



GLION HUMAN RIGHTS DIALOGUE 2019

TOWARDS 2026 – PERSPECTIVES ON THE
FUTURE OF THE HUMAN RIGHTS COUNCIL



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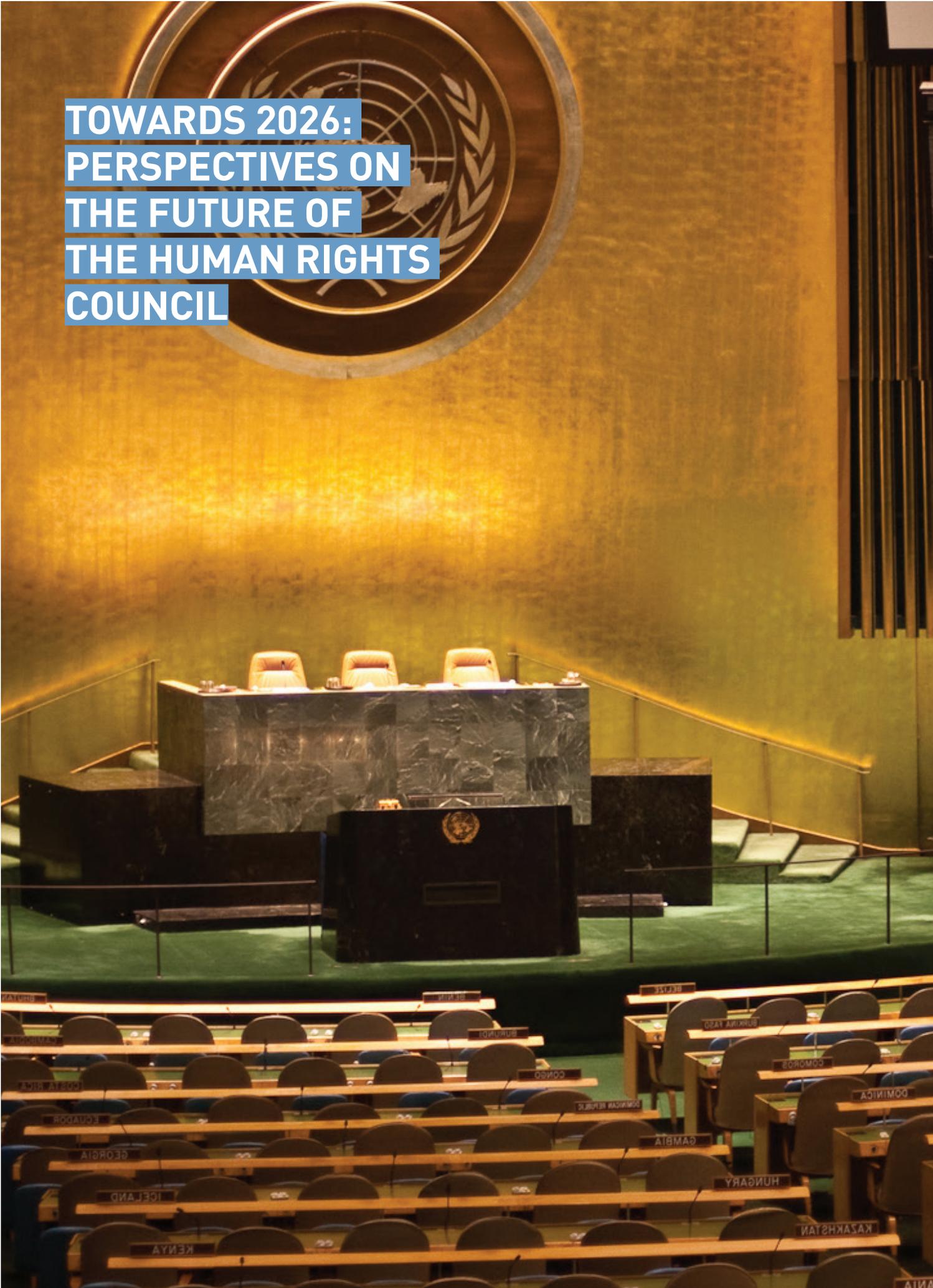
UNIVERSAL RIGHTS GROUP

Glion VI

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**TOWARDS 2026:
PERSPECTIVES ON
THE FUTURE OF
THE HUMAN RIGHTS
COUNCIL**





The sixth Glion Human Rights Dialogue (Glion VI), organised by Switzerland and the Universal Rights Group (URG), in partnership with the Permanent Missions of Botswana, Fiji, Iceland, Mexico and Thailand, was held on 27-28 May 2019 and focused on the topic: 'Towards 2026: Perspectives on the future of the Human Rights Council.' The Glion VI retreat was preceded by four preparatory policy dialogues held in Geneva and New York.

The Human Rights Council (Council) has secured a number of significant achievements since its establishment in 2006. It has continued much of the important work of the former Commission on Human Rights by, for example, providing a forum for debate; maintaining a system of Special Procedures; and widening the global framework of human rights norms and standards. At the same time, it has taken further steps to strengthen the relevance and delivery of the UN's human rights pillar. These include: building a powerful new peer review mechanism (the Universal Periodic Review - UPR); focusing to a greater degree on supporting and following-up on the domestic implementation of States' human rights obligations and commitments; contributing to the effective prevention of human rights violations and crises; promoting accountability for serious violations through the creation of fact-finding missions, commissions of inquiry and, in the case of Myanmar, of an investigate mechanism; and forging strengthened links with the UN's other two pillars – the development pillar and the peace and security pillar.

Yet, the Council also faces challenges to the effective delivery of its mandate as set by the General Assembly (GA) in resolution 60/251.

The GA's review of the Council's status, due to take place

between 2021 and 2026, offers an opportunity for States and other stakeholders to reflect on these achievements and challenges, and to consider how the body might strengthen its effectiveness and impact, both in its own regard and in combination with the other two pillars of the UN. Moreover, the 2021-2026 review offers a chance to look ahead and reflect not only on how the international community might better respond to *today's* human rights challenges, but also on how it should respond to the challenges of *tomorrow*.

Glion VI provided a platform for UN member States, the President of the Human Rights Council, senior UN officials (including the Deputy 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 issues. The retreat adopted a bottom-up approach, focused on identifying ways to strengthen the on-the-ground impact of the international human rights system, and then 'working backwards' to consider how to strengthen the UN's human rights machinery to better secure that impact. Importantly, Glion VI was premised on an understanding that the human rights pillar can only secure such improvements in cooperation with the other two pillars of the UN.

As with all Glion Human Rights Dialogues, the informal and inclusive discussions at Glion VI, held under the **Chatham House rule**, aimed to generate new thinking and ideas, boost mutual understanding and bridge differences. Finally, Glion VI sought to complement and contribute to existing processes, including the Council President's consultations ahead of the 2021-2026 review, and the Council's on-going efforts to strengthen its efficiency.



POLICY DIALOGUES AHEAD OF GLION VI

Ahead of Glion VI URG co-convened a series of informal policy dialogues with supportive State delegations in Geneva and New York. These policy dialogues allowed for early consideration and an exchange of views on certain questions related to the future of the Council. Key conclusions, ideas and proposals were fed into the Glion VI retreat.

The four policy dialogues addressed the following topics:

- ‘The contribution of the Human Rights Council to the General Assembly’s 2021-2026 review of the Council’s status.’ *Hosted by the Permanent Mission of Botswana, Thursday 2 May, Geneva.*
- ‘New York perspectives on the General Assembly’s 2021-2026 review of the Council’s status.’ *Hosted by the Permanent Missions of Iceland, Thursday 9 May, New York.*
- ‘Implementation support and follow-up by the international human rights system.’ *Hosted by the Permanent Mission of Thailand, Wednesday 8 May, Geneva.*
- ‘Emerging issues and developing effective Council responses.’ *Hosted by the Permanent Mission of Mexico, Thursday 11 April, Geneva.*

REPORT OF THE SIXTH GLION HUMAN RIGHTS DIALOGUE

This report on Glion VI is divided into three parts.

Part one looks at the **GA’s 2021-2026 review of the Council’s status**, taking into account both the Geneva and the New York perspectives.

Part two provides reflections on **implementation support and follow-up by the international human rights system**

Finally, part three seeks to identify **emerging human rights issues** and consider **how to develop effective Council responses**.

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 VI.

The report is an informal document summarising in a non-attributable manner some of the key ideas developed during Glion VI and based on the four preparatory policy dialogues. The document does not represent the position of Switzerland, Botswana, Fiji, Iceland, Mexico and Thailand, nor of any of the participants, but is rather a non-exhaustive collection of ideas generated during those meetings.



GENERAL ASSEMBLY'S 2021- 2026 REVIEW OF THE COUNCIL'S STATUS



WHERE ARE WE TODAY?

At the 2005 World Summit, UN member States decided to strengthen the human rights pillar by creating the Human Rights Council in replacement of the Commission on Human Rights.¹ This decision was taken based on proposals contained in the then UN Secretary-General's report 'In larger freedom: towards development, security and human rights for all.'² According to this report, the establishment of a smaller standing Human Rights Council 'would accord human rights a more authoritative position, corresponding to the primacy of human rights in the Charter of the United Nations.' The report left it to States to decide whether the Council should 'be a principal organ of the UN or a subsidiary body of the General Assembly.'³

In March 2006, States adopted GA resolution 60/251 formally establishing the Council as a subsidiary organ of the GA. With this resolution, they decided that 'the General Assembly shall review the status of the Council within five years.'⁴ At the same time, the GA called upon the Council to 'review its work and functioning five years after its establishment and report to the General Assembly.'⁵

In March 2011, after completing the review of its work and functioning as requested in GA resolution 60/251, the Council adopted resolution 16/21.⁶ The GA recognised this outcome in resolution 65/281 and decided to maintain the status of the Council as a subsidiary body. It further decided '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].⁷ On this occasion, however, the GA did not request the Council to conduct a further review of its work and functioning.

During Glion V in 2018, States and other stakeholders had an early opportunity to look ahead to the 2021-2026 review, and consider the question of whether and how the Council and 'Geneva' should contribute. The strong view of participants was that 'Geneva' should indeed provide a contribution to help inform the GA's deliberations. However, there was no consensus over the nature or timing of that contribution.

In February 2019, these issues were raised again in a 2019 Council Bureau 'Roadmap for 2019.'⁸ The paper noted that the absence in GA resolution 65/281 of an explicit request for the Council to conduct a review of its work and functioning had led to discussions over: '(1) whether and how the Council should contribute to the 2021-2026 review as it did in 2011; and (2) whether a review of the Council's work and functioning should be undertaken?'

On 28 March 2019, the current President of the Council, H.E. Coly Seck (Senegal), convened a first open informal

consultation seeking the initial views of States on how, if at all, the Council might usefully contribute to the 2021-2026 review. As during Glion V, there was a clear sense that 'Geneva' should contribute. It was repeatedly noted that because experience and expertise about the Council largely reside in Geneva, it would be necessary for delegations to the Council and other Geneva-based stakeholders to feed into the New York-based review. Moreover, although some participants argued that it is too soon to begin talks in Geneva, others already made concrete suggestions regarding the possible form of an eventual contribution.

Notwithstanding these initial ideas, there was also a strong view that the Council should ultimately take its lead from the GA. This might come, for example, in the form of an informal signal from the President of the GA (e.g. in a letter to the President of the Council) or in a more formal GA decision (i.e. a resolution providing the Council with a specific mandate to act).

KEY QUESTIONS

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

1. Does the broad sense, evident at Glion V, that the Council and 'Geneva' should contribute to the GA's 2021-2026 status review still hold, and if so, what should be the nature of that contribution?
2. How should such a contribution be elaborated and made available to the GA, and when should this happen?
3. What are the main messages the Council and 'Geneva' would like to communicate to the GA?
4. From a 'New York' perspective, what do GA delegations expect from the 2021-2026 review, and what kind of 'Geneva' input might be useful as a contribution to the review?

ISSUES FOR REFLECTION AND OPPORTUNITIES FOR CHANGE

Should there be a 'Geneva' contribution?

- Discussions during Glion VI revealed broad agreement that 'Geneva' should provide a **substantive contribution** to the 2021-2026 review, given that expertise on the Council and its work resides in Geneva.

- A number of participants considered it ‘almost inconceivable that New York would not ask for a Council contribution.’ Many expressed support for this reading, adding that discussions such as those at Glion V and VI, and during the Council President’s 28 March consultations, were very useful because ‘when the GA asks for our input, **it is important for us to be ready.**’

- It was reported that the President of the Council had, earlier this year, met the President of the GA to provide a sense of the views shared during the 28 March consultations. The GA President was said to be ‘very open to receiving Geneva’s views and inputs.’

- While not disagreeing on the importance of a strong Council contribution to the 2021-2026 review, some participants argued that it is rather pointless for ‘Geneva’ to be discussing these issues now, because the review is a purely GA prerogative. ‘We should, therefore, **wait for a signal from New York.**’

Is there a legal basis for a ‘Geneva’ contribution?

- This last point provoked a debate over whether the Council needs an **explicit mandate** (e.g. a resolution) from the GA to begin its own process of review or reflection.

- On the one hand, it was noted that the Council has regularly **self-initiated reviews** or reform processes such as, for example, the on-going efficiency drive. Moreover, even if one accepts that some kind of mandate is needed from the GA, it does not necessarily need to be a formal legal mandate (i.e. a resolution). It was noted, for example, that the 2011 review of the Council was initiated by an informal exchange between the President of the Council and the President of the GA. Another participant argued that the GA has already provided the Council with a clear mandate to strengthen the enjoyment of human rights around the world. This implies that **the Council should constantly review and improve its work.** Therefore, it does not need a further mandate from the GA. Notwithstanding these arguments, it was acknowledged that ‘it would be easier and more institutionally expedient were the Council to receive some expression of the GA’s expectations.’

- On the other hand, a number of participants insisted that the Council must take its lead and receive **a clear mandate from the GA** before undertaking any review. This, they argued, is vital in order to ensure coherence and coordination between Geneva and New York. Resolution 65/281 is clear that the reconsideration of the Council’s status is to be carried out by the GA. It is therefore for the GA to decide what contribution it would like, if any, from the Council.’ Another participant agreed, adding: ‘We must wait for the GA to tell us what kind of input it would like and when it would like it.’ While these participants acknowledged that the Council can initiate its own review that does not mean it would be wise to do so. ‘If the GA feels we have overstepped the mark,

delegations in New York may be minded to ignore whatever input we eventually convey.’

New York expectations

- The pre-Glion policy dialogue in New York demonstrated that GA delegations are yet to give much thought to the 2021-2026 review. There was nonetheless broad agreement that **‘the GA will, at some point, seek expert input from Geneva.’** It was also clear from the policy dialogue that colleagues in New York understand the importance of close coordination and coherence between the Council and the GA, as well as the value of a Geneva contribution to the review.

- It was recounted, however, that ‘colleagues in New York do not appear to be overly enthusiastic to start a review process now,’ while some seemed to believe that ‘Geneva is getting a little bit ahead of itself’ in already starting discussions on the 2021-2026 review.

- Notwithstanding, one participant reminded that it is the same countries represented in Geneva and New York, and thus what is important is to ensure effective **‘transatlantic coordination and communication’** between missions.

- Another participant agreed and urged all stakeholders to remember that State representatives, whether they are based in Geneva or New York, want the same thing: a strong and effective Council. **‘No diplomat in New York is explicitly against human rights,’** he argued. Rather, there is often a sense that ‘when the issue of human rights is raised in New York, it is done for expressly geopolitical purposes.’ Therefore, as Geneva and New York missions coordinate in preparation for the 2021-2026 review, it will be important for the former to communicate a fair and balanced picture of what the Council is, what it does, what it has achieved, and the challenges it faces. ‘That would be an extremely useful contribution to the 2021-2026 review.’

Timing

- There was **little agreement on the ideal timing** of a ‘Geneva’ contribution or of the likely timeframe of the GA’s review - especially because GA resolution 65/281 is rather vague on this point.

- Some warned against ‘jumping the gun,’ which might result in the Council becoming embroiled in an unnecessarily long and complicated review process, ‘when it is not yet clear what the GA wants to do.’

- Others pointed out that a complex and time-consuming review might risk **‘sucking the oxygen’** out of the Council’s regular work. They recalled that the 2011 review had been a long process that had achieved very little, and as a consequence many now have ‘review fatigue.’

- Opponents of this view argued that preparing for the 2021-2026 review should be seen as **an opportunity rather than a threat** – an opportunity to identify areas for improvement and to drive change. They also pointed out that the 2021-2026 review window is much closer than people think.

Nature of a possible ‘Geneva’ contribution

- Participants discussed a number of options for the possible shape and content of a ‘Geneva’ contribution.
- One participant argued that because the 2021-2026 review will only focus on the **narrow question of the Council’s status** (i.e. should it remain a subsidiary body or be elevated to be a main body), any ‘Geneva’ contribution should only address this question. Those opposing this argument said that such a narrow review would be a ‘pointless exercise,’ because it is highly unlikely that the GA will decide to change the Council’s status – not least because making the Council a main body of the UN would involve amending the UN Charter.
- At the other end of the scale of ambition, one participant called for a **broad review** of the Council’s work and functioning – as in 2011. Only by undertaking such a review could the Council offer meaningful advice to the GA on the question of status. There was, however, little support for this proposal.
- A possible ‘middle option’ was also discussed. This would see the Council undertake a process of **reflection or self-assessment** to gauge the degree to which it has been able to fulfil its mandate as defined in GA resolution 60/251. A supporter of this approach opined that: ‘Most people agree that the Council has generally done well in implementing and delivering on its mandate over the past twelve years [...] Almost nobody thinks the Council is broken or that GA resolution 60/251 and the institution-building package [IBP] need fundamentally revisiting. Therefore, a light process of reflection that identifies achievements and successes, as well as shortfalls and areas for improvement, would be more appropriate than a full review of the Council’s work and functioning – which would necessarily involve revising the IBP.’
- Such a light process of reflection would be premised, it was argued, on assessing the degree to which the Council has delivered on **each aspect of its mandate**, as elaborated in GA resolution 60/251 and the IBP (as amended by the five-year review outcome). ‘It should **not** be premised on questioning or revising those basic documents.’
- A further suggestion was for such an exercise to also cover the Council’s **relationship with the GA’s Third Committee**. It was argued that the 2021-2026 review represents an important opportunity to discuss and bring greater clarity and coherence to the Council’s relationship with the GA.
- One participant called for the Council to conduct a ‘**confident review**,’ reflecting the fact that the body is no longer a ‘start-up’

and has already proved itself: ‘it is normal for the Council to be self-conscious about what others, including older UN bodies in New York, think about it.’ However, when approaching the 2021-2026 review ‘the Council should be self-confident and proud of what it has achieved over the past 13 years.’ ‘The Council has already shown itself willing to adapt and innovate in order to improve its work and impact; the 2021-2026 review should be seen as an opportunity to continue that process of change and improvement.’

- This theme of self-confidence was taken up by another participant who argued that while the world in 2019 may look very different than it did in 2006; that does not mean it has changed for the worse. According to this participant, there seems to be a broad assumption that human rights are in crisis. ‘The optimism of 2006 has been replaced by, at best, uncertainty and, at worst, fear.’ He called on the Council to **recapture that earlier feeling of optimism** and to use the 2021-2026 review, as well as the wider process of UN reform, to drive important practical improvements in the Council’s work and its engagement with other parts of the UN.
- Another participant called for any ‘Geneva’ review to be fact-based, using **empirical evidence**, as well as qualitative/opinion-based inputs.
- Others said that any self-assessment exercise should also include the degree to which the Council is ‘getting the message out’ about human rights, via the media and social media. ‘How well are we **communicating human rights** and thus building a global culture of human rights?’

‘Geneva process’

- There was very **little support for a fully-fledged intergovernmental process**, similar to the one employed for the 2011 review. Generally speaking, this opposition was driven by a concern not to ‘reopen’ GA resolution 60/251 or the IBP, and a concern that an elaborate process would distract attention from the Council’s important everyday work. The backdrop to these calls for caution was, as relayed by one participant: ‘a global situation where the human rights community is on the defensive – and which is therefore not well-suited to progressive thinking and reform.’
- While there was broad agreement that the Council **should not** organise a formal intergovernmental process, there was little agreement about what it **should do**.
- Some insisted that whatever the process might eventually look like, it must be **State-driven and State-owned**.
- Others expressed doubts that States would be able to agree on a common critique or appraisal of the Council’s performance since 2006, or agree on priority areas for improvement. These participants, therefore, suggested that a **group of eminent**

experts (e.g. former Council Presidents) be mandated to consult with States and other stakeholders in order to reflect different views, areas of common ground, and ideas for strengthening the Council's delivery and impact. Such a process would have the benefit of being 'light' – i.e. minimising disruption to the on-going work of the Council. Others pointed out that it would also be more sustainable than a typical Bureau-led process – because Council Bureaus change every twelve months; and more inclusive – with the full participation of civil society. Other participants, however, strongly disagreed with any such attempt to 'outsource' the review, reiterating the argument that any process must be State-led.

- Another idea was for the Council or the GA to **mandate the High Commissioner or Secretary-General** to consult widely (in Geneva, New York and in the field) and deliver an independent assessment of the Council's work and impact since 2006. Such a report could also contain recommendations for improvement for further consideration by States. A number of participants objected to this proposal, pointing out that the Secretariat does not have the power to judge the work of States.

- A few participants pointed out that while this type of independent assessment could be requested by the Council (i.e. through a resolution), it could also be undertaken at the **own initiative** of the High Commissioner or Secretary-General. It was argued that there are numerous precedents for this, such as Kofi Annan's 2005 report 'In Larger Freedom,'⁹ as well as former High Commissioner Louise Arbour's 2005 'Plan of action' in which she submitted her views on the future of OHCHR and the soon-to-be-created Council (including its universal peer review mechanism).¹⁰

- One participant proposed a **possible compromise** on the question of whether a 'Geneva process' should be purely intergovernmental or might also benefit from 'outside or independent input.' According to this proposal: 'We could be supportive of inputs by the High Commissioner or a group of eminent experts, which may indeed contribute to informed decision-making.' At the same time, 'such inputs must be fed into a wider, State-led process that enjoys the support of all States and other stakeholders. Independent assessments could not themselves constitute Geneva's contribution to the GA's review.'

- Finally, participants discussed what kind of relationship such a process would have with the Council's on-going **efficiency process**. Some suggested that the current process could feed into the Geneva contribution. Others argued that linking the two might risk 'politicising' the current efficiency drive – which is proving relatively successful. The two processes should, therefore, proceed in parallel.

Key messages

- One participant argued that 'it would be counterproductive for Geneva to communicate the message that it is impossible to foresee a situation in which the Council would ever become a main body of the UN.' Such a message might be realistic, he said, but it would risk 'pre-emptively taking the wind out of any process organised in the context of the 2021-2026 review.'

- This point was linked to the earlier argument that any Geneva process should be seen as **an opportunity rather than a threat**. 'Yes, the Council is doing quite well, especially against unfavourable international headwinds. But that does not mean it can't do better in certain areas,' said one participant. Another agreed: 'Reviews of the Council do not come around very often. So let's seize this chance to talk about ways to improve our work and impact.'

- It was pointed out that many **positive arguments exist to elevate the status of the Council** from a subsidiary body to a main body of the UN. For example, such a step would raise the profile of human rights as one of the three pillars of the UN, strengthen arguments in favour of a redistribution of UN regular budgetary funds towards human rights, boost the Council's efficiency and effectiveness, and settle the long-term problem of duplication and incoherence between the Council and the GA's Third Committee.

- Others, however, disagreed with the idea of explicitly calling for the Council's elevation to a main body of the UN, arguing that such calls might **engender a negative reaction** in New York. In any case, they expressed doubts that the Council's elevation would have any discernable impact on available budgetary resources.

- Beyond the debate over whether or not to openly advocate for the Council to be made a main body of the UN, there was wide agreement that 'Geneva' should continue – and even scale up – its current efforts to build a more **positive narrative** around the work, importance and impact of the international human rights system. This positive narrative, which partly came out of Glion V and has been taken up by the new High Commissioner for Human Rights, seeks to emphasise how the human rights system can help States make progress towards sustainable development, and safeguard peace and security (through an emphasis on prevention and building human rights resilience).

- One participant congratulated 'Geneva' on this change in tone, and said it is already having a **positive impact in New York**. The Council's 2018 resolution on 'Human rights and the 2030 Agenda' was held out as a case in point. 'Such practical steps are the best way to strengthen the Council and its impact,' he said, 'not campaigns to amend the body's status.'



IMPLEMENTATION SUPPORT AND FOLLOW-UP BY THE INTERNATIONAL HUMAN RIGHTS SYSTEM



WHERE ARE WE TODAY?

The importance of implementation support and follow-up is fully recognised in GA resolution 60/251. With this resolution, the GA mandated the Council to 'promote the full implementation of human rights obligations undertaken by States.'¹¹ In order to fulfil this mandate, the Council was called upon to develop methods of work that 'enable genuine dialogue, [are] results-oriented, allow for subsequent follow-up discussions to recommendations and their implementation, and also allow for substantive interaction with special procedures and mechanisms.'¹²

Over recent years, the Council and its mechanisms have taken important steps to strengthen implementation support and follow-up:

- In the context of certain country-specific resolutions (e.g. on the situation in Sri Lanka), the Council has set-down a series of 'benchmarks' against which progress might be measured. This in turn opens up the possibility that the Council may request the High Commissioner to report on progress towards those benchmarks.
- In the context of the UPR, at the end of each session of the Working Group, the High Commissioner now routinely sends letters to States that have been reviewed, highlighting priority clusters of recommendations for implementation. Moreover, reviewing States are increasingly combining their recommendations to States-under-review with offers of technical assistance to support implementation, and/or using subsequent review cycles to follow-up on progress.
- Special Procedures mandate-holders have to some degree always followed-up on the implementation of their recommendations to States (after country missions), either via letter or – where resources allow – follow-up visits. Efforts are now underway to make this more systematic, and to collate and publicise 'implementation success stories.'
- Finally, UN Resident Coordinators and Country Teams are increasingly integrating UN human rights recommendations into UN Development Assistance Frameworks (UNDAFs). This holds out enormous potential for securing improvements in the domestic enjoyment of human rights and for the achievement of the SDGs 'leaving no one behind.'

Notwithstanding these positive changes, there remains significant room for improvement. As the Council considers ways of enhancing its methods of work to better address the human rights challenges of today and tomorrow, a focus on strengthening follow-up and support for implementation should

be a priority. Such improvements do not require any changes to the Council's status or institutional framework. Rather, they can be achieved by strengthening the mechanisms and systems already at the body's disposal.

KEY QUESTIONS

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

1. How do Special Procedures currently follow-up on the implementation of their recommendations, track and measure progress, and mobilise 'implementation support' to those States that request it?
2. How is the UPR's 'in-built' follow-up mechanism (i.e. subsequent UPR reports updating the UPR Working Group on the implementation of previous recommendations) working in practice? Are national reports, UN system reports, and 'other stakeholder' reports proving equally effective as follow-up mechanisms? How do reviewing States follow-up on, and potentially support, the implementation of recommendations they have extended?
3. Is the UN human rights system well equipped to ensure follow-up to the significant quantity of thematic and country-specific resolutions adopted at each Council session?
4. How do OHCHR and other relevant UN programmes and agencies follow-up with States to support them, where requested, with the domestic implementation of recommendations from the Council's two main mechanisms – Special Procedures and the UPR (perhaps also in combination with Treaty Body recommendations)? How do different UN programmes and agencies ensure coherence and avoid duplication in the delivery of implementation support?

ISSUES FOR REFLECTION AND OPPORTUNITIES FOR CHANGE

Follow-up by the Council and its mechanisms

- There was wide agreement that the Council, its mechanisms, relevant UN agencies and programmes, and individual UN

member States should work to strengthen follow-up, in line with the Council's mandate. That work would have two main objectives: first, to better **track national progress** with implementation and measure impact; and, second, to provide **technical assistance and capacity-building** support to better support implementation.

- Participants repeatedly stated that although the Council is mandated to follow-up on implementation and provide technical assistance to States upon their request, and has established two agenda items (5 and 10) for this purpose, in reality it does relatively little work in these areas.

- Moreover, it was pointed out that even when the Council does engage in these areas, its approach is often flawed. For instance, while individual States do sometimes use **item 5** to report back to the Council on national progress with the implementation of Special Procedures recommendations, it was noted that, under current rules of procedure, Special Procedures mandate-holders are not allowed to respond.

- Regarding **item 10**, participants remarked that the only countries regularly covered under item 10 tend to be States with serious human rights challenges (e.g. States emerging from civil war, or countries that have just suffered from serious natural disasters). In such cases, the Council's approach has (generally speaking) been to adopt resolutions establishing an Independent Expert mandate. That Independent Expert would then visit the State concerned and write a report on the country's capacity-building needs, but would not himself/herself actually mobilise or provide support.

- To address these weaknesses in the system, participants reflected on the possibility to establish a **regular space under item 10** (or item 5) wherein States could voluntarily provide updates on progress with the implementation of certain clusters of recommendations from Special Procedures and the UPR, as well as voluntarily request international technical assistance. Providers of such assistance (UN agencies and programmes, bilateral donors, or developing countries for South-South cooperation) would be in the room to hear and respond to such requests.

- Such a voluntary approach would help 'remove the stigma that is currently attached to receiving support under item 10 and would boost national ownership,' according to one participant.

- Some participants, while agreeing with this broad analysis, also drew attention to the importance of **political will** on the part of States. 'If a State does not want to implement its international human rights obligations, then no amount of follow-up by the Council or the wider international community will help.'

- Another participant agreed, arguing that there are basically three groups of States at the Council: a relatively small group



of countries with generally good human rights records, at one end of the spectrum; a relatively small group of countries with serious human rights challenges yet little political will to acknowledge or address those challenges, at the other end; and a large group of countries in between these two poles – countries with human rights challenges yet which have the political will to pursue improvements. Unfortunately, according to the participant, the Council has always neglected this middle group. 'There is no space on the agenda for them to report on and discuss progress, share good practices and lessons learnt, or request international support for deeper implementation and progress.'

Follow-up to track progress

- It was pointed out that the **UPR** has its own 'in-built' follow-up system whereby subsequent UPR cycles and reports should focus, *inter alia*, on progress with the implementation of previous recommendations. However, in practice, participants pointed to several shortcomings. First, national reports (i.e. submitted by States) are, in many cases, not drafted in consultation with civil society, and thus the information contained therein is often subjective. Second, 'other stakeholder' (i.e. civil society) reports tend to focus on general human rights commentary rather than on assessing national progress with the implementation of past recommendations. Third, civil society and National Human Rights Institutions (NHRIs) are not able to speak during national reviews before the UPR Working Group.

- One participant explained that the High Commissioner's decision to send letters to States-under-review, drawing attention to key clusters of recommendations, is designed to support improved implementation, ease follow-up, and allow for better tracking of national progress.

- One participant urged States to extend ‘realistic UPR recommendations.’ Such recommendations are more ‘implementable’ and are easier to follow-up on, he said. Others disagreed, arguing that it is important to have ‘aspirational recommendations’ that can act as a hook for national civil society to press governments to scale-up ambition.

- **Special Procedures** do not have, generally speaking, such an in-built follow-up mechanism. After country visits and the delivery of conclusions and recommendations, there is no systemic opportunity for mandate-holders to follow-up on implementation. Nonetheless, it was explained that Special Procedures have always prioritised follow-up, and have taken many steps to check-up on levels of State implementation. For example, some mandate-holders send letters a year or so after a visit requesting information on progress, while others conduct follow-up visits.

- Notwithstanding, one participant argued that resource constraints make it difficult for mandate-holders to undertake follow-up activities in a systematic manner. As a consequence, they are increasingly looking for ways to use available resources more efficiently; for example by better linking their work with other human rights mechanisms, or by ‘mainstreaming’ their output into other UN fora such as the High Level Political Forum (HLPF). According to one participant, both practises represent a ‘force multiplier’ for Special Procedures.

- The practice of **clustering** similar recommendations (i.e. recommendations that have the same objective or are thematically similar) from across the human rights mechanisms was highlighted. It was argued that clustering makes the management and implementation of recommendations at

national level far easier (because ‘500 recommendations can become 50 clustered recommendations’). Clustering also facilitates follow-up by the Council and its mechanisms, as well as by OHCHR and UN Country Teams.

- One concrete suggestion was for States to organise informal dialogues with Special Procedures, similar in style to ‘Arria formula’ meetings at the Security Council. This would provide a space to discuss implementation and follow-up,

- The existence in some States of standing ‘**national mechanisms for implementation, reporting and follow-up**’ (NMIRFs) was identified as an emerging best practice. According to participants, NMIRFs boost implementation, facilitate the tracking and measurement of progress, and help reduce reporting burdens. This is especially the case where NMIRFs use implementation support software (e.g., SIMORE in Paraguay).

- It was pointed out that such software, which often features a publicly accessible website, can also boost transparency. As a consequence, relevant domestic stakeholders (e.g. NHRIs and NGOs) are able to follow-up and scrutinise State progress.

- The importance of **NHRIs** as key actors for national follow-up was also raised. ‘NHRIs are the natural bridge between the international and the national arenas,’ said one participant. ‘They are perfectly placed to apply international standards to the local context, and thus to follow-up on implementation in a locally sensitive and realistic manner.’ Another added: ‘NHRIs also form a natural bridge between governments and NGOs - allowing national civil society to be fully involved in tracking and supporting progress with implementation.’

- Other participants highlighted the crucial role of **civil society** in following-up on the implementation of human rights recommendations. The case study of **Côte d’Ivoire** was presented, where NGOs have created a network/platform to follow-up on, and monitor levels of implementation of, second and third cycle UPR recommendations. This platform works in close consultation with relevant government ministries to both support and monitor implementation. ‘This close cooperation,’ it was pointed out, ‘is beneficial for both the government and civil society.’

- A number of conclusions have been drawn from the creation of this platform. First, close coordination between government ministries, parliamentarians, NHRIs and NGOs is crucial for effective implementation. Second, UPR recommendations should be as precise as possible in order to help national civil society identify progress indicators. Third, it is very helpful when donor States follow-up on their own recommendations with offers of financial aid and technical assistance. Fourth, the establishment of a standing NMIRF is extremely important, especially where it consults and cooperates with civil society.



Fifth, it is best to follow-up on the implementation of clusters of recommendations from all the human rights mechanisms. Sixth, it is useful to link human rights recommendations with relevant SDGs and targets, as 'this helps communicate the benefits of implementation and monitoring.'

Follow-up to provide capacity-building support

- A number of participants recalled the crucial importance of proactive international follow-up to help States, especially **Least Developed Countries** (LDCs) and **Small Island Developing States** (SIDS), implement relevant UPR, Special Procedures and Treaty Body recommendations, and to report back on progress.
- One explained that 'implementation and reporting capacity constraints are the main reason many SIDS hold off from ratifying the international human rights conventions.'
- Another pointed out that it is not only SIDS and LDCs that stand to benefit from a more regularised and reliable system of follow-up to support States with implementation and reporting – all **developing countries** would welcome such a step.
- A number of participants drew attention to the evolving work of **bilateral development partners** in this area. It was noted that two meetings of development partners have been held in Oslo (2018) and Stockholm (2019) to discuss how to better leverage official development assistance (ODA) to support the implementation of UN human rights recommendations.
- Another participant underscored the importance of 'good coordination between missions in Geneva, foreign ministries and development agencies, in order to ensure coherent and effective international follow-up to help developing countries implement their human rights obligations.'
- There is, according to a number of participants, a growing understanding in Geneva and New York that as States make progress with the implementation of their international human rights obligations, they also make **progress towards the achievement of the SDGs**.
- Building on this point, reference was made to the Council's 2018 resolutions on 'Human rights and the 2030 Agenda,' and to the increasingly close links between the Council and the HLPF. One participant spoke of the importance of linking human rights indicator data with SDG data 'in order to measure progress across these common agendas.' It was pointed out that some NMIRFs, supported by implementation software (e.g. in Ecuador and Samoa), already link **human rights measurement indicators with SDG target indicators**.
- It was reported that these evolving good practices at the

Council and among bilateral development partners are being mirrored in changes at UN-level, most notably in the context of on-going **UN development system reform**.

- 'This reform, especially structural changes to the Resident Coordinator system [i.e. the shift of the system from UNDP to the Executive Office of the Secretary-General] and revisions to Resident Coordinator and UN Sustainable Development Coordination Framework (UNSDCF - the new name for the UNDAFs) guidelines, are designed to mainstream human rights follow-up throughout the UN system.' Another participant echoed this point, adding that 'the key to seizing this opportunity will be for Resident Coordinators, ideally supported by Human Rights Advisors, to prioritise human rights follow-up to the same degree as SDG follow-up (in line with the 'Human Rights Upfront' policy), and for UN Country Teams to systematically integrate human rights recommendations into the new UNSDCFs.'
- Several participants confirmed that 'significant progress has been made in New York, in the context of the UN development system reforms, to systematically integrate human rights recommendations into the everyday work and responsibilities of Resident Coordinators and UN Country Teams, as well as into UNSDCFs.' Another added that he has 'never seen such an emphasis on human rights among UN Country Teams.'
- Linked with these points, stakeholders in Geneva were urged to '**stop talking in terms of silos**.' 'There is a clear understanding in New York and in the field that human rights must be placed at the centre of the UN's work, including in the context of delivering the SDGs. Indeed, the Secretary-General's reforms have already succeeded in driving progress in this regard. The international human rights community should embrace and support those reforms, so we can get on with delivering sustainable development, human rights and security on the ground.'

Measuring change and impact

- The critical importance of **human rights measurement** (i.e. the measurement of on-the-ground change and impact) was mentioned by many participants. Indeed, there were regular calls for the Council and the wider UN human rights pillar to make improved human rights measurement a key priority for the coming years.
- One participant argued that 'human rights measurement' is key to '**depoliticising human rights**, especially in New York.' 'Many argue that human rights are inherently political – but is that not also true of peace and security, and development?' According to this participant, what is different in the area of development is the injection of 'professionalism over politics' via the application of measurement tools like the Human Development Index. He

therefore called for the empirical measurement of human rights progress and impact to be placed at the centre of the work of the Council.

- Notwithstanding, there was a broad acknowledgement that the international human rights community has been rather slow in gathering and applying human rights indicator data as a means of empirically measuring progress. This contrasts with other parts of the UN system (e.g. covering sustainable development, the status of women, the environment and conservation, food, housing, disaster risks, and climate change).

- It was pointed out that: 'OHCHR's only foray into this area – its 2012 report on human rights indicators – has been forgotten by most States and NGOs.' As a result, '**very few States regularly gather and share data on human rights change**, or on the impact of UN human rights interventions.' Another participant added that: 'The only countries that do gather and use indicator data are countries that have established relatively sophisticated NMIRFs, supported by software.'

- The situation may, however, be starting to change. The role of the 2030 Agenda was seen as a key driver of this change. 'Steps to align international human rights obligations and recommendations with relevant SDGs and targets have led to **efforts to align human rights and SDG indicator data**. This has spurred renewed interest in human rights measurement.'

- Another impetus, according to one participant, has been

the growing need to demonstrate the **relevance, efficiency and impact** of the UN human rights system. 'We, in Geneva, may instinctively believe that the system works. But that's not enough. We need to show that it works, prove that it works, and demonstrate at what we do has real-world practical value.'

- Another participant explained that this dual-need – to empirically measure human rights change (progression or regression) and to demonstrate the impact of the UN human rights system – lies behind the new civil society-led Human Rights Measurement Initiative (HRMI).

- There was a suggestion that thematic **Council resolutions** could, in the future, request OHCHR to gather and apply human rights indicator data for certain human rights, in order to follow-up on the implementation of previous resolutions. 'For example, it would be very interesting if the Council were to request OHCHR to gather data on **progress with women's rights over the past 25 years**, and to present this during next year's 25th anniversary of the Beijing Declaration.'

- Another proposal was for future **item 10 resolutions** on country-specific situations to likewise request OHCHR or Independent Experts to compile and present human rights indicator data. 'Only by gathering such data can we know whether human rights technical assistance is helping, and only by analysing such data can we apply evidence-based policymaking.'



EMERGING ISSUES AND DEVELOPING EFFECTIVE COUNCIL RESPONSES



WHERE ARE WE TODAY?

In addition to offering a chance to reflect on how the Council and the wider human rights pillar might respond to *today's* human rights challenges, preparations for the 2021-2026 review also provide an opportunity to reflect on *emerging* human rights issues that may occupy the Council's attention by 2026, as well as on how to meet those new challenges.

This may include developing effective human rights responses to, for example: the impacts of climate change, environmental degradation, and biodiversity loss; the development and use of digital technologies and fora (e.g. big data, artificial intelligence); transnational crime and corruption; global inequality (both between and within States); the growing power and wealth of private – as opposed to State – actors (e.g. wealthy individuals, companies, armed groups); population growth and increased competition for natural resources; mass population movement; attacks against democratic institutions and processes, including against the integrity of elections; and resurgent racism, religious intolerance and nationalism.

For some of these emerging issues, the Council has already devoted time and resources to understanding their human rights dimensions and thinking about how it might contribute to wider UN efforts to address them. For example, the Council adopted its first resolution on climate change over eleven years ago (resolution 7/23). Since then it has regularly debated the impacts of global warming on the enjoyment of human rights, has sought to demonstrate how human rights obligations and principles can help improve international and national climate change policies, and has 'mainstreamed' human rights into the Cancun Agreements and the Paris Agreement under the UN Framework Convention on Climate Change (UNFCCC).

Notwithstanding, for some emerging human rights concerns (e.g. new technology and corruption), the Council is still working to define and delineate its role; while for others (e.g. inequality and wealth redistribution, or the integrity of democratic elections) it has barely even begun to consider the human rights dimensions of the issues at stake.

Each of these emerging issues asks important and difficult questions of the international human rights system. At one level, they demand the more effective use of existing instruments and mechanisms. At another level, they require stakeholders to 'think outside the box' by confronting questions about the very nature of the multilateral system and international human rights law. For example, the fact that the human rights impacts of climate change or transnational crime do not respect national borders and may be caused by private as well as public action/inaction, raises questions about the extraterritorial application

of human rights law and the role of businesses in upholding universal norms. In another example, the recent reports of the UN Commission on Human Rights in South Sudan and the Fact-Finding Mission on Myanmar have both taken important strides towards establishing individual criminal accountability for serious human rights violations, thus moving beyond the traditional State-centric understanding of human rights duty-bearers.

KEY QUESTIONS

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

1. What are the key human rights trends, and emerging issues and challenges likely to occupy the Council's attention by 2026?
2. Has the Council already considered these issues, what responses has it designed to address them, and how effective have those responses been?
3. Is there a need to think 'outside the box' with regard to the human rights dimensions of these issues, and develop new mind-sets and approaches?
4. What is the impact of new trends, such as the further development and spread of digital technologies and fora (e.g. big data, artificial intelligence), on the Council's agenda and functioning?

ISSUES FOR REFLECTION AND OPPORTUNITIES FOR CHANGE

Should the Council engage with 'emerging issues'?

- There was some discussion as to whether the Council can and should usefully contribute to international debates and policies on emerging issues such as climate change, the digital economy, corruption, democracy and elections, and violent extremism. Some argued that these concerns are dealt with by other parts of the UN system and fall beyond the Council's mandate. However, a majority of participants argued that the Council must remain seized of such pressing international challenges, for two simple reasons:
 - First, they have significant implications for the enjoyment of human rights around the world.



- Second, human rights obligations and principles have the potential to contribute to more effective, fairer and sustainable international and national policy solutions.

- It was remarked that: 'In 2006, when the Council was established, Facebook had 12 million users; today it has 1.6 billion. In 2006, there was no such thing as an iPhone. The world is changing at an unprecedented rate. If it is to remain relevant, the Council must change too.' That does not mean that the Council should simply debate or report on emerging trends, but rather that it must be willing to embrace those trends, and rethink how it works.

- Another participant congratulated the Council for already being active on many emerging issues. 'The Council has already done considerable work on the human rights dimensions of climate change, environmental protection and conservation, corruption and transnational crime, business enterprises, and new technologies'. Notwithstanding, 'the effectiveness of the Council's engagement on these issues has varied considerably.'

- A number of participants drew linkages between the growing importance of emerging issues for the enjoyment of human rights – and thus of the importance of effective UN engagement, on the one hand, and the Council's on-going efficiency drive, on the other. As one explained: 'The efficiency drive is important not because we want the Council to do less work, but precisely because we need to free up space on the agenda to address important new human rights concerns and give careful consideration to how the Council might usefully contribute to effective multilateral responses.'

- A participant raised the point of visibility: 'The Council not only needs to address these important new human rights challenges, but must also be seen to be doing so by the general public if it is to remain credible and relevant.' Another agreed, using climate change as an example: 'Global warming is never far from the newspaper headlines, with myriad UN officials and international experts offering their views. It is clearly important for the High Commissioner and the President of the Council to be among those commentators, providing perspectives on the human face of the crisis.'

Existing institutional responses

- It was noted that although the Council has already addressed a number of important emerging issues, in most instances it has adopted a 'traditional approach' – i.e. it has passed resolutions, requested the High Commissioner to draft reports, or convened panel discussions. Participants argued that while these steps are not without merit, the nature and scale of many emerging issues demand new thinking and different approaches.

- This point led to a discussion about how the Council has addressed different emerging issues, and how effective those approaches have been. One conclusion was that Council

interventions have had most success when they have been premised 'not on solving the issue itself in the Council,' but rather on 'understanding the human rights dimension of the challenge and then integrating (i.e. mainstreaming) that dimension into the work of other relevant parts of the UN.'

- For example, '**climate change** will not be solved in Room XX,' said one participant, 'but the Council does have a legitimate role to play in using a rights lens to urge higher ambition at the UNFCCC and to inform better human rights policy-making (across adaptation and mitigation).'

- Another good practice, according to some, has been the Council's response to **religious intolerance and stigmatization, incitement to violence, and violence**. Here the Council agreed on a rights-based approach to tackling these phenomena, set that approach down in a practical UN action plan (contained in Council resolution 16/18), and then created a process of implementation, review and exchange: the Istanbul Process.

- A number of participants identified **business and human rights** as an emerging area where the Council has already undertaken important work. In this case, the Council's approach has been to set the norms (i.e. the UN Guiding Principles on Business and Human Rights); encourage the uptake of those norms by businesses and States (via the establishment of a Special Procedures mandate, and by encouraging States to adopt business and human rights action plans); and convene a platform (i.e. the Annual Forum) where businesses and States can report back on progress, challenges and good practice.

- A final general point on existing and possible future Council approaches is the important role of **Special Procedures**. It was pointed out that the Special Procedures mechanism, with its mix of norm-setting, visits to UN member States, and its capacity to engage with other UN institutions and fora, is ideally placed to explore, promote understanding around, and disseminate information on the human rights dimensions of different emerging issues. 'In many ways, Special Procedures are at the vanguard of the Council's response to such issues,' said one person. Another participant mentioned the Advisory Committee as a similarly useful interlocutor.

Climate change, environment

- It was argued that the Council's approach to the interlinked issues of climate change and the environment has been extremely successful and may act as a **template for action elsewhere**.

- With regard to climate change, through the Council's first resolutions on the subject, together with an analytical report by the High Commissioner and a panel debate, the body was able to delineate the contours of the relationship between global warming and the enjoyment of human rights. This included an analysis of the impacts of climate change on the enjoyment of

human rights, as well as guidance to States on how to integrate human rights principles into climate change decision-making. This understanding was then 'transmitted' to the Conference of the Parties (COP) to the UNFCCC, where **States agreed to integrate this 'human rights dimension'** into the Cancun Agreements (at COP16) and the Paris Agreement (COP21).

- Moreover, it was highlighted that a **report on the human rights impacts of 2 degrees or 1.5 degrees Celsius global temperature rises** by the UN Special Rapporteur on human rights and the environment, played an instrumental role in convincing States Parties to include a reference to the latter target in the Paris Agreement. 'This was a Human Rights Council mechanism, yet it submitted a highly influential report to the COP UNFCCC. There is a lesson there for our future work on other emerging issues.'

- With regard to the environment, a participant recalled that in 2012 the Council established a **Special Procedures mandate**. The first mandate-holder focused his work on clarifying the normative relationship between the enjoyment of human rights and the protection/conservation of the environment. He then 'mainstreamed' this understanding into the work of UN Environment (previously UNEP), the International Union for the Conservation of Nature (IUCN), and COP UNFCCC.

- Another participant identified several key elements that human rights have brought to global discussions on climate change and environmental protection: 'First, a human rights lens helps governments focus on the individual faces of rights-holders, and how environmental degradation affects them'; second, 'States are *obliged* to promote and protect human rights' – and the strong moral and legal nature of these obligations can lend weight to other UN policy areas; third, 'the human rights system helps focus attention on the experience and needs of victims, as well as on human-sized solutions and reparations'; and finally, 'the Council is very good at bringing different stakeholder groups (States, NGOs, experts) together to build understanding and agree common actions – other parts of the UN do not have the same convening power.'

New technologies

- Glion VI took place shortly after a joint statement at the 40th session of the Council (HRC40) on the issue of 'new and emerging digital technologies and human rights,' and before a resolution on the subject at HRC41. One participant explained that: 'This new initiative [would] look at the **positive as well as the negative implications** of technology for human rights – i.e. how different technologies could be used to promote and protect rights, as well as potentially harming them.' It would also adopt a **holistic approach** – looking at a broad range of new technologies.

- Another participant, while not disagreeing with the principle that technology can have positive as well as negative implications for human rights, nevertheless opined that this does not mean that the Council's earlier work on issues such as the Internet have been without merit. On the contrary, 'resolution 20/8 on the enjoyment of **human rights on the Internet** was groundbreaking at the time,' because it set and popularised the principle that 'the same rights that people enjoy offline must also be protected online.' Another participant added that the Council's resolutions on the Internet and on privacy have been very useful as civil society advocacy tools, especially at national level.

- In terms of how the Council might **explore and leverage new technology to better promote and protect human rights**, participants offered a number of ideas. They noted that digital technology could be used to: bring victims, human rights defenders and marginalised groups 'into the Council chamber' (e.g. via video links); monitor and map patterns of human rights violations (i.e. for early warning and prevention); and promote human rights education and the better dissemination of information on the UN's human rights work. Regarding the latter point, it was noted that technology could, in this sense, 'provide an innovative way of improving the global human rights narrative.'

- One participant drew a connection between the discussions on human rights and climate change/environment, and those on human rights and technology. Both require us to '**think differently**' about international human rights law, because actions that serve to undermine or violate rights may happen in one country, while the impacts are felt elsewhere. Another agreed, and suggested that these examples illustrate the importance of convening a Council debate on the '**extraterritorial application of human rights.**'

- Another participant highlighted the importance of bringing **technology companies** into Council conversations – especially so that they can be made aware of international human rights norms and standards.

- Finally, a participant called upon the Council and OHCHR to always maintain strong **digital safety protocols** – otherwise information provided by human rights defenders could be compromised, putting those individuals at risk.

CONCLUSION

Discussions at Glion VI painted a positive picture of the Council's work and impact as the body enters its 'teenage years.' That said, there was also a clear sense that the Council should not 'rest on its laurels' but should strive for further improvements. That means taking steps to strengthen existing processes and mechanisms to support, track and measure progress with the national implementation of Council decisions and recommendations; taking a positive and confident approach to institutional strengthening (including in the context of the upcoming 2021-2026 review); and communicating a positive narrative about the UN human rights pillar's contribution to addressing contemporary and emerging issues of international concern.



END NOTES

1. GA resolution 60/1 on '2005 World Summit Outcome,' 24 October 2005, paragraphs 157-158
2. In larger freedom: towards development, security and human rights for all; Report of the Secretary-General, A/59/2005, 21 March 2005, pp41-46
3. *Ibid*
4. GA resolution 60/251 on 'The Human Rights Council,' 15 March 2006, operative paragraph 1
5. *Ibid*, operative paragraph 16
6. Human Rights Council resolution 16/21 on the 'Review of the work and functioning of the Human Rights Council,' 25 March 2011
7. GA resolution 65/281 on the 'Review of the Human Rights Council,' 17 June 2011
8. Letter from H.E. Mr Coly Seck, President of the Human Rights Council, to all Permanent Representatives, 12 February 2019
9. In larger freedom: towards development, security and human rights for all; Report of the Secretary-General, A/59/2005, 21 March 2005.
10. http://www.scielo.br/pdf/sur/v2n3/en_a10v02n3.pdf
11. GA resolution 60/251 on 'The Human Rights Council,' 15 March 2006, operative paragraph 5d
12. *Ibid*, operative paragraph 12

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