

Article accepted by Human Rights Quarterly on 27th June 2016, scheduled for publication by HRQ in 2017 after copy-editing.

Configuring the UN Human Rights System in the "era of Implementation": Mainland and Archipelago

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Abstract

Full implementation of human rights requires a wide range of initiatives, many of which fall beyond the expertise of the UN human rights 'mainland', consisting of the Human Rights Council, treaty-bodies, and Office of the High Commissioner for Human Rights (OHCHR). Specialized agencies, funds, programs and other UN bodies have an indispensable role to play if the UN system is to engage with the entire spectrum of human rights implementation. Their role encompasses all human rights, but is especially critical in relation to economic, social and cultural rights. The Human Rights Council and OHCHR are mandated to promote human rights mainstreaming which is a pre-condition for full implementation. However, UN system-wide mainstreaming runs into the principles of functional decentralization and autonomy which are woven into the fabric of the UN. Accordingly, human rights have to be 'owned' by each agency and similar UN body. There is today an emerging 'archipelago' of human rights initiatives, lying beyond the UN human rights 'mainland', in agencies and other UN bodies. The contemporary UN human rights system should be configured as the 'mainland' *and* 'archipelago' and the article outlines ways to promote its appropriate development, including new working methods for the Human Rights Council.

I. Introduction

In 2005, when UN Secretary-General Kofi Annan spoke for the last time to the Commission on Human Rights, he emphasized that "the era of declaration is now giving way, as it should, to an era of implementation."¹ The UN human rights system is often understood as the Human Rights Council, human rights treaty-bodies, the High Commissioner for Human Rights, and Office of the High Commissioner for Human Rights (OHCHR).² This article calls this combination the UN human rights 'mainland' and argues a UN human rights system consisting only of the 'mainland'

cannot adequately advance human rights in the “era of implementation”. It suggests the UN human rights system should be understood as including the ‘mainland’ and an ‘archipelago’ of human rights initiatives across the organization. The ‘archipelago’ is beginning to take shape through the emergence of human rights initiatives, beyond the ‘mainland’, in specialized agencies, funds, programs and other UN bodies. These initiatives, which have an essential role to play in the “era of implementation”, need sustained support, constructive scrutiny and quality control of their human rights content. In short, the UN human rights system should be configured as the ‘mainland’ and ‘archipelago’ otherwise the “era of implementation” cannot succeed. How the UN human rights system is conceptualized determines how policy-makers, practitioners and scholars approach human rights. A UN human rights system envisioned as the ‘mainland’ will give rise to a number of strategies and methods. A UN human rights system envisioned as the ‘mainland’ and ‘archipelago’ will give rise to different strategies and methods. Numerous UN bodies which are not part of the ‘mainland’, such as specialized agencies have a vital role in Kofi Annan’s “era of implementation”. Configuring the UN human rights system as including only the ‘mainland’ excludes implementing organizations and initiatives that are crucial in this modern era. Excluding the ‘archipelago’ from the UN human rights system runs the risk of holding back what the General Assembly refers to as “the full implementation of human rights obligations undertaken by States”.³

Although configuring the UN human rights system as ‘mainland’ and ‘archipelago’ gives rise to a number of challenging issues, it is consistent with the principles of functional decentralization and autonomy upon which the UN is constructed.⁴ This configuration of the human rights system does not require structural reform of the UN. On the contrary, the human rights system configured as ‘mainland’ and ‘archipelago’ is respectful of the foundational

principles of the existing UN structure. It is the UN human rights system understood as only the ‘mainland’ that fails to take account of the existing structure of the UN, thereby limiting the development of human rights in the “era of implementation”.

The “era of implementation” depends upon constructive engagement between the ‘mainland’ and ‘archipelago’, and therefore also among different professions, disciplines, interest groups, social movements and what Haas calls “epistemic communities”.⁵ This requires careful attention to the concepts, purposes and demands of different groups, otherwise misunderstandings are likely to abound.⁶ One aim of this article is to draw attention to some important terms, as well as distinctions between them. International supervision is not implementation. Mainstreaming is not coordination, but a pre-condition for what the General Assembly calls “full implementation”.⁷ Monitoring is not accountability. Are compliance and implementation the same? These are among the terms and distinctions that this article considers.⁸ Many inhabitants of the ‘mainland’ have little familiarity with the increasingly complex ‘archipelago’. Also, viewed from the ‘archipelago’, the ‘mainland’ has the appearance of a foreign country populated by people speaking a foreign language. The article aims to introduce the inhabitants of the ‘mainland’ to some features of the ‘archipelago’ and inhabitants of the ‘archipelago’ to some features of the ‘mainland.’

Configuring the UN human rights system as ‘mainland’ and ‘archipelago’ raises difficult questions. How to generate suitable initiatives, within agencies, funds, programs and other UN bodies, which may become part of the ‘archipelago’? To what degree, if at all, may the ‘archipelago’ translate the international code of human rights into language, concepts and practices that are meaningful to those working in the ‘archipelago’? What is the appropriate relationship between ‘mainland’ and ‘archipelago’? What working methods does the ‘mainland’

need so it can play a supportive and constructive role in relation to the ‘archipelago’? How to exercise some form of quality control to ensure policy and practice in the ‘archipelago’ is coherent and consistent with international human rights law? These are among the issues that this article begins to address.

Following this Introduction, section II outlines two conceptualizations of the UN human rights system: one is narrow and the other is broad. Section III considers the meaning and implications of human rights implementation and section IV explores mainstreaming, especially in the context of the mandates of the Human Rights Council and the High Commissioner for Human Rights. Section V discusses the implications of the principles of functional decentralization and autonomy upon which the UN is constructed. Section VI outlines the emerging UN human rights ‘archipelago’ and introduces four possible illustrations: International Labour Organization; Human Rights up Front; WHO’s Gender, Equity and Rights Team; and a cluster of initiatives within the Global Fund to Fight AIDS, Tuberculosis and Malaria. Section VII outlines three practical ways to promote the development of the UN human rights system understood as ‘mainland’ and ‘archipelago’. The Conclusion emphasizes the “era of implementation” requires new thinking, strategies and methods.

The UN call to mainstream human rights is not confined to agencies, funds, programs and similar UN bodies, for example, it extends to peace-keeping operations established by the Security Council.⁹ However, this article mainly focuses on the emerging human rights ‘archipelago’ in UN agencies, funds, programs and similar bodies.¹⁰

II. What comprises the UN human rights system?

The UN human rights system is part of the large and complex international human rights regime.¹¹ Some key features of the international human rights regime, such as regional human rights instruments, institutions and processes, fall outside the UN human rights system. Although there is no hard-and-fast definition of the UN human rights system, there are two main views about what it comprises.

The most widely held view is that the UN human rights system consists of the Human Rights Council, treaty-bodies and the High Commissioner for Human Rights, underpinned by OHCHR. To this is sometimes added the General Assembly's Third Committee. When Kofi Annan addressed the Commission on Human Rights in 2005 he referred to "the three central pillars of the United Nations human rights system: the treaty bodies, the Office of the High Commissioner and the inter-governmental machinery."¹² Kevin Boyle also conceived of "a three-limb international human rights protection system" consisting of the Human Rights Council, treaty-bodies and High Commissioner;¹³ although Boyle referred to the "international human rights protection system", the context suggests he was referring to the UN human rights system. A recent OHCHR publication observes that the "UN strives to promote and protect human rights in three basic ways", namely via inter-governmental bodies, such as the Human Rights Council, treaty-bodies and OHCHR.¹⁴ In 2009, Petter Wille wrote that the "main pillars of the United Nations human rights machinery" are the Human Rights Council, treaty-bodies, OHCHR and General Assembly.¹⁵ The proponents of this view of the UN human rights system recognize the importance of other UN bodies for the promotion and protection of human rights. For example, OHCHR explains that it "works closely with UN specialized agencies, funds and programmes . . . to maximize the impact of human rights work".¹⁶ But "work[ing] closely with" is not the same as seeing these bodies as part of the UN human rights system.

In 1992, Philip Alston provided an early intimation of an alternative, more expansive view of the UN human rights system. In *The United Nations and Human Rights: A Critical Appraisal*, he wrote that the international human rights regime “must embrace ... the authentically human rights-conscious UN agencies, such as the International Labour Organisation (ILO) and United Nations Educational, Scientific and Cultural Organization (UNESCO)”.¹⁷ (We can assume that such UN agencies not only form part of the international human rights regime but also the UN human rights system.) Alston conceived of the UN human rights system as including the Commission (as it then was), treaty-bodies and the human rights secretariat, as well as “authentically human rights-conscious UN agencies”. More recently, Rosa Freedman took the same position: she wrote that “the ‘UN Human Rights Machinery’” includes “UN specialised agencies”.¹⁸ In 2014, Dinah Shelton edited *The United Nations System for Protecting Human Rights* which also has a large vision of what constitutes the UN human rights system. In her introductory chapter, Shelton writes: “The United Nations human rights system ... consists of a network of norms addressing rights and obligations, together with institutions and procedures related to the promotion and protection of human rights. Beyond the treaty bodies and UN organs proper, this system embraces UN agencies such as the International Labour Organization, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization.”¹⁹

In short, Annan, Wille, Boyle and OHCHR have a narrower conception of what constitutes the UN human rights system than Alston, Freedman and Shelton. All share much common ground, in particular that the UN system encompasses the Council, treaty-bodies and the High Commissioner for Human Rights, underpinned by OHCHR.²⁰ This common ground is what this article calls the UN human rights ‘mainland’. Alston, Freedman and Shelton agree that

the UN human rights system is not confined to this ‘mainland’ but also encompasses human rights initiatives within agencies, funds, programs and other UN bodies. Scattered across the organization, these human rights initiatives are the UN human rights ‘archipelago’.

In summary, based on Shelton, the United Nations human rights system can be understood as a network of norms which include explicit human rights standards and commitments, combined with institutions, processes and other arrangements, located within the UN, including its agencies, funds, programs and similar bodies, which are closely related to the promotion and protection of human rights. In other words, the UN human rights system consists of the human rights ‘mainland’ *and* ‘archipelago’.

III. What Does "Implementation" Mean?

A year after the Secretary-General’s spoke about the “era of implementation”, the General Assembly adopted the resolution establishing the Human Rights Council and mandating it to promote the “full implementation of human rights obligations undertaken by States and follow-up to the goals and commitments related to the promotion and protection of human rights emanating from United Nations conferences and summits”.²¹

In this new era, what is meant by “full implementation”? Arambulo observes that, in the context of international human rights, ‘implementation’ has acquired the meaning of ‘supervision’ or ‘monitoring’.²² This usage may derive from the early 1950s when the UN Commission on Human Rights spent much time discussing the “measures of implementation” for the draft international covenants on human rights, and the measures in question were varieties of international supervision, such as systems of periodic reporting and petition.²³ After the

Commission agreed supervisory procedures for ICESCR and ICCPR, Alston, Samson, Craven, Simma and others have referred to these international procedures as ‘implementation’.²⁴ This is a very narrow understanding of the word. Arambulo adds that this meaning of ‘implementation’ should not be confused with “implementation at the national level”, such as “policy-making, the adoption of legislative measures and . . . decisions of the national judiciary organs.”²⁵

Implementation may be understood as efforts to administer and action legal and policy directives.²⁶ The term ‘efforts’ includes plans, programs, projects, practices and other interventions or initiatives. The word ‘policy’ implies a reasonably cohesive set of responses (i.e. not a collection of *ad hoc* initiatives) designed to address a long-term purpose or particular problem.²⁷ For example, the purpose or problem might be associated with human rights realization. Thus, in the present context, ‘implementation’ includes laws, regulations, judicial and quasi-judicial decisions, policies, plans, programs, projects, practices and other interventions or initiatives that are designed to ensure the realization of human rights.

A. A Spectrum of Implementation

There is a spectrum of implementation efforts, each becoming more practical and specific in time and place, and “each successively more executive rather than legislative.”²⁸ Legal implementation, such as passing laws and regulations, occupies one part of the implementation spectrum. Highlighting that legal implementation is likely to be necessary but not sufficient, some authors have identified two interrelated dimensions of implementation: laws and the operational delivery of human rights in communities and beyond.²⁹ Similarly, Meier and Onzivu, and Meier and Ayala, refer to the “operationalization” of human rights.³⁰

As already noted, the Human Rights Council's mandate includes the promotion of "full implementation", a formulation which suggests that efforts confined to only one or two bands on the implementation spectrum, such as passing laws and regulations, will not suffice. Logically, a state may have only partially implemented an international human rights law.

B. Compliance

Although implementation and compliance are often conflated they are conceptually distinct. Compliance may be defined as "conformity to rules".³¹ According to Neyer and Wolf, "(a)ssessing compliance is restricted to the description of the discrepancy between the (legal) text of the regulation and the action and behaviors of its addressees."³² Jana von Stein divides compliance into two categories: adherence to rules (first-order compliance) and adherence to rulings of judicial or other bodies (second-order compliance).³³ If compliance is understood in this way, human rights require compliance and implementation. As with implementation, states may be in partial compliance.³⁴

C. Implementation and the UN Agencies: "Principles Into Practicalities"

When Shelton speaks of "UN organs proper" she refers to the six principal organs which are central to the United Nations: the General Assembly, Security Council, Economic and Social Council, Trusteeship Council (now suspended), International Court of Justice and Secretariat.³⁵ Grouped around the UN "proper" are a large number of intergovernmental agencies, funds,

programs and other entities working in a range of economic, social and cultural fields.³⁶ Within their mandates, these organizations provide states with expert policy guidance, technical assistance, capacity building, normative standards, accountability mechanisms and some of them also provide financial help. For example, they may help states deliver health services (e.g. WHO), improve food security (e.g. FAO), provide decent work (e.g. ILO), promote literacy (e.g. UNESCO), and so on. Baehr and Gordenker call these organizations “operational” because, in their fields of expertise, they help states strengthen practical implementation.³⁷ With a few exceptions, most notably the ILO, the organizations do not explicitly and consistently use human rights language and analysis. However, if human rights were effectively mainstreamed into these organizations, they could serve as very powerful engines for the implementation of explicit rights to health, food, work, education and other human rights.³⁸

Since it forms part of the International Bill of Rights, consider Part IV of ICESCR.³⁹ Part IV (Articles 16-25) anticipates two major roles for specialized agencies. First, it gives them a central role in the Covenant’s supervisory process, for example, agencies will report to ECOSOC about the progress made by State parties in relation to the Covenant’s provisions⁴⁰ and also advise on “international measures likely to contribute to the effective progressive implementation of the present Covenant.”⁴¹ Happily, ECOSOC has replaced this Part IV process with an immeasurably better supervisory system (i.e. CESCR and its processes) which is in place today.⁴² Nonetheless, it is instructive that the drafters of the International Bill of Rights gave a central role to specialized agencies in relation to ICESCR.

Also, Part IV of the Covenant includes an important provision which is independent of the now-replaced supervisory process. Article 23 says: “The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the

present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Government concerned.” It is clear from the wording (e.g. “the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance”), and from the context, that article 23 anticipates specialized agencies will take “international action for the achievement of the rights recognized in the ... Covenant”. With a few exceptions, again most notably the ILO, specialized agencies have given little attention to article 23. While the role of specialized agencies in relation to the Part IV supervisory system has been superseded, their role in relation to article 23 has not. Alston observed that the “specialized agencies bring to their role under the Covenant on Economic, Social and Cultural Rights a technical competence and expertise in relevant matters which is unmatched.”⁴³ The abiding challenge is to find effective ways to harness this unrivalled competence and expertise for the “full implementation” of the Covenant.

Wilfred Jenks shed light on the relationship between specialized agencies and human rights implementation. One of the architects of the UN, Jenks attended the San Francisco Conference in 1945, contributed to the drafting of the International Bill of Rights and served as Director-General of the ILO (1970-73). In 1969, he considered “the International Labour Code” i.e. the conventions, recommendations and practice devised by the ILO over several decades. He wrote: “In relation to the Universal Declaration of Human Rights and the United Nations Covenants of Human Rights, the International Labour Code is the bridge from principle to practice”.⁴⁴ He elaborated that the ILO “translates” articles 6-10 of ICESCR “from principles into practicalities.”⁴⁵ Articles 6-10 are on rights to work, rights in work, and some social welfare rights. Jenks concluded that the “result is that the ILO becomes in practice, and is envisaged by

the United Nations Covenant as being, the executing agency of these provisions of the Covenant.”⁴⁶ He added that this could serve as a “prototype” in other fields, such as health, food and education.⁴⁷ Jenks also emphasized the importance of article 23 of ICESCR.⁴⁸ Occasionally, states remind agencies of their human rights responsibilities, for example, Norway recently highlighted that “specialized agencies are also mandated to promote a rights perspective.”⁴⁹

D. Conclusion

If implementation includes laws, regulations, judicial and quasi-judicial decisions, policies, plans, programs, projects, practices and other interventions or initiatives that are designed to ensure the realization of human rights, the UN human rights system, narrowly understood as the ‘mainland’, cannot adequately advance human rights in the “era of implementation”. Much of the spectrum of implementation falls beyond the institutional competence, expertise and capacity of the UN human rights ‘mainland’. For “full implementation”, the ‘mainland’ needs the institutional competence, expertise and capacity of a wide range of agencies, funds, programs and similar UN bodies. ICESCR and other treaties highlight the important role of agencies if international human rights are to be achieved. As Jenks put it, agencies were conceived as having the task of translating human rights “into practicalities”. Describing the Norwegian position, Sjoberg emphasizes “implementation is the responsibility of the UN system as a whole, not just the dedicated human rights institutions.”⁵⁰

In summary, the UN human rights system should be understood as including the ‘mainland’ and an ‘archipelago’ of initiatives in agencies, funds, programs and similar UN bodies which are advancing the “full implementation” of human rights. Both ‘mainland’ and

‘archipelago’ have indispensable roles to play.

IV. Mainstreaming

The spectrum of implementation efforts, signaled in the preceding section, depends upon mainstreaming. It is impossible to implement fully human rights without their effective mainstreaming into law, policy and practice. Effective mainstreaming is a pre-condition for the “full implementation” of human rights. Both the High Commissioner for Human Rights and Human Rights Council are mandated to advance human rights mainstreaming across the United Nations. In other words, Kofi Annan’s “era of implementation” is also the era of mainstreaming.⁵¹

This section provides a critical introduction to UN human rights mainstreaming in general. Building on this platform, section VI examines in more detail how some agencies and other UN bodies have endeavored to mainstream human rights in their activities. The adoption of *Transforming our World: the 2030 Agenda for Sustainable Development*, and the launch of the Sustainable Development Goals in January 2016, have given renewed impetus to human rights mainstreaming in the UN human rights system.⁵²

A. What Does Mainstreaming Mean?

Darrow and Arbour confirm there is no universally agreed definition of mainstreaming.⁵³ They suggest mainstreaming’s “general purpose is usually to bring an important or “cross-cutting” issue from the periphery to the center of policymaking or programming”.⁵⁴ Kedzia advises that

human rights mainstreaming means “the integration of the international human rights standards and methodologies in the work of an organisation.”⁵⁵ McCrudden explains: “By “mainstreaming”, I mean the reorganization, improvement, development and evaluation of policy processes, so that a human rights perspective is incorporated in all policies at all levels and at all stages, by the actors normally involved in policy-making.”⁵⁶ Oberleitner provides a fuller commentary, the core of which is that “human rights norms, standards and principles must be incorporated in decision-making on policies, operational issues and budgets, be made part of an organisation’s bureaucratic process, culture, and be internalised by staff. It means that organisations must operationalise abstract international norms.”⁵⁷ This article favours Oberleitner’s description because it includes bureaucratic processes and also highlights the roles of operationalisation, institutional culture and staff internalisation. However, all of these definitions, when applied to the United Nations, require the OHCHR and Council to reach out beyond the human rights ‘mainland’ and advance the development of an ‘archipelago’ of ‘authentic’ human rights initiatives across the organisation.⁵⁸

B. OHCHR

Adopted in 1993, the General Assembly resolution establishing OHCHR does not mandate the High Commissioner to ‘mainstream’, but to “coordinate”, human rights throughout the United Nations, an important distinction that is discussed in section V.⁵⁹ The High Commissioner’s explicit mandate to mainstream human rights across the United Nations was generated by Kofi Annan’s three major reports on UN reform published between 1997 and 2005.⁶⁰ For example, his third report confirmed that “human rights must be incorporated into decision-making and

discussion throughout the work of the Organisation” and observed that the “concept of ‘mainstreaming’ human rights has gained greater attention in recent years, but it has still not been adequately reflected in key policy and resource decisions.”⁶¹ The Outcome Document of the 2005 World Summit emphasized the commitment of states to “support the further mainstreaming of human rights throughout the United Nations system”.⁶² OHCHR was given responsibility (or co-responsibility with the Council) for driving this immense agenda. Kevin Boyle, senior adviser to Mary Robinson, wrote that mainstreaming was “her most challenging institutional task during her tenure as High Commissioner.”⁶³

Annan’s reforms led to the re-organization of the Secretariat’s work around five substantive fields: peace and security, economic and social affairs, development, humanitarian affairs and human rights. Executive Committees were established in the first four areas, while human rights were designated as cross-cutting. Instead of establishing an Executive Committee for human rights, the OHCHR became a member of each of the four committees in a bid to mainstream human rights into each substantive area.⁶⁴ Subsequently, other inter-agency mechanisms were established, such as the Global Migration Group, in which OHCHR is a key player.⁶⁵ Today, OHCHR leads mainstreaming within the UN secretariat through six work streams, for example, it chairs the UN Development Group’s Human Rights Working Group which seeks to accelerate human rights mainstreaming within the organization’s development work.⁶⁶

C. Human Rights Council⁶⁷

The UN General Assembly resolution establishing the Human Rights Council sets out the

Council's principal mandate in paragraph 3. This paragraph mandates the Council to "address situations of violations of human rights" and "promote the effective coordination and mainstreaming of human rights within the United Nations system".⁶⁸ In other words, human rights mainstreaming is one of the Council's core mandated functions. This is a major departure because human rights mainstreaming was not a priority in the Commission's mandate. In 2007, the Council adopted an institution-building package which laid the foundations for its work, as well as the work of its mechanisms, such as the Universal Periodic Review (UPR).⁶⁹ Remarkably, this important document does not mention the Council's mainstreaming mandate.

In 2011, the Council conducted a five-year review of its work, implicitly recognised that it was not discharging its mainstreaming mandate, and agreed to hold a half-day high-level panel once a year on mainstreaming.⁷⁰ For the most part these annual panels of three hours have been disappointing.⁷¹ Panellists usually have five minutes for opening remarks; states and others may contribute from the floor for two minutes; and panellists may make a few concluding remarks. After researching the panels of 2012-2015, Giannuzzi concludes that the "discussions mostly produce general and rhetorical statements and do not reveal an in-depth analysis of the issue of mainstreaming, the identification of challenges nor a thorough examination of best practices."⁷²

However, the Council has taken some important steps towards mainstreaming, for example it adopted technical guidance on maternal mortality and morbidity (2012), as well as technical guidance on under-five mortality (2014).⁷³ By explaining how human rights can be integrated into specific policies and practices, both sets of guidance are major contributions towards human rights mainstreaming in health. Nonetheless, according to reliable commentators, the Council's mainstreaming record is weaker than the Commission's.⁷⁴ Since the Commission did not prioritise mainstreaming, while the Council's mandate does, this is extraordinary.

Do the Council's 'special procedures' promote mainstreaming? They contribute to part of the implementation spectrum, for example, by critiquing existing policies and programs and recommending new ones. But they are not in a position to contribute to the full band-width of the implementation spectrum. Also, a 'special procedure' is an accountability mechanism and this requires it to remain at arm-length from states and others so that, if necessary, it can report to the Council (and the world) that governmental or other policies are inconsistent with international human rights standards. The promotion of mainstreaming demands a different sort of relationship with states and others; it requires a closer, more collaborative partnership. So a 'special procedure' can help to promote mainstreaming, but to a limited degree, something more is needed.

The relationship between UPR and mainstreaming is more complex. For example, it is necessary to distinguish between (a) civil and political rights, and economic, social and cultural rights, and also between (b) the participation of civilian and military departments.⁷⁵ Both will be briefly considered in turn.

In most countries, ministries of justice and the interior are responsible for law and order, detention, trials and issues around the rights to expression, assembly and association. Moreover, these ministries are usually responsible for the implementation of civil and political rights. Implementation is often problematic, but civil and political rights are already familiar to many ministries of justice and the interior. During UPR, countries under review are often represented by politicians, policy-makers and lawyers from these ministries. In short, the Council routinely engages with those responsible for civil and political rights and, in this way, may help to further implement and mainstream those rights.

But the situation in relation to ESCR is different. By way of illustration, consider the

right to health. When serving as UN Special Rapporteur on the right to health, it was the author's experience that most ministries of justice and the interior had no understanding of the right to health whatsoever. It is unusual for individuals with health expertise to participate in UPR. So it is difficult for the UPR process to promote meaningful implementation and mainstreaming of the right to health with credibility or authority. Flavia Bustreo, WHO Assistant Director-General, recently observed: "from the right to health perspective the UPR mechanism has been of very limited utility because the discussion ... is always focused on civil and political rights".⁷⁶ However, in their recent discussion of UPR, Kate Gilmore and UNFPA colleagues find that sexual and reproductive health and rights (SRHR) "is one of the most frequently cited issues in the UPR process."⁷⁷ The reasons for this require more research. For example, is it because Gilmore and colleagues define SRHR issues as including ratification of some treaties, the lifting of some treaty reservations, gender equality and gender-based violence?⁷⁸ Or are SRHR issues among the most frequently cited in UPR because some of them, such as female genital mutilation, are closely associated with civil and political rights? Or because of the extraordinary work of UNFPA, WHO and many others on SRHR? In any event, in comparison to health-rights generally, the prominent place of SRHR in UPR appears to be exceptional. On the whole, the current UPR practice is better placed to contribute to implementation and mainstreaming of civil and political rights than ESCR.

The preceding remarks address UPR and civil, political, economic, social and cultural rights in relation to civilian departments, such as ministries of justice and the interior. But ministries of defence also have responsibilities for human rights implementation and mainstreaming. For example, the rights of detainees, as well as the prohibition against torture, cruel, inhuman and degrading treatment or punishment, are highly relevant to the work of the

military. Yet it is unusual for representatives of ministries of defence to participate in UPR. This limits UPR's capacity to promote meaningful human rights implementation and mainstreaming in ministries of defence, including the development of a nuanced relationship between international human rights law and international humanitarian law.

In summary, the Council is the United Nations apex political body with specific responsibility for the promotion of human rights mainstreaming. To date it has done little to discharge this responsibility. The General Assembly gave the Council the historic role of providing political leadership for human rights mainstreaming, but it has yet to provide this leadership.

D. Country Selectivity by the Back Door?⁷⁹

The documents that place responsibilities on OHCHR and the Human Rights Council to mainstream human rights do not confine mainstreaming to development cooperation. For example, according to the resolution establishing the Council, it is required to promote “mainstreaming of human rights within the United Nations system”⁸⁰ – it does not add, “in relation to development cooperation”. The UN has the responsibility to provide policy, technical and other guidance for all countries. Moreover, human rights mainstreaming is a challenge for all countries, including high-income countries. However, there is a tendency for human rights mainstreaming to give particular attention to development.⁸¹ For example, in 2003 the UN agencies agreed the *Common Understanding of a Human Rights-based Approach* but it is confined to development cooperation.⁸² If there is a focus on development, high-income countries largely escape attention.⁸³ One reason why the Council replaced the Commission on

Human Rights was to eliminate country selectivity. The Council's key innovation, Universal Periodic Review, was designed to avoid selectivity. Indeed, the resolution establishing the Council requires that its work shall be guided by several principles, including "non-selectivity".⁸⁴ However, if human rights mainstreaming focuses on development, this is country selectivity by the back door, which runs the risk of discrediting both human rights and mainstreaming.

E. Mainstreaming: A Problematic Concept

Charlesworth warns that the "technique of gender mainstreaming has stripped the feminist concept of "gender" of any radical or political potential."⁸⁵ Rather than bringing gender and women from the margins into the mainstream, she favors "[c]hanging the course of the mainstream." Koskenniemi takes an analogous position in relation to human rights mainstreaming.⁸⁶ He warns that there are "many dangers in seeking to transform human rights experts into mainstream administrators."⁸⁷ He argues there is "certainly much to be said in favour of human rights staying *outside regular administrative procedures*, as critics and watchdogs, flagging the interests and preferences of those who are not regularly represented in administrative institutions".⁸⁸ Koskenniemi recalls that human rights "arose from revolution, not from a call for mainstreaming" and the "ethos of revolution" is "opposite to the ethos of mainstream".⁸⁹ McCrudden is concerned that human rights mainstreaming "may become a soft option".⁹⁰ Oberleitner, although in favor of human rights mainstreaming, highlights that it "may transform the simple and powerful message of human rights as a protective and empowering force into mere management tools."⁹¹ While the author was working on this article, a senior diplomat observed that in his department they refer to mainstreaming as a way of "disappearing"

an issue.

There are two main responses to these criticisms and comments. First, human rights have different roles for different actors in different contexts. Human rights may be insurrectional, inspirational, judicial or operational. One group may denounce, another litigate and another operationalize by way of mainstreaming. Mainstreaming does not rule out other human rights roles. As Oberleitner puts it: “The “dispersion of human rights norms into the management of a range of global concerns does not necessarily deny, or take away, their (‘revolutionary’) character as agents of change, but rather allows for tackling the causes and consequences of human rights violations in a more comprehensive way.”⁹²

Second, like most tools, mainstreaming can be applied effectively or ineffectively. Effective human rights mainstreaming is complex, challenging and contextual and will usually be work-in-progress.⁹³ Like human rights implementation, it requires monitoring, review and quality control by suitably designed bodies.

The word ‘mainstreaming’, as an image, is misleading if it conveys the idea of human rights discourse, analysis and concepts flowing into other fields of law, policy and practice.⁹⁴ To mix metaphors, mainstreaming is better understood as a two-way street. For example, human rights mainstreaming requires that those working in the fields of health and human rights listen to, and learn from, each other with a view to enhancing the rights, dignity and well-being of individuals, communities and populations. Without careful attention to health discourse, analysis, concepts and practice, the implementation of the right to health will be still-born. Implying such mutuality, McCosker calls for “practical ‘interoperability’” between international human rights and humanitarian law.⁹⁵ By analogy, mainstreaming requires “practical ‘interoperability’” between human rights and other fields of law, policy and practice. How this can be done without

compromising international and national human rights law is one of the great challenges of human rights mainstreaming. But it can only be achieved by way of respectful dialogue between all those concerned.

F. Conclusion

The “full implementation” of human rights depends upon effective mainstreaming. If human rights are to be mainstreamed within the United Nations, more clarity is needed about what mainstreaming means in this context.⁹⁶ According to their mandates, the mainstreaming responsibilities of the High Commissioner, OHCHR and Human Rights Council are not confined to development.

This article aims to provide neither a comprehensive survey, nor an assessment, of OHCHR’s mainstreaming activities.⁹⁷ However, the author has the impression that the High Commissioner and OHCHR have approached their mainstreaming mandate with vigor and made notable progress, despite major structural and financial constraints.⁹⁸ This contrasts sharply with the mainstreaming record of the Human Rights Council.

Oberleitner reflects that when organisations, in response to the call for mainstreaming, “start producing internal documents - policy briefs, handbooks and guidelines - they contribute, in essence, to human rights standard-setting and to the clarification and interpretation of human rights norms.”⁹⁹ In other words, effective mainstreaming accelerates the development of the UN human rights ‘archipelago’ and challenges the narrow conception of the UN human rights system.

Also, Oberleitner highlights that one of the reasons why human rights mainstreaming is a

challenge is “because it means departing from the 1945 model of splitting up the management of the Global Commons to separate specialised agencies”.¹⁰⁰ This crucial issue is discussed in the next section, before section VI examines in more detail how some agencies and other UN bodies have endeavored to mainstream human rights in their activities.

V. The UN, Functional Decentralization and Autonomy

Beginning in the 1930s, David Mitrany developed an approach to international organization known as functionalism.¹⁰¹ He drew from the work of Leonard Woolf, as well as precedents such as the Universal Postal Union, established in 1875.¹⁰² Mitrany was also inspired by the New Deal public works programmes of US President Franklin Roosevelt, such as the Tennessee Valley Authority, a new institution providing a specific public service and detached from the territorial basis of one state authority.¹⁰³ Engstrom calls Mitrany “one of the key architects of the functional approach to institutions”.¹⁰⁴

Romanian-born, Mitrany was employed by the British Foreign Office during World War II, and he developed the functionalist conception in a number of essays, such as *A Working Peace System*.¹⁰⁵ The “central feature of the functional approach is the creation of international agencies with limited and specific powers defined by the function that they perform.”¹⁰⁶ The aim was to insulate international functional cooperation from security and political disputes between states.

Functionalism shaped the structure of the United Nations.¹⁰⁷ In 1950, Jenk’s contrasted the UN with the League of Nations: “The constitutional arrangements of the United Nations, in

contrast to those of the League, are based on a definite principle of decentralized authority.”¹⁰⁸

This principle has system-wide application: “the architects of the United Nations deliberately based their work on the principle of functional decentralization, both within the central machinery of the United Nations and as the basis of the relations between the United Nations and the specialized agencies.”¹⁰⁹ Contrasting their position with the UN Secretary-General, Jenks observes the executive heads of the specialized agencies “in general, are responsible only to the governing bodies or equivalent organs of their respective organizations.”¹¹⁰ He sums up: “All of the specialized agencies have been designed to play a part in a co-operative scheme ... based essentially on autonomy tempered by common responsibility and organized consultation.”¹¹¹ In the 1970s, Luard adopts the same analysis¹¹² and in the 1990s Samson confirms: “One must bear in mind that the UN system . . . is based on the principle of functional decentralization and autonomy.”¹¹³

According to the Charter, six principal organs are central to the United Nations.¹¹⁴ Article 57 provides that “various specialized agencies, established by inter-governmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health and related fields, shall be brought into relationship with the United Nations”.¹¹⁵ The six principal organs are what Shelton refers to as the “UN organs proper” and, crucially, the agencies are “*brought into relationship with the United Nations*”.¹¹⁶ In other words, the agencies are not “UN organs proper”. As the US Secretary of State put it in his *Report to the President on the Results of the San Francisco Conference* following the negotiation of the Charter of the United Nations: “The design is clear: the specialized agencies are to be accorded the greatest measure of freedom and initiative compatible with purposeful and coordinated action on the part of the General Assembly, the Economic and Social Council and the

agencies and organizations brought into relationship with them.”¹¹⁷ “It will be the function of the Organization”, he added, “to co-ordinate rather than to control.”¹¹⁸

Although they are not specialized agencies, numerous funds (e.g. UNICEF), programs (e.g. UNDP) and other entities (e.g. UNAIDS) are important United Nations organizations. Consistent with functionalism, they have their own governing boards, programs of work and budgets, and enjoy a large measure of autonomy. As Samson explains, the UN system is “characterized by the existence of a series of distinct organizations, each governed by its own constitution, with its distinctive competence, its own organs of government, its own programme, and its own budget.”¹¹⁹ Baehr and Gordenker liken specialized agencies to “fiefdoms”.¹²⁰

Of course, the states operating within these largely autonomous organizations are not above the law. For example, when states’ representatives sit on an agency’s executive board, they remain subject to the international and national law obligations entered into by their states.¹²¹

Luard, Archer and others have critiqued functionalism, for example, they have questioned the assumption that it is possible to separate functional and political issues.¹²² NGOs have questioned the democratic credentials of agencies, while privatization and deregulation have challenged the public sector orientation of the original functionalist scheme.¹²³ Nonetheless, despite major problems and controversies, UN member states appear to see functionalist entities as “valuable instruments” to further their multilateral objectives.¹²⁴

A. Coordination is not Mainstreaming¹²⁵

Functional decentralization and autonomy depend upon effective coordination within the UN. Based on article 63(2) of the Charter, ECOSOC is the main intergovernmental coordination mechanism and the UN Chief Executives Board for Coordination (CEB) - formerly the Administrative Committee on Coordination - is the main bureaucratic coordination device. CEB describes itself as the “longest-standing and highest-level coordination forum of the United Nations system.”¹²⁶ Despite these arrangements, Baehr and Gordenker refer to coordination as “perhaps a hopeless task” because of the UN’s “organizational tangle and interrelated activity”.¹²⁷

The coordination of human rights is layered onto these generic coordination arrangements. As already observed, the General Assembly mandated the High Commissioner to “coordinate” human rights throughout the United Nations in 1993,¹²⁸ and in 2006 it mandated the Council to promote the “coordination and mainstreaming” of human rights throughout the United Nations.¹²⁹

Coordination and mainstreaming are conceptually distinct. Human rights coordination aims to organize the different human rights elements of a complex body, such as the UN, so they work together effectively.¹³⁰ This has a neutral, administrative quality and is consistent with functional decentralization and autonomy. It means that, so far as there are existing human rights initiatives, they should be organised together effectively. On the other hand, human rights mainstreaming may be summarised as “the integration of international human rights standards and methodologies”.¹³¹ This is neither neutral nor purely administrative. It means that, where there are no human rights initiatives, they should be introduced in the relevant organizations. So far as this requirement originates from *outside* the organizations, it goes against the grain of functional decentralization and autonomy.

Effective UN human rights coordination is challenging, but at least the UN structure is designed for it. By contrast, the UN structure is not designed for system-wide mainstreaming mandated by the General Assembly and assigned to the Human Rights Council and High Commissioner for Human Rights. The UN structure of functional decentralization, autonomy and “fiefdoms” makes the introduction of any system-wide initiative, such as mainstreaming, very challenging.

B. Conclusion

While a detailed critique of functionalism is beyond the scope of this article, for present purposes the key point is that the UN is structured around the principles of functional decentralization and autonomy, and strategies to mainstream human rights have to take into account these principles which are woven into the fabric of the United Nations. The UN structure of functional decentralization, autonomy and “fiefdoms” makes the requirement of system-wide mainstreaming very difficult to achieve. If human rights are to become part of the culture of agencies, funds, programs and other UN bodies, human rights have to be ‘owned’ and internalized by each organization: they cannot be successfully introduced from outside. Agencies’ governance bodies have to either drive, or at least approve, human rights mainstreaming. The chief executive of one UN body (i.e. OHCHR) telling twenty-eight chief executives from the other UN bodies that their organizations have to mainstream human rights is unlikely to cut much ice.¹³² Consistent with the principles of functional decentralization and autonomy, it is the organizations’ executive boards, usually controlled by states, which have to be persuaded. Effective and sustained human rights engagement with, and in, agencies, funds,

programs and other UN bodies, will require distinctive strategies and working methods that take account of functional decentralization and autonomy.

The principles of functional decentralization and autonomy are not the only obstacles standing in the way of human rights mainstreaming. Some states are not politically committed to human rights, while others have ideological objections to some categories of human rights. Some obstacles are based on misunderstandings, for example, some stakeholders have grasped neither that international economic, social and cultural rights are subject to progressive realization, nor that progressivity permits prioritization among these human rights, subject to various conditions. Some states and UN staff mistakenly think that mainstreaming will turn all UN officials into human rights enforcers and they are unaware of the growing evidence that integrating human rights into policies and programs contributes to gains for individuals and communities.¹³³

If there is to be effective human rights mainstreaming, these various political, ideological and other obstacles will have to be addressed. However, this section focuses on functional decentralization and autonomy so that suitable strategies and working methods can be devised to navigate these structural constraints to human rights mainstreaming in the United Nations.¹³⁴

VI. The Emerging UN Human Rights Archipelago

Building on Section IV's general introduction to mainstreaming, this section outlines how four organizations or initiatives, which may form part of the emerging UN human rights 'archipelago', are mainstreaming human rights into some of their activities.

In response to Kofi Annan's reforms of 1997-2005, most UN agencies have taken

measures which they regard as human rights mainstreaming initiatives. In 1998, for example, UNDP published *Integrating Human Rights with Sustainable Development*¹³⁵ which became a “landmark document on why and how human rights should guide the policy and practice of organisations other than the core UN human rights institutions.”¹³⁶ Over the years, UNDP has confirmed and developed its approach to human rights. For example, effective from January 2015, UNDP’s *Social and Environmental Standards*, which are authoritative and apply to the organization’s programs and projects, designate human rights as one of three overarching policies and principles.¹³⁷ In 1998, UNICEF published *A Human Rights Conceptual Framework for UNICEF*, an influential policy paper written by Marta Santos Pais, then a member of UNICEF’s senior management.¹³⁸ UNICEF’s mission statement confirms that the organization “is guided by the Convention on the Rights of the Child and strives to establish children’s rights as enduring ethical principles and international standards of behavior towards children.”¹³⁹ Indeed, the Child Rights Convention explicitly gives UNICEF a role.¹⁴⁰ Building on these foundations, UNICEF has used human rights to shape its activities, although some Executive Directors have been notably more enthusiastic than others. Since its early years, UNAIDS has deployed human rights in its work. In 1998, OHCHR and UNAIDS published the pioneering *International Guidelines on HIV/AIDS and Human Rights*, described as “action-oriented measures to be employed by Governments in the area of law, administrative policy and practice that will protect human rights and achieve HIV-related public health goals”.¹⁴¹

Other UN bodies also turned to human rights mainstreaming. In 2008, Oberleitner surveyed a decade of mainstreaming human rights in the UN. Mainly focussing on agencies, funds and programs, he placed organizations in “circles of willingness” depending on the seriousness with which they mainstream human rights.¹⁴² He found that ILO took mainstreaming

most seriously and was the sole occupant of the innermost circle. While distinguishing between them, Oberleitner concluded that UNDP, UNICEF, UNFPA, UNIFEM (as it then was), UNHCR, UNESCO, FAO, WHO and HABITAT “have found different answers to the call for mainstreaming human rights” and he placed them in the second circle.¹⁴³ According to Oberleitner, their “different answers” included realigning their mandates along human rights lines; revisiting the part of their mandate which deals with human rights in light of the demands of mainstreaming; rediscovering that their roots are in human rights; and putting their ‘technical’ expertise at the disposal of human rights bodies.¹⁴⁴ This raises a number of important issues, not least how to assess the adequacy of initiatives that purport to be human rights initiatives.¹⁴⁵ The World Bank and IMF were in the third circle, the World Trade Organisation was in the fourth, and the fifth was occupied by the International Telecommunication Union, World Intellectual Property Organisation and the UN Conference on Trade and Development, where the Secretary-General’s call for mainstreaming “had not yet found resonance apart from evoking half-hearted rhetoric commitments (if any).”¹⁴⁶

Although an updated version of Oberleitner’s survey is urgently needed, it is clear from his work, as well as Section IV of this article, that there are numerous organizations or initiatives, lying beyond the UN human rights ‘mainland’, which may form part of the emerging human rights ‘archipelago’.¹⁴⁷ By way of illustration, this section introduces four of them. They are not ‘models’ but diverse illustrations of what the ‘archipelago’ might include. Due to space constraints, other instructive examples have been omitted, such as the UN Development Group’s Human Rights Working Group.¹⁴⁸

The ILO is chosen because it is a major specialized agency with the longest record of serious human rights engagement. Human Rights up Front is included because, although it lies

beyond the ‘mainland’, it is not part of an agency, fund or program, but located within the Office of the UN Secretary-General in New York. WHO’s Gender, Equity and Rights Team is selected because it is a fledgling initiative of a major agency which, throughout most of its history, has had a fraught relationship with human rights. Lastly, a cluster of human rights initiatives within the Global Fund to Fight AIDS, Tuberculosis and Malaria is included for a number of reasons, not least because one of the initiatives is an independent human rights complaints mechanism.

Importantly, the assessments made here are only preliminary and provisional, they are neither comprehensive nor definitive. Criteria still have to be developed for an authoritative assessment of whether or not an organization or initiative is ‘authentic’ from the human rights perspective.¹⁴⁹ Also, the illustrations do not include an evaluation of the impact of the organizations or initiatives.¹⁵⁰

A. International Labour Organization

The ILO is the most obvious candidate to be part of the UN human rights ‘archipelago’.

Oberleitner observes that the “the ILO, in a sense, paved the way for the creation of the UN human rights regime [and this] puts it in a different category from other UN institutions.”¹⁵¹ As already noted, Wilfred Jenks, Director-General of the ILO in the 1970s, saw the ILO as “the executing agency” of several provisions of the International Bill of Rights.¹⁵² In 1992, Virginia Leary wrote that the ILO “has the most highly developed intergovernmental system for the protection of human rights, but scholars and activists conversant with the human rights activities of the UN remain surprisingly ill-informed concerning its work.”¹⁵³ Both aspects of this statement probably remain valid today. Leary argued that the ILO “has made a major

contribution to theory and practice by its ‘holistic’ or integrated approach to human rights.”¹⁵⁴ In 2013, Lee Swepston agreed with much of Leary’s assessment but took the (surprising) view that it was not until the 1990s that “the ILO moved firmly into the human rights arena when it adopted the Declaration of Fundamental Principles and Rights to Work”.¹⁵⁵ The ILO has nearly 200 Conventions and an equal number of Recommendations, many of them detailed and practical, on a wide range of labor and social issues. The Organization has designated eight of these Conventions as its core human rights instruments on issues such as forced labor, freedom of association, equal pay and child labor.¹⁵⁶ Beyond these core human rights ILO Conventions, there are many others with substantive human rights content, such as ILO Convention No. 169 on the rights of indigenous and tribal peoples.¹⁵⁷ In short, the ILO definitely contributes to human rights standard-setting.

The Organization has several accountability mechanisms, such as its Committee of Experts on the Application of Conventions and Recommendations, consisting of twenty independent experts. Committee members routinely consider States’ reports, as well as the comments of national employers’ and workers’ organizations, with explicit human rights content.¹⁵⁸ The ILO also has a complaints procedure for alleged violations of freedom of association.¹⁵⁹ As for human rights implementation, one of the key functions of the ILO is to help States, by way of technical assistance (e.g. training, draft legislation and employment policy), to implement the Conventions and Recommendations, including those with explicit human rights content.

Oberleitner concludes that, while ILO has a unique tripartite structure of governments, employers’ organizations and workers’ organizations which cannot easily be replicated, it provides “important lessons on mainstreaming human rights in international organisations:

detailed legal obligations together with a multi-faceted supervisory system and a targeted programme of technical assistance; engagement of non-State actors; systematic, regular and consistent supervision of obligations; and a holistic approach which avoids a clear-cut separation between civil-political and socio-economic rights that are likely ingredients for success.”¹⁶⁰

In these circumstances, there are compelling reasons to regard the ILO as part of the UN human rights ‘archipelago’.

B. Human Rights up Front

The Human Rights up Front (HRuF) initiative was launched by the UN Secretary-General in 2013.¹⁶¹ The catalyst for HRuF was the Petrie report commissioned by the Secretary-General which assessed the UN’s response to the final months of the 2009 war in Sri Lanka.¹⁶² In a stinging analysis, Petrie found “a continued reluctance among [UN Country Team] institutions to stand up for the rights of the people they were mandated to assist.”¹⁶³ The report concluded that the UN’s “systemic failure” had seven elements, one of which was “a UN system that lacked an adequate and shared sense of responsibility for human rights violations”.¹⁶⁴ Although this report was the trigger for HRuF, the initiative’s origins may also be traced to the UN failures in relation to the Rwandan genocide and Srebrenica massacre.

From the outset, HRuF “focused primarily on the UN Secretariat, Agencies, Funds and Programmes - and what each can do to improve the UN’s collective response to future risks of serious violations of human rights.”¹⁶⁵ The Secretary-General developed a 10-page plan of action for the initiative which begins:

The Secretary-General will re-commit to the UN's responsibilities with respect to preventing and responding to serious violations of international human rights and humanitarian law, including the responsibilities of UN entities and staff members. The commitment will be grounded in international law, particularly the UN Charter and UN resolutions, and include a commitment to systematically gather information on violations of international human rights and humanitarian law and to present it to Member States with full impartiality.¹⁶⁶

Major themes in the action plan include UN entities' engagement with States and other "influential stakeholders, including from civil society";¹⁶⁷ human rights capacity building;¹⁶⁸ and information management systems on violations of human rights and humanitarian law.¹⁶⁹ Senior management will have "leadership obligations to defend and promote human rights"¹⁷⁰ and all "UN entities will use existing tools to hold accountable staff, particularly those in the most senior positions, for fulfilling their responsibilities with respect to serious violations of international human rights and humanitarian law."¹⁷¹ The plan anticipates a significant role for OHCHR, for example, the Office "will coordinate the development of a mandatory induction for UN staff at all levels, up to and including the Under Secretary-General level, on the UN's human rights responsibilities".¹⁷² Since the plan's adoption, the Secretary-General has emphasised that HRuF "should lead to the prevention of human rights violations."¹⁷³ In 2016, when discussing with the General Assembly, the Deputy Secretary-General emphasised: "Prevention is the fundamental premise and vocation of Human Rights up Front."¹⁷⁴ Located in the Office of the Secretary-General, two or three staff are responsible for driving HRuF's plan of action.

In her brief assessment of the plan of action, Kristen Boon highlighted some omissions, for example, its silence on the initiative's relationship with the responsibility to protect. Nonetheless, she formed the view that the plan "represents an important step forward for human rights at the UN."¹⁷⁵ In 2014, the International Coalition for the Responsibility to Protect

concluded that HRuF is “a promising initiative” although “implementation has been chequered so far.”¹⁷⁶ In a recent independent assessment, Gerrit Kurtz found the “initiative has had a promising start, but ... must overcome agency competition, reconcile differences in institutional cultures and involve constructive member states more closely.”¹⁷⁷

In 2016, Ambassador Choi Kyong-Lim, President of the UN Human Rights Council, wrote it is “important, in my opinion, for the Council to lend its full support to the Secretary-General’s ‘Human Rights up Front’ action plan”.¹⁷⁸

In conclusion, HRuF is designed explicitly to prevent, and respond to, serious violations of international human rights and humanitarian law, and to strengthen the UN’s internal accountability of human rights. An initiative of Secretary-General Ban Ki-moon and supported by a small secretariat situated in his Office, a key issue for the future will be the level of support provided by the next Secretary-General. However, for the time being there is a *prima facie* case that HRuF is part of the emerging UN human rights ‘archipelago’.

C. WHO’s Gender, Equity and Rights Team

Benjamin Meier and his colleagues provide important insights into human rights mainstreaming in WHO since 1948.¹⁷⁹ The fortunes of human rights, which have ebbed and flowed as Director-Generals have come and gone, will not be summarized here.¹⁸⁰ When the author served as the UN Special Rapporteur on the right to health (2002-2008), he found that human rights in WHO remained marginal and contested, despite the remarkable efforts of a small handful of highly committed officials.

The current Director-General, Margaret Chan, has made major changes to human rights

mainstreaming in WHO. First and foremost, she has linked human rights with equity, gender and social determinants and required them to be mainstreamed together across the Organization.¹⁸¹ A Gender, Equity and Rights (GER) team was launched at the World Health Assembly in 2012. Located within the Family, Women's and Children's Health cluster, the GER team spearheads the mainstreaming of gender, equity and human rights in headquarters, six regional offices and country teams: this is an extremely challenging undertaking.¹⁸² The team works closely with a separate unit on social determinants of health. At headquarters, the team comprises a Team Leader and three technical officers, one for each of gender, equity and human rights. In regions and countries, the work is usually managed by staff on a part-time basis. The GER team fosters, and relies very heavily upon, collaborative departmental networks across the Organization.¹⁸³

WHO has adopted a *Roadmap for action: Integrating equity, gender, human rights and social determinants into the work of WHO (2014-19)*.¹⁸⁴ Aligned with WHO's existing priorities, such as universal health coverage and non-communicable diseases, the *Roadmap* has three main pillars: institutional and programmatic mainstreaming (i.e. "the transformation of an organizational culture from within"),¹⁸⁵ health inequality monitoring and data disaggregation, and country support for mainstreaming. In its work, the GER team explicitly draws from international human rights treaties and UN human rights treaty-bodies, such as CESCR's General Comment 14 on the right to health.¹⁸⁶

The team has recently published its report on its activities during 2014-15 and recounts achievements in headquarters, the regions and countries.¹⁸⁷ It is possible to neither summarize nor evaluate these achievements here, but they include the integration of GER perspectives in the WHO programme budget for 2016-2017, placing GER in mandatory induction for all new staff in headquarters, contributing to the delivery of a Health Equity and Human Rights course in

Cairo for participants from WHO's Eastern Mediterranean Region, technical support for deepening human rights content in several national health policies, and publication of *Anchoring universal health coverage in the right to health*.¹⁸⁸ As the report puts it: "Institutional mainstreaming mechanisms, capacity building and direct country support are the hallmarks of mainstreaming advances in the 2014-2015 biennium."¹⁸⁹

Linking human rights, equity, social determinants and gender is controversial. Meier and Onzivu have reported that "the integration of human rights among normative frameworks for gender and equity has been viewed by critics within and outside WHO as diminishing the role of international human rights law as a basis for global health governance."¹⁹⁰ Their concern is that integrating a legal framework (i.e. international human rights law) with non-legal frameworks (i.e. gender and equity) diminishes the legal status of international human rights. On the other hand, equity, social determinants and gender have much greater currency, within global health, than human rights. Thus, linking human rights, equity, social determinants and gender can be seen as either a devious device to diminish binding international human rights law, or a shrewd strategy by which equity, social determinants and gender provide a vehicle for effective human rights implementation in the health sector. It is too early to assess which view is more accurate. More evidence is needed.

Of course, the team's claims about its activities in 2014-15 need careful scrutiny. However, the GER initiative appears to be making a contribution to human rights mainstreaming in WHO. It uses explicit human rights language and analysis, has staff and resources (albeit too few), is delivering some human rights activities, and enjoys a degree of high-level support within the Organisation. On the other hand, WHO does not yet have a formal human rights policy, in contrast to some of its regional offices, such as PAHO.¹⁹¹ Nonetheless, there is a *prima facie*

case that the GER initiative is part of the emerging UN human rights ‘archipelago’.

D. The Global Fund to Fight AIDS, Tuberculosis and Malaria (‘Global Fund’)

Although the Global Fund is not formally part of the UN, it is briefly included here because it is a partnership and financing mechanism that implements UN technical guidance on the three diseases, UN bodies are represented in its governance structures, it works closely with UNAIDS, WHO, UNDP and World Bank at the operational level, and it has recently established an independent human rights complaints process which explicitly includes UN human rights mechanisms.¹⁹²

The Global Fund was established in 2002 with the mission of directing resources to countries to support their response to AIDS, tuberculosis and malaria. In 2013, it was the main multilateral funder of health programs, investing in more than 140 countries and disbursing between two and three billion US dollars a year.¹⁹³ The Fund’s Board is composed of representatives from donor and implementing governments, UN bodies, civil society in both developed and developing countries, the private sector, private foundations, and affected communities. Human rights advocates and members of communities living with and affected by HIV and TB became alarmed that some programs supported by the Global Fund were violating human rights.¹⁹⁴ The Board adopted a new strategy for 2012-2016 with five objectives, one of which is to protect and promote human rights through three strategic actions: to ensure that the Fund does not support programs that infringe human rights; to integrate human rights considerations, including non-discrimination, gender equality, participation, transparency and accountability, throughout the grant cycle; and to increase investment in programs that address

rights-related barriers to access, including those relating to gender inequality.¹⁹⁵

Steps were taken to ensure delivery of these actions, for example, human rights staff were appointed, an Human Rights Reference Group to provide expert guidance was established, staff were trained in human rights, the Board's strategy committee approved a process to put the human rights strategy into practice, briefings for applicants were prepared,¹⁹⁶ and human rights grants have been made.¹⁹⁷ In November 2015, for example, the Fund made a US\$10.5 million grant to address human rights barriers faced by vulnerable communities, and to facilitate access to healthcare, in ten African countries.¹⁹⁸

The Global Fund has a grant agreement which establishes its expectations for all the programs it supports. Five minimum human rights standards are now part of the grant agreement: non-discriminatory access to services for all, including people in detention; employ only scientifically sound and approved medicines or medical practices; do not employ methods that constitute torture or that are cruel, inhuman or degrading; respect and protect informed consent, confidentiality and the right to privacy concerning medical testing, treatment or health services rendered; and avoid medical detention and involuntary isolation, which, consistent with the relevant guidance published by the World Health Organization, are to be used only as a last resort.¹⁹⁹

In November 2014, as part of the roll-out of the new provisions in the grant agreement, the Fund decided to establish a human rights complaints procedure, building on existing whistleblowing procedures for fraud and corruption.²⁰⁰ If someone believes that they have either experienced or witnessed a violation of any of these five human rights standards in a Global Fund-financed program, he or she can file a complaint with the Fund's Office of the Inspector General (OIG).²⁰¹ The OIG is independent of the Fund's secretariat and accountable to the

Board. An organization may file a complaint on behalf of an individual or group that is directly affected, provided it has a letter of authorization.²⁰² The OIG's investigations may include conducting witness interviews and collecting documentation and other evidence.²⁰³ "In interpreting the results of the investigation and assessing whether there has been a violation of the relevant human rights standard, the OIG will be guided by international human rights law."²⁰⁴ If the investigation finds a failure to comply with the minimum human rights standards this may lead to follow-up actions, such as discussing with senior government leaders, technical assistance and issuing a public statement.²⁰⁵ A "material breach"²⁰⁶ can trigger the remedies set out in the grant agreement, for example, as a last resort, the Fund may "decide to restrict the use of Grant Funds to finance non-compliant Program Activities."²⁰⁷ No part of the UN human rights 'mainland' has at its disposal a comparable financial sanction when a duty-bearer fails to comply with international human rights standards. If the OIG finds a complaint is eligible for investigation, but it is not feasible for the Office to take further action, for example, for security reasons, the Office may, with the consent of the complainant, share the information "with the relevant UN human rights mechanisms (such as the UN Special Rapporteur on the Right to Health)".²⁰⁸ According to a report submitted to the Global Fund Board in November 2015, in the first six months of 2015, nine human rights-related complaints were raised, three of which were being investigated under the new human rights complaints procedure. The remaining six were being considered through other OIG procedures because they did not meet the complaints procedure's eligibility criteria.²⁰⁹

In recent years the Global Fund has adopted a strategy prioritizing human rights, appointed a small human rights team, explicitly placed some human rights into its grant agreement, and established an independent human rights complaints process. There is a *prima*

facie case that the Global Fund’s cluster of human rights initiatives is *de facto* part of the emerging UN human rights ‘archipelago’.

E. Conclusion

None of the four organizations or initiatives considered here falls within the narrow conception of the UN human rights system.²¹⁰ Yet they are all using explicit human rights language in pursuit of one or more of the objectives associated with human rights in the United Nations: human rights standard-setting; responding to, and preventing, human rights violations; human rights implementation, including mainstreaming; or accountability for human rights. Their human rights work appears to be neither slight nor rhetorical. They have resources, although very few,²¹¹ and political support. Those that are part of a larger organization are integral to it, they are not ‘flying below the radar’. Each is part of the UN ‘family’, with the possible exception of the Global Fund. If an unpaid Special Rapporteur, supported by an OHCHR member of staff, is part of the UN human rights system, it is unclear why the four organizations or initiatives may not also be part of the UN human rights system. In short, the emergence of the ‘archipelago’ means the narrow conception of the UN human rights system has been overtaken by practice and is now outdated.

Jenks envisaged UN bodies, such as ILO, have the responsibility to translate human rights “from principles into practicalities”.²¹² This is what the four organizations or initiatives are endeavoring to do in their different activities and spheres of influence. They are often aiming to make human rights standards more operational, a process which usually requires a degree of specialist competence and expertise. In other words, most of their work is towards the executive

end of the implementation spectrum.²¹³

A common feature of all four illustrations is that they are helping to mainstream and internalize human rights standards in their organizations or sectors, such as the UN secretariat (via HRuF), WHO (via GER), and the Global Fund (via its cluster of human rights initiatives). Consistent with the principles of functional decentralization and autonomy, they are doing this from *within* their respective organizations.²¹⁴

The four organizations and initiatives give rise to serious questions. For example, is it realistic to expect two or three staff to drive such an important and ambitious initiative as HRuF? Effective mainstreaming requires a balance between bureaucratization and practical genuine implementation: is GER striking the right balance? The Global Fund's human rights complaints procedure is grounded on five minimum human rights standards, what about the other legally binding international and national human rights standards?

However, neither is the 'mainland' free from serious questions from the human rights perspective. Why did the Council do so little to deliver its core mainstreaming mandate in its first decade? If a treaty-body considers a country for six hours once every five years, and it has ten key articles to review, one of which is the right to health, and it devotes roughly equal time to each article, this means it has 36 minutes every five years to consider a country's entire right to health record – is this credible?²¹⁵ Current members of CESCR are highly eminent in their fields of expertise, most are exceptionally experienced lawyers and none has a qualification in health²¹⁶ - does this diminish CESCR's authority among health professions, just as an oversight body of the right to a fair trial might be diminished among lawyers if the body consists of dermatologists and dentists?²¹⁷

In summary, this section is not arguing that the four organizations and initiatives are

adequate or satisfactory from the human rights perspective, it is suggesting that, on the basis of a preliminary and provisional assessment, they appear to have reached a minimum human rights threshold and may be regarded as part of the emerging UN human rights ‘archipelago’. Not all UN human rights initiatives merit such a cautiously positive assessment, for example, Barrett and Nowak have argued convincingly that “human rights have received little more than lip service in the UN drug control system” which includes the UN Commission on Narcotic Drugs, International Narcotics Control Board and UN Office on Drugs and Crime.²¹⁸

Finally, the emerging UN human rights ‘archipelago’ raises issues of quality control and coherence. What can be done to help agencies ensure their human rights initiatives are consistent with international human rights standards? Cali, McGregor and Radicic observe that “a major concern for international human rights law is how to master the exponential growth in international human rights standards and norms, jurisprudence, actors and institutions, often with competing or nuanced differences in their articulation and interpretation of the law.”²¹⁹ They warn this growth “leads to internal fragmentation and the increasing emergence of sub-communities” specialized in particular areas of international human rights law,²²⁰ and they conclude that “internal fragmentation raises serious questions about the coherence and unity of international human rights law”.²²¹ With these important points in mind, the next section includes a way to promote quality control (or ‘authenticity’) and coherence in the emerging UN human rights ‘archipelago’.

VII. Ways Forward

In the “era of implementation”, a key challenge is to accelerate the emergence of the human right ‘archipelago’ by internalizing or indigenizing human rights within all agencies, funds, programs and other UN bodies, subject to suitable quality control. This requires the international human rights community to give much more serious and sustained attention to what lies *beyond* the ‘mainland’. States supportive of mainstreaming, institutions in the ‘mainland’, civil society groups, experts, activists and scholars will have to give a higher priority to the executive boards and assemblies of agencies and similar UN bodies, while also working closely with chief executives and senior management. In many of these bodies, it will be difficult, and take time, to indigenize human rights.²²²

Given functional decentralization and autonomy, inhabitants of the UN human rights ‘mainland’ will need to be sensitive to the cultures, concepts, institutions and procedures of agencies and other UN bodies, and forge constructive relationships with the ‘archipelago’. They will have to engage in “practical ‘interoperability’” i.e. listen to, and learn from, other fields, without compromising international and national human rights law.²²³ When appropriate, the ‘mainland’ should welcome, encourage, foster, support and scrutinize the ‘archipelago’. The ‘mainland’ is not diminished by the ‘archipelago’, on the contrary, the ‘archipelago’ is a measure of the ‘mainland’s’ success.

Human rights mainstreaming within the United Nations cannot be dissociated from human rights mainstreaming within governments. The governance structures of agencies, funds, programs and other UN bodies vary but, to one degree or another, they are controlled by states. There can be no meaningful mainstreaming in agencies without a greenlight from at least some states. State delegates sitting on agencies’ governance bodies are often from ministries in capitals, such as education, housing and health. These delegates may hesitate to approve

effective human rights mainstreaming in an agency unless there is at least some familiarity with, and support for, human rights within their national ministries. This has far-reaching implications. States will have to take steps to dismantle national silos and ensure their delegates in the ‘mainland’, and their delegates in agencies, adopt consistent positions on human rights. Tackling ‘disconnected’ government is difficult and has major implications for national ministries, national human rights institutions, and civil society in countries.

Numerous steps are needed to advance implementation, mainstreaming and the development of the UN human rights ‘archipelago’. This article does not attempt to outline a strategy for addressing all these complex issues. Instead, it outlines three ways to advance this agenda, beginning with the working methods of the Human Rights Council.

A. New Working Methods for the Council

During the “era of declaration”, the UN human rights ‘mainland’ negotiated an extensive international human rights code of numerous treaties, declarations, guidelines and other instruments. By a remarkable feat of imagination, it also designed a number of mechanisms to hold states accountable for their obligations arising from the international human rights code. Today, in the Human Rights Council, these accountability mechanisms include the confidential complaints procedure, country and thematic ‘special procedures’, Universal Periodic Review and commissions of inquiry. Among treaty-bodies, the accountability mechanisms include periodic reporting, complaints procedures, inquiries and unrestricted visits to places where persons are deprived of their liberty. These international accountability mechanisms were established despite the principle of state sovereignty and article 2(7) UN Charter. Although the code is not

comprehensive and its accountability mechanisms are deeply flawed, they have been described as “monumental achievements”.²²⁴

The working methods inherited by the Human Rights Council in 2006 were designed for the “era of declaration”, for example, working groups for drafting instruments and the confidential complaints procedure and ‘special procedures’ for holding states accountable. In addition, the Council was given two new accountability mechanisms, Universal Periodic Review and commissions of inquiry. These working methods can only partly contribute to the promotion of the “full implementation” and mainstreaming of human rights.²²⁵ Also, the Council’s working methods are more effective for the implementation and mainstreaming of civil and political rights than they are for ESCR.²²⁶

The UN human rights ‘mainland’ urgently needs new and effective working methods that are designed for the “era of implementation”. One possibility is outlined in the next paragraphs.

B. Inter-sessional Human Rights Council Mainstreaming Working Group

Just as the Commission on Human Rights had to imagine and establish working methods for holding states accountable, today the Council has to imagine and establish effective working methods for its implementation and mainstreaming mandates. The challenges faced by the Commission in the “era of declaration”, and by the Council in the “era of implementation”, are of comparable importance and magnitude.

Whatever form the new working methods might take, the Council needs to establish a supportive, collaborative process with five features:

1. Out-reach to UN agencies' governing bodies and senior management i.e. the process cannot be confined to the Palais des Nations;
2. Led by two or three Ambassadors on behalf of the Council;
3. Include two or three senior national policy-makers, such as a minister of education, housing or health;
4. Co-opt two or three independent experts;
5. Have continuity so it can support UN bodies as they devise and rollout appropriate ways to implement and mainstream human rights in their organizations.

By way of illustration, one approach might be an inter-sessional Human Rights Council Mainstreaming Working Group with these five features. If invited, the Working Group would attend a UN agency, such as one of its governing bodies, report on developments in the Council which relate to the agency's work, and also learn about the agency's implementation and mainstreaming achievements, challenges and next steps. In this way, the Working Group would discuss, and provide support to, the human rights mainstreaming units which several UN agencies have already established. Because agencies have universal membership, this approach is consistent with the Council's principle of non-selectivity.²²⁷

The Working Group's composition could be adjusted depending upon the agency in question. For example, if invited to discuss human rights implementation and mainstreaming with the WHO Executive Board, or World Health Assembly, the Working Group might wish to include one or two ministers of health among its membership. If invited to discuss with a governing body of FAO, the Working Group might adjust its composition. Crucially, the Working Group would complement and support the technical expertise on implementation and mainstreaming already provided by OHCHR and the secretariat in other agencies. One of its

responsibilities would be to promote the coherent and consistent application of international human rights, as well as the formulation of ‘authentic’ human rights initiatives, across the ‘archipelago’.²²⁸

The Working Group is an illustrative method for the promotion of implementation and mainstreaming. Whether or not it is the best way forward, the Council needs some sort of purposive, practical, targeted and sustained process which collaboratively engages with UN agencies’ governing bodies and staff, with a view to the promotion of the “full implementation” and mainstreaming of human rights. Presently, the Council has over 40 thematic special procedures with the primary task of holding states accountable.²²⁹ It needs at least one effective method specifically designed for “full implementation” and mainstreaming in the emerging ‘archipelago’. In this way, the Council can begin to provide the political leadership for implementation and mainstreaming which the General Assembly called for in 2006.

C. Quality Control, Authenticity, and Coherence

Just because a UN agency calls an initiative a ‘human rights’ initiative does not mean it is. Alston highlights this possibility when he refers to “authentically human rights-conscious” organizations,²³⁰ a reminder that the human rights claims of some organizations might be inauthentic. In a related context, Alston warns against “epistemological misappropriation” when “the discourse of international human rights law” is used “to describe an agenda which has a fundamentally different ideological underpinning.”²³¹ In short, human rights implementation, mainstreaming and the ‘archipelago’ need to be subject to some form of quality control. Criteria are needed to decide whether or not the organization or initiative can properly be regarded as

‘authentic’ from the human rights perspective.

In this context, it is necessary to distinguish two questions. One, what criteria should be used to assess whether or not an organisation or initiative is ‘authentic’ from the human rights perspective? Two, how effective is the human rights organisation or initiative i.e. what is its impact? Although both questions are important, this section focusses on the first.

When assessing whether or not an initiative is ‘authentic’ from a human rights perspective, and thus might form part of the UN human rights ‘archipelago’, three steps are suggested.

First, does the initiative contribute to human rights standard-setting; responding to, and preventing, human rights violations; human rights implementation, including mainstreaming; or accountability for human rights? These are among the key objectives of the UN human rights ‘mainland’ and it is logical that a putative human rights initiative should contribute to at least one of them, subject to an important condition: the human rights element must be explicit. For example, an initiative that contributes to human rights implementation, but not human rights standard-setting, might be ‘authentic’, provided the implementation explicitly uses human rights language and analysis.

The reference to “human rights standard-setting” requires clarification. It is not the responsibility of the ‘archipelago’ to create *new* human rights: this remains the responsibility of appropriate bodies in the ‘mainland’ in accordance with suitable processes.²³² However, as already discussed, agencies and similar UN bodies have unmatched competence and expertise to translate existing human rights into practice, including by way of detailed, specific, operational guidelines, such as the “action-oriented” *International Guidelines on HIV/AIDS and Human Rights* published by OHCHR and UNAIDS.²³³ The reference to “human rights standard-setting”

in the previous paragraph alludes to operational standard-setting derived from existing human rights norms.

Second, is the initiative consistent with the *Common Understanding of a Human Rights-based Approach to Development Cooperation* which was agreed among UN agencies in 2003?²³⁴ Although the focus of the *Understanding* is development cooperation, and human rights mainstreaming is not confined to development,²³⁵ the principles identified in the *Understanding* have wider application. In brief, the *Understanding* advises that relevant programmes, policies and technical assistance should (a) further the realisation of international human rights, (b) guide all programming, and (c) contribute to the development of the capacities of duty-bearers to meet their obligations and/or rights-holders to claim their rights.

Third, more specifically and practically, it is suggested that an ‘authentic’ human rights initiative will usually be evidenced by:

- Human rights leadership from senior officers in the relevant organisation e.g. public statements, in support of human rights, by the chief executive.
- A human rights policy adopted by a high-level body within the relevant organisation.
- The integration of this high-level policy into all phases of programming.
- Adequate resources to support the human rights initiative, including staff.
- Constructive engagement with international and national human rights bodies, such as Human Rights Council, treaty-bodies, national human rights institutions and civil society organizations.
- A periodic independent review of the mainstreaming initiative (e.g. by a UN Special Rapporteur or other suitably qualified independent person or entity), reporting to an

appropriate political body (e.g. executive board of the organisation responsible for the initiative and/or Human Rights Council); independent review is needed to help ensure the initiative appropriately applies human rights standards.

- From the outset, multi-disciplinary and multi-method evaluation to capture the impact (or effectiveness) of the mainstreaming initiative.

Human rights mainstreaming is usually work-in-progress. It is likely to be rolled-out progressively, gradually encompassing additional programs and projects. Even if mainstreaming is not yet agency-wide, the agency may nevertheless have some initiatives that are ‘authentic’ from a human rights perspective. Large organizations are rarely homogenous. WHO, for example, consists of its headquarters in Geneva, six largely autonomous Regional Offices, and more than 100 country teams. Consequently, one may decline to call WHO a human rights organization, but content to regard *some* of its initiatives as ‘authentic’ from the human rights perspective,²³⁶ and therefore willing to regard these initiatives, rather than WHO as a whole, part of the UN human rights ‘archipelago’. Exceptionally, human rights may be so comprehensively and effectively embedded throughout an organization that it is credible to regard it as a human rights organization. The ILO may be such an exception.²³⁷

D. Research and Guidance

There is a need for research and guidance to support human rights mainstreaming in the United Nations, including the following.

One, a mapping of the United Nations system to identify existing human rights initiatives that may form part of the ‘archipelago’.

Two, in his research on the United Nations, Oberleitner found “the results of mainstreaming human rights are uneven, ill explored and the whole process is still little understood”.²³⁸ He concluded there is “a number of mutually beneficial consequences of mainstreaming human rights.”²³⁹ He cautioned “that this judgement rests to a large extent on the self-assessment of a small number of organisations rather than on a thorough external review based on sound empirical methodology”²⁴⁰ and so he emphasised that his positive assessment “will have to be scrutinised more scrupulously.”²⁴¹ In short, studies are needed to assess the impact of existing UN human rights mainstreaming initiatives.

Three, if human rights are to be mainstreamed within the United Nations, there has to be conceptual clarity about what human rights mainstreaming is understood to mean in this context. A study is needed on the main alternative definitions, the pros and cons of each, and a recommended conception of mainstreaming.

Four, building on this conceptual foundation, a practical framework for human rights mainstreaming in the United Nations would be very useful. Agreed in 2003, the *Common Understanding of a Human Rights-based Approach to Development Cooperation* was designed to advance mainstreaming.²⁴² Since the *Understanding's* adoption, the UN has gained considerable experience in human rights mainstreaming. Also, the focus of the *Understanding* is development cooperation, and human rights mainstreaming is not confined to development.²⁴³ For both reasons, it is timely to adopt a new *Understanding* which would provide agencies and other UN bodies with a practical framework for human rights mainstreaming in their work. Based on this new generic framework, individual agencies may develop, in collaboration with OHCHR, their own more detailed mainstreaming requirements as they integrate human rights in their organizations. Some agencies have already taken steps in this direction.²⁴⁴

Five, criteria are needed to assess whether or not human rights initiatives undertaken by agencies and other UN bodies are ‘authentic’ from the human rights perspective. This section outlines one approach to this issue of quality control.²⁴⁵

Finally, the focus of the second recommendation is assessment of the impact of United Nations human rights mainstreaming initiatives. However, more generally speaking, there is an urgent need to deepen research on, and evaluation of, the impact of human rights-shaped initiatives on individuals, communities and populations. Today, there is a scarcity of such research and evaluation.²⁴⁶ In the “era of declaration”, with its focus on standard-setting and establishing international accountability mechanisms, gathering evidence of impact of human rights was not a priority. However, in the “era of implementation”, evidence of impact of human rights is important for at least two reasons. One, the full spectrum of human rights implementation depends upon engagement with a wide range of professions, some of which attach a lot of importance to evidence of impact of interventions. In these circumstances, it is helpful if there are evidential arguments supplementing (not replacing) the compelling normative arguments in favor of human rights. Two, there are often several different ways to implement a human right in which case it is helpful, but not necessarily determinative, to know which way has most impact. In the “era of implementation”, research on, and evaluation of, the impact of human rights raises important methodological and other issues which require close attention.

VIII. Conclusion

To recap, this article considers the UN human rights system in the “era of implementation”. The “full implementation” of human rights requires a wide range of laws, regulations, policies, judicial and quasi-judicial decisions, plans, programs, projects, practices and other interventions or initiatives, much of which falls beyond the institutional competence, expertise and capacity of the UN human rights ‘mainland’ consisting of Human Rights Council, treaty-bodies, High Commissioner and OHCHR. Specialized agencies, funds, programs and other UN bodies have an indispensable role to play if the UN system is to engage with the entire spectrum of implementation. The Human Rights Council and OHCHR are mandated to promote human rights mainstreaming which is a pre-condition for the “full implementation” of human rights. However, system-wide mainstreaming runs into the principles of functional decentralization and autonomy which are woven into the fabric of the UN. Accordingly, human rights have to be ‘owned’ and internalized by each agency and similar body, they cannot be successfully introduced from outside. There is today an emerging ‘archipelago’ of human rights initiatives, lying beyond the UN human rights ‘mainland’, in agencies and elsewhere. This ‘archipelago’ points the way forward for human rights in the “era of implementation”. The emergence of the ‘archipelago’ means the narrow conception of the UN human rights system has been overtaken by practice and is now outdated. The contemporary UN human rights system should be configured as the ‘mainland’ *and* ‘archipelago’ and the article outlines three ways to promote its development.

Although some parts of the ‘archipelago’ have particular competence and expertise in ESCR, this does not mean that the ‘mainland’ should focus on civil and political rights, and the ‘archipelago’ should focus on ESCR. In keeping with the Vienna Declaration and Programme of Action, both ‘mainland’ and ‘archipelago’ have to give due attention to civil, political, economic, social and cultural rights.²⁴⁷ The contribution of the ‘mainland’ may be towards the legislative

end of the implementation spectrum and the contribution of the ‘archipelago’ may be towards the executive end.²⁴⁸ The ‘mainland’ may focus on general legal guidance, quality control and coherence, and the ‘archipelago’ may focus on detailed, specific, operational issues. If they do not already have them, both will need suitable accountability arrangements.²⁴⁹ The process to work out a mutually reinforcing relationship between ‘mainland’ and ‘archipelago’ is vitally important and has already begun. In this regard, the High Commissioner and OHCHR are doing much more than the Council. Within the ‘mainland’, Charter-bodies and treaty-bodies endeavor to reinforce each other’s work, equally ‘mainland’ and ‘archipelago’ need to develop a strong symbiotic relationship. The crucial point is that the General Assembly’s call for the “full implementation” and mainstreaming of human rights depends upon an effective UN human rights system encompassing both ‘mainland’ and ‘archipelago’.

This article emphasizes that the Human Rights Council has to imagine and establish new working methods commensurate with its responsibilities in the “era of implementation”.²⁵⁰ The methods of the Commission on Human Rights, forged in the “era of declaration”, are not adequate for the “full implementation” and effective mainstreaming of human rights. Business as usual will not do the job. However, the challenges presented by the “era of implementation” are not confined to the Council. They extend to all parts of the ‘mainland’, other UN bodies, national ministries and elsewhere. New strategies are called for, accompanied by a new vision of the UN human rights system. The successful transition from the “era of declaration” to the “era of implementation” requires a paradigm shift in the UN’s approach to human rights.

In conclusion, since the 1940s, the UN has established the human rights ‘mainland’ which remains both the core of the UN human rights system and the primary guardian of international human rights. However, the ‘mainland’ does not have a monopoly on human rights

and the UN human rights landscape is changing. While the Council has done little to fulfil its core mainstreaming mandate, the High Commissioner and OHCHR, working with their partners, deserve credit for advancing human rights mainstreaming across the UN system, despite major structural and financial constraints. Nonetheless, in the “era of implementation”, the UN human rights system of ‘mainland’ and ‘archipelago’ requires new thinking, strategies and methods.

Endnotes

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While writing this article, I benefitted from the comments and insights of many people. I am most grateful to all of them, especially Michael Freeman, Sabine Michalowski, Ahmed Shaheed, Daragh Murray, Claire Hubert, Shyama Kuruvilla, Rebekah Thomas, Rajat Khosla, Craig Mokhiber, Dragana Korljan, Sally-Anne Way, Marc Limon, Ralph Jurgens, Sara Davis, Hyeyoung Lim, Melvyn Young, Michael Keating, Ben Majekodunmi, Rick Lines and Damon Barrett. Throughout, Giulia Giannuzzi provided first-class research assistance for which I am extremely grateful. However, the views are mine and any errors are my responsibility.

¹ UN Secretary-General, Address to the UN Commission on Human Rights (April 7, 2005), <http://www.un.org/sg/STATEMENTS/index.asp?nid=1388>.

² In this article, the 'Council' includes its subsidiary bodies, mechanisms and processes.

³ G.A. Res. 60/251, para 5(d) (March 15, 2006).

⁴ See section V.

⁵ Peter M. Haas, *Introduction: Epistemic Communities and International Policy Coordination*, 46 INTERNATIONAL ORGANIZATION 1, 3 (1992). According to Haas: "An epistemic community is a network of professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within that domain or issue-area".

⁶ Lisa L. Martin, Against compliance, in INTERDISCIPLINARY PERSPECTIVES ON INTERNATIONAL LAW AND INTERNATIONAL RELATIONS: THE STATE OF THE ART 606 (Jeffrey L. Dunoff & Mark A. Pollack eds., 2013). Here Martin rightly emphasizes the "risks associated with celebrating interdisciplinarity". The risks associated with the "full implementation" of human rights in the UN system include those arising from interdisciplinarity but are more extensive because "full implementation" not only implicates a range of disciplines, but also different professions, interest groups, social groups and "epistemic communities".

⁷ G.A. Res. 60/251, *supra* note 3, para 5(d).

⁸ Some other terms, such as 'regimes', 'systems' and 'machinery', require a more detailed discussion than was possible in this article.

⁹ Catherine Bevilacqua & Scott Sheeran, The UN Security Council and international human rights obligations: towards a theory of constraints and derogation, in ROUTLEDGE HANDBOOK OF INTERNATIONAL HUMAN RIGHTS LAW (Scott Sheeran & Sir Nigel Rodley eds., 2014); Daria Davitti & Michael O'Flaherty, International Human Rights in Field Operations: a Fast-developing Human Rights Tool, in ROUTLEDGE HANDBOOK OF INTERNATIONAL HUMAN RIGHTS LAW (Scott Sheeran & Sir Nigel Rodley eds., 2014); BERTRAND RAMCHARAN, HUMAN RIGHTS PROTECTION IN THE FIELD (2006); OHCHR, ANNUAL REPORT, at 142 (2014), http://www2.ohchr.org/english/OHCHRReport2014/WEB_version/pages/downloads.html

¹⁰ Sometimes the term 'agencies' will be shorthand for the wider group of specialized agencies, funds, programs and similar UN bodies.

¹¹ Philip Alston, THE UNITED NATIONS AND HUMAN RIGHTS: A CRITICAL APPRAISAL 1 (Philip Alston ed., 1992).

¹² UN Secretary-General, Address to the UN Commission on Human Rights, *supra* note 1.

¹³ Kevin Boyle, *The United Nations Human Rights Council: politics, power and human rights*, 60 NORTHERN IRELAND LEGAL QUARTERLY 121, 123 (2009).

¹⁴ OHCHR, CIVIL SOCIETY SPACE AND THE UNITED NATIONS HUMAN RIGHTS SYSTEM: A PRACTICAL GUIDE FOR CIVIL SOCIETY, at 5, http://www.ohchr.org/Documents/AboutUs/CivilSociety/CS_space_UNHRSsystem_Guide.pdf.

¹⁵ Petter F. Wille, The United Nations' Human Rights Machinery: Developments and Challenges, in INTERNATIONAL HUMAN RIGHTS MONITORING MECHANISMS: ESSAYS IN HONOUR OF JAKOB TH MÖLLER 9 (Gudmundur Alfredsson et al. eds., 2nd ed. 2009).

¹⁶ OHCHR, CIVIL SOCIETY SPACE AND THE UNITED NATIONS HUMAN RIGHTS SYSTEM, *supra* note 14, at 5.

¹⁷ Alston (1992), *supra* note 11, at 1.

¹⁸ ROSA FREEDMAN, FAILING TO PROTECT: THE UN AND THE POLITICISATION OF HUMAN RIGHTS 50 and 182 (2014). How this position fits with a 2016 article by Freedman and Mchangama is not clear, see Rosa Freedman & Jacob Mchangama, *Expanding or Diluting Human Rights?: The Proliferation of United Nations Special Procedures Mandates*, 38 HUMAN RIGHTS QUARTERLY 164, 192-193 (2016), briefly discussed in the conclusion to the present article.

¹⁹ Dinah L. Shelton, Introduction, in THE UNITED NATIONS SYSTEM FOR PROTECTING HUMAN RIGHTS xi (Dinah L. Shelton ed., 2014).

²⁰ Or their historical equivalents e.g. not the Council but its predecessor the Commission on Human Rights.

²¹ G.A. Res. 60/251, *supra* note 3, para 5(d).

²² KITTY ARAMBULO, STRENGTHENING THE SUPERVISION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS: THEORETICAL AND PROCEDURAL ASPECTS 5 (1999).

²³ E.g. UN COMMISSION ON HUMAN RIGHTS, REPORT OF THE TENTH SESSION, paras 72-242, UN Doc. E/CN.4/705 (1954).

²⁴ Philip Alston, *The United Nations' Specialized Agencies and Implementation of the International Covenant on Economic, Social and Cultural Rights*, 18 COLUMBIA JOURNAL OF TRANSNATIONAL LAW 79 (1979); Klaus Samson, Human Rights Co-ordination within the UN system, in THE UNITED NATIONS AND HUMAN RIGHTS: A CRITICAL APPRAISAL 630 (Philip Alston ed., 1992); MATTHEW C.R. CRAVEN, THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL, AND CULTURAL RIGHTS: A PERSPECTIVE ON ITS DEVELOPMENT 35 (1995); Bruno Simma, The Implementation of the International Covenant on Economic, Social and Cultural Rights, in THE IMPLEMENTATION OF ECONOMIC AND SOCIAL RIGHTS: NATIONAL, INTERNATIONAL, AND COMPARATIVE ASPECTS 81 (Franz Matscher ed., 1991).

²⁵ ARAMBULO, *supra* note 22, at 5.

²⁶ Based on Jeffrey L. Dunoff & Mark A. Pollack, Reviewing two decades of IL/IR scholarship: what we've learned, what's next, in INTERDISCIPLINARY PERSPECTIVES ON INTERNATIONAL LAW AND INTERNATIONAL RELATIONS: THE STATE OF THE ART 639 (Jeffrey L. Dunoff & Mark A. Pollack eds., 2013). Dean Fixen and others define implementation as “a specified set of activities designed to put into practice an activity or program of known dimensions. According to this definition, implementation processes are purposeful and are described in sufficient detail such that independent observers can detect the presence and strength of the “specific set of activities” related to implementation. In addition, the activity or program being implemented is described in sufficient detail so that independent observers can detect its presence and strength.” DEAN L. FIXSEN ET AL., IMPLEMENTATION RESEARCH: A SYNTHESIS OF THE LITERATURE 5 (2005). Interesting features of this definition include the emphasis on specificity, detail and independent observers.

²⁷ Based on Stephen Sandford, Definition of Policy, in Better livestock policies for Africa (1985), <http://www.fao.org/wairdocs/ilri/x5499e/x5499e03.htm>

²⁸ *Id.* at para 11. The idea of a “spectrum of implementation” was inspired by the notion of a “spectrum of impact” in Rebekah Thomas et al., *Assessing the Impact of a Human Rights-Based Approach across a Spectrum of Change for Women's, Children's, and Adolescents' Health*, 17 HEALTH AND HUMAN RIGHTS JOURNAL 11, 11 (2015).

²⁹ Paul Hunt et al., Implementation of economic, social and cultural rights, in ROUTLEDGE HANDBOOK OF INTERNATIONAL HUMAN RIGHTS LAW 545 (Scott Sheeran & Sir Nigel Rodley eds., 2014).

³⁰ Benjamin M. Meier & W. Onzivu, *The evolution of human rights in World Health Organization policy and the future of human rights through global health governance*, 128 PUBLIC HEALTH 179, 179 (2014); Benjamin M. Meier & Ana S. Ayala, *The Pan American*

Health Organization and the Mainstreaming of Human Rights in Regional Health Governance, 42 JOURNAL OF LAW, MEDICINE AND ETHICS 356, 360 (2014). The term ‘operationalization’ has merit provided it is not confused with ‘operationalism’ as understood in the social sciences and philosophy. I am grateful to Michael Freeman for his observations on ‘operationalism’ and ‘operationalization’.

³¹ Jana von Stein, The engines of compliance, in INTERDISCIPLINARY PERSPECTIVES ON INTERNATIONAL LAW AND INTERNATIONAL RELATIONS: THE STATE OF THE ART 493 (Jeffrey L. Dunoff & Mark A. Pollack eds., 2013).

³² Jurgen Neyer & Dieter Wolf, The analysis of compliance with international rules: Definitions, variables, and methodology, in LAW AND GOVERNANCE IN POSTNATIONAL EUROPE: COMPLIANCE BEYOND THE NATION-STATE 41-42 (Michael Zurn & Cjristian Joerges eds., 2005).

³³ von Stein, *supra* note 31, at 478.

³⁴ Lisa L. Martin, *supra* note 6, at 606.

³⁵ Shelton, *supra* note 19, at xi.

³⁶ PETER R. BAEHR & LEON GORDENKER, THE UNITED NATIONS: REALITY AND IDEAL 33 (4th ed. 2005).

³⁷ *Id.* at 155.

³⁸ The next section considers human rights mainstreaming in the UN.

³⁹ Here the focus is on the International Bill of Rights. However, other treaties are also instructive in relation to specialized agencies e.g. article 45, Convention on the Rights of the Child, 20 November 1989, 1577 UNTS 3, and article 38, Convention on the Rights of Persons with Disabilities, January 24, 2007, UN Doc. A/RES/61/106.

⁴⁰ International Covenant on Economic, Social and Cultural Rights, art. 18-19, December 16, 1966, 993 UNTS 3.

⁴¹ *Id.* art. 22.

⁴² Eibe Riedel et al., The development of economic, social and cultural rights in international law, in ECONOMIC, SOCIAL, AND CULTURAL RIGHTS IN INTERNATIONAL LAW: CONTEMPORARY ISSUES AND CHALLENGES (Eibe Riedel et al. eds., 2014).

⁴³ Alston (1979), *supra* note 24, at 82.

⁴⁴ CLARENCE WILFRED JENKS, SOCIAL JUSTICE IN THE LAW OF NATIONS: INTERNATIONAL LABOUR ORGANIZATION IMPACT AFTER FIFTY YEARS 79 (1970).

⁴⁵ *Id.* at 78.

⁴⁶ *Id.* at 79.

⁴⁷ *Id.* at 82.

⁴⁸ Clarence Wilfred Jenks, *The United Nations Covenants on Human Rights Come to Life*, in *RECUEIL D'ÉTUDES DE DROIT INTERNATIONAL EN HOMAGE À PAUL GUGGENHEIM* 812 (1968).

⁴⁹ Norwegian Ministry of Foreign Affairs, *Opportunities for All: Human Rights in Norway's Foreign Policy and Development Cooperation* 72 (2015), <https://www.regjeringen.no/contentassets/261f255d028b42cab91ad099ee3f99fc/en-gb/pdfs/stm201420150010000engpdfs.pdf>

⁵⁰ Geir Sjøberg, *Strengthening compliance, improving coherence: Norway's White Paper on human rights*, Universal Rights Group (January 11, 2016), <http://www.universal-rights.org/blog/strengthening-compliance-improving-coherence-norways-white-paper-on-human-rights/>

⁵¹ Paul Hunt, *Is the UN Human Rights Council delivering on its mandate to mainstream human rights?*, Universal Rights Group (August 24, 2015), <http://www.universal-rights.org/blog/un-human-rights-council-delivering-mandate-mainstream-human-rights/>

⁵² G.A. Res 70/1, *Transforming our world: the 2030 Agenda for Sustainable Development* (October 21, 2015). On 29 February, 2016, the Human Rights Council devoted a high-level panel to human rights mainstreaming and the Sustainable Development Goals. There were Opening Statements from the President of the General Assembly, the Secretary-General and High Commissioner for Human Rights. Panellists included the Executive Directors of UNDP and UNFPA. See OHCHR, *Annual high-level panel discussion on human rights mainstreaming: "The 2030 Agenda for Sustainable Development and human rights, with an emphasis on the right to development"*, Concept note (February, 2016), <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/Mainstreaming.doc>

⁵³ Mac Darrow & Louise Arbour, *The Pillar of Glass: Human Rights in the Development Operations of the United Nations*, 103 *AMERICAN JOURNAL OF INTERNATIONAL LAW* 446, 448 (2009).

⁵⁴ *Id.* at 448.

⁵⁵ Zdzislaw Kedzia, *Mainstreaming Human Rights in the United Nations*, in *INTERNATIONAL HUMAN RIGHTS MONITORING MECHANISMS: ESSAYS IN HONOUR OF JAKOB TH MÖLLER* 231 (Gudmundur Alfredsson et al. eds., 2nd ed. 2009).

⁵⁶ Christopher McCrudden, *Mainstreaming Human Rights*, in *HUMAN RIGHTS IN THE COMMUNITY: RIGHTS AS AGENTS FOR CHANGE* 9 (Colin Harvey ed., 2005).

⁵⁷ Gerd Oberleitner, *A Decade of Mainstreaming Human Rights in the UN: Achievements, Failures, Challenges*, 26 NETHERLANDS QUARTERLY OF HUMAN RIGHTS 359, 386 (2008).

⁵⁸ For the importance of definitions and greater conceptual clarity about the meaning of human rights mainstreaming in the United Nations system, see section 6.

⁵⁹ G.A. Res 48/141, para 4(i) (December 20, 1993).

⁶⁰ UN Secretary-General, *Renewing the United Nations: A Programme for Reform*, UN Doc. A/51/950 (July 14, 1997); UN Secretary-General, *Strengthening of the United Nations: An Agenda for Further Change*, UN Doc. A/57/387 (September 9, 2002); UN Secretary-General, *In Larger Freedom: Towards Development, Security and Human Rights for All*, UN Doc. A/59/205 (March 21, 2005).

⁶¹ UN Secretary-General, *In Larger Freedom*, *supra* note 60, at para 144.

⁶² G.A. Res 60/1, 2005 World Summit Outcome, para 126 (October 24, 2005).

⁶³ MARY ROBINSON, *A VOICE FOR HUMAN RIGHTS* 299 (Kevin Boyle ed., 2006).

⁶⁴ E.g. see ROBINSON, *supra* note 63, at xiii and 9; Kedzia, *supra* note 55, at 231; Michael O'Flaherty, *The High Commissioner and the treaty bodies*, in *THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS: CONSCIENCE FOR THE WORLD* 105 (Felice D. Gaer & Christen L. Broecker eds., 2014); Elvira Dominguez-Redondo, *Making the Connection: Security and Human Rights*, in *NEW CHALLENGES FOR THE UN HUMAN RIGHTS MACHINERY: WHAT FUTURE FOR THE UN TREATY BODY SYSTEM AND THE HUMAN RIGHTS COUNCIL PROCEDURES* 276 (M. Cherif Bassiouni & William A. Schabas eds., 2011).

⁶⁵ See Global Migration Group at <http://www.globalmigrationgroup.org/>

⁶⁶ See UN Development Group, Human Rights Working Group, <https://undg.org/home/undg-mechanisms/undg-hrm/>

⁶⁷ This paragraph draws from Hunt (2015), *supra* note 51.

⁶⁸ G.A. Res. 60/251, *supra* note 3, para 3.

⁶⁹ Human Rights Council Res. 5/1, UN Doc. A/62/53 (June 18, 2007).

⁷⁰ G.A. Res 65/281, paras 42-44 (July 20, 2011).

⁷¹ Hunt (2015), *supra* note 51; Giulia Giannuzzi, *Mainstreaming Human Rights in the United Nations System: A Critical Analysis* (October, 2015) (unpublished LL.M Dissertation, University of Essex) (October, 2015) (Copy with author); OHCHR, Annual high-level panel discussion on human rights mainstreaming, *supra* note 52.

⁷² Giannuzzi, *supra* note 71, at 34.

⁷³ Human Rights Council, Res 21/22, UN Doc. A/HRC/21/22 (July 2, 2012); Human Rights Council, Res 27/31, UN Doc. A/HRC/27/31 (June 30, 2014).

⁷⁴ Informal report, Policy dialogue on April 24, 2015, Universal Rights Group, unnumbered penultimate page (Copy with author).

⁷⁵ Of course, the two categories of human rights, on the one hand, civil and political rights, and on the other hand, economic, social and cultural rights, are not distinct but “interdependent and interrelated” – World Conference on Human Rights, *Vienna Declaration and Programme of Action*, para 5, UN Doc. A/CONF.157/23 (June 25, 1993). Nonetheless, they are enshrined in different Covenants within the International Bill of Rights. In this passage, references to civil and political rights are to those in the International Covenant on Civil and Political Rights (ICCPR), December 16, 1966, 999 UNTS 171, and references to economic, social and cultural rights are to those in the International Covenant on Economic, Social and Cultural Rights (ICESCR), December 16, 1966, 993 UNTS 3.

⁷⁶ University of Essex seminar ‘Making human rights happen’ (Geneva, March 11, 2015), <https://soundcloud.com/uniofessex/making-human-rights-happen>.

⁷⁷ Kate Gilmore et al., *The Universal Periodic Review: A Platform for Dialogue, Accountability, and Change on Sexual and Reproductive Health and Rights*, 17 HEALTH AND HUMAN RIGHTS 167, 170 (2015).

⁷⁸ *Id.* at 170.

⁷⁹ This paragraph draws from Hunt (2015), *supra* note 51.

⁸⁰ G.A. Res. 60/251, *supra* note 3, para 3.

⁸¹ This tendency may be reinforced by *Transforming our World: the 2030 Agenda for Sustainable Development*, G.A. Res. 70/1, *supra* note 52.

⁸² The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies, https://undg.org/wp-content/uploads/2015/05/6959-The_Human_Rights_Based_Approach_to_Development_Cooperation_Towards_a_Common_Understanding_among_UN1.pdf

⁸³ *Transforming our World: the 2030 Agenda for Sustainable Development* gives rise to important responsibilities for high-income countries. However, given its focus on development, *Transforming our World* is weighted towards low-income and middle-income countries. Thus, human rights mainstreaming in relation to the Sustainable Development Goals is also weighted towards low-income and middle-income countries. In short, the challenge of human rights mainstreaming in relation to the Sustainable Development Goals does not fall equally on low-, middle- and high-income countries.

⁸⁴ G.A. Res. 60/251, *supra* note 3, para 4.

⁸⁵ Hilary Charlesworth, *Not Waving but Drowning: Gender Mainstreaming and Human Rights in the United Nations*, 18 HARVARD HUMAN RIGHTS JOURNAL 1, 16 (2005).

⁸⁶ MARTTI KOSKENNIEMI, HUMAN RIGHTS MAINSTREAMING AS A PROJECT OF POWER (2006), <http://iilj.org/courses/documents/Koskenniemi.pdf>

⁸⁷ *Id.* at 10.

⁸⁸ *Id.* at 10.

⁸⁹ *Id.* at 10-11.

⁹⁰ McCrudden, *supra* note 56, at 16.

⁹¹ Oberleitner, *supra* note 57, at 389.

⁹² *Id.* at 390.

⁹³ *Id.* at 364.

⁹⁴ Hilary Charlesworth has other concerns about the ‘mainstreaming’ image, see Charlesworth, *supra* note 85, at 18.

⁹⁵ Sarah McCosker, The ‘interoperability’ of international humanitarian law and human rights law: evaluating the legal tools available to negotiate their relationship, in INTERNATIONAL LAW IN THE NEW AGE OF GLOBALIZATION, 146 (Andrew Byrnes et al. eds., 2013).

⁹⁶ See section VII, ‘Research and guidance’.

⁹⁷ Section VII recommends both a survey and an assessment, see section VII, ‘Research and guidance’.

⁹⁸ For the structural constraints, see section V.

⁹⁹ Oberleitner, *supra* note 57, at 387.

¹⁰⁰ *Id.* at 364.

¹⁰¹ For an overview, see Paul Taylor, Introduction, in THE FUNCTIONAL THEORY OF POLITICS (David Mitrany ed., 1975) and Mark F. Imber, *Functionalism: International organisations*, Encyclopaedia Britannica, <http://www.britannica.com/topic/functionalism-international-organizations>. This section draws from both.

¹⁰² LEONARD WOOLF, INTERNATIONAL GOVERNMENT (2nd ed, 1916).

¹⁰³ Reprinted in David Mitrany, *The New Deal*, in *THE FUNCTIONAL THEORY OF POLITICS* 160-163 (David Mitrany ed., 1975).

¹⁰⁴ Viljam Engstrom, Powers of organizations and the many faces of autonomy, in *INTERNATIONAL ORGANIZATIONS AND THE IDEA OF AUTONOMY: INSTITUTIONAL INDEPENDENCE IN THE INTERNATIONAL LEGAL ORDER* 224 (Richard Collins & Nigel White eds., 2011).

¹⁰⁵ Reprinted in David Mitrany, *A working peace system* (1966).

¹⁰⁶ Imber, *supra* note 101.

¹⁰⁷ *Id.*

¹⁰⁸ Clarence Wilfred Jenks, Co-ordination: a new problem of international organization, 77 *Recueil des Cours de l'Académie de Droit International* (1950) at para 6.

¹⁰⁹ *Id.* at para 20.

¹¹⁰ *Id.* at para 11.

¹¹¹ *Id.* at para 62.

¹¹² See chapter 16, EVAN LUARD, *THE INTERNATIONAL AGENCIES: THE EMERGING FRAMEWORK OF INTERDEPENDENCE* (1977).

¹¹³ Samson, *supra* note 24, at 620.

¹¹⁴ The General Assembly, Security Council, Economic and Social Council, Trusteeship Council (now suspended), International Court of Justice and Secretariat.

¹¹⁵ UN Charter art 57.

¹¹⁶ Emphasis added.

¹¹⁷ Jenks (1950), *supra* note 108, at para 41.

¹¹⁸ *Id.* at para 41; UN Charter art. 58.

¹¹⁹ Samson, *supra* note 24, at 623.

¹²⁰ BAEHR & GORDENKER, *supra* note 36, at 157.

¹²¹ The main focus of the present discussion is the responsibility to implement and mainstream arising from the General Assembly resolutions establishing OHCHR and the Human Rights Council, as well as the Secretary-General's reform reports published between 1997-2005. This article does not address the important issue of the extra-territorial human rights obligations of states for which see UN COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, GENERAL

COMMENT NO. 14: THE RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH (ART. 12 OF THE COVENANT), para 39, UN Doc. E/C.12/2000/4 (August 11, 2000); Jennifer Tooze, *Aligning States' Economic Policies With Human Rights Obligations: The CESCR's Quest For Consistency*, 2 HUMAN RIGHTS LAW REVIEW 229 (2002); MARK GIBNEY, INTERNATIONAL HUMAN RIGHTS LAW: RETURNING TO UNIVERSAL PRINCIPLES (2nd ed. 2016); SANAE FUJITA, THE WORLD BANK, ASIAN DEVELOPMENT BANK AND HUMAN RIGHTS: DEVELOPING STANDARDS OF TRANSPARENCY, PARTICIPATION AND ACCOUNTABILITY (2013); MAC DARROW, BETWEEN LIGHT AND SHADOW: THE WORLD BANK, THE INTERNATIONAL MONETARY FUND AND INTERNATIONAL HUMAN RIGHTS LAW (2003); SIGRUN SKOGLY, THE HUMAN RIGHTS OBLIGATIONS OF THE WORLD BANK AND THE INTERNATIONAL MONETARY FUND 107 and 109 (2001); SIGRUN SKOGLY, BEYOND NATIONAL BORDERS: STATES' HUMAN RIGHTS OBLIGATIONS IN INTERNATIONAL COOPERATION 196 (2006); ETO Consortium, *Maastricht Principles On Extraterritorial Obligations Of States In The Area Of Economic, Social And Cultural Rights* (2013), http://www.etoconsortium.org/nc/en/main-navigation/library/maastricht-principles/?tx_drblob_pi1%5BdownloadUid%5D=23; Olivier de Schutter et al., *Commentary to the Maastricht Principles on Extraterritorial Obligations on States in the Area of Economic, Social and Cultural Rights*, 34 HUMAN RIGHTS QUARTERLY 1084 (2012); Paul Hunt, Judith Bueno de Mesquita & Rajat Khosla, The human rights responsibility of international assistance and cooperation in health, in UNIVERSAL HUMAN RIGHTS AND EXTRATERRITORIAL OBLIGATIONS 104-129 (Mark Gibney & Sigrun Skogly eds., 2010).

¹²² LUARD, *supra* note 112, at 324; CLIVE ARCHER, INTERNATIONAL ORGANIZATIONS 138 (3rd ed. 2001).

¹²³ Imber, *supra* note 101.

¹²⁴ *Id.*

¹²⁵ See Jenks (1950), *supra* note 108, at 151-303; Samson, *supra* note 24, at 620-675.

¹²⁶ See United Nations System, Chief Executives Board for Coordination, <http://www.unsceb.org/>

¹²⁷ BAEHR & LEON GORDENKER, *supra* note 36, at 34.

¹²⁸ G.A. Res 48/141, *supra* note 59, para 4(i).

¹²⁹ G.A. Res. 60/251, *supra* note 3, para 3.

¹³⁰ Based on Oxford Dictionaries, <http://www.oxforddictionaries.com/definition/english/coordination>

¹³¹ Kedzia, *supra* note 55, at 231.

¹³² For example, see Navi Pillay, Address by the High-Commissioner at the Jacob Blaustein Institute for the Advancement of Human Rights, in THE UNITED NATIONS HIGH COMMISSIONER

FOR HUMAN RIGHTS: CONSCIENCE FOR THE WORLD 70 (Felice D. Gaer & Christen L. Broecker eds., 2014). Nonetheless, such speeches are needed.

¹³³ On evidence of impact of human rights, see section VII, ‘Research and guidance’.

¹³⁴ See section VII.

¹³⁵ UNDP, INTEGRATING HUMAN RIGHTS WITH SUSTAINABLE HUMAN DEVELOPMENT (1998).

¹³⁶ Oberleitner, *supra* note 57, at 368.

¹³⁷ UNDP, SOCIAL AND ENVIRONMENTAL STANDARDS 9 (2014), <http://www.undp.org/content/undp/en/home/librarypage/operations1/undp-social-and-environmental-standards.html>

¹³⁸ SANTOS PAIS MARTA, A HUMAN RIGHTS CONCEPTUAL FRAMEWORK FOR UNICEF (1999), <http://www.unicef-irc.org/publications/pdf/essay9.pdf>

¹³⁹ UNICEF, Mission Statement, http://www.unicef.org/about/who/index_mission.html

¹⁴⁰ Convention on the Rights of the Child, Part II, 20 November 1989, 1577 UNTS 3.

¹⁴¹ OHCHR & UNAIDS, INTERNATIONAL GUIDELINES ON HIV/AIDS AND HUMAN RIGHTS 2006 CONSOLIDATED VERSION, at 14, UN Sales No. E.06.XIV.4 (2006).

¹⁴² Oberleitner, *supra* note 57, at 365.

¹⁴³ *Id.* at 365.

¹⁴⁴ *Id.* at 365.

¹⁴⁵ See section VII, ‘Quality control, ‘authenticity and coherence’.

¹⁴⁶ Oberleitner, *supra* note 57, at 365.

¹⁴⁷ See section VII, ‘Research and guidance’, which recommends a new survey is conducted.

¹⁴⁸ See section IV, ‘OHCHR’.

¹⁴⁹ See section VII, ‘Quality control, ‘authenticity and coherence’.

¹⁵⁰ See section VII, ‘Research and guidance’.

¹⁵¹ Oberleitner, *supra* note 57, at 365.

¹⁵² JENKS (1970), *supra* note 44, at 79.

¹⁵³ Virginia Leary, Lessons from the Experience of the International Labour Organization, in THE UNITED NATIONS AND HUMAN RIGHTS: A CRITICAL APPRAISAL 580 (Philip Alston ed., 1992).

¹⁵⁴ *Id.* at 590.

¹⁵⁵ Lee Swepston, The International Labour Organization and international human rights system, in ROUTLEDGE HANDBOOK OF INTERNATIONAL HUMAN RIGHTS LAW 347 (Scott Sheeran & Sir Nigel Rodley eds., 2014).

¹⁵⁶ *Id.* at 347.

¹⁵⁷ ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, 27 June 1989, 1650 UNTS 383.

¹⁵⁸ Swepston, *supra* note 155, at 346.

¹⁵⁹ Swepston, *supra* note 155, at 346.

¹⁶⁰ Oberleitner, *supra* note 57, at 367.

¹⁶¹ United Nations, ‘Human Rights Up Front’ Initiative, <http://www.un.org/sg/humanrightsupfront/>

¹⁶² Report of the Secretary-General’s Internal Review Panel on United Nations Action in Sri Lanka (November 2012), http://www.un.org/News/dh/infocus/Sri_Lanka/The_Internal_Review_Panel_report_on_Sri_Lanka.pdf

¹⁶³ *Id.* at para 76.

¹⁶⁴ *Id.* at para 80.

¹⁶⁵ United Nations, Human Rights Up Front, <http://www.un.org/sg/humanrightsupfront/doc/RuFAP-summary-General-Assembly.shtml>

¹⁶⁶ ‘Rights Up Front’ Detailed Action Plan, updated January 2014, para 1.1, <https://undg.org/wp-content/uploads/2015/02/Detailed-Plan-of-Action-Rights-up-Front.doc>

¹⁶⁷ *Id.* at para 4 and 5.

¹⁶⁸ *Id.* at para 15.

¹⁶⁹ *Id.* at para 16.

¹⁷⁰ *Id.* at para 3.2.

¹⁷¹ *Id.* at para 3.1.

¹⁷² *Id.* at para 2.2.

¹⁷³ Letter from the Secretary-General to the President of the General Assembly, UN Doc A/70/656 (6 January 2016).

¹⁷⁴ Presentation to General Assembly, 27 January 2016 (Copy with author).

¹⁷⁵ Kristen Boon, *Assessing the UN's new 'Rights Up Front' Action Plan*, *Opinio Juris* (February 27, 2014), <http://opiniojuris.org/2014/02/27/assessing-uns-new-rights-front-action-plan/>

¹⁷⁶ International Coalition for the Responsibility to Protect, *Rights Up Front and Civilian Protection: An Uneven First Year* (November 25, 2014), <http://icrtopblog.org/2014/11/25/rights-up-front-and-civilian-protection-an-uneven-first-year/>

¹⁷⁷ Gerrit Kurtz, *With Courage and Coherence: The Human Rights up Front Initiative of the United Nations*, Global Public Policy Initiative, at 4 (2015).

¹⁷⁸ H.E. Ambassador Choi Kyong-Lim (10th President of the Human Rights Council), *2016: a year for celebration, but also reflection*, Universal Rights Group (February 3, 2016), <http://www.universal-rights.org/blog/the-10th-president-of-the-human-rights-council-h-e-ambassador-choi-kyong-lim-reflects-on-key-challenges-and-opportunities-for-the-council-in-the-year-ahead/>

¹⁷⁹ Generally, see Benjamin M. Meier, *Global Health Governance and the Contentious Politics of Human Rights: Mainstreaming the Right to Health for Public Health Advancement*, 46 *STANFORD JOURNAL ON INTERNATIONAL LAW* 1 (2010); Meier & Ayala, *supra* note 30; Meier & Onzivu, *supra* note 30.

¹⁸⁰ For example, Meier's research shows that WHO's first Director-General, Brock Chisholm, energetically advanced "a human rights basis for [WHO's] work" but when his successor, Marcolino Gomes Candau, took office in 1953 "WHO intentionally neglected human rights discourse", see Meier (2010), *supra* note 179, at 2. In 1993, Alston remarked that for "many years, the World Health Organization suppressed international discussion of the [right to health]: mention the universal right to health and they'd throw you out of the building." HUMAN RIGHTS PROGRAM, HARVARD LAW SCHOOL, ECONOMIC AND SOCIAL RIGHTS AND THE RIGHT TO HEALTH: AN INTERDISCIPLINARY DISCUSSION HELD AT HARVARD LAW SCHOOL IN SEPTEMBER, 1993 at 34 (1995).

¹⁸¹ WHO, ROADMAP FOR ACTION (2014-2019): INTEGRATING EQUITY, GENDER, HUMAN RIGHTS AND SOCIAL DETERMINANTS INTO THE WORK OF WHO, at 1, WHO/FWC/GER/15.2 (2015).

¹⁸² Where the regional GER focal points are located within regional offices varies from one region to another, see figure 1 of Gender, Equity and Rights Team, draft Progress Report 2014-2015 (Copy with author).

¹⁸³ Gender, Equity and Rights Team, draft Progress Report 2014-2015, at 10 (Copy with author).

¹⁸⁴ WHO, ROADMAP FOR ACTION (2014-2019): INTEGRATING EQUITY, GENDER, HUMAN RIGHTS AND SOCIAL DETERMINANTS INTO THE WORK OF WHO, WHO/FWC/GER/15.2 (2015).

¹⁸⁵ Gender, Equity and Rights Team, *supra* note 183, at 11.

¹⁸⁶ Consider WHO, ANCHORING UNIVERSAL HEALTH COVERAGE IN THE RIGHT TO HEALTH: WHAT DIFFERENCE WOULD IT MAKE? POLICY BRIEF (2015).

¹⁸⁷ Gender, Equity and Rights Team, *supra* note 183.

¹⁸⁸ WHO, ANCHORING UNIVERSAL HEALTH COVERAGE IN THE RIGHT TO HEALTH: WHAT DIFFERENCE WOULD IT MAKE? POLICY BRIEF (2015).

¹⁸⁹ Gender, Equity and Rights Team, *supra* note 183, at 8.

¹⁹⁰ Meier & Onzivu, *supra* note 30, at 183.

¹⁹¹ Meier & Ayala, *supra* note 30.

¹⁹² This section draws from Sara L. M. Davis, *Human rights and the Global Fund to Fight AIDS, Tuberculosis, and Malaria*, 16 HEALTH AND HUMAN RIGHTS JOURNAL 134 (2014).

Also see Sara L. M. Davis, *Measuring the Impact of Human Rights on Health in Global Health Financing*, 17 HEALTH AND HUMAN RIGHTS JOURNAL 97 (2015).

¹⁹³ Davis (2014), *supra* note 192, at 135.

¹⁹⁴ For example, see OPEN SOCIETY FOUNDATIONS/CANADIAN HIV/AIDS LEGAL NETWORK, HUMAN RIGHTS AND THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS AND MALARIA, Part VI (2011).

¹⁹⁵ The Global Fund to Fight AIDS, Tuberculosis and Malaria, *The Global Fund Strategy 2012-2016: Investing for Impact*, at para 70-75, http://www.theglobalfund.org/documents/core/strategies/Core_GlobalFund_Strategy_en/

¹⁹⁶ E.g. The Global Fund to Fight AIDS, Tuberculosis and Malaria, *Human Rights for HIV, TB, Malaria and HSS Grants: Information Note* (February 2014), http://www.theglobalfund.org/documents/core/infonotes/Core_HumanRights_InfoNote_en/

¹⁹⁷ Davis (2014), *supra* note 192, at 139.

¹⁹⁸ The Global Fund to Fight AIDS, Tuberculosis and Malaria, *New Grant to Support Human Rights in 10 African Countries* (November 19, 2015), http://www.theglobalfund.org/en/news/2015-11-19_New_Grant_to_Support_Human_Rights_in_10_African_Countries/

¹⁹⁹ The Global Fund to Fight AIDS, Tuberculosis and Malaria, *Grant Regulations (2014)*, article

6.1(2), http://www.theglobalfund.org/documents/core/grants/Core_Grant_Regulations_en/

²⁰⁰ The Global Fund to Fight AIDS, Tuberculosis and Malaria, *Human Rights Complaints*, approved by Management Executive Committee, November 6, 2014 (Copy with author). Also see The Global Fund to Fight AIDS, Tuberculosis and Malaria, *The Global Fund Human Rights Complaints Procedure: Responding to Community Concerns*, http://www.theglobalfund.org/documents/humanrights/HumanRights_2015-ComplaintsProcedure_Brochure_en/.

²⁰¹ The Global Fund to Fight AIDS, Tuberculosis and Malaria, *Human Rights Complaints*, *supra* note 200, paras 1-3.

²⁰² *Id.* at para 3(b).

²⁰³ *Id.* at para 7.

²⁰⁴ *Id.* at para 8.

²⁰⁵ *Id.* at paras 9 and 12.

²⁰⁶ *Id.* at para 9.

²⁰⁷ The Global Fund to Fight AIDS, Tuberculosis and Malaria, *Grant Regulations (2014)*, *supra* note 199, at article 6.1(2)(c).

²⁰⁸ The Global Fund to Fight AIDS, Tuberculosis and Malaria, *Human Rights Complaints*, *supra* note 200, para 5.

²⁰⁹ The Global Fund to Fight AIDS, Tuberculosis and Malaria, *Mid-year 2015 Corporate KPI Results and 2016 Targets, 34th Board Meeting*, GF/B34/08, at 36 (November, 2015), http://www.theglobalfund.org/documents/board/34/BM34_08-MidYear2015KPIs2016Targets_Report_en/.

²¹⁰ See section II.

²¹¹ The ILO is an exception. No doubt it needs more resources, but its resources are not “very few”.

²¹² See section III, including the discussion of article 23, ICESCR.

²¹³ See section III.

²¹⁴ See section V.

²¹⁵ Although this is based on the Committee on Economic, Social and Cultural Rights (CESCR), the point being made (i.e. the inadequacy of treaty-body review of countries) has wide application.

²¹⁶ According to an examination of members' biographies at <http://www.ohchr.org/EN/HRBodies/CESCR/Pages/Membership.aspx> accessed on 11 January 2016.

²¹⁷ This criticism is not confined to CESCR. Importantly, since 1990, CESCR has made, and continues to make, an enormous contribution to the jurisprudence of international economic, social and cultural rights. The Committee has cemented the place of economic, social and cultural rights in international human rights. However, CESCR is subject to constraints, such as insufficient time to do its job and a membership which is not professionally diverse. Notably, these constraints are not the fault of CESCR. States determine the number and length of CESCR sessions and they elect CESCR members.

²¹⁸ Damon Barrett & Manfred Nowak, *The United Nations and Drug Policy: Towards a Human Rights-Based Approach*, in *THE DIVERSITY OF INTERNATIONAL LAW: ESSAYS IN HONOUR OF PROFESSOR KALLIOPI K. KOUFA* 449 (Aristotle Constantinides & Nikos Zaikos eds., 2009). Also see RICHARD LINES, *DRUG CONTROL AND HUMAN RIGHTS IN INTERNATIONAL LAW* (forthcoming 2016); Joanne Csete, *Overhauling oversight: human rights at the INCB*, in *Governing the Global Drug Wars, LSE Ideas, Special Report* 63-68 (2012); Damon Barrett, *Reflections on Human Rights and Drug Control*, in *Governing the Global Drug Wars, LSE Ideas, Special Report* 56-62 (2012); and Paul Hunt, *Human rights, health and harm reduction: States' amnesia and parallel universes* (2008), <http://www.ihra.net/files/2010/06/16/HumanRightsHealthAndHarmReduction.pdf>.

²¹⁹ Başak Çalı, Lorna McGregor & Ivana Radačić, *ESIL Interest Group on Human Rights Launches Online Symposia on International Human Rights Law*, *EJIL: Talk!* (June 16, 2014), <http://www.ejiltalk.org/esil-interest-group-on-human-rights-launches-online-symposia-on-international-human-rights-law/>.

²²⁰ *Id.*

²²¹ *Id.*

²²² For a recent summary of the human rights challenges in the World Bank, see Philip Alston (Special Rapporteur on extreme poverty and human rights), *Report of the Special Rapporteur on extreme poverty and human rights*, UN Doc. A/70/274 (August 4, 2015).

²²³ See section IV and interoperability.

²²⁴ Wille, *supra* note 15, at 12.

²²⁵ See section III.

²²⁶ See section IV.

²²⁷ However, even though an agency has universal membership, its human rights initiatives could be skewed towards low- or middle-income countries. No doubt the Working Group would wish

to know whether or not an agency's human rights initiatives, when looked at overall, address low-, middle- and high-income countries on a reasonable and equitable basis.

²²⁸ See 'Quality control, 'authenticity' and coherence' below.

²²⁹ There are 41 thematic mandates as of 27 March 2015, see OHCHR, <http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>

²³⁰ Alston (1992), *supra* note 11, at 1.

²³¹ Philip Alston, *Resisting the Merger and Acquisition of Human Rights by Trade Law: A Reply to Petersmann*, 13 EUROPEAN JOURNAL OF INTERNATIONAL LAW 815, 842 (2002).

²³² Philip Alston, *Conjuring up new human rights: a proposal for quality control*, 78 AMERICAN JOURNAL OF INTERNATIONAL LAW 606 (1984).

²³³ OHCHR & UNAIDS, INTERNATIONAL GUIDELINES ON HIV/AIDS AND HUMAN RIGHTS 2006 CONSOLIDATED VERSION, UN Sales No. E.06.XIV.4 (2006).

²³⁴ The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies, *supra* note 82.

²³⁵ Section IV.

²³⁶ Such as GER, see section VI.

²³⁷ See section VI.

²³⁸ Oberleitner, *supra* note 57, at 359.

²³⁹ *Id.* at 387.

²⁴⁰ *Id.* at 387.

²⁴¹ *Id.* at 387.

²⁴² The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies, *supra* note 82.

²⁴³ See section IV.

²⁴⁴ For example, FAO, VOLUNTARY GUIDELINES TO SUPPORT THE PROGRESSIVE REALIZATION OF THE RIGHT TO ADEQUATE FOOD IN THE CONTEXT OF NATIONAL FOOD SECURITY (2005); see also OHCHR & WHO, *A Human Rights-Based Approach to Health*, in FLAVIA BUSTREO, PAUL HUNT ET AL., WOMEN'S AND CHILDREN'S HEALTH: EVIDENCE OF IMPACT OF HUMAN RIGHTS 112-115 (2013).

²⁴⁵ See ‘Quality control, ‘authenticity’ and coherence’.

²⁴⁶ Scarce, but growing, in relation to health and human rights see, for example, FLAVIA BUSTREO, PAUL HUNT ET AL., WOMEN’S AND CHILDREN’S HEALTH: EVIDENCE OF IMPACT OF HUMAN RIGHTS (2013) and Special Issue: Evidence of the Impact of Human Rights-Based Approaches to Health, 17 HEALTH AND HUMAN RIGHTS JOURNAL (SPECIAL ISSUE) 1 (2015).

²⁴⁷ For example, para 5. In a recent publication, Freedman and Mchangama appear to take a different view: “it is clearly unrealistic and unfeasible to expect Special Procedures mandate holders to make any significant contribution to topics such as global poverty ... that are already addressed by specific international institutions with much more directly relevant expertise and solid funding.” Freedman & Mchangama, *supra* note 18, at 192. This position runs counter to the mainstreaming mandates of the Human Rights Council and High Commissioner for Human Rights.

²⁴⁸ See section III.

²⁴⁹ Of course, the ‘mainland’ already has a number of accountability processes, such as UPR and periodic reporting to treaty-bodies, and the ‘archipelago’ already has some, such as the ILO Committee of Experts on the Application of Conventions and Recommendations, see section VI.

²⁵⁰ See especially section VII.