

January 2019

**Submission of the United Kingdom of Great Britain and Northern Ireland (UK) to the request for information from the Office of the High Commissioner for Human Rights (OHCHR) on the role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights, dated 16 August 2018.**

[Input on the best practices and major challenges from the UK on resolution A/HRC/RES/37/23](#)

Paragraph 5 of resolution 37/23 of the Human Rights Council entitled 'The role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights' requests the Human Rights Council Advisory Committee to submit a report on this matter. Member States, as well as others, have been invited to contribute. The United Kingdom is pleased to respond to this invitation.

## **Overview**

The UK strongly supports technical assistance and capacity building as a means of enabling a state to fulfil its human rights obligations. However, the UK considers that the concept of 'mutually beneficial cooperation', as used in this resolution, poses significant challenges. Primarily, the term 'mutually beneficial co-operation' is not defined in the resolution and is not agreed UN language, nor is it an approved concept in multilateral human rights contexts. It is therefore likely to cause misunderstanding and confusion. Equally, the term does not appear to be appropriate as an objective in a human rights context, where cooperation is not an end in itself. Moreover, the UK considers that the text provides an unbalanced view of the role of the Human Rights Council and the Universal Periodic Review.

## **Lack of Definition and the Role of Cooperation in the Context of Human Rights**

- The UK does not support the introduction of a new and undefined term and concept that is not included in International Human Rights Law and discourse: 'Mutually beneficial co-operation'. Any new terminology that is not defined is open to being misunderstood and misused; specific questions arise here as it is not clear whom this cooperation is to benefit, in what ways and under what circumstances.
- A lack of clarity can lead to individual States interpreting meaning, as opposed to working within established defined boundaries. If the phrase 'mutually beneficial cooperation' is to be used in a human rights context, its meaning must be clearly

compatible with international human rights obligations; without a definition of 'mutually beneficial cooperation', it is not clear that it is compatible.

- There already exists a good framework for international cooperation on human rights. It is contained in various UN human rights treaties<sup>1</sup>, amongst other things. Mutually beneficial cooperation does not seem to add to that, and, indeed, risks confusing it.
- Cooperation is important when addressing human rights, but it is not an end in itself. The UK is concerned that 'mutually beneficial cooperation' may be used to prioritise state-to-state relations over individuals' enjoyment of their human rights. International Human Rights Law obliges States to uphold human rights and to respect them. They are to be fulfilled, protected, respected and promoted<sup>2</sup>. Cooperation between states, as well as other parties, is an important factor when trying to achieve this, but it must be remembered that cooperation is a means to promote and fulfil human rights: cooperation is not an end in itself, nor should it be considered a prerequisite.
- Emphasising state-to-state relations is equally problematic in another way. Human rights, and cooperation on human rights, should not be a purely intergovernmental phenomenon. The UK considers it essential that all actors participate, including civil society, National Human Rights Institutions, and international organisations, like the UN itself. The benefits of such cooperation should be to the individual, and to their enjoyment of human rights, not to governments.
- Given these challenges, we have significant concerns about this terminology. Should any attempt be made to define 'mutually beneficial cooperation', the starting point must be that any such definition is consistent with existing international human rights documents, including the Universal Declaration of Human Rights, the various UN human rights treaties, the Vienna Declaration and Programme of Action, amongst others.

### **The Role of the Human Rights Council and the Universal Periodic Review**

- The UK is concerned that the resolution focuses on the significance of 'constructive dialogue' between States and on discussions being 'mutually beneficial'. This provides an unbalanced view of the role of the Human Rights Council: to strengthen the

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<sup>1</sup> For example ICESCR Article 2.1, as well as other relevant conventions

<sup>2</sup> <http://www.un.org/en/sections/universal-declaration/foundation-international-human-rights-law/index.html>

promotion and protection of human rights around the globe and address situations of human rights violations and make recommendations on them<sup>3</sup>. The UK is clear that violations should not be addressed only when doing so is mutually beneficial, nor should recommendations to improve human rights situations be accepted only when they are mutually beneficial.

- The same is true of the Universal Periodic Review (UPR). The fundamental purpose of the UPR is to improve human rights situations and address violations of human rights wherever they occur<sup>4</sup>, not simply when it is mutually beneficial to do so. Indeed, recommendations made under the UPR may not be directly beneficial to the government of the State under review.
- Equally, cooperation is not the only way for individuals to gain enjoyment of their human rights. Challenge and direct criticism also have their place, depending on the context. The resolution fails to address this important aspect of international action on human rights. While the UK supports 'constructive dialogue', it believes it is also important to ask probing questions and to criticise States where the situation warrants it, and to itself be open to challenge.

## Conclusion

In conclusion, the UK considers that this text contains significant challenges. The term 'mutually beneficial cooperation' is not defined. There already exists a good framework for international cooperation on human rights and the term 'mutually beneficial cooperation' does not seem to add to that. Indeed, it risks confusion. It is equally concerning that the term, as framed in the resolution, does not appear to be helpful within a human rights context, where cooperation is not an end in itself. Additionally, the UK is further concerned by the language on the Human Rights Council and the UPR, as it provides an unbalanced view of their purpose. Cooperation is not the only way for individuals to gain enjoyment of their human rights; challenge and direct criticism also have their place. Therefore, the UK views that this resolution – and the term 'mutually beneficial cooperation' – contains many challenges and concerns that need to be addressed.

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<sup>3</sup> <https://www.ohchr.org/en/hrbodies/hrc/pages/aboutcouncil.aspx>

<sup>4</sup> <https://www.ohchr.org/en/hrbodies/upr/pages/basicfacts.aspx>

