

Written evidence submitted by the Universal Rights Group (MUO0033)

The UN lives in an almost permanent state of reform. That is partly a matter of necessity. The UN is an intergovernmental body and affords each of its 193 member States a large degree of power to create new bodies, agencies and mechanisms, and to shift the UN's work in new directions (an especially important point in a rapidly changing world). Traditionally, it has been key Western powers, such as the US and UK, which have driven and shaped key reforms. However, following the Brexit referendum in the UK, and the election of Donald Trump in the US, these countries have bled influence, and are increasingly being supplanted by China, Egypt, Russia etc., and, on the Western side, by the European Union and countries such as Norway, Iceland and Canada – countries firmly committed to multilateralism.

Against this background each incoming chair or president of, for example, the General Assembly, the Security Council, the Economic and Social Council (ECOSOC) or the Human Rights Council, tends to begin their term by identifying areas where there is a priority need to rationalise work and strengthen effectiveness. These intergovernmental political dynamics also place great pressure on incoming UN Secretaries-General and other senior representatives of the UN secretariat (e.g. the High Commissioner for Human Rights) to regularly initiate reform efforts, either focused on particular aspects of the UN's work (e.g. Ban Ki-moon's '[Human Rights Up Front](#)' initiative), or of the entire organisation (the approach taken by Kofi Annan, especially in the context of his '[In Larger Freedom](#)' report, and now Antonio Guterres).

This written evidence is designed to act as a 'gateway' to more extensive and detailed information on different areas of UN reform (initiated either by governments or by the UN secretariat) – via hyperlinks embedded in the text.

After a short introduction focused on UK engagement, the paper follows the basic structure of the UN: i.e. based on an architecture comprising three main pillars: peace and security; sustainable development; and human rights. It looks at reforms affecting each of these pillars.

At the end, and for each pillar, the author offers thoughts on possible entry-points for the UK.

Vulnerabilities and opportunities

As noted above, because the UN is an intergovernmental, member State-driven, organisation, its fortunes are extremely vulnerable/sensitive to geopolitical headwinds, and its work is the constant subject of shifts in emphasis and reform. This creates both risks and opportunities for individual member States. In the world of multilateral diplomacy, the countries that are able to best mitigate the risks and seize the opportunities are those with strong diplomatic corps representing respected States/governments. This combination typically allows States to build the coalitions necessary to drive progress, to work with States from different regions and with different levels of development in relationships built on mutual trust and respect, and to help shape the future of the UN by controlling the narrative and shaping reform agendas.

The UK has long had a strong diplomatic corps backed up by a widely respected and admired (if not necessarily universally liked – the idea, for example, that the UK can base its future influence on its former Empire, via the Commonwealth, is nonsense) State/government. That respect and admiration was of course based on the UK's democratic history, its commitment to rule of law, and its championing of moderation, tolerance and human rights. Today, while the UK still has one of the world's finest diplomatic services (its Permanent Missions in Geneva and New York are constantly amongst the strongest at the UN), those diplomats are increasingly unable to exert a significant degree of influence on developments at the UN. That is for two main reasons. First, other UN member States' (with a few exceptions – e.g. Russia) representatives – particularly diplomats – took a broadly dim view of the Brexit referendum and the

decision to leave the EU, as well as of the UK's conduct since the referendum. They were particularly shocked by, *inter alia*, the use of nationalist, racist and xenophobic language during the campaign; the scandal around Cambridge Analytica and Facebook; the lack of accountability for this as well as for financial irregularities linked to the Leave campaign; the UK's haphazard approach to the negotiations with the EU; UK Government rhetoric towards the independent judiciary, the independent media, and Parliament; and the UK's diminishing commitment to the rule of law (e.g. illegal proroguing of Parliament, and, most recently, the adoption of the UK Internal Market Bill – for which the UK is now being taken to the ECJ). Second, the UK is increasingly 'friendless' at the UN. It can no longer count on EU support – a fact brought into sharp relief during its defeats against Mauritius at the GA on the issue of the Chagos Islands. Except for Australia, New Zealand and Canada, it cannot rely on Commonwealth support (a majority of Commonwealth developing countries are horrified by the idea of 'Global Britain'/Empire 2.0). This means the UK today has little influence and little support – a fact evidenced by its repeated defeats in UN elections.

The UK has seen its influence wane in the UN human rights system for the past five years:

- The UK failed to get a British national elected to the International Court of Justice (ICJ) for the first time since WW2. (The UK candidate was beaten by an Indian judge).
- The UK has been losing votes heavily against Mauritius at the GA, on the issue of the Chagos Islands - previously they would win those votes.
- One of those resolutions called for a ICJ advisory opinion on the Chagos. The Court found against UK. UK has refused to abide by the ruling.
- UK lost election for Director General of WHO a couple of years ago – and is highly likely to lose the WTO Director General election this year.

It is the same in the context of the human rights pillar:

- Yes, the UK will be re-elected this year, but that's mainly because it is a clean slate for Western Group (2 candidates for 2 seats). UK actually (conscious of its current inability to win elections at the UN) jumped in to one of the two spots when Germany postponed their bid a year or so ago.
- The UK currently does not have a single national on any of the 9 UN human rights Treaty Bodies. 0. This is unprecedented. UK nationals historically have been highly represented and highly influential on the Treaty Bodies.
- The UK has one national on a 'sub-Treaty Body' - the Subcommittee on the Prevention of Torture. But his term will expire on 31 December this year.
- The UK has two nationals in the Special Procedures (out of around 85 mandate holders in total). Again, this is an all-time low.

The UK is also near the bottom of the class when it comes to translating the recommendations it receives under the UPR, Treaty Bodies and Special Procedures into concrete policy, law and practice changes at national level. It refuses to upgrade its implementation systems (e.g. to create a UK national mechanism for implementation, reporting and follow-up), and its commitment to International rule of law is increasingly in doubt.

The exception to this is Scotland (and Wales). This can be seen with this example:

<https://www.universal-rights.org/uncategorized/scotland-taking-a-child-rights-based-approach-further-than-ever/>

UN reform

As noted above, the UN is in an almost constant state of flux and reform.

Looking at the intergovernmental institutions and bodies of the UN, since 2005 the **General Assembly** has, for example, annually considered how to [‘revitalise’](#) its work to help ensure that this ‘chief deliberative, policymaking and representative organ of the United Nations’ (para. 149 of the 2005 World Summit Outcome Document) becomes a true, universal ‘parliament of nations.’ An *Ad Hoc* Working Group on the revitalization of the work of the General Assembly (AHWG), has produced a range of proposals on the role and authority of the GA; working methods; the selection and appointment of the Secretary-General and other executive heads; and strengthening the Office of the President of the GA.

It is a similar story with the **Security Council**. For over 25 years, UN member States have called for reforms that would make the Security Council more representative, efficient and better suited to address the security challenges facing the international community today. Secretary-Generals Boutros Boutros-Ghali, Kofi Annan, Ban Ki-Moon and Antonio Guterres, have each – unsuccessfully - attempted to push the reform debate forward, while the issue has been a thorn in the side of every President of the GA since 1992, when the issue was first included in the GA agenda. Since then, [countless proposals](#) have been deliberated, numerous coalitions have been formed, and over ten rounds of intergovernmental negotiations have resulted in an extremely complex stalemate, where entrenched positions leave little room for compromise. Given this context, and the diverse set of interests and geo-political rivalries in play, recent attempts have been made to pursue progress on *process* before tackling the *substantive issues* under consideration.

Turning to the intergovernmental **development-focused machinery**, ECOSOC has also been subjected to numerous reform initiatives over the past twenty years. Perhaps the most important are those introduced in the context of the adoption of the 2030 Agenda for Sustainable Development, and the 17 Sustainable Development Goals (SDGs) ‘leaving no one behind.’ To oversee and encourage progress towards the SDGs, in 2013 ECOSOC established the ‘High Level Political Forum’ (HLPF) – modelled on the Human Rights Council’s ‘Universal Periodic Review’ (UPR) mechanism. Although it is only seven years old, there is already talk of further reform of the HLPF (e.g. to make participation mandatory instead of voluntary), especially in the face of mounting evidence of slow progress towards the SDGs (including in the UK), especially as a [consequence of the COVID-19 pandemic](#).

Perhaps the pillar that has seen most meaningful and successful reform over the past 15 years is the **human rights pillar**. In 2005, the UN World Summit, acting on proposals presented by Kofi Annan in his landmark report on UN reform, [‘In Larger Freedom,’](#) decided to replace the old Commission on Human Rights (established after World War II as a subsidiary body of ECOSOC) with a smaller, stronger Human Rights Council. Kofi Annan believed this should be a main body of the UN, like the Security Council or ECOSOC (in line with his view that human rights should be given a more authoritative place in the UN architecture, commensurate with the emphasis given to it in the UN Charter - as well as [his conviction](#) that ‘the human family will not enjoy development without security, will not enjoy security without development, and will not enjoy either without respect for human rights’). In the end, UN Heads of State decided that the new body would be subsidiary to the GA. Notwithstanding, the establishment of the Human Rights Council brought important innovations and reforms. For example, membership was reformed to provide more seats for developing countries, election criteria were set down, a new universal implementation mechanism was established – the Universal Periodic Review (UPR), and the Council was given greater powers to address situations of serious human rights violations, especially gross and systematic violations. Five years after its creation, the work and functioning of the Council were reviewed by the GA, and further refinements introduced. A second review is expected to begin in 2021.

Antonio Guterres’ reform agenda

Against this background of State-led reforms (albeit guiding by different Secretaries-General), upon assuming office in January 2017, the current Secretary-General, Antonio Guterres, began a major process of reforms, aimed in particular at three key areas: management (secretariat), the development system,

and the peace and security architecture. (It is important to note that these reform proposals are addressed, primary, to the UN secretariat – not to States).

Through these reforms, the Secretary-General's aim was to create a ['21st century UN'](#) that is better equipped to address the complex contemporary challenges facing humankind. This means, in particular, reducing and eventually eliminating fragmentation between the UN's three pillars (i.e. development, peace and security, and human rights), and striving for a more flexible and efficient Organisation.

Notwithstanding the goal of reducing fragmentation between the three pillars, the current process of UN reform focuses primarily on just two of those pillars. This has led to a debate over whether human rights have been side-lined in the reform process, as well as to significant criticism of Guterres from the human rights community.

In actual fact, although human rights is not explicitly addressed as one of the three 'reform streams' (because, in short, human rights has traditionally been seen as the most 'sensitive' or 'controversial' aspect of the UN's work, especially amongst powerful developing countries, plus Russia, and because Guterres believes that reform of the human rights pillar has already taken place), in reality it permeates all key aspects of the Secretary-General's security, development and management proposals. In this regard, Guterres' reforms should be seen as a continuation of Ban Ki-moon's ['Human Rights Up Front'](#) policy, and an explicit recognition of the fact that all three pillars of the UN are inter-linked and mutually reinforcing.

In the field of prevention, for example, which is a key focus of the current reform agenda, Zeid Ra'ad al Hussein, the former High Commissioner for Human Rights, [has argued that](#) 'prevention, like sustaining peace, is a human rights agenda.' Consequently, the Secretary-General's objectives can only be fully realised if the human rights pillar works hand-in-hand with the development pillar to build national human rights resilience; and with the peace and security pillar to ensure that emerging crises are identified and addressed at an early stage, and thus do not evolve into more serious conflicts. Similarly, by strengthening the UN's human rights architecture, and promoting the implementation of States' human rights obligations and commitments, the international community can [make a major contribution to the realisation of the 2030 Agenda for Sustainable Development](#). Indeed, a recent study by the [Danish Institute for Human Rights](#) demonstrated that 92% of the Sustainable Development Goals (SDG) targets are directly anchored in international human rights instruments.

The Secretary-General's wide-ranging reform proposals are thus premised, first and foremost, on reducing and eventually eliminating 'horizontal and vertical fragmentation between the three pillars of the UN's work' (i.e. development, peace and security, and human rights). Instead of operating in silos, the UN's work in these three areas must be joined up – especially at the point of delivery (i.e. at country level). On this last point, the Secretary-General has been clear that a reformed UN should be more focused on delivering a 'country-orientated service,' a service that recognises and leverages the interlinked and mutually reinforcing nature of development, security and human rights.

The Secretary-General's proposed [management reforms](#) are based on the premise that the current highly centralised management system must be changed to better reflect the modern reality of the field-based UN. The reforms aim to promote decentralisation, provide greater management flexibility for the Secretary-General, and create a secretariat that is 'nimble and effective' and that works with high levels of 'transparency and accountability.'

Turning to the reform of the [UN's development system](#), Mr Guterres has called for 'bold changes' in order to support the realisation of the SDGs by 2030. His proposals, which have the overall aim of improving the efficiency and impact of UN operations at country-level, include reorganising UN Country Teams (UNCT) to be more responsive and better able to deliver an integrated and impact-focused service; empowering and re-positioning UN Resident Coordinators as representatives of all three pillars of the UN; replacing the old

'UN Development Assistance Frameworks' (UNDAFs) with human rights-integrated 'UN Sustainable Development Cooperation Frameworks (UNSDCFs); and establishing a 'compact' to increase the level, quality and predictability of funding by member States, in return for increased transparency of expenditure and accountability for results.

Thirdly, the Secretary-General's proposals for the ['Restructuring of the UN peace and security pillar,'](#) as initially presented in an October 2017 report to the GA, set out his wish to prioritise prevention and sustaining peace; enhance the effectiveness and coherence of peacekeeping operations and special political missions; make the peace and security pillar more coherent, nimble and effective through a 'whole-of-pillar' approach; and align the peace and security pillar more closely with the development and human rights pillars.

In January 2018, the Secretary-General published a report on 'Peacebuilding and sustaining peace' (the first of three) building on GA resolution 70/26211 and Security Council resolution 2282 (2016). According to the report: 'an important breakthrough in the twin resolutions was the recognition that efforts to sustain peace were necessary not only once conflict had broken out but also long beforehand, through the prevention of conflict and addressing its root causes' (i.e. human rights violations). On the basis of the report, in April 2018, the President of the GA convened a high-level meeting on sustaining peace. It concluded with the adoption of a resolution on 'Follow-up on the Secretary General's Report on Peacebuilding and Sustaining Peace.'

2021-2016 review of the Human Rights Council

Between 2021 and 2026, the General Assembly (GA) is scheduled to consider the question of the status of the Human Rights Council (Council), i.e. whether it should remain a subsidiary body or become a main body of the UN. Although the GA has not formally requested the Council to conduct a review of its work and functioning in advance of this 2021- 2026 review, there is a growing sense among delegations in Geneva that the Council *should* provide a contribution.

The idea that 'all human beings are born free and equal in dignity and rights' may have found its most eloquent expression in the 1948 Universal Declaration of Human Rights. However, it is also – at a more practical, everyday level – the founding premise of modern society, the fundamental basis of democratic government, and a prerequisite for sustainable development that truly aspires to 'leave no one behind.'

Yet the central importance of human rights was never adequately reflected in the institutional architecture built in the aftermath of the World War II to underpin international security, dignity and prosperity. Although the UN Charter places human rights in a position of prominence, as one of the three pillars of the organisation, States decided to establish the Commission on Human Rights as a *subsidiary body* of ECOSOC - rather than as a principal organ of the UN.

As noted above, at the 2005 World Summit, UN member States decided to strengthen the human rights pillar by creating the Human Rights Council in replacement of the Commission. This decision was taken on the basis of proposals contained in a landmark report of the-then UN Secretary-General Kofi Annan, 'In Larger Freedom: towards development, security and human rights for all.' The report highlighted the need to 'restore the balance' of the UN by strengthening its human rights pillar. The Secretary-General argued that human rights, 'the promotion of which has been one of the purposes of the organisation from its beginnings,' required 'more effective operational structures.' He thus proposed 'a far-reaching overhaul and upgrading of our existing human rights machinery,' including by 'replacing the Commission on Human Rights with a smaller standing Human Rights Council.' This 'would accord human rights a more authoritative position, corresponding to the primacy of human rights in the Charter of the United Nations.' The report left it to member States to decide whether 'they want the Human Rights Council to be a principal organ of the United Nations or a subsidiary body of the General Assembly.'

At the conclusion of the Summit, the GA adopted resolution 60/1 endorsing the meeting's outcome. This included a commitment to create a Human Rights Council 'responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner.'

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

One year after it met for the first time, in June 2007, the Council adopted resolution 5/1 on 'Institution-building of the UN Human Rights Council.' The resolution's annex defined the body's institution-building package (IBP), containing the rules for the functioning of the Council and its mechanisms.

In March 2011, after completing the review of its work and functioning as requested in GA resolution 60/251, the Council adopted resolution 16/21.' Subsequently, the GA recognised this outcome in resolution 65/281 and decided to maintain the status of the Council as a subsidiary body. It further decided 'to consider again the question of whether to maintain this status [...] at a time no sooner than ten years [i.e. 2021] and no later than fifteen years' [i.e. 2026].

In line with resolution 65/281, the Council is expected to begin a 'pre-review' in January 2021. Once completed, this would be fed in to, and form the basis of, the GA's own review. The Council's review is expected to look at the Council's performance [in a number of key areas](#), and to generate recommendation's for improving the human rights pillar's efficiency and effectiveness. The areas are likely to include: addressing situations of human rights violations; [preventing human rights violations, crises and conflicts](#); [strengthening the UPR process](#); [reform of the Council's system of Special Procedures](#) mandates; improving [Council elections and membership](#) (a key factor behind President Trump's decision to withdraw from the Human Rights Council); improving coordination between Geneva and New York; promoting State [implementation](#) of their international human rights obligations and commitments; and strengthening the delivery of international human rights technical assistance and capacity-building support.

What should be the UK position on UN reform?

The author believes a number of considerations should inform the UK contribution to UN reform.

1. The UK should focus on the 'big picture' and the 'big questions' rather than try to consider or address reforms touching on all parts of the UN. The UN is a vast and often incomprehensible structure. Thus, the UK should concentrate on security pillar reform, human rights pillar reform, and development system reform.
2. The UK should take as its starting point existing reform efforts, whether intergovernmental or secretariat-driven (e.g. the current Secretary-General's reforms). In a UN context, 'blue sky thinking' is often unachievable.
3. The UK's position should be premised on an understanding that the three pillars of the UN are inter-dependent and mutually reinforcing.
4. When looking at security pillar reform, the UK may be wise to focus on operational reforms, especially the Secretary-General's priority reforms centred on 'prevention' and 'sustaining peace;' rather than structural reforms such as expansion of the permanent membership of the Security Council. On this last question, the UK is in a defensive position, often having to justify why, as a 'medium sized power,' it should retain its permanent seat. It would be difficult to contribute, in a meaningful way, to such a debate, while still being seen, by the electorate, as 'patriotic.'

5. A focus on prevention and ‘sustaining peace’ would furthermore allow the UK to promote a coherent narrative around UN reform – one, moreover, founded upon a commitment to human rights. That is because both prevention and ‘sustaining peace’ are premised on the notion that respect for and the protection of human rights, the building of national ‘resilience,’ the prevention of human rights violations, and early warning of and early response to crises, are the basis of a ‘sustained peace.’
6. What is more, progress is already being made in the areas of prevention and ‘sustaining peace’ (unlike, for example, the stalled negotiations on Security Council membership). There is broad agreement (even on behalf of Russia and China) at the GA and the Security Council on the contours of ‘sustaining peace,’ while in September 2020 the Human Rights Council is expected to adopt an [important new resolution on prevention](#) – a resolution that will give important new powers to the Secretary-General to build national human rights resilience, to the High Commissioner for Human Rights to strengthen early warning capacity, to Council member States to intervene at early stages of evolving crises, and to the Council to submit early warning information to the Security Council to prevent conflicts.
7. Likewise, in the development sphere, the UK should consider focusing on the [‘leaving no one behind’](#) dimension of the SDGs and the 2030 Agenda. This is fundamentally a human rights principle – speaking directly to core human rights principles of equality, non-discrimination and fairness. The Danish Institute for Human Rights has shown the 92% of the SDG targets are grounded in international human rights law. Thus, making progress with the national implementation of international human rights obligations and commitments is the surest way to drive progress towards the SDGs ‘leaving no one behind.’
8. By focusing on ‘human rights and the SDGs’ and related subjects such as [‘human rights and climate change’/climate justice](#), the UK would also be aligning itself closely with the predominant contemporary movement amongst major donor States (e.g. Germany, EU, Denmark, Norway, Sweden). These countries, supported by the OECD and the World Bank, are increasingly coalescing around the idea that the best way to speed up progress towards the SDGs ‘leaving no one behind’ is to scale-up support for human rights implementation in developing countries, especially LDCs and SIDS. These States have recently grouped together as part of the [‘Oslo+’](#) process (convened by Norway, Sweden and the Universal Rights Group). The UK has been relatively disengaged so far – a reality that is likely to be exacerbated by the merger of DFID and FCO.
9. The UK should consider expressing strong support for the Secretary-General’s current (three stream) reform initiative, which is far-sighted, operational, and serves to strengthen the enjoyment of human rights. The focus on on-the-ground delivery (via more integrated and efficient UN Country Teams) and an integrated approach to human rights, sustainable development, environment, and security, is also praiseworthy.
10. Within this overall picture, the UK should consider supporting, in particular, the [gender dimensions](#) of the Secretary-General’s reforms.
11. Regarding (specifically) human rights pillar reform, as noted above, the UK should consider focusing on the pillar’s ‘interconnectedness’ with the security pillar (through prevention) and the development pillar (through ‘human rights and the SDGs’); efficiency and effectiveness reforms in the context of the 2021-2026 review of the Human Rights Council by the GA; ‘marquee’ reforms such as supporting the current global push to secure universal recognition of the right to a clean, healthy and sustainable environment; and the Secretary-General’s recent [‘Call to Action on Human Rights.’](#)
12. The UK should not only focus on what the UK can do to improve the UN, but also what the UN could do to improve the UK. In particular, this means: how can the UK State better engage and cooperate with the UN to strengthen the enjoyment of human rights amongst British citizens ([including economic and social rights at a time of rising poverty, especially child poverty](#)); how can it once again become a world leader in terms of cooperation with the UN’s human rights mechanisms (e.g. moving beyond recent Conservative Government criticisms of the Special Rapporteur on extreme poverty, and the Special Rapporteur on adequate housing); and how can it

once again become a world leader on the domestic implementation of universal norms (e.g. by respecting international law, by fully incorporating international law into national legislation – as [Scotland recently did with its 'Convention on the Rights of the Child Incorporation Bill](#), and by establishing a world-class ['National Mechanism for Implementation, Reporting and Follow-up' \(NMIRF\)](#)).

13. Linked with the previous point, the UK should commit to regaining the UK's lost influence at the UN (during a time when nationalism has replaced internationalism as the State's guiding geopolitical principle). For example, over recent years, the UK: has failed to get a British judge elected to the International Court of Justice (ICJ) for the first time since World War II; has repeatedly lost votes at the GA on Mauritian resolutions on the status of the Chagos Islands; has refused to abide by rulings of the ICJ on the status of the Chagos Islands; has lost a number of high-profile UN elections (e.g. for the post of World Health Organisation Director-General); and has repeatedly failed to secure British representation amongst UN human rights mechanisms (for example, and for the first time in the history of the UN, the UK currently does not have a single national on any of the nine UN human rights Treaty Bodies¹).

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¹ It has one national on a Subcommittee – the Subcommittee on the Prevention of Torture.