

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

Consolidated report of four policy dialogues organised ahead of Glion III

Introduction

Ahead of the third Glion Human Rights Dialogue (Glion III), organised by Norway and Switzerland, with the support of the Universal Rights Group (URG), during February and April URG co-convened a series of informal policy dialogues (under the Chatham House rule) with a number of supportive State delegations in Geneva. These policy dialogues were designed to allow early consideration and exchange of views on certain key questions related to ‘on-the-ground implementation’ and ‘prevention.’ Key conclusions, ideas and proposals would then be fed into Glion III itself (to be held from 3rd to 4th May).

This year, four policy dialogues were organised. They were:

- How can the international community better support States to strengthen implementation on the ground? Hosted by the Permanent Mission of Thailand, Wednesday 17th February.
- UPR third cycle: strengthening implementation, follow-up, reporting and measurement. Hosted by the Permanent Mission of Turkey, Thursday 25th February.
- Effective prevention by the Human Rights Council: what is it, does the Council possess the tools to do the job, and how to make it work in practice? Hosted by the Permanent Mission of Mexico, Tuesday 12th April.
- The experience of States with implementation: identifying and replicating domestic good practice on implementation, coordination and reporting. Hosted by the Permanent Mission of Morocco, Friday 15th April.

The Universal Rights Group is pleased to present, below, a short summary of the outcomes of each of the four policy dialogues. This is not intended to be an exhaustive report of the meetings, but rather an effort to identify key points, ideas and proposals, so as to provide food for thought for participants at Glion III. It is important to note that where the report relays ideas generated at the dialogues, it does not mean that all participants necessarily agreed with those ideas/proposals.

Policy Dialogue on ‘the experience of States with implementation: identifying and replicating domestic good practice on implementation, coordination and reporting.’

Hosted by the Permanent Mission of Morocco, Friday 15th April

Key questions

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

The international human rights 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 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?

What are standing national implementation, coordination and reporting structures (SNICRS), and how do they work?

There is growing interest, among States, NGOs, UN experts and OHCHR, in the evolution of so-called ‘standing national implementation, coordination and reporting structures’ (NICRS) - national processes, strategies or mechanisms are established to translate international recommendations into better national laws and practices.

What are the different ‘SNICRS’ 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? 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?

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

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?

Parliaments also play an important oversight role in democratic political systems, promoting transparency and holding executives to account. 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. What national good practices can be identified in terms of parliamentary oversight of national implementation? How can parliaments engage with domestic civil society and NHRIs to promote independent reporting on implementation?

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).

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.’

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?

Key conclusions

- While recognising that there is no ‘one size fits all’ approach to SNICRS, and that each will be constructed and developed according to the particular needs and situation of the State concerned, participants nonetheless suggested that certain conditions or standards should be met if SNICRS are to secure the effective implementation of UN human rights recommendations.
- For example, a UN official noted that: “These national mechanisms need to have a stable structure and be able to coordinate and monitor national follow-up and implementation. A national mechanism is often a comprehensive one; it engages on all human rights issues. National implementation structures are now increasingly standing or permanent bodies, and this again enhances their effectiveness.”
- It was also noted that: “There is clearly no ‘one-size-fits-all’...nevertheless we do find certain components that are necessary for their efficiency: 1. A standing / permanent structure; 2. A formal/legal/official mandate; 3. Inclusivity – SNICRS should have the capacity to convene all national stakeholders and either coordinate (e.g. for line ministries, parliaments) or consult (e.g. with external actors like UNDP) with them; and 4. Information management – SNICRS should have the ability to track progress on the implementation of clustered recommendations – e.g. via publicly accessible databases.
- According to one participant, around 47 States have established national structures that might be called ‘SNICRS.’ During the meeting, several good practice examples of States establishing or developing SNICRS were shared.
- One diplomat explained that, following shifts in domestic public opinion, his country recently committed to strengthening its alignment with international human rights law. As part of that, the Government “is in the process of establishing a national mechanism for implementing and reporting on human rights.”
- Another State representative described the experience of Paraguay, which, in cooperation with OHCHR, has developed a database-based SNICRS, which automatically incorporates and clusters all recommendations from UPR, Treaty Bodies and Special Procedures, as well as from

regional mechanisms. “The search engine was the first stage. Once all this information was in place and published, what were we then to do with all this information? We realised we had created a tool that would help us follow-up and implement these recommendations: SIMORE.” “We have now over 50 entities across government involved in keeping it up to date. SIMORE has helped to significantly improve transparency and accountability, both within the country and outside.”

- Several other State representatives expressed their country’s ambition to implement a similar system to SIMORE.
- It was also noted that OHCHR’s human rights indicator system would further strengthen transparency by, potentially, allowing SNICRS to show the actual impact of human rights recommendations.
- Notwithstanding, not all participants agreed that the Council should become too involved with national implementation processes, or that it should play a role in monitoring implementation. One ambassador argued that implementation and monitoring must remain “State-specific,” without any external monitoring. Another said: “States are the only actors responsible for implementation.”
- Another participant raised practical objections to the concept of ‘SNICRS.’ He said that his government had tried to create a SNICRS, but it had required enormous coordination between ministries, and had quickly “become a monster.” He also argued that involving NHRIs would only serve to “extend the bureaucracy even further.”
- Several State representatives offered examples of good practice in involving parliamentarians with implementation, especially in the context of UPR recommendations. One participant underscored the importance of ensuring that parliaments do not legislate “in a vacuum” – cut off from the country’s international human rights obligations and from UN recommendations. “Unfortunately,” he said, “this is too often the case.” One conclusion reached was that it is important, in order to have effective parliamentary engagement with SNICRS, for national parliaments to have dedicated human rights committees. Such committees also then act as a public forum for civil society and NHRIs to come to update parliament on government progress with the implementation of UN human rights recommendations.
- It was noted that parliaments, NHRIs and civil society all share a common goal: “to follow-up on and hold the Executive accountable against the human rights commitments they have made at international level.” It was also pointed out that all three also help to take human rights recommendations “out of the hands of bureaucrats, and into the public domain.”
- One participant noted that the lack of clarity vis-à-vis parliamentary involvement with implementation is one of the most important brakes on progress at local level. The international community should therefore look to define the role of parliaments. Another participant suggested that the IPU should develop guidelines for how parliaments should be engaged in and by SNICRS. It was posited that: “Members of parliament come and go, but structures must remain.”
- Others, however, disagreed: “We do not see a separate role for parliament in implementation or in monitoring of implementation. Each national political system is unique and each country’s implementation system must be tied to that specific national system”
- One diplomat expressed her shock at the lack of space for NHRIs in ‘follow-up’ debates and processes at the Human Rights Council, for example in the UPR. An NHRI representative talked of the opportunity cost of not involving NHRIs more: “they are the natural gateways between governments, civil society and international institutions.”
- Others, however, disagreed. They stressed the need to keep some separation between the work of the Council and the work of NHRIs. It was noted that “all States have different cultures, populations, levels of education and finances, so whether to establish NHRIs, according to the Paris Principles, should be up to individual States.”
- Likewise, the key role of local NGOs in pressing for (or, as one participant explained it:

“catalysing”), following up on, monitoring and reporting on implementation, was recognised by many. This role, includes, *inter alia*: “publicising and popularising human rights standards and UN human rights recommendations;” “encouraging implementation;” monitoring and reporting on domestic implementation; and sometimes contributing directly to human rights implementation through expert guidance.

- One diplomat emphasised the importance of States being more open to local NGO input through international reporting cycles – e.g. in the preparation of national reports, when those reports are presented in Geneva, and when national implementation action plans are produced. Some countries offered interesting good practice case studies of involving NGOs in the preparation of national human rights action plans, and in the preparation of national UPR reports.
- It was noted that OHCHR has published a useful resource: ‘How to follow-up on UN human rights recommendations – a practical guide for civil society.’ The guide described the various ways in which civil society actors can contribute to implementing human rights recommendations. Another useful guide is: ‘Domestic implementation of UN human rights recommendations: a guide for human rights defenders and advocates,’ published by the Australian Human Rights Law Centre and the International Service for Human Rights.
- Although normally an issue for the policy dialogue organised by the Mission of Thailand, a number of diplomats underlined the importance of the Council’s role in capacity-building vis-à-vis national implementation partners (e.g. to support the strengthening of SNICRS, NHRIs, parliamentary human rights committees). One diplomat suggested the creation of a new type of Council capacity building or technical assistance mechanism.
- A number of participants also highlighted the importance of “creating space on the Council’s agenda – either during sessions or inter-sessionally – for sharing good practice on national implementation, involving States, NHRIs, parliamentarians, NGOs etc.”

Ideas/proposals

A number of proposals were made during the meeting. It is important to note that these were individual proposals, and did not necessarily enjoy the support of other participants.

- Create space on the Council’s agenda – either during sessions or inter-sessionally – for States and other stakeholders to exchange good practice (including challenges and how they were overcome) in national implementation, including through the establishment or development of SNICRS.
- All States should consider establishing or developing inclusive SNICRS.
- While recognising that implementation is the primary responsibility of States, and that there is no ‘one size fits all’ approach to implementation, gather and consolidate information on the key conditions or standards that appear to promote the efficiency/effectiveness of implementation mechanisms or SNICRS. Consider ways to clarify and replicate those conditions/good practices.
- OHCHR should continue to respond to requests from States to help establish or strengthen systems like SIMORE, through capacity-building and technical support.
- Ways should be found to strengthen the Council’s work under item 10, so that the international community can more effectively respond to State requests for support in implementing UN human rights recommendations, or in building the capacity of SNICRS. (*Note: this issue was addressed during the policy dialogue hosted by the Thai Mission – see below*).
- The Council *should not* play any significant role in following-up on the implementation of recommendations.
- The IPU should continue its work with parliaments, to identify good practice in parliamentary involvement in the implementation of UN human rights recommendations, engagement with

SNICRS, oversight of progress, and convening NGOs and NHRIs. The IPU should consider developing guiding principles. There should also be more emphasis placed on the Belgrade Principles on cooperation between NHRIs and parliaments.

- The IPU and other relevant organisations, such as the Commonwealth Parliamentary Association, should continue and expand efforts to provide capacity-building and technical support to parliaments to strengthen their engagement with and role in domestic implementation processes.
- Parliamentarians should be included in national UPR delegations.
- There is *no need* for parliaments to be engaged with UN human rights processes and recommendations.
- Create more space at the Council to hear from NHRIs, especially on follow-up to implementation. Efforts should also be made to ensure their voices are heard in New York.
- NHRIs should be more involved in the third cycle of the UPR – as an independent voice on follow-up and implementation.
- Again, consider efforts to codify the role of NHRIs in implementation, follow-up, monitoring and reporting – as a step towards replicating good practice.
- A coalition of interested NGOs might consider preparing universal guidelines on the ways in which civil society actors can contribute to implementing human rights recommendations, and local civil society should receive capacity-building support to empower them to fully play this role. NHRIs and OHCHR should be engaged in that effort.
- The Human Rights Council might consider requesting a report, from OHCHR or the Advisory Committee, on the experience of domestic civil society actors in contributing to implementation.

Policy Dialogue on ‘how can the international community better support States to strengthen implementation on the ground?’

Hosted by the Permanent Mission of Thailand, Wednesday 17th February

Key questions

Is the UN human rights system able to accurately monitor and measure implementation and compliance?

What is the current situation with follow-up on implementation at the Council, and what reforms are needed? How can the Council create more space for discussions on implementation (challenges and achievements) – both inside and outside the formal agenda of its regular sessions? Is there scope to use of item 5 to discuss national experiences with implementation, including challenges identified and success stories? How can the Council better showcase good practice and achievements? How can it draw attention to and address persistent cases of non-compliance and/or non-cooperation?

How to strengthen the Council’s delivery of capacity-building support under item 10?

How can the Council and its mechanisms better deliver effective capacity building and technical support to help States strengthen local implementation? Are existing item 10 interventions delivering effective support to States and generating real impact? Where States require technical and capacity-building support, where and how can they request it? What are the current mechanisms by which the Council, OHCHR and the wider UN family can respond? Are these mechanisms adequate or should new approaches be considered? How to monitor and measure the effectiveness of those interventions? What of the cost implications?

How to strengthen wider international support for implementation?

The UNDG Human Rights Working Group is designed to ensure that human rights (e.g. obligations, recommendations, strategies) are systematically fed into the UN’s wider development work, including the delivery of development assistance frameworks at State level (via UN Country Teams). But is the UNDG Human Rights Working Group (formerly the Mainstreaming Mechanism) delivering on that important mandate? Is this the right approach? What are the challenges and obstacles that need to be overcome to ensure better delivery? Are UN development (e.g. Resident Coordinators) actors putting ‘human rights upfront’ when they engage with States (e.g. by integrating human rights recommendations into UN Development Assistance Frameworks)? What is the current role of OHCHR in mobilising and delivering international support? What are bilateral development partners doing to help developing countries implement UN human rights recommendations, especially those that developing countries have themselves accepted and prioritised?

Key conclusions

- One ambassador noted that, despite many achievements, as the Council reaches its 10th birthday, one area where it has been less effective is in delivering capacity-building support to help States implement (accepted) recommendations.
- Some pointed out that this does not mean there have not been “success stories.” For example, several participants drew attention to the Council’s work with Mali, Guinea and Cote d’Ivoire. It was reported that, partly as a result of the Council’s work, Mali signed up to cooperation with the ICC, and set up a ministry of national reconciliation to support the path to stable peace. Guinea expanded its cooperation with the UN system and set up a special committee to deal with religious violence. Cote d’Ivoire set up a special investigative unit to prosecute those guilty of human rights violations. Several speakers noted the importance of communicating

about these 'success stories' – something the UN often fails to do.

- Overall, however, participants reflected that, when compared with the scale of the challenge, the Council had not done enough to fulfil its capacity-building and technical support mandate. Some called this “a serious failure,” when one considers that “item 10 is considered, by many developing countries, to be the most important agenda item.” Another participant called item 10 “the flagship of the Council – as it emphasises dialogue and cooperation.”
- It was pointed out that the Council’s strategy and work under item 10 should be driven by the needs of the *demandeurs*, namely States requesting support, and by the importance of having an impact on the ground. In terms of the needs of the State, this should be determined and communicated by the State itself: “Whether the shoe fits, only the wearer knows.” The Council should not impose solutions on States. “State ownership” (a cornerstone of item 10 approaches), one diplomat said, “is central for achieving progress and results.”
- While most participants agreed on the importance of delivering effective support to States that have the political will but lack the capacity to implement, many also pointed out that a) many recommendations do not need extensive capacity to be fulfilled, b) many States that lack political will are wrongly covered under item 10 (instead of, for example, item 4), and c) that one should avoid situations whereby ‘lack of capacity’ is used as an excuse for inaction. On the last point, it was emphasised that “the primary responsibility to implement lies with the State not with the international community – the latter is only there to offer support, as appropriate.”
- On the other hand, one diplomat argued that States should avoid the temptation of using item 10 as a “sugar coated bullet” to condemn States. Another diplomat pointed out that the majority of situations dealt with under item 10 are in Africa, and asked why this should be so?
- In terms of the Council’s work to-date under item 10, it was noted that the main mechanisms/processes have been: annual panel debates, trust funds, OHCHR assistance, and Independent Expert (Special Procedures) mandates. Regarding the latter, it was pointed out that one should not expect miracles from item 10 Independent Experts, when considering the juxtaposition of one mandate-holder conducting two short visits per year, as compared to the vast size and complexity of the human rights challenges generally facing the countries concerned.
- Notwithstanding the need to manage expectations vis-à-vis Independent Experts, if the expert is given a strong mandate, he/she can play an important political facilitation and catalytic role, in mapping needs and mobilising wider international support – e.g. UNDP and donors.
- Regarding the mandate, some participants suggested drafting (in the future) more specific mandates, focused on ‘hybrid’ situations – so, for example, judicial reform in country X. Others contended that mandates should be broad – to leave scope to mandate-holders to implement it as they see fit.
- It was also argued, by one diplomat, that the Council’s work under item 10 has tended to focus on technical assistance rather than capacity building: “perhaps this is something to consider for the future.”
- Another major check on progress under item 10, according to many participants, has been the mismatch between requests made to the High Commissioner, and the budgetary allocations received by the Office to undertake these tasks. That is especially the case when one considers that to bring about genuine change and improvement, the international community must remain committed for the medium- to long-term. A one-week mission is not enough. “Successful capacity building interventions must be measured over years, not weeks.”
- Beyond the Council, participants noted that successful efforts to strengthen the enjoyment of human rights by building capacity and by offering technical support, must be ‘owned’ by the whole of the UN – not only by the human rights pillar. This explains the importance of the UNDG Human Rights Working Group. The importance of mainstreaming human rights is especially acute in view of the SDGs. In that regard, a UNDP representative drew attention to

the MAPS (mainstreaming, acceleration, policy support) strategy.

- The important role of OHCHR in delivering technical and capacity-building support was widely recognised. An OHCHR representative explained that, in addition to driving UN-wide responses via the UNDG Working Group, OHCHR also delivers support directly via its 54 field presences (either alone or in cooperation with other parts of the UN).
- It was also noted that bilateral donors must become better at “linking the normative processes of the Council with the process of promoting human rights on the ground.” Unless we can forge such links “the work of the Council will come to be seen as irrelevant.” As part of that effort, donors should adopt a ‘rights-based approach.’ “That does not mean setting conditions. It means understanding the human rights needs of the country concerned (e.g. by looking at accepted UPR recommendations) and tailoring bilateral development support to help the State overcome its most pressing human rights challenges. It also means ensuring that all relevant parts of society, including the weakest and most marginalised, should be involved.”

Ideas/proposals

- Thematic Special Procedures could play more of a proactive role in mobilising international support for the implementation of recommendations, but for that there needs to be more follow-up in the Council. That means both creating space on the Council’s agenda, and encouraging States to ‘report back’ on implementation, challenges encountered and requests for support.
- In terms of ‘creating space,’ a number of participants underlined the importance of better use of then item 5 general debate.
- Others suggested the creation of regular inter-sessional working groups, roundtables or seminars, for States to share information on national situations and capacity-building needs.
- The Council should consider new types of item 10 mechanisms designed to match State needs (as determined by States themselves) with international community expertise. This might, for example, take the form of a ‘special roster of human rights experts.’ States with a specific need could request support through a statement under item 10. One or more experts would then be dispatched for capacity-building/technical support missions of medium duration. One year and two years later, the State would be expected to report back to the Council on progress.
- Another proposal was to establish more specific Independent Expert mandates – for example focused on improving certain thematic situations in given countries.
- Participants suggested that the annual item 10-panel debate could be improved. Perhaps this could be a regular space to invite OHCHR, UNDP, WHO etc. to update the Council on progress with helping States implement UN human rights recommendations (e.g. by integrating UPR recommendations into UNDAFs). It is also important for the Council to receive information on the work of the UNDG Human Rights Working Group.
- There should be some kind of criteria to help establish when a situation warrants ‘migration’ from items 4 to 10, or when it might be discontinued altogether.
- Where there are ‘success stories,’ the human rights pillar should be better at collating and promoting them.
- OHCHR should not be placed in a position, due to lack of resources, whereby it is forced to refuse capacity-building support to a State that requests it.
- State should make more use of UPR as a forum to request and offer technical and capacity-building support.
- Bilateral donors should share information and coordinate efforts on the implementation of a ‘rights-based’ approach to delivering overseas development assistance.

Policy Dialogue on ‘UPR third cycle: strengthening implementation, follow-up, reporting and measurement’

Hosted by the Permanent Mission of Turkey, Thursday 25th February

The second policy dialogue aimed to offer participants a platform to consider and exchange views on the third cycle of the Universal Periodic Review (UPR).

The meeting sought to use the UPR, and reflections on its achievements, shortfalls and challenges looking forward, as a lens through which to consider some of the key themes to be addressed by Glion III: namely, reporting, follow-up, dialogue, recommendation quality and quantity, on-the-ground implementation, capacity-building and technical assistance.

Key questions

UPR third cycle: twist or stick?

The current President of the Human Rights Council has begun a process of consultation to consider possible modifications to the functioning of the UPR ahead of the third cycle (due to begin in Spring 2017). But what should be the scope and focus of improvements/adjustments made ahead of the third cycle?

Inputs into the UPR: are the three UPR reports fulfilling their key role?

The second and subsequent cycles of the UPR are meant to focus, *inter alia*, on the implementation of accepted recommendations from previous cycles. But is this happening in practice? An analysis of UPR reports by URG shows that States have made progress in changing the format of national UPR reports, to focus on progress with implementation. However, ‘other stakeholders’ (e.g. NGOs, NHRIs) reports and ‘UN system’ reports have tended not to. Why is this? Does it matter? What can be done to resolve the issue?

Moreover, there is broad agreement that the quality of the national report is heavily dependent on the quality and inclusiveness of the national consultation process ahead of the UPR. Are national consultations processes meeting necessary standards? What can be done to improve the situation?

Is the peer review in the UPR Working Group interactive? Is it useful?

There is a sense, among some, that the Working Group sessions are becoming increasingly ‘formulaic’ or ‘ritualistic.’ There is little opportunity for meaningful exchange, and the level of participation appears to be increasingly junior. Is this true, and if so is it a cause for concern? Are ‘other stakeholders’ reports and UN system reports given sufficient prominence in the review? Do we only hear ‘one side of the story’? Should ‘advance questions’ be given more prominence? How can consideration of the implementation of earlier recommendations be given greater prominence in the interactive dialogue?

Are there too many recommendations? Are the recommendations useful?

Is there an issue with the quantity and quality of recommendations? The number of recommendations per SUR has increased from 27 during the first session of the UPR Working Group, to 156 at the fourteenth session, and over 200 at the seventeenth. Is this a cause for concern or does the movement

to better 'cluster' recommendations somewhat negate the problem? If so, how can we further improve 'clustering'?

In terms of quality, much has been written about whether recommendations are 'SMART' or not? One might more correctly ask whether recommendations are *useful* for the SUR and *implementable* or not?

Is the current mode of adoption of UPR outcomes an optimal use of the Council's time?

Are the adoptions of UPR outcomes in Council plenary a useful part of the overall process? Are they a sensible use of the Council's limited time? Could the format be changed or adoptions moved outside regular Council sessions?

How can the Council promote and support implementation on the ground?

One positive impact of the UPR is that it has encouraged many States to establish dedicated national implementation, coordination and reporting structures (NICRS). What can the Council do to extend this good practice, and to better support inclusive national structures?

Capacity-building and technical support

Ten years on, how are the UPR Trust Funds operating in practice? Are they effectively supporting States? How might they work more effectively and be better funded?

Key conclusions

- There was wide agreement that the UPR is an important "success story" of the Council's first ten years, and that there should be no major changes to its functioning. One participant suggested that: "we need to preserve what we have, but at the same time make some small adjustments to take us back to the original principles and modalities of the mechanism, as foreseen in the IBP."
- Another participant suggested that: "any changes or tweaks to be made should be focused on strengthening implementation and improving reporting and the measurement of impact."
- While State UPR reports do appear, overall, to have taken heed of the call for second and subsequent cycles to focus on implementation of earlier recommendations, there are doubts as to whether those reports, on their own, provide an accurate (or an overly "rosy") picture of implementation.
- There was a view that domestic civil society and NHRIs (also parliaments) should be more involved in national consultation and implementation processes. There was also a sense that there is a need to build the capacity of, and promote better coordination between, domestic civil society, to ensure that 'other stakeholder' reports will, in future, provide more of an alternative or "shadow" assessment of implementation. It was pointed out that domestic civil society is ideally placed to press for, monitor and measure the impact of, implementation. There was also a sense that NHRI should be centrally involved in this effort.
- Participants differed on the question of whether UPR Working Group meetings were becoming more or less "high-level." However, there was widespread agreement that they are insufficiently interactive. Some called for all reviewing States to follow-up, in a more methodical manner, on their previous recommendations (made to the SUR during earlier cycles). Others thought it crucial to improve the importance/weight of civil society/NHRI involvement (either directly or, for example, by having the 'other stakeholders' and UN system reports presented by the troika) in the UPR Working Group – in order to have a more balanced picture of what is happening in the SUR. Others, however, noted that this would go against the

peer review nature of the UPR.

- There was a general view that the “proliferation of recommendations” is not a huge issue, especially when the increase in number appears to be levelling off, and because of advances in the area of ‘clustering.’ Some underscored the importance, in order to further improve ‘clustering,’ of increasing the amount of available time between the review and the adoption of the outcome by the Working Group.
- There was a general sense that the quality of recommendations should be improved – in order to make the exercise as useful as possible for the SUR. One participant also underscored the importance of better ‘clustering’ to make the review more manageable and useful to the SUR.
- There was little agreement on the question of whether the adoption of UPR outcomes in the plenary is either important for the overall UPR process, or an optimal use of the Council’s time. Some thought these adoptions important (especially for civil society); others countered that civil society are most focused on the Working Group meetings – by the time of adoption in plenary, the outcome is already a “*fait accompli*.”
- There was widespread interest in, and understanding of the importance of, “standing national implementation, coordination and reporting bodies.”
- It was pointed out that more needs to be done to create space, at the Council, for States to share good practice on national implementation and SNICRS.
- It was also pointed out that current protection against reprisals, in the context of civil society participation in the UPR, is insufficient.

Ideas/proposals

- The President of the Council should conduct wide, inclusive and open-ended informal consultations to consider what “small adjustments” or “tweaks” should be made (e.g. through a Council decision) ahead of the third cycle.
- The Council should review its guidelines to States on national consultation processes and on the preparation of national UPR reports. According to some participants, the aim should be to move towards better structured national reports, with headings that bring out more clearly the implementation of supported recommendations and flagging the main obstacles (e.g. capacity constraints) to further implementation. Only then would the report move to provide information on noted recommendations, and on new issues.
- NHRIs, perhaps in cooperation with UNDP, should play a more focused role on strengthening the capacity of local civil society to monitor, measure and report on the implementation of recommendations (and the impact thereof). Perhaps the ICC of NHRIs could produce guidelines?
- It was suggested that a way be found to encourage the more systematic involvement – at all stages of the UPR – of parliaments. Perhaps through the development of a set of principles?
- It was also suggested that UN Resident Coordinators should more systematically integrate accepted UPR recommendations into UNDAFs. Bilateral donors should also integrate accepted recommendations into development partnership agreements.
- Some suggested that OHCHR should include a one-page assessment of implementation at the beginning of UN system reports. It was noted that this eventually was foreseen in the IBP.
- A number of participants highlighted the importance of making UPR Working Group meetings more “interactive,” while maintaining the peer review nature of UPR. One idea was to include a presentation of the second and third UPR reports at the beginning (e.g. by the troika). Beyond that, there were few concrete proposals as to how to change the Working Group from a “series of short monologues to a true and meaningful dialogue.”
- The amount of time between the review and adoption (Working Group) should be increased – to allow for more effective “clustering and recommendation management.”
- Some called for the role of the troika to be expanded. In addition to helping with clustering, the

troika might be called up to present 'other stakeholder' reports to the Working Group, or to prepare and submit a UPR 'list of issues prior to review' to the SUR – to help guide reporting.

- It was proposed that States that go back to the clear terminology on recommendation acceptance (or not) agreed in 2006 - i.e. recommendations can either be 'supported' or 'noted.' According to one participant, "too many variations on these responses have been created leading to difficulty in holding States accountable against the implementation of accepted recommendations."
- On the question of adoption in plenary, three options were suggested: 1. Leave the process as it is; 2. Move adoption to the very end of the substantive work of Council sessions – i.e. just before action on resolutions; 3. Move adoption to specially convened 'plenary sessions' immediately after each UPR Working Group meeting.
- One participant suggested the development of a UPR "reprisal protocol," to strengthen protections for those wishing to engage with the mechanism. Under such a protocol, in addition to the Council President engaging with the alleged victim(s) and the State concerned, legitimate cases would be included in the outcome report. The State would thereafter be expected to report back to the President on the individual case.

Policy Dialogue on 'effective prevention by the Human Rights Council: what is it? Does the Council possess the tools to do the job? How to make it work in practice?'

Hosted by the Permanent Mission of Mexico, Tuesday 12th April

Key questions

What is 'prevention'?

Building on the General Assembly's call, in paragraph 5f of GA resolution 60/251, for the Council to 'contribute, through dialogue and cooperation, towards the prevention of human rights violations and respond promptly to human rights emergencies,' the Council has regularly reaffirmed the importance of 'effective preventative measures' as a key component of efforts to avoid the escalation of situations of violations of human rights.

Notwithstanding, the Council's work on this issue to-date reveals a level of conceptual and practical confusion as to what prevention means and – even more importantly – how the Council should take the concept and turn it into improved policy and practice.

This raises the question: what is prevention? A further important question, from an international policy perspective, is: how is 'prevention' different from the 'responsibility to protect'?

What does prevention mean, in a practical sense, for the Council?

What can the Council usefully do to build national capacity to prevent emerging patterns of human rights violations becoming full-blown crises or emergencies? Is resolution 24/16 right to focus so squarely on the mandate and capacity of NHRIs? And where the State is unable or unwilling to prevent the escalation of violations, when and how should the international community step in and 'contribute, through dialogue and cooperation, to the prevention of violations' and to 'respond promptly to human rights emergencies.'

Is the Human Rights Council the UN's 'prevention Council,' and the Security Council its 'crisis Council'? From a Human Rights Council policy perspective, what are the different stages of prevention? Is it purely 'early warning,' or is it also 'early consideration,' and 'early response'?

What is the role of national-level actors, especially NHRIs, in preventing gross and systematic human rights violations? How can the international community support them in this work?

The Council has recognised the vital 'on-the-ground' role of NHRIs in preventing human rights violations, and has called on States to strengthen the mandate and capacity of NHRIs to allow them to play this role more effectively.

But what precisely is that role? Is it limited to raising the alarm about emerging patterns of violations, or should NHRIs undertake a wider range of prevention actions? And what role for NHRIs in building the capacity of domestic NGOs to contribute to prevention?

Early warning

Has the UN system effectively learnt its lessons from past failures in places like Rwanda and Sri Lanka? With the Secretary-General's Human Rights Up Front (HRUF) action plan now in place, is the UN able to effectively monitor for, identify and draw attention to emerging patterns of human rights violations via its permanent presences on the ground (i.e. UN Resident Coordinators and Country Teams)? Do UN

Resident Coordinators have the mandate, the political backing and the political will to monitor emerging patterns of human rights violations and to pass the information on? Should Resident Coordinators also make public comment on situations of emerging concern? Where does information from UN Resident Coordinators go? Are OHCHR and the Human Rights Council 'in the loop'?

What is the actual and potential early warning role of OHCHR field presences, and of the High Commissioner himself? What is the actual and potential role of the international human rights mechanisms in early warning? Special Procedures? The UN human rights communications procedures?

Early consideration

Through what means or channels does the Council receive information on emerging patterns of violations?

The Council has convened 22 country-specific Special Sessions. But have those Sessions been effective in a preventative sense? Are there good practice examples? Or have the Special Sessions mainly generated Geneva-level debate and established (reactive) monitoring/reporting mechanisms?

What are the obstacles that might prevent the Council from receiving early warning information, and how can those obstacles be overcome? Are the new informal Council briefings by the High Commissioner providing a useful platform for OHCHR to provide early information on situations of concern? Are they enough?

Early response

Some commentators believe that following UN reforms, the emergence of new information technology, and global trends towards 24 hour news coverage, the main issue is no longer the availability of 'early warning' information but rather the willingness of States to act upon that information. That is despite the fact that the GA (resolution 60/251) called on the Council to '*respond promptly to human rights emergencies.*'

The main obstacle to early action by the Council is the perception, among many developing countries, of selectivity and politicisation: the idea that country-specific action by the Council is a tool used to 'name and shame' certain States (chosen arbitrarily based on geopolitical considerations) rather than to help.

If progress is to be made with prevention it will be necessary to allay such concerns and to build a response framework driven by independent and objective analyses of human rights situations. But who or what should make such an objective and impartial assessment/determination, and what should be the criteria that would determine whether the Council should act or not?

Relevant/tailored response

A major cause of division in the Council over questions of 'selectivity,' 'naming and shaming' and 'condemnatory approaches,' is that all of the Council's country-specific tools and mechanisms (e.g. COIs, fact-finding missions, OHCHR investigations, country-specific Special Procedures, Independent Experts) are premised on *reacting* to violations – either by monitoring and reporting on violations, or by building capacity in post-crisis situations. There appear to be no Council mechanisms designed and mandated to engage with States in a constructive, diplomatic and cooperative manner in order to *prevent* violations (or further violations).

Is there agreement that the Council is not possessed of the tools/mechanisms to realise its 'prevention' ambitions? If yes, what kinds of tools/mechanisms does the Council need? Country cooperation missions by the Council President/Bureau? Joint cooperation missions by the President and the High Commissioner? Council cooperation missions by cross-regional members of the Council?

Key conclusions

- According to some participants, "recent developments have again shown the limitations of the Council in fulfilling its role and ambitions in the field of prevention." One participant noted that the Council's response to all recent crises has been reactive: "to establish country-specific monitoring or accountability mechanisms, or to hold Special Sessions. But have these actions actually prevented anything?" Another agreed: "Most of the time, the Council has deployed condemnatory approaches and responses in the aftermath of gross violations."
- It was noted that existing mechanisms or forums, such as Special Sessions, are "seen as punitive procedures, rather than tools of 'cooperation and dialogue' designed to flag and address early warning signs of potential crises or worrying human rights trends."
- Most participants agreed on the need for the Council to improve conceptual clarity around prevention, and what it means for the Council.
- One speaker offered a possible framework for prevention: 1. The provision of basic conditions for full realisation of human rights for everyone; 2. The creation of an environment or mechanisms that discourage violations and abuses; 3. Adequate response, by the international community, to emerging patterns of violations or abuses to discourage them from happening in the future. (It was suggested that the three points should be prioritised in that order, with points 1 and 2 representing 'root causes' and point 3 focused on the role of the international community).
- One participant argued "the mechanisms we need for prevention are already there, we just need to be smarter in how we use them." One example given was the UPR, "which can play an effective prevention role." However, most others disagreed, and stressed the need "to add new tools or procedures to the Council's toolbox," that will allow the body to "do the job."
- There was also a clear view that one of the main obstacles to effective prevention, by the Council, is the "continued perception, among many developing countries, of politicisation and selectivity in addressing country situations." Some underscored the vital importance of dealing with this perception, if the Council is to identify a consensus-based and effective approach to prevention.
- Other diplomats agreed that politicisation is an issue at the Council, but said that must never stop the Council taking action to address serious human rights violations. "The real question," it was suggested, "is how the Council can and should act when circumstances are deteriorating and where actions need to be taken to prevent escalation."
- One participant argued that: "Years ago, the big question was whether the UN had a mandate to only promote human rights, or also to protect them. Divisions over that question remain with us today. Prevention should, perhaps, be seen as a 'middle way.' The same participant noted that, for the past 10 years, the Council has largely neglected its mandate on prevention. "The lack of an agenda item on prevention speaks volumes," he said.
- Many also underscored the importance of building domestic capacity and creating a national enabling environment for prevention – e.g. by strengthening the roles of NGOs and NHRIs in flagging emerging crises. One ambassador argued: "The foundation of prevention is a national architecture for human rights. Putting in place national institutions, in line with the Paris Principles, maintaining a vibrant parliament and civil society – these are the basics of prevention." Another person called them "on the ground early warners" and "the first line of detection of emerging patterns of violations."

- On the issue of early warning, one participant underscored the importance of the Special Procedures mechanism, which remains the Council's "eyes and ears" beyond the walls of Room XX. Another, while acknowledging the importance of the regular formal dialogue with the High Commissioner during Council plenary, questioned whether this plays a true 'early warning' role – because there is no scope of real dialogue with Council members. The new informal Council briefings (or 'conversations') by the High Commissioner are an important new innovation in that regard – but are they enough?
- On the issue of early action, there was a view, by some, that the current approach is open to politicisation and selectivity. Others agreed and said the Council should develop a set of objective "early warning criteria" that would trigger some kind of Council prevention response. One diplomat noted: "any action must be based on objective criteria, rather than on political objectives." Another emphasised the Council's lack of resources, and suggested that objective criteria would also help the Council prioritise situations.
- One diplomat focused on the central importance of "objective information." "An objective approach is an approach based on verifiable facts or evidence instead of a certain attitude, belief, or opinion...We need to set our priorities upon the ground of objective reality, not upon political aspirations, considerations of convenience, ideology or even grass-roots sentiments."
- Continuing on the issue of 'early prevention action,' one ambassador noted: "the elephant in the room is the responsibility to protect (R2P). Both R2P and the Secretary-General's Human Rights Up Front (HRUF) action plan are not simply about early warning, they are also about early response and tailored (prevention) action."
- On the question of 'tailored' actions or responses, there was a widely held view that the Council's current country-specific tool kit is focused almost entirely on reaction, protection, condemnation, monitoring and securing accountability for violations. There is almost nothing in the toolbox to prevent the escalation of violations through 'dialogue and cooperation' with the concerned States (as called for in GA resolution 60/251). The Council should therefore think of new tools to fulfil this GA mandate, tools that work through intergovernmental political/diplomatic engagement with the concerned State, and that work through 'dialogue and cooperation' rather than condemnation or monitoring.
- One diplomat focused on the importance of any prevention action being of a cooperative nature (as per GA resolution 60/251). According to the speaker, cooperation means recognising the roles and responsibilities of the State (e.g. revise laws, build national institutions, protect rights, respond to violations), the international community (provide assistance, share good practice), and domestic civil society, NHRIs and the media (e.g. bring attention to violations, promote a human rights culture and education); and then ensuring interaction between the three, interaction based on shared objectives, dialogue, trust and a value-based approach.

Ideas/proposals

- Prevention 'through dialogue and cooperation' should be designated its own agenda item at the Council (though this would not be easy). Perhaps agenda item 2 is already being shaped into a prevention agenda item?
- Participants emphasised the importance of making better use of potential 'early warning' information that already exists, e.g. information from Special Procedures, Treaty Bodies, OHCHR. "The issue is not one of availability, it is one of connectivity." Another participant recalled that the Council's confidential complaints procedure is supposed to bring in information from other mechanisms, as well as from victims directly, and to identify situations of emerging concern. Unfortunately it is not fulfilling this role.
- Most, though not all, participants noted the need to develop a set of objective criteria that would enable early warning information to trigger early prevention action/response.

- One idea would be to draft a pledge to be signed by States, building on the June/July 2012 cross-regional statement on behalf of 18 States, that would commit signatories to be guided by a set of independent and objective criteria in determining when a situation meets a threshold and thus requires prevention action. “Such triggers might include expressions of concern by: the High Commissioner; by a group of four or more Special Procedures; by relevant regional organisations; by the General Assembly or Security Council; or by a group consisting of the concerned State’s NHRI together with three or more ECOSOC accredited national NGOs.”
- Several speakers stated the need for deeper cooperation, synergy and interaction with New York, particularly in the context of R2P and HRUF.
- It was suggested that the Council make better use of its Special Sessions – as a forum for prevention, not only for reaction/condemnation/accountability. Others though asked whether Special Sessions are not already viewed as “punitive sessions.”
- In terms of ‘tailored action’ on prevention, in fulfilment of GA resolution 60/251, it was proposed that an enhanced role could be considered for the Bureau, to undertake missions to countries facing challenges, and to work through dialogue and cooperation to help the State concerned overcome those challenges. It was noted that this kind of role for the Council Bureau has, in the past, been discussed in New York, but has never been discussed in Geneva.
- Another suggestion was that the Council should organise ‘Prevention’ Special Sessions, focused on ‘hybrid situations’ – e.g. the rights of religious minorities in country X – that would show the Council is seized of the matter without moving toward condemnation or stigmatisation. The Special Session could end by dispatching the High Commissioner and/or Council President to the country concerned, to present the face of the international human rights community, and to engage with national and local leaders, through dialogue and cooperation, to help them overcome challenges and prevent further violations.
- Considering the vital role of NGOs and NHRIs as on the ground “early warners,” it was suggested that the Council should improve access for civil society, and take into account NGO reports. It was also argued that the Council must take stronger action against reprisals.