large, even dangerous disparity in the level of development and standard of living between developed and less developed countries.
10. Since the United Nations and its specialized agencies cannot, however, provide direct loans for financing investments and development projects in less developed countries, they

– the United Nations and its agencies – considered that it is among their duties and functions to provide or at least advise on technical instruction and training, and to send expert missions.

11. It was against this background that the Economic and Social Council, in its resolution 222 (IX), requested the General Assembly and all specialized agencies to work out an expanded programme of technical assistance for the economic development of underdeveloped countries.

12. On 16 November 1949, the General Assembly, adopted two important resolutions concerning technical assistance: resolution 304 (IV), on the expanded programme of technical assistance for technical development of underdeveloped countries, and resolution 305 (IV), on technical assistance for economic development under General Assembly resolution 200 (III).

13. In 1949, with the creation of the Expanded Programme of Technical Assistance, the General Assembly also created a mechanism for the participation of specialized agencies: the Technical Assistance Board. The Board comprised the executive heads (or their representatives) of the United Nations and its specialized agencies and was the forum in which technical assistance requests were discussed, progress reports were given and agency programmes presented. The Board then made recommendations on the total programme to the Technical Assistance Committee of the Economic and Social Council. The Committee would approve the overall programme, after which the projects would be initiated when multilateral or bilateral instruments were signed.

14. After the creation of the Expanded Programme of Technical Assistance, less developed countries requested the Secretary General for, economic advisers. The International Labour Organization (ILO) was asked to advise on cooperation and social insurance, and the Food and Agriculture Organization of the United Nations (FAO) on agriculture, fisheries and forestry. The United Nations Educational, Scientific and Cultural Organization (UNESCO) was asked to advise on education and eradication of illiteracy, while the World Health Organization (WHO) was asked to advise on health and combating malaria and several other diseases.

15. The results of the programme were mixed, its main weakness being its financial limitations, given that the demand for technical assistance was greater than the resources afforded by the United Nations system.

16. On the other hand, it appeared that voluntarily funded United Nations programmes of technical assistance could be efficient in the development of solutions to economic, social and cultural problems. One example was the creation in 1946 of the United Nations Children's Emergency Fund (UNICEF) (later renamed the United Nations Children's Fund). UNICEF is funded entirely by voluntary contributions and, thanks to its partnership with Governments, non-governmental organizations and the private sector, has been able to provide assistance to millions of children and young people all over the world in such fields as the provision of vaccines, educational material and safe drinking water, the reduction of malaria-related deaths, assistance in humanitarian emergencies, the treatment of severe malnutrition and child development through sport.

17. Another example is the Programme of Advisory Services and Technical Assistance in the Field of Human Rights, which was established since 1955 and is currently managed by OHCHR. It is funded from the regular budget of the United Nations and, since 1987, the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights (see also paras. 77–98 below).

18. More recently, in 2009, the Human Rights Council in its resolution 6/17, established the voluntary fund for financial and technical assistance to help States in the implementation of recommendations made in the context of the universal periodic review, in consultation with and with the consent of the State concerned.

19. It is important to recall that the United Nations sees technical cooperation activities as a complement to, but never a substitute for, the monitoring and investigating activities of the human rights programme.

III. Technical assistance, capacity-building and human rights

20. The Charter of the United Nations makes numerous references to human rights; indeed, it was the first international obligatory instrument to make explicit mention of human rights. In the Preamble, the Charter reaffirms faith in human rights and fundamental freedoms; Article 1, paragraph 3 stresses the promotion and respect of human rights for all human beings, without distinction; Article 13, paragraph (b) refers to the realization of human rights through international cooperation; Article 55, paragraph (c) identifies universal respect and observance of human rights as one of the conditions of stability and friendly relations between nations; and Article 56, States pledge to cooperate with the United Nations for the achievement of the purposes set forth in Article 55, *inter alia*, human rights.

21. The Universal Declaration of Human Rights, adopted by the General Assembly in its resolution 217 (A) III, has always guided the United Nations in its work of protection and promotion of human.

22. In 1955, and after some ad hoc technical assistance in the field of human rights, the General Assembly established in its resolution 926 (X) the advisory services in the field of human rights programme. In that resolution, the Assembly authorized the Secretary-General to make provision, at the request of Governments, for assistance in the field of human rights, including advisory services of experts, fellowships, scholarships and seminars. Subsequently, the Assembly broadened the scope of the programme to include national and regional human rights courses.

23. In November 1987, the Secretary-General, pursuant to Commission on Human Rights resolution 1987/38 and Economic and Social Council decision 1987/147, established the United Nations Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights. The main task of the fund was to provide additional financial support for practical activities, such as the implementation of international treaties adopted by the United Nations and its specialized agencies and regional organizations.

24. The Commission on Human Rights used the Voluntary Fund to finance many activities in the field of human rights, such as for:

- (a) Expert and technical assistance to Governments, in order to develop the infrastructure necessary to meet international standards;
- (b) Projects for the legal protection and strengthening of the independence of the judiciary;
- (c) Comprehensive needs assessment and overall country programmes, including specific projects aimed at strengthening the human rights infrastructure of the country;
- (d) Projects that could play a catalytic role in the practical realization of internationally recognized human rights.

25. If a technical or pragmatic approach is to be taken to a particular project or programme, the recipient societies should be observed more closely. This is an important opportunity, because a donor's policymakers otherwise tend to implement their imprinted pre-fixed ideas. Such a hasty and unilateral imposition of values believed to be universal not only makes the projects not viable, but also generates nihilism in the recipient society about universalism and the concept of international community itself.

26. Many cases of failure in the field of legal assistance illustrate such a lesson. Some failures are least partly due to the fact that knowledge of the recipient society is poor. In many developing countries, there is no infrastructure to ensure the proper functioning of the court system, well-trained lawyers are rare, and the social basis for implementation of court decisions is lacking. In such a context, the first priority might be given to fostering law-abiding spirits and the establishment of an internal control system of administration. The establishment of career models for lawyers, working not only for States, but also independent, would have to follow, rather than immediate establishment of a court redress system against governmental abuses.

27. Even the concepts of technical assistance and capacity-building, presumably neutral to several values, would be mobilized as a tool for marketization, making the most of goods and services countable. They could sometimes contribute to the overmarketization of societies. Such a risk is becoming increasingly real in the present-day trends towards globalization and the construction of larger markets beyond national borders. In rapidly developed countries in Asia, many cases of serious human rights violations, particularly caused by overmarketization, have been witnessed, such as the destruction of a healthy environment, human trafficking, and the worst forms of work exploitation, in particular child labour.

IV. Legal basis for technical assistance

28. International cooperation that involves technical assistance and capacity-building is mentioned expressly in the Charter of the United Nations. Articles 3, 55 and 56 refer to international cooperation as an element of achieving the purposes of the United Nations and solving international problems in different fields, including those involving human rights. The Covenant on Economic, Social and Cultural Rights, however, refers to international cooperation in the realization of economic, social and cultural rights. International cooperation is therefore a responsibility of States.

29. The duty to cooperate is established in chapter IX of the Charter. It is also reflected in several United Nations resolutions, either as a mean to achieve certain purposes or as an objective in itself. In particular, the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted by the General Assembly in its resolution 2526 (XXV), specifies the duty of States to cooperate with one another in accordance with the Charter.

30. Respecting the sovereignty of States that benefit from technical assistance is a fundamental duty of the international community and individual States. Any form of technical assistance or capacity-building may only be provided as a response to the State's request. States cannot be forced, even by the international community, to accept technical assistance against their will.

31. The duty of the international community to finance technical assistance and capacity-building, in particular in the case of developing countries, is based on the principles of solidarity and international cooperation.

32. Dialogue on human rights issues, including with regard to technical assistance and capacity-building, should never be based on political considerations, the threat of force or double standards.

V. Mutually beneficial cooperation

33. In the view of the Advisory Committee, technical assistance is what a State is able to provide to another State (or States) in order to obtain some benefit for both parties in the field of human rights, such as mutual understanding, equality and respect, or the healthy development of global human rights governance with the participation of developing countries. Another form of technical assistance in the field of human rights is the one provided by the United Nations and other international organizations to States that request it, and which is the result of the support (financial or otherwise) of the international community. The role of this type of technical assistance and capacity-building tends to focus more on the promotion and protection of the human rights of the individual rather than on mutually beneficial cooperation between States, that is with a contractual nature.

34. The views on the concept of mutually beneficial cooperation described by States and received by the Advisory Committee are summarized in the paragraphs below. It is up to States, in particular, to assess whether State-to-State technical assistance and capacity-building is able to foster mutually beneficial cooperation, and to what extent.

35. A total of 15 States, one national human rights institution and three non-governmental organizations submitted inputs in view of the present report. The concept of mutually beneficial cooperation occupied a very important place in the replies of at least seven States.

36. In the view of Australia, mutually beneficial cooperation is not an agreed multilateral concept in human rights, but rather a domestic concept of one particular State. The use of the term is likely to cause confusion and undermine clear long established and agreed principles with regard to the promotion and protection of technical assistance and capacity-building, and also development cooperation.

37. Canada stressed that mutually beneficial cooperation and “win-win” cooperation appeared to be closely linked. It generally described cooperation in the economic field. Canada added that “win-win” cooperation was a term usually used by representatives of China in the context of the United Nations. Given the ambiguity of the term “mutually beneficial cooperation” in the context of human rights, defining or clarifying it in such a context should be the first task of the Advisory Committee, which should be guided in its efforts by international human rights instruments principles established by the Human Rights Council, particularly those outlined by the General Assembly in its resolution 60/251.

38. According to China, the deficit in human rights is still a very serious matter. Human rights issues were used to attack others countries and to interfere in their internal affairs, thus poisoning the global atmosphere of human rights.

39. Technical assistance and capacity-building played an important role in the promotion and protection of human rights through win-win cooperation. First, they enhance mutual understanding, since different countries have different historical and cultural traditions, levels of economic and social development and political systems. Second, to improve the level of human rights protection, all States should strengthen win-win cooperation, exchange and learn from each other and make common progress in the field of human rights through technical assistance and capacity-building. Third, States should promote the healthy development of global human rights governance by exploring ways to promote democratization and the rule of law by supporting the participation of developing countries in global governance.

40. In the view expressed by China, in order to strengthen win-win cooperation in the field of human rights through technical assistance and capacity-building, five principles should be taken into account: first, total adherence to the purposes and principles of the Charter, in particular with regard to respect for sovereignty and opposing the politicization of human rights; second, consultations are needed to determine the areas of cooperation, project planning and concrete implementation according to the requests and priorities of the parties concerned; third, all human rights should be promoted in a balanced manner and by paying more attention to the demands of developing countries for the realization of the right to development and continuous progress of human rights; four, the full implementation of the 2030 Agenda for Sustainable Development, and fundamental guaranties for people’s enjoyment of human rights alongside technical assistance and capacity-building; And five, States should safeguard international fairness and justice, fully understand the difficulties and efforts of developing countries in achieving economic development and maintaining social stability, guarantee the special and differential treatment enjoyed by developing countries in institutions like World Trade Organization, and create conditions for the development of human rights in those countries.

41. France and Germany submitted a joint response in which they stressed that the concept of mutually beneficial cooperation and the similar – or even identical– term “win-win cooperation” were useful in, for example, trade negotiations. In their view, however, it could not be applied to the field of human rights, since existing human rights obligations ought not to depend on intergovernmental negotiations, the risk in that case being that the application of such standards would depend on the balance of power between States, to the detriment of small States and of individuals.

42. Japan indicated that the terms “building a community of shared future for human rights” and “mutually beneficial cooperation” were not widely recognized in the field of human rights, and were unclear, which made their use in a resolution of the Human Rights Council unsuitable.

43. Côte d'Ivoire, Kuwait, Mauritius, Morocco and the Philippines stressed the fundamental role of technical assistance and capacity-building in the protection, promotion and realization of human rights. They did not question the validity or the introduction of the concept of mutually beneficial cooperation in the field of technical assistance and capacity-building.

44. The Netherlands pointed out that mutually beneficial cooperation prioritized relations between States, thereby excluding essential actors in the field of human rights, such as United Nations agencies non-governmental organizations and civil society. The term lacked a clear definition and seemed strongly associated with economic development, therefore running the risk of overemphasising economic rights over civil and political rights.

45. In the view of New Zealand, mutually beneficial cooperation did not have a definition agreed upon at the intergovernmental level. It was unclear how mutually beneficial cooperation differed from international cooperation, and what if any value there might be in the consideration of the concept.

46. According to Switzerland, the term "mutually beneficial cooperation" was not sufficiently defined, and remained sceptical about the added value of this new concept.

47. The United Kingdom of Great Britain and Northern Ireland strongly supported technical assistance and capacity-building as a means of enabling a State to fulfil its human rights obligations. The concept of mutually beneficial cooperation, however, posed significant challenges, since the term was not defined in Human Rights Council resolution 37/23 and was not agreed United Nations language; furthermore, it was not an approved concept in multilateral human rights contexts.

48. The United Kingdom did not support the introduction of a new and undefined term and concept that was not included in international human rights law, adding that, if the term "mutually beneficial cooperation" was to be used in human rights context, its meaning had to be clearly compatible with international human rights obligations. Without a definition, it was not clear whether mutually beneficial cooperation was compatible.

49. The non-governmental organizations Association nationale de promotion et de protection des droits de l'homme (Cameroon), Associazione Comunità Papa Giovanni XXIII (Italy) and Protector of Citizens (Serbia), and the national human rights institution of India did not comment on or criticize the concept of mutually beneficial cooperation. They insisted on the importance of technical assistance, which enabled them to better protect human rights and prevent violations, and pointed out the main weaknesses of technical assistance and how to remedy them.

50. The Advisory Committee observes from the above submissions that rather serious differences or conflicts of views exist with regard to the concept of "mutually beneficial cooperation"; further clarification and (re-)interpretation of the concept will therefore be required. At the same time, the Committee considers that attention should be paid to the origin of the concept, which from a movement of developing countries (or the "Third World"), vividly illustrated by the famous 10-point "declaration on promotion of world peace and cooperation" in 1955. The declaration, which was adopted unanimously by 29 Asian and African States representing 54 per cent of the then total world population, included the notion of "promotion of mutual interests and cooperation".

VI. Information provided by States with regard to international and national technical assistance programmes promoted on their own initiative

51. In its submission, Japan indicated that it had been implementing technical assistance and capacity-building on human rights as part of the cooperation programmes conducted by the Japan International Cooperation Agency for developing countries all over the world, especially in South and South-East Asia. The projects covered four sectors: the legal and judicial sector; elections; the police; and the media. The legal and judicial sector covered the drafting and dissemination of civil law and other laws and regulations. The elections sector

covered ensuring the right of people to participate in politics through the strengthening of the capacity of staff on the board of elections. The police sector covered the contribution to appropriate criminal proceedings through capacity-building on criminal prevention, control and investigation. Lastly, the media sector covered the contribution to the public's right to know by ensuring the circulation of accurate, neutral and fair public information by strengthening the capacity of journalists.

52. China had always upheld the spirit of equality, mutual trust, tolerance, mutual learning and win-win cooperation in different fields, including in human rights. It had also organized the South-South Human Rights Forum, the Beijing Forum on Human Rights, a seminar to commemorate the thirtieth anniversary of the adoption of the Declaration on the Right to Development and the sixteenth Informal ASEM Seminar on Human Rights.

53. China had also announced during the presentation of its national report in the context of the third cycle of the universal periodic review process that it would contribute \$800,000 annually to OHCHR in the next five years. In the past 60 years, it had provided nearly 600 billion Yuan in assistance to 166 countries and organizations, and had trained more than 12 million personnel of various types and dispatched more than 600,000 aid workers to developing countries. In addition, since 2012, China had continued to provide assistance to other developing countries in reducing poverty, improving people's livelihood and promoting the development of human rights.

54. The movement itself should be considered a protest against the unilateral imposition of so-called "universal" values by developed countries in the past. In this context, the promotion of "mutual interests" or benefits should be interpreted as securing the interests of countries (particularly developing countries) and the recipients of assistance. The spirit of mutually beneficial cooperation might be identified as respect for ownership of recipient countries in the process of cooperation and assistance in bridging the gap between the rich and the poor in a world of accelerating co-dependence.

55. To put it differently, if the "benefits" of mutually beneficial cooperation are understood in a naïve way, it could be mobilized for a policy to seek disproportionate gains of material benefits for more developed countries. It should be borne in mind that there is an enormous gap of the economic and political power wielded by cooperation "partners"; it frequently forces "consent" on the weaker side (namely, recipient States) to "generous" offers of assistance trading with a "small" sacrifice of its dignity, and interests for the stronger (donor States). Such a risk is to be avoided, as it undermines the "technical" or non-political nature of cooperation, and even the promotion of human rights.

56. As the Human Rights Council itself stressed in its resolution 37/23, technical cooperation and capacity-building should be provided "upon the request of and in accordance with the priorities set by the States concerned". This is the real meaning of mutually beneficial cooperation, rationally interpreted in its historical context where it emerged as a protest. It is therefore undeniable that mutually beneficial cooperation "can¹ play" an important role in promoting and protecting all human rights in an increasingly interrelated world.² The Advisory Committee believes that the above clarification would, at least partially, ease the concerns raised by many countries in their submissions.

VII. International and regional organizations, specialized agencies, States, national human rights institutions, non-governmental organizations and technical assistance

¹ The word "can" was inserted by sponsor States at the final stages of discussion before the Human Rights Council adopted resolution 37/23, indicating that the argument for the somehow conditional contribution of mutually beneficial cooperation to human rights reflected a broader spectrum of views held by Council members.

² Human Rights Council resolution 37/23, eighth preambular paragraph.

57. On 11 January 2017, in Brussels, following the twelfth African Union-European Union Human Rights Dialogue, the European Union signed a €1.8 million grant contract with the Pan-African Parliament, the last of a series of five contracts that the European Union is funding as part of a programme to strengthen the African human rights system. The main objective of the contract was to ensure that all States members of the African Union ratified, domesticated and implemented relevant African Union legal instruments in the field of good governance and human rights. Cooperation with regional economic communities, national and regional parliaments and the African Union Commission would be crucial to effectively achieve this objective by using the oversight and advisory and consultative functions of the Pan-African Parliament. The contract also covers cooperation with the European Parliament and the formulation of model laws in the field of good governance and human rights.

VIII. Human Rights Council and technical assistance

58. The Human Rights Council is the main intergovernmental forum within the United Nations system concerned with issues relating to human rights. The Council, established by the General Assembly in its resolution 60/251, has a comprehensive mandate according to which it is responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in fair and equal manner. One of its aims is to prevent and combat human rights violations, including gross and systematic violations. It also works to promote and coordinate the mainstreaming of human rights within the United Nations system, and to ensure effective and real application of human rights standards, as guaranteed by different international instruments adopted under the auspices of the United Nations.

59. The Human Rights Council undertake its functions by addressing violations of human rights around the world, establishing international standards in the area of human rights and developing instruments. Lastly, it promotes human rights through dialogue and, in particular, by providing through its mechanism and trust funds technical assistance and capacity-building. In performing its functions, the Council receives substantive and technical support from OHCHR.

60. Technical assistance and capacity-building therefore constitute one of the most important aspects of the Human Rights Council mandate, used as a real means to improve country-specific human rights situations. Agenda item 10, entitled “Technical assistance and capacity-building”, is a permanent subject at all Council sessions.

61. In its resolution 39/18, the Human Rights Council emphasized that the general debate under agenda item 10 was an essential platform for Members and observers of the Council to share their visions and views to promote more effective technical cooperation and capacity-building in the field of human rights, and to share concrete experiences, challenges and information on assistance needed in the implementation of their human rights obligations and voluntary pledges and commitments, and of accepted universal periodic review recommendations, and their achievements and good practices in this area.

62. Also in resolution 39/19, the Human Rights Council reiterated that technical assistance and capacity-building in the field of human rights continued to be based on consultations with and the consent of the States concerned, and should take into account their needs, and the fact that all human rights are universal, indivisible, interdependent and interrelated, and aim to make a concrete impact on the ground.

63. The States considered under agenda item 10 include Cambodia, the Central Africa Republic, Côte d’Ivoire, Libya, Rwanda, Somalia and the Sudan.

64. The situation of human rights in those countries are deemed worthy of the regular attention of the Human Rights Council; however, the cooperation of the beneficiary State is requested for the success of any action of assistance of the Council.

65. At its fortieth session, the Human Rights Council, in its resolution 40/27, requested OHCHR to provide technical assistance and capacity-building to Libya on its request, to promote and protect human rights and to prevent and ensure accountability for human rights violations and abuses. It also requested OHCHR to work closely with the Government of

National Accord, relevant United Nations bodies, the African Union and all other relevant regional and international organizations. The Council further requested the Secretary-General to provide OHCHR with resources necessary for the full implementation of the resolution.

66. In its resolution 39/21, the Human Rights Council invited all bodies of the United Nations system, including OHCHR and Member States to assist the transitional process in Yemen, including by supporting the mobilization of resources to tackle the consequences of the violence and the economic and social challenges faced by Yemen. The Council requested OHCHR to continue to provide substantive capacity-building and technical assistance, and to advise on and provide legal support to enable the national commission of inquiry to complete its investigation work.

67. In its resolution 36/27, the Human Rights Council requested the Independent Expert on the situation of human rights in Somalia to work closely with the Government of Somalia, all United Nations bodies, the African Union and all stakeholders to assist Somalia in the implementation of its domestic and international obligations, Council resolutions and other human rights instruments and recommendations accepted during the universal periodic review. The Council also requested OHCHR and other relevant United Nations agencies to provide the Independent Expert with all the human technical and financial assistance necessary to carry out his mandate.

68. In its resolution 39/19, the Human Rights encouraged States Members of the United Nations, within the framework of international cooperation, relevant United Nations bodies, international financial institutions and other international organizations concerned and donors to provide the Central African Republic with technical assistance and support for capacity-building with a view to promoting respect for human rights and undertaking reform of the justice and security sectors.

IX. Office of the United Nations High Commissioner for Human Rights and technical assistance

69. OHCHR has a mandate to promote and protect human rights worldwide through international cooperation, and through the coordination and mainstreaming of human rights within the United Nations system.

70. Technical assistance is an important component of OHCHR activities, which are aimed at assisting States and other stakeholders in their efforts to promote and protect human rights, and to prevent discrimination.

71. OHCHR provides technical assistance through expert advisory services, training courses, workshops and seminars, fellowships, grants, the provision of information and documentation, and assessment of domestic human rights needs. Its programme is anchored in engagement with international human rights mechanisms. Components of the programme include the provision of legal advice on human rights issues in the context of policies and practices; the facilitation of learning, knowledge transfer and the sharing of experience in the realization and promotion of human rights and the strengthening of national institutions; human rights education programmes to promote a human rights culture; raising awareness of human rights issues; communicating on successful programmes and partnerships; facilitating dialogue among diverse stakeholders on human rights issues; and supporting the engagement and functioning of the international human rights mechanisms.

72. OHCHR cooperates with States and national stakeholders to improve the functioning of national systems for the protection and promotion of human rights, typically in close partnership with other United Nations agencies and institutions, regional organizations, national human rights institutions, civil society and academia.

73. Technical assistance is provided by OHCHR exclusively at the request and with the consent of States; it begins with a full assessment of the situation of human rights in the State concerned with the aim of bringing the laws, policies, institutions and practices of the State into line with agreed international standards.

74. OHCHR conducts and implements technical cooperation projects at the national, regional and global levels in close cooperation with other United Nations agencies and programmes, such as UNICEF, UNESCO, the United Nations Population Fund, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the Department of Peacekeeping Operations, the United Nations Staff College and the Office of the United Nations High Commissioner for Refugees.

75. OHCHR collaborates also with partners outside the United Nations, such as the African Union, the African Commission on Human and Peoples' Rights, the Organization for Security and Cooperation in Europe (OSCE), the Organization of American States (OAS), the Inter-American Institute of Human Rights, the Latin American Institute for Crime Prevention and the Treatment of Offenders, the Andean Commission of Jurists, and others. As an example of such partnerships, OHCHR and OSCE have a joint office in Abkhazia (Georgia) for the purpose of, inter alia, implementing a technical cooperation project.

76. The Field Operations and Technical Cooperation Division is one of the main arms of OHCHR in providing technical assistance, with branches in nearly all continents. In 2018, OHCHR had 12 regional offices covering the five continents. The offices play a crucial role in efforts to promote and protect human rights, also working closely alongside regional organizations, such as the African Union, OAS and the European Union.

77. In 2018, OHCHR also had 14 country offices, whose main tasks included monitoring, public reporting, providing technical assistance and building national capacities to address human rights issues.

78. OHCHR has also enhanced its operational support for United Nations country teams that have integrated human rights into their common country analysis and the United Development Assistance Framework. It cooperates closely with the United Nations Development Programme (UNDP) in its joint Human Rights Strengthening Programme, supporting also the implementation of the UNDP policy, "Integrating human rights with sustainable human development", the primary purposes of which are to test guidelines and methodologies and to identify best practices and learning opportunities in the development of national capacities for the promotion and protection of human rights and in the application of a human rights-based approach to development programming.

79. Another joint initiative is the Assisting Communities Together project, launched in 1998, which focuses on a "bottom-up" approach by emphasizing the role that civil society can play in the promotion and protection of human rights. The long-term objectives of the project are to empower people at the local level to be proactive in ensuring greater respect for human rights and to strengthen partnerships between the United Nations and local human rights constituencies.

80. Examples of technical assistance provided to States and regional organizations undertaken by OHCHR include the cases in 2013 of Mexico, to give constitutional status to all the State's obligations guaranteed by the conventions that it had ratified, and Myanmar, to help it to set up a national human rights institution in line with the Paris principles.

81. OHCHR has supported the States members of the European Union in applying a human rights-based approach to combating trafficking in persons at border controls, in close cooperation with many specialized agencies of the United Nations. Thanks to its technical assistance, the Russian Federation was able to implement a Master's degree programme in human rights, and it assisted the Lao People's Democratic Republic and Thailand to prepare their national reports for the universal periodic review and the follow-up on its recommendations. OHCHR assisted Haiti and Morocco in setting up their interministerial human rights committees, which oversee the preparation of reports submitted to various United Nations bodies. Paraguay benefited from OHCHR support when launching a portal for monitoring human rights recommendations made by United Nations human rights mechanisms and OAS.

82. OHCHR has also assisted developing States in establishing and strengthening judicial accountability mechanisms. In 2006, the Government of Togo requested OHCHR to support the creation of a truth, justice and reconciliation commission as a tool of real transitional justice. In coordination with the United Nations country team, UNDP and international

donors, the Office was able to provide capacity-building by organizing national consultations and supporting the drafting of legal documents establishing the commission, in line with human rights standards. OHCHR also helped to train commission staff.

83. OHCHR worked closely with Tunisia after the revolution of January 2011, first to help with the drafting of the new constitution, resulting in the inclusion of different human rights, in line with international standards, then in the establishment of bodies relating to elections, justice and the media, all in line with nationally recognized standards. It has also assisted Columbia in the field of land reparation restitution process, which was introduced after the end of the civil war. Furthermore, OHCHR has assisted El Salvador in the development of a national protocol for the investigation of femicide.

84. OHCHR has assisted some States in introducing provisions in their laws to improve access to justice and basic services. In Senegal, for example, the OHCHR regional office for West Africa provided technical advice for the drafting of a new nationality code, which ended the differentiated treatment of men and women in the field of transmission of nationality through marriage, child birth and adoption. The work was based on the concluding observations of the Committee on the Elimination of Discrimination against Women on the reports submitted by the State.³

85. In Cambodia, OHCHR has assisted the Government in many actions aimed at strengthening the rule of culture by, for instance, assisting the Ministry of Justice in organizing round-table discussions with judges on the subject of pretrial detention. In 2013, OHCHR launched the first ever course for lawyers on fair trial standards.

86. In the Philippines, OHCHR has assisted the Government, on its request and with the coordination of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, in drafting an important document on standards with regard to housing, land and land property rights of populations affected by typhoon Yolanda. In Lebanon, OHCHR has assisted the Government in developing a code of conduct for the protection of migrant domestic workers. In Guatemala, OHCHR, together with UNDP, UNESCO and UNICEF, aided the Government in the implementation of the Maya Programme, launched in 2009 to empower indigenous populations in achieving stronger negotiating power and participation in public life. The intervention of OHCHR, together with the above-mentioned specialized agencies, led to positive outcomes, such as the establishment of a support network for organizations working on indigenous rights and an increase in the use of national and regional protection systems by those organizations.

87. Lastly, OHCHR has assisted many developing countries, particularly in developing national human rights systems, facilitating inclusive participation in decision-making, and developing and monitoring public policies. For example, in Kenya, OHCHR supported a thematic working group on governance, judiciary, security and the rule of law and another working group on gender, vulnerable groups and youth.

88. OHCHR also has helped Ecuador, Serbia, the State of Palestine and Uganda to implement human rights in development planning, a consultation methodology for Roma communities, a human rights-based framework for development and a human rights perspective of development, respectively.

X. Technical assistance and capacity-building in reporting to treaty bodies and implementing their recommendations

89. In its resolution 68/268, the General Assembly requested the Secretary-General, through OHCHR, to support States parties in building their capacity to implement their treaty obligations, and to provide in that regard advisory services, technical assistance and capacity-

³ CEDAW/C/SEN/CO/3-7.

building, in line with its mandate, in consultation with and with the consent of the State concerned.

90. Pursuant to the request of the Assembly, OHCHR created in 2015 the treaty body capacity-building programme, implemented by a group of staff at OHCHR headquarters in Geneva and by a number of capacity-building officers in OHCHR regional presences. The programme aims:

(a) To organize regional train-the-trainers events annually, to provide potential trainers from States with the knowledge and skills to support States parties to treaties in their engagement with the treaty bodies;

(b) To establish a roster of trainers from among State officials with extensive experience in treaty body reporting, to create a community of learning and to facilitate the exchange of lessons learned from other roster members;

(c) To provide requesting States parties with assistance on the establishment of national mechanisms for reporting and follow-up, and to prepare a study and practical guide on key features of mechanisms;

(d) To provide requesting States parties with assistance for treaty-specific reporting, including for the preparation of common core documents;

(e) To maintain and update the Universal Human Rights Index and the treaty body database;

(f) To create a capacity-building portal on reporting to the treaty bodies;

(g) To launch a general training manual on treaty reporting;

(h) To develop treaty-specific training modules, including online.

91. The treaty body capacity-building programme has had a number of successful outcomes, including the publication of *National Mechanisms for Reporting and Follow-up*. This guide aims to provide training facilities with information on the treaty bodies, and the tools and resources necessary to develop a course on reporting to them. Its objective is to help States gain knowledge on the United Nations treaty body system, particularly the reporting processes involved and the roles of different stakeholders. In this way, States parties are enabled to fulfil their reporting obligations and to engage with the treaty bodies in a sustainable and meaningful way.

92. The programme has also overseen the publication of a training guide, which comprises two parts: a manual on the treaty body reporting process; and a facilitator's guide on reporting.

93. The programme is furthermore developing treaty-specific training manuals and trainer guides. Completing the current training guide on the Convention on the Rights of Persons with Disabilities, a practical guide for national preventive mechanisms on torture prevention was launched in 2018. Trainer guides on the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights are being prepared. OHCHR contributed to the development by UN-Women of an online training programme on the Convention on the Elimination of All Forms of Discrimination against Women. All of the afore-mentioned publications and online training courses are designed to help States to increasingly engage with the international human rights mechanisms.

94. Between 2015 and 2017, the capacity-building programme enhanced the skills and knowledge of more than 350 State officials from 135 States, who have since become trained trainers on treaty reporting. Furthermore, technical assistance has been provided to some 70 States at the national level on specific human rights treaties and on reporting. This assistance has resulted in new ratifications; the submission of updated common core documents and outstanding State party reports; more constructive dialogue with the treaty bodies; and greater interest in a number of States in establishing a national mechanism for reporting and follow-up (see A/73/309).

95. The overall number of ratifications of the 18 human rights treaties and optional protocols, including declarations recognizing the competence of a committee to consider individual communications, rose from a total of 2,300 in 2015 to 2,386 in 2017, a 3.7 per

cent increase. The universal ratification of all the treaties and optional protocols, including declarations, would entail 4,925 ratifications (*ibid.*, para.17).

96. The number of reports pending review decreased from 258 in December 2015 to 230 in December 2017, representing an 11 per cent decrease.

97. Concerning individual communications, the number of communications pending review rose from 769 in 2015 to 977 in 2017, representing a 28 per cent increase. In terms of meeting workload targets for individual communications, the eight treaty bodies that review individual communications adopted final decisions on a yearly average of 197 communications from 2015 to 2017 over a period of 6.3 weeks. This represents 31 communications per week, thereby exceeding the target of 23 by more than a third (*ibid.*, paras. 25–26).

XI. Achievements of and obstacles to technical assistance

98. In its contribution, Association nationale de promotion et de protection des droits de l'homme (Cameroon) stressed that technical assistance as proposed today suffers from a number of shortcomings that undermine its impact: firstly, because technical assistance does not take into account the specificities and priority needs of the States concerned; secondly, it does not provide tools in the field of prevention of human rights violations; and thirdly, it does not participate in a tangible way to improvements in the human rights legal framework.

99. The non-governmental organization added that the recommendations made in the context of the universal periodic review were not always implemented in the States concerned, and that many States did not contribute to United Nations voluntary funds for technical assistance.

100. In a recent paper, a researcher at the University of Birmingham argues that evidence of whether technical assistance or capacity-building is effective is limited. Little effort is actually made to monitor and evaluate such programmes and methodologies by measuring their outcomes. In addition, the time lag between the implementation of technical assistance and the emergence of any measurable impact further complicates the assessment of its effectiveness.⁴

XII. Best practices in technical assistance and capacity-building

101. Within the framework of technical assistance, it has been suggested that the experience-based wisdom embedded in various model laws and treaties in technical fields should be mobilized. The Model Convention on Extradition⁵ demonstrates the probable contribution of accumulated expertise in a particular field to the promotion and protection of human rights. The Model Convention in fact incorporates the principles of exception of political offenders and non-refoulement.

102. One of the main conclusions of the Board of Trustees of the Voluntary Fund for Technical Cooperation in the Field of Human Rights and the voluntary fund for financial and technical assistance in the implementation of the universal periodic review is that, in States where the presence of OHCHR is particularly well established with acceptable human resources and expertise and the capacity to adequately and independently monitor the human rights complexities on the ground, the technical cooperation programmes developed at the request and in close cooperation with relevant State entities and other United Nations partners are often robust and provide visible and measurable results (A/HRC/26/51, para. 40).

103. Since the launch of the universal periodic review process in 2008, the voluntary fund for participation in the universal periodic review, established by the Human Rights Council its resolutions 5/1 and 6/17, has been instrumental in ensuring the presence of many

⁴ Zenobia Ismail, "Technical Assistance and Capacity Building in International Development", University of Birmingham, 6 June 2019, p. 4.

⁵ General Assembly resolution 45/116, annex.

delegation members in the sessions of the Working Group on the Universal Periodic Review and at the adoption of the review outcomes at Council plenary sessions. The fund allows delegation members to contribute by presenting national reports on the implementation of recommendations addressed to the State. The interactive dialogue held during the session of the Working Group is in turn facilitated, contributing to the formulation of recommendations that are constructive, specific, action-oriented and implementable.

XIII. Recommendations

104. **Technical assistance and capacity-building should be dispensed in line with the principles of the Charter of the United Nations, in particular the principles of sovereignty and non-intervention, and in accordance with the will and real needs of the States concerned.**

105. **States proposing bilateral technical assistance and capacity-building in the field of human rights to other States should do so only at the request of the latter, and should pursue mutually beneficial cooperation and full respect of the requesting State. Proposing States should avoid applying any pressure to secure cooperation, which would be at the prevailing advantage of their interests.**

106. **Stakeholders with relevant resources for development cooperation should be advised to extend their technical assistance in a pragmatic manner, not by preaching so-called “universal” values. At the same time, cooperative partnership should be based on mutual trust in their firm determination to eliminate any of gross violations of essential human rights.**

107. **When advising on the introduction of a new system, the common basis should be, if available, multilaterally discussed texts as model laws and treaties or principles, in particular in the fields of law and policy.**

108. **In the spirit of strengthening international solidarity, States and relevant international institutions and stakeholders should increase their voluntary contributions to the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights and the voluntary fund for financial and technical assistance in the implementation of the universal periodic review in order to increase their operational capacity.**

109. **States should regularly make and, if possible, increase their voluntary contributions to OHCHR for its activities with regard to the implementation of the 2030 Agenda for Sustainable Development, and regularly make and, if possible, increase their contributions for the voluntary fund for participation in the universal periodic review.**

110. **The Board of Trustees of the Voluntary Fund for Technical Cooperation in the Field of Human Rights and the voluntary fund for financial and technical assistance in the implementation of the universal periodic review has succeeded in gathering much information concerning the impact of technical assistance on the protection and promotion of human rights, and should continue its mission in the future, with the help and assistance of all stakeholders.**

111. **The General Assembly, the Economic and Social Council and the specialized agencies of the United Nations should pay more attention to technical assistance and capacity-building for human rights in their deliberations on international issues relating to human rights, and provide the support and guidance necessary for their effective realization.**

112. **OHCHR, the Human Rights Council and the specialized agencies of the United Nations should encourage developing countries, in particular the least developed countries, to submit applications for technical assistance and capacity-building in order to strengthen their capacity to protect human rights and increase enjoyment of them by all residents in the States concerned.**

113. The principle of international cooperation enshrined in the Charter imposes on Member States the duty to give full consideration to the principles of mutual benefits and win-win in all activities related to cooperation in the field of human rights, including and particularly in technical assistance and capacity-building.

114. Consideration should be given to the establishment of an exchange mechanism in the Human Rights Council that could enable States to disseminate their best practices in participation in technical assistance projects, and to summarize and exchange experiences in a timely manner so as to achieve the goal of strengthening national implementation of human rights and protection capacities.

115. The Advisory Committee recommends that technical assistance and capacity-building on human rights cooperation be focused, with the consent of the State concerned, on the universal periodic review.

116. The Advisory Committee also recommends that the Human Rights Council keep technical assistance, capacity-building and mutually beneficial cooperation under consideration in its future work, and consider the opportunity of appointing a special procedure with a mandate to report and advise on technical assistance, capacity-building and mutually beneficial cooperation, and contribute to the development of international standards on those subjects.
