

Glion Human Rights Dialogue 2018 (Glion V)

‘The place of human rights in a reformed United Nations’

Consolidated report of three policy dialogues organised ahead of Glion V

Ahead of the fifth Glion Human Rights Dialogue (Glion V), during April and May 2018 the Universal Rights Group (URG) co-convened a series of informal policy dialogues (under the Chatham House rule) with supportive State delegations in Geneva. These policy dialogues were designed to allow early consideration and exchange of views on certain key questions related to the place of human rights in a reformed UN. Key conclusions, ideas and proposals would then be fed into Glion V itself (to be held from 30th to 31st May, 2018).

This year, three policy dialogues were organised on the following topics:

- ‘Reform of the United Nations human rights architecture’ (Hosted by the Permanent Mission of Mexico, Tuesday 24th April 2018)
- ‘Delivering on-the-ground impact, and communicating success and relevance’ (Hosted by the Permanent Mission of Thailand, Tuesday 1st May 2018)
- ‘Human rights in the Secretary-General’s reform agenda’ (Hosted by the Permanent Mission of Senegal, Tuesday 15th May 2018)

The URG is pleased to present, below, a short summary of the outcomes of each of the three policy dialogues. This is not intended to be an exhaustive report of the meetings, but rather an effort to identify key points, ideas and proposals, so as to provide food for thought for participants at Glion V. It is important to note that where the report relays ideas generated at the dialogues, it does not mean that all participants necessarily agreed with those ideas/proposals. Moreover, the summaries are the work of the URG alone – they do not represent the views or recollections of the three hosts.

Policy Dialogue on 'Human rights in the UN Secretary-General's reform agenda'

Hosted by the Permanent Mission of Senegal, Tuesday 15th May

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

- It was noted that, to-date, much of the debate about human rights and the Secretary-General's reform agenda has focused on the absence of an explicit human rights 'stream' amongst the reforms. However, there has been significantly less focus on what the reforms that have been announced actually mean for human rights.
- That is partly because of the persistent importance of the 'Geneva-New York gap' – delegates in Geneva simply do not follow the SG's reforms, because they are covered by Permanent Missions in New York. Linked with this, because human rights are supposedly being 'mainstreamed' across the three streams of the reform proposals (development, security, and management), it is difficult for non-experts in those fields to understand the implications of the reforms for human rights.
- Another participant suggested that it is difficult to 'spot' human rights in the SG's three main reform streams because the words 'human rights' are often absent (having been deleted by States or left out in the first place). 'One can argue about why these words are absent, and whether it matters (i.e. as long as human rights principles are incorporated), but it's difficult to argue that human rights are a key focus of these reforms.'
- A civil society representative largely agreed with this reading: 'If human rights were in the ascendancy around the world, their apparent absence from the reform agenda might not matter that much; however, as we know, human rights are actually in retreat around the world, and thus their absence is of deep concern.' 'The omission of human rights language is not an accident – it is a political choice.'
- The same speaker also warned against acceptance of the argument that progress with human rights can simply be achieved by 'mainstreaming' them into other agendas, such as the SDGs. 'The SDGs are political benchmarks, human rights are legal obligations – that helps explain why States prefer one to the other, but it also shows us why we must not allow human rights obligations to be watered down.'
- There seemed to be significant agreement on this point amongst civil society – a deep concern that the reforms, as currently formulated, will weaken the UN's ability to promote State compliance with their international human rights obligations, and may encourage a further erosion of respect for human rights.

- A UN official (Geneva-based) reassured State representatives that it is also difficult for members of the UN secretariat to follow, and understand the human rights implications of, reform developments at UN headquarters.
- One speaker reminded participants that the 'SG's reform proposals' are not intergovernmental UN-wide reforms – they are rather fairly restricted proposals to reform the UN secretariat.

Implications for human rights

- Notwithstanding the above debates, it became clear during discussions at the pre-Glion preparatory dialogue that the SG's reform proposals do have important implications for human rights. One participant argued that, overall, the proposed reforms are 'human rights positive.'
- Regarding the development system reforms, it was noted that a key objective of those reforms is to empower UN Resident Coordinators and Country Teams, to envisage their roles differently (i.e. as representatives of the whole of the UN, covering all three pillars, rather than mainly as representatives of the development pillar), and to emphasise the mainstreaming of human rights. Whether human rights are explicitly referred to or not, such changes would have clear positive consequences for human rights.
- It was also acknowledged that 'human rights progress' within the overall reform agenda, has not always been very visible – being focused, for example, on changing work cultures and incentive structures at the UN secretariat (e.g. by developing human rights guidance for Resident Coordinators).
- Others, while acknowledging that it may be 'politically correct' to argue that human rights are mainstreamed across all parts of the SG's reforms, the reality is the words 'human rights' and references to, for example, the 'Human Rights Council' or 'OHCHR' are largely absent from the reforms – at least in an explicit sense. This reflects 'a widely held view, among States and UN officials in New York, that human rights are a problem-causer rather than a problem-solver.'
- For example, one speaker reported that the former UN Development Group (UNDG) human rights working group would be abolished under the reforms, and instead human rights would be 'mainstreamed' into a newly-established UNDG 'results group' – responsible for tracking SDG implementation.
- Regarding security pillar reforms, it was suggested that human rights is more 'present' in relevant UN documentation (e.g. in proposals/reports on sustaining peace) than is the case for the development system reforms.



GLION HUMAN RIGHTS DIALOGUE

- However, even here, participants expressed concerns that the SG's speeches and proposals on prevention largely seem to ignore the role and mandates of the Human Rights Council and OHCHR, and come against a backdrop of the apparent (though others in the meeting denied this was the case – insisting it has been mainstreamed) dismantling of the Human Rights Up Front initiative.
- The issue of prevention was held up by a number of participants as a 'litmus test' for whether the SG's reform proposals really do have a 'human rights lens.' The Council and the wider human rights pillar are perfectly placed to play a key role in the SG's prevention agenda – a point recognised by the SG himself during the Council's March session, when he welcomed steps to operationalize the Council's prevention mandate under paragraph 5f of GA resolution 60/251. By delivering human rights capacity-building support to help States implement their international human rights obligations, the human rights pillar can play a crucial role in building domestic resilience and thus contributing to primary prevention; and by monitoring and gathering 'early warning information' about patterns of violations, and then acting on that information in a timely manner to prevent a worsening of the situation (secondary prevention), the human rights pillar's importance is clear. Yet most of the SG's speeches on prevention seem to ignore this crucial contribution – focusing instead on conflict prevention or the prevention of atrocity crimes. This is a concern, for without the mobilisation of the human rights pillar, it may prove difficult for the SG's prevention agenda, or the sustaining peace agenda, to succeed.

Policy Dialogue on 'Reform of the United Nations human rights architecture'

Hosted by the Permanent Mission of Mexico, Tuesday 24th April 2018

The 2021 review

- There was broad agreement among participants that 'Geneva' should play an important 'contributory' or 'preparatory' role vis-à-vis the 2021 GA review of the Council's status. It was pointed out that the 'expertise and knowledge about the functioning, the weaknesses and the strengths of the Council are to be found here (in Geneva) rather than in New York.'
- Building on this argument, a number of speakers warned that 'if the international human rights community, centred on Geneva, is not proactive in asserting its role, it will mean that others, with less expertise, will have to 'fill the vacuum.' This would put any 'informed' or 'evidence-based' review by the GA in serious jeopardy.
- Put in a more positive light, it was convincingly argued that undertaking a careful and balanced review in Geneva, as a contribution to the GA's own deliberations, would be an entirely logical and normal thing to do – and indeed, would likely be welcomed by delegations in New York.
- In order to avoid such risks and fulfil its proper role, the Human Rights Council must get the timing and the process right – i.e. to 'feed into the 2021 review.' This probably means the next Council Bureau would need to put in place the parameters for a 'Geneva process' during 2019. Such a process could then be taken forward in 2019-2020, and transmitted to the GA in late 2020.
- While there was wide agreement on the need for, and value of, a 'Geneva process and contribution' to the 2021 review, there were different views on whether the Council, as things stand, has a mandate to conduct such a review. It was noted, in this regard, that GA resolution 60/251 mandated both a status review and a review of the Council's work and functioning for 2011, but the outcome of that five-year review only called for a status review by the GA in 2021-2026. It did not say anything about a review of the Council's work or delivery. One speaker argued that a 'Geneva review' or a 'review of the Council's work and delivery' is implicit in the decision to have a status review by the GA – 'how else could the GA consider and decide upon such a question in a meaningful way?' This, indeed, 'is how things have been done in the past.' As one example to illustrate the point, it was argued that 'any change in status would mean consideration of changes to the Council's membership, and that in turn requires a review of how the existing membership rules are being applied and how well they are working.' Other speakers suggested that the Council would need some kind of mandate to begin a formal review process, but that such

5



a 'mandate could be simply in the form of a letter from the President of the GA to the 2019 President of the Council, inviting the Council to make a contribution ahead of the 2021 review.' A further suggestion was to ask the UN Office of Legal Affairs (OLA) for an advisory opinion on whether the Council already has a mandate to conduct a review or not.

- Many participants also underlined the need for any 'Geneva process' to be inclusive, transparent, structured, dialogue-based, and consensual. Speakers welcomed the fact that Glion V was starting the dialogue on the 2021 review, but said that eventually the discussion would need to move from Glion to the Palais des Nations and take on a more formal and inclusive shape.
- There was some discussion on what the goal and format of any 'Geneva process' should be. For example, it need not be a 're-run' of the Council's 'five-year review' in 2011, which aimed to refine the institution-building package (IBP). It may also be different from the current Council efficiency drive, being led by the 2018 Bureau. Perhaps, for example, it could be more of a true 'review' or 'assessment' of the degree (successes and shortfalls) to which the Council is fulfilling the mandate given to it by the GA in 2006?
- Linked with this debate, there was also some discussion about the format for any 'Geneva process.' It could follow the 'traditional' approach of appointing co-facilitators (e.g. Geneva ambassadors), or might take a more innovative approach such as 'New York ambassadors – appointed by the President of the GA - coming to Geneva to seek views,' or the appointment of one or more 'independent experts' to conduct an independent review. It was noted that this latter approach was employed in the build up to the establishment of the Council. Yet another option would be to ask the Secretary-General or the High Commissioner to conduct or contribute to a review.
- It was suggested that, in addition to capturing the view of States, any 2021 preparatory process in Geneva should also take on board the views of OHCHR, the Secretary-General, NGOs and UN Resident Coordinators / Country Teams.
- There were a number of questions – though no clear answers – about the relationship between the current Council efficiency/strengthening process (led by the 2018 Bureau) and any preparatory process ahead of 2021.
- A number of people expressed a note of caution about the 2021 review: it should not result in a weakening of the Council and its mechanisms; and nor should it distract too much attention from the Council's on-going, everyday (and vitally important) work.

The practical consequences of the Council's current subsidiary status

- One Ambassador, using a golf analogy, posited that the UN's human rights system was

6



playing with a handicap of 7 or 8 compared with the development or the peace and security pillars. This was in large part due to ‘historical baggage’ carried by the human rights pillar.

- That history also helps explain the imbalances in the UN’s regular budget, imbalances that have resulted in human rights receiving a far smaller share than the other two pillars.
- Notwithstanding these challenges, there was wide acknowledgment that the Council and the wider human rights pillar have achieved an enormous amount over the years, even though much of its most important work is ‘quiet work’ and doesn’t make newspaper headlines. There is a clear and urgent need for the Council to get better at identifying and understanding those ‘success stories’ – so that it can look to replicate them more effectively. Finding and sharing ‘good practice’ and achievement case studies is also important for the Council’s credibility, and for showing that it merits an important ‘place’ within a reformed UN.
- There was wide agreement that the Council’s subsidiary status has negative consequences for effective and efficient ‘coordination between the Council and the General Assembly/Third Committee.’ It was suggested that this creates confusion (‘should the Council report to the Third Committee or the GA plenary?’), duplication (i.e. similar resolutions being tables in Geneva and New York, and repetitive interactive dialogues with Special Procedures), and may serve to undermine the Council’s prerogatives (e.g. where the Third Committee ‘reopens’ the Council’s annual report).
- Beyond the issue of ‘Geneva-New York’ coordination however, there appeared to be a widely held view that the importance of becoming a ‘main body of the UN should not be overstated.’ For example, ‘the Human Rights Council is only a subsidiary body, yet it seemed to work better than the Security Council, which is a main body, and has a higher profile than ECOSOC, also a main body.’
- Others argued that: ‘Yes, the Council needs to improve, and have greater impact on the ground, through a heightened focus on implementation, technical assistance and capacity-building, and prevention; but it can make those improvements anyway, without any change to its status.’
- Some even said that any upgrade might have negative side effects for the Council – for example, it could entail the imposition of less flexible working methods and more stringent requirements for the adoption of substantive resolutions.

A Council upgrade?

- There appeared to be a general view that it is highly unlikely that the 2021 review will result in the Human Rights Council being ‘upgraded’ to become a main body of the UN.

7



The current international political climate, together with the difficulties involved in changing the UN Charter, mean that the Council will likely stay as a subsidiary body to the GA.

- However, that does not mean that the 2021 review should be ignored or put to one side. Both the review itself and any preparatory process in Geneva could be extremely useful in terms of identifying areas where the Council is not fulfilling its mandate, and putting in place necessary improvements in that regard; and in terms of identifying, understanding and learning from Council ‘success stories’ – so that they might be more regularly replicated in the future (i.e. so that it might better ‘play to its strengths.’)
- In this regard, it was suggested that ‘what is important here is not the goal [i.e. making the Council a main body of the UN] but the process – a process during which States and others can have an inclusive and considered discussion about the degree to which the Council is delivering on its mandate, and what changes could be brought [within the parameters provided by GA resolution 60/251] to strengthen that delivery in the future – especially at national level.’

Human rights financing

- On the specific issue of human rights financing, the scale of the historic underfunding of the UN human rights pillar was repeated: ‘the three pillars of the UN system receive, in total, 51% of the UN’s regular budget (for the new biennium); 49.1% of this goes to the peace and security pillar (including political affairs), 37% goes to the development pillar; and around 7% to the human rights pillar.’ ‘It is from this overall picture, that people extrapolate the famous ‘3.1% of the regular budget for human rights figure.’
- While there was broad agreement that the root causes of the Council’s subsidiary status (and the Commission on Human Rights’ subsidiary status under ECOSOC) are similar to the historical causes of underfunding of the human rights pillar (i.e. that human rights have always been seen as ‘difficult’ or ‘sensitive’ by States because they touch on issues of national sovereignty), there were clear doubts as to whether an ‘upgrade’ of the Council’s status today would bring significant financial benefits. ‘Any changes to the UN’s regular budget would still need to be approved by the Fifth Committee, and that remains unlikely.’
- As an example, it was noted that a key outcome of Secretary-General’s ‘In Larger Freedom’ report and the reforms it instigated (including the creation of the Council) was a decision to double the regular budgetary contribution to the human rights pillar. However, in reality, that increase has never fully materialised, ‘and where more money was forthcoming, it was automatically absorbed by the new Council and by new mechanisms

such as the UPR.'

- There followed an interesting discussion about whether any possible increase in regularly budgetary contributions to the human rights pillar would help make the pillar more effective. It was noted, for example, that history suggests that any increase would likely be 'absorbed' by Council mechanisms/procedures or by conference services, rather than being made available to carry out capacity-building or technical assistance in the field. Another speaker argued, along the same lines, that what is important is not securing more money, but 'smarter, more strategic use of the money we already have.' For example, it was noted that the UN human rights pillar spends millions of dollars on accountability mechanisms, yet OHCHR is often forced to turn away developing countries that request human rights technical assistance or capacity-building support. One speaker repeated the related argument that: 'for a State to receive capacity-building support under item 10 of the Council's agenda, that country first needs to have a civil war or suffer a natural disaster.'
- States in the Council should therefore give serious consideration to 'smarter investments,' meaning, for example, a greater focus on the 'virtuous triangle' of prevention, long-term resilience and capacity building, and 'joined up' implementation of human rights obligations and SDG commitments.
- In response to these points, it was argued that 'delivering accountability, and delivering capacity-building support, should not be seen as 'either-or' – both are important and both are mutually supportive.'
- Another argument was that, instead of lobbying for more money, the human rights pillar should 'amplify existing resources by effectively mainstreaming human rights across the rest of the UN's work.'
- A civil society representative reminded others that the key issue is not necessarily whether or how to increase resources to the human rights pillar, but how to hold on to what we have. For example, each year at the Fifth Committee, there are arguments over the 'deletion of human rights-related budget lines.'
- A number of speakers argued that the UN traditionally adopts a 'zero sum' approach to budgetary matters – i.e. any increase in funding for human rights would have to mean a reduction in funding for peace and security, or for development. This, it was said, makes any significant changes 'a hard sell.' To even stand a chance of securing any increase, the human rights community would need to 'make the case, by showing impact on the ground, and by demonstrating/arguing that human rights progress is an essential prerequisite for both sustainable development and for sustaining peace.'

Policy Dialogue on ‘Delivering on-the-ground impact, and communicating success and relevance’

Hosted by the Permanent Mission of Thailand, Tuesday 1st May

Examples of the human rights pillar’s impact on-the-ground: what works and why?

- Participants were presented with, and then had the opportunity to discuss, three ‘impact case studies.’
- Key lessons learnt from those case studies included:
 - The vital importance of national ownership – progress should be driven by the State concerned, with the support of the international community.
 - The importance of inclusivity at national level – all relevant stakeholder groups should be consulted and engaged in processes of human rights reform. This should include marginalised or vulnerable stakeholder groups.
 - The vital importance of international cooperation – many States wish to secure improvements in the human rights situation at home, but may lack the technical or human capacity to secure change. In such situations, the international community can play a vital role.
 - Human rights engagement between the international community and the State concerned must be sustained in the long-term. Human rights change takes time – short-term international interventions/cooperation achieve little, and risk destabilising the situation. Likewise with accountability for human rights violations – this requires sustained engagement by the international human rights community.
 - The importance, where a State requests international support, of the UN human rights pillar (the Council or OHCHR) being in a position to respond positively. ‘No country should be turned away,’ said one participant.
 - The importance of (and difficulties inherent in) building trust between the State concerned and its partners in the international community, and between relevant domestic stakeholders.
 - As part of building trust, ‘mind-sets much change at the Council – we should see each other as partners, not as adversaries.’
 - Linked with the above points, the importance of building and maintaining trust between OHCHR/UN human rights field presences, and the concerned government: ‘There must be well-defined rules and roles, and UN field presences must remember they are there to support the government, not replace it.’
 - A UN official agreed with the above point, noting: ‘the most important thing, in

10



order to have real and sustained human rights impact, is the development of trust and genuine dialogue between the UN and the concerned State. With those in place, political will can be turned into human rights progress.'

- The importance of having 'benchmarks for success' – to measure progress (e.g. with securing accountability).
- The importance of focusing attention, at all times, on how the UN might best help the State concerned to implement its human rights obligations and commitments. 'The international human rights instruments offer a wonderful blueprint for national human rights progress and reform. What is key therefore is to help national stakeholders realise those international commitments and obligations, by implementing recommendations from the UPR, Special Procedures and Treaty Bodies.' 'International assistance should be targeted on the human rights priorities of the country concerned, as expressed by the country concerned, and as defined by its international human rights obligations and commitments.'

How to improve the on-the-ground impact of the human rights pillar?

- It was noted that the international human rights mechanisms are very good at reviewing States and providing recommendations for improvement, but are far less good at following up on those recommendations or on measuring impact. 'Sustained engagement by the mechanisms is vital if they are to have real impact.'
- A similar point was made in relation to Council resolutions – 'it will remain difficult to have meaningful impact unless resolutions contain benchmarks for progress and are followed-up on.'
- A further critique, which 'contributes to the Council having less impact than it should,' was that the Council suffers from a reactive rather than preventative mind-set. 'In addition to providing capacity-building support to all States that request it, the UN must get better at identifying potential crises at an early stage – and triggering discussions at the Council.'
- The key to strengthening the human rights pillar's impact, according to one participant, 'is to have all parts of the UN, across all three pillars, pushing in the same direction.' The importance of integrating UN human rights recommendations into national UN Development Assistance Frameworks (UNDAFs) was identified as especially important in that regard, as was the need for all parts of the UN (especially Resident Coordinators and UN Country Teams) to put 'human rights up front' in their contacts with States.
- One State representative said that a major challenge is that different States, and also different NGOs, see 'impact' in different ways. Some States and NGOs see addressing situations of serious violations and securing accountability as the Council's most important

prerogatives, and thus measure the Council’s impact through this lens. Others prefer to emphasise cooperation and the delivery of technical assistance to States that have the political will to improve. ‘We need to strike the right balance between these different mandates of the Council – to recognise that what is important is to improve people’s lives and promote/protect their rights – especially people living in vulnerable or marginalised situations. We should not be too wedded to a particular way of delivering those objectives, but rather use different tools depending on the situation.’ It was noted, however, that securing consensus on this point ‘would be difficult.’

- Following this line of thought, another speaker argued that for the Council to strengthen its impact on the ground, States and NGOs must stop seeing human rights situations in a country as ‘a single moment in time,’ but rather as a continuum or an evolution. In order to secure such a shift, ‘States and NGOs must get much better at listening to the State concerned (as well as to domestic NGOs and NHRIs) and cooperating with it to identify sustainable solutions.’
- ‘Over time, this will also allow us to get better at understanding what works and what doesn’t,’ and then look to replicate that more systematically.

Communicating human rights

- ‘It has never been so important to effectively communicate the importance of human rights and the work of the Human Rights Council. In this era of human rights backsliding or regression, we must constantly reaffirm and convince people that human rights are not an add-on, a political slogan, or the privilege of a few.’
- What is more, human rights communication must be directed at ‘people on the ground – at rights-holders, not at political audiences in Geneva or New York.’ OHCHR does this, to some extent, via UN Country Teams, but the Council must do it too. For example, ‘perhaps at the end of every Council session, NHRIs could brief their local populations on what happened and what it means for them.’
- A key aspect of any campaign to better communicate human rights must be to better communicate what the UN human rights system can (and cannot) do – i.e. to manage expectations. Many governments (and also media outlets) see that Council as, fundamentally, a body that organises Special Sessions on grave human rights situations. Its norm-setting and norm implementation work is often poorly understood, as is its capacity-building mandate. This point is important, as much of the UN’s human rights work is ‘quiet work’ – happening below the radar screen of journalists and politicians. ‘We must focus attention on that quiet work – in order to boost the UN’s credibility and international understanding.’



GLION HUMAN RIGHTS DIALOGUE

- Linked with the 'quiet work' argument, a number of ambassadors pointed out the difficulties inherent in 'communicating human rights success' when that success means that, by definition, a human rights situation is prevented from developing. This point is linked to prevention: 'how to measure and show the benefits of preventing something that is yet to happen?'
- It was argued that it is also important 'to better communicate the value-added of the human rights pillar and its work to colleagues in New York.' 'There is a tendency, among some in New York, to see human rights as troublesome, as a problem. Instead, we need to show that human rights are part of the solution – across both sustainable development, and peace and security.'
- A civil society representative argued that 'the best way for the Council to show relevance is for it to be relevant' – too often the body shies away from addressing globally important human rights situations, or, when it does engage with those situations, it is very late in the day.
- Increasing the public visibility of the Council is one of the priorities of the current Council President. 'He is convinced that the Council has good stories to tell and to show the world.' In this regard, the President has strengthened outreach to journalists, both before sessions (e.g. by briefing them on how the Council works and what issues it is likely to address) and during/after sessions (i.e. to brief them on the results).
- 'Council members also need to create a regular space – e.g. under item 10 – where States are encouraged to come to brief the international community on progress achieved, on success stories, on human rights impact.' Such a space would create a virtuous circle – allowing us to more easily gather impact success stories (and communicate those stories), facilitating the delivery of technical assistance to support further change, and encouraging other States to follow suit (i.e. creating a 'race to the top.')
- It was suggested that 'because the Council has never built such a safe space, 99% of the situations we hear about at the Council are negative ones – about serious violations. This has created a skewed impression of the UN's multifaceted human rights work.'

