EQUALITY OF ‘NATIONS LARGE AND SMALL’: TESTING THE THEORY OF THE UNIVERSAL PERIODIC REVIEW IN THE ASIA-PACIFIC

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1. Introduction

‘We the peoples of the United Nations determine... to reaffirm faith... in the equal rights of... nations large and small’. The United Nations organisation has, since inception, been predicated on equal respect for nations large and small. This equality is evident with, for example, the General Assembly of the United Nations according each state equal voting power, although the Security Council and its permanent membership is an issue. Axiomatically states around the world are at different stages of development and engage with the United Nations in different ways. This is, perhaps, especially evident when considering international human rights. Some states have accepted all the core human rights treaties adopted under the auspices of the United Nations, other have only accepted one or two. However, following the establishment of the United Nations Human Rights Council in 2006, a radical strategy of reviewing the compliance of every UN member state with general international human rights and international humanitarian laws commenced. Through a

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1 The Charter of the United Nations, preambular paragraphs.
2 For an early justification of this (pre-UN) see Emer de Vattel, The Law of Nations (Beila Kapossy and Richard Whatmore eds of classic re-release, Liberty Fund 2008) 75.
3 Article 18, Charter of the United Nations.
6 By General Assembly Resolution 60/251, Human Rights Council, UN Doc A/RES/60/251, 15 March 2006 (hereafter GA Res 60/251).
cyclical process of universal periodic review, every state is considered by the Human Rights Council every four or five years. The same process and the same standard theoretically apply to all nations. This short article seeks to evaluate the efficacy of the ‘large and small’ rhetoric by comparing the universal periodic review experiences of the People’s Republic of China including the Hong Kong and Macao Special Autonomous regions (hereafter ‘China’) and Nauru, examples of the largest and smallest UN member states. The universal periodic review procedure will be discussed, the experiences of Nauru and China thereunder will then be examined (based primarily on the review documentation) before some conclusions on the equality of those experiences are presented.

2. The Universal Periodic Review

In 2006, the Human Rights Council assumed much of the work of the then discredited Commission on Human Rights. As a distinct body within the United Nations, with the present five year review determining whether the Council will become a full UN Council alongside the Economic and Social Council and the Security Council, the Human Rights Council is undoubtedly established as a higher level entity than the Commission, a functional commission of the Economic and Social Council, which it replaces. The Council began operation shortly after the Commission was disbanded, with forty-seven states elected to the first membership (by ballot in light of publication of their human rights’ pledges). These states

7 China has the largest population and one of the largest land masses in the world; Nauru has one of the smallest populations and the smallest land mass of all UN member states.
10 GA Res 60/251 (n 6); for review documentation before the 65th General Assembly see http://www.un.org/en/ga/president/65/issues/hrcouncil.shtml.
11 Created by ECOSOC Resolution 5(I) 1946.