

Achievements of and
Challenges Facing
The Office of the
United Nations
High Commissioner
for Human Rights
in New York
(OHCHR-NY)

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INTRODUCTION AND SUMMARY

This paperⁱ summarizes an expert discussion convened by the Jacob Blaustein Institute for the Advancement of Human Rights on 19-20 January 2017 to examine the achievements and the challenges facing the Office of the United Nations High Commissioner for Human Rights in New York (OHCHR-NY), headed by the UN Assistant Secretary-General (ASG) for Human Rights.

The discussion, which was held under the Chatham House Rule, brought together key experts on UN human rights mechanisms, including current and former diplomats, special procedures mandate holders, representatives of non-governmental organizations, and academics.

This discussion took place at a key moment in which newly-appointed UN Secretary-General António Guterres had reaffirmed the interconnected nature of respect for human rights, sustainable development, and peace and security, and had expressed a strong commitment to enhancing the UN's conflict prevention and early-warning efforts as well as accountability to the UN's Member States and their people.ⁱⁱ Participants reflected on the accomplishments of OHCHR-NY, particularly since the creation of the ASG post in 2010, and considered questions including what changes, if any, would be required for OHCHR-NY to support the realization of the new Secretary-General's prevention agenda.

Summary

Over the past six years, OHCHR-NY and the ASG for Human Rights have enormously increased the impact of the UN's human rights program on the United Nations' broader work related to peace and security, development, humanitarian assistance, and other areas. OHCHR's influence is felt more strongly in New York than ever before. As a result, other UN system actors and many Member States have embraced the reality that human rights are an essential component of peace and security and must be taken into account in all of the organization's crisis response efforts. Close interaction with OHCHR-NY and the ASG has a significant influence on UN system actors including the Secretary-General, who has consistently reflected a concern for human rights and accountability while pursuing broader diplomatic goals. OHCHR-NY has developed relationships and undertaken collaborative work with much larger UN actors and has made headway in mainstreaming human rights into their work. Furthermore, OHCHR-NY has served as an essential New York-based point of contact and facilitator for other human rights-focused stakeholders, including independent UN human rights experts, human rights defenders, and NGOs. While there are many areas where improvements could be made and many challenges facing the UN human rights program with which it will need to grapple in the years ahead, today OHCHR-NY is poised to take on these challenges from a position of unprecedented strength and credibility which its supporters—States and other stakeholders alike—should endeavor to maintain.

As powerful UN Member States are increasingly questioning the role of multilateral institutions in general and of international human rights commitments in particular, OHCHR-NY has become potentially vulnerable to criticism and new State-led reform efforts. It is nonetheless more essential than ever to aid States seeking to understand the causes of and devise responses to rapidly changing global challenges. OHCHR-NY also has a valuable role in assisting the UN leadership in responding to States' calls for changes to enhance the effectiveness and cost of UN activities worldwide.

Maintaining and Maximizing the Impact of a Strengthened OHCHR-NY

The growth of the Office of the United Nations High Commissioner for Human Rights in New York (OHCHR-NY) and the establishment of the post of Assistant Secretary-General (ASG) for Human Rights in 2010 are significant institutional achievements that could not have been realized without support from UN leadership, key UN Member States, NGOs and other stakeholders. It is imperative that OHCHR-NY continue making effective contributions to UN policymaking bodies, and to do this, it must maintain a staff size and capacity that enable it to do so. At the same time, OHCHR-NY and the ASG should seek to strengthen further the office's ability to identify opportunities to enhance OHCHR's effectiveness that arise in the context of New York-based intergovernmental discussions, particularly concerning the UN budget.

- **Cultivate strong relationships with key UN leaders:** The ASG for Human Rights represents the High Commissioner for Human Rights in New York, and OHCHR-NY should endeavor to maintain a close relationship with the Secretary-General, his senior staff and heads of key departments in New York.
- **Increase OHCHR-NY's managerial capacity:** OHCHR-NY should seek the addition of a second D-1 position to its staff, as adequate director-level staff is necessary in order for OHCHR-NY to be represented at senior level in all key rights-related discussions at UN headquarters and simultaneously manage its staff.
- **Engage in UN budget processes:** In order to better ascertain Member States' interest in and support for proposals concerning OHCHR's size and structure, as well as other human rights-related UN activities, the High Commissioner or ASG should designate a qualified staff member with experience engaging with the Fifth Committee of the General Assembly to ensure that OHCHR is fully engaged in human rights-related opportunities and challenges associated with UN budget processes.

Human Rights, Peace and Security, and Atrocity Prevention and Response

In the past six years, OHCHR-NY has become much more adept at bringing timely information about the human rights dimensions of emerging crises to the attention of UN system actors in New York. OHCHR-NY plays an indispensable role for the Security Council, particularly since the presence of the ASG for Human Rights in New York has significantly increased OHCHR's ability to ensure that Security Council members receive in-person briefings on human rights. OHCHR-NY is now seen by New York-based diplomats as a source of highly credible information. Because the ASG often obtains first-hand information as a result of missions to the country concerned, OHCHR-NY and the ASG have been successful in introducing human rights-related information and policy options at the Security Council, especially when they have been promoted by supportive members of the Security Council, including elected members, and when other UN leaders concur with their assessment.

With the support of the UN Secretary-General, OHCHR-NY has also encouraged the integration of human rights perspectives and strategies into the broader UN system's response to many country situations, including in connection with the "Human Rights up Front" initiative.ⁱⁱⁱ

- **Facilitate rapid deployment of human rights monitors:** OHCHR-NY should continue to solicit political and budgetary support for rapid deployment of OHCHR human rights monitors and support strategic planning to facilitate their dispatch to emerging crisis situations and should continue to strengthen the support it provides to human rights components of UN peacekeeping missions.
- **Ensure that the ASG obtains first-hand information on crises:** The ASG for Human Rights should continue to make regular visits to countries that are on or could be added to the UN Security Council's agenda whenever it is feasible to do so, as Member States find it particularly valuable to hear a first-hand account of the dynamics of ongoing and emerging crises situations.
- **Continue providing information to Members of the Security Council:** OHCHR-NY should continue to seek to provide relevant information about human rights conditions to members of the UN Security Council, including by briefing Council members in Arria-Formula meetings and informal consultations.
- **Engage with all Security Council members:** OHCHR-NY should engage all Member States of the UN Security Council and should particularly encourage elected members to request briefings and other opportunities to receive information on human rights conditions in situations on the Council's agenda and in the context of emerging crises.
- **Encourage other UN counterparts to raise human rights with the Security Council:** OHCHR-NY should continue to encourage, support and provide expertise to other UN system actors—particularly colleagues from the Department of Political Affairs, the

Department of Peacekeeping Operations, the Department of Field Support and Special Representatives of the Secretary-General—to include reflections on the impact of human rights violations on conflict dynamics in their briefings to the Security Council, and should encourage the Secretary-General to foster an institutional culture that encourages sharing information about serious human rights violations with Member States.

- **Strengthen support to UN system actors addressing peace and security:** OHCHR NY should reinforce its ability to provide expert guidance and advice to UN system actors and policy and planning bodies to ensure that the UN's responses to peace and security challenges are consistent with human rights policies and obligations and make full use of human rights-related mandates.
- **Emphasize atrocity prevention where appropriate:** OHCHR-NY should serve as a bridge between the UN's activities concerning human rights and its atrocity prevention and response efforts. To this end, whenever appropriate, it should use early warning and "R2P" language in its analysis of the implications of patterns of human rights violations it has documented.
- **Be a "generous coordinator" for other UN prevention and protection actors:** OHCHR-NY should coordinate with all of the protection-oriented UN offices in New York—including the Secretary General's Special Advisers and Special Representatives on the Prevention of Genocide, Responsibility to Protect, Sexual Violence in Conflict, and Children and Armed Conflict—to ensure that important information about crisis situations is brought to the attention of the UN leadership for consideration at the Executive and Deputies Committees at UN Headquarters. OHCHR-NY should support, rather than replace or absorb, these actors.
- **Exercise thought leadership on human rights and security:** Together with the Secretary General and the High Commissioner, OHCHR-NY and the ASG should continue to encourage Member States to recognize the relevance of human rights to peace and security efforts, including by preparing conceptual studies ('think pieces') on the international security dimension of thematic issues such as children and armed conflict, protection of civilians, women, peace and security, and sexual violence in conflict, together with relevant UN system counterparts.

Advancing a Human Rights Perspective across the UN

In recent years, OHCHR-NY has taken a number of steps to provide greater support and guidance to UN peacekeeping and political missions and to UN personnel delivering humanitarian and development assistance. These efforts have attempted to enhance their response to situations in which serious human rights violations are being committed by the governments on whose consent they rely to carry out their work. In some cases, OHCHR-

NY's efforts have had a significant impact on the performance of UN actors in the field, yet many challenges remain. Notwithstanding the "Human Rights up Front" initiative, many UN system actors remain reluctant to raise protection-related issues with host governments, and UN personnel who express concerns about violations by governments are often reprimanded rather than rewarded for doing so. UN personnel in the field are not made regularly aware of relevant UN human rights reporting; and, moreover, human rights-related information that they gather directly is often not shared internally with OHCHR.

As the new Secretary-General seeks to strengthen the UN system's crisis prevention efforts, OHCHR-NY has an important role to play in assisting field-based personnel, enhancing their contribution to protection and information-sharing, ensuring human rights compliance in the context of partnerships with regional organizations, and identifying further areas for collaboration. Similarly, OHCHR-NY should deepen its collaboration with New York-based UN counterterrorism entities to ensure that human rights considerations are taken into account in their work.

- **Cultivate relationships with all UN actors:** OHCHR-NY should ensure that its staff strengthen their engagement with counterparts at all UN departments, agencies, funds and programmes to ensure that OHCHR-NY is apprised of and able to play a role in coordinating human rights-related initiatives being undertaken by different entities.
- **Monitor and engage in policymaking processes affecting other UN system actors:** OHCHR-NY should endeavor to monitor development-related processes like the Quadrennial Comprehensive Policy Review, in which key policy decisions that will guide UNDPs actions are taken, with significant implications for the broader UN system's willingness to pursue the implementation of human rights in the field.
- **Provide greater human rights support to humanitarian actors:** OHCHR-NY and the ASG should advocate for the deployment of human rights advisers to support humanitarian coordinators in countries experiencing crisis.
- **Operationalize the Universal Periodic Review system-wide:** OHCHR-NY, together with Geneva-based colleagues, should identify how to best use relevant recommendations emanating from the Human Rights Council's Universal Periodic Review (UPR) process in the UN's engagement with Government representatives.
- **Encourage human rights burden-sharing:** OHCHR-NY should encourage other UN actors—from Special Representatives of the Secretary-General to the Department of Peacekeeping Operations—to contribute to protection-related efforts, for example in the context of the Inter-Agency Standing Committee, which coordinates the delivery of humanitarian assistance, and in the implementation of the Secretary-General's Human Rights Due Diligence Policy and Human Rights up Front Initiative.

- **Deepen UN field actors' awareness of relevant human rights reporting:** OHCHR-NY and UNDP should expand upon the *Guidance Note for Resident Coordinators and UN Country Teams* to encourage UN Resident Coordinators and UN agency staff to interact with and share relevant information with OHCHR and with special rapporteurs and independent fact-finding bodies created by the UN Human Rights Council. Similarly, OHCHR should encourage all UN agencies, funds and programmes to bring the reports of UN human rights monitors to the attention of relevant in-country staff.
- **Advise UN Resident Coordinators on human rights:** OHCHR-NY and the ASG should continue to engage with UN Resident Coordinators and provide guidance on raising human rights concerns in politically sensitive environments.
- **Support UN field staff with protection concerns:** OHCHR-NY should establish mechanisms to ensure that human rights information generated in field missions is adequately processed and considered and that UN staff who gather such information are adequately supported.
- **Encourage States to call for mainstreaming:** OHCHR-NY should continue to engage Member States and encourage them to support efforts to further mainstream and integrate human rights into the UN's broader work.
- **Deepen engagement with UN counterterrorism bodies:** OHCHR-NY should continue to develop contacts and share information with the staff of subsidiary bodies of the UN Security Council, particularly the Counter-Terrorism Committee Executive Directorate (CTED), and ask them to raise relevant human rights issues during closed consultations with Member States. OHCHR-NY should also endeavor to provide relevant information to the CTED routinely in advance of its country missions. It should highlight key concerns and issues to be raised with the government.
- **Advise Member States on countering terrorism in line with human rights:** OHCHR should explore possibilities to develop further guidance for Member States on implementing Security Council resolutions on countering terrorism in line with human rights, such as in the context of the migration crises and countering the activities of members of terrorist organizations on the internet.
- **Contribute to UN counterterrorism policy planning:** OHCHR-NY should remain engaged on the development of new initiatives by the Secretary-General on countering terrorism to ensure that they appropriately reflect the need for States to respect human rights and should ensure that new UN counter-terrorism structures promote human rights-compliant responses to counter-terrorism challenges.

OHCHR-NY's Work to Advance Thematic Human Rights Issues, Defend Human Rights Advocates from Reprisals, and Support UN Human Rights Expert Mechanisms

As OHCHR-NY's size and influence have grown, so too has its contribution to advancing the attention paid by UN actors in New York to key human rights issues. In the past six years, OHCHR-NY has become the lead UN entity on such thematic issues as advancing the right of all persons to be free from violence and discrimination on the basis of sexual orientation or gender identity and calling on States to implement a moratorium on the death penalty. OHCHR-NY's involvement in these issues facilitated progress within the broader UN and had led the Secretary-General to lend his own voice to advance them as well. However, as UN Member States continue to remain divided on these issues, UN system practice remains uneven, demonstrating the need for enhanced OHCHR-NY engagement. At the same time, OHCHR-NY should capitalize on its increased presence in New York to identify additional human rights issues that can be advanced through cooperation with other UN system actors in New York.

Reprisals have increased along with unprecedented global challenges to the right to freedom of assembly and increasing threats to human rights defenders. OHCHR-NY and the ASG for Human Rights are particularly well-placed to support civil society actors seeking to bring human rights information to the UN and to strengthen the UN's response when States commit reprisals against individuals or groups that seek to do so. Similarly, OHCHR-NY's increased size and capacity has enabled it to facilitate greater interaction between independent human rights experts established in Geneva and other New York-based stakeholders. Some Special Procedures mandate-holders have called for OHCHR-NY to provide further assistance in raising awareness of their findings and alerting them about opportunities to engage with other UN system actors working in relevant areas.

- **Continue engaging in thematic human rights work:** OHCHR-NY should continue focusing on combatting violence and discrimination based on sexual orientation and gender identity and promoting a global moratorium on the death penalty. It should encourage the UN Secretary-General to publicly support its efforts and continue encouraging UN agencies to reflect concern for these issues in their work.
- **Expand OHCHR-NY's thematic work:** OHCHR-NY should strengthen its thematic work on certain areas that are particularly relevant the UN in New York: promoting human rights-based approaches to development, including in the context of follow-up to the Sustainable Development Goals; business and human rights; human rights and migration; and protecting human rights in counter-terrorism.

- **Support NGO access to the UN:** OHCHR-NY staff should always attend the meetings of the ECOSOC Committee on NGOs and support the principle that human rights NGOs should have access to the UN. It should remind Member States not to invoke illegitimate grounds to prohibit access. OHCHR-NY should encourage Member States that value the contribution of human rights NGOs to the UN to seek membership on the Committee on NGOs. OHCHR should also work with the office of the President of the General Assembly to monitor any use of the “no-objection” procedure to block NGOs from participating in high-level meetings at the UN in New York. OHCHR-NY should support the introduction of greater transparency into the use of this procedure and press for a more fair set of modalities to be adopted to govern participation in such meetings.
- **Defend individuals and groups subjected to reprisals for cooperating with the UN on human rights:** the ASG for Human Rights has an important mandate from the Secretary-General to follow up on allegations of reprisals against individuals who have provided or seek to provide information about human rights to the UN. In this context, OHCHR-NY should solicit information from all UN departments and agencies on reprisals; develop guidance for UN staff on how to minimize the risk of and respond to cases of reprisals; ensure that victims who submit allegations to OHCHR-NY receive periodic updates on the status of efforts concerning their cases; publish information about claims and reprisals-related correspondence in an accessible database to facilitate follow-up and ensure visibility, where appropriate; and seek formally to present the Secretary-General’s report on reprisals in person to the Third Committee of the General Assembly as well as to the UN Human Rights Council.
- **Serve as a bridge-builder in New York for UN special procedures and human rights treaty bodies:** OHCHR-NY should bring relevant reporting by UN special procedures and concluding observations by treaty bodies to the attention of UN agency staff in New York and facilitate interaction of UN treaty body members and UN special procedures mandate holders with other UN system personnel, depending upon the country-specific or thematic issues under their remit.
- **Ensure that the findings of UN Commissions of Inquiry and relevant reporting by Special Procedures are brought to the Security Council’s attention:** OHCHR-NY should engage all relevant stakeholders to ensure that the Secretary-General is empowered to transmit the reports of UN commissions of inquiry to the UN Security Council, thus ensuring that the work of these mechanisms is formally brought to Member States’ attention. OHCHR-NY should also inform Member States about special procedures’ reports that have a particular bearing on situations on the Security Council’s agenda, for example by referencing special procedures’ reports when the ASG briefs members of the Security Council or in less formal interactions.

PART I: THE ORIGINS AND EVOLUTION OF OHCHR-NY

One of the core purposes of the United Nations is the achievement of international cooperation in promoting and encouraging respect for human rights, as stated in Article 1.3 of the UN Charter. Yet for many decades, the number of UN personnel tasked with advancing human rights was quite small. In the years following the founding of the UN in 1945, a small Secretariat Division on Human Rights facilitated States' work at the Commission on Human Rights. While the Division focused almost exclusively on standard-setting activities in its early years, following the 1966 adoption of the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights and the 1968 World Conference on Human Rights in Tehran, the Division also began promote the implementation by States of their human rights commitments.

In 1974, the UN General Assembly moved the Division on Human Rights from New York to Geneva, resulting in the physical separation of the UN's human rights activities from most of its key senior leadership and several key operational agencies. It was generally understood that those who championed this approach did so for the purpose of weakening the visibility and relevance of the UN's human rights activities. A Liaison Office remained behind in New York, tasked with responsibility for maintaining contact on the human rights policies of the rest of the UN. However, for ten years, the Liaison Office consisted of only one professional staff person. This seriously hindered its capacity to engage effectively with the rest of the UN system. While the Division on Human Rights was upgraded to the Centre on Human Rights in 1982, this change did not significantly improve the Liaison Office's capacity to engage UN actors in New York.^{iv}

In 1993, however, the UN General Assembly created the post of UN High Commissioner for Human Rights (an official with the rank of Under-Secretary General),^v with responsibility to (among other things) "coordinate the human rights promotion and protection activities throughout the United Nations system."^{vi} The creation of the High Commissioner post held great potential to improve human rights implementation throughout the UN system and to bring a focused concern about the treatment of individuals worldwide and about accountability to the very core of the UN's work. However, the first person to hold the role of High Commissioner, José Ayala-Lasso, did not actively pursue greater integration of human rights concerns in the UN's work in New York. The former Permanent Representative of Ecuador to the UN, Ayala-Lasso had been one of only four Security Council ambassadors who publicly articulated the position that human rights had no place in the Security Council. Moreover, the Secretary-General at the time of the creation of the High Commissioner post, Boutros Boutros-Ghali, did not take measures to enhance the role of human rights at UN Headquarters.

This situation changed in 1997 with the appointment of a new Secretary-General, Kofi Annan, and a new High Commissioner for Human Rights, Mary Robinson, who supported greater efforts to integrate human rights into the broader UN system's work. Secretary-General Annan created a series of executive committees to set and implement UN policies, to all of which the High Commissioner for Human Rights was added following pressure from NGOs and media attention. In 1997, the UN merged the Centre on Human Rights into the Office of the High Commissioner for Human Rights (OHCHR),^{vii} significantly enhancing the number of personnel reporting to the High Commissioner. As these changes took place, the head of the Liaison Office, now OHCHR-NY, was elevated to the rank of P-5, and later to D-2. Its staff gradually increased in size as well.

The functions of OHCHR-NY, as articulated by the Secretary-General in 2007, include the following:

- Representing the High Commissioner at headquarters, at meetings of policy-making bodies, with permanent missions of Member States at inter-department and inter-agency meetings, with non-governmental organizations and professional groups, at academic conferences and with the media;
- Providing policy advice and recommendations on substantive matters to the High Commissioner;
- Supplying information and advice on human rights to the Executive Office of the Secretary-General;
- Providing substantive support on human rights issues to the General Assembly, the Economic and Social Council and other policy-making bodies established in New York;
- Providing materials and information to the permanent missions, UN departments, agencies and programmes, non-governmental organizations, the media and others regarding the human rights programme;
- Providing support to the High Commissioner and other officials, and to special rapporteurs and representatives when on mission in New York; and
- Undertaking other specific assignments as decided by the High Commissioner.^{viii}

In its early years, OHCHR-NY struggled to achieve the goals set out for it by the Secretary-General. OHCHR-NY frequently was shut out of key meetings as it lacked staff at a sufficiently senior level to attend them. While the High Commissioner for Human Rights began to gain occasional access to the UN Security Council beginning in September 1999, the influence of the human rights office remained inadequate. Although OHCHR-NY had opportunities to contribute to the Secretary-General's talking points, the office was insufficiently resourced to take advantage of this opportunity. Moreover, OHCHR was not included in internal UN

decision-making entities and processes at UN Headquarters, such as the global UN planning process, despite the fact that its outcome had a crucial impact on OHCHR's ability to make a difference in the field. Recognizing this shortcoming, NGOs began to advocate for Member States and the Secretary-General to do more to strengthen OHCHR-NY and ensure greater connectivity between the human rights activities taking place in Geneva and the UN's work in New York.

This effort was substantially aided by a Secretary-General who embraced the view that respect for human rights was essential for the realization of international peace and security as well as for development. In 2005, in his report "In Larger Freedom: Towards Development, Security and Human Rights for All,"^{ix} Secretary-General Annan stressed that "human rights must be incorporated into decision-making and discussion throughout the work of the Organization"^x and called on Member States to provide greater resources to OHCHR so that the High Commissioner would be able to play a more active role in the deliberations of the Security Council and the Peacebuilding Commission and so that OHCHR could train UN country team staff to deliver human rights-related technical assistance in the field.^{xi} Then-High Commissioner Louise Arbour asked for the additional resources and pledged to use them to increase OHCHR-NY's staff size and strengthen its capacities in the areas of rule of law, peace and security, and mainstreaming human rights into the work of UN country teams in the field.^{xii}

In the Outcome Document of the 2005 World Summit, UN Member States not only committed to double OHCHR's regular budget resources over the following five years, but also expressed support for OHCHR's "closer cooperation with all relevant United Nations bodies, including the General Assembly, the Economic and Social Council and the Security Council."^{xiii} While Member States' actions did not always reflect this rhetoric—indeed, the High Commissioner's access to the Security Council actually decreased from 2005-2009—OHCHR's resources did increase substantially as a result of the 2005 World Summit. In turn, OHCHR-NY grew in size, so that by the end of 2007, its professional staff had doubled from 8 to 16 persons^{xiv}.

Creation of the Post of ASG for Human Rights

Following the 2005 World Summit, High Commissioner Louise Arbour proposed that the head of OHCHR-NY should be upgraded in status from the D-2 to ASG level. The suggestion was initially opposed by the UN Comptroller because at that time the UN was facing a budget crisis. However, the idea received support in a study of OHCHR-NY by the UN's Office of Internal and Oversight Services (OIOS). The OIOS study recommended that the Director of OHCHR-NY should be elevated to the rank of Assistant-Secretary General, who would be sufficiently senior to represent the High Commissioner "at the appropriate level in executive decision-making committees, especially the Secretary-General's Policy Committee and the Senior Management Group..."^{xv}

In 2008, the next High Commissioner for Human Rights, Navi Pillay, followed up on this call^{xvi}, and at her request, Secretary-General Ban Ki-moon proposed upgrading the D-2 position at OHCHR-NY to an ASG position in his proposed budget for the 2010-2011 biennium, justifying the request by saying that it “would allow participation of the Office at the appropriate level in executive decision-making committees...and would ensure political level representation and access to high-level policy discussions...and improve the efficiency and effectiveness of OHCHR.”^{xvii} While OHCHR would have preferred to maintain both a Director-level position in New York and an ASG, budget considerations compelled the Secretary-General to upgrade the existing D-2 position. Member States endorsed the request, upgrading the leadership of OHCHR-NY to ASG in 2010.^{xviii}

Prior to filling the ASG for Human Rights post, OHCHR conducted a public search, seeking a seasoned professional with experience in human rights or a related field and with leadership, management, negotiation and diplomatic skills, to fulfill the following responsibilities, under the direction of the High Commissioner:

- Serve as the High Commissioner’s principal representative in New York
- Head the New York Office of the High Commissioner
- Integrate human rights into key policy and management decisions and into the work of intergovernmental bodies based in New York
- Ensure that New York Office activities are closely coordinated with OHCHR headquarters in Geneva
- Assist the High Commissioner in building relations with Member States, other UN organizations, international organizations, regional and national institutions, NGOs, the private sector, and academia.^{xix}

Secretary-General Ban selected Ivan Šimonović of Croatia to be the first ASG for Human Rights. Šimonović had previously been Croatia’s Permanent Representative to the UN from 2001 to 2003 and during that time served as President of the Economic and Social Council (ECOSOC). Šimonović assumed his functions as ASG on July 17, 2010, overseeing the work of an OHCHR-NY that consisted of 20 staff.^{xx} On October 1, Šimonović was succeeded by Andrew Gilmour, who had previously served as Director for Political, Peacekeeping, Humanitarian and Human Rights affairs in the Executive Office of the Secretary-General, Deputy Special Representative of the Secretary-General in Iraq and in South Sudan, and Representative of the Secretary-General in Belgrade. As of 2017, the ASG for human rights led an OHCHR-NY with around 40 staff.^{xxi}

Participants agreed that the growth of OHCHR-NY and the establishment of the ASG post were institutional achievements that significantly advanced the goal of making human rights a co-equal pillar of the United Nations. A great deal has changed since 1993, and human

rights concerns are far more integrated into the operations of the UN's broader activities today than many thought possible at the time that the High Commissioner post was first created. At the same time, significant challenges remain. OHCHR-NY still suffers from institutional shortcomings, among them a relative lack of New York-based OHCHR staff at the director level.

Participants acknowledged that OHCHR-NY has grown in size and stature at those times when it has enjoyed the most support from the Secretary-General, from the High Commissioner for Human Rights, from key UN Member States, and from NGOs. At present, participants encouraged OHCHR-NY to resist pushback to the international human rights regime, including any efforts to cut support through UN budgeting processes. They also encouraged the ASG and High Commissioner to broaden OHCHR-NY's base of support among governments. Participants encouraged OHCHR-NY to redouble its efforts to communicate the value that OHCHR-NY brings to the UN.

Participants made the following recommendations:

- The ASG for Human Rights represents the High Commissioner for Human Rights in New York, and OHCHR-NY should endeavor to maintain a close relationship with the Secretary-General, his senior staff and heads of key departments in New York.
- OHCHR-NY should seek the addition of a second D-1 position to its staff, as adequate director-level staff is necessary in order for OHCHR-NY to be represented at senior level in all key rights-related discussions at UN headquarters and simultaneously manage its staff.
- In order to better ascertain Member States' interest in and support for proposals concerning OHCHR's size and structure, as well as other human rights-related UN activities, the High Commissioner or ASG should designate a qualified staff member with experience engaging with the Fifth Committee of the General Assembly to ensure that OHCHR is fully engaged in human rights-related opportunities and challenges associated with UN budget processes.

PART II: HUMAN RIGHTS, PEACE AND SECURITY, AND ATROCITY PREVENTION AND RESPONSE

OHCHR-NY's Contribution to the UN's Response to Crises

In recent years, OHCHR-NY has significantly strengthened its contribution to the UN's peacemaking efforts. OHCHR-NY has identified new opportunities to facilitate the presence of human rights monitors in emerging conflict and crisis zones, for example by coordinating with the UN Peacebuilding Support Office to secure resources for the rapid deployment of

OHCHR human rights monitors to Burundi. OHCHR-NY has also significantly strengthened its capacity to support strategic planning to facilitate the dispatch of human rights monitors—and particularly human rights components of peacekeeping missions—into the field. The ASG for Human Rights has also played a significant personal role in enhancing OHCHR-NY’s status among UN actors in New York by visiting a number of countries that are on the UN Security Council’s agenda and engaging directly with a variety of stakeholders. As a result of these and other activities, OHCHR-NY has become much more adept at bringing timely information about the human rights dimensions of emerging crises to the attention of UN system actors in New York. Moreover, in the context of inter-agency task force and inter-departmental meetings held in connection with the Secretary-General’s “Human Rights up Front” initiative, launched in 2013 to ensure that the UN system takes early and effective action to prevent or respond to large-scale international human rights and humanitarian law violations,^{xxii} OHCHR-NY has encouraged the integration of human rights perspectives and strategies into the broader UN system’s response to many country situations.^{xxiii}

In part as a consequence of this increased attention to fact-gathering in crisis situations, since 2010, OHCHR-NY has also significantly increased its engagement with intergovernmental bodies considering peace and security, specifically the UN Security Council. Prior to the creation of the ASG post, the Director of the New York office had only briefed the Security Council once, on a thematic issue.^{xxiv} By contrast, in the six years following the creation of the ASG post and the strengthening of the New York Office, ASG Šimonović personally briefed members of the Security Council on 45 occasions (including at 29 formal meetings).^{xxv} Many of these briefings focused on his personal visits to countries experiencing serious human rights crises, including Afghanistan, Cote d’Ivoire, the Democratic Republic of the Congo (DRC), Mali, the Central African Republic, South Sudan, Ukraine, Burundi, and Iraq; however, he was also asked to brief the Council on human rights conditions in countries to which he was unable to gain personal access, including Syria, the Democratic People’s Republic of Korea (DPRK), and Myanmar.^{xxvi} The ASG frequently recommended that Council Members take urgent action to protect civilians, deploy UN human rights monitors or insist on independent investigations into reports of serious rights violations, and pursue accountability for perpetrators of crimes against humanity, war crimes and genocide, including through referrals to the International Criminal Court.

Participants agreed that OHCHR-NY has come to play an indispensable role for the Security Council, particularly since the creation of the ASG post, which has significantly increased the potential for OHCHR to ensure that Security Council members receive human rights briefings in person. While the technical capacity exists to allow the High Commissioner to brief the Security Council by video-conference, in-person interaction with the Security Council members is nevertheless significantly more valuable, as it provides an essential opportunity to engage in informal conversations and gauge the perspectives of key actors in the room. The

creation of an ASG-level post in New York for OHCHR has greatly enhanced OHCHR's ability to provide high-level, in-person briefings to the Security Council whenever the opportunity to do so arises.

Participants also agreed that the information the ASG provides to members of the Council—particularly, though not exclusively, when the ASG has obtained first-hand information concerning the human rights violations occurring in the context of crisis situations through missions to the country concerned—is extremely valuable. OHCHR is seen by members of the Council as a source of highly credible information, such that when human rights information is presented by OHCHR, rather than by Member States, it is seen as trustworthy and less likely to be distorted in order to advance a political agenda.

Moreover, participants agreed that the language used by the ASG for Human Rights in his briefings to the Security Council has been significant. Participants highlighted the important impact in cases where the ASG used “R2P language” and identified cases in which human rights violations provided an early warning of the risk of atrocity crimes or constituted evidence of atrocity crimes in progress. While the atrocity prevention and human rights fields are distinct, OHCHR-NY has recognized the important areas of overlap between them and has played an important role in reminding Member States of the implications of the human rights violations that OHCHR had documented and the attendant responsibility of the international community to respond to them.

Yet while some Member States have increasingly solicited OHCHR-NY's input on situations on the Security Council's agenda, others continue to dispute the position that curbing, preventing and ensuring accountability for serious human rights violations is an essential component of the “hard security” work of the Security Council. Participants cautioned that OHCHR-NY should be mindful of the potential for its interactions with the Security Council to engender opposition or hostility from Member States. Participants also affirmed that OHCHR-NY should continue to urge Member States to view human rights as having a significant—if not dominant—influence on their peacemaking efforts, as the UN Charter does not define “international peace and security.”

Participants suggested several ways that OHCHR-NY can navigate these risks: by being mindful that the Secretary-General, political actors in the UN system, and OHCHR-NY have distinct roles to play in crisis situations; by thoughtfully continuing to encourage Member States to accept the relevance of human rights to the work of the UN Security Council and UN peacemaking efforts; and by redoubling efforts to bring the facts of human rights violations in crisis situations to the attention of the members of the Security Council, other UN system actors, and the wider public, and to take every effort to ensure that OHCHR's reporting is accurate and balanced as it does so.

OHCHR-NY's Contribution to the UN's Response to the Crisis in Burundi

OHCHR-NY played a significant role in bringing information about the deteriorating human rights situation in Burundi to the attention of UN leadership and the UN Security Council beginning in 2014. ASG Šimonović traveled to Burundi in June 2014 to explore the possibility of maintaining a UN human rights monitoring presence in the country, especially because the UN Security Council, at the request of the government of Burundi, had decided not to renew the mandate of the UN Office in Burundi (BNUB) beyond the end of 2014. The ASG briefed the Security Council upon his return to New York and reported on the need for a continued human rights presence in the country, particularly in light of the risk that political tensions would escalate in the lead-up to the 2015 presidential elections. As the human rights situation deteriorated, OHCHR-NY secured the cooperation of the UN Peacebuilding Fund, which provided necessary financial support to allow OHCHR human rights monitors to be deployed to the country quickly. These monitors gathered information on human rights violations that the ASG later presented to the Security Council in briefings in 2015 and 2016. OHCHR-NY also participated in high-level UN meetings on Burundi as the human rights crisis escalated, with the result that other UN actors were encouraged to take the government of Burundi's conduct into account when considering offering development or technical assistance to the government or advising Member States. The UN Security Council took this guidance into account in calling for the deployment of a UN police force to Burundi in resolution 2303 of July 2016. OHCHR-NY's efforts complemented those of other actors including the Secretary-General's Special Advisers on the Prevention of Genocide and on Conflict Prevention (including Burundi), who also raised human rights concerns with the Security Council and called on the government of Burundi to free political prisoners and lift overbroad restrictions on the media and activities of NGOs.

However, in response to a September 2016 decision by the UN Human Rights Council to create a Commission of Inquiry on Burundi, the government of Burundi suspended its cooperation with OHCHR and restricted the ability of its staff to carry out human rights monitoring in the country. The government's actions came in the context of a broader trend of intransigence, including the government's refusal to accept the deployment of the UN police force for Burundi mandated by the UN Security Council in July 2016. OHCHR decided to maintain its staff presence in Burundi and is seeking to persuade the government of Burundi to allow them to resume their monitoring functions. Participants agreed that OHCHR's

monitors were critical assets, particularly given the relative lack of other independent monitoring of human rights conditions in the country, and that OHCHR should maintain them if possible, but also stressed that they would need to be able to resume their monitoring activities at some point in the future in order to justify their continued presence in the country.

Participants also noted that while OHCHR-NY had provided valuable information on the human rights situation in Burundi to relevant UN system actors and UN Member States in New York, this had been insufficient to provoke collective action by Member States conveying strong disapproval to the government of Burundi. While the UN Security Council adopted three resolutions containing human rights language between 2014 and January 2017, none of these was sufficiently powerful to affect the government's conduct. Further, during this period, Member States of the General Assembly elected Burundi to the UN Human Rights Council. Participants encouraged OHCHR-NY and the ASG to ensure that Member States in New York are regularly presented with frank assessments of the human rights situation, and to do so in cooperation with the Special Adviser on Conflict Prevention (including Burundi), the Secretary-General's Special Advisers on Genocide Prevention and the Responsibility to Protect, and key NGOs. Participants also suggested that the ASG should encourage the Secretary-General to personally take up the human rights situation in Burundi with the Security Council, particularly given the potential for tensions to escalate further and to spread throughout the region.

At the same time, participants also expressed concern that other UN actors had not adequately reflected concern about the government of Burundi's human rights violations in their operations. The continued use of Burundian troops in UN peacekeeping operations was raised as a particularly problematic practice, with participants noting that the government of Burundi had reportedly proposed individuals to serve in peacekeeping missions who had been credibly accused of committing serious violations in Burundi and citing reports that Burundian troops had committed sexual violence against civilians while serving as UN peacekeepers in the Central African Republic. Participants encouraged OHCHR-NY and the ASG for Human Rights to identify and advocate for changes to the application of the Secretary-General's Human Rights Due Diligence Policy that could strengthen OHCHR's ability to mitigate these concerns, noting that the policy creates serious challenges for OHCHR-NY, as it expects the State sending peacekeepers to carry out the first line of vetting and also requires OHCHR to gather information linking individual proposed peacekeepers to serious violations, which is often difficult to do.

OHCHR-NY's Impact on the UN's Response to the Crisis in Ukraine

ASG Šimonović visited Ukraine at least six times between the beginning of the crisis in early 2014 and 2016, including two visits to Ukraine in March 2014 alone. These early visits coincided with the establishment of an OHCHR Human Rights Monitoring Mission in Ukraine (HRMMU) consisting of 34 staff which has produced 20 reports since its establishment. Šimonović's visits to the country and interaction with the HRMMU provided him with a unique perspective on the crisis, and as a result he briefed the Security Council eight times on the situation, sharing information on the HRMMU's reports and his own insights. During his visits to Ukraine, Šimonović met with senior officials and interacted with other UN system and international organization representatives to encourage the Government to accept, and other actors to provide, human rights-related technical assistance.

While the UN was not able to play a political role in Ukraine, given that one of the permanent members of the Security Council was a party to the conflict, participants attested that OHCHR was able to impart significant value by coming before the Security Council and providing human rights information on the situation. In particular, the ASG for human rights was able to present information that was directly relevant to the justifications put forward by a party to the conflict for its resort to force. The human rights information gathered by OHCHR and provided to Security Council members by the ASG was viewed as credible by the majority of Council members and shaped their view of the conflict and preferences for the terms of an eventual settlement. This information was particularly valuable in that it was balanced—in that OHCHR gathered information about the conduct of all parties and on violations against all affected groups—but was not presented in a way that suggested a false equivalence between the parties' conduct.

At the same time however, participants speculated that the fact that OHCHR repeatedly briefed the Security Council at the request of only certain permanent Member States—and over the strong opposition of another permanent Member State of the Council—likely had negative repercussions for OHCHR's ability to gain access to the Council on other human rights issues. Participants suggested that it would have been helpful for elected Member States to play a more assertive role in requesting OHCHR to brief the Council on this situation.

Participants expressed the view that despite the existence of the Secretary-General's Human Rights up Front Initiative, the broader UN system's response to the crisis in Ukraine did not always reflect a commitment to ensuring human rights protection. As the conflict erupted, UN personnel who expressed concern about human rights were sidelined and the UN country team for Ukraine was not supplemented with a human rights adviser. Participants suggested that OHCHR could make an important contribution to ensuring that human rights concerns are reflected in the UN's ongoing efforts to aid the people of Ukraine and Crimea and recommended that OHCHR-NY advocate for the UN country team in Ukraine to be strengthened to enable it to provide human rights-related assistance to the large number of internally displaced persons and to ensure that human rights concerns are taken into account in future peace negotiations.

Participants were hopeful that early statements by António Guterres, the current UN Secretary-General, suggest that OHCHR-NY will continue to have access to the important role in UN peacemaking efforts in the years ahead and that the Secretary-General is likely to take human rights concerns into consideration as he acts in his early warning, good offices, and mediation capacities. Participants welcomed the Secretary-General's stated commitment to strengthen the UN's prevention and crisis response capacity, as well as his reaffirmation of the interconnected nature of human rights, peace and security, and development, and agreed that this provided great potential for OHCHR, and OHCHR-NY in particular, to enhance its impact on the UN's work. Participants also noted that the new Secretary-General had made important changes to the UN's decision-making architecture which maintained a central role for OHCHR and the ASG for Human Rights in particular.^{xxvii} However, the new decision-making architecture does not include other protection-related officials in the UN system, in particular the Secretary-General's Special Advisers on Genocide Prevention and the Responsibility to Protect and the Secretary-General's Special Representatives on Sexual Violence in Conflict and Children and Armed Conflict. Participants suggested that OHCHR-NY could play an important role by soliciting their views and sharing information with them to ensure that their work would be reflected in the development of UN policies.

Participants made the following recommendations:

- OHCHR-NY should continue to solicit political and budgetary support for rapid deployment of OHCHR human rights monitors and support strategic planning to facilitate their dispatch to emerging crisis situations and should continue to strengthen the support it provides to human rights components of UN peacekeeping missions.
- The ASG for Human Rights should continue to make regular visits to countries that are on or could be added to the UN Security Council's agenda whenever it is feasible to do so, as Member States find it particularly valuable to hear a first-hand account of the dynamics of ongoing and emerging crises situations.
- OHCHR-NY should continue to seek to use all available avenues to provide relevant information about human rights conditions to members of the UN Security Council, including by briefing Council members in Arria-Formula meetings and informal consultations.
- OHCHR-NY should engage Member States, including non-permanent/elected members of the Security Council, and support them if they request briefings and other opportunities to receive information on human rights conditions in situations on the Council's agenda and in the context of emerging crises.
- OHCHR-NY should continue to encourage, support and provide expertise to other UN actors—particularly colleagues from the Department of Political Affairs, the Department of Peacekeeping Operations, the Department of Field Support and Special Representatives of the Secretary-General—to include reflections on the impact of human rights violations

on conflict dynamics in their briefings to the Security Council, and should encourage the Secretary-General to foster an institutional culture that encourages sharing information about serious human rights violations with Member States.

- OHCHR-NY should reinforce its ability to provide expert guidance and advice to UN system actors and policy and planning bodies to ensure that the UN's responses to peace and security challenges are consistent with human rights policies and obligations and make full use of human rights-related mandates.
- OHCHR-NY should serve as a bridge between the UN's activities concerning human rights and its atrocity prevention and response efforts. To this end, whenever appropriate, it should use early warning and "R2P" language in its analysis of the implications of patterns of human rights violations it has documented.
- OHCHR-NY should coordinate with all of the protection-oriented UN offices in New York—including the Secretary General's Special Advisers and Special Representatives on the Prevention of Genocide, Responsibility to Protect, Sexual Violence in Conflict, and Children and Armed Conflict—to ensure that important information about crisis situations is brought to the attention of the UN leadership for consideration at the Executive and Deputies Committees at UN Headquarters. OHCHR-NY should seek to amplify the concerns of, not to replace or absorb them.
- Together with the Secretary General and the High Commissioner for Human Rights, OHCHR-NY and the ASG should continue to encourage Member States to recognize the relevance of human rights to peace and security efforts, including by preparing conceptual studies ('think pieces') on the international security dimension of thematic issues such as children and armed conflict, protection of civilians, women, peace and security, and sexual violence in conflict, together with relevant UN counterparts.

PART III: OHCHR-NY'S WORK TO ADVANCE A HUMAN RIGHTS PERSPECTIVE ACROSS THE UN

OHCHR-NY's Efforts to Encourage other UN Actors in the Field to Contribute to Protection

In recent years, OHCHR-NY has taken a number of steps to provide greater support and guidance to UN peacekeeping and political missions and to UN personnel delivering humanitarian and development assistance. These efforts have attempted to enhance the response of such personnel to situations in which serious human rights violations are being committed by the governments on whose consent they rely to carry out their work.

For example, OHCHR-NY has worked to strengthen the role of the human rights components that have become a part of a majority of the UN's peace missions, including by publicizing the

findings of these human rights components and building relationships between the heads of the human rights sections and other UN actors, as well as with Member States and civil society.

Indeed, in 2015, OHCHR moved its Peace Missions Support Section from OHCHR Geneva to OHCHR-NY in order to enhance its capacity to strengthen its efforts in this area.^{xxviii} Together with the Department of Peacekeeping Operations (DPKO), OHCHR-NY also works to prevent the inclusion of human rights violators among peacekeeping forces through the implementation of the Secretary-General's Human Rights Due Diligence Policy.^{xxix} In 2011, OHCHR-NY also worked together with DPKO to develop Rule of Law Indicators to aid UN field staff in monitoring changes in criminal justice institutions in conflict and post-conflict situations.

OHCHR-NY has also strengthened its engagement with the UN Development Programme (UNDP) by co-locating staff within the UN Development Operations Coordination Office.^{xxx} OHCHR-NY has participated in a Global Focal Point (GFP) for Police, Justice and Corrections Areas in the Rule of Law in Post-Conflict and other Crisis Situations, led by DPKO and UNDP, which has provided support for the establishment of a special court in the Central African Republic and for criminal justice reform projects in several countries. OHCHR-NY also has participated in developing a Secretary-General's Guidance Note that encourages UN actors to advocate for and support reparation programmes for victims of conflict-related sexual violence, as part of a joint initiative with UN Women and the Special Adviser to the Secretary-General on Sexual Violence in Conflict.^{xxxi} OHCHR has also played a significant role in the implementation of the Secretary-General's Human Rights up Front (HRuF) initiative, which is co-led by UNDP. OHCHR and UNDP jointly published a February 2016 Guidance Note on Human Rights for Resident Coordinators and UN Country Teams that reflects this cooperation and which contains tools including human rights checklists for UN Country Team staff.^{xxxii}

Participants agreed that while OHCHR-NY has made a significant contribution to the performance of UN actors in the field, including through the HRuF initiative, many challenges remain that prevent due attention to human rights problems. Other UN actors frequently consider it expedient to stay silent, and some encourage OHCHR to take on the role of "bad cop" rather than raising serious violations themselves. Some pointed out that even in cases where a government's responsibility for grave violations is uncontested, such as North Korea, UN actors remain reluctant to pursue protection-related goals. Others noted that in places including Syria, UN personnel who have sought to raise concerns about violations by governments have been reprimanded rather than encouraged for doing so, notwithstanding the existence of the HRuF initiative. Moreover, some participants expressed concern that UN Resident Coordinators and UN staff working on humanitarian and development activities in-country have insufficient contacts with UN human rights monitors examining the countries in which they work. Although members of the UN country teams may be gathering information that is relevant to the human rights monitors' work, in some key cases they have not been permitted to share it.

Participants also cited a need for greater OHCHR-NY engagement with UN counterparts that are increasingly acting in partnership with regional organizations, citing the need to ensure human rights compliance particularly in the area of peace operations.

Participants perceived an important opportunity for OHCHR-NY to remind UN leaders that it can help coordinate and streamline the human rights protection activities being undertaken by different UN actors. They also stressed the importance of identifying and working with allies among the staff of the various departments, agencies, funds, and programmes and of dispensing with hierarchy to encourage as much communication as possible.

Participants made the following recommendations:

- OHCHR-NY should ensure that its staff strengthen their engagement with counterparts at all UN departments, agencies, funds and programmes to ensure that OHCHR-NY is apprised of and able to play a role in coordinating human rights-related initiatives being undertaken by different entities.
- OHCHR-NY should endeavor to monitor development-related processes like the Quadrennial Comprehensive Policy Review, in which key policy decisions that will guide UNDPs actions are taken, with significant implications for the broader UN system's willingness to pursue the implementation of human rights in the field.
- OHCHR-NY and the ASG should advocate for the deployment of human rights advisers to support humanitarian coordinators in countries experiencing crisis.
- OHCHR-NY, together with Geneva-based colleagues, should identify how to best use relevant recommendations emanating from the Human Rights Council's Universal Periodic Review (UPR) process in the UN's engagement with State representatives.
- OHCHR-NY should encourage other UN actors—from Special Representatives of the Secretary-General to the Department of Peacekeeping Operations—to contribute to protection-related efforts, for example in the context of the Inter-Agency Standing Committee, which coordinates the delivery of humanitarian assistance, and in the implementation of the Secretary-General's Human Rights Due Diligence Policy and Human Rights up Front Initiative.
- OHCHR-NY and the ASG should continue to engage with UN Resident Coordinators and provide guidance on raising human rights concerns in politically sensitive environments.
- OHCHR-NY should establish mechanisms to ensure that human rights information generated in field missions is adequately processed and considered and that UN staff who gather such information are adequately supported.
- OHCHR-NY should continue to engage Member States and encourage them to support efforts to further mainstream and integrate human rights into the UN's broader work.

OHCHR-NY's role in implementing the Human Rights up Front Initiative: focus on North Korea

Participants explored the application of the Secretary-General's Human Rights up Front (HRuF) initiative to the case of the Democratic People's Republic of Korea (DPRK, North Korea), which a Commission of Inquiry created by the Human Rights Council found to be the site of violations "without parallel in the contemporary world," and which hosts a UN Country Team but to date has not allowed UN human rights officials or monitors to access its territory. It was noted that OHCHR-NY and the Secretary-General's office have taken some steps to apply the HRuF initiative to the DPRK since 2014, including by providing human rights training and HRuF training for humanitarian staff working on the ground and disseminating the OHCHR/UNDP Guidance Note on human rights to the Resident Coordinator and the UN Country Team. One result of the introduction of the HRuF initiative was that UN officials successfully pressed the government of North Korea to agree to include a reference to human rights in the Strategic Framework for cooperation between the UN and DPRK for 2017-2021. The inclusion of human rights in this agreement provides a strong basis for the UN Resident Coordinator to engage the government of the DPRK on human rights, particularly recommendations directed to the DPRK in the context of the UN Human Rights Council's Universal Periodic Review process.

Despite this progress, much work remained to be done to build an effective relationship between humanitarian and human rights agencies to ensure that members of the UN Country Team in the DPRK would feel confident putting into practice the guidance they had received on human rights. In the absence of concrete guidance and in the context of legitimate concerns that the government of the DPRK could expel UN agency staff, members of the UN Country Team remained reticent to raise human rights with government representatives. Moreover, while UN staff had agreed that it would be appropriate to raise certain UPR recommendations with the government, the DPRK had accepted more than 100 such recommendations at the last UPR, and UN country team members were not necessarily in a position to assess which of these should be taken up with the government of the DPRK as a matter of priority or how to encourage their implementation in practice.

Participants encouraged OHCHR-NY to provide further assistance and guidance to UN agency staff on how to engage government representatives on human rights concerns in practice. In the case of North Korea, OHCHR-NY could do this by convening interagency meetings exploring cases where UN humanitarian actors either took action or declined to act in the face of information about human rights violations. OHCHR-NY, together with Geneva-based colleagues, could also identify the UPR recommendations that the members of the UN Country Team should encourage the government of the DPRK to implement as a matter of priority. Participants also suggested that OHCHR-NY should endeavor to assist members of the UN Country Team in analyzing the human rights reports that the DPRK had recently submitted to UN human rights treaty monitoring bodies, and they encouraged OHCHR-NY to make UN actors aware of the content of UN human rights reports on the DPRK touching their particular areas of concern.

Cooperation between the OHCHR and Counter Terrorism Institutions

Since 2001, OHCHR-NY has increased its coordination with the UN's counter-terrorism professionals and institutions. OHCHR-NY leads the Counter-Terrorism Implementation Task Force's (CTITF's) Working Group on Protecting Human Rights and the Rule of Law while Countering Terrorism, with the ASG for Human Rights serving as its Co-Chairman.^{xxxiii} This Working Group allows OHCHR to coordinate with other UN system actors involved in implementing the UN's Global Counter-Terrorism Strategy. In 2014, it published five human rights reference guides, including one on conforming national counter-terrorism legislation with international human rights law.^{xxxiv}

Participants observed that human rights considerations have been increasingly integrated into the work of the Counter-Terrorism Committee (CTC) and the Counter-Terrorism Committee's Executive Directorate (CTED) since 2011. It was noted that the CTC has adopted resolutions emphasizing the need for Member States to respect human rights while countering terrorism. CTED has begun to raise human rights concerns with government interlocutors at the highest levels during certain country missions. This is in part a result of the fact that the staff of the CTED includes a senior human rights official; however, it is also due to the fact that OHCHR-NY is increasingly involved in discussions on counterterrorism strategy at UNHQ and has developed the staff capacity to provide timely information to CTED staff on countries of particular concern. OHCHR's role on the CTITF Working Group was identified as a great opportunity to disseminate information throughout the entire UN system.

Participants noted that many obstacles to integrating human rights concerns into the work of the UN's counterterrorism-focused entities remains: while CTED has a senior human rights adviser, other UN counter-terrorism entities do not. Moreover, the CTC's and CTED's meetings are generally closed. This lack of transparency makes it particularly important that OHCHR-NY staff are located in New York and able to participate in closed-door meetings and with counterterrorism staff in other contexts.

Participants made the following recommendations:

- OHCHR-NY should continue to develop contacts and share information with the staff of subsidiary bodies of the UN Security Council, particularly the Counter-Terrorism Committee Executive Directorate (CTED), and ask them to raise relevant human rights issues during closed consultations with Member States. OHCHR-NY should also endeavor to provide relevant information to the CTED routinely in advance of its country missions. It should highlight key concerns and issues to be raised with the government.

- OHCHR should explore possibilities to develop further guidance for Member States on implementing Security Council resolutions on countering terrorism in line with human rights, such as in the context of the migration crises and countering the activities of members of terrorist organizations on the internet.
- OHCHR-NY should remain engaged on the development of the Secretary-General's plan of action on countering terrorism to ensure that it appropriately reflects the need for States to respect human rights and should ensure that new UN counter-terrorism structures promote human rights-compliant responses to counter-terrorism challenges.

PART IV: OHCHR-NY'S WORK TO ADVANCE THEMATIC HUMAN RIGHTS ISSUES, DEFEND HUMAN RIGHTS ADVOCATES FROM REPRISALS, AND SUPPORT UN HUMAN RIGHTS EXPERTS

Advancing Thematic Human Rights Issues

In recent years, OHCHR-NY has developed substantive expertise and undertaken thematic work in a number of areas.

One of these is efforts to advance LGBTI rights, particularly efforts to combat violence and discrimination against persons based on their sexual orientation or gender identity (SOGI). In 2012, OHCHR-NY produced a booklet setting out States' obligations to end violence and discrimination against individuals on the basis of SOGI, and in July 2013, OHCHR-NY launched "Free & Equal," a global public education campaign to promote greater respect for the rights of LGBT people worldwide.^{xxxv} Participants commented that OHCHR-NY's expertise and focus on SOGI and intersex rights issues had been instrumental in assisting UN agencies to take up these concerns in their work. OHCHR-NY had also served as a resource on these issues for the UN Secretary-General, leading former SG Ban Ki-moon to participate in events convened by NGOs on SOGI issues. Participants noted that OHCHR-NY had distinguished itself in its readiness to champion this human rights issue even if it exposed the office to potential pushback from Member States which oppose UN human rights activity on LGBTI and SOGI issues. This opposition had become particularly strong in recent months at the General Assembly following the decision by the UN Human Rights Council to create an independent expert mandate on violence and discrimination on the basis of SOGI. Participants encouraged OHCHR-NY to ensure that in the future it had sufficient staff both

to coordinate its activities with the work being done by the SOGI mandate-holder and his OHCHR support staff in Geneva and to continue to play a leadership role on this issue at UN Headquarters.

In recent years, OHCHR-NY has also convened programs and prepared publications on the death penalty, contributing to a global initiative calling for its abolition or the imposition of a moratorium.^{xxxvi} Participants supported OHCHR-NY's efforts in this area, noting that they had added credibility to the NGO campaign identifying the death penalty as a serious human rights issue. However, participants also encouraged OHCHR-NY to redouble its efforts to promote a consistent whole-UN policy on the death penalty, noting that the positions taken by UN entities like the UN Office on Drugs and Crime sometimes encouraged criminal law enforcement campaigns in places like Iran that regularly implemented the death penalty against perpetrators. Some participants noted that OHCHR's own efforts to advance other human rights issues, such as accountability for perpetrators of sexual violence, sometimes led it to advocate for the use of national justice systems that would implement the death penalty against perpetrators. Participants encouraged OHCHR to engage with justice ministries in countries that implement the death penalty to seek to encourage them to pursue alternative sanctions. Participants also noted that Member States were divided on this issue and that the momentum toward a global moratorium on the death penalty appeared to have stalled, leading to the adoption by the UN General Assembly of amendments to a recent resolution on the death penalty. Participants encouraged OHCHR-NY to continue its work on this issue as a matter of priority, to seek to engage Member States in advance of the next General Assembly resolution on the issue, and to advocate for the UN Secretary-General to use his good offices on the matter as well.

Participants expressed support for OHCHR-NY's thematic work, especially on issues that were particularly relevant to activities being undertaken by other UN bodies and actors in New York. More broadly, participants cautioned that OHCHR-NY should take particular care to be seen as accessible to and responsive to the concerns of all rights-holders in its selection of thematic advocacy priorities. In view of the challenges experienced in promoting a human rights-based approach to development, participants encouraged OHCHR-NY to strengthen its focus on integrating a human rights approach into the follow-up to the Sustainable Development Goals and on the promotion of social and economic rights more broadly. They also suggested that OHCHR-NY should consider increasing the attention paid to business and human rights, perhaps in cooperation with international financial institutions and the UN Global Compact. Participants also suggested that OHCHR-NY should enhance its thematic work on the issues of migration and counter-terrorism, given the ongoing work at UN Headquarters to develop a Global Compact on Migration and reform the UN's counterterrorism architecture.

Participants made the following recommendations:

- OHCHR-NY should strengthen its thematic work on certain areas that are particularly relevant the UN in New York: promoting human rights-based approaches to development, including in the context of follow-up to the Sustainable Development Goals; business and human rights; human rights and migration; and protecting human rights in counter-terrorism.
- OHCHR-NY should consider increasing its thematic work in areas that are particularly relevant to key initiatives at the UN in New York: promoting human rights-based approaches to development, including in the context of follow-up to the Sustainable Development Goals; business and human rights; human rights in the context of migration; and protecting human rights in the context of counter-terrorism.

Defending Human Rights Advocates from Reprisals

OHCHR-NY and the Assistant Secretary-General for Human Rights have on several occasions called for the UN system, particularly UN bodies and mechanisms in New York, to be more accessible to NGOs and human rights defenders. Since 2010, as a result of a request by the UN Human Rights Council, the UN Secretary-General has published an annual report on allegations of reprisals against persons seeking to cooperate or who have cooperated with the UN or its human rights mechanisms. In October 2016, Secretary-General Ban gave the ASG for Human Rights a special mandate to lead UN system efforts to counter intimidation and reprisals against those cooperating with the United Nations on human rights.^{xxxvii}

Participants affirmed that OHCHR-NY and the ASG had already made some modest achievements in encouraging better access to the UN for NGOs and better responses by UN bodies to allegations of reprisals. Participants also expressed support for the ASG in his new role in countering reprisals. They urged the ASG to see the blocking of NGO applications for consultative status by Member States of the UN Economic and Social Council's Committee on NGOs as a particularly serious problem, noting that Secretary-General Ban had identified this as a form of reprisal in his reports to the HRC. Participants also encouraged the ASG to seek to reform States' use of the "no-objection procedure" to prevent NGOs that do not already hold consultative status from participating in high-level events at the UN in New York. With respect to the new reprisals mandate, participants noted that past UN efforts to document reprisals had not been sufficiently focused on providing regular updates to victims on the status of efforts concerning their cases and that follow-up to claims had been lacking in many cases. They also encouraged the ASG to act more affirmatively to draw attention to the annual reports of the Secretary-General on reprisals.

Participants made the following recommendations:

- OHCHR-NY staff should always attend the meetings of the ECOSOC Committee on NGOs and demonstrate support for human rights NGOs to have access to the UN and should remind Member States not to invoke illegitimate grounds to prohibit their access. OHCHR-NY should encourage Member States that support human rights NGO access to the UN to seek membership on the Committee on NGOs.
- OHCHR should work with the office of the President of the General Assembly to monitor any use of the “no-objection” procedure to block NGOs from participating in high-level meetings at the UN in New York. OHCHR-NY should introduce greater transparency into the use of this procedure and press for a more fair set of modalities to be adopted to govern participation in such meetings.
- The ASG for Human Rights has an important mandate from the Secretary-General to follow up on allegations of reprisals against individuals who have provided or seek to provide information about human rights to the UN. In this context, OHCHR-NY should solicit information from all UN departments and agencies on reprisals; develop guidance for UN staff on how to minimize the risk of and respond to cases of reprisals; ensure that victims who submit allegations to OHCHR-NY receive periodic updates on the status of efforts concerning their cases; publish information about claims and reprisals-related correspondence in an accessible database to facilitate follow-up and ensure visibility, where appropriate; and seek formally to present the Secretary-General’s report on reprisals in person to the Third Committee of the General Assembly as well as to the UN Human Rights Council.

Supporting UN Human Rights Expert Mechanisms

OHCHR-NY plays an important role in assisting the independent experts who serve as members of UN treaty bodies and as special procedures mandate-holders in their interactions with UN bodies and actors in New York. Participants recalled that the divide between the UN human rights activities mandated by Geneva and UN human rights bodies in New York had once been enormous, noting that the UN Security Council had been unaware that in 1993 a special procedures mandate-holder had warned about the serious potential for atrocity crimes in Rwanda. As OHCHR-NY has grown in size and stature, so has its ability to bring important information and analysis gathered by other human rights actors to the attention of relevant UN actors. Participants cited cases in which OHCHR-NY had facilitated conversations between special procedures mandate holders and other UN actors, including from the Executive Office of the Secretary-General.

At the same time, participants noted that many UN agency staff, in New York and in the field, were unaware of the reports of UN human rights experts and might benefit from greater awareness of them. This was particularly true where humanitarian actors were concerned. Some special procedures mandate holders and treaty bodies had developed their own bilateral relationships with other UN actors like the Special Advisers to the Secretary-General on the Prevention of Genocide and R2P, UN agencies, and New York-based diplomats, but some stressed that greater support from OHCHR-NY would have been appreciated. OHCHR-NY could also ensure continuity in these relationships when the relevant mandate-holders change. Participants also noted that OHCHR-NY could play an important role by helping identify strategic opportunities to bring human rights experts' work to the attention of New York-based diplomats.

Participants made the following recommendations:

- OHCHR-NY should bring relevant reporting by UN special procedures and concluding observations by treaty bodies to the attention of UN agency staff in New York and facilitate interaction of UN treaty body members and UN special procedures mandate holders with other UN personnel, depending upon the country-specific or thematic issues under their remit.
- OHCHR-NY should remind OHCHR staff in Geneva, as well as Member States in New York, to endeavor to ensure that the Human Rights Council and General Assembly call on the Secretary-General to transmit the reports of UN commissions of inquiry to the UN Security Council, thus ensuring that the work of these mechanisms is formally brought to Member States' attention.
- OHCHR-NY should inform Member States about special procedures' reports that have a particular bearing on situations on the Security Council's agenda, for example by referencing special procedures' reports when the ASG briefs Members of the Security Council or in less formal interactions.

CONCLUSIONS

This expert consultation provided an important opportunity to reflect on the accomplishments of OHCHR-NY and the ASG post in particular. Over the past six years, OHCHR-NY and the ASG for Human Rights have enormously increased the impact of the UN's human rights program on the organization's broader work related to peace and security, development, humanitarian assistance, and other areas. OHCHR's influence is felt more strongly in New York than ever before. As a result, other UN actors and many Member States have embraced the view that human rights are an essential component of peace and security and must be taken into account in all of the organization's crisis response efforts. Close interaction

with OHCHR-NY and the ASG has had a significant influence on UN actors including the Secretary-General, who has consistently reflected a concern for accountability while pursuing broader diplomatic goals. OHCHR-NY has developed relationships and undertaken collaborative work with much larger UN actors and has made headway in mainstreaming human rights into their work. Furthermore, OHCHR-NY has served as an essential New York-based point of contact and facilitator for other human rights-focused stakeholders, including independent UN human rights experts, human rights defenders, and NGOs. While there are many areas where improvements could be made and many challenges facing the UN human rights program with which it will need to grapple in the years ahead, OHCHR-NY is poised today to take on these challenges from a position of unprecedented strength and credibility which its supporters—States and other stakeholders alike—should endeavor to maintain.

JBI and the UN High Commissioner for Human Rights

At the founding conference of the UN in San Francisco, Jacob Blaustein, an industrialist and Chair of the Executive Committee of the American Jewish Committee, played a key role in ensuring that human rights would be included in the UN Charter. Blaustein served as an NGO Consultant to the U.S. delegation at the Charter drafting conference, and together with then-AJC President Judge Joseph S. Proskauer, secured the US government's support for including specific human rights provisions in the Charter. In 1963, Blaustein delivered the Dag Hammarskjold Memorial Lecture at Columbia University in which he championed the appointment by the UN Secretary-General of a United Nations High Commissioner for Human Rights, a UN official who could investigate situations involving alleged violations of human rights, assist in the development of national human rights institutions, advise the political organs of the United Nations on human rights, and review reports from governments on their human rights practices. In Blaustein's view, this was essential to enhance the UN's capacity to address specific violations of human rights and promote their respect in practice.

From its founding in 1971, the Jacob Blaustein Institute for the Advancement of Human Rights (JBI) continued Blaustein's advocacy for the creation of the post of UN High Commissioner for Human Rights. The Institute was active in coalescing NGO advocacy for the creation of the High Commissioner post in the months prior to the 1993 World Conference on Human Rights in Vienna and in persuading the U.S. and other governments to support the idea during the preparatory conferences. In the more than two decades that have elapsed since the creation of the High Commissioner post in 1994, JBI has worked to strengthen human rights mechanisms of the United Nations and other international organizations, with a key focus on the UN High Commissioner and OHCHR. For more information, see Felice D. Gaer and Christen Broecker, *The UN High Commissioner for Human Rights: Conscience for the World* (Martinus Nijhof, 2014).

END NOTES

- i. Prepared by Christen Broecker, Deputy Director, Jacob Blaustein Institute for the Advancement of Human Rights and Samantha Wynne, E. Robert Goodkind Fellow.
- ii. In Guterres' first remarks to the UN Security Council on January 10, 2017, he affirmed that "The interconnected nature of today's crises requires us to connect our own efforts for peace and security, sustainable development and human rights, not just in words, but in practice." António Guterres, Remarks to the Security Council Open Debate on "Maintenance of International Peace and Security: Conflict Prevention and Sustainable Peace," New York, Tuesday, 10 January 2017.
- iii. OHCHR Annual Report 2015, p. 35.
- iv. OHCHR Annual Report 2015, p. 45.
- v. UN General Assembly Resolution 48/141 (1993).
- vi. UN General Assembly Resolution 48/141 (1993) (para 4(i)).
- vii. Bulletin of the Secretary-General 'Organization of the Office of the United Nations High Commissioner for Human Rights' (1997) UN Doc ST/SGB/1997/10, note 1.
- viii. Bulletin of the Secretary-General 'Organization of the Office of the United Nations High Commissioner for Human Rights' (1997) UN Doc ST/SGB/1997/10, Section 7.
- ix. UN Doc. A/59/2005
- x. A/59/2005, paras. 144 and 145.
- xi. A/59/2005, paras 142, 145.
- xii. OHCHR Plan of Action: Protection and Empowerment, para 153.
- xiii. World Summit Outcome Document, A/RES/60/1 (Adopted without a vote), para 124.
- xiv. OHCHR, Annual Report 2006, p. 18.
- xv. Proposed programme budget for the biennium 2010-2011 of the Secretary-General, A/64/6 (Intro), para 29.
- xvi. International Service for Human Rights, New York Monitor, General Assembly 63rd Session Third Committee, 22 October-18 December 2008, p.5.
- xvii. Proposed programme budget for the biennium 2010-2011 of the Secretary-General, A/64/6 (Intro), para 29.
- xviii. Proposed programme budget for the biennium 2010-2011 of the Secretary-General, A/64/6(Sect 23), para 23.49. See also A/64/7(SUPP), para VI.11, where the ACABQ did not object to the proposed reclassification. The only statement made at the time of the adoption of the budget was by India's representative, who expressed opposition to the "use of the issue of human rights to influence human resources management decisions." Draft resolution A/C.5/64/L.18: Questions related to the proposed programme budget for the biennium 2010-2011, para 10, in Fifth Committee, Summary record of the 22nd meeting, A/C.5/64/SR.22, Dec 23, 2009.
- xix. Note Verbale, Assistant Secretary-General for Human Rights Office of the High Commissioner for Human Rights, Jan 25, 2010. See also <http://www.unelections.org/?q=node/1576>
- xx. OHCHR Annual Report 2010, p. 7.
- xxi. OHCHR Website, <http://www.ohchr.org/EN/AboutUs/Pages/AndrewGilmour.aspx>
- xxii. OHCHR Annual Report 2014, p. 35.
- xxiii. OHCHR Annual Report 2015, p. 35.
- xxiv. On 29 January 2009, Jessica Neuwirth briefed the Council on the issue of respect for international humanitarian law during a private debate (Referred to in S/2009/107). <http://www.securitycouncilreport.org/chronology/human-rights.php>.
- xxv. At the same time, the High Commissioner for Human Rights similarly gained unprecedented access to the UN Security Council: the High Commissioner had briefed the Security Council 13 times between the post's establishment in 1994 and 2009, but between 2010 and 2016, the High Commissioner briefed 33 times (including at 27 formal meetings).

- xxvi. Ibid.
- xxvii. Specifically, the Secretary-General has abolished bodies like the “Policy Committee” and “Senior Advisory Group” and created an “Executive Committee” and “Deputies Committee,” which meet weekly to discuss crisis situations and thematic issues, and in which the High Commissioner and ASG for Human Rights, respectively, are invited to participate.
- xxviii. OHCHR Annual Report 2003, p. 53.
- xxix. See UN Doc. A/67/775-S/2013/110.
- xxx. OHCHR first entered into a Memorandum of Understanding with UNDP in 1998.
- xxxi. See <http://www.ohchr.org/Documents/Issues/Women/WRGS/PeaceAndSecurity/ReparationsForCRSV.pdf>
- xxxii. See <https://undg.org/wp-content/uploads/2015/12/UNDG-Guidance-Note-on-Human-Rights-for-RCs-and-UNCTs-final.pdf>
- xxxiii. UN Counter-Terrorism Implementation Task Force, Basic Human Rights Reference Guide, Conformity of National Counter-Terrorism Legislation with International Human Rights Law, CTITF Working Group on Protecting Human Rights while Countering Terrorism, p. III.
- xxxiv. Ibid.
- xxxv. See <http://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBT.aspx>
- xxxvi. See http://www.ohchr.org/Lists/MeetingsNY/Attachments/27/moving_away_from_death_penalty_web.pdf and
- xxxvii. Press conference by Secretary-General Ban Ki-moon at the Palais des Nations, October 3, 2016.

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