



# GLION HUMAN RIGHTS DIALOGUE

THE HUMAN RIGHTS COUNCIL AT 10:  
IMPROVING RELEVANCE, STRENGTHENING  
IMPACT



PERMANENT MISSION OF NORWAY



UNIVERSAL RIGHTS GROUP



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Mission permanente de la Suisse auprès de l'Office des Nations  
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In 2006, member States took a significant step towards strengthening the human rights pillar of the United Nations by establishing, with General Assembly resolution 60/251, the Human Rights Council.

Since then the Council has grown significantly in confidence and stature, positioning itself as a relevant and influential political body in the multilateral arena, and has registered important achievements at both a thematic and a country-specific level.

Established Council mechanisms, especially Special Procedures, have continued to expand in scope and sophistication, while a new mechanism – the Universal Periodic Review (UPR) – has seen the human rights record of every single UN member State scrutinised, thereby strengthening universality, inclusivity and dialogue.

While recognising these and other achievements, it is important to recognise that there are also areas where the Council has fallen short of its mandate and objectives. For example, the body has been criticised for focusing too heavily on general thematic issues and debate, while remaining silent on many

serious human rights violations, including gross and systematic violations. Other critics point to deficiencies in the domestic implementation of resolutions, decisions and recommendations made by the Council and its mechanisms, and insufficient progress in effectively mainstreaming human rights across the UN system.

As the Council looks towards its 10th anniversary in 2016, it is important for stakeholders to take a step back and make an honest appraisal of the body's achievements and challenges, and work together to identify new and innovative solutions to equip it to better meet those challenges in the decades to come.

In this spirit, on 5th and 6th May 2015, the Governments of Norway and Switzerland, supported by the Universal Rights Group (URG), hosted a second two-day retreat in Glion, Switzerland, designed to provide an informal, non-attributable platform for forward-looking and solutions-focused discussion on how to strengthen the relevance, effectiveness and impact of the Council.

UNITED NATIONS





This year, three informal policy dialogues, organised by the URG in cooperation with the Permanent Missions of Mexico, Thailand and Morocco, preceded the Glion retreat. These policy dialogues were designed to promote the participation of a wide range of States, NGOs, UN officials and experts in discussions about the future of the Council. The dialogues allowed for an initial consideration of key challenges and the provisional identification of possible solutions.

The present document is an informal report summarising (in a non-attributable manner) some of the key ideas developed during the Glion retreat and based on the three policy dialogues. The document does not represent the position of Norway or Switzerland, nor any of the participants, but rather is a non-exhaustive collection of ideas generated during those meetings. It is the hope of the organisers that these ideas and proposals will encourage and contribute to wider consideration by all stakeholders from all regions, thus making the Glion Dialogue a starting point for a fruitful and

inclusive process. It is also the hope of the organisers that, where appropriate, States and other stakeholders will take forward useful ideas generated in Glion and thus contribute to an improvement in the Council's relevance and impact.

The report is divided into four parts. The first presents ideas generated during the opening plenary of the Glion Dialogue, which considered 'big picture' questions relating to the Council's performance since 2006, and how the body's relevance and impact might be strengthened in the future. The next three sections then present key ideas generated during the three policy dialogues and the more focused discussions in Glion on: the operation of the Council – how to better deliver on its mandate; strengthening implementation and impact on-the-ground; and the Council's relationship with the wider UN system, and the mandate-resource gap.





**THE COUNCIL @  
10: IMPROVING  
RELEVANCE,  
STRENGTHENING  
IMPACT**



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## WHERE ARE WE TODAY?

In a speech to the Commission on Human Rights (the Commission) in 2005, Kofi Annan presented the new Council as a distinct break with the past (including the Commission) and as a response to the human rights challenges of “a new era.” He said: “For much of the past 60 years, our focus has been on articulating, codifying and enshrining rights. That effort produced a remarkable framework of laws, standards and mechanisms – the Universal Declaration, the international covenants, and much else. Such work needs to continue in some areas. But the era of declaration is now giving way, as it should, to an era of implementation.”

10 years on, while the Council has clearly grown in stature, it is doubtful that it has fully succeeded in overseeing the paradigm shift envisioned by Mr Annan. If one looks at the output of the body, it seems that the international community is still in the “era of declaration.” The first twenty-seven sessions of the Council saw the adoption of over 760 resolutions and other texts, covering an increasingly wide range of thematic issues. Yet there has been relatively little consideration about whether, and to what degree, those resolutions have been implemented by States. It is a similar story with the Council’s mechanisms. When the Council was established, there were less than 40 Special Procedures mandates, and of those fewer than 30 were thematic mandates. Today there are 55 mandates – 41 of which are thematic. Those mandates produce a prodigious body of work and yet very few States regularly report to the Council on what they have done to implement Special Procedures recommendations, and only a handful of mandates prepare and publish regular follow-up reports.

It is therefore clear that, as the Council looks towards its second decade, stakeholders must do more to shift the emphasis of the body’s work and output from declaration to implementation. In other words, while continuing to fulfil its important norm-setting role, the Council should dedicate more time, space and resources to considering the domestic realisation of those norms. That effort might include steps to strengthen the Council’s focus (both during sessions and inter-sessionally) on follow-up and implementation (e.g. by better use of item 5). It should also include steps to support States that have the political

will to implement but perhaps lack the capacity to do so (e.g. through the better use of item 10), as well as steps to leverage transparency and accountability to increase the ‘political cost’ for those States that fail to cooperate with the human rights system and/or lack the political will to comply with their international obligations. The second Glion Dialogue generated a number of useful and practicable ideas in this regard.

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## ISSUES FOR REFLECTION AND OPPORTUNITIES FOR CHANGE<sup>1</sup>

### Relevance

- States should take steps to make the Council nimbler and more responsive to rapidly evolving human rights situations by, for example, introducing [new informal work formats like Council briefings by the High Commissioner for Human Rights](#). Such informal Council briefings would provide a platform for the High Commissioner to brief members on pressing human rights situations and concerns, as well as on his recent activities (e.g. his country visits). “At the moment it is easier for the High Commissioner to brief the Security Council than it is for him to brief the Human Rights Council – that is clearly wrong.” As with all interactions between the Council and the OHCHR, such informal briefings should respect the independence of the High Commissioner.
- States and other stakeholders might take steps to [strengthen the early warning and prevention functions of the Council](#), for example through the above-mentioned informal briefings by the High Commissioner, through more urgent debates during sessions, and/or through more special sessions. The High Commissioner and/or Special Procedures could use such platforms to trigger the Council’s early warning and prevention functions.
- Other ways might also be found to [better leverage the unique competences of the Special Procedures](#) mechanism as the independent ‘eyes and ears’ of the Council beyond the walls of Room XX. For example, more Special

1. Aspirations and possible goals suggested during the 2015 Glion Human Rights Dialogue and/or during the three policy dialogues that preceded it.

Procedures mandates could be invited to participate in relevant panel discussions, in investigations launched by the Council, and/or in UPR reviews.

- Focusing Council deliberations on **'hybrid' situations** (i.e. combining country specificity and a thematic focus) may also help improve responsiveness and relevance (e.g. the rights of migrants in the Mediterranean).

- Further strengthening the role of the President of the Council could have important benefits for the visibility of the human rights pillar and for external perceptions of the Council's relevance. A guiding idea should be **"to make the Presidency more 'presidential' rather than merely a chairperson."** One aspect of this could be regular informal press briefings (e.g. after important meetings of the Council) so as to position the President as the 'spokesperson' of the intergovernmental human rights system. Another might be for the President and/or members of the Bureau (perhaps sometimes together with the High Commissioner) to conduct "good offices country visits," at the invitation of host governments, to present the 'face' of the Council at national-level.

- **The Council's voice could be more regularly and clearly heard in relevant debates in New York.** Ideas in this regard include: continuing to build on and strengthen the practice of High Commissioner and Special Procedures briefings to the Security Council; and further increasing the visibility and engagement of the President of the Council with relevant organs in New York, especially the General Assembly.

- One litmus test of the Council's political relevance in world capitals is the level of participation during the **High-Level Segment of the Council**. It was suggested that the High-Level Segment might be further strengthened by dedicating the entire first week of each March session to statements by high-level dignitaries and to high-level panel discussions. The interactive dialogue with the High Commissioner might be moved to the third week of the session.

- Another litmus test of the Council's relevance beyond Room XX is the fulfilment, or otherwise, of its **mainstreaming** mandate. Is the Council able to effectively promote and protect human rights by integrating a rights-based approach into relevant UN policies under the development and security pillars? "All actors should reflect on whether the Council is fulfilling

its mainstreaming mandate" and what "new approaches" or "smarter engineering" might be considered. "The era of implementation should also be the era of mainstreaming" (see page18).

- A further test of the Council's relevance is the degree to which it is accessible to the outside world, including to the **victims of human rights violations**, their representatives and/or NGOs, and to all others who wish to engage and cooperate with it. To safeguard such engagement, the President and Bureau should continue to respond robustly to situations of reprisals, and state delegations in Geneva "should take a more active interest in the NGO accreditation process in New York." In the longer-term, one participant asked whether the responsibility for accrediting NGOs might be transferred from ECOSOC to the Human Rights Council.

- States might make better use of **audio-visual and information technology** to improve awareness of important human rights situations around the world and help "break the Geneva bubble." "In April, members of the Security Council were shown a video of the aftermath of a chlorine gas attack in northwest Syria to underscore the importance of the issues at stake. Can the Human Rights Council not similarly make use of multimedia solutions (e.g. short documentaries, video testimonies) to better connect with the outside world, and make human rights, and the consequences of the decisions they are taking, more 'real' for Council delegates"?

- States should take steps to facilitate an overhaul of the **Council website and extranet**, and to strengthen communication and outreach (including via traditional and social media).



## Implementation and impact

- “The Council is only as good as its membership.” To help move the Council towards a greater focus on implementation and compliance, it is important to have a membership with a clear commitment to human rights. There should therefore be greater transparency and scrutiny around the degree to which member States are cooperating with the UN human rights system, their voting patterns and the degree to which they are living up to the voluntary pledges and commitments made during elections. Such information could also help inform future elections.

- Linked with the above, relevant stakeholders might take steps to strengthen the provision and consideration of information on levels of [cooperation with the Council and its mechanisms](#). For example, which States maintain a standing invitation to Special Procedures, which States regularly receive country missions, which States reply in a timely and meaningful way to urgent appeals and other communications, and which States do not? Possible actions in this regard might include: the further elaboration and improvement, by Special Procedures themselves, of their annual report, to include more detailed ‘cooperation indicators;’ making room on the Council’s agenda (for example, under item 5) to debate those indicators; and improving the ‘country pages’ on the OHCHR’s website.

- [Special Procedures](#) require adequate resources in order to focus, in a more systemic way, on follow-up and implementation. States should therefore ensure that [all mandated activities be fully funded from the UN’s regular budget](#). To help inform such a drive, OHCHR should calculate and provide precise guidance on the actual cost of financing all mandated human rights activities (including older mandates) – what one participant called a “shadow budget.”

- The Special Procedures mechanism should continue and build upon its impressive recent efforts [to operate and project influence as a system](#) and to leverage synergies between mandates, including joint statements, joint communications, and the new annual report of Special Procedures presented to the Council. The Council should continue to engage and hold discussions with the system as a whole, including by enhancing its dialogue with the Chairperson of the Coordination Committee.

- States might give more thought to, and begin to put in place, necessary [adjustments and improvements to the Universal Periodic Review \(UPR\) ahead of the third cycle](#). The third cycle should be a platform for States to report back on progress made with the implementation of recommendations from the first two cycles and to engage in a dialogue with international partners about how to overcome persistent challenges. Some said that the third cycle should also allow for independent verification of progress, and improved access to technical assistance and capacity-building support. In this regard, perhaps the role of the Troika might be reconceptualised to help promote follow-up? On this last point (follow-up), some participants recalled the importance of mid-term reporting by States.

- As part of its on-going restructuring programme, OHCHR should consider [“re-orientating the provision of expert guidance and support](#) away from normative debates and towards on-the-ground implementation through capacity-building and technical assistance.” States should facilitate such a reorientation by providing adequate resources and by, for example, reducing the reporting burden they place on OHCHR.

- As proposed at Glion I, in the medium-term OHCHR should be in a position to respond positively to a request, by a State, to establish a local presence (e.g. a human rights advisor) – i.e. [“no country turned away.”](#)

**THE OPERATION  
OF THE COUNCIL  
– HOW TO BETTER  
DELIVER ON ITS  
MANDATE**



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## WHERE ARE WE TODAY?

With resolution 60/251, States decided to establish the Council as a subsidiary organ of the GA and laid out its mandate, objectives and methods of work.

Regarding the latter, UN member States decided that the Council's work should: be guided by the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation; promote the full implementation of human rights obligations undertaken by States; and work in close cooperation in the field of human rights with governments, regional organisations, national human rights institutions and civil society. Further emphasising these principles, paragraph 12 made clear that 'the methods of work of the Council shall be transparent, fair and impartial and shall enable genuine dialogue, be results-oriented, allow for subsequent follow-up discussions to recommendations and their implementation and also allow for substantive interaction with special procedures and mechanisms.'

The Council's Institution Building Package (IBP; resolution 5/1), adopted in 2007, sought to operationalize this mandate, setting a framework for the Council's methods of work that was subsequently refined by the outcome of the Council's five-year review (resolution 16/21).

### Achievements and challenges

Since the Council's establishment, there has been a significant increase in the breadth of the body's work and output. For example, in 2008 the Council adopted 76 texts, while in 2014 it adopted 112 (by comparison, the most texts adopted in a single year by the Commission on Human Rights was 98 - in 1993). The budgetary implications of this record number of texts in 2014 – 19 million US\$ in new costs not already covered by the regular budget – was also the highest in the Council's history.

The work of the Council's mechanisms has also increased dramatically. Under the UPR, the human rights performance of every single UN member state has been reviewed, while the Special Procedures mechanism now encompasses 55



mandates (78 mandate-holders), each reporting to the Council (and many also to the Third Committee of the GA) on an annual basis. The number of panel debates has also risen from 6 in 2008 to 23 in 2014 - with around ten held at both the 27th and 28th sessions; the number of side-events has sky-rocketed (with almost 500 held in 2014); while OHCHR has been asked to compile and submit an increasing number of reports (the Council considered 207 reports in 2014).

These numbers are reflective of State and civil society enthusiasm for the Council and its work, but they also raise a number of important questions about the capacity, efficiency and effectiveness of the international human rights system. For example, can States meaningfully contribute to over 200 informal consultations per year; can States or NGOs read 80 reports before a session and do those reports respond to a demonstrable need; can States engage in a 'substantive interaction' with Special Procedures when they have only 3 minutes per clustered interactive dialogue (so, in effect, around a minute per mandate-holder); and do national policymakers have the political will or the capacity to process and implement (where relevant) 114 texts per year as well as the increasing number of recommendations generated by the Council's mechanisms?

Upon taking office, the current President of the Council, H.E. Mr Joachim Ruecker, identified making progress on efficiency as one of his three broad priorities for 2015 (alongside the inter-related goals of improving effectiveness, and strengthening the Council's relationship with other parts of the UN system). Initial steps (in line with proposals made during Glion I in 2014) have already been taken. For example, State decisions on the biennialisation of resolutions are now reflected in the calendar of initiatives. By recalling and re-emphasising relevant



provisions of resolutions 5/1 and 16/21, these and related efforts (such as the regular cross-regional statements on methods of work) have already begun to bear fruit, though more remains to be done.

When considering further steps, it is important to maintain “realistic expectations” and also to recall that improving efficiency should not be seen as an end in itself. Rather, it should be seen as a necessary part of wider efforts to build a Council that is more relevant and effective, that is able to fulfil its mandate as set down in GA resolution 60/251, and that has the capacity to “deliver real and measurable changes on-the-ground.”

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## ISSUES FOR REFLECTION AND OPPORTUNITIES FOR CHANGE<sup>2</sup>

- States should continue to support and build on initiatives, such as the annual cross-regional statement on methods of work, aimed at promoting consideration of the [multiannualisation of initiatives, or their merger or termination](#) (including resolutions, annual panels, etc.) One proposal is to agree [an informal pledge to be signed by delegations](#) (perhaps in both Geneva and New York) to reaffirm their commitment to self-restraint and more efficient working methods in line with the IBP and five-year review outcome.
- States and NGOs should likewise continue to support related efforts by the President of the Council to improve efficiency and effectiveness. The President’s advocacy of a voluntary approach, grounded in the basic documents of the Council and premised on taking a [‘holistic view’ of thematic initiatives](#) (e.g. relevant Council resolutions, regular panels and Special Procedures mechanisms, relevant instruments and Treaty Bodies, and related resolutions at the Third Committee of the GA) in order to identify possible areas for rationalisation and improvement, offers the best chance of success. A useful

first step would be the adoption of a [Presidential Statement \(PRST\) on efficient methods of work](#)<sup>3</sup>.

- To promote such a holistic approach and provide a visualisation of areas of duplication or overlap, it would be useful to [map all UN human rights initiatives](#), including relevant Council and Third Committee resolutions (and their periodicity), panels, Special Procedures mandates, instruments and Treaty Bodies, and High Commissioner/Secretary-General reports. This could become the template for an expanded voluntary annual calendar of initiatives.
- To improve the quality and utility of resolutions, [consultations on draft texts](#) should be strengthened. Drafts could be notified and circulated earlier and informal consultations be made more open and inclusive. Sponsors should be flexible and take genuine account of the views of other States during negotiations.
- The main sponsors of initiatives should consider whether it is necessary to regularly request [thematic reports](#) from the High Commissioner and whether this represents an optimal use of resources. Some participants noted that “the number of requested reports is now at a critical level.” Others raised questions over whether States and NGOs have the capacity to read and process the reports. It was remarked, moreover, that few reports are actively discussed and considered by the Council, and even fewer are actively followed up.
- Notwithstanding the value of [panel discussions](#) as a Council work format, States should reconsider the necessity of annualising some panels as well as the necessity of convening full-day panels.
- The main sponsors of resolutions - where there is a similar or related resolution tabled at the Third Committee - should, at a minimum, ensure that the two [texts are complementary and not duplicative](#). Beyond that, States could consider whether similar or related initiatives might be staggered between Geneva and New York.
- To decrease the pressure on the agenda of the Council while improving meaningful dialogue and impact, States might

2. Aspirations and possible goals suggested during the 2015 Glion Human Rights Dialogue and/or during the three policy dialogues that preceded it.  
3. It is important to note that, since the convening of the second Glion Human Rights Dialogue, some of the proposals made at the meeting have already been acted upon.

make better use of the 'other formats of work' included in the IBP (i.e. other than panel discussions), especially inter-sessional work formats like seminars, workshops and roundtables. Some participants suggested using "the time allocated for Council organisational meetings to hold panel debates or other thematic discussions."

- Under the IBP, it is not necessary to cover all ten agenda items at every session of the Council. Consideration of some agenda items could take place, for example, only once a year. Stakeholders might consider the advantages, disadvantages and implications of this possibility.

- The Council should reconsider the format of interactive dialogues with Special Procedures to make them more useful for States, mandate-holders and NGOs. For example, States might focus on asking questions and avoid delivering pre-drafted statements. Other parts of the Council's agenda (e.g. general debates) could likewise be made less formulaic and repetitive: "at present, genuine dialogue and exchange of opinion are rare in the Council."

- The Council should re-orientate its programme of work and methods of work towards follow-up, implementation and measurement of progress/results. For example, "only a small number of Special Procedures submit follow-up reports to the Council on implementation, and even when they do, the concerned state is not given sufficient time and space to engage with the mandate-holder. Likewise, there is little or no space on the agenda for States to update the Council on steps taken to implement mechanism recommendations." It was noted that States might explore a better use of items 5 and 7 for such purposes. "It is vital for the Council's credibility and future that we create more space for identifying and promoting good practice on implementation and exchanging national experiences."

- Maintain and strengthen access for and engagement with civil society and NHRIs in a safe and unfettered manner, bearing in mind that they are often key actors in following up on mechanism recommendations and resolutions at local level. Meaningful engagement should

include "being willing to listen to criticism, and affording space for victims during Council sessions."

- States should have at their disposal, and might regularly consider and debate, information on levels of state engagement and cooperation with the Council and its mechanisms. "We should always remember: transparency and accountability are mutually reinforcing and help contribute to improvements in human rights."

- When considering situations of human rights violations, some participants emphasised the importance of carefully calibrating the Council's approach depending on the context. For example, as part of a discussion on whether "naming and shaming really works," some participants argued that: "Initial Council interventions should be premised not on condemning, but on encouraging the State in question to engage. This means showing that the Council is there, at the beginning, to support States meaningfully address violations in their own country. Only when a State refuses to cooperate should more condemnatory interventions be used." Others underscored the importance of genuine cooperation by States, and argued that when such cooperation is lacking then the Council must be ready to respond according to its mandate.

- OHCHR should ensure the availability of Council working documents in a timely manner and in all official languages of the United Nations.



# STRENGTHENING IMPLEMENTATION AND IMPACT ON-THE-GROUND

## WHERE ARE WE TODAY?

The elaboration of a comprehensive global code of human rights norms has been one of the major success stories of the Council and its predecessor, the Commission. However, promoting State compliance with those norms has consistently proved more difficult. To address this challenge, the Council uses a variety of tools including resolutions (e.g. on 'national policies and human rights,' and on 'technical cooperation and capacity-building,') panel discussions and, most importantly,



mechanisms that promote compliance through political suasion, transparency, assessment, advice and technical assistance, capacity-building and cooperation. The most prominent of these are the Universal Periodic Review (UPR) and the Special Procedures. These Council mechanisms in turn complement the work of the UN Treaty Body system.

There is no question that these mechanisms and their recommendations can have a profound positive impact on the promotion and protection of human rights in specific cases. What is less clear is the degree to which the expansion of the mechanisms and their output over the past two decades has led to a corresponding strengthening in terms of their impact on-the-ground.

While it may seem counter-intuitive, there has been relatively little focus, over the years, on the actual mechanics of what happens to UN-level human rights recommendations (e.g. UPR, Special Procedures, Treaty Body) when they are transmitted from Geneva-based missions to national capitals. And where there has been consideration and debate on implementation, it has tended to follow a Geneva-centric “top down approach,” when in fact more needs to be done to understand how domestic stakeholders process recommendations, what works, and what are the main barriers to implementation. Such an analysis can then inform decisions, in Geneva and New York, on how the international community can better support and promote implementation.

On-the-ground implementation can be affected by levels of political will and/or by capacity constraints. Regarding the former, States can demonstrate political will by establishing and/or developing effective national implementation, coordination and reporting structures. Cases where States manifestly lack the political will to cooperate with the UN human rights mechanisms and implement their recommendations should be brought to the attention of the Council. While political will is important, capacity constraints can also pose a significant barrier to progress “in many cases.” In such cases, the Council should play a more effective role in helping States overcome capacity limitations through the provision of capacity-building support and technical assistance.

Looking at the ‘upstream’ dimension of implementation (i.e. the generation of recommendations), the sheer number (and sometimes overlapping nature) of recommendations generated by the human rights mechanisms can be challenging, as can the fact that they are not always SMART. This, in turn, highlights the importance of “recommendation management” – the systematic clustering, prioritisation and communication of UN human rights recommendations.

Turning to the ‘downstream’ side, there is a growing interest, at present, in the establishment and evolution of ‘national implementing and reporting structures’ (e.g. inter-ministerial working groups, human rights standing committees.) Initial research suggests a small but growing number of States are building such domestic structures to help coordinate the different national actors involved in implementing UN human rights recommendations. There is also a sense that other ‘implementation partners’ including UN Country Teams, NHRIs, parliaments, judiciaries, NGOs and donor States are also increasingly reflecting on how they can best work with national structures to support implementation.

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## ISSUES FOR REFLECTION AND OPPORTUNITIES FOR CHANGE<sup>4</sup>

- Relevant stakeholders should expand and systematise the [collation, clustering, prioritisation and smart communication of recommendations](#) (from all mechanisms) in Geneva, and improve their accessibility for States and other stakeholders through a public ‘one-stop shop’ such as an easily searchable and up-to-date Universal Human Rights Index. This should be done in such a way as to support effective implementation and promote transparency-accountability.
- Regarding UPR, it was pointed out that a relatively simple way to facilitate the improved clustering and prioritisation of recommendations would be to revisit the time allocation for

4. Aspirations and possible goals suggested during the 2015 Glion Human Rights Dialogue and/or during the three policy dialogues that preceded it.

the finalisation of the list of recommendations.

- The Council and/or relevant mechanisms (e.g. Special Procedures) should produce “smarter tools” to help transpose international norms into local language – “for example model legislation.”
- States should rethink and perhaps reset item 10 to help turn the Council into a true “catalyst for change.” Questions to be considered include: how to make item 10 into a place where States can request capacity-building and technical support for the implementation of recommendations; how to make it into a forum for exchanging best national practice on implementation, including exchanging experience around the establishment of standing national reporting and coordination mechanisms (SNRCMs); why should the Council not take more decisions itself to support States, thus helping to overcome the fact that OHCHR currently has to turn down many requests for capacity building support; how to bring more ‘implementation partners’ like UN Country Teams, regional human rights mechanisms, parliaments, judiciaries, NHRIs, and civil society, into discussions under item 10?
- States could look to use item 10 as a platform for the ‘clearing house’ foreseen in paragraph 20 of resolution 16/21 - to enable States to request UN assistance (via, and coordinated by, OHCHR) to help implement and follow-up on human rights recommendations.
- States could also consider establishing a new type of Council mechanism under item 10 such as a UN “special roster of experts” that could be mobilised (at the request of the concerned State) to offer technical support in specific areas of need.
- Special Procedures might use their convening power to mobilise international development actors, such as UNDP or donor States, to support the implementation of their recommendations. They should also more systemically follow-up on the implementation of their own recommendations. It was pointed out that this does not need to be done through follow-up visits, but can be effectively done by desk research and correspondence with the State and domestic civil society/ NHRIs.

- Donors may consider ways to ensure that their development cooperation is aligned with and better supports priority human rights action at the national-level, in line with the recommendations of international human rights mechanisms.
- All States should establish and/or strengthen SNRCMs, which would be responsible, *inter alia*, for developing national implementation plans, and for reporting back to the UN on progress. SNRCMs might also be encouraged to develop national databases to track progress on the implementation of recommendations. Helping States establish and/or strengthen SNRCMs (where requested) should be a priority for OHCHR and for UN Country Teams.
- UN Country Teams might find ways to better support follow-up action to recommendations received from the international human rights mechanisms, including by “supporting the establishment and strengthening of inclusive national implementation and reporting structures” (i.e. SNRCMs); by integrating UN human rights recommendations into their country programming, including the UN Development Assistance Frameworks (UNDAFs) with host States; and by supporting the strengthening of NHRIs to act (with parliaments and local civil society) as “independent monitors of State implementation.”
- OHCHR could widen and strengthen its efforts to engage with UNCTs to “develop matrices of clustered recommendations and integrate them into UNDAFs.”
- OHCHR might produce annual collections of case studies showing “implementation success stories” and present these in innovative ways – for example through videos that could be shown at the Council or the Third Committee, and be made available on-line.





# THE COUNCIL'S RELATIONSHIP WITH THE WIDER UN SYSTEM, AND THE MANDATE RESOURCE GAP

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## WHERE ARE WE TODAY?

### The 'mandate-resource gap'

The growing output of the Council since 2006, together with a greater demand for human rights expertise from across the UN system and from States (OHCHR now has 68 field presences) has served to place increasingly high expectations and demands on OHCHR. This in turn has clear budgetary implications. And yet, despite a doubling of financial resources for the human rights pillar, proposed at the time of the 2005 World Summit and the establishment of the Council, the OHCHR today still receives only around 3% of the regular budget of the UN secretariat.

The growing expectations placed upon, and output of, the UN's human rights pillar, as set against this low level of regular budgetary support has, according to some, served to create a 'mandate-resource gap.' This is problematic in its own right, but also because it makes OHCHR increasingly reliant on extra-budgetary voluntary contributions, which in turn raises predictability and sustainability concerns.

When looking at this 'mandate-resource gap,' it is important to understand what is meant by 'mandated activities' and then calculate the actual resources necessary to fully fund them through the UN's regular budget. As one follow-up action from Glion I in 2014, OHCHR is currently finalising such an assessment.

Notwithstanding that analysis, it was noted that the funding gap is not the same for all mandated activities. Indeed, since the establishment of the Council most mandates have been allocated the requested funds by ACABQ and the Fifth Committee. The problem, rather, mainly relates to older mandates: “historically, many mandates were never fully funded (or funded at an unrealistic level).” If the Council wants to close the ‘mandate-resource gap,’ dealing with these “woefully underfunded older Special Procedures mandates” would be a good place to start.

At a time of “zero growth in the regular budget,” it was noted that financial questions become a zero sum game, and “competition for resources” between the three pillars becomes unavoidable. Thus, if the UN wants to position human rights as an equal pillar, it would need to rebalance or redistribute its investments away from security and development, and towards human rights. According to some, this will lead to a win-win situation in which “a stronger emphasis on human rights today will help prevent crises (and thus recourse to the security pillar) tomorrow (i.e. prevention).” Others, however, made clear that there should be no increase in funding for human rights if it means a reduction in funding for the development pillar.

Finally, it will help make the case for more regular budget funding if the Council can demonstrate that it is making an effort to improve its own efficiency and productivity, and if ‘Geneva’ can do a better job at showing the achievements and results of the human rights pillar. “We will not get more funds unless we can show we are using them more efficiently and more productively.” In this regard, current efforts to improve the efficiency and effectiveness of the Council are particularly important.

## The Council’s relationship with the Third Committee and other relevant UN organs

It was noted by some that the Council’s relationship with the Third Committee represents, in some ways, “unfinished business” from the time of the creation of the body in 2006. While established as the UN’s main political body responsible for the promotion and protection of human rights, the Council is, legally speaking, a subsidiary body of the General Assembly. This situation has led to differences of interpretation in terms of the scope of the Council’s mandate and the role of the Third Committee, (particular reference was made to Council resolution 24/24). In this context, some participants recalled that the Council is a subsidiary body of the General Assembly and not of the Third Committee.

Some argued that, because of this situation, it is very important for the Council to take further steps to promote and consolidate its relevance and visibility in New York, including by showing its capacity to react to, and demonstrate leadership on, emerging human rights-related issues and crises in an efficient and timely manner.

Others argued that the ‘difficult’ nature of the relationship between Geneva and New York is often overstated. In fact, rather than focusing on the tensions between the Council and the Third Committee, stakeholders should recall the different strengths of the two organs and how those strengths can complement each other. For example, the Third Committee has universal membership, while the Council is smaller and more flexible, meets more regularly and can create mechanisms. Thus the question should not be whether one should defer to the other, but rather how to better coordinate – to ensure that the Council and the GA are not looking at the same issues, the same years and from a similar angle. Such duplication “clearly makes no sense.”

One possible framework for understanding and improving the Council’s relationship with the Third Committee (and other relevant parts of the UN) is to focus on the five Cs: **capacity** and **competence** – delegates in the Council and in New York should be conscious of capacity constraints faced by both institutions and thus find synergies between the two;





**coherence** – the Council should work to ensure that its outputs are consistent with and complement the work of other relevant parts of the UN system (and vice-versa); and **communication** and **coordination** – although there are the same States in Geneva and New York there is significant room for improvement in terms of communication and coordination.

By following such an approach, States can help construct an increasingly positive and constructive relationship between Geneva and New York, building on positive developments such as the regular visits of the Council President to the GA, and regular visits by the Secretary-General, Deputy Secretary-General and President of the GA to Geneva. In so doing, it will be possible to address continued areas of difficulty such as divisions over Council resolution 24/24, and the fact that of the eight GA resolutions 'taking note' of the Council's annual report,

only two (2009 and 2011) have been adopted without a vote.

One aspect of the Council-Third Committee relationship that receives particular attention is the perceived problem of overlap and duplication between the work and output of the two bodies. However, some believe this problem to be overblown. For example, according to statistics compiled by the Universal Rights Group, between 2012-2013, only 7% of Third Committee resolutions had a functionally identical Council counterpart and 20% showed significant substantive overlap.

## Mainstreaming

One area where the situation may have actually gone backwards since the time of the Commission is on the question of mainstreaming – supposedly a core competence of the Council (paragraph 3 of resolution 60/251).

In the case of mainstreaming across the development pillar, relevant Council resolutions are often vague and certainly less explicit than was the case during the time of the Commission. In the past, resolutions called for and initiated very specific and targeted engagement with UN specialised agencies or departments like WHO or ILO. Yet today, Council resolutions rarely call on agencies or other parts of the UN's development pillar to take specific actions to mainstream human rights. Moreover, despite the international human rights community expending considerable effort to promote the benefits of a rights-based approach to the post-2015 development agenda, it appears that human rights references will be largely absent from the final Sustainable Development Goals (SDGs).

Turning to mainstreaming across the peace and security pillar, participants noted the acute importance of human rights promotion to help **prevent** conflict and thus gross and systematic violations. The Secretary-General's Human Rights Up Front action plan is meant to turn a page for the integration of human rights across the UN's operations after years of well-documented problems and failures. The effective implementation of the action plan is a crucial test case for the human rights pillar, the security pillar and the UN more broadly.

There is therefore a pressing need to recalibrate the Council's approach to mainstreaming, including by adopting more concrete recommendations to actors across both the development and peace and security pillars.

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## ISSUES FOR REFLECTION AND OPPORTUNITIES FOR CHANGE<sup>5</sup>

- States should continue to actively 'make the case' for an increase in the share of the UN's **regular budget** devoted to human rights, including by communicating about the Council's efforts to improve efficiency and effectiveness. It will be important, in order to make that case, for States to have access to OHCHR's analysis of the 'mandate-resource gap' (the "shadow budget" - see above) as well as best practice case studies showcasing the achievements of the Council.
- Regarding **voluntary funding**, there were calls for "greater transparency in the use of earmarked funding."
- "The human rights pillar should also multiply its share of the regular budget (i.e. turn 3% into 97%) through **effective mainstreaming**, and by reducing fragmentation of UN human rights activities across different parts of the UN system."
- States and relevant UN actors might consider putting in place an inclusive **bottom-up process of reflection** about the achievements of and challenges faced by the Council, and about possible reforms, with a view to ensuring that the next formal review of the body and its place in the UN architecture, to begin in 2021, is informed and results in concrete improvements.
- There is a widely held view that the more regular visits to New York by the President of the Council and the High Commissioner have had a positive impact on the **relationship between the Council and the Third Committee**, and between the Council and the Security Council. This improved connectivity should be maintained and built upon.
- To improve communication and coordination between delegations in Geneva and New York and thus further strengthen the relationship between the Council, the Third Committee and other relevant UN organs (including by addressing problems at

5. Aspirations and possible goals suggested during the 2015 Glion Human Rights Dialogue and/or during the three policy dialogues that preceded it.

an early stage), interested States should consider establishing two informal ‘[contact groups](#),’ one in New York and one in Geneva.

- More use could be made of [information technology](#) to [improve communication and coordination](#). For example, “interactive dialogues in the Third Committee (such as with the Council President, or Special Procedures) could be transmitted to Room XX, thus allowing the Council to follow discussions.” The same could also happen in reverse.

- There remains room for [deeper cooperation between the Council and the Security Council](#) – e.g. to ensure a strong human rights component in peacekeeping missions. It was noted that “there are no formal obstacles to a direct relationship between the President of the Human Rights Council and the President of the Security Council.” It was also noted that both the Council and the Security Council now establish commissions of inquiry. Perhaps in the future, Council commissions of inquiry could be mandated to report to both the Council and the Security Council (or vice-versa), or (more ambitiously) perhaps joint commissions of inquiry could be established? Finally, some also asked why country-specific Special Procedures are not, where relevant and appropriate, mandated to also report to the Security Council?

- Sponsoring States should reform the [annual mainstreaming panel](#) by covering mainstreaming across both the development and security pillars, by making it more focused on specific UN policy areas and specific human rights, and by engaging relevant UN bodies, entities and agencies in a meaningful and results-orientated way. One idea would be to make the annual panel a “joint Geneva-New York panel co-chaired by the President of the Council and the President of the GA and featuring panellists from both locations (connected by video-link).” For example, “a joint panel on women’s rights might better facilitate the participation of UN Women and other relevant specialised agencies.” It was also pointed out that the Council should find ways to better support the effective implementation of the Human Rights Up Front action plan.

- The Council might clarify what, precisely, is meant by ‘mainstreaming’ or the adoption of a ‘rights-based approach.’ It might be useful [to agree common definitions, parameters and approaches](#).

- It should be recalled that Special Procedures are important “mainstreaming actors” and that their capacity to interact with the Third Committee, Security Council and other UN organisations and agencies present in New York is an important way for the Human Rights Council to fulfil its mainstreaming mandate.

- Finally, [individual States should contribute to human rights mainstreaming](#) by improving coordination between their missions in New York and Geneva, and between relevant ministries.

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