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# **Upholding UN Principles and Values while Helping to Resolve Complex Crises:**

**Reflections on how the UN could do both better**

## **Fellows Paper**

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**Reflections on how the UN could do both better**

**February 2019**

**Oslo, Norway**

*“For the values that we defend to truly prevail, we need to show that we understand people’s anxieties, fears and concerns. We need to address the root causes that lead people to feel marooned in our rapidly changing world.”*

— António Guterres, United Nations Secretary-General,  
*Remarks to Informal Session of the General Assembly, 16 January 2019*

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The views expressed in this paper are those of the author.

## List of Acronyms

CESCR	Committee on Economic, Social and Cultural Rights
EOSG	Executive Office of the Secretary-General
EWER	Early warning and early response
FAO	Food and Agriculture Organization of the United Nations
HC	Humanitarian Coordinator
HCT	Humanitarian Country Team
HDP	Humanitarian-Development-Peace
HRC	Human Rights Council
HRUF	Human Rights Up Front
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
INGO	International non-governmental organisation
L3	Level 3
NATO	North Atlantic Treaty Organization
NGO	non-governmental organisation
NWOW	New Way of Working
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
QCPR	Quadrennial Comprehensive Policy Review
RC	Resident Coordinator
RCO	Resident Coordinator's Office
R2P	Responsibility to Protect
SAG	Senior Action Group
SASG	Special Adviser to the Secretary-General
SDGs	Sustainable Development Goals
SRHR	Special Rapporteur on Human Rights
WFP	World Food Programme
WHO	World Health Organization
UNCT	United Nations Country Team
UNDG	United Nations Development Group
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNHQ	United Nations Headquarters
UNICEF	United Nations Children's Fund
UNSDG	United Nations Sustainable Development Group

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## Executive Summary

The three pillars of the United Nations' mission – human rights, peace and security, and development – are complementary and mutually reinforcing. In response to serious conflicts, the UN is expected to stand for its principles and, at the same time, constructively engage to help its Member States resolve conflict and lay the foundations for lasting peace and development. If the UN neglects its principles, it becomes morally rudderless; if it ceases to engage constructively with parties to a conflict, it loses the opportunity to bring the full force of its principles and breadth of its competencies to bear in helping resolve conflict, save lives and improve people's well-being. While conceptually this makes eminent good sense, in practice the UN sometimes falters when trying to walk tall on its two legs.

Considerable analysis has been done on the impact of different UN approaches to conflict resolution. And numerous reflections and reforms have been initiated to render the UN more internally coherent and effective in supporting different dimensions of conflict prevention and resolution. But there has been little analysis to date on the challenges that arise from tensions between different, at times competing, values, mandates and operating cultures within the UN. Yet these challenges constitute a distinct set of issues that influence the UN's ability to perform in complex crises and thus merit examination.

That there would be different perspectives within the UN is not surprising given the numerous mandates around its three foundational aims and its diverse areas of professional expertise. The organisation's dispersed architecture, different sources of accountability (Member States, Boards, and the people it serves) and the autonomy of many of its component parts accentuate this diversity. Putting aside questions of efficiency, diversity is not, in itself, an impediment. On the contrary, when well managed it has many advantages and can serve as a creative catalyst for innovative solutions. But, if the disparate interests in the UN System are left to their own devices and allowed to compete without limits to define the UN's dominant narrative and to shape its response, this can seriously harm the UN's ability to fulfil its mission in a given country. This scenario is most likely to occur when multiple cleavages within the UN overlap, such as mandates, financing imperatives and partial frames of reference based on professional focus, etc. The situation can be further complicated when powerful like-minded global constituencies back a particular UN internal perspective, and when a crisis strikes and emotions run high. In these contexts, the UN can find itself unable to effectively manage its diversity, thus jeopardising its ability to help resolve complex conflicts. In the most serious instances, it may actually impede a country's prospects for human rights, peace and security, and development.

This paper examines the origins of these internal UN tensions and how they can influence the organisation's performance in complex conflicts. While it draws on experience in non-UN mission contexts, where the UN System is often at its most vulnerable – exposed to complex demands with only the normal country set up – many of the findings are also relevant for UN mission settings. The paper is written for an audience with knowledge of how the UN operates in response to complex crises.

**Part One** examines United Nations principles and values, with particular emphasis on human rights. It identifies sources of internal tensions that arise between UN principles, and from different interpretations of them. It traces examples of inter-principle contradictions that have never been fully reconciled by UN Member States and how this impacts the UN proper<sup>1</sup>, for example, contradictions between the principles of self-determination and of human rights. Other kinds of tensions, arising from Member States' actions within the UN intergovernmental bodies, and their influence on public perceptions of the UN proper's impartiality, credibility and moral authority, are also explored. The paper also looks at tensions that can arise from different interpretations of human rights as absolute standards with immediate effect versus progressive realisation, as well as between the indivisibility of human rights and the operational imperative for strategic prioritisation. Finally, a distinction is made between tensions derived from real contradictions between principles and false dichotomies.

**Part Two** identifies six areas where more needs to be done to prevent tensions within the UN from impeding its performance in complex crises. These are clustered under six headings:

**The unique character of the UN:** The United Nations was created to do things that other entities cannot do on their own. While most UN staff identify with the organisation's unique character in principle, in practice their actions can undermine it. This can be due to incomplete appreciation of the 'big picture UN', to external influences to which staff may succumb, and/or other factors. While the UN must stand shoulder-to-shoulder with its Member States and civil society partners in the pursuit of its objectives, it must also courageously exert its own unique character, perspective, emphasis and way of working in order to remain true to its mission. This is sometimes easier said than done.

**Parallel processes:** Complex conflicts are frequently wound up with other, consequential national processes such as state-building, transitional justice and political power struggles. Untangling the connections between these interrelated processes is often the only way to effectively help resolve conflicts. The UN must consider the cause-and-effect linkages between multiple processes in a country. Similarly, it must consider how UN work in one area influences UN work in another area within a given country. This can be challenging for the UN under normal conditions, given its institutional diversity. And it can be even more challenging when strong internal perspectives pull the organisation in different directions.

**UN whole-of-system coordination and decision-making nodes:** Coherent and strategic UN responses to conflicts require strong internal, whole-of-system coordination and decision-making nodes in order to hear the views from across the UN System and beyond, weigh moral dilemmas, make difficult decisions, and craft and coordinate optimal responses. These nodes exist at Headquarters, regional and country levels. For such a large and diffuse system, the UN's coordination and decision-making nodes are surprisingly thinly resourced; they are generally not endowed with the requisite authority for the level and types of leadership expected of them, and they are not adequately protected in complex crises. The UN's specialised areas of work are far better resourced and empowered than its whole-of-system coordination and decision-making nodes, both at UN Headquarters and at country level.

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<sup>1</sup> The UN Secretariat, agencies, funds and programmes.

Resident Coordinators (RCs) represent the whole-of-system coordination and decision-making node at country level. Despite their title, they are often required to do much more than coordinate, especially in complex crises. Yet they are mere ‘first among equals’ leaders of the UN country presence, with minimal authority, and their offices are usually very small. To produce consensus-based decisions that are also strategic, RCs must levitate the System above its own gravitational pull. In times of complex crisis and with heightened internal UN competition, RCs can find themselves not only having to try to coordinate horizontally across different parts of the UN System in-country, but also vertically across different levels of the System, sometimes above their paygrade. In these situations, the UN cannot afford to leave its strategic decision-making to the usual consensus-based processes, where specialised institutional cultures have been allowed to become so powerful they can crowd out higher-level, whole-of-system strategic purpose. In addition, ambiguity surrounding the RCs’ political role is problematic. On the one hand, they are considered apolitical. On the other hand, they are frequently called upon to act politically from their apolitical platform, particularly in non-UN mission settings. While there are compelling reasons to keep the RC’s mandate focused on the UN’s development work, conflicting expectations of the RC in complex emergencies can exacerbate the UN’s internal tensions and impact its performance.

**UN theories of change and corresponding strategy:** When the UN stands for its principles and attempts to constructively engage its partners, it must do so on the basis of a well-grounded theory of change and corresponding strategy. Yet, when the UN attempts to develop theories of change, it is often hampered by endogenous and exogenous constraints. These include perennial ground-level information gaps that can invite conflicting interpretations of the conflict, the pull of conventional, deterministic analytical frameworks that may be of marginal relevance to ground realities, external influences, and internal competition between different perspectives. Joint analysis has been recommended to help overcome these constraints. While important, joint analysis alone cannot resolve intense internal UN competition. In the absence of effective adjudication mechanisms, the UN risks catering its analysis toward the parts of the System with the loudest voices or toward influential external partners. When the UN cedes to such pressures, rather than pursuing whole-of-system responses that are true to its unique character, it can find itself drifting toward a predominantly advocacy role, as the space for constructive engagement shrinks. In extreme cases, international strategies for political solutions may even have to be devised outside the UN.

**Unity in diversity:** As the UN strives for greater unity across the System, it must also become more adept at using its diversity as a strategic asset. The mainstreaming of certain priorities across the System has been misconstrued by some to mean that all parts of the UN must pursue them in the same way. This can cause unnecessary tensions and confusion. Unity of purpose and commitment to UN principles need to be combined with intelligent and impactful divisions of labour.

**Staff allegiance to the UN:** UN staff are increasingly working with and through external constituencies and communities of practice. These global networks can be extremely helpful and are much needed. Unfortunately, some staff misuse them to the detriment of the UN. This generally happens when their first allegiance is not to the UN, but to their external constituencies. This can lead to behaviours such as leaks of internal UN material. When staff

place their primary allegiance outside the UN, they can make it exceedingly difficult for the UN System to respond coherently and strategically to a complex crisis.

The paper offers a number of mutually reinforcing suggestions. While they do not address all the challenges faced by the UN in response to complex conflicts, they do offer some ideas to help the UN better manage some of its internal tensions.

### **Summary of Recommendations**

**1. The two main international Covenants on human rights need to be interpreted in a more seamless manner by UN officials and staff. Gaps in understanding between those with human rights monitoring and reporting functions and those with other core UN mandates must be closed.** In this context, a set of high-level dialogues across the UN should be initiated on what it means to stand for UN principles and constructively engage, supported with commissioned papers and concluding with a guidance note and training for all staff.

**2. A UN System-wide effort is needed to help UN officials and staff to value and protect the organisation's unique character and legitimacy more in their daily work, and to model a culture of peace.** Senior UN officials and managers at all levels must reignite and energise their staff with the ideals that inspired them to join the UN. Greater understanding of the distinctions between the UN's roles and responsibilities as compared with those of Member States and non-governmental actors is needed. A senior-level effort with commissioned papers and a mandatory UN Staff College training module for this purpose would be highly beneficial.

**3. Conflict prevention and resolution work would be enhanced if the UN could better employ both its unity and its diversity as institutional strengths, with respectful divisions of labour.** Senior leaders need to help staff members understand that shared goals and principles do not equate with all parts of the UN pursuing them in the same way. UN staff have common but differentiated responsibilities. The commitment to UN principles is common, while the manner of their pursuit is differentiated. Clear divisions of labour between the most political work; operational work at country level; and human rights monitoring, reporting and public messaging are needed for the UN to optimize its performance across its vast confederated structure. Senior-level messaging to all staff in complex contexts should emphasise the need to honour and respect these divisions of labour. In the most extreme instances, it should be understood that that demand for the highest standards of human rights, and the concomitant acceptance of political compromise when the only viable choice is between less than perfect options, may be philosophically irreconcilable and yet fundamentally necessary.

**4. The UN needs to expand and protect internal space for honest, dispassionate analysis of ground realities to better inform its theories of change.** These exercises must be led by the political parts of the organisation. They should move the UN away from over-reliance on deterministic models of social change. They need to draw from the best of both Western and non-Western understanding of change processes, anchored in the realities of the local context. Senior UN leaders must make it clear to all staff that consideration of the views of all major parties to a conflict does not conflate with UN concurrence with these views; rather, it is a necessary step toward understanding the conflict and being able to devise effective

responses. This should be accompanied by the introduction of more nimble, flexible instruments through which to implement response strategies in rapidly evolving contexts where access to reliable information is limited, as many of the current instruments were not designed for these conditions.

**5. The UN needs to further clarify, strengthen and protect its coordination and decision-making nodes, where issues and concerns from across the UN System are heard and analysed, and from where strategic decisions are made.** A study of the leadership expectation at these nodes, along with optimal levels of authority and resources, is suggested.

In the most serious and complex crises, the UN should introduce a distinct unified crisis response mode of operation. This goes beyond the humanitarian Level 3 categorisation and should be determined on the basis of the overall risk of conflict escalation. It should trigger a very different way of operating, including the designation of a senior UN lead, with full accountability to the lead, supported by one central fund for the System's operational response. Suggestions on this are made in Part III of this paper. A pilot of this unified crisis response mode of operation should be initiated as soon as possible. In the interim, a 'peace tax' could be levied against all donor funding for UN and UN-coordinated entities at country level to enable the Resident Coordinator/Humanitarian Coordinator (RC/HC) to direct funds to crucial underfunded areas which, ironically, usually relate to peacebuilding and conflict mitigation.

In addition, greater clarity is needed on the roles and responsibilities of RCs, Special Advisers/Envoys to the SG and Special Rapporteurs on Human Rights in complex emergencies. While the distinctions are clear conceptually, in practice each does not always see the others' roles in the same way.

**6. The UN needs to clarify expectations of Human Rights Up Front (HRUF) and the organisation's role in preventing atrocity crimes.** HRUF is an important initiative. But it was launched with no additional resources, and it both raised unrealistic expectations of the UN and took the spotlight off those with greater responsibility and leverage to prevent atrocity crimes. It did not always unite the UN System at Headquarters level behind a unified, strategic response. A more systematic approach to determining a common but differentiated response to circumstances of great concern is much needed. In addition, a set of common standards for the UN's early warning and early response systems (EWER) needs to be established.

**7. The UN should endeavour to utilise a fuller array of tools in its human rights toolbox in complex conflicts.** A clear distinction should be made between the need to advocate for UN human rights principles and the need to pursue the strategies most likely to ensure these rights are realized. There seems to be an implicit assumption behind much human rights advocacy that more public pressure is the appropriate strategy for all situations of serious human rights violations. Yet the data refutes this and, in fact, shows that public pressure often entrenches the position that produced the violations, thus deepening the misery of the very people whose rights the international community seek to protect. The UN therefore needs to develop human rights advocacy strategies that are both responsible and smart (results-based) to ensure maximum positive impact.

While there is a general consensus at the top of the UN that its strongest public statements on human rights violations should come from parts of the System outside the country to which they are directed, this understanding is not shared across the organisation. The UN should institutionalize this understanding across the System. In addition, UN public statements and quiet diplomacy concerning human rights violations should be seen as complementary.

More experiential training for State actors is required, as well as greater psychological insights and tools for inducing behaviour change.

**8. Greater flexibility is needed to shape and adapt international humanitarian responses in complex, protracted emergencies for greater reach and conflict-sensitivity.** The current funding model of many humanitarian donors has, in many instances, led to a proliferation of actors at country level, requiring many layers of coordination. This is fine in some contexts but not in others. In some circumstances, more humanitarian services could be delivered, in a more conflict-sensitive and cost-effective manner, with a lighter humanitarian footprint.

Greater latitude should be given to the UN Humanitarian Coordinator to contextualise local humanitarian operations in complex, protracted emergencies, along with funding modalities that enable this. A standard earmarking of funds for national capacity building should be levied against all donor funding of UN and INGO humanitarian responders coordinated by the UN, and placed under the Humanitarian Coordinator to help build national capacities for the response.

**9. UN responses to complex crises in non-UN mission settings require more sophisticated UN media strategies.** The UN must get ahead of the media narrative rather than simply react to it, especially when the UN itself may become part of the story. This is particularly urgent given the harmful misuse of social media in crises (e.g. hate speech, rumours inciting hatred, fake photos), the modern 24/7 news cycle and the role of journalism in our post-truth era.

The paper concludes by recalling that the United Nations must be more than a reflection of its Member States and its non-governmental partners. This is all the more important in an increasingly divisive global environment, with reductionist, binary voices across the political spectrum finding their way into mainstream politics in many countries, with extremes shouting ever louder and more angrily at each other, with retreats on some of the international community's most noble and treasured collective achievements, and with the emergence of a multipolar world grating against a gradually fading unipolar one. The UN must courageously exert its own unique character to fulfil its special mission. And it must lead a new global discourse to help bridge differences, expand common ground and build trust, in line with its principles. For this purpose, it must urgently resolve some of the tensions disturbing its own inner peace, and redirect its energies away from misguided internal struggles, toward meaningful, principled, peace-enhancing services to its Member States and to the people of the world in greatest need of its support.

## Introduction

The UN is often challenged in its efforts to help developing countries simultaneously resolve serious internal conflicts, uphold human rights and lay foundations for peace and development. There are many reasons for this. Conflicts are often complex and entrenched, characterised by competing historical narratives, claims and grievances that sometimes reach back multiple generations. This makes understanding the anatomy of a conflict and its interlinkages with other significant parallel processes in the country challenging from the outside. Yet even when conflicts are well understood, helping countries to identify workable compromises and solutions, while upholding the highest UN principles and values, with broad-based support of local populations and buy-in from international partners, is invariably a formidable task.

Much analysis has been done on the impact of different UN approaches to conflict resolution. This has led to a growing recognition that linear, top-down approaches are often not up to the task, and a general trend has started toward more organic, bottom-up processes, with greater recognition that solutions must come from within countries. There have also been considerable reflections on how to render the UN more coherent and effective in supporting peace processes and conflict resolution. A UN reform effort prioritising prevention is ongoing to this effect. But there has been little analysis to date of challenges that arise from inherent tensions between different, and at times competing, values, mandates and operating cultures within the UN.

Some tensions are actually enshrined in the Charter of the United Nations, such as the tension between respecting national sovereignty and self-determination on the one hand, and promoting and monitoring internationally agreed human rights norms on the other hand. Some derive from the various mandates entrusted to different parts of the UN and are perhaps best illustrated in the justice versus peace dilemma. Other tensions derive from different operational imperatives, such as the need to maintain the consent of the host nation in order to continue carrying out the work of the UN in country, the need to secure voluntary funding, or the need to promote international human rights by producing public reports and statements on the human rights conditions in a given country.

While this phenomenon is not new to the UN, internal tensions seem to have been exacerbated in recent years, perhaps fuelled by the current global wave of divisive, zero-sum narratives that have swept into the mainstream across many countries, creating dangerous social and political standoffs.

To respond effectively to complex conflicts involving serious human rights violations, the UN must stand for its principles and at the same time engage constructively with parties to the conflicts so as to assist with solutions in line with international norms

and standards. In many cases, the UN must also continue delivering life-saving and other vital assistance both to people affected by conflict and others in need. This seems an eminently reasonable proposition for the UN and, indeed, most people would expect nothing less of it. If the UN neglects its principles, it becomes morally rudderless; if it ceases to engage constructively with parties to a conflict, it loses the opportunity to bring the full force of its principles and breadth of its competencies to bear in helping resolve conflict, save lives and improve people's well-being.

Yet the UN sometimes falters when trying to walk tall on these two legs – standing for its principles and engaging constructively. Sometimes one leg is ready to move while the other is not. Sometimes one leg moves in one direction, while the other goes in another. And sometimes one leg trips on the other. Lack of synchronisation or harmony between the two legs can seriously impede the ability of the UN to respond. When the UN allows internal tensions to prevent it from responding effectively to conflict, it not only fails in delivering on its founding mission of human rights, peace and security, and development for all – it may actually impede a country's future prospects.

It is often difficult to differentiate between tensions originating from within the UN and those that arise externally. This is because the UN is an open system that is deeply influenced by its Member States and by affiliated non-governmental actors with whom it works closely. The UN System, its Member States and non-governmental actors are connected by interlinking platforms and vast communities of practice extending across institutions. In the past, the *modus operandi* of these three sets of actors were relatively predictable. However, decades of expansion of specialized staffing profiles in the UN, combined with the exponential advent of electronic communications and the rapid establishment of global networks changed things. On the one hand, it substantially bolstered important UN causes such as the Sustainable Development Goals (SDGs). But, on the other hand, it also blurred some of the institutional membranes between the UN, its Member States and partners. This paper focuses on internal challenges of the UN proper – principal organs such as the Secretariat, agencies, funds and programmes. However, it is important to recognise from the outset that when trying to take a principled approach while engaging constructively to help resolve conflicts, it is often difficult to pinpoint how much of the challenge is generated from within the UN proper and how much derives from its Member States and partners with influence over it.

## Part I. UN Principles

When we think of UN principles, we generally think first of fundamental human rights and for good reason: Human rights are the conscience of the United Nations and its Member States. They are the gold standard of our humanity. If the primary goal of the UN is peace, then one of the primary conditions for sustainable peace is respect for human rights.

As the late UN Secretary-General Kofi Annan said: “We will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights.”<sup>2</sup>

UN human rights principles cover a broad spectrum of issues and concerns, some binding on Member States and others non-binding, many signed and ratified by Member States and some not. In situations of armed conflict, UN human rights law is often associated with sections of the Geneva Conventions covering the responsibility to protect civilians. Four of the most serious human rights violations – genocide, crimes against humanity, war crimes and crimes of aggression – have been elevated to the status of international crimes, subject to prosecution. They are sometimes referred to as ‘atrocities crimes’.<sup>3</sup> The Human Rights Up Front (HRUF) initiative was designed to improve the UN’s preparedness and ability to prevent these crimes.<sup>4</sup>

Other sets of principles, binding and non-binding, also guide the UN. The Charter of the United Nations highlights the principles of non-use of violence, peaceful settlement of disputes, non-intervention, cooperation, self-determination and the sovereign equality of Member States. The Charter also espouses the values of equal rights, non-discrimination, tolerance and good neighbourliness.<sup>5</sup> UN-coordinated humanitarian responders are guided by the principles of humanity, neutrality,

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<sup>2</sup> A/59/2005, at para. 17.

<sup>3</sup> United Nations (2014). *Framework of Analysis for Atrocity Crimes: A tool for prevention*, New York: United Nations.

<sup>4</sup> UN Secretary-General Ban Ki-moon rolled out the Human Right Up Front (HRUF) initiative to ensure the UN was doing everything within its powers to prevent the kinds of atrocity crimes that occurred during the Rwandan genocide, Srebrenica, and at the end of the civil war in Sri Lanka in 2009. At country level, it requires RC/UNCTs to undertake three important tasks: (i) to develop Early Warning/Early Response (EWER) systems so as to detect possible triggers that might escalate tensions at an early stage, and to respond quickly with de-escalating measures; (ii) to report concerns and triggers to HQ in a timely manner and escalate the response from CO level to higher levels in the system if they surpass the UN’s country-level capabilities to respond; (iii) to train all UN staff on HRUF. At the regional level, HRUF requires the UN system to review countries with risk factors and elevate those of concern to HQ level for review in Senior Action Group (SAG) meetings, where the UN can take decisions on necessary preventative action, including system-wide strategies. HRUF was introduced under budget neutral conditions.

<sup>5</sup> As articulated by Secretary-General Guterres in his remarks to the Security Council Ministerial Briefing on “Purposes and Principles of the United Nations Charter in the Maintenance of International Peace and Security”, NY, 21 Feb 2018.

impartiality and independence, not to mention the 'do no harm' principle. And UN development work is similarly guided by principles such as inclusivity, impartiality, gender equality, national ownership, and consultation with people and their participation.

Complementarity across these principles is considerable, yet there are also ambiguities and contradictions that can give rise to tensions. These tensions are of different natures. They can exist between UN principles, for example, between the principles of national sovereignty and fundamental human rights<sup>6</sup>, or between human rights and international security. They also can exist between the rights of one individual or group and those of another. Contradictions, real or perceived, can also exist between UN principles and their operationalisation on the ground. These tensions are examined below.

## **1. Inter-principle contradictions**

There is no single, clear understanding either among UN Member States or various UN entities of how to manage some of the biggest inter-principle ambiguities and contradictions. One of the most serious unresolved tension lies between the principle of State sovereignty and the most egregious violations of UN human rights and humanitarian law considered international crimes, subject to international criminal prosecution.<sup>7</sup> The Responsibility to Protect (R2P) doctrine was essentially formulated to try to establish a common understanding of how to manage this tension. R2P is recognised as an important step forward; however, its status is weak (as a section within the non-binding outcome document of the 2005 World Summit on Social Development). Furthermore, its lack of clarity on operationalization continues to pose serious challenges; Member States have yet to agree on criteria to guide its implementation. It is not surprising, therefore, that some Member States have accused others of invoking R2P disingenuously, in pursuit of other objectives (e.g. the NATO intervention in Libya in 2011).<sup>8</sup> Invoking elements of the R2P doctrine in the absence of consensus on criteria for its use has not made it any easier for the international community or the UN to resolve the tension between the principle of national sovereignty and international human rights standards.

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<sup>6</sup> When Member States adopted the Universal Declaration of Human Rights, they pledged themselves to promote universal respect for human rights in cooperation with the United Nations. Thus nations decided to exercise their sovereignty in favour of cooperation.

<sup>7</sup> Genocide, crimes against humanity, war crimes and crimes of aggression.

<sup>8</sup> Puri, Hardeep Singh (2016). *Perilous Interventions: The Security Council and the Politics of Chaos*, Uttar Pradesh: HarperCollins Publisher.

## **2. Tensions among Member States on UN impartial application of human rights**

The UN's advocacy for its principles is often challenged by perceptions that the UN is not acting from a level playing field. Human rights are violated in one way or another in all Member States, often by State actors. Yet there is a perception among some that the UN does not hold all to account indiscriminately. Yes, there are processes that apply to all Member States, such as the Universal Periodic Review conducted by the Human Rights Council. Yes, the High Commissioner for Human Rights calls out many Member States including the most powerful – in Mr. Zeid's March 2018 statement to the Human Rights Council (HRC), he drew attention to human rights violations in over 50 Member States.<sup>9</sup> But when it comes to the potency of the language used in public condemnations, as well as decisions to activate international mechanisms to address serious violations, there is a perception among some of bias.<sup>10</sup> This perception often does not distinguish between the actions and decisions of the UN proper and the political agendas of its Member States in the Human Rights Council and other relevant UN bodies. Whether founded or unfounded, this perception undermines UN credibility and weakens its global moral authority.

## **3. Tensions between absolute human rights standards and progressive realisation**

When the International Covenant on Economic, Social and Cultural Rights (ICESCR) was conceived, it recognised the need for progressive realisation of these rights, as many of them require resources that could take time for developing countries in particular to mobilise. However, the Convention included several obligations of immediate effect<sup>11</sup>, including, for example, the obligation to prevent discrimination. The International Covenant on Civil and Political Rights (ICCPR), in turn, assumed States could ensure these rights in the short term and therefore requires States to take immediate action to protect, respect and fulfil this set of rights. Over the years, subsequent international human rights treaties and conventions have tended to combine both sets of rights into integrated packages (e.g. the almost universally

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<sup>9</sup> <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22772&LangID=E>

<sup>10</sup> Some less powerful countries say they are singled out because they are weak, whereas strong countries are let off the hook because they are strong. They contend, for example, that the United States has never been required to fully account for thousands of innocent civilians killed as collateral damage from US drone attacks in Afghanistan and elsewhere, whereas weaker countries are called to account for smaller crimes.

<sup>11</sup> The Committee on Economic, Social and Cultural Rights (CESCR) General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant) specifies the obligations of immediate effect when applying the caveat of progressive realization of economic, social and cultural rights. In summary, these obligations are that States must: demonstrate that every effort has been made to use all resources at their disposal to achieve minimum essential levels of each right, monitor progress, avoid retrogression and prevent discrimination.

ratified Convention on the Rights of the Child). International jurisprudence has also evolved toward integration of the two sets of rights more seamlessly. The Optional Protocol to the ICESCR of 2008 furthered this trend toward a holistic framework for the two Covenants by placing them on the same footing in terms of recourse. As observed by Bruce Porter: “It is now recognised that both civil and political and ESC<sup>12</sup> rights create some obligations of immediate application and others that require time and budgetary allocations to implement. Obligations under various human rights treaties significantly are now understood as overlapping and converging.”<sup>13</sup> For example, the removal of discriminatory elements of a national law falls squarely under obligations of immediate effect. However, discriminatory attitudes and behaviours may impede the full application of the law; they may stem from deeply ingrained societal mindsets and can even be invisible to the persons or groups perpetrating the discrimination. Changing mindsets and behaviours can take considerable time and resources, as the history of black equality in the United States demonstrates. So, addressing discrimination often entails both obligations of immediate effect and measures that can only be achieved through progressive realization.

This example shows that while the principle is clear conceptually, the underlying issues often need to be carefully deconstructed to arrive at acceptable and doable response strategies. Human rights lawyers continue to debate how to interpret and apply some of the more sticky dimensions in real life situations. It should not be surprising then that when the UN System works to operationalise its human rights responsibilities around the world, with its different parts focusing on different human rights aspects of the situations they are responding to, they may interpret the realisation of obligations of immediate effect and progressive realisation in slightly different ways. This can give rise to internal tensions.

Operationally, a core function of UN human rights specialists is to identify and call attention to gaps between UN norms and practices at country level. They may also provide technical assistance on request to Member States. Some UN human rights specialists focus on identifying, monitoring and reporting on the ‘wounds’, i.e. human rights violations and abuses. Other UN actors such as UN humanitarian specialists, for example, focus on administering first aid to some of the ‘wounds’ and keeping the patient alive and safe. Peace and development specialists are concerned primarily with preventing and halting violence and understanding and treating the pathologies that produced the ‘wounds’. They are all concerned about human rights, but their different roles and functions can lead to different perspectives on immediate priorities, and even on how to interpret trends on the ground. For example, some peace and development specialists may place greater emphasis on incremental

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<sup>12</sup> Economic, Social and Cultural.

<sup>13</sup> Porter, Bruce (2015). Rethinking Progressive Realization: How Should It Be Implemented in Canada? *Continuing Committee of Officials on Human Rights*.

progress, because they value the importance of locally-led and locally-owned processes to ensure sustainability and because this takes time. They have also learned to be cautious regarding unintended consequences and harm that may come about when pressure from external actors strains the capacity of local institutions to cope with change. As a result, they tend to value approaches that are in the perceived best interest of most of the affected population. Some human rights specialists, on the other hand, may demand and expect immediate changes to laws and policies that would quickly end human rights violations because it is intolerable that they should be allowed to continue. They tend to focus and assess progress on selected individual cases, and certain types of high-profile abuses.

One specialist sees the complexity, difficulty and effort needed to take one step forward, while the other remains unimpressed since the gap with respect to the absolute normative standard may remain formidable and people are suffering because of it. Their perspectives are different. Peace and development specialists can be left feeling that their human rights colleagues may have made perfection the enemy of the good; at the same time, human rights specialists may be left feeling that their peace, development and political colleagues are not committed and principled enough on human rights. In fact, both points of view may be valid. It is quite possible that each is doing exactly what is necessary for the organisation to stand for its principles as well as constructively engage toward just and lasting solutions to crises. Yet this may elude people in different parts of the UN and the resultant internal tensions, when left to fester, can harm the UN's ability to perform.

#### **4. Indivisibility and prioritisation**

Development specialists sometimes turn to their human rights colleagues for guidance on prioritisation when addressing multiple human rights concerns. Operationally and practically speaking, a strategy toward the full realisation of human rights requires prioritisation. Human rights specialists in the UN are sometimes reluctant to advise on prioritisation, however, because human rights are considered interdependent and indivisible. This means that all human rights are equally important. This can produce a conceptual impasse within the UN that does not provide a conducive basis from which to support a country to improve its human rights record. And while it does not stop operational parts of the System from developing appropriate strategies, it can create unnecessary frustrations and tensions between UN colleagues who are looking at the same reality through different lenses.

#### **5. False dichotomies**

Finally, while there are some real ambiguities between some UN principles, and between the principles at a conceptual level and their application, there are also false dichotomies. Conceptually, for example, all would agree that the UN development

mandate is founded on principles derived from the UN Charter, the Universal Declaration of Human Rights and its Covenants, core human rights treaties, as well as other UN instruments. UN development *is* human rights<sup>14</sup>; that is how the development parts of the System would frame their work. It may not always be articulated as such and, indeed, some parts of the System may not always be fully conscious of their work in human rights terms, but when one digs into their central development preoccupations, they are usually rights-based – civil and political as well as economic, social and cultural rights.

Yet development work is sometimes framed as being different from or, in extreme cases, even pitted against human rights. This was the case in Myanmar, for example, with respect to the Rohingya crisis. Development actors were criticised for proposing development as a contribution toward lasting solutions to the complex crisis in Rakhine State, which was characterised by longstanding violations of civil and political rights, as well as development deprivations, humanitarian needs and more. The UN never promoted development as the lynchpin cure to solve all, or even most, of the critical challenges; rather, it promoted development (i) as a response to economic, social and cultural rights deprivations in a poverty-stricken state, (ii) as a means for softening the ground for political solutions to root causes of the crisis, and (iii) as a means to build social cohesion and dialogue between the two major local groups, whose mutual antipathy constitutes one element of the crisis. Yet, early efforts to bring development to Rakhine State caused internal UN tensions because some cast it as masquerading as a cure to the crisis and as juxtaposed to human rights concerns.

The application of UN principles at country level by different parts of the UN System thus provides fertile ground for different interpretations and internal tensions. The more complex the conflict, and the more emotive the circumstances, the greater these internal tensions may become.

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<sup>14</sup> There is a recognized right to development. The economic, social and cultural rights set out in the CESCR are directly connected to development. There is a special procedures mandate holder: the Special Rapporteur on Extreme Poverty and the Right to Development. Human rights are a key part of the 2030 Agenda and its Sustainable Development Goals.

## Part II. UN Constructive Engagement

When the UN Secretary-General calls for a principled approach with constructive engagement, he is asking UN staff to stand for the organisation's principles and to engage *with those principles*. He is not juxtaposing principles with unprincipled constructive engagement. While this is clear at the conceptual level, in practice, contradictions (both real and perceived) between UN principles, along with ambiguities arising from the organisation's dispersed and compartmentalised institutional structures with their different ways of working, can easily give rise to misunderstandings and tensions over how to best operationalise this approach.

This section focuses on UN constructive engagement with governments. Governments are not the only important party with which the UN must engage. Indeed, the UN must engage constructively with all key stakeholders, particularly when trying to help countries resolve complex conflicts involving multiple groups and factions. However, the UN's relationship with governments is critical because it is they who hold primary responsibility for upholding the human rights of all within their national jurisdictions. They are often the only entity with the requisite authority to create conditions necessary for resolving crises and respecting UN principles, and without their concurrence the UN is unable to assist.

The purpose of engaging constructively with governments during crises is usually threefold: first, to raise serious concerns (human rights related and other) and offer insights and suggestions toward resolving the crisis, or at the very least preventing it from deteriorating (these are generally politically-sensitive functions); second, to provide operational services in response to the crisis; and third, to enable other non-crisis-related UN work to continue despite the crisis. While the UN must uphold its principles across all three, the nature of the discussions and even the type of relationship needed to engage constructively with governments are different.

The UN System's current design and way of working in non-UN mission settings, although far from ideal, have come a long way in striving to deliver as one, better equipping it to deal with the latter type of constructive engagement – to enable non-crisis-related work to proceed. It is also adequate for some types of crisis prevention and resolution, along with some conflict related operational support. But, in complex and particularly dire situations, the System's architecture and ways of working can impede its response. When combined with the contradictions and tensions described in Part I of this paper, this can, in extreme cases, severely impede the UN's response.

This paper is being written during a major reform of the UN System to address some of the organisation's systemic shortcomings. The reform is designed to take the next steps in trying to retrofit a system response from a broad set of UN entities that were not initially designed to function as such. The paper assumes these reforms will result

in improvements to the alignment and incentive structures of the System, particularly with respect to the Resident Coordinator/United Nations Country Teams (RC/UNCTs), but that much of the UN's basic architecture will remain 'as is' for some time to come. It is therefore assumed that RC/UNCTs will continue to be required, to some degree, to collectively self-transcend the limitations of the System in order to produce collective results bigger than the sum of its parts. In other words, despite better alignment, the System will continue to rely on the personal ingenuity and commitment of individual RCs and UNCT members to transcend the gravitational pull of the organisation's diffuse structure and competing incentive systems to achieve meaningful results.

If these assumptions are correct, then there is all the more reason for the UN to exert a concerted effort in the following areas toward rendering its response to complex conflicts more effective:

## **1. The unique character of the UN**

The UN derives its legitimacy from the universality of its global membership and its impartiality – these provide the organisation with its credentials to act. The UN must protect its legitimacy. It must not only apply its principles even-handedly, but it must also engage with all Member States equally, especially when some Member States expect a disproportionate sway over the UN. It must resist external efforts to capture or use its legitimacy inappropriately, as well as efforts to sideline the UN for ignoble purpose. The UN must also protect itself from forces within itself that, wittingly or not, may seek to advance their personal and/or agency-specific interests at the expense of other important UN work, thereby weakening the whole-of-system response.

While most UN staff identify with the unique character and roles of the UN in principle, in practice their actions can sometimes undermine it. This can be unconscious due to the limited mandate-related prisms through which they perceive the organisation – the elephant and the blind men parable. A circumscribed appreciation of the UN can convince staff that they are upholding the legitimacy of the UN while their actions, in fact, make it harder for other parts of the UN to perform their vital functions. Other factors beyond UN mandates can also influence, consciously and unconsciously, how UN staff perceive their role and that of the UN, e.g. other types of agency-specific imperatives such as resource mobilisation, professional training and orientation, and even personal life experience. As previously mentioned, the different perspectives of the UN are not the problem. On the contrary; they should be the source of catalytic creativity in the pursuit of solutions. The problem arises when partial perspectives try to impose themselves over the whole UN.

Walking tall on both legs is not an either/or proposition. Neither is it a question of balancing principles with constructive engagement. It is about pulling out all the stops

for both, recognising they are two sides of the same coin. This requires creativity, courage and perseverance, particularly when efforts go unappreciated by the organisation's critics.

At country level, UN Resident Coordinators strive to inculcate an appreciation for the special character of the UN with its multiple attributes, common but differentiated roles and functions, to help UN teams and staff understand, protect and exercise the UN's unique mission, functions and legitimacy. In conflict situations involving serious violations of international human rights and humanitarian law, these efforts can be challenged by a range of factors: by contradictions between UN principles and the way this percolates through the system; by strong professional and mandate-driven differences in perspective on how to implement a principled approach with constructive engagement; or by partnerships that may press the UN to respond in ways that curtail its legitimacy or limit the expression of its unique character. For example, at country level traditional donor countries may decide to act as a block, expecting the UN to join them, while non-traditional development partners work on their own. RCs and UNCTs must take care to work with all Member States to preserve the organisation's universality, regardless of whether or not they share the same views.

Similarly, in the UN's humanitarian work, where it is responsible for overall coordination of UN and NGO responders, some partners' expectations of the UN may not always take the organisation's unique character fully into account. While recognising that the UN is neither a Western-only organisation nor an international non-governmental organisation (INGO), some may nevertheless pressure it to act as such. The way the role of the UN Humanitarian Coordinator (HC) has been conceived can inadvertently foster some of this confusion. While essentially a coordination function, the HC is, in fact, often expected to do much more than humanitarian coordination for the international community. Unfortunately, the international humanitarian system is not always effective at pushing back on unrealistic expectations of the HC from various quarters. Their roles and responsibilities have only expanded over time and, as a result, HCs can easily find themselves caught between criticisms from all sides: from humanitarian INGOs for acting as UN officials toward government, casting this as 'being too close to government'; from governments who see the HC as entangled with INGOs in the humanitarian sphere and, in their eyes, sometimes behaving more in the style of activist NGOs than a representative of an intergovernmental organisation; and from donors for not adequately addressing the often mammoth coordination demands (which are caused, at least in part, by some donor financing mechanisms that result in large numbers of humanitarian actors with significant coordination needs).

While the UN must be responsive to all its partners, complying with pressures from different constituencies can dilute its unique character and specificity. At the same time, resisting them can result in misunderstandings and dissatisfaction from partners. This tension diverts precious time and energy from responding to the crisis at hand. More efforts are therefore needed to help the staff of UN agencies, INGOs, development partners and governments to fully understand and accept the distinct character and roles of the United Nations System, even as the UN works shoulder-to-shoulder with all partners to fulfil common objectives. Without this respect for the UN's unique roles and functions, the organisation can be easily pressured, from inside and from outside, into circumstances in which its global legitimacy is eroded and its capabilities diminished.

## **2. Parallel processes**

Serious conflicts in developing countries are often wound up with other, sometimes larger national and/or subnational issues and processes – state-building, transitional justice, political power struggles, etc. For example, a conflict involving identity issues and territorial disputes may be linked to larger unresolved questions of national identity within a nation-building context. Resolution of the conflict may depend on the evolution of these broader national identity questions. Similarly, political decisions taken at national level outside a conflict context may have a disproportionate impact on one or more of the parties to the conflict. And resolution of the conflict may depend on addressing these impacts and the relationship with the centre. While this may appear as an additional layer of complication in what can already be a very complex crisis response and peacebuilding effort, approaching the broader issues in conjunction with the conflict is often the only way to effectively help resolve it.

The UN and international community usually understand that important linkages exist; however, political imperatives to focus on the conflict, combined with the specialised nature and silos of different UN and international community work streams, can create dynamics that in practice eclipse these linkages. This can skew the theory of change underpinning the response, and rule out critical solutions latent in parallel processes.

So, when the UN strives to walk tall on both legs – standing for its principles and engaging constructively – in response to a serious conflict, it must consider possible cause-and-effect flows between its peacebuilding and other areas of work, both related and unrelated to the conflict. The UN's recent focus on a New Way of Working (NWOW)<sup>15</sup> seeks to achieve greater coherence across its peacebuilding, humanitarian

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<sup>15</sup> Former UN Secretary-General Ban Ki-moon and the heads of UNICEF, UNHCR, WHO, OCHA, WFP, FAO, UNFPA and UNDP, with the endorsement of the World Bank and the International Organisation for Migration, signed at the World Humanitarian Summit a "Commitment to Action" document, in which they agreed on a New Way of Working in crises. Its aim is not only to meet humanitarian needs,

and development spheres of work. But the structural and coordination constraints are so great that even energetic responses from within the UN to cut through the silos have often been unable to produce consequential results. Furthermore, efforts around the triple nexus (humanitarian-development-peace) have sometimes ended up confusing ends and means. They have adding yet more layers of coordination bureaucracy to an already crowded coordination universe, sometimes driven more by the institutional logic of international partners than by ground realities. Rather than addressing these fundamental issues at the highest levels of the System, the expectation is that practitioners should work them out among themselves on the ground through, for example, joint analysis and planning. While some improvements in coherence can definitely be made in this manner in more straightforward circumstances, the same cannot always be said in very complex, protracted, politically-charged contexts.

In the most complex environments, when the UN itself is accused of political bias, whether directed at one part of its work or the whole System, no amount of NWOW effort will be able to retrieve the organisation's influence and leverage. Such accusations of bias may be directed at one particular area of UN work, but can rapidly implicate the whole System. For example, international humanitarian responses can inadvertently generate dissatisfaction from host communities whose poverty does not qualify them for humanitarian support unless it is life-threatening. This can be innocently misinterpreted or even purposefully manipulated as political bias. While UN humanitarian actors can make some allowances at the margins to render their assistance more palatable for the host communities who do not technically qualify for humanitarian aid, they are constrained by the parameters of their profession to focus on humanitarian needs. Because development assistance is often underfunded in emergencies and/or slow to come online, a significant part of the UN response may end up being viewed as biased by local actors. Whether or not it is biased is not the point; if it is perceived as such this can affect the overall image of the UN in a country and, subsequently, its ability to help resolve root causes of the conflict or crisis that generated the humanitarian needs. Efforts to change the shape and image of the international humanitarian response to render it more conflict-sensitive can be exceedingly difficult due to the large numbers of actors involved, their painstakingly negotiated standardised operational protocols established at global level, and the lack

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but also to reduce needs, risks and vulnerability over time. As agreed by partners on the Commitment to Action document, the New Way of Working is not about shifting funding from development to humanitarian programmes or from humanitarian to development actors — rather, it is about: using resources and capabilities better, improving Sustainable Development Goal outcomes for people in situations of risk, vulnerability and crisis; shrinking humanitarian needs over the long-term; galvanizing new partnerships and collaboration — such as through the private sector, local actors or Multilateral Development Banks — in support of achieving collective and measurable outcomes that reduce people's needs, risk and vulnerability. *Source: <https://www.agendaforhumanity.org/initiatives/5358>*

of real authority invested in the RC/HC to shape the humanitarian response in conflict-neutral ways.

Clearly, the forward and backward linkages between a complex conflict and other parallel processes in a country or region, are essential for developing coherent, robust and smart response strategies. To this end, the UN's triple nexus and NWOW initiative in complex crises should not be relegated to the usual UN collective decision-making; it must be clearly led by the political/peacebuilding work of the UN. If, for example, it is considered preferable in some circumstances to have a light humanitarian footprint (i.e. fewer numbers of responders delivering the same or even more humanitarian assistance), RC/HCs should be empowered to shape the international humanitarian response accordingly. And if the conflict demands that the hard edges between international humanitarian and development institutional responses be blurred through hybrid support, RC/HCs should be empowered to craft the response accordingly.

### **3. UN whole-of-system coordination and decision-making nodes<sup>16</sup>**

The UN System's institutional structure with its numerous, diverse entities, its autonomous governance structures and its independent decision-making, make it challenging to steer under normal conditions and even more so in complex conflicts. To ensure a strategic UN response there must be strong internal, whole-of-system coordination and decision-making nodes at which: (i) views from across the System and beyond are heard; (ii) internal disagreements are resolved and decisions made that can stick; and (iii) UN optimal responses are coordinated. Yet, for such a large and diffuse system, the UN's coordination and decision-making nodes are surprisingly thinly resourced, they are not endowed with the needed authority for the level and type of leadership expected of them, and they are not adequately protected in complex crises.

Currently, the nodes in the UN that bring together the operational work of the System with respect to country-specific responses in non-UN mission settings are: the UN Sustainable Development Group (UNSDG) chaired by the Deputy Secretary-General, which meets twice a year<sup>17</sup>; the UN Regional Directors Group<sup>18</sup>; and the UN Country Team at country level chaired by the Resident Coordinator. UN officials working at

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<sup>16</sup> Coordination and decision-making nodes are those that bring together the views of all parts of the System and from where coherent and strategic decisions are made. These nodes are primarily at UNHQ and country levels, e.g. Resident Coordinators.

<sup>17</sup> The UNDP Administrator previously brought together all entities under the United Nations Development Group (UNDG) until the current UN reforms when these responsibilities were transferred to the Deputy Secretary-General, with the UNDP Administrator serving as co-chair.

<sup>18</sup> The UN Regional Coordination system is currently being redesigned.

these whole-of-system nodes are required to follow through on QCPR<sup>19</sup> decisions, integrate different strands of UN work and craft synthetic, strategic responses for the system.

Numerous UN entities are coordinated at these nodes, with only partial reporting and accountability to the chairs. From January 2019, a matrix reporting system is being rolled out at country level for all UNCT members, requiring them to report both to their host agency and to the RC regarding their contributions to the collective endeavours of the UNCT. How effective the new matrix reporting will be remains to be seen. The matrixed UN positions that pre-date these reforms were not without some challenges.

This section focuses on the RC node. What are the challenges associated with the RC function in conflict situations?

### **Tensions between collective and strategic decision-making during a conflict**

Generally, it is good institutional practice for decision-making in a conflict context to be placed as close to the front line as possible and endowed with authority, back-up and protection. RCs are on the front line at country level. They are endowed with some decision-making authority, in consultation with UNCTs and United Nations Headquarters (UNHQ). This is good, but as RCs are merely 'first among equals' leaders, they cannot make decisions without the collective endorsement by the UNCT. As voting is not generally a practice within UNCTs, these decisions are usually consensus-based. RCs, therefore, observe the ground realities, consult with UNCTs, seek regional and UNHQ level advice and, based on this, they strive for consensus around strategic responses. During these consultations, different parts of the System exchange views on how the UN should respond, options are considered, compromises are generally made, and a consensus is usually reached. This can be extremely time-consuming as UNCTs can be large, sometimes with over 20 UN agencies, and some agency heads are more collaborative than others. And tentative consensus reached within the RC/UNCT can be undone by individual agencies' HQ. RCs, in fact, sometimes find themselves not only having to coordinate horizontally across different parts of the System, but also vertically across different levels of the System, including levels above their pay grade.

Even under normal conditions, it is challenging to ensure that a UNCT's decisions are not only consensual but also strategic. RCs learn quickly that their role is to help levitate the UNCT's deliberations to achieve both. This is an art form that requires the RC to work both through formal processes and informally behind the scenes. It is very labour intensive. Clearly, the UN's collective decision-making culture does not lend

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<sup>19</sup> The Quadrennial Comprehensive Policy Review (QCPR) is the primary policy instrument of the UN General Assembly to define the way the UN development system operates to support programme countries in their development efforts.

itself well to the nimble, quick and strategic responses needed in a fast-moving crisis. Nor is it conducive to politically-sensitive decisions that entail weighing difficult moral dilemmas, judging between several less-than-perfect but doable solutions, and between elements of UN principles in contradiction to one another. UN collective decision-making is not appropriate for this kind of strategic arbitration. This is not to say that RCs and UNCT members are lacking in the requisite political acumen and savoir-faire. On the contrary, many are well endowed on this front. Rather, the System does not enable this acumen to be put to its greatest strategic use.

### **Tensions between the spread of RC responsibilities and back-up capacity**

RCs and their offices are not resourced to simultaneously:

- engage constructively with national parties to the conflict;
- analyse fast-moving situations continually;
- anticipate trajectory changes and respond with preventative action and solutions;
- secure strategic and consensual decisions from UNCT members on UN responses to the conflict, with some members more involved in the response than others;
- consult with an array of relevant UNHQ entities both on important political and other concerns and for general coordination purposes;
- consult and coordinate with other important external actors responding to the crisis, both in-country and externally;
- keep the UN's regular operational work on course, both conflict and non-conflict related work, and fulfil all other RC responsibilities; and
- ensure staff safety and security.

Furthermore, in a crisis the RC and the Resident Coordinator's Office (RCO) must prioritise the UN's response to it. Particularly when the crisis is protracted, this can occur at the expense of other vital UN work. While this may be acceptable in the short term, it leads to side-lining of core parts of the UN mission in the longer term. Clearly, different modes of operation, including more unified and strategic funding modalities, are required in serious and complex emergencies.

### **Mismatch between formal and informal expectations of RCs' political role**

The political role of the RC is ambiguous. On the one hand, RCs are designed to be developmental, not 'political' *per se*. This is why they report to the UNSDG which brings coherence to the UN's operational work for development, but has neither a political nor a humanitarian mandate. On the other hand, the RC must act with political acumen. This is required in normal times, but it is particularly essential in the face of complex, politically-charged situations and in circumstances without a country

Special Adviser to the Secretary-General (SASG) or equivalent. Much of the RC's advocacy for human rights is, in effect, highly political in nature.

So, RCs frequently find themselves called upon to act politically from an apolitical platform, placing them in effect somewhere under the UNSDG and the Secretary-General's Executive Committee – that brings together the full gamut of the UN's peace and security, human rights, development and humanitarian work. To manage this ambiguity requires finesse by RCs, at which many are adept. Yet the System can face difficulties supporting these ambiguous functions. On the one hand, it relies on the RC for political work. Yet, on the other hand, it does not officially recognise this work and ring-fences the RC/UNCT from much of the political sphere at HQ. It is not unusual for RCs to learn of important UNHQ political decisions from trusted external partners rather than from the UN itself. This includes not only substantive information, such as decisions taken at UN intergovernmental bodies like the UN Security Council with respect to the country where the RC is stationed, but also logistical information, such as decisions on high-level UN official visits to the country. Clearly, this is not ideal, especially in a conflict situation. While there are good reasons to keep the RC's mandate squarely in the UN's development sphere of work, clearer expectations of the RC in complex emergencies, are needed.

In complex crises where RCs are expected to play a political role from their apolitical platform, the same open and transparent modes of working that they employ to gain the confidence of UNCT members during normal times can become a liability. The RC must be able to engage with government and other key parties to a conflict on sensitive issues with some discretion. Leakage of sensitive information at the wrong time can severely damage the UN's credibility and ability to assist in a crisis. RCs are also expected to work transparently, yet when they share information internally, it often entails risks of leakage to external parties, including to the media. The diplomatic community knows well that part of its work must be managed with discretion, yet this is not widely accepted within the UN with respect to its own diplomats. Not only is there no System-wide understanding of the need for RCs to operate differently in serious crisis situations, but RCs in non-UN mission contexts do not have access to encryption software to be able to share written communications confidentially with HQ.

Greater clarity on the RC's mandate is needed both in circumstances where there is no UN political presence as well as in cases with a SASG and/or Special Rapporteur on Human Rights (SRHR). While conceptually the division of labour is clear between the RC, SASG and SRHR, in practice it can become blurred, with different parties holding different expectations of each other. These expectations can lead to misunderstandings.

## **Tensions between absolutist and political responses to crises**

Resident Coordinators must advocate for human rights and ensure that the UN's operational work is in alignment with international human rights standards and norms. They must also do a great many other things to keep the UN's operational work strong and steady, and to help find solutions to human rights violations as well as conflict overall. During normal times, it is unlikely that anyone would perceive a conflict between the RC's human rights responsibilities and their other functions. But in a serious crisis setting involving egregious human rights violations, and when efforts to address these violations are stymied by multiple factors, RCs can find themselves caught in the middle of disagreements between the absolutist human rights part of the UN and the solutions-focused political parts of the organisation.

The fact that tensions exist between these two areas of work is not surprising. Indeed, the absence of tension could be more worrisome as it might indicate insufficient effort by one or other part of the house. Tensions between absolutists and political agents are almost as old as time; they certainly predate the creation of the UN. Indeed, many of the world's great moral philosophers have wrestled with them only to conclude that both are equally right and necessary and, at the same time, in certain extreme circumstances, may be essentially irreconcilable.<sup>20</sup>

The UN should therefore expect internal tensions in dire circumstances. Rather than viewing this phenomenon as evidence of dysfunction, it should be analysed carefully as it may be a natural consequence of two equally essential, and sometimes fundamentally irreconcilable, areas of its work. The UN should certainly strive to reconcile its work streams by helping its staff to better appreciate how their work fits into the bigger, whole-of-system perspective. Many perceived differences and tensions can be resolved in this way. The Rawlsian idea of 'overlapping consensus' may be useful in this regard.<sup>21</sup> But the UN should also accept that in some exceptional instances, the different strands of its work may defy reconciliation. In these instances, the UN should strive to manage its differences by helping staff and partners understand that they are a natural consequence of different parts of the UN doing exactly what they must do. Unfortunately, this is not generally how these tensions are perceived or approached. Frustrations are allowed to escalate. And, in the most extreme instances, RCs on the front line can end up serving as lightning rods for a System struggling with itself.

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<sup>20</sup> See the works of Michael Walzer, John Rawls, Nancy Fraser, Ronald Dworkin, Will Kymlicka, Bhikhu Parekh, Juergen Habermas, Iris Marion Young, for example.

<sup>21</sup> Rawls, John (1993). *Political Liberalism*, New York: Columbia University Press.

#### 4. UN theories of change and corresponding strategy

In a violent conflict, when the UN attempts to constructively engage, it does so to urge that internationally agreed values and principles be respected, to suggest ways toward resolving the underlying causes of the crisis, and to offer and enable UN operational support. The principles and their realisation are the desired end result; they are not the strategy. To engage constructively in these circumstances requires not only having people with the requisite experience and character to build trust with different parties to the conflict, but it also requires a well-grounded theory of change and corresponding strategy.

These theories of change must be developed by the UN at two levels: first at the overall level, addressing how governments and parties to the conflict can resolve the situation; second with respect to UN/partner support, addressing how the UN (and others) can contribute toward these efforts. The more complex the crisis, with multiple superimposed and interlinking elements, the more comprehensive the strategies likely needed, often including a full range of political, human rights, peacebuilding, governance, rule of law, security, humanitarian and development components.

When the UN attempts to develop theories of change, it is often hampered by the following endogenous and exogenous constraints:

**Information gaps:** The UN often lacks reliable information and clarity on the underbelly of the crisis because the situation on the ground is ambiguous, remote, fluid and changing. Not only are the basic facts often unclear, but they may also be fiercely contested by parties to the conflict fighting to define a dominant narrative. The tools employed by the UN System and many traditional donors generally assume a solid understanding of the facts. They are not well adapted to the murky, shifting realities of many crisis contexts.<sup>22</sup> Nor are they foolproof with respect to data verification in politically-charged circumstances.

Another kind of information gap sometimes arises because those responsible for developing theories of change are staff working at an operational level that may not always have access to high-level UN information and readings of the crisis. This can be due to structural factors, the autonomous nature of the many UN entities, and conscious efforts to place firewalls between, for example, the high-level political functions of the organisation and the more operational functions in non-UN mission settings. The more contested the various narratives surrounding a conflict, the more likely these information/interpretation gaps are to occur.

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<sup>22</sup> De Coning, Cedric (2018). Adaptive peacebuilding. *International Affairs*, 94(2), 301-317.

**The pull of conventional wisdom and deterministic models of social change**<sup>23</sup>: The UN is usually well versed in theories of change derived from Western historical experience, which can place a high premium on formal institutions. In developing countries, however, the real centres of power and decision-making may lie elsewhere. Although the UN knows this, it sometimes finds it difficult to translate this understanding into corresponding theories of change based on ground realities<sup>24</sup>. The pull of conventional assumptions can distort its interpretation of ground realities and, subsequently, the identification of viable options to help resolve conflict.

**External influence:** The UN listens to many actors when developing its theories of change and response strategies, including host governments, civil society and international partners. This is a natural by-product of both national ownership and partnerships, which the UN obviously supports. But care must be taken to ensure undue influences do not prevent the UN from having its own UN analysis and its own distinct UN theory of change.

**Internal tunnel vision:** UN principle- and mandate-driven imperatives may exclude important elements of a crisis from consideration. The organisation can struggle to forge holistic interpretations of complex crisis. It can struggle to simultaneously uphold its principles and mandates while dispassionately examining the full range of perspectives of parties to a conflict, necessary for a robust theory of change and a strategic response. Parts of the UN can erroneously equate the analysis of these interests with the tacit acceptance of them, making it almost impossible to devise meaningful theories of change.

It is therefore easy for the UN to be led astray while conceptualising theories of change. The collective decision-making processes of Resident Coordinators and UNCTs described in the previous section are not conducive to overcoming this. And the usual RC/UNCT levitation strategies, that can surmount the System's constraints in normal times, can be partially or fully disabled in times of crisis involving emotive differences in views. It is therefore not unusual for the UN System to prepare response strategies based on shaky theories of change, and to act on them as if they were solid.

#### **a) Limits to joint UN analysis and planning in trying to overcome these constraints**

In trying to apply the UN System's New Way of Working, many have stressed the importance of joint UN analysis. It is thought that greater coherence at the analytical stage will lead to more coherent and effective UN System-wide theories of change and

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<sup>23</sup> Eriksen, Stein (2009). The Liberal Peace Is Neither: Peacebuilding, State building and the Reproduction of Conflict in the Democratic Republic of Congo. *International Peacekeeping*, 16(5), 652-666.

<sup>24</sup> Nisbett, Richard E. (2003). *The Geography of Thought, How Asians and Westerners Think Differently... and Why*. New York: Free Press.

responses. This important point is emphasized in the recent UN and World Bank publication, *Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict*.<sup>25</sup> Joint analysis is certainly important and can often achieve this desired outcome, particularly in more straightforward crises. But in complex crises of a profoundly political nature, with strong competition between parts of the UN System, with institutional incentive structures pulling in different directions, with external UN constituencies weighing in to bolster their corresponding parts of the UN System, and with insufficiently empowered, under-resourced and inadequately protected coordination and decision-making nodes, the UN may not be able to produce a robust and coherent joint analysis. In such circumstances, the UN's analysis and its response may end up catering to the parts of the System with the loudest voices or to influential external partners. The costs of resisting this can be exorbitant for those who try.

#### **b) The phenomena of bifurcated UN responses**

In such circumstances, RCs face a difficult decision: not having a UN strategy is not an option. But to try to develop one under the above-mentioned circumstances can be doomed to fail due to the nature of the System and the forces at work on it. RCs convinced that the UN has an important political constructive engagement role to play in crisis situations must find creative ways of responding. In close consultation with the relevant UNHQ entities, they can, for example, endeavour to make the overall UN country-level response as comprehensive as possible, but extract the most sensitive political parts of the theory of change and strategy and develop/implement them directly with HQ. In such instances, the UNCT portion of the response strategy may focus mainly on advocacy and operational work, often loosely coordinated when the crisis is highly dynamic, resembling more of a strategic framework than a strategy *per se*. While this kind of bifurcated response may be required in certain circumstances, it is far from ideal.

When RCs find themselves in these circumstances, the resultant demands on/expectations of them can be extraordinary: political diplomacy to help with solutions to root causes of the crisis; human rights advocacy; UN internal coherence (horizontal and vertical); donor coordination; and UN/INGOs coordination with respect to humanitarian responses – with different entities seeking to influence the UN's response based on their own perspectives and with their own vision of the conflict and of the UN. The RC can be required to simultaneously endeavour to sort out issues between parties to a conflict, between Member States with differing perspectives on how this should be done, between UN entities and their various perspectives (horizontal coherence), and between operational partners. Furthermore,

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<sup>25</sup> United Nations and World Bank (2018). *Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict*. Washington, D.C: World Bank.

it is not uncommon that they must also help resolve incongruities within the same UN entities, as well as sometimes within external partners (vertical coherence).

### **c) The alternative**

RCs who try to play these multiple roles, particularly in instances where a dominant narrative seeks to impose itself, can place themselves at great risk. They have another option however, a much easier one: they can cede to the constraints and pressures of the System and its partners. When they do, the UN may see the fundamental nature of its strategic responses becoming advocacy-driven, rather than political in nature. The UN may see its other unique characteristics and attributes fade, preventing it from being able to play vitally important bridging roles. It may still find a role for itself in facilitating large, multi-partner processes, alongside its advocacy role. But while these are important functions, they do not reflect the full mission and potential of the UN. And, where such processes are associated with particular constituencies in circumstances where general domestic confidence in these constituencies is in decline, the UN can find both its legitimacy and its relevance waning in the eyes of its domestic audience in-country, along with its leverage. In extreme cases, while the UN may continue to stand for its principles, its constructive engagement may be effectively limited to some operational matters, with political strategies having to be devised outside the UN, using UN-without-the-UN approaches<sup>26</sup>. There may, indeed, be rare circumstances where no viable alternative exist for the UN. But the decision to curtail important facets of its responsibilities should be a conscious one by the UN, not a *de facto* result of unintended consequences.

## **5. UN unity in diversity**

The pursuit of more integrated and joined up UN approaches under the UN reforms is much needed, as mentioned above. But these efforts are being made in the context of a diverse System whose structure may not change radically any time soon. So, as the UN strives for greater unity across the System, it must also become better at using its diversity strategically as an asset. It must optimise the System's unity in diversity, aiming for a smart combination of both. This is the most effective way of promoting UN principles and engaging constructively, given the UN's constraints.

### **a) Some parts of the UN are better than others at combining principles and constructive engagement**

The parts of the UN either with a political mandate or with both normative and operational mandates (like UNHCR and UNICEF) are usually skilled at standing for UN principles while engaging constructively. They are used to working with and around

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<sup>26</sup> When the political role of the UN has to be performed by other actors because the UN is not allowed or able to provide its services.

the ambiguities embodied in contradictory UN principles. The parts of the UN that work exclusively on human rights principles and humanitarian coordination (where human rights principles have been tightly codified for operations) can sometimes find this challenging. They do not have time for the constraints of the UN's national sovereignty principle in the face of desperate human suffering, nor for the niceties of diplomacy which can seem to them like compromise or concessions to those responsible for violating international norms. In the most serious instances, they may disparage fellow colleagues who are attempting to engage constructively in a crisis. One is not necessarily right and the other wrong. In complex environments, both may be right, and pursuing both may be the most strategic pathway for the UN to respond with the greatest impact. However, allowing parts of the System to directly or indirectly impose their perspective and way of working on others can seriously diminish the UN's overall response.

This was experienced in quite a few instances with respect to the operationalization of Human Rights Up Front, which was rolled out under budget-neutral conditions. Different parts of the UN System tried hard to shape the initiative in their own image, even after it was launched for operationalising. This led to tensions and anxieties across the System that both UNCTs and UNHQ struggled to resolve. These internal tensions also inadvertently diverted attention from those with the greatest responsibility and leverage to prevent atrocities – Member States.

#### **b) Strengthening the UN through respectful divisions of labour**

In crisis situations in non-UN mission settings UN teams may find it helpful to conceive of three distinct spheres of work with corresponding divisions of labour: (i) a sphere for the most sensitive political work (e.g. political mediation, persuasion and negotiation); (ii) a sphere for the broad operational work of the UNCT for resilience-building, dialogue, social cohesion and other peacebuilding and enhancing work<sup>27</sup>; and (iii) a sphere for monitoring human rights violations, determining Member State's performance gaps, and communicating this. These three spheres are obviously interrelated, but each requires an independent space for the System to maximise its response overall. A common understanding and mutual respect for divisions of labour across these spheres could greatly enhance UN responses. This does not negate concurrent efforts toward deconstructing silos, at the junctures between peacebuilding, development and humanitarian response, for more integrated work. Both are needed.

#### **c) Sensitivity to the impact of one area of work on others**

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<sup>27</sup> In situations requiring an international humanitarian response, this could be viewed as a distinct part of the second sphere of UN work.

In addition to respecting divisions of labour across the three spheres of work, it is important that the UN gauge how actions in one sphere influence its work in others. For example, in response to conflicts involving serious violations of international humanitarian and human rights law, the UN is required to draw the government's attention to these concerns and press for appropriate responses. In cases of great concern, this is often done through public statements which, in protracted emergencies, may be repeated and persistent. It may become part of an overall strategy to apply public pressure to induce positive change. While this may seem like the best and most responsible way to promote human rights, and in fact it seems to have become the *de facto* global human rights strategy, this strategy can easily backfire. The data shows that applying public pressure usually has no positive effect on human rights outcomes, and in some instances it actually deepens the misery of the very people the international community seeks to assist.<sup>28</sup>

Public messaging on human rights violations is an important responsibility of the UN, but it must be done carefully. Too strong and too much persistent public admonition may both defeat the purpose for which it is intended, and even close the doors for UN political and other support. It can further entrench the positions of parties to the conflict and may even require parts of or all the UN System to exit. And too little of it may be a dereliction of the UN's duty. The challenge is how to advocate both responsibly and smartly – results-based advocacy for maximum impact.

When crises persist or degenerate, some may contend the political work, the quiet diplomacy, has failed. They may say that in these circumstances, the UN must not only stand for its principles, but it must also shout for them. This is understandable, particularly given the high stakes and partners' expectations of the UN. But if the UN is also to play a role in resolving the conflict, it must weigh carefully how it advocates and how it engages in general if it wishes to maximise its chances of helping bring about just and lasting solutions. This highlights, again, the need for carefully crafted, context-specific 'unity in diversity' within the UN.

#### **d) Operational guidelines and protocols for optimising unity in diversity**

Currently, there is no clear understanding within the UN on how to manage the competing imperatives within the System in a conflict. There is understanding at the conceptual level that the UN must walk tall on both legs, standing for its principles while engaging constructively with the government and other key stakeholders. But there are no protocols on how to do this, no broadly accepted understanding that in a crisis the UN should optimise its unity in diversity, using both as institutional

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<sup>28</sup> Morten, Pedersen & David, Kinley (2013). *Principled Engagement: Negotiating Human Rights in Repressive States*, Farnham: Ashgate Publishing Ltd.

strengths, and no obligation within the UN for mutual respect across its different important spheres of work.

## **6. Staff allegiance to the UN**

The above-mentioned constraints can be further complicated when UN staff do not feel that their primary professional allegiance is to the UN. Without this allegiance to the UN first, several types of unfortunate behaviours can occur that are often exacerbated in an emotive conflict.

Firstly, UN staff are increasingly working with and through external constituencies and communities of practice. This is excellent and much needed, but sometimes these networks can be misused to the detriment of the UN. During the last 20 years or so, international communities of practice have grown in size and influence as the UN and many of its bilateral and civil society partners hired large numbers of specialists in the fields of human rights, humanitarian response, gender equity, environment and many other important areas of specialisation. Across the UN, this expansion sometimes occurred at the expense of geographic desks and apex functions responsible for bringing together multiple strands of work into a coherent response. When UN staff unilaterally invoke their external constituencies to help them influence the UN's overall response to a crisis, this can be harmful. If the constituencies involved push the UN to focus on some dimension of a conflict at the expense of others, it can seriously curtail and even bias the UN's response. In worst case scenarios, it can render the UN progressively irrelevant, both politically and operationally.

Secondly, when emotions run high, some UN staff decide to speak in their own name rather than in the name of their UN entity. This can make it exceedingly difficult for RCs/UNCTs and UNHQ to craft impactful, whole-of-system responses. Without institutional discipline, the UN cannot expect to maximise its results. To address this phenomenon requires a concerted effort by UN staff, their host agencies and senior UN leadership. Staff must be able to find the spaces within their agencies to air their views and contribute to UN positions. But space must also be created for UN leaders to make decisions and for those decisions to be respected. The practice of nodding in agreement at formal UN meetings while working behind-the-scenes to tweak or unwind UN decisions is corrosive to the UN.

Thirdly, leakage of UN internal materials is on the rise. Some staff leak information because they are genuinely concerned about a situation. They may or may not be privy to the full scope of the UN's analysis and response. Other staff leak information in order to draw attention to themselves. Leakage by staff can be extremely harmful to UN responses. It can trigger a vicious circle, causing parts of the UN to curtail the

sharing of information internally, which adds to anxiety levels in already tense circumstances within the organisation.

These behaviours occur both at country and UNHQ levels.

Trying to help the broad and diverse UN System to respond strategically to a complex crisis, using the full strength of both its legs, is challenging enough by the nature of the System. And when one adds the misuse of strong external constituencies, the phenomena of staff acting on their own personal impetus rather than in the name of their agency or the larger UN System, and leakage of sensitive internal material, it becomes close to impossible. How to inculcate UN staff's primary allegiance to the UN lies at the heart of tackling the challenges described in this paper.

## Part III. Suggestions and Conclusion

The following suggestions are made in a constructive spirit to help strengthen the UN response to complex crises. While they do not address all of the challenges faced by the organisation, they do offer some ideas to help the UN overcome some of its internal tensions.

**1. The two main international Covenants on human rights<sup>29</sup> need to be interpreted in a more integrated manner by UN officials and staff. Gaps in understanding between those with human rights monitoring functions and those with other core UN mandates must be closed.** The origins of the distinctions between the two Covenants were political and date from more than 50 years ago. To be of greatest assistance in conflicts and crisis situations, the UN must not be limited by these distinctions. To juxtapose some human rights with others is fundamentally at odds with the Covenants' principles of indivisibility and interrelatedness. And to juxtapose UN human rights work with broader UN development responsibilities is a false dichotomy at odds with the ICESCR Optional Protocol.<sup>30</sup> A set of dialogues across the UN System, at all levels, linked with a series of commissioned papers, could help resolve these misunderstandings. This could conclude with a guidance note that could serve as a core training module for all levels of UN staff.

**2. A UN System-wide effort is needed to help UN officials and staff to value and protect the organisation's unique character and legitimacy more in their daily work, and to model a culture of peace.** An initiative should be developed that inspires UN officials and staff to model the kinds of behaviours the UN wishes to see within and between its Member States, particularly with respect to conflict resolution. Such an initiative should be judged on its success in reigniting and energising the ideals that inspired most staff to join the UN in the first place. It should foster a culture of cooperative conflict resolution and provide clear answers to practical questions. It should, for example, explain why it is fine to work with like-minded Member States in specific contexts but not others and still uphold the UN's universal legitimacy. It should clarify why the UN engages constructively with Member States even when it disagrees with their views and actions. It should clarify why even when the going gets tough and all other international players have given up on a country, the UN generally remains engaged, through thick and thin, good times and bad.

This initiative should help UN staff to more clearly differentiate the unique functions and roles of the UN, as distinct from those of Member States, NGOs and others. While the work of the UN overlaps with its partners, the parameters need greater relief. For

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<sup>29</sup> International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR).

<sup>30</sup> [www.ohchr.org/en/professionalinterest/pages/opcescr.aspx](http://www.ohchr.org/en/professionalinterest/pages/opcescr.aspx)

example, in the face of state-sponsored discriminations and popular domestic and international campaigns demanding equal rights, what exactly are the parameters for UN advocacy, awareness-raising and capacity building of civil society groups? Where does the UN's role stop and activist NGO's continue and vice versa? What is the UN expected to do in such situations that others cannot do? Similarly, what distinguishes the humanitarian assistance of UN agencies from that of humanitarian INGOs? These and other parameters need greater clarification, both in the minds of UN staff and among partners. And a greater understanding of these issues by the media would invariably help the UN to pursue its mission.

Such an initiative requires determined engagement across the UN, including through its senior leaders' words and deeds, the creation of spaces for open discussion, guidance on specific issues, staff incentive systems, capacity development, etc. A guidance note needs to be developed that can be incorporated into a mandatory training module for all UN staff, with case studies on how the UN can walk tall on both legs in different contexts.

In addition, the UN must become bolder at sanctioning staff who misuse their positions, often in consort with external constituencies, aggressively pushing their agendas within the UN at the expense of other equally valid UN aims. At the same time, all staff must have access to safe, effective and responsive channels through which to direct genuine concerns and complaints, without fear of retribution. Both are equally required.

If the UN becomes better at practising what it preaches – peaceful resolution of conflicts through dialogue, expanded understandings, respect for different perspectives, constructive cooperation toward the greater good – it will be able to contribute more positively toward helping resolve conflicts within and between its Member States.

**3. Conflict prevention and resolution work would be enhanced if the UN could better employ both its unity and its diversity as institutional strengths, with respectful divisions of labour.** On the one hand, the UN should be united around its principles and mission. And on the other hand, intelligent, respectful and complementary divisions of labour are needed to enable the System to deliver optimally. This goes beyond mandate-related and thematic divisions of labour that have already been developed by UN inter-agency groups and that certainly enhance UN performance. It refers to divisions of labour around different functions and ways of working. It should enable, for example, some parts of the UN to stand up boldly and publicly for its principles, pointing out deviations from international standards, while other parts engage quietly with authorities on those same performance gaps and on helping with solutions. In this way, UN advocacy can be responsible, smart and results-based. These different ways of working must be viewed as complementary. One should not

disparage or impede the other. If the UN fails to do this, it will lose vital facets of its unique character, narrowing its ability to respond. The expansion of UN-without-the-UN approaches for addressing serious conflicts around the world indicates that this morphing may have already begun. The UN must therefore up its game by capitalising both on its unity and on its diversity, using the opportunity of the current UN reforms.

To do this, the UN should frame its work around three distinct spheres, with corresponding, respectful divisions of labour: a sphere for the most sensitive political work; a sphere for the broad operational work of the UNCT at country level; and a sphere for monitoring, reporting and public advocacy for human rights violations. This understanding of unity in diversity and this framing of the UN's common but differentiated responsibilities should be explained to all UN staff and institutionalised. This could resolve a host of internal tensions. But it should also be understood that demand for the highest standards of human rights, and acceptance of political compromise when the only feasible choice is between options that are better than nothing but less than perfect, may be philosophically irreconcilable, yet fundamentally necessary.

**4. The UN needs to expand and protect its internal spaces for honest, dispassionate analysis of ground realities to fully inform its theories of change, and it needs to develop more nimble, flexible instruments through which to implement its response strategies.** UNHQ should ensure that all staff understand that studying the full gamut of perspectives and interests of parties to a conflict does not equate with UN endorsement of any specific views; rather, it is part of a necessary process toward finding workable solutions in line with its principles. UNHQ should also help move the System away from over-reliance on deterministic models of social change in the face of particularly complex, protracted and convoluted conflicts, drawing from the best of both Western and non-Western understanding of change processes, anchored in the realities of the local context. This should be accompanied by more flexible, organic and iterative approaches to both strategy development and programmatic response, as many UN instruments and processes were designed for top-down models and are not well suited for complex situations of great flux and imperfect access to reliable information.

**5. The UN needs to further clarify, strengthen and protect its coordination and decision-making nodes, where issues and concerns from across the UN System are heard and analysed and from where strategic decisions are made.** This applies particularly, but not exclusively, to the RC node at country level. It is at these nodes that the various strands of UN work must be synthesised for coherent responses. This often involves arbitration across multiple, equally valid views, weighing difficult moral dilemmas and making tough judgement calls. All parts of the UN System must be heard at these nodes, but the decision makers must be empowered, capacitated and

protected to make the tough judgement calls necessary for strong and strategic UN responses. If the UN fails to do this, it should not be surprised if timid and disjointed decisions emerge from its midst.

To clarify and strengthen these coordination and decision-making nodes, an analysis of the leadership expectations of them and their corresponding levels of authority and resources would be instructive. Such an analysis would undoubtedly highlight discrepancies that could then be addressed to strengthen the UN overall.

In serious crisis situations, however, much more is needed. In these circumstances, the UN should introduce a special, distinct, time-bound **crisis response mode of operation**. This goes beyond the humanitarian Level 3 (L3)<sup>31</sup> categorisation; it should be determined on the basis of the overall risk of conflict escalation. It should aim at trying to prevent this from happening as well as at managing the UN response optimally in these circumstances. It should involve a clear and decisive switch from the regular RC/UNCT collective, negotiated, consensus decision-making, to a single line authority and control. The triggering of this emergency mode of operation should result in: (i) appointment by the Secretary-General of a UN senior decision maker for the duration of the emergency (this may or may not be the RC); (ii) empowerment of that senior UN decision maker to make decisions on the UN response strategy, in consultation with the Executive Office of the Secretary-General (EOSG), and on key operational matters; (iii) creation of a single fund to be used across all UN areas of work in response to the crisis, under the authority of the designated senior decision maker; (iv) capacitation of the senior decision maker through the provision of requisite human and other resources to perform these functions.

Should the Secretary-General appoint the RC as the senior decision maker in this crisis response mode, then in addition to this a senior official at HQ level should also be appointed to coordinate and lead at the top. RCs cannot coordinate HQ from country level. In addition, this senior HQ official should be the public face of the UN response and should steer the UN System's engagement with media.

A single fund is badly needed to avoid draining the energies of the country-level senior UN decision maker with heavy, inter-agency operational transaction costs during a conflict or crisis. Such a fund would also help the UN to address the seriously underfunded parts of UN responses – often related to the more politically-sensitive solutions to root causes. The Humanitarian Development Peace (HDP) facility, under the UN Peacebuilding Fund, should be both expanded and freed from the requirement of joint programming, if circumstances require this flexibility. But as the UN is also faced with multiple funding sources in-country, in addition to an expanded HDP, a unified funding mechanism at country level is also much needed. Piloting of this crisis

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<sup>31</sup> <https://reliefweb.int/sites/reliefweb.int/files/resources/IASC%20System-Wide%20Activation.pdf>

response mode of operations should be initiated as soon as possible. As an immediate step, a 'peace tax' could be levied against all in-country donor contributions to UN and UN-coordinated work in response to complex conflicts. This would enable the RC to at least fund crucial underfunded aspects of a response which, ironically, often happens to be the peace-related work.

This special and distinct crisis mode of operation is required for the UN to effectively overcome the laborious and costly internal processes that were designed for normal country contexts, not emergencies. It would enable the senior decision maker to focus both on trying to prevent the conflict from escalating and on quickly and nimbly adjusting the UN System response in real time as the situation evolves. The introduction of such a crisis mode of operation, along with complementary initiatives and protocols for efficiently resolving different perspectives within the organisation, would signal the seriousness with which the UN is committed to preventing and resolving conflicts. Even if the UN is unable to prevent a conflict from escalating under this mode of operation, at least it would not have been for lack of pulling out all the stops to this end.

In addition, greater operational clarity between the work of RCs, Special Advisers/Envoys and Special Rapporteurs on Human Rights is also needed. While conceptually the divisions of labour are clear, operationally this is not always the case. Expectations of one by the other do not always align with HQ expectations. More needs to be done to ensure operational clarity.

**6. The UN needs to clarify expectations of Human Rights Up Front (HRUF) and the organisation's role in preventing atrocity crimes.** A budget-neutral initiative like HRUF is an important but insufficient step toward prevention of such crimes. It successfully raised awareness of UN staff, helped install early warning and early response systems and tightened reporting and monitoring of situations of concern. But its launch worldwide raised expectations beyond the UN's capacities to deliver, and it took the media spotlight off the responsibilities of UN Member States. The intense internal UN competition to define HRUF was not resolved at UNHQ prior to rolling out the initiative, leading to a proliferation of tensions within the System. Both the UN and its Member States must do more to prevent atrocity crimes; there is no question about that. A more robust set of systems, accompanied by the requisite resources, with clear and realistic expectations, roles and responsibilities, is required. This should include a standardisation of the UN's early warning and early response systems. But the UN also needs to temper global expectations and keep the spotlight on those with greater responsibilities and leverage for preventing these crimes.

**7. The UN should endeavour to utilise a fuller array of tools in its human rights toolbox in complex conflicts.** UN efforts to persuade Member States to adhere to international human rights obligations are increasingly judged by mainstream media and others based on UN public advocacy and pronouncements alone. Public messaging is important but there are other tools in the UN's human rights toolbox and all of them need to be thoughtfully considered and combined to intelligently maximise the UN response to human rights violations, particularly the most serious violations. Greater recognition of the value of both UN public messaging and its quiet advocacy work is needed to remove false impressions of these being juxtaposed endeavours, and to develop coherent results-based advocacy strategies that ensure maximum impact. As a general principle, strong public statements on human rights concerns should be emitted by parts of the UN that are not residing in the relevant countries, in order to protect the organisation's operational space.

A clear distinction should be made between the need to advocate for UN human rights principles and the need to pursue strategies most likely to ensure these rights are realized. There seems to be an implicit assumption behind much human rights advocacy that more public pressure is the appropriate strategy for virtually all situations of serious human rights violations. Yet the data refutes this and, in fact, shows that public pressure can in some instances actually deepen the violations against the very people whose rights the international community seeks to protect.<sup>32</sup> The UN therefore needs to develop human rights advocacy strategies that are responsible, smart, context specific and results-based.

In addition, more practical, experiential human rights training programmes are required, co-facilitated by UN human rights experts and other professionals (such as police, judges and parliamentarians) for state actors performing the roles of duty bearers. This is in addition to the standard legal human rights training. These activities should be informed by a special joint study by UN human rights experts and behaviour change specialists to better understand the psychology behind mindset change and behavioural change.

**8. Greater flexibility is needed to shape and adapt international humanitarian responses in complex, protracted emergencies for greater reach and conflict-sensitivity.** International humanitarian actors can find themselves on the front lines of efforts to politicise the UN response. This could be mitigated by redesigning humanitarian responses, customising them more in response to ground realities, and prioritizing the role of national humanitarian actors where possible. This is very difficult to do currently given the way the international humanitarian system operates. As a result, some international humanitarian operations have inadvertently raised tensions locally, sometimes even to the point of implicating the UN and INGOs in local

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<sup>32</sup> Morten, Pedersen & David, Kinley (2013).

conflicts. The Humanitarian Coordinator needs to be given much greater latitude to mould international responses so as to be conflict-sensitive. And much greater and more serious investments in building the capacity of national humanitarian actors is required. All this can be done while protecting the humanitarian space.

In addition, the manner in which many donors fund humanitarian work often leads to large numbers of international humanitarian responders. This can make the response both extremely challenging to coordinate and squeeze out space for local responders. Donor funding modalities should be designed to enable HCs not only to ensure lighter humanitarian footprints when conflict-sensitivity considerations require this, but also to craft the responses with much greater local NGO involvement. A portion of donor funds allocated to UN and INGO humanitarian responders should be earmarked for national capacity building – both government and national/local NGO capacity building. This allocation should be placed under the HC's authority. In this way, the HC could ensure meaningful capabilities are fostered nationally.

Implementing these reforms would result in better, more conflict-sensitive humanitarian responses, greater humanitarian access and coverage, as well as important cost savings. It would also undoubtedly result in new challenges that would need to be carefully managed. Blended humanitarian/development support, funded from a single fund under the RC/HC, should become the norm in complex environments where both are required. To kick-start these and other needed humanitarian reforms, an independent cost-efficiency analysis of the current humanitarian coordination system would be instructive. There is no question that in many circumstances a lighter humanitarian footprint could enable more and better results, in a more conflict-sensitive manner, for significantly less cost.

**9. UN responses to complex crises in non-UN mission settings require more sophisticated UN media strategies.** This is particularly the case in situations that elicit global concern and intense media interest. The UN responses to complex crises must include creative, new and effective media strategies that protect its response to crises, its image, and its staff. More needs to be done to get out ahead of the media to help shape the general public's understanding of the UN's role – what it can and cannot do, how it operates, etc., to avoid the usual scapegoating of the UN. This is urgent given the increasing misuse of social media in crises and the role of media in general in today's 24/7 news cycle and in our post-truth era.

In addition, as both social and regular media seem to increasingly succumb to extreme political positions and 'fake news' around the world, including the use of fake photos, rumours and opinions reported as facts, etc., the UN must develop contingency plans to deal with this, particularly in crisis situations.

## **Conclusion**

When the UN fails to walk tall on both its legs in response to serious conflict and crisis, it can fail in its core mission. It can prevent the UN from being able to: analyse the conflict from a big picture, multi-variant perspective and in conjunction with other defining national processes; identify feasible levers of positive change; devise strategic and robust responses with a view to their impact both on the conflict and on other important parallel processes; and engage effectively with multiple groups toward resolving the conflict.

The UN's internal dynamics have sometimes been described as a reflection of its Member States. In some ways, the UN seems to have started to reflect its affiliated non-governmental organisations partners as well. To some extent, this is normal and natural as the UN needs to work closely with both to fulfil its mission. But in the current, increasingly divisive global environment, with reductionist, binary voices across the political spectrum finding their way into mainstream politics in many countries, with extremes shouting ever louder and more angrily at each other, with retreats on some of the international community's most noble and treasured collective achievements, and with the emergence of a multipolar world grating against a gradually fading unipolar one, the UN must be more than a reflection of its Member States and its non-governmental partners. It must resist divisive, zero-sum tendencies. It must stand boldly for its principles and courageously build bridges, forging constructive processes that move beyond dangerous standoffs toward greater understandings, cooperative dialogue and solutions. It must help the current and emerging world orders work better together. It must lead a new global discourse that inspires greater understanding, respect, cooperation and trust for the common good. For this purpose, it must urgently resolve some of the tensions disturbing its own inner peace and redirect its energies away from misguided internal struggles toward meaningful peace-enhancing services to its Member States and to the people of the world in greatest need of its support.