



Permanent Mission of Thailand

Glion Human Rights Dialogue 2017 (Glion IV)

**How to operationalize the Council's 'prevention' mandate:
the effective implementation of paragraph 5f of GA res. 60/251**

Policy Dialogue on 'What does the prevention mandate of the Human Rights Council, as set down in paragraph 5f, mean in practice? What does it mean from the perspective of people on the ground (e.g. building the capacity of domestic 'early warners') and what does it mean for the member and observer States of the Human Rights Council?'

Concept note

The Human Rights Council's mandate to respond to human rights violations, including gross and systematic violations - as set down in operative paragraph 3 of GA resolution 60/251 - is well known. Less well known, but equally important, is the Council's mandate to work to *prevent* such violations from happening in the first place. According to (the often forgotten) paragraph 5f of GA resolution 60/251, the Council shall 'contribute, through dialogue and cooperation, towards the prevention of human rights violations and respond promptly to human rights emergencies.'

However, despite this clear and explicit mandate and eleven years after the Council's establishment, member States are yet to put in place an explicit and coherent policy framework (e.g. a strategy, relevant processes, tailored mechanisms) to fulfil this prevention mandate. Indeed, a review of the Council's responses to situations brought to its attention since 2006, shows that the body's approach has nearly always been premised on reacting to, monitoring and reporting on violations or, in some cases, offering capacity-building support to the State concerned, rather than seeking to *prevent* the escalation of emerging human rights crises.

Building on some initial discussions during the third Glion Human Rights Dialogue (Glion III), the fourth Glion Dialogue (Glion IV) will aim to begin a concerted and inclusive effort to address this important element of the Council's mandate and contribute to an improvement on its delivery. In particular, Glion IV will seek to move the international community towards a common understanding of the concept and parameters of 'prevention,' and a common vision as to how the Council, in coordination with other relevant parts of the UN system, might turn that concept into a workable, practical policy framework.

The prevention of violations

Responding to the mandate set down in paragraph 5f of GA resolution 60/251, the Human Rights Council has regularly reaffirmed, through relevant resolutions on 'the role of prevention in the promotion and protection of human rights,' the importance of 'effective preventative measures' as a key component of efforts to avoid the escalation of situations of violations of human rights. The Council has noted that such 'effective preventative measures' include actions on the part of all branches of the State (the State having the primary responsibility to protect against human rights violations), actions by NHRIs, and actions by the international community, including the Human Rights Council.

Yet beyond regular assertions of the importance of prevention, the Council's practical track record, in terms of turning principle into practice, has been disappointing. It is true that individual States, NGOs and OHCHR officials have taken some steps to build a strengthened prevention capacity at the Council. For example, taking forward an idea developed at Glion II, in 2015 the President of the Council convened the first informal 'conversation' at the Council during which the High Commissioner could brief member States on emerging issues and situations of concern (as of today, three such informal briefings have been held).

However, each of these developments, important as they are, has happened in isolation. Until today (start of 2017), there had been no comprehensive reflection, at the Council or across the wider UN, about what the implementation of paragraph 5f means in practice, whether the Council possesses the necessary tools to prevent serious violations and/or crises, or how to construct a more systematic and coherent operational approach to prevention, moving the concept from aspiration to reality.

Key challenges

Regarding the conceptual or definitional framework for 'prevention,' it is apparent (e.g. from Council debates and from discussions at Glion III) that there is a lack of clarity around what prevention is and what it means, in practical terms, for the UN human rights system. 'Prevention' appears to mean different things to different stakeholders, from prevention of violations of individual rights to the building of resilience within societies to prevent, for example, genocide or to the proactive prevention of a certain result or outcome (e.g. taking action to stop war crimes)

Linked with this conceptual confusion is the vital question of what it is that the Human Rights Council is actually expected (and mandated) to prevent? Is it all human rights violations, emerging patterns of violations, or gross and systematic violations? Or perhaps it is expected to prevent the further escalation of serious violations, or to prevent a 'tipping point' being reached wherein emerging patterns of violations evolve into a political crisis or armed conflict?

Implementation of paragraph 5f is also held back by on-going political divisions at the Council about whether and how the UN should address situations of human rights violations. Those divisions, which usually play out through debates about 'item 4 approaches,' 'naming and shaming,' 'selectivity,' etc., present an important obstacle to the development of consensus-based definition, approach or framework on prevention. One consequence of this polarisation is that the Council's response to emerging issues of concern has tended to veer between either doing nothing except 'wait and see,' or, when the situation is sufficiently dire, to passing reactive, often condemnatory resolutions and setting up monitoring and/or accountability mechanisms.

Glion III also showed, however, that the interlinked challenges of developing conceptual clarity around prevention, and developing Council responses premised on early preventative action, are not insurmountable. The key to overcoming those challenges is suggested by the wording of paragraph 5f, which makes clear that Council action to prevent serious violations and crises should work 'through *dialogue and cooperation*' with the concerned State. The inclusion of these words is extremely important, as it is suggestive of an approach to prevention that would avoid (at least in the first instance) public criticism and/or condemnation of the country concerned, and instead emphasise objective analysis, early engagement, and a 'Good Offices' approach that emphasises national-level dialogue with domestic stakeholders.

Glion IV and policy dialogues

Driving further progress on these interlinked challenges, each of them central to the UN's ability and capacity to prevent human rights violations and crises; and considering the different 'building blocks' of prevention, developed at Glion III (i.e. early warning, early consideration, early action, tailored action, and coordination with the wider UN) both in their own right and as part of a coherent overall approach, will be key objectives of Glion IV.

To inform this overall effort, Glion IV and its preparatory policy dialogues will adopt a 'bottom up' approach (as did previous editions of Glion). This will seek to place particular emphasis on the experiences, needs and access (to the UN human rights protection system) of domestic-level stakeholders, including NHRIs, human rights defenders, NGOs, lawyers, media personnel, etc.

The current policy dialogue is the first of three to be held in April.

This policy dialogue is designed to provide an informal space, under the Chatham House rule, to address the following broad question:

What does the prevention mandate of the Human Rights Council, as set down in

paragraph 5f, actually mean in practice?

Key questions to be considered during the policy dialogue include, *inter alia*:

1. In one of the new UN Secretary-General's first public statements, he spoke of the vital importance of prevention. In his speech to the Human Rights Council's 34th session, the High Commissioner for Human Rights said prevention "is not a priority, it is *the* priority." Finally, according to URG's analysis of the content of speeches delivered during the Council's High-level segment, prevention was one of the most frequently raised human rights concerns. So why is prevention re-emerging as a global human rights priority?
2. What is prevention? What is the Council expected to prevent? All violations, the escalation of violations, the emergence of crises? Has the Council's work to-date on prevention helped bring conceptual clarity?
3. Why did the General Assembly emphasise that Council prevention action should be undertaken 'through cooperation and dialogue' with the concerned State and with other relevant actors.
4. Why is prevention, potentially so important, for the effective implementation of the Council's human rights mandate, for the body's credibility, for the standing of the human rights pillar as part of the wider UN architecture, and the UN's wider role to promote sustainable peace and security?
5. What are the potential benefits of an effective prevention approach or strategy at the Human Rights Council, especially for individual rights-holders in vulnerable situations?
6. Some people have called prevention the Council's "shy mandate" as it is difficult to mobilise support to take action to prevent something that has not yet happened, and, moreover, once violations/crises have been prevented, it is difficult to measure success and show impact. How can the international community better 'make the case' for prevention?
7. How to empower domestic civil society and NHRIs to play a full and effective role as 'early warners' for prevention, and as key domestic interlocutors to prevent further violations and crises through 'cooperation and dialogue'?
8. Has 'Human Rights Up Front' strengthened the UN's prevention capacity – both in terms of improving information flows about emerging patterns of human rights violations in given States, and in terms of promoting early UN engagement to prevent emerging and worrying patterns of violations? Has the UN learnt from past mistakes?