



Third Glion Human Rights Dialogue (Glion III, May 2016):
human rights implementation and compliance: turning international norms into local reality

**Policy Dialogue ahead of Glion III:
‘The experience of States with implementation: identifying and replicating domestic good
practice on implementation, coordination and reporting’**

Concept Note

Background

The development of international human rights norms is seen as one of the great success stories of the UN. Since the adoption of the Universal Declaration of Human Rights by the General Assembly on 10th December 1948, the international community has moved to create a comprehensive global code of human rights norms governing practically every area of the relationship between the individual and the State.

But what are the real world, practical, tangible implications of the global code of norms set down in international human rights law? The primary responsibility for promoting and protecting human rights lies with States, but do States comply with the standards and obligations that they themselves have set down and ratified? What are the principal UN mechanisms that seek to move States towards deeper compliance? What do States do with the recommendations generated by the main human rights mechanisms (e.g. Treaty Bodies, Special Procedures, Universal Periodic Review – UPR)? How do States seek to transform international norms into local reality and do they succeed? How do the Human Rights Council and the wider international human rights system support States (e.g. through capacity-building) to strengthen implementation and compliance?

In 2006, the then Secretary-General of the UN, Kofi Annan, called on the Human Rights Council to lead the international community “from the era of declaration to the era of implementation.” As the Human Rights Council marks its 10th and the two human rights Covenants their 50th anniversaries, there are important signs that UN Member States are increasingly turning their attention to the question of implementation, and how best to support it. 2016 therefore offers an important opportunity for a process of inclusive and collective reflection on remaining gaps, lessons learned, and best practices and how to replicate them.

The third Glion Human Rights Dialogue, organised by Norway and Switzerland, with the support of the Universal Rights Group, and to be held in May 2016, will look to provide an informal space for such reflection. Glion III will take a **bottom-up approach** to the issue of implementation, an approach that tries to understand how States implement UN human rights recommendations, how the international community seeks to support them in that regard, and how implementation can be strengthened in the future.

Fourth policy dialogue ahead of Glion III

Ahead of Glion III, the Universal Rights Group (URG), with a number of supportive State delegations in Geneva, will organise a series of informal policy dialogues, designed to allow early consideration and exchange on different aspects of 'human rights implementation and compliance.'

The fourth policy dialogue will take place on Friday 15th April with the support of the Permanent Mission of the Kingdom of Morocco.

The informal meeting will provide participants with a 'bottom-up' opportunity to reflect on the experience of States with implementation. How do States seek to take the various recommendations generated by the international human rights mechanisms and turn them into on-the-ground change and improvement? What strategies and approaches do they use? What has worked and what hasn't? What are the main obstacles to implementation (e.g. capacity-constraints, inadequate systems) and how can those obstacles be overcome?

Key questions that might be addressed by participants include:

What are the different models and strategies adopted by States to coordinate implementation?

The international human rights (implementation) mechanisms, especially the UPR, Special Procedures and Treaty Bodies, regularly assess the degree to which States are fulfilling their human rights obligations and commitments, and generate a range of recommendations to help move States towards improved compliance. Many of those recommendations have the support of the State concerned.

But what happens to those recommendations once they have been produced by the relevant mechanism and transmitted to the concerned State's delegation in Geneva? How do States seek to analyse and process them, and feed recommendations into relevant domestic policymaking processes?

There is growing interest, among States, NGOs, UN experts and OHCHR, about the evolution of so-called 'national implementation, coordination and reporting structures' (NICRS) - national processes, strategies or mechanisms are established to translate international recommendations into better national laws and practices. OHCHR's Treaty Body Division recently completed a multi-year survey of NICRS around the world, which looks at emerging patterns and good practices. This builds on earlier work done by OHCHR's UPR Branch. Moreover, in September 2015, the Council adopted resolution 30/25 on 'promoting international cooperation to support national human rights follow-up systems and processes,' which both captures and furthers international interest in NICRS.

What are the different 'NICRS' models being put in place by States? What should be the legal basis of such structures? Who should Chair them (e.g. prime ministers, ministers)? Which ministries and State agencies should be involved, and at what level? What is the relationship with national human rights action plans? Considering that the Human Rights Council has recognised that 'important and constructive role played by parliaments, national human rights institutions, civil society and other relevant stakeholders' in the work of the UN human rights mechanisms, and has also 'encourag[ed] their continued and unhindered participation in and contribution to national human rights follow-up systems and processes,' how, practically, should NICRS engage and involve parliamentarians, judges and lawyers, NHRIs and civil society? How can UN Country Teams and development partners best support, and ensure that their own actions are complementary with (e.g. the development and implementation of UN Development Assistance Frameworks), the work of NICRS?

Are we able to identify emerging good practices? How can the international community help build upon and replicate such good practices? While recognising that there is no 'one size fits all' approach

to NICRS, and that each should be developing according to the particular needs and situation of the country concerned, are their certain common criteria or principles that can be identified (based on an analysis of national good practices) and that seem to make for more effective NICRS?

How to strengthen the role of parliaments in implementing UN recommendations?

The legislative branch of government must necessarily play an important role in implementing UN human rights recommendations. Many of these recommendations require new or amended legislation. Indeed, by some estimates, as many as 50% of accepted UPR recommendations require legislative action in order to be implemented. Parliaments can also play an important role in overseeing government implementation and compliance with its international obligations (see below). It is also important to note that the implementation of international human rights recommendations often requires national budget appropriations – again requiring parliamentary engagement.

Recognising this importance, Morocco and Ecuador have twice tabled Council resolutions, the latest one being 26/29, inviting States ‘to promote the involvement of parliaments in all stages’ of the work of UN human rights mechanisms, including the UPR. This includes involving parliaments in the preparation of national reports (e.g. in the context of Treaty Bodies reviews and the UPR), involving parliamentarians in the implementation of UN recommendations, and even including parliamentarians in national delegations to the UPR Working Group.

And yet parliaments are still regularly excluded from decision-making during all stages of State engagement with international human rights instruments and mechanisms, from signature/ratification, to reporting and through to implementation/compliance.

How can the international community promote the systematic and routine involvement of parliaments in domestic efforts to implement UN recommendations? What national good practices can be identified in engaging parliaments in national implementation, coordination and reporting processes? How can such good practices be replicated more widely? How can the Human Rights Council work with other relevant international organisations, including the Inter-Parliamentary Union and the Commonwealth Parliamentary Association, to move towards a new paradigm in which parliaments become full partners in the national implementation of international norms?

How to strengthen the role of parliaments in overseeing implementation?

Parliaments also play an important oversight role in democratic political systems, promoting transparency and holding executives publicly accountable. This oversight role is extremely important in the context of the fulfilment, by executives, of their international legal obligations, and the implementation of UN human rights recommendations. For example, there are important examples from around the world of parliaments requesting information from governments on progress with the implementation of UPR recommendations, of parliaments summoning government ministers to discuss implementation, and of parliaments holding hearings with NHRIs and civil society to discuss the fulfilment, by governments, of their international human rights obligations.

The Human Rights Council has recognised the important role and contribution of parliaments to its work, including the UPR. Notwithstanding, examples of parliamentary participation in national implementation, oversight and reporting remain the exception rather than the rule. This places an important brake on international efforts to strengthen implementation and compliance.

What national good practices can be identified in terms of parliamentary oversight of national implementation? How can parliaments be engaged to strengthen domestic scrutiny of implementation and compliance, including by domestic civil society and NHRIs, and thereby to promote independent

reporting on implementation (including reporting back to the international mechanisms)?

How to mobilise domestic civil society to press for, and independently monitor/report on, implementation?

Long after a Treaty Body has turned its attention to the next reporting State, or a Special Procedures mandate has presented his/her country mission report to the Council, domestic civil society, including national and local human rights NGOs, play a crucial role in encouraging or pressing governments to implement the recommendations generated by those UN mechanisms. Domestic NGOs are also ideally placed, due to their on-the-ground presence and local expertise, to independently monitor and report on implementation (to both domestic partners like parliaments, and to international partners like the UN). The importance of domestic civil society in following up on UN recommendations has been widely recognised by UN experts. For example, a number of Special Procedures mandate-holders have used country missions to create informal groups of supportive NGOs to engage on implementation and to report on progress.

Notwithstanding, URG research suggests that there is considerable room for improvement in terms of civil society follow-up and reporting on implementation. For example, an analysis of second cycle UPR 'other stakeholder' reports shows that relatively few NGOs follow-up on the implementation of previous recommendations, preferring to provide new information on challenges faced by the State. What is more, domestic NGOs often struggle to coordinate their efforts so as to present, for example, a single 'shadow' report on implementation to parliament, or to provide a coherent single report to international mechanisms.

What can be done, at national level, to support and strengthen the role of civil society in following up on UN recommendations? Is there a need for improved guidance and capacity-building assistance? Who should offer such guidance/support: the Council (e.g. UPR guidelines); Special Procedures; NHRIs; UN Country Teams; or civil society themselves?

How can the unique role of NHRIs be leveraged to support, monitor and report on implementation?

The Council has recognised (e.g. in resolution 27/18) the role of NHRIs 'in working together with their Governments to ensure full respect for human rights at the national level, including by contributing to follow-up actions, as appropriate, to the recommendations resulting from international human rights mechanisms.'

But how, precisely, do NHRIs play this role? How do they support the implementation of UN human rights recommendations, how do they monitor and measure implementation, compliance and impact, and what is their role in domestic and international reporting processes – both on their own account and as a facilitator of national civil society reporting?

What are the good practice examples, from around the world, of NHRIs fulfilling this follow-up and coordination role? How can those examples be codified and replicated elsewhere? Can NHRIs play a role in helping coordinate domestic NGOs to speak and report with one voice on implementation? How can NHRIs best support parliamentary oversight of implementation? What role for NHRIs in strengthening independent national civil society reporting to the international human rights mechanisms (e.g. through the 'other stakeholders' UPR reports)? Can and do NHRIs use impact indicators to better measure the implementation of recommendations and the results thereof?