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THE PLACE OF HUMAN RIGHTS
IN A REFORMED UNITED NATIONS

UNIVERSAL RIGHTS GROUP

Glion V

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THE PLACE OF HUMAN RIGHTS IN A REFORMED UNITED NATIONS

The fifth Glion Human Rights Dialogue (Glion V), held in Chardonne, Switzerland, from 30-31 May 2018, considered the place of human rights in a modern, reformed United Nations. In particular, the Glion V retreat and its preparatory policy dialogues, looked at the human rights implications, of the on-going UN reform process, launched in 2017 by the Secretary-General, António Guterres; and the parallel efforts of the Human Rights Council to strengthen its efficiency and effectiveness.

The Secretary-General's reforms focus on three key areas: management (secretariat), the development system, and the peace and security architecture. Through these reforms, the Secretary-General aims to create a '21st century UN' that is better equipped to address the complex contemporary challenges facing humankind.[1] This means, in particular, reducing and eventually eliminating fragmentation between the UN's three pillars (i.e. development, peace and security, and human rights), and striving for a more flexible and efficient Organisation.

Notwithstanding the goal of reducing fragmentation between the three pillars, the current process of UN reform appears to primarily focus on just two of those pillars. This has led to a debate over whether human rights have been side-lined in the reform process, or 'mainstreamed' across the three reform streams.

By seeking to understand where and how the human rights pillar fits within the Secretary-General's proposed reforms, and also the implications of those reforms for the promotion and protection of human rights around the world, Glion V sought to support the Secretary-General's efforts, and to contribute to the realisation of key objectives, including, *inter alia:* securing greater UN system-wide coherence, a heightened focus on prevention, and coherent support for the implementation of the 2030 Agenda for Sustainable Development.

The meeting was premised on a conviction that each of the three pillars of the UN is of equal importance, and that all three pillars are inter-linked and mutually reinforcing. In the field of prevention, for example, which is seen as a key focus of the proposed reforms, H.E. Mr Zeid Ra'ad al Hussein, the High Commissioner for Human Rights, argued during the opening session of Glion V that 'prevention, like sustaining peace, is a human rights agenda.' Consequently, the Secretary-General's objectives can only be fully realised if the human rights pillar works hand-in-hand with the development pillar

to build national human rights resilience; and with the peace and security pillar to ensure that emerging crises are identified and addressed at an early stage, and thus do not evolve into more serious conflicts. Similarly, by strengthening the UN's human rights architecture, and promoting the implementation of States' human rights obligations and commitments, the international community can make a major contribution to the realisation of the 2030 Agenda for Sustainable Development. Indeed, a recent study by the Danish Institute for Human Rights demonstrated that over 90% of the Sustainable Development Goals (SDG) targets are directly anchored in international human rights instruments.[2]

In parallel to the Secretary-General's broad reform plans, member and observer States at the Human Rights Council (Council) have been engaged in discussions on strengthening the body's efficiency, effectiveness and impact. These reflections, in particular those driven by Dutch-led discussions and Bureau-led consultations, include proposed actions in the short, medium and long-term to improve the work, efficiency and delivery of the human rights pillar, particularly the Council. Moreover, the next intergovernmental review of the Council's status, which will decide whether it should become a main body, or remain a subsidiary body, of the UN, is due to take place between 2021 and 2026.

Glion V provided a platform for UN member States, the President of the Human Rights Council, senior UN officials (including the High Commissioner for Human Rights and the Assistant Secretary-General for Strategic Coordination), Special Procedures mandate-holders, NGOs, human rights defenders, academics and others, to consider these questions and issues. The retreat adopted a bottom-up approach, focused on identifying ways to strengthen the on-the-ground delivery and impact of the international human rights system, both in its own right and as a key pillar of a reformed UN. As with all Glion Human Rights Dialogues, the informal and inclusive discussions at Glion V, held under the **Chatham House rule,** aimed to generate new thinking and new ideas, to boost mutual understanding and bridge differences. Finally, Glion V sought to complement and contribute to existing processes, including those focused on Council strengthening and efficiency, as well as to provide useful analysis and ideas for the incoming High Commissioner for Human Rights.

POLICY DIALOGUES AHEAD OF GLION V

Ahead of the Glion V, during April and May, three informal policy dialogues were convened by supportive delegations, in cooperation with the Universal Rights Group (URG). These allowed for an early consideration and exchange of views on certain key questions related to 'the place of human rights in a reformed UN.' Key conclusions, ideas and proposals were fed into the discussions at Glion V itself.

The three policy dialogues addressed the following issues:

• Reform of the UN human rights architecture. *Hosted by the Permanent Mission of Mexico, 24 April.*

• Delivering on-the-ground impact, and communicating success and relevance. *Hosted by the Permanent Mission of Thailand, 1 May.*

• Human rights in the Secretary-General's reform agenda. *Hosted by the Permanent Mission of Senegal, 15 May.*

REPORT OF THE FIFTH GLION HUMAN RIGHTS DIALOGUE

This report on Glion V is divided into three parts.

Part one looks at **the place of human rights in the current process of UN reforms and the possible implications of those reforms for the human rights system.**

Part two discusses **reform of the UN's human rights architecture, including preparations for the 2021-2026 review, and the on-going Council strengthening/efficiency process.**

Finally, part three focuses on **the delivering on-the-ground impact, and communicating success and relevance.**

Each part of the report includes a brief situation analysis, followed by a summary of the main issues discussed and ideas put forward during Glion V.

The report is an informal document summarising (in a non-attributable manner [3]) some of the key ideas developed during the Glion retreat and based on the three preparatory policy dialogues. The document does not represent the position of Switzerland, nor of any of the participants, but is rather a non-exhaustive collection of ideas generated during those meetings.

HUMAN RIGHTS IN THE SECRETARY-GENERAL'S REFORM AGENDA

WHERE ARE WE TODAY?

The Secretary-General's wide-ranging reform proposals are premised, first and foremost, on reducing and eventually eliminating 'horizontal and vertical fragmentation between the three pillars of the UN's work' (i.e. development, peace and security, and human rights).[4] Instead of operating in silos, the UN's work in these three areas must be joined up – especially at the point of delivery (i.e. at country level). On this last point, the Secretary-General has been clear that a reformed UN should be more focused on delivering a 'country-orientated service,' a service that recognises and leverages the interlinked and mutually reinforcing nature of development, security and human rights.[5]

The Secretary-General has made reform proposals across three areas: UN management (i.e. the secretariat); the development system; and the peace and security architecture.

The proposed **management reforms** are based on the premise that the current highly centralised management system must be changed to better reflect the modern reality of the field-based UN. The reforms aim to promote decentralisation, provide greater management flexibility for the Secretary-General, and create a secretariat that is 'nimble and effective' and that works with high levels of 'transparency and accountability.'[6]

Turning to the reform of the UN's **development system,** Mr Guterres has called for 'bold changes' in order to support the realisation of the SDGs by 2030.[7] His proposals, which have the overall aim of improving the efficiency and impact of UN operations at country-level, include reorganising UN Country Teams (UNCT) to be more responsive and better able to deliver an integrated and impact-focused service; empowering and re-positioning UN Resident Coordinators as representatives of all three pillars of the UN; and establishing a compact to increase the level, quality and predictability of funding by member States, in return for increased transparency of expenditure and accountability for results.

In February 2018, the Permanent Representatives of Algeria and Denmark were appointed to lead intergovernmental consultations to take forward these and other proposals. In April, they presented a draft resolution on 'The Repositioning of the UN development system.' Resolution 72/279[8] was subsequently adopted on 31 May.

Thirdly, the Secretary-General's proposals for the **'Restructuring of the UN peace and security pillar,'** as initially presented in an October 2017 report to the GA,[9] set out his wish to prioritise prevention and sustaining peace; enhance the effectiveness and coherence of peacekeeping operations and special political missions; make the peace and security pillar more coherent, nimble and effective through a 'whole-of-pillar' approach; and align the peace and security pillar more closely with the development and human rights pillars.

In January 2018, the Secretary-General published a report on 'Peacebuilding and sustaining peace,'[10] building on GA resolution 70/262[11] and Security Council resolution 2282 (2016).[12] According to the report: 'an important breakthrough in the twin resolutions was the recognition that efforts to sustain peace were necessary not only once conflict had broken out but also long beforehand, through the prevention of conflict and addressing its root causes.' On the basis of the report, on 24-25 April the President of the GA convened a high-level meeting on sustaining peace. It concluded with the adoption of a resolution on 'Follow-up on the Secretary General's Report on Peace-building and Sustaining Peace.'[13]

What about human rights?

Despite wide acknowledgment that 'development, peace and security, and human rights are interlinked and mutually reinforcing,'[14] and that 'the promotion and protection of all human rights and fundamental freedoms must be considered as a priority objective of the UN in accordance with its purposes and principles,'[15] the human rights pillar is, at first glance, not explicitly included in the Secretary-General's proposals. This raises the question of whether human rights are implicitly covered by each of the three reform streams (i.e. they have been mainstreamed), or whether they have been overlooked. This debate, together with the related question of the implications of the proposed reforms for the international human rights system, were a key feature of discussions at Glion V.

KEY QUESTIONS

Participants at Glion V were encouraged to consider, *inter alia*, the following key questions:

1. What is the place of human rights in the Secretary-General's reform proposals?

2. What are the implications for human rights of these reforms?

3. How can a stronger focus on human rights contribute to supporting the achievement of the Secretary-General's reform objectives?

ISSUES FOR REFLECTION AND OPPORTUNITIES FOR CHANGE

The place of human rights in the Secretary-General's reforms

• Several participants lamented the **absence of a human rights 'stream'** in the Secretary-General's reform agenda, as well as the paucity of explicit references to human rights in his proposals and in related UN reports and resolutions (e.g. GA resolution 70/262 on 'Repositioning the UN development system'[16]).

• Others agreed, arguing that 'while counting the number of explicit references to the words 'human rights' in UN reform documents is neither necessary nor useful, developments to-date do suggest that the human rights pillar is being deliberately side-lined.' There was a clear sense that this carries important risks for the promotion and protection of human rights, but also for the ultimate success of the Secretary-General's overall reforms.

• There was, however, some opposition to this view. It was noted that key pillars of the Secretary-General's reforms would have **positive implications for the human rights pillar,** and for the on-the-ground enjoyment of human rights.

• For example, as recognised by the High Commissioner for Human Rights at the opening of Glion V: 'many aspects of the Secretary-General's management reforms are extremely positive [for human rights]; they open the path to a simpler, more rapidly operational system, with considerable delegation to heads of entities across the secretariat.'

• Likewise, according to the High Commissioner, proposed 'changes to the development system [serve to] open new spaces for human rights to be more powerfully mainstreamed' into the UN development system, as it seeks to support the realisation of the 2030 Agenda – which he called 'a manifesto for human rights.' He argued that these changes provide an important opportunity to push for the **full integration of 'human rights mechanism recommendations into country-team analysis, planning and advocacy,'** including via a more systematic deployment of **Human Rights Advisors into UNCTs.**

• Regarding the security pillar reforms, the High Commissioner was more circumspect. He noted that the reforms, especially their focus on prevention and sustaining peace, represent, in principle, 'a real opportunity' for the human rights pillar 'to become more central to the work of the UN' – prevention, after all, 'is the essence of what we do.' However, in practice, he suggested there is a risk that human rights will not be accorded a key role in the changes expected to take place.

• Many participants agreed with the High Commissioner's reading, noting that 'while it is disappointing that the human rights pillar is not explicitly covered by the Secretary-General's reforms, those reforms nonetheless have important, and potentially positive, implications for human rights.' For example, it was pointed out that 'all three parts of the Secretary-General's reform agenda clearly reflect the spirit and objectives of the **Human Rights Upfront action plan,** but this fact is often missed by critics.'

• It was also remarked that 'irrespective of the number of explicit references to human rights in relevant reform documents, behind the scenes the UN secretariat is now systematically integrating human rights into its policies and procedures. A concrete example mentioned was 'its senior-level procedure to scan for and rapidly analyse situations of emerging concern.'

• Notwithstanding this debate over the prominence of human rights in the Secretary-General's reform agenda, there was wide agreement that many States, especially developing countries, are **reluctant to clearly and explicitly include human rights** in efforts to construct a stronger and more effective UN.

• According to a number of participants, this is because the concept of human rights has become politically sensitive, especially for developing countries, in New York. 'A **negative narrative has been allowed to take root** among many

developing States, especially from Africa and Asia, whereby the UN human rights system is seen as a political agenda, full of double standards,' or 'as a stick used to attack smaller, weaker countries.'

• Another speaker agreed with this, and argued that the international human rights community 'only has itself to blame.' 'The UN's human rights machinery has come to be perceived as something set up to remind States of their obligations and reprimand them for making insufficient progress – rather than as a system that can also help States by offering solutions to human rights challenges.' Another said: 'Human rights are seen, especially in New York and in many developing country capitals, as a **trouble causer rather than a trouble shooter.'**

• While acknowledging this problem, a number of participants warned against any effort to 'sanitise' the universal human rights system by calling into question the **UN's protection mandate.** 'Where there are violations, the UN must speak out. If the UN does not, who will?' said one. Another added: 'Perhaps the High Commissioner and his Office do have a strong focus on accountability for violations, but that is also because States too-often fail to live up to their own responsibilities in that regard.'

• It was pointed out that the aforementioned **'image problem'** and the apparent 'side-lining' of human rights in the UN reform process, is a concern for the human rights pillar, but also represents an important **obstacle to the success of the overall reforms.** One speaker argued that: 'if a key goal of the reforms is to reduce fragmentation between the three-pillars and to move towards a 'One UN' approach to the on-the-ground delivery of services, then the apparent side-lining of one of those pillars is clearly self-defeating.' Another agreed, noting that over 90% of the SDG targets are grounded in international human rights law, meaning strong progress with the realisation of the SDGs will be difficult in the absence of progress with the implementation of States' human rights obligations and commitments.

• With respect to the development system reforms, one speaker pointed out that by not including the promotion and protection of human rights among the core responsibilities (mandates) of Resident Coordinators, and by making clear that 'the Resident Coordinator system should remain sustainable development-focused,' GA resolution 70/262 on 'Repositioning the UN development system' may send a signal to Resident Coordinators that they **do not need to put 'human rights up front'** in their dealings with host countries, or that the UN may not back them up if they do so and incur the displeasure of governments.

• While not disagreeing with this point, another participant again drew attention to the primary responsibility of States in the field of human rights: 'Irrespective of what is in a GA resolution, if a State refuses to include UN human rights recommendations in its UN Development Assistance Framework (UNDAF), there is very little a Resident Coordinator – or the Secretary-General for that matter – can do about it.'

Shifting narratives about 'human rights'

• A number of ideas were put forward to help **shift perceptions** about the UN human rights system, its work, utility and importance.

• Some speakers underscored the importance of **building a more nuanced and accurate understanding** about what the UN human rights system is, and the range of activities it undertakes. For example, it was suggested that 'we should pay more attention to constructing positive narratives about how the UN has helped States secure domestic change and progress, rather than focusing all the time on negatives, like situations of serious human rights violations and crises.'

• Another person added: 'It is also about **confronting misconceptions** about human rights, which are too often perceived as burdensome obligations, that serve to hold us back, that arrest or slow down socio-economic development, or that complicate peace and security.'

• In order to address the human rights pillar's 'image problem,' one speaker called for a greater level of focus on the **Universal Periodic Review** (UPR) mechanism, 'which is universally admired and supported by States'. In particular, the focus should be on 'identifying and highlighting UPR success stories to show how States, in cooperation with the UN, have been able to make progress in the area of human rights.'

• Beyond just the UPR, there was wide acknowledgment that the UN must get better more generally at collating and publishing

human rights success stories, thus *encouraging* States to make progress rather than simply *demanding* that they do so. It was pointed out that these success 'case studies' should cover States that have made progress, but also examples of the positive impact of the UN human rights system on individual rights-holders at country-level.

• It was suggested that the Council should focus more on issues 'of direct importance and relevance to people around the world, such as **global inequality and poverty.'** 'Perhaps we could,' for example, 'hold a discussion on what 'leaving no one behind' actually means in the context of the 2030 Agenda, and how the human rights system can help achieve it?' Another agreed: 'The UN human rights pillar is here, in the end, to help improve the lives of individual people. We should therefore be focusing on issues of importance to them.'

• The importance of hearing **'voices from the ground'** was repeatedly raised. For example, government ministers, relevant UN Resident Coordinators, National Human Rights Institutions (NHRI) representatives and national NGO leaders could be brought to Geneva to brief the Council on human rights progress in a certain country. Or the Council and the GA's Third Committee might watch short videos illustrating the human rights challenges faced by a given country and exploring how cooperation with the UN has helped that country secure change.

• While agreeing with this, one speaker cautioned that today, with many large and powerful States, including established democracies, openly questioning and/or violating universal norms, the 'human rights pull factor' of States wishing to replicate or match the successes of their peers is weaker than in the past.

The 'Geneva-New York divide'

• Beyond identifying and publicising 'human rights success stories,' a key idea put forward to promote a more positive narrative about the human rights pillar, was to finally take concrete steps to bridge the **'New York-Geneva divide,'** and improve information sharing, dialogue and understanding between these important UN centres.

• One example provided to illustrate this gap, was 'the lack of transatlantic understanding about the relationship between **human rights and the 2030 Agenda** for Sustainable Development.' 'In Geneva, at the Council, we have made considerable progress in understanding and in seeking to leverage the contribution of human rights to sustainable development, including by adopting a large number of resolutions on this issue. Yet in New York, old concerns about linking human rights with development still hold sway.'

• Another participant held up the example of the Council's work on **prevention:** 'Over the past two years, delegations in Geneva have begun to move to a common understanding of how human rights resilience can help prevent violations and the emergence of crises. Yet in New York, it is very difficult to mention the words 'human rights' and 'prevention' together without engendering strong political opposition.'

• These points are linked with the presence of a predominantly negative narrative around human rights in New York. **'Too often, especially in New York, human rights are seen as anti-development and anti-security.'** There was broad agreement that **the opposite is actually true:** human rights are central to, indivisible from, and help to support sustainable development and security.

• It was also noted that negative perceptions of human rights are sometimes shared by UN officials, including senior officials. These individuals, especially if they are working in the field, may come to see human rights as something that risks **'complicating their relationship with States.'**

• One speaker highlighted that it is rather strange to talk about a lack of communication and understanding 'between Geneva, New York and capitals, when it is **exactly the same States in each place.'** 'It is surely up to permanent missions to communicate better with each other and with their capitals.'

• Another speaker reminded everyone that information sharing **'is not a one-way street.'** 'It is clear from today's discussion that we in Geneva are unaware of many important developments in New York – and a lack of information can quickly lead to misunderstandings and mistrust.'

• A concrete idea put forward to improve information-sharing, understanding and coordination between New York and Geneva, was to establish some form of regularised, **'transatlantic platform for human rights dialogue and cooperation,'** with meetings in Geneva during which New York policymakers could brief Geneva-based colleagues on important developments at UN headquarters, and *vice versa.*

REFORM OF THE UNITED NATIONS HUMAN RIGHTS ARCHITECTURE

WHERE ARE WE TODAY?

In parallel to the Secretary-General's UN-wide reform plans, member and observer States at the Human Rights Council, together with NGOs and NHRIs, have recently been engaged in discussions on strengthening the international human rights system's efficiency, effectiveness and impact, as well as its interconnectedness with the other two pillars of the UN.

Moreover, the next intergovernmental review of the Council's status is due to take place between 2021 and 2026. This review by the GA will decide whether it should become a main body, or remain a subsidiary body, of the UN.

Council strengthening

On 1 December 2017, the Netherlands, the UK and others organised a one-day conference on 'Human Rights Council strengthening.'[17] The meeting, which included the participation of over a hundred States, as well as civil society representatives, generated a number of proposals to improve the body's efficiency (e.g. improving working methods, streamlining the programme of work) and effectiveness (e.g. focusing more on implementation and impact).

Upon taking office, the 2018 Bureau of the Council led by Ambassador Vojislav Šuc, immediately put in place a process of consultations aimed at improving the Council's methods of work and efficiency. Three sets of co-facilitators were appointed to lead discussions on: the development of a more transparent and structured programme of work; the rationalisation of resolutions, panels and mechanisms; and the use of information technology. The President is expected to present his final proposals for Council strengthening in late 2018.

The 2021 review

In 2005 at the World Summit, Heads of State and Government endorsed, through GA resolution 60/1, the proposal of the-then UN Secretary-General, Kofi Annan, to 'replace the Commission on Human Rights with a smaller standing Human Rights Council.'[18] Kofi Annan had left it to States to decide whether 'they [would] want the Human Rights Council to be a principal organ of the United Nations or a subsidiary body of the General Assembly.'[19]

Shortly after the adoption of GA resolution 60/1, in March 2006 the GA passed resolution 60/251 formally establishing the Human Rights Council as a subsidiary organ of the GA. It was also decided that 'the Assembly shall review the status of the Council within five years,' and called on the Council to 'review its work and functioning five years after its establishment and report to the General Assembly.'

In March 2011, the Council completed the five-year review of its work and functioning (resolution 16/21). With resolution 65/281, the GA decided to maintain the status of the Council as a subsidiary body 'and to consider again the question of whether to maintain this status […] at a time no sooner than ten years [i.e. 2021] and no later than fifteen years [i.e. 2026].' GA resolution 65/281 did not, however, on this occasion request the Council to conduct a review of its work and functioning.

KEY QUESTIONS

Participants were encouraged to consider, *inter alia*, the following key questions:

1. What is the 2021-2026 review by the GA? Does it necessitate a preparatory exercise by the Council?

2. What are the practical consequences of the Council's subsidiary status for the efficiency and effectiveness of the international human rights system, for UN-wide coherence, and for the enjoyment of human rights by individual people on the ground?

3. What is the significance, for the place of human rights in a reformed UN, of the current Council strengthening process, being led by the 2018 Bureau; and is there a potential line between this exercise and preparations for the 2021-2026 review?

ISSUES FOR REFLECTION AND OPPORTUNITIES FOR CHANGE

Council strengthening

• Participants underlined that **the Council, just like any other institution, should be regularly assessed and improved** so that it can properly fulfil its mandate. One speaker used a medical analogy, noting: 'No person is ever 100% healthy or

100% unhealthy, rather it is important to look at what steps he or she might take to improve their health. It is the same with the Council: we do not need to be dramatic and say it is either perfect or a disaster, but rather be sensible and identify practical areas for improvement.'

• Overall, there was broad agreement that any Council strengthening process must **respect the existing institutional structure of the Council** (as set by GA resolution 60/251, the institution-building package (IBP) and the five-year review outcome) and look at how to improve the efficiency, delivery and impact of the Council within that agreed framework. 'So long as the process respects resolution 60/251 and the IBP, we can bring the strengthening process to a successful conclusion ourselves – without involving New York. […] For that reason, it is important not to confuse or blur the line between Council strengthening and the 2021 review by the GA.'

• Many spoke of the importance of **maintaining consensus** during the talks, and of only making changes that enjoy the support of all States from all regions. While not disagreeing with this, another speaker urged colleagues to maintain a high-level of ambition during negotiations.

• Others underscored the importance of including **civil society voices** during the on-going strengthening process.

• A number of speakers made the point that the strengthening process is principally focused on improving the efficiency of the Council, 'however, improved **efficiency is not an end in itself,** but rather a means to an end - the end being improved effectiveness and impact.'

• Agreeing with this point, another participant noted: 'if the current efficiency process succeeds it is expected to free up space in the Council's programme of work – the key then is **how do we use that space?'**

• One participant suggested using any 'freed-up space in the Council's programme of work to focus on supporting, following-up on, and sharing good practices about, the domestic implementation of States' human rights obligations and commitments.' Others said the Council should devote more time to facilitating the delivery of technical assistance and capacity-building support.

• There was some discussion about the **financial imperatives** behind securing efficiency gains at the Council. One participant highlighted that limited resources on the part of UN conference services was a key driver of the current strengthening process. Others acknowledged this point, but argued that the Council's work and focus should not be 'dictated by financial considerations alone.' Another dismissed concerns over the overall level of financial resources at the disposal of OHCHR and the human rights pillar, and said the problem is rather how available funds are being spent: 'there is lots of money available for Commissions of Inquiry, but apparently not for technical assistance and capacity-building.'

• The importance of ensuring that **different parts of the human rights pillar all contribute** to finding efficiency gains was underscored. 'Rationalisation should not only cover resolutions, but also panel debates, especially annual panel debates, general debates, thematic reports, thematic Special Procedures, etc.' 'No part of the system should be ring-fenced.'

• In reaction to this point, a number of people drew attention to the importance of ensuring that any 'rationalisation push' does not create **'protection gaps.'** For example, decisions to table country-specific resolutions and to maintain country-specific mandates should be based on the human rights situation in the concerned State, and the needs of victims, not by a desire to secure short-term efficiency gains.

• Participants repeatedly drew attention to the importance of **State self-restraint** and of **building and maintaining trust** between delegations, if any rationalisation effort is to work. One speaker expressed serious doubts that States will ever be able to restrain themselves in this way. Others disagreed, pointing out recent increases in the number of biennialised and triennialised resolutions.

• It was further noted that, in addition to States, **NGOs also need to show restraint** in their demands for more resolutions, panels and mechanisms. 'When main sponsors decide against, for example, reducing annual full-day panel debates to half-day debates, or biennialising a resolution, it is often at the urging of civil society.'

• There was some support for the idea organising an **annual 'pledging meeting'** at the beginning of each Council cycle, during which delegations could commit to biennialising or merging resolutions, reducing the duration or periodicity of regular panels, or merging Special Procedures mandates.

• It was noted that having **a more structured and sensible (annual or multiannual) programme of work,** as originally envisioned in the IBP, would also have an important positive impact on efficiency and, by freeing up space for greater dialogue and cooperation, on effectiveness. Such a programme of work would also help improve transparency, predictability and accessibility (including for Small State delegations).

• The importance of **civil society access and participation** at the Council was repeatedly raised. 'Any push for greater efficiency should not come at the expense of further restrictions on civil society space.' It was also noted that 'empowering national civil society through participation in Council sessions, can have an important positive impact on effectiveness, because thus empowered, these rights-holders are better able to assert their rights at national level.'

• Linked with this point, States were urged, as part of any Council strengthening process, to improve access to **the victims of human rights violations** by, for example, strengthening the Council's confidential complaints procedure, or by 'bringing the faces of individual rights-holders into the Council chamber' (e.g. via video-links or by showing short documentaries).

The 2021 review

• The discussions around the 2021 review raised a number of important institutional questions.

• The first is over **the necessity or desirability of a Council review,** as a possible contribution to the GA's review. According to one participant: 'neither Council resolution 16/21 nor GA resolution 65/281 call for a further intergovernmental review of the Council's work and functioning; so why should we conduct one?' Another speaker disagreed, arguing that the GA's decision to conduct a status review implicitly requires the Council to undertake some kind of pre-assessment of its work – 'otherwise, what would be the basis of the GA's deliberations and decision?'

• A second question is: if the Council does decide to conduct some form of review ahead of the GA's status review, then **what should it look like?** Some speakers were clear that it should not be a 'review' in the same sense as the 2011 review (i.e. premised on supplementing or modifying the Council's IBP). 'There is simply no need for such a review,' said one, 'the Council is performing satisfactorily and does not need a major overhaul.' It might instead be more a process of 'reflection,' or a 'performance review,' looking at the degree to which the Council has, since 2006, been able to fulfil the mandate given to it by the GA. This would help members of the GA decide whether any significant changes to its status might be necessary or desirable.

• A third question is: **how should any Council review/reflection be conducted?** Should it be an intergovernmental process (for example, led by ambassadors acting as facilitators) or could it be an independent review undertaken by, for example, the High Commissioner or the Secretary-General?

• Fourth, what would be the **legal basis** for any review/reflection by the Council? It does not have an explicit mandate in the same way it did for the 2011 review, but does that matter? Is there any reason why the Council cannot conduct a review/reflection on its own volition, and simply transmit it to the President of the GA as a

contribution to the 2021 review? According to participants, there is certainly precedent for such 'self-initiation' or for 'flexible interpretations of the Council's mandate.' In conclusion, it was argued that: 'Geneva has, *de facto*, a lot of flexibility in how it chooses to engage with the 2021 review.'

• Despite this flexibility, one speaker suggested that 'it might be a useful step for the President of the GA to write to the President of the Council, and perhaps also to the High Commissioner, explicitly asking for their input.'

• Notwithstanding these questions, there was a widely-held understanding that **the chances of any 'status upgrade – or downgrade' for the Council are 'remote.'** 'A downgrade would need the support of two-thirds of the GA to pass, while an upgrade would involve amending the UN Charter.'

• Another participant highlighted that the question of the Council's status 'is not such a big deal in New York.' Indeed, the decision to include the 2021-2026 review in GA resolution 65/281 was 'basically a technical fix – a means of securing consensus by leaving certain questions open for later.'

• Even though a change in the Council's status is unlikely, there was nonetheless an appreciation that **the 2021 review is important, especially as a 'hook'** to allow the Council 'to conduct a review/reflection of its own performance.'

• Moreover, the point was repeatedly made that, 'our colleagues in New York will need expert input in order to conduct a meaningful review starting in 2021, and knowledge, and experience of the Council clearly resides in Geneva.' Another speaker went further, drawing attention 'to **the significant risks involved in the Council doing nothing** – and ceding the review solely to New York, especially in the current international climate.'

• There also appeared to be broad agreement that the central purpose of any Geneva review should be to consider the degree to which the Council is **delivering on its GA mandate,** and how it might improve its performance in the future – with a particular focus on how it might strengthen its impact.

• However, beyond these points of relative agreement, there did not seem to be any consensus view on the detail of what a 'Geneva review or reflection' should look like and how it should be organised.

• A number of speakers stated that, whatever is finally decided, it will fall to the **2019 Council Bureau to initiate any process,** and to the **2020 Bureau to transmit any outcome to the GA.** It was proposed that: 'the Bureau should develop a roadmap to guide discussions on the potential input that Geneva could provide to the GA's review.'

• A number of people made clear that any Council preparatory process ahead of the 2021 review should **not 'suck the air'** out of the Council's vital everyday work, and not come at the expense of making immediate progress in key areas of contemporary focus such implementation and prevention. 'The IBP is already quite good, and provides for lots of flexibility – so we should continue to look at how we can do better with what we have.'

DELIVERING ON-THE-GROUND IMPACT AND COMMUNICATING SUCCESS AND RELEVANCE

WHERE ARE WE TODAY?

The effectiveness and on-the-ground impact of the international human rights system is reliant on State progress across four principal areas. First, States must decide to ratify the core human rights treaties, thereby binding themselves to international human rights law and to the obligations contained therein. Second, States are expected to cooperate with the UN's human rights implementation mechanisms (i.e. Treaty Bodies, Special Procedures and the UPR). These mechanisms review State compliance with their human rights obligations and commitments, and provide recommendations for improvement. Third, States must study and, where appropriate, implement those recommendations (e.g. by amending laws, introducing new policies, or improving practices) thereby strengthening the domestic enjoyment of human rights. And lastly, States are expected to monitor progress with implementation, measure the impact of reforms (using human rights indicators), and report back to the implementation mechanisms, as well as to the Council, on progress secured and challenges faced.

Since the founding of the UN, States have tended to make far more progress in the first two of these areas than in the latter two.

Nearly all UN member States have ratified most of the core human rights treaties, and have regularly engaged with Treaty Bodies, Special Procedures and the UPR. Yet they have tended to find it difficult to implement, in a systematic manner, the recommendations provided to them by those mechanisms. This has created a sizeable 'implementation gap' between universal norms and local realities.

Notwithstanding, the situation has begun to change over recent years. States from all parts of the world have begun to build a new global 'implementation agenda.' The keystones of this agenda are so-called 'national mechanisms for implementation, reporting and follow-up' (NMIRFs) – set up at country-level to manage, coordinate the implementation of, monitor progress with, and ease reporting on all UN human rights recommendations.

In contrast, very little progress has been made in measuring the impact of the UN human rights system at national level; in identifying, sharing and learning from 'success stories;' in understanding the nature of, and the keys to unlocking, on-the-ground impact; in reporting and engaging in a constructive dialogue (especially with other States) on

difficulties encountered and obstacles to implementation; and in cooperating (e.g. through the sharing of good practice or by mobilising international technical assistance) to overcome those obstacles.

A key negative consequence of this historic failure to measure impact, recognise and celebrate success, share good practice and lessons learnt on implementation, and communicate progress, is that it **gradually erodes the credibility of the UN human rights system and of the UN itself.**

At a time when universal values appear to be under threat in many parts of the world and when the ability of the UN to respond to these threats is being openly questioned, it is vital that the international human rights community monitors, measures and showcases progress; communicates impact and success; and demonstrates relevance and importance to people around the world.

KEY QUESTIONS

Participants at Glion V were encouraged to consider, *inter alia*, the following key questions:

1. Where has the human rights pillar had a positive impact on the enjoyment of human rights on the ground, and also, by extension, on peace and security and sustainable development?

2. What lessons can we glean from such positive impact case studies in terms of how to improve the human rights pillar's ability to generate on-the-ground impact, and to communicate success?

3. How can UN wide coherence be further strengthened so that the entire UN system, especially those parts operating at national level, is delivering as one in the field of human rights?

ISSUES FOR REFLECTION AND OPPORTUNITIES FOR CHANGE

On-the-ground impact of the human rights pillar

• 'Real human rights impact,' it was noted, 'takes time.' '**Human rights progress is often slow, meticulous and quiet progress** – making it difficult to track, measure and communicate.'

• One speaker said that a major challenge is the fact that **different States and NGOs see 'impact' in different ways.** Some see addressing situations of serious violations and securing accountability as the Council's most important prerogatives, and thus judge the Council's impact through that lens. Others prefer to emphasise cooperation and the delivery of technical assistance to States that have the political will to improve. 'We need to strike the right balance between these different mandates of the Council – to recognise that what is important is to improve people's lives and protect their rights.'

• Another participant highlighted that the role of the human rights pillar and the nature of the impacts it can have, are often misunderstood. Expectations need to be better managed.

• Someone else argued that for the human rights pillar to strengthen its impact, States and NGOs must **stop seeing human rights situations in a country as 'a single moment in time,' but rather as a continuum.** Thus, in countries that do not face serious human rights challenges, 'impact' may be secured by working with the State concerned to promote the implementation of UN recommendations, while in countries

that are beginning to experience patterns of serious violations 'impact' could mean preventative diplomacy or mediation. While not necessarily disagreeing with this point, another speaker pointed out that the 'continuum' of a given situation is rarely linear or smooth, and thus UN interventions should always be calibrated with that complexity in mind. 'For example, accountability mechanisms should not only be considered in the latter stages of a crises; they can also have an important deterrent effect, thus contributing to early prevention.'

• Linked to this last point, a further reason the human rights pillar, including the Council, has less impact than it should, is that 'it **tends to operate with a reactive rather than preventative mind-set.'** 'In addition to providing capacity-building support to all States that request it, the UN must get better at identifying potential crises at an early stage – and triggering discussions at the Council.'

Improved national implementation

• It was noted that the single best way for the human rights pillar to have greater impact on-the-ground, and demonstrate relevance, is to promote and support the **improved**

implementation, by States, of their international human rights obligations and commitments.

• Participants recognised that 'the human rights **implementation gap** remains as large as ever.' 'UN human rights mechanisms keep on producing a flurry of recommendations, while implementation of and follow-up to those recommendations is still lacking.' In some cases, the main obstacle to progress is a lack of political will on the part of the State. In others, however, it is a lack of capacity or an absence of dedicated national systems to coordinate the implementation of large numbers of UN recommendations.

• The **emergence of sophisticated NMIRFs** in many countries, especially developing countries, was held out as key to the ability of the human rights pillar to finally bridge the implementation gap. It was pointed out the NMIRFs have a wide range of benefits: 'they help reduce bureaucracy by streamlining coordination between line ministries,' 'they allow for the automatic application of impact indicators,' 'they streamline reporting, thus reducing the burden on States,' and, in some instances, they link UN human rights recommendations to relevant SDG targets and indicators.

• A major effort is now needed 'to **provide guidance to all States** on the establishment and operation of NMIRFs.'

• It was also noted that implementation and reporting on progress are not only matters for governments. Parliaments, judiciaries, NHRIs, religious leaders and NGOs all have important roles to play.

• One speaker drew attention to the **importance of civil society actors** at national level, which are well placed to 'help identify implementation gaps and push the different branches of the State to fill those gaps.' Notwithstanding, it was noted that many NGOs would require capacity-building support in order to fulfil this role.

• Turning to the work of the UN human rights mechanisms, it was noted that they tend to be very good at reviewing States and providing recommendations for improvement, but **less good at following-up on those recommendations or measuring impact.** 'Sustained engagement by the mechanisms is vital if they are to have real impact.'

• The example was given of Special Procedures. **'One key to unlocking the potential of Special Procedures is to improve follow-up to country missions.'** More resources would allow mandate-holders to work with States after the conclusion of visits to develop 'follow-up action plans' or to conduct more 'follow-up missions.' As the 'face of the UN human rights system' (due to their ability to visit countries and meet with duty-bearers and rights-holders) 'Special Procedures can also play a key role in helping build a positive narrative around human rights – to show national stakeholders that respect for human rights supports sustainable development, peace and security.'

• The **power of the UPR mechanism** to drive on the ground impact, and to receive updates on progress, was noted by a number of speakers. 'From the second cycle onwards, the UPR has been focused on securing the implementation of previous recommendations, while each new cycle of the UPR is a *de facto* follow-up mechanism.' Notwithstanding, a participant questioned the degree to which UPR is succeeding in securing implementation, especially of more difficult recommendations, and pointed out that national reports rarely contain objective assessments of progress.

• The issue of follow-up was also made in the context of **Resident Coordinators and UNCTs.** It was suggested that by failing to systematically follow-up on the human rights recommendations received by the host State, many UNCTs are missing the opportunity of benefiting from 'a rich tapestry of guidance and proposals to improve the human rights situation in the country concerned.' These UN human rights recommendations are especially valuable when one understands that in many cases they have been accepted by the State concerned, and are based on that State's own human rights obligations and commitments.

• Participants also drew attention to the importance of **systematically integrating UN human rights recommendations into UNDAFs.**

• It was repeatedly noted that the key to systematic national follow-up is the presence, in UNCTs, of **Human Rights Advisors.** 'These individuals can and often do make all the difference.' With this in mind, concern was expressed that 'OHCHR does not have the resources it needs to respond positively to State requests for the deployment of Advisors.'

• **'Donor States** should also make far better use of the recommendations generated by the UN human rights mechanisms.' One speaker noted that donors have a particular responsibility to help developing countries implement recommendations that they themselves have provided (e.g. through the UPR).

Human rights technical assistance and capacity-building support

• A number of speakers drew attention to the importance of strengthening the delivery, by the human rights pillar, of technical assistance and capacity-building support.

• One idea in this regard was to create **a new type of space, under item 10** of the Council's agenda, wherein States could voluntarily update their peers on national implementation and impact, discuss challenges, and request international capacity-building and technical support. International development partners should also be present to respond to requests, and match national needs with international support/expertise. This 'space' could be a formal meeting of the UN, either during or between Council sessions, an informal gathering, or simply a set of 'national case study side events.'

• It was noted that such an 'item 10 platform' would also be a natural place to tell, hear and record **'positive stories about human rights progress.'** Indeed, a number of participants pointed out that many States have 'success stories' to recount and 'would appreciate a place where they could do so.' This would in turn help 'reposition the universal human rights system as a problem solver rather than a problem causer.'

• Notwithstanding, a number of speakers pointed to the **'trust deficit'** at the Council as a potential barrier to establishing such a platform. 'Will States really be ready to stand up and talk about their human rights achievements and problems, or will they be too worried it will open them up to criticism and attack?'

• In addition to such an 'item 10 platform,' a proposal was made to establish a new **'implementation/impact trust fund,'** so that the international community could systematically service capacity-building or technical assistance requests.

• Countries, especially developing countries, need international technical assistance in a wide-range of areas. However, it was argued that 'OHCHR's expertise and experience in many of these fields is limited' (as are available resources), while additional UN expertise 'is fragmented across the system.' The idea was therefore proposed to establish some type of **'international roster of human rights experts.'**

• To help promote national implementation, strengthen prevention and the delivery of human rights technical assistance, and measure and recognise impact, one speaker drew attention to the importance of deeper and more regularised **partnerships between the Council and relevant regional bodies and human rights mechanisms.**

Communicating human rights

• 'It has never been so important to effectively communicate the importance of human rights and the work of the Council. In this era of human rights backsliding or regression, **we must constantly reaffirm and convince people that human rights are not an add-on, a political slogan, or the privilege of a few.'**

• 'The international human rights community must engage, in a more systematic and robust way, with the **international battle of ideas on human rights.** For example, those who castigate or dismiss human rights, and instead seek to promote narrow nationalist, xenophobic or racist agenda, are extremely vocal on social media and in the traditional press. We must counter them at every turn.'

• Moreover, beyond countering those who seek to question or undermine universal norms, 'it is beholden upon the international community to **present a positive, forward-looking and compelling story of human rights** and the institutions that underpin them.'

• One speaker argued that the **key audience** for improved human rights communication must be 'people on the ground – rights-holders, not political audiences in Geneva or New York.'

• 'OHCHR does try to do this to some extent – for example it tries to translate information on important developments in Geneva or New York 'into local language, via UNCTs.'

• There was wide acknowledgment that the Council must do more in order to better explain the work it does and why it is important. Beyond more press conferences by the Council President, one idea for 'reaching out to local audiences was for **NHRIs, at the end of every Council session, to brief the local press, NGOs and individual people** on what happened during the session and what it means for them.'

• A key aspect of any campaign to improve communication must be to **explain what the UN human rights system can and cannot do** – i.e. to manage expectations. Many governments and media outlets see the Council as, fundamentally, a body that organises Special Sessions on grave human rights situations. Its norm-setting and norm implementation work is often poorly understood, as is its capacity-building mandate.

• In this context, the international human rights community 'needs to get far better at **providing accessible and interesting information** on its work, relevance and impact – delivering key messages that can be easily taken up by journalists.' Part of this effort 'should be to feed journalists some good news stories about human rights – showing where the UN has made a difference.'

• This last point is especially important when one considers that **much of the UN's human rights work is 'quiet work'** – happening below the radar screen of journalists and politicians. 'We must focus attention on that quiet work – in order to boost the UN's credibility and international understanding.'

• In this context, a number of people pointed out the difficulties inherent in 'communicating human rights success might mean, by definition, that a human rights situation is prevented from developing. This point is linked to prevention: **'how to measure and show the benefits of preventing something that is yet to happen?'**

• Finally, one participant argued that **'the best way for the Council to show relevance is for it to be relevant'** – too often the body shies away from addressing globally important human rights situations, or, when it does engage with those situations, it is very late in the day.

CONCLUSIONS

Glion V provided an important platform for States and other stakeholders to consider ways to strengthen the efficiency, effectiveness, impact and credibility of the human rights pillar, both in its own right but also in combination with the other two pillars of the UN. The retreat, which came at a time when UN reform and Human Rights Council strengthening are at the top of the international political agenda, generated a number of proposals and ideas for further consideration and, where appropriate, for further action. These included, *inter alia:* creating a more 'positive narrative' around the UN's human rights pillar, the work that it does, and the impact it has on people's lives; taking concrete steps to finally bridge the 'Geneva-New York divide;' beginning, in Geneva, a process of considered reflection about the Council's successes and shortcomings in fulfilling its mandate, as a contribution to the 2021-2026 review of the Council's status; and improving communication around human rights in order to drive further progress around the world.

END NOTES

1. Secretary-General's remarks to Economic and Social Council on Repositioning the UN Development System to Deliver on the 2030 Agenda, 5 July 2017

2. https://www.humanrights.dk/our-work/sustainable-development/human-rights-sdgs

3. The only exception to the observance of the Chatham House rule is attribution of quotes from the opening addresses at Glion V of the High Commissioner for Human Rights and the President of the Human Rights Council, as both of those addresses were subsequently published.

4. The Secretary-General introduced his Management Reform Initiative to the secretariat staff at a town-hall meeting held on 26 July 2017. Available at: http://u-seek.org/wp-content/uploads/2017/08/SG-Town-hall-26-July-final-1.pdf.

5. Ibid

6. Secretary-General's statement to the ECOSOC, 5 July 2017. Available at: https://www.un.org/sg/en/content/sg/statement/2017-07-05/secretary-generals-remarks-economic-and-social-council-repositioning.

7. Economic and Social Council, Repositioning the UN development system to deliver on the 2030 Agenda: ensuring a Better Future for All, Report of the Secretary-General. A/72/124-E/2018/3, 11 July 2017. Available at: http://undocs.org/A/72/124.

8. GA resolution 72/279 on 'Repositioning of the United Nations development system in the context of the quadrennial comprehensive policy review of operational activities for development of the United Nations system,' 31 May 2018, available at: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/72/279

9. Report of the Secretary-General to the General Assembly on 'Restructuring the United Nations peace and security pillar,' A/72/525, 12 October 2017. Available at: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/72/525.

10. Report of the Secretary-General to the GA and the Security Council on 'Peacebuilding and sustaining Report of the Secretary-General to the GA and the Security Council on 'Peacebuilding and sustaining peace,' A/72/707, 18 January 2018

11. GA resolution 70/262 on 'Review of the United Nations peacebuilding architecture,' 27 April 2016

12. Resolution 2282 (2016), adopted by the Security Council at its 7680th meeting, 27 April 2016

13. GA resolution 72/276 on 'Follow-up to the report of the Secretary-General on peacebuilding and sustaining peace,' A/RES/72/276, 30 April 2018

14. UNGA resolution 60/251, PP6

15. Vienna Declaration and Program of Action, para 4.

16. GA resolution 72/279 on 'Repositioning of the United Nations development system in the context of the quadrennial comprehensive policy review of operational activities for development of the United Nations system,' 31 May 2018, available at: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/72/279

17. https://www.universal-rights.org/urg-policy-reports/human-rights-council-strengthening-conference/

18. Contained in his report 'In larger freedom: towards development, security and human rights for all,'

19. http://www.un.org/en/events/pastevents/pdfs/larger_freedom_exec_summary.pdf

IMAGE CREDITS

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