

Glion Human Rights Dialogue 2024 (Glion X)

Transforming universal norms into local reality – NMIRFs and the strengthening of the UN human rights system's effectiveness and on-the-ground impact

Policy Dialogue on: 'A look in the mirror' – 'Geneva's' contribution to the General Assembly's 2021-2026 review of the Human Rights Council: an opportunity to reflect on the Council's effectiveness and on-the-ground impact

Summary report

The second pre-Glion Policy Dialogue, hosted by the Permanent Missions of Thailand and Mexico, aimed to contribute to the General Assembly's 2021-2026 review of the Human Rights Council by providing a platform for dialogue and reflection on the Council's effectiveness and on-the-ground impact. Specifically, participants had the opportunity to consider and discuss how well the Council has fulfilled the different parts of its mandate, as established by the General Assembly with its resolution 16/251, since the body's establishment in 2006.

The meeting was held under the Chatham House rule.

Opening session

An opening speaker remarked that the 2021-2026 review of the Council's status by the General Assembly (GA) should not be viewed in a vacuum. It comes against a backdrop of increasing geopolitical rivalry and violent conflict in different parts of the world, bringing significant challenges to the enjoyment of human rights. At the same time, human rights are also severely impacted by new and emerging challenges such as climate change, and new technologies such as artificial intelligence. With all this in mind, it is vitally important to constantly question and analysis how well the Council is fulfilling its mandate. Even if we feel the human rights pillar is performing relatively well, we must always strive to do better. That is the great value of the Glion Human Rights Dialogue – providing a 'safe space' to share views and ideas for improvement.

The speaker recalled that GA resolution 65/281 (2011), marking the conclusion of the Council's five-year review, decided to maintain the status of the Council as a subsidiary body of the GA. With the resolution, the GA further decided to re-assess that status between 2021 and 2026. However, the GA did not, as it has in resolution 60/251, request the Council to review its own work and functioning. Yet that does not mean we should remain idle. We should always be questioning how well we are fulfilling our vital mandate to promote, protect, and secure respect for the enjoyment of human rights, and we should always be reflecting on how we might do better. The question should not, therefore, be whether, under resolution 65/251, we must look at ourselves in the mirror, but rather, whether the GA's review would benefit from our input, and whether the 2021-2026 review presents us with an opportunity to self-reflect, self-assess, and think about how to improve. The answers are: yes, the GA's review would benefit enormously from the views of 'Geneva,' and yes, this is an important opportunity.

In that regard, the speaker welcomed the structure of the policy dialogue: to go through each part of the mandate of the Council, and consider achievements, shortfalls, and ways we might do better in the future. The ambassador expressed her country's strong commitment to the Council and to the review.

A second speaker expressed support for this analysis. This Glion preparatory dialogue, he said, should be seen as a 'stock-taking exercise.' He expressed his hope that the exercise would feed into the wider review process being led in Geneva by co-facilitators appointed by the Council President. The Council simply must, he said, feed into the GA's review of its status. 'The basic principle,' he said, 'is that Geneva, where the Human Rights Council is based, should provide the necessary expertise and information to the General Assembly for it to undertake a meaningful review of the Council's status.'

Moreover, as the previous speaker suggested, it is simply good practice for any body or organization to periodically review its work and effectiveness. 'Most would agree that the Council has been a relatively successful body since its establishment in 2006, but there's always room for improvement.'

In the short debate that followed, another ambassador spoke of the Council President's efforts to contribute to the 2021-2026 review. He noted that the question of the Council's status is not new – it has been a regular point of discussion ever since the decision was taken to transition from the Commission on Human Rights. 'In 2005-2006, the Council was established as a

subsidiary body of the General Assembly, a decision influenced by various considerations at that time.'

The current review, he said, which is to be concluded by 2026, aims to assess whether the Council's current status as a subsidiary body remains appropriate and effective in fulfilling its mandate and addressing the challenges it faces. 'The primary question driving this review is whether the current status of the Council adequately supports its mandate and allows it to address human rights issues effectively. This includes assessing the Council's capacity to impact situations on the ground and ensuring it has the necessary resources and tools.'

He reported that, as part of this review, the President, supported by co-facilitators, has launched a series of consultations and surveys to gather perceptions and insights from various stakeholders. 'This will help determine whether changes to the Council's status or structure are necessary to enhance its effectiveness and efficiency.'

'In conclusion, this review process is not just about assessing the Council's status but also about exploring ways to improve its capacity to fulfill its mandate and make a tangible difference in the promotion and protection of human rights worldwide.'

Part I – How effective has the Council been in serving as a forum for dialogue on thematic issues, broadening understanding among civilisations, cultures, and religions, in promoting human rights norm-setting, and in making recommendations to the General Assembly for the further development of international law (preambular paragraph 7, operative paragraphs 5b, 5c)

On the question of whether the Council has effectively served as a **forum for dialogue** on thematic issues, broadening understanding among civilisations, cultures, and religions, a speaker said that while the Council represents an improvement upon its predecessor, there remain problems of 'political bias, double standards, and a disproportionate focus on developing countries.'

He argued that the Council's agenda is overloaded, and that despite speaking of the importance of efficiency, States incessantly table resolutions requesting new reports and creating new mandates. He called for a wide-ranging debate on the rationalisation of Council mandates.

There is also a keen need to create more space for genuine dialogue – not just the reading of short statements. Only through genuine dialogue, and a belief in universality and non-selectivity, will States be able to understand each other, rather than point fingers, and thus build trust. ‘There is an obvious lack of empathy, bridge-building, and mutual understanding,’ he noted.

A second speaker remarked on the importance of **inclusivity** at the Council, so that its work remains relevant to all States, including Small States, SIDS, and LDCs. Linked with this point, the Council’s work should cover all rights equally, and be open to and focus on thematic issues of importance to all, including, again, Small States.

The speaker, from a Small Island Developing State, noted that the situation of SIDS and LDCs had improved markedly over the years, however, challenges remain before it can truly be said that all States are welcome and all are treated equally – as per the spirit of universality.

For example, in 2020, a group of States sought to establish a new Special Procedures mandate on climate change. He recalled that, at the time, some larger States had questioned this move, arguing that ‘it is too soon for such a mandate.’ Yet, ‘for SIDS like Fiji and the Marshall Islands,’ it ‘felt overdue.’ The speaker said that such attitudes led to very difficult negotiations, but that, in the end, most States were still open to discuss and compromise.

A second example cited was the Marshall Island’s resolution on the human rights impacts of the country’s nuclear legacy. Again, several larger States questioned the Marshall Island’s right to bring such a resolution, saying such matters should be left to the disarmament community. These countries seemed oblivious to the deep, long-lasting, and painful human rights (e.g., right to health, right to life) consequences of nuclear testing. For the Marshall Islands, this was extremely disappointing – pointing to a failure of some States to empathise, understand, and cooperate on an issue of great importance and symbolism for a SIDS.

‘Often, people argue that certain issues do not fall under human rights, but as long as there is a willingness to listen and consider presented cases, progress can be made.’

In addition to pointing to the importance of universality at the Council and being open to ‘different human rights perspectives,’ the speaker also drew attention to the importance of ‘effective implementation.’ For SIDS, this means resources must be available to provide technical assistance and capacity building support. ‘Too often, at present, this is not the case.’

The next speaker, from civil society, analysed the fulfilment of the Council's mandate, given by the GA, to **set human rights norms and further develop international human rights law**.

She began by emphasising the importance of norm-setting, and especially enshrining those norms in law, as this is key to 'localising the work of the Council,' (as States are expected to implement their human rights obligations). In this context, and in the speakers view, 'the Council has made a significant contribution to elaborating human rights norms, and developing human rights law.'

As an example, she pointed to the Council's work on climate change. Fifteen years ago there was no understanding of human rights norms as they relate to global warming. However, because of the Council's norm-setting work (through resolutions, OHCHR reports, Special Procedures reports), there is now a deep understanding of what steps States need to take to realise human rights in the context of climate change, and how this can help strengthen climate action.

The speaker also pointed to the Council's 'important and effective work in negotiating important new international standards, such as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), as well as various optional protocols to the human rights treaties.' Notwithstanding, there is still much more standard setting work to be done. For example, she pointed to the urgency of negotiating a new optional protocol to CEDAW on 'online violence against women.'

In addition to the work of member States of the Council, she drew attention to the invaluable norm-setting work of Special Procedures – independent experts who, by definition, are able to leverage 'scientific and technical knowledge' to clarify norms even in areas where States themselves cannot agree.

Civil society organisations play a key role, she said, in the formulation of international human rights soft law and hard law instruments. For example, the International Commission of Jurists (ICJ) helped develop the Siracusa Principles on interrogation and civil and political rights. Another example is the 'model protocol for ensuring peaceful protests, developed with inputs from law enforcement.' 'This protocol,' she noted, 'aims to have a real impact on how protests are managed, showcasing the Council's role in facilitating practical and constructive dialogue.' The Council's openness to civil society, including in the area of norm-setting, she argued, 'helps amplify the voices of civil society, rights holders, and victims.'

Participants then heard various **comments from the floor**. One former ambassador highlighted the key role of the Council in bringing forward, and improving our collective understanding of, 'new or sensitive subjects [...] that previously some States had argued do not belong on the Council's agenda.' As an example, she mentioned the Council's work on extrajudicial killings.

Another participant agreed with previous speakers that the Council has been 'quite effective' in the areas of norm-setting and the further development of international law. The Council has regularly taken up new issues, has analysed the relationship with human rights, and has elaborated norms and guidance. As examples, he cited 'the right to truth, climate change, new technologies, albinism, leprosy, and the rights of indigenous peoples and minorities.'

He also argued that the Council has represented an improvement on the Commission in that, instead of presenting almost exactly the same resolutions year-on-year, 'we have tried, with each iteration of a resolution, tried to approach the same issue but from different angles.'

He also spoke of the balancing act between securing progress and securing consensus. 'Some of these issues have been contentious, and while it's desirable to have consensus, it's not always possible. For instance, on SOGI [sexual orientation and gender identity] issues and the death penalty, we know there won't always be consensus. However, that doesn't mean we shouldn't discuss them and strive for agreement.' Notwithstanding, 'we should always strive for consensus,' including in those areas where consensus has broken down over recent years. As an example, he pointed to The Gambia's recent resolution on 'the culture of peace,' which started out as problematic, but where we were eventually, through discussions, able to come to a common understanding.

Another diplomat, speaking from the floor, agreed that the Council has been very active in the area of norm-setting, but pointed to the disconnect between this and the body's focus on supporting the implementation of those norms. 'We are very good at generating news topics, and elaborating news norms,' he said, but 'should we not rather focus more attention on the implementation of norms and standards already agreed?' He opined that this disconnect is in part down to the inability of some to fully recognise the importance of the relationship between human rights and development. 'Many countries, particularly in Africa and Asia, are playing a catching-up game. These regions, which have democratised post-colonisation, have established democracy, human rights, and development, yet they often face challenges in implementing these norms on the ground.'

‘The problem is that if we keep on building new topics and norms without sufficient focus on implementation, we risk creating a disconnect between what we discuss and what we can actually achieve. Efficiency is crucial here.’

Another speaker from the floor further emphasised the issue of inclusivity at the Council and shared her experiences as a SIDS diplomat. ‘When we first came to the Council, we went from not being in the room at all to becoming a member within five or six years.’ This transformation was largely due to the fundamental work of the Council’s SIDS-LDC trust fund. She noted the vital importance of such capacity-building mechanisms, which had not only benefited her own States, but all countries from her region.

She also raised the importance of adequate resources. If we want to move beyond norm-setting to supporting implementation on the ground, the Council and OHCHR must have sufficient budget.

Another speaker agreed that, broadly speaking, the Council is doing a good job: ‘Yes, the Council has been performing well, and no, we don’t always agree on everything, but if we did, it would be boring. It’s always useful to take a step back and review our performance.’

‘First, regarding the review, it’s worth noting that New York is not really engaged with this process. There was a side event earlier this year, but it didn’t spark much interest within the New York community. Therefore, we need to manage our expectations about the review.’

Regarding issues brought to the Council ‘that some say don’t belong,’ the participant emphasised that ‘if you want to bring the human rights aspect to the issue, you are definitely in the right forum.’

Part II – How effective has the Council been in promoting and supporting the implementation of human rights obligations, including by developing methods of work that are results-orientated and allow for follow-up, by promoting the on-demand delivery of technical assistance and capacity-building support, by strengthening and promoting cooperation with the Council’s mechanisms, and by promoting accountability by remaining accessible to civil society, human rights defenders, and victims

A speaker from the secretariat assessed whether the Council's methods of work have been **results-oriented and allow for subsequent follow-up** discussions to recommendations and their implementation, as requested in GA resolution 60/251.

She emphasised the importance of the Council's mechanisms, such as UPR and Special Procedures, for follow-up and implementation. The Council is also highly accessible to civil society, she noted, and they retain a key job in terms of monitoring implementation and compliance. She also underlined the importance of adequate resources to delivery capacity-building support for implementation.

A diplomat from an African LDC delegation then spoke about the degree to which the Council has effectively delivered **technical assistance and capacity-building support**, at the request of and in consultation with the State concerned.

He agreed with others about 'the success of the Council compared to the Commission.' 'However, gaps remain in terms of prevention and the implementation of commitments.' Agenda item 10 is key in this regard, helping developing countries better implement their human rights obligations and commitment, and thereby build resilience – thus preventing future crises.

The speaker, however, questioned the effectiveness of the Council's traditional approach under item 10. 'The current structure seems to require a country to experience civil war or a natural disaster to access support. Since 2006, only a handful of States have benefited under item 10.' Experts are deployed, reports are drafted, recommendations extended, but there is often little or no implementation, as seen in Haiti. That said, he acknowledged that things have improved more recently – with important new approaches pioneered by the likes of Honduras, Colombia, Bahamas, and the Marshall Islands. 'These countries brought resolutions themselves to benefit from targeted capacity-building support.'

'Can we do better? Yes. We need a paradigm shift to more cooperation and genuine dialogue with States requiring assistance. These should be country-led, with the consent of the State involved, and should not always require a resolution to access capacity building. Previous beneficiaries should share their experiences, gaps, and how they used their experience. Item 10 should be mainstreamed into country programming and cooperation, not as a standalone issue.

Capacity-building should have concrete results, requiring proper financing, and follow-up to measure impact.'

He then outlined a number of proposals that could guide future improvements in the Council's delivery under item 10:

1. Regular intersessional forums - safe spaces where States can share information on achievements, lessons learned, and challenges in implementing their human rights obligations, and where they can request support. These interactions should be thematic, focusing on issues like women's rights, housing, and food.
2. Ensure that States requesting assistance receive it – perhaps by creating a roster of human rights experts run by OHCHR, and by establishing a small projects trust fund.
3. Non-confrontational progress - the SIDS/LDC Trust Fund has worked well in this regard, showing it's possible to achieve progress in a cooperative manner.

A further panellist analysed the fulfilment of the Council's mandate to strengthen the effectiveness of, and promoting cooperation with, the Council's mechanisms, including **Special Procedures** and the Universal Periodic Review.

'The Council currently maintains 60 mandates, 27 of which were created by the Council. This shows the body's commitment to the importance of Special Procedures.'

She also noted that the composition of Special Procedures is balanced and has improved in recent years. Currently, 63% of mandate-holders are women and 37% are men, and there is better geographical balance.

The impact of Special Procedures stems from their central features, including:

1. Independence - allowing them to bring up difficult issues and trigger important conversations.
2. Accessibility – Special Procedures are the most accessible mechanism, being on the ground and outside Geneva. They bring back expertise from the field to discussions at the Council.
3. Agility - they can act flexibly and respond where needed. They don't have a set agenda and can operate in any country.

Special Procedures impact human rights in various ways, such as by contributing to standard-setting, technical cooperation, early warning, and prevention. They have also helped mainstreamed human rights across the UN system.

A crucial condition for Special Procedures effectiveness is, she argued, good cooperation. 'Our Office develops a full picture of State cooperation and praises those that cooperate. However, there are rising threats and intimidation, which are concerning. Each Council President has been strong in condemning personal attacks and reprisals.'

'Funding and resources remain a critical need. There are ongoing discussions about the necessity of certain mandates, but the current system reflects the priorities of all members, fostering a sense of ownership.'

Lastly, looking at key challenges and opportunities, she said there should be more focus on fostering greater cooperation and improving follow-up on implementation.

Turning to the **UPR**, another speaker from OHCHR noted the success of this new mechanism, established by the GA, and realised by the Council. 'The UPR is a unique peer-review process involving the review of human rights records of all States. Since 2018, the UPR has completed its first three cycles with 100% participation of member States.'

He argued that the UPR has largely remained above increasing polarisation and politicisation at the Council. Another strength of the UPR mechanism, he said, is its strong emphasis on implementation and follow-up, with high importance placed on implementing recommendations. That said, he acknowledged the keen need for more capacity-building support to help developing countries, especially LDCs and SIDS, implement recommendations.

It is also an inclusive mechanism, with written submissions from all stakeholders, including human rights institutions, NGOs, UN entities, and regional organisations increasing by 58% between the second and third cycles. UPR delegations are also becoming more diverse, with more parliamentarians taking part – crucial for implementation. He did though acknowledge the need to better engage communities at grassroots level and ensure national ownership. This should include 'all segments of the population, including vulnerable groups, women, girls, indigenous people, minorities, the media, and academia.'

Implementation is also boosted by the High Commissioner's letters after reviews, pinpointing key recommendations and offering support. That said, he acknowledged the need to better translate recommendations into 'results, and tangible and concrete improvements at the local level. What is said in Geneva must not remain in Geneva.'

A speaker from civil society addressed the question of whether or not, as per its mandate, the Council has remained open and accessible to, and works in cooperation with, **civil society, human rights defenders, and victims**, including by protecting those seeking to cooperate with the Council.

To answer this important question, the speaker presented a 'school report card' on the Council. He found, in summary, that the Council has gained 'four passes and three fails.'

He offered passes in: normative development – including with strong contribution from civil society (e.g., contributing to important resolutions on economic, social, and cultural rights defenders, and on environmental human rights defenders); institutional protection – the Council has maintained a dedicated mandate on HRDs, 'which has helped secure the release of arbitrarily detained defenders, raised the political cost of attacks against defenders, and provided guidance to States on developing national laws and policies;' civil society participation – 'the Council has provided a powerful platform for human rights defenders and victims, allowing them to tell their stories, expose injustices, demand accountability, and shape solutions;' and reprisals – 'the Council has upheld the right of all persons to communicate and cooperate safely with the UN human rights system and has mandated mechanisms to document alleged cases of reprisals.'

He offered fails in: handling reprisals – 'while the Council has done some positive work on reprisals, it has failed to adequately and systematically investigate, follow up on, and promote accountability in individual cases;' civil society participation measures - the 'Council has adopted measures that have had a discriminatory or disproportionate impact on civil society, such as capping the number of civil society speakers in general debates, and removing general debates altogether during June sessions [...]. The recent imposition of additional screening measures for NGOs and the exclusion of many NGOs from Room 20, even when there are vacant desks, is also regrettable;' failure to take collective action – 'despite widespread attacks and threats against defenders being an objective criterion necessitating Council action, the body has failed to take collective action in several situations.'

In the **open discussion** that followed, a civil society representative spoke of the critical role of the Council, for NGOs but also for States, a 'one of the primary international spaces where global attention is drawn to issues, particularly where national avenues are limited.' Continuing on the theme of civil society participation, she said that one important area of improvement would be to further encourage the participation of children and young people, including by working more

closely with Model UN programmes. Finally, she asked to what degree local governments are engaged by the Council and its mechanisms, and what more could be done in this respect.

An ambassador joined others in emphasising the importance of item 10, and agreed that the Council devotes far too little energy and resources in this area, especially compared to more confrontational approaches to country situations under items 2 and 4. This is a shame, it was said, especially when one considers that capacity-building approaches are often more effective in securing improvements in human rights on the ground.

The same speaker spoke of the importance of rationalising Special Procedures mandates, but said such an exercise should focus on discontinuing old or redundant mandates, and not on preventing the establishment of new mandates covering important emerging human rights issues (e.g., digital technology).

Finally, she spoke of the importance of clustering the recommendations issued by the mechanisms, as this makes them more manageable for States, and helps pinpoint 'areas needing attention' in the country concerned.

A diplomat from Latin America then joined others in acknowledging that, the Council's early history can indeed be called a success, including for developing countries. She opined that what is important at the Council, looking forward, is not to change the basic rules (e.g., GA resolution 60/251, or the IBP), but rather shift political will. For example, all necessary changes to rationalise the Council's work and improve efficiency can be made under the current rules. But when it comes to it, States are not willing to accept changes, especially should those changes affect 'their issues.'

On technical assistance and capacity building, she said that 'item 10 has evolved.' We now see next generation resolutions to improve the human rights situation in countries like Honduras, Haiti, Cambodia, and Colombia. These may only help bring about small, step by step, changes on the ground, but that is how human rights change works – rather than trying to impose change from the outside (e.g., under items 2 or 4). She also called for more trust between States.

The speaker added to the earlier presentation on challenges and opportunities facing Special Procedures, arguing that an essential issue of the impartiality of mandates, as well as their conduct. 'This is essential in order to engage all countries.' Another important issue, to create a cooperate relationship with all States, is the use of social media: 'mandate-holders must be cautious that their posts reflect the opinion of the mandate, not just personal views.'

On the UPR, she identified speaking time constraints as a continued challenge, both for reporting delegations, and reviewing delegations.

A participant from civil society welcomed the idea that the 2021-2026 offers an opportunity for introspection at the Council. This should include, he said, an assessment of the confidential complaints procedure (1503 procedure) – which is critically important in order to identify and address patterns of serious human rights violations. While recognising that some cases brought to the procedure might be resolved behind closed doors, he said that the perception among NGOs and victims is that the procedure does not work.

He also supported earlier interventions about the importance of the Council for civil society, human rights defenders, and victims. The Council allows them to amplify their voice, get their concerns in the media, and try to hold governments to account, especially where this is not possible at national level.

Part III – How effective has the Council been in addressing situations of violations of human rights, in securing accountability, remedy and redress for victims, and in contributing, through dialogue and cooperation, to the prevention of human rights violations and crises?

The first speaker addressed the question of how well the Council has addressed **situations of human rights violations**, including gross and systematic violations, for example, under agenda item 4. He expressed his expectation that this question would be the one during the meeting ‘on which we all disagree the most.’

The speaker, a developing country delegate, expressed his personal view that, irrespective of what you think about item 4 or item 2, when a State becomes a member of the Council it must accept the agreed mandate and rules of procedure of the Council – and that clearly includes addressing situations of violations. In any case, he argued that all of the situations addressed under item 4 since 2006 ‘have merited Council scrutiny.’

Turning to the effectiveness of Council interventions under item 4 or 2, he acknowledged that the Council’s powers and ability to influence serious situations, especially when the country concerned does not accept outside interventions, is ‘limited.’ But that does not mean that the Council shouldn’t act.

He acknowledged that the Council often addresses issues ‘rather late in the day,’ usually after the Security Council has been unable to act because of the use of a veto. But the fact that the Council can act is still very positive, especially to avoid impunity. What is more, ‘it is better late than never,’ and Council scrutiny and pressure can and sometimes has led to improvements on the ground, he argued.

In an ideal world, the speaker agreed that the Human Rights Council would first engage on a situation, under its prevention and good offices mandate. Where it has been unable to influence the situation, it should then pass the baton to the Security Council. This is the theory. The practice is the opposite.

On the question of selectivity (most situations brought before the Council have been from Africa, some from Latin America, and some from the Asia-Pacific region), the speaker rejected the accusation, ‘this is not selectivity but rather a reflection of the situations that deserve attention.’

The speaker also expressed support for resuscitating the ‘Maldives criteria’ or ‘Irish criteria’ – criteria to objectively indicate when a situation warrants the Council’s attention (e.g., if it has been flagged by the High Commissioner, or Special Procedures). Such criteria could furthermore, he argued, be used to guide States on whether the situation would be most usefully addressed under items 4 or 10.

‘The presumption that item 4 resolutions don’t have or won’t have the consent of the concerned country is incorrect,’ he said.

A second panellist, from civil society, then spoke on the success, or otherwise, of the Council’s efforts, since 2006, to secure **accountability** for human rights violations, including gross and systematic violations.

‘First,’ she said, ‘it is worth considering what we mean by accountability: it encompasses many dimensions, not only criminal justice at national, regional, and international levels, but also transitional justice, truth-telling, and documenting testimony.’ ‘Putting abuses on the official record and making them public matters,’ she continued. ‘People share their stories with these mechanisms, often at great personal risk, knowing that this might be all they achieve. We shouldn’t discount this as we shift towards thinking about criminal justice.’

Second, she argued that accountability ensures there are consequences for individuals and States violating human rights. The UN Special Advisor on the prevention of genocide has repeatedly emphasized that accountability also constitutes prevention. Knowing the cost of actions can have a preventive effect, even if it is difficult to measure.

Looking at the Council's delivery on its accountability mandate, the speaker said that the body has been incredibly imaginative and flexible in the mechanisms established to try to secure accountability.

'Since the 1960s, mechanisms have been created to document abuses and send important messages to affected populations, such as the mechanism addressing apartheid in South Africa. These mechanisms show solidarity and support from the international community.' Over the past decade, she said, we have seen the development of sophisticated and robust investigation mechanisms bridging the gap between documentation and criminal proceedings, including the ICC and ICJ. The Commission on Human Rights in South Sudan (CHRSS), created with the consent of the country concerned, and the Independent Investigative Mechanism for Myanmar (IIMM), set the bar for evidence collection and preservation.

This standard has become the norm, as seen in cases like The Gambia's ICJ case against Myanmar, which heavily relied on the work of the Fact-Finding Mission (FFM). However, addressing situations on the Council's agenda is not just a matter of mandate or flexibility but of political will. The Council often falls victim to geopolitical interests, with States acting according to narrow or short-term self-interests. The answer is not to do nothing but to take more action. 'Practical tools, such as objective criteria for Council action, and having the High Commissioner brief the Council on pressing issues, could be useful,' she opined. She also expressed support for the idea of a 'standing IIMM.'

Finally, when considering the effectiveness of the Council's accountability initiatives and mechanisms, the speaker urged everyone to 'look at the long term.' Documentation and preserving evidence are key, as criminal justice processes take time. 'Let's be clear about what we hope to achieve with these mechanisms; victims and their representatives should be central to discussions on how each mandate is constructed.'

The final two panellists focused on whether the Council has successfully fulfilled its mandate, under GA resolution 60/251, to 'contribute, through dialogue and cooperation, towards the **prevention of human rights violations and crises.**'

The first speaker said it was important for the Council to shift from a reactive approach to a proactive one. 'While it is important,' he argued, 'for the Council to retain the capacity to take action against countries in extreme cases, even if it means going against the will of the country concerned,' States should first explore other options and means to engage with the situation at hand in a more preventative way. The international community must also be conscious of the political costs and the potential to undermine human rights norms if item 4 is perceived to be selective, he said.

'We therefore need to explore less confrontational ways to address human rights situations.' This idea is not new. Two resolutions adopted in 2018 and 2020 provide important tools, for example, requesting OHCHR to strengthen its early warning capacity, requesting the High Commissioner to bring situations identified by his office to the urgent attention of the Council, for example through briefings, and reminding Council members of the possibility to engage with the State and regional concerned through preventative of good offices diplomacy. 'We should focus on operationalizing these existing tools rather than creating new ones,' said the ambassador.

It is not feasible to expect the Council to perform the same functions as the Security Council. However, we can work more closely with Security Council members. The goal is to find space for less confrontational and more productive approaches within the continuum of human rights situations.

Responding to this intervention, the Chair agreed fully, and suggested that 'a continuum exists between a country in a so-called normal situation and one experiencing a serious human rights crisis with significant violations – and there are different intervention points along this continuum, each requiring varying degrees of cooperation or confrontation.'

A second panel intervention focused on primary prevention (i.e., building human rights resilience to prevent violations and crises in the first place), and financing prevention.

'Prevention should be viewed through the lens of resilience,' she said. 'The UPR is a great step as it includes important recommendations. National mechanisms for implementation, reporting, and follow-up are also key to ensuring accepted recommendations are implemented.'

Funding is a significant issue. OHCHR receives only 3-4% of the UN budget, and the current liquidity crisis exacerbates this. The Voluntary Fund for technical cooperation disbursed \$25

million in 2021, but the UPR fund had \$1.6 million in requests with an income of only \$260,000. States need guidance on accessing these funds, and OHCHR can provide direction even if it cannot always provide the funds directly.

‘North-South and South-South cooperation are crucial for mutual learning and experience sharing. The proposed voluntary platform for dialogue and cooperation on human rights (under item 10) is essential, and should be used for prevention.’

In conclusion, the speaker called for ‘a comprehensive and holistic approach to capacity-building and resilience-building at the Council.’ She called this a FOCUS approach: Funds, Openness, Comradeship, Universality, and Scope (including South-South cooperation).

After the panel presentations, the **floor was opened** for comments.

A diplomat said that the range of issues covered by the Council has increased significantly since its creation. In essence, the Council is doing more and more with roughly the same resources. ‘How long can this continue without risking the same fate as the Commission?’ she asked.

GA 61/251 states that the promotion and protection of human rights should be based on principles of cooperation and genuine dialogue, she noted. ‘Yet there are high levels of politicisation and confrontation at the Council, especially around country-specific resolutions and mechanisms, established without the consent of the concerned State.’ Is this really consistent with ‘cooperation and dialogue?’ she asked.

On implementation, the participant argued that States have the primary responsibility for the promotion and protection of human rights. Thus, seeking the cooperation of States, and supporting them, is key if we want to improve the enjoyment of human rights. Without cooperation and support, most recommendations will not be implemented. What is more, she said, human rights progress is incremental, change doesn’t happen overnight. This is why item 10 is so important – we need to encourage States to make progress, and support them.

Another diplomat called the matter under discussion ‘a very interesting topic,’ and said, ‘there are clearly many different approaches and opinions on the issue.’ One way to approach this issue, she said, is to ask yourself: ‘Throughout the history of the Council, has there ever been an item 4 resolution regarding a developed country? All resolutions under item 4 are related to developing countries. Does this mean that there are no human rights violations in developed countries?’

Of course, 'there are numerous violations of human rights in developed countries, such as issues related to migrants, racism, and repression of peaceful protests. The problem is selectivity and not evaluating or assessing all countries with the same approach. This selectivity is the root cause of many problems at the Council.'

She also returned to an issue raised during the first panel: the inability of some countries, in her opinion, to understand the relationship between development and human rights, or the related difficulties faced by developing countries, especially LDCs and SIDS, in making human rights progress. 'Countries that support item 4 resolutions are the same ones opposing the right to development,' she noted, 'despite the fact that the root causes of many violations are linked to a lack of development.'

'In conclusion, the problem is not item 4, the wider agenda, or the rules of the Council, but the selectivity in how they are applied.'

On implementation, while recognising capacity challenges, a developed country diplomat said that in practice, her State is happy to help States implement recommendations, especially ones they have extended.

On country situations, she argued that 'there are countries that, without a doubt, should be on the agenda [...] Criticising violations is important, but it should be done in a way that fosters cooperation.'

A representative of a UN agency argued that 'in the context of both developing and developed countries, human rights act as a thermometer to identify issues of inequality, discrimination, and deficits in good governance.'

'A new generation of national mechanisms for implementation, reporting, and follow-up (NMIRFs) are linking human rights with the Sustainable Development Goals (SDGs). This idea first emerged in the context of development, showing how human rights can identify and address national challenges. The support for NMIRFs is vital as these mechanisms help implement human rights recommendations, acting as accelerators for international development agendas.'

Another Western diplomat expressed support for the earlier proposals for item 10 reform, such as the establishment of a roster of experts. But he also noted that implementation requires political will, and 'some States view the fulfilment of human rights as a threat to its power.'

'We need a gradual approach and an understanding of context, especially for Least Developed Countries (LDCs) that need a space to learn from others, knowing that they can't change overnight [...] No country or region has a perfect human rights record, but we can all learn from each other.'

On country situations, he expressed support for renewing attention on the objective criteria for Council engagement with a situation, to reduce allegations of selectivity.