

## Glion Human Rights Dialogue 2019 (Glion VI)

### 'Towards 2026: Perspectives on the future of the Human Rights Council'

#### Consolidated report of four policy dialogues organised ahead of Glion VI

Ahead of the sixth Glion Human Rights Dialogue (Glion VI), during April and May 2019, the Universal Rights Group (URG) co-convened a series of informal policy dialogues (under the Chatham House rule) with supportive State delegations in Geneva and New York. These policy dialogues were designed to allow early consideration and exchange of views on certain key questions related to the future of the Human Rights Council. Key conclusions, ideas and proposals would then be fed into Glion VI itself, to be held from 27th to 28th May 2019.

This year, four policy dialogues (three in Geneva, one in New York) were organised on 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 2nd May 2019, Geneva)
- 'New York perspectives on the General Assembly's 2021-2026 review of the Human Rights Council's status', (Hosted by the Permanent Missions of Iceland, Thursday 9th May 2019, New York)
- 'Implementation support and follow-up by the international human rights system', (Hosted by the Permanent Mission of Thailand, Wednesday 8th May 2019, Geneva)
- 'Emerging issues and developing effective Council responses', (Hosted by the Permanent Mission of Mexico, Thursday 11th April 2019, Geneva)

The URG is pleased to present a short summary of the outcomes of each of the four 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 Glion VI. 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 four hosts.

**Policy Dialogue on ‘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 2nd May, Geneva**

The 2021-2026 review

- As during previous discussions on this subject (e.g. at Glion V), there was a general recognition that the 2021-2026 review will be GA led, and will focus solely on the Council’s status. There was also a clear understanding that on this occasion, the GA has not formally requested the Council to conduct a review of its work and functioning in advance of its own deliberations. Finally, there was an acknowledgment that the GA’s review is unlikely to result in any changes to the Council’s status.
- That said, there was equally (again, as was the case during previous discussions) a strong sense that the Council should contribute, in some way or form, to the GA’s review.
- One participant repeated a point made during the Council President’s 28th March informal consultations: the Council, as a subsidiary body, should take its lead regarding the timing and nature of this contribution, from the GA. Another participant agreed with this approach, and stated that the GA will inevitably request input from the Council – for the simple reason that expertise and experience on the body clearly resides in Geneva.
- Looking back to discussions in New York at the time of the 2011 review of the Council, one speaker recalled that the then President of the GA was very clear that it would be impossible to review the Council without the full involvement of the Council. Another speaker added that in 2011, GA delegations and co-facilitators had worked and taken decisions based on a fairly broad interpretation of what constitutes a ‘status review.’ At that time, the term was not taken solely to mean the Council’s position *vis-à-vis* the GA or the Security Council, or whether it should be ‘promoted’ to become a principal organ of the UN. Rather it was also intended to encompass, for example, the procedural relationship between the Council and the Fifth and Third Committees, the issue of membership, and the question of how the Council should best report to the GA.
- Irrespective of the ‘signal’ eventually sent by New York (e.g. via a letter from the President of the GA, or a GA decision), there was broad agreement that Geneva should be ‘ready.’ Therefore, discussions (e.g. in the context of the President’s informal consultations) should continue.

### Types of 'Geneva contribution'

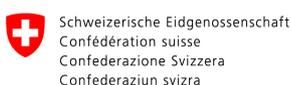
- Two key questions were discussed: first, should Geneva's contribution take the form of a full intergovernmental review of the Council's work and functioning, or be a 'lighter' more informal process of reflection/self assessment; and second, should any process to produce a 'Geneva contribution' be coordinated by the Council President and Bureau, by the High Commissioner for Human Rights or Secretary-General, by co-facilitators appointed by the Council President or the President of the GA, or a combination of these?
- On the first question, there appeared to be no appetite, among States or civil society, for a 2011-style intergovernmental review of the Council's work and functioning. The preference of those who spoke was rather for a 'lighter' process of reflection or self-assessment about the Council's achievements, shortfalls and challenges (see section "risk or opportunity" below).
- On the second question, the debate was much more involved. Some suggested that a Geneva process could be led by the High Commissioner for Human Rights. This might take the form of a report, for example, compiled following consultations with States, NGOs and independent experts. The High Commissioner would preferably initiate such a process herself as was noted that providing proposals on improving the international human rights machinery is part of the High Commissioner's mandate, as set by the GA. If that proved difficult, the Council could provide a mandate.
- However, there was strong push back against this proposal. One participant argued that this would be an unprecedented over-reach of the High Commissioner's or the Secretary-General's mandate and authority as the Council is an intergovernmental organ of the UN. On the contrary, any review/reflection process looking at the Council must be State-led, and preferably established by the Council President and Bureau. This should probably be an informal process, coordinated by co-facilitators, and should include consultations with civil society.
- That said, one participant pointed out that at the time of the transition from the Commission on Human Rights to the Human Rights Council, several reports and non-papers were produced by the secretariat with ideas for strengthening the UN's human rights institutions, mechanisms and processes.

### Risks and opportunities

- Several participants reminded colleagues of the **possible risks** involved in conducting an intergovernmental review in Geneva, in advance of the GA's review. For example, it might bring divisions at the Council back to the surface, or even result in a weakening of the



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body's institutional foundations. One participant highlighted the risk that any intergovernmental review would also 'suck the oxygen out of the Council,' meaning States would pay less attention to the Council's normal, everyday work.

- A participant recalled what happened in 2011: 'An extremely heavy process of informal consultations was established, which generated lots of ideas and proposals. However, in the end very few of those ideas ever saw the light of day.'
- Moreover, according to these and other voices, the Council is working satisfactorily at present, and further improvements are all possible (and indeed are already happening) *within* the existing institutional framework provided by the institution-building package (IBP). The current efficiency process and the Council's work on prevention were offered as cases in point. There is therefore little to gain and possibly much to lose from a major intergovernmental review of the Council. 'It would be better for the Council to dedicate the time and resources needed for a review to other uses, such as strengthening its on-the-ground impact.'
- A participant agreed that the evidence of the past few years suggests that the Council does not need formal reviews in order to secure improvements in its work and functioning. The 'extremely impressive' efficiency process (which has involved presidential statements (PRSTs), taskforces, co-facilitators, Bureau notes, etc.) launched four years ago was offered as an example of what can be achieved in the absence of institutional reviews.
- At the same time, a number of participants urged colleagues to see the 2021-2026 review as an **opportunity** for Geneva to contribute through a "lighter" process.
- One idea, in this regard, was that the Council could initiate a process of self-reflection or self-assessment, to look at the degree to which it has been able, since 2006, to deliver on key parts of its mandate. Such a process of reflection would not be premised (as was the 2011 review of the Council's work and functioning) on amending the IBP, but rather offer an opportunity for States and other stakeholders to consider the body's achievements, shortfalls and challenges. This would be a useful exercise for the Council itself, and would also represent a useful input into the GA's review.
- A second idea was to use the 2021-2026 review, and preparations for it at the Council and the GA, as an opportunity for the two UN centres to work together to address common questions/challenges. These might include, for example, the following questions: how does the Council's relationship with the Third Committee/GA work in practice? Is their relationship coherent, coordinated, efficient and effective? How can they jointly address common concerns, such as efficiency of working methods and coherence in the tabling of initiatives? A suggestion was made that such a 'joined up' approach might learn lessons from 2011, when 'there was a great level of coordination between Geneva and New York.'



## GLION HUMAN RIGHTS DIALOGUE

- A third suggestion was to use the review, and Geneva's possible contribution thereto, as an opportunity to inform and raise awareness among colleagues in New York about the range of work done by the Council (e.g. capacity-building and technical cooperation, prevention, using the human rights framework to support the 2030 Agenda, implementation, norm-setting, accountability, etc.). This would help address the human rights pillar's 'image problem' in New York.
- Finally, one participant argued that the review/Geneva contribution could offer an opportunity for the Council to reflect on how to reform its methods of work to better meet 'new and emerging challenges' such as the human rights dimensions of climate change, mass migration, and new technologies.



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**Policy Dialogue on 'New York perspectives on the General Assembly's 2021-2026 review of the Human Rights Council's status,'**

**Hosted by the Permanent Missions of Iceland, Thursday 9th May 2019, New York**

Timing of the review

- While there was broad agreement that the timing and shape of the 2021-2026 review would ultimately be determined by the GA, a number of participants nonetheless called for wide consultations before the GA arrives at that determination. This should include all member States, civil society, representatives of the UN secretariat, and the Human Rights Council itself.
- Other participants suggested that, should an inclusive process of informal consultations be put in place, the actual formal GA review process could be very short – perhaps starting as late as 2025. Those supporting this suggestion spoke of 'review fatigue' in New York.

Scope of the review

- As with the question of timing, there was a clear call for the GA to proceed cautiously when considering the scope of any review. The prevalent view was that the scope of the review must necessarily be limited to the question of the Council's status - as opposed to a wider-ranging review of the body's work and functioning.
- One participant noted that, considering the difficult contemporary atmosphere at the UN in New York, there could be important risks involved in 'opening up the Council to a wider review, beyond the relatively straightforward question of its status.' In the end, 'a more formal review of the Council's work and functioning could do more harm than good.' Building on this, one participant warned that a deeper, more formal review might even result in the Council's status being downgraded. The likelihood of this was, however, dismissed by other participants.
- Hence, some argued that a wider review would be unlikely to result in improvements in the Council's institutional foundations and methods of work; and would represent an important drain on the UN's resources. Those resources could be better utilised in strengthening the promotion and protection of human rights on the ground. According to

this argument, the institutional framework of the Council is broadly satisfactory; the problem is rather politicisation, or a lack of political will on the part of a few States.

- Many also argued that the Council is functioning well, and ‘does not require any further institutional rewiring.’
- It was also noted that the Council is already strengthening its work in a number of key areas (e.g. implementation and follow-up, the delivery of capacity-building support, efficiency, prevention of violations and crises), and those improvements are taking place *within* the current institutional framework. It is therefore unnecessary to reform that framework. A number of participants urged the Council to focus on this important ‘strengthening agenda,’ rather than on wider institutional reforms.
- While there was wide agreement that the 2021-2026 review must be strictly limited to the question of status, one participant argued that it should also include an assessment of its place in the overall UN architecture, and its relationship with other relevant parts of the UN such as the Third Committee.
- By doing so, it was also suggested that ‘New York’ and ‘Geneva’ could more easily work together on issues of common interest, such as improving coherence in the Council’s relationship with the GA, and developing more efficient working methods in both the Third Committee and the Council.

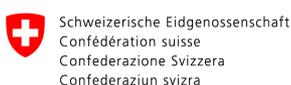
### The Human Rights Council’s role

- Participants repeated that, unlike with GA resolution 60/251, resolution 65/281 *does not* request the Council to undertake a review of its work and functioning ahead of the GA’s own review.
- However, a number of participants nonetheless pointed out that GA resolution 65/281 does not prohibit the Council from conducting some form of ‘internal self-assessment.’ One voice said it would be interesting for the GA to receive information on how the Council has discharged its mandate since 2006 and, especially, since 2011 (the last review, and thus the last time the GA formally received information on the Council’s performance).
- The President of the Human Rights Council and his Bureau could lead such a process.
- Another suggestion was to ask the High Commissioner to conduct an independent assessment of the Council’s achievements and key challenges, in consultation with States, civil society, NHRIs and other relevant stakeholders. Such an assessment might focus on the Council’s impact on the ground.
- Others urged the Council to ‘wait for a signal’ from the GA before beginning any process ahead of the 2021-2016 review. That signal might come in the form of a letter or a resolution, for example. It would make little sense for ‘Geneva’ to embark upon any

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review/assessment exercise without the GA first establishing the parameters of the overall review.

- Notwithstanding these legal and procedural points, nearly all participants agreed that once the GA has decided on the timing and scope of the 2021-2026 review, as well as of its informal preparatory process, it will be important for 'New York' to receive an input from the Council, and that the GA 'would greatly benefit from that contribution.'
- Other participants again argued that the GA's review offered a useful opportunity to 'hear from the Council on its thoughts with regard to the current relationship with the Third Committee and the GA,' (see below).

### The Third Committee

- As is clear from the foregoing, one issue that was repeatedly raised during the dialogue was the importance of using the preparations for the 2021-2026 review to also consider the institutional relationship between the Council and the Third Committee/GA.
- It was argued that the 2021-2026 review and its preparatory process could offer the opportunity to assess the efficiency and coherence of this relationship and address certain problems (e.g. insufficient communication/coordination, and duplication of resolutions and interactive dialogues).
- For example, it was suggested that States could discuss how to take forward and coordinate efforts to biennialise and triennialise initiatives in both Geneva and New York (perhaps involving staggering between the Council and the Third Committee).
- Another suggestion included organising more systematic briefings by the Council President in New York, and by the Chair of the Third Committee in Geneva.

**Policy Dialogue on ‘Implementation support and follow-up by the international human rights system’**

**Hosted by the Permanent Mission of Thailand, Wednesday 8th May 2019, Geneva**

Follow-up – general remarks

- It was suggested that there are two main components to the concept of ‘follow-up’ by the Council and its mechanisms, OHCHR and other UN agencies and programmes. On the one hand this refers to actively following up to track and measure progress with the implementation of recommendations and resolutions. On the other hand, it means reaching out to concerned States/recipients of recommendations to provide or to help mobilise international technical assistance.
- A participant suggested States might be classified into three groups. The first are States that do not have the political will to implement recommendations and resolutions, or to strengthen the domestic promotion and protection of human rights. Here, Council follow-up should be premised on maintaining public scrutiny of the government. Second are those States that possess political will but lack national capacity. Here, the Council should follow-up to keep track of progress and shortfalls, but also to extend technical assistance. Third are those States that possess both political will and capacity. This group does not require international capacity-building support (though they can benefit from exchanges of good practice), but should still be subjected to follow-up to track and measure domestic human rights change.
- There was wide agreement that the Council, its mechanisms, and relevant UN agencies need to strengthen both aspects of follow-up.
- For example, it was argued that there is insufficient space at the Council for States to voluntarily report on domestic progress and challenges. Where States have tried to provide updates (e.g. on the implementation of Special Procedures recommendations following country visits), they often feel ignored.

With this in mind, several States argued for a dedicated and regular ‘space’ under item 10 (others proposed items 5 or 6) of the Council’s agenda to ensure better follow-up and implementation. States could use this space to *inter alia* voluntarily share best practices, to give updates on the implementation of recommendations, and to discuss remaining challenges and gaps. At the same time, States could use this space to request international technical assistance and capacity-building support, or to pledge support (including through South-South cooperation). This would serve a dual purpose: to help the Council follow-up on

implementation and on the ground impact; and ensure that the provision of technical assistance is country-led, needs-driven and open to a wider range of States. One participant remarked that such a space would also be help boost the credibility of the Council and its mechanisms, by collating ‘impact case studies’ and by helping the international community have a better sense of the global situation of human rights. ‘To be credible, we must showcase success and identify areas of continued concern.’

Following up on implementation and progress

- There was a broad view that the most important means of following up on the implementation of recommendations or resolutions is for the State(s) concerned to voluntarily ‘report back’ on progress. For example, in the UPR, States have the possibility of submitting mid-term reports, or reporting on key clusters of recommendations; while in the context of Special Procedures, some States submit progress reports a year after a country mission. Notwithstanding, there was also a clear sense that this kind of country-led follow-up is relatively uncommon at the Council. This is partly because of prevailing mind-sets in Room XX, and partly because there is no regular space to do so.
- One participant called for all resolutions under item 10 to include a request for OHCHR to undertake an assessment, after one or two years, on levels of implementation. Another suggestion was for item 10 texts to include requests for OHCHR to collect indicator data to measure progress and impact.
- The **UPR**, in principle, has a powerful in-built follow-up mechanism, namely the three periodic reports: the State’s report; the UN system report; and the ‘other stakeholders’ (i.e. civil society and NHRIs) report. However, questions were raised as to the degree to which reports during the second and third cycles are fulfilling this key purpose. One participant suggested that many State reports do now include an assessment of levels of implementation of previous recommendations; but that UN system and NGO/NHRI reports rarely do. Regarding NGO/NHRI reporting, this is particularly problematic because they are, in principle, perfectly placed to offer independent and objective assessments of progress.
- In the context of following up on the implementation of recommendations they have delivered under the UPR, some States maintain a database of UPR recommendations they have given to States during earlier cycles.
- Other States have put in place systems to automatically follow-up with States to which they have offered UPR recommendations, in order to provide technical/development assistance to help them implement. A participant urged all donor States to adopt this strategy. A further good practice shared was for reviewing States to ensure that their recommendations are SMART (specific, measurable, achievable, realistic and time-bound).



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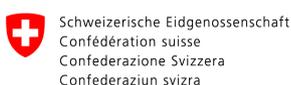
- The existence in States-under-review of standing ‘national mechanisms for implementation, reporting and follow-up’ (NMIRFs) was identified as an important way to facilitate follow-up, especially where NMIRFs use software to track progress with implementation and make that information available to domestic and international stakeholders via a public website.
- In respect to **Special Procedures**, it was explained that ‘following-up on (...) recommendations has always been a priority for mandate holders.’ This includes follow-up on recommendations generated by other mechanisms, such as the UPR and Treaty Bodies.
- However, it was deplored that this follow-up work is often undervalued by, or is not visible to, the Council. It does not incentivise follow-up when there is no space on the Council’s agenda for mandate-holders to present their findings (progress, obstacles, challenges) and engage with the country concerned.
- A further problem is the relative lack of resources for follow-up, and the time-consuming nature of the exercise (Special Procedures also have full-time jobs). To help overcome these challenges, the Special Procedures are increasingly engaging with other parts of the UN system (e.g. the High Level Political Forum on the SDGs), to mainstream their work and recommendations.
- Some recounted positive case studies where Special Procedures mandate-holders had routinely followed-up (e.g. via letters or follow-up visits) to check on progress with the implementation of recommendations. Others, however, questioned the degree to which this is being done systematically by all mandates.

Provide or help mobilise international support/technical cooperation

- One participant highlighted the vital importance to support implementation in developing countries, especially LDCs and SIDS. It was noted that many SIDS and LDCs ‘hold off on ratifying new human rights conventions because they do not have the capacity or resources to comply with the reporting requirements or the implementation of recommendations that stem from the reporting process.’
- One of the resources available to support the implementation of recommendations is the UN Voluntary Fund for Technical Cooperation, which is the second largest Trust Fund administered by OHCHR. It was pointed out that the Board had distilled seven key components for effective technical cooperation. These include that ‘technical cooperation should be offered to support the implementation and follow up by human rights mechanisms’, that there should be an emphasis on ‘building national human rights frameworks’; and that ‘technical cooperation in the field of human rights should also reflect and inform national development objectives and directly link with UN Development Assistance Frameworks (UNDAFs), SDG action plans, etc.’



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- It was highlighted that the OHCHR is currently developing a standard operating procedure and methodology to deliver human rights-based technical cooperation through the broader UN system. The High Commissioner has also identified strengthening the capacity of other UN agencies as a priority. OHCHR is working to showcase how technical cooperation in the field of human rights fits into the Secretary-General's prevention agenda.
- The current reforms of the UN development system, especially changes to the Resident Coordinator system, were identified as an important opportunity to 'mainstream' human rights follow-up throughout the UN system. 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 development (in line with the 'human rights upfront' policy), and for UN Country Teams to systematically integrate human rights recommendations into UNDAFs.
- On the above issue, a number of questions were raised, including: how might the Council strengthen its interaction and engagement with Resident Coordinators and UN Country Teams? How closely is the High Commissioner coordinated with Resident Coordinators? How involved is the High Commissioner with the development system reforms?
- One participant drew attention to the effectiveness of integrating human rights recommendations into UNDAFs, and using this as a key interface for engaging the host country government. It was noted that even for sensitive issues, such as sexual and reproductive rights, recommendations from the human rights mechanisms (especially UPR recommendations that have been accepted by the State) are a useful gateway to begin conversations with host country governments.

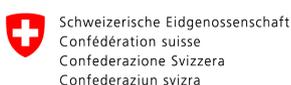
#### Following-up on the implementation of resolutions

- Sometimes a resolution may contain an action plan and thus lend itself to regular follow-up (e.g. Council resolution 16/18 on combatting religious intolerance). In those cases, one suggestion was for the Council to request OHCHR to conduct assessments of levels of implementation and/or to collect human rights indicator data.
- On other occasions however, the importance of a resolution can be in clarifying or setting norms, or in sending a political signal. On this point, the value of a resolution might be in providing, for example, leverage for local civil society to advocate for change, rather than a formal set of guidelines to be implemented by the State.
- For some country-specific resolutions, systems of 'benchmarks' have been developed, against which progress can be measured (e.g. by the High Commissioner or by Council member States).
- Some, while expressing support for this system, pointed out that it is often difficult to precisely measure progress against benchmarks.

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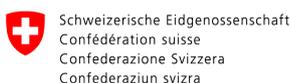
- Others said the issue is less the utility or not of techniques such as benchmarking, and more the political willingness of States to implement Council decisions and to cooperate with the Council and its mechanisms in a meaningful way.

Measuring change and impact

- The importance of familiarising States with OHCHR's report on human rights indicators and measurement was highlighted by a number of participants. At present, very few States use human rights indicators to systematically track progress and measure impact. Generally speaking, only States with well-established NMIRFs do so.
- A participant explained that the NMIRF could also link human rights recommendations and indicators with SDG targets and indicators, meaning the State can measure progress towards the 2030 Agenda and progress towards universal human rights standards in a 'joined up' manner.



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**Policy Dialogue on ‘Emerging issues and developing effective Council responses’**

**Hosted by the Permanent Mission of Mexico, Thursday 11th April 2019, Geneva**

Emerging issues and the Council’s role

- It was noted that issues such as climate change, the emergence of new technologies, rising nationalism and xenophobia, the growing power of multinational corporations, grand corruption, and mass migration, all have significantly impacts upon the enjoyment of human rights.
- Moreover, these emerging issues demand a reframing of traditional thinking on human rights, and present a fundamental challenge to the existing international human rights machinery. There are a number of reasons for this, including the fact that these issues often involve non-traditional human rights actors such as multinationals, and do not respect national borders.
- As such, it is important when considering the future of the Council, to promote new thinking on these emerging human rights concerns, and to take a critical look at existing structures and mechanisms to see whether they are capable of responding to the human rights dimensions of these issues, or whether they will need to be supplemented with new approaches and tools.
- One participant said it is vital that the Council remains open to new thinking and new approaches to emerging challenges, and not only so in a reactive sense. ‘The Council and the wider human rights pillar should, for example, work proactively to seize the opportunities presented by new technology.’ Another participant agreed, stating that ‘it is remarkable that in the 21<sup>st</sup> Century we [the UN human rights system] have not yet developed systems to routinely and empirically measure human rights trends in all countries of the world, so that we can engage with those who believe human rights are in retreat with hard data and evidence.’ Others supported these remarks, and similarly called on the Council (and the wider human rights system) to make better use of video conferencing, short films/videos, satellite imagery, and social media to disseminate information about human rights and the Council’s work.
- A participant said that while these and other emerging issues are certainly important, the Council should not focus on them to such a degree that it neglects core human rights concerns such as freedom of expression or freedom from torture. A similar point was made by another participant, who suggested that: ‘Are we convinced the Council necessarily

needs to respond to all new trends or should we go back to basics and see what the Council does well and concentrate on that?’

- Another participant disagreed, arguing that addressing these new human rights concerns will help to reorientate Council thinking about its role in promoting and protecting human rights. For example, the Council might be encouraged to address the root causes of many of the aforementioned emerging issues, namely inequality within and between States, and social justice.
- Building on this last argument, it was suggested that non-discrimination, equality and social justice are core human rights concerns; thus the role of the Council should be to promote their uptake in other UN fora and by a greater range of international actors, including business. One participant noted that: ‘we know that tax avoidance by big multinationals has a massive negative impact on the enjoyment of human rights in every country in which they operate. So why should we not discuss this at the Council; why should we not bring representatives of these companies to the Council to explain themselves?’

### Existing institutional responses

- A number of participants noted that, in many respects, the **Council** has been ‘ahead of the curve’ in terms of considering and responding to new and emerging human rights issues. For example, it adopted a first resolution on human rights and climate change in 2008 and helped secure the integration of human rights principles into both the Cancun Agreements and the Paris Agreement under the United Nations Framework Convention on Climate Change (UNFCCC). Likewise it has also repeatedly addressed issues such as migration and displacement, privacy in the digital age, environmental rights, religious and racial intolerance and hate speech, corruption, and business and human rights.
- Notwithstanding, for many of these issues, the Council has adopted a rather traditional approach, such as adopting resolutions expressing concern, requesting OHCHR to draft reports, and convening general thematic panel discussions. A number of participants questioned whether such traditional approaches can really work when faced with these new and global human rights challenges. ‘OHCHR reports tend to be quickly read and equally quickly filed away.’
- One ‘alternative approach’ discussed was for Council debate and decisions on emerging issues, designed to understand the human rights dimension, to be rapidly followed by efforts ‘to mainstream the Council’s thinking into other relevant UN institutions and programmes,’ (e.g. UNFCCC, IOM, UNHCR, UNCAC). ‘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 and to inform better human rights policy making (across adaptation and mitigation).’

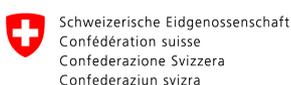
- This broad approach received significant support during the meeting, especially as ‘mainstreaming’ means both encouraging the ‘take up’ of human rights in other UN fora, but also that these other parts of the UN should bring their work into the Council, and brief members. For example, according to one participant: ‘It is clear that many different actors and stakeholder groups (e.g. businesses, civil society, different UN programmes and agencies, Resident Coordinators and Country Teams, donors) are driving human rights progress within their particular field of work. The Council does not need to push them to do so, but it could provide a useful platform for them to share information, good practice and lessons learnt. ‘There is clearly an appetite for this,’ said one participant. ‘For example, the Annual Forum on business and human rights continues to expand each year.’
- Within the Council, **Special Procedures** play an important role in identifying and leading international responses to new and emerging human rights concerns. ‘In many ways, Special Procedures are in the vanguard of the international human rights community’s response.’ Through their country visits and thematic reports, expert mandate-holders are in a prime position to raise the alarm and to shape effective policy responses. The Advisory Committee is also well placed to reflect on and develop responses to emerging human rights concerns.
- As with Special Procedures, the reach and expertise of human rights **NGOs** was identified as a key advantage of the international human rights system. It was argued that the Council and its mechanisms should be more open to receiving information and advice from civil society.
- **OHCHR** has long worked to understand and provide guidance to States on new human rights trends and developments. For example, former High Commissioner Mary Robinson was one of the first people in the world to draw global attention to the human rights impacts of global warming. More recently, OHCHR has conducted a review to identify important ‘frontier issues’ that are expected to dominate in the years to come.

### Climate change, environmental harm

- According to one speaker, the Council’s approach to climate change was to first understand its impacts on human rights, and consider how human rights standards might be applied to improve international and national policy responses.
- The Council then transmitted this understanding to other relevant parts of the UN system, most notably the Conference of Parties to the UNFCCC. This helped secure a strong rights-based element in the Cancun Agreements and later in the Paris Agreement. Indeed,



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according to another participant, the Council and its mechanisms (and specifically their warnings about the human rights consequences of a 2 degree temperature rise) played a key role in the eventual inclusion, in the Paris Agreement, of a 1.5 degree target.

- The speaker further explained that States at the Council also played a lead role in establishing the ‘Geneva Pledge’ – a cross-regional effort to bring the human rights community and the climate change community into closer orbit. Their aim was to ensure that evolving international and national policies on climate change must be compliant with States’ international human rights obligations and commitments.
- During the discussion, other participants noted that a similar approach to human rights and climate change (i.e. using the Council plenary as a space for debate about the human rights dimension of the issue, clarifying relevant human rights norms, and sharing this understanding with other relevant parts of the UN system), were also used in the context of the wider issue of environmental harm. In 2011 the Council adopted a first resolution on human rights and the environment, and in 2012 established a Special Procedures mandate on the subject. Since then, through resolutions and the work of the Special Rapporteur, it has clarified the human rights norms relating to environmental protection, and has sought to mainstream this understanding into the work of other relevant organisations such as UNEP and the UNFCCC.
- Another speaker noted that the Council’s approach to human rights and the environment has been extremely successful and may act as a template for Council action with other emerging issues. Indeed, the approach has been so successful that the Special Rapporteur was able to recently begin work towards the declaration of a new universal rights to a clean and healthy environment.
- These steps have had significant positive impacts outside the Council. For example, UNEP (now UN Environment) recently launched a new Environmental Rights Initiative; in 2018 Latin American countries adopted the Escazu Agreement on human rights and the environment; and each year more and more States are including the right to a clean and healthy environment in their national constitutions.

### Human rights and new technology

- A number of participants highlighted that the Council too often adopts a ‘negative’ approach – i.e. it looks at how technology can be used to *violate* human rights, rather than the equally important question of how technology can be mobilised and leveraged to *promote* human rights. Indeed, different human rights issues related to new technology have long been debated at the Council (e.g. privacy, the internet). However, there has not yet been an effort to look at human rights and new technology (including big data,

artificial intelligence, autonomous weapons, additive manufacturing) in a holistic way, to identify common themes and threads. Nor has there been an effort to look at how technology can be leveraged to promote and protect human rights, in addition to the more traditional approach of expressing concern at the negative human rights implications of new technology.

- One participant remarked that the technology sector is constantly coming up with new 'ethical' approaches, policies and programmes, yet is apparently unaware that a universal framework already exists to guide their work: the Universal Declaration of Human Rights.
- Therefore, many participants highlighted the a pressing need to bring technology companies to the Council, in order to familiarise them with the international human rights framework, and also to 'take the Council and its work to places like Silicon Valley.' Another participant explained the urgency of this: 'we must ensure the integration of human rights principles at the very earliest planning stages of new technology; 'path dependence' means it will be impossible to insert them later.'

### Business and Human rights

- A number of participants identified business and human rights as an area where the Council has already undertaken important work and hence as a positive model for other 'emerging issues.' That work has been premised on setting norms (the UN Guiding Principles), encouraging the uptake of those norms by businesses and States (including via the work of relevant Special Procedures), and convening a platform (the Annual Forum) where businesses and States can 'report back' on progress, challenges and good practice.
- What is more, the approach outlined above appears to be having a positive impact and a number of good practice examples were shared.
- For example: The Norwegian Oil Fund or Pension Fund - formally known as the Government Pension Fund Global – which is a major global investor, has made important advances over recent years in ensuring that its investments serve to promote and encourage respect for human rights, rather than undermine those rights.
- A central part of the Fund's governance model is its Council on Ethics. This Council makes recommendations to the Bank on the performance or possible exclusion of companies in the Fund's portfolio, in accordance with certain criteria. This includes an assessment of whether the company contributes to or is responsible for: serious or systematic human rights violations; severe environmental damage; acts or omissions that may lead to unacceptable greenhouse gas emissions; or gross corruption. In other words, the Council ensures that companies in the Fund's portfolio *respect* human rights.



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- These impressive steps are, to some extent, mirrored elsewhere in the global financial sector, where companies, banks and funds are increasingly basing their investment decisions on the ESG framework – environmental and social governance (including human rights). As one participant noted: ‘The fact that big investors are now asking the right questions about human rights when making investment decisions is in itself a good human rights story. The aim is not only to do no harm, but potentially to also do good.’
- Another participant remarked the recent changes in the way donor States deliver development aid (ODA). In this context, States increasingly use the UN Guiding Principles on business and human rights to ensure that ODA promotes respect for human rights among businesses in recipient States.
- Participants also discussed corporate taxation – especially in the context of big internet/digital companies allowing companies to do considerable business in countries without necessarily having a large physical footprint.
- On this point, there was agreement that tax avoidance or a failure to pay a fair level of taxation, are major barriers to the enjoyment of human rights in all countries, and should be the focus of further work.
- In respect to the global fight against corruption, participants discussed the emergence of ‘Magnitsky acts’ in many parts of the world, which together with legislation such as the US Foreign Corrupt Practices Act, have the potential to promote greater respect for human rights by holding corrupt individuals or businesses accountable for the human rights violations they cause.