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## Human rights during power transitions

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## 5. Human Rights During Power Transitions

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### 1. INTRODUCTION

In a widely reported letter sent to United Nations (UN) staff in December 2017, UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein announced that he would not be seeking a second four-year term in office, explaining that: “To do so, in the current geopolitical context, might involve bending a knee in supplication; muting a statement of advocacy; lessening the independence and integrity of my voice – which is your voice” (as reported, Lynch 2017).

Al Hussein has been lauded as a strong advocate and courageous leader in the intergovernmental human rights project (Alston 2017, 7). His decision and explanation are symptomatic of the profound challenges faced within the contemporary human rights discipline. His successor, Michelle Bachelet, stood down from the role after one term for “personal reasons”; it remains to be seen how long her successor, Volker Türk, will serve.<sup>1</sup> Many commentators recognize that the global human rights project is in a more precarious position than at any stage in its recent history (Alston 2017, 3). To some, these challenges are already insurmountable. They have heralded the “endtimes of human rights” (Hopgood, 2013) and “the twilight of human rights law” (Posner, 2014), with the present being framed as a “post-human rights era” (Wuerth, 2016). Buffeted by the rise of populism in states both traditionally hostile and supportive of human rights affairs, and a reduction in human rights allies, the UN human rights operation has been left teetering on the brink of crisis (Seiderman 2019, 13). This draining of goodwill is both caused by, and a symptom of, decades of internal turmoil within the UN human rights machinery concerning both the effectiveness and equity of the monitoring of states’ human rights obligations. While these challenges are faced principally in what Paul Hunt (2017, 490) refers to as the “mainland” of human rights protection—at the Human Rights Council (HRC), treaty monitoring bodies and the Office of the High Commissioner for Human Rights (OHCHR)—their implications permeate downstream to subsidiary UN offices, experts, and field workers. This brings with it the potential to cause profound difficulties for the voiceless millions whom the UN Secretariat and states have committed to protect.

In this chapter we analyze the implications of global power shifts within the UN human rights machinery with a specific focus on the OHCHR and connected offices which are dependent on the UN Secretariat for support. While the OHCHR has received a degree of scrutiny and examination since its creation in 1993, as an institution it still receives considerably less coverage than the geopolitical arena of the UN HRC (formerly the UN Commission on Human Rights), or the UN treaty-monitoring bodies and their panels of experts (Freedman, 2013; Freedman, 2014; Alston and Crawford, 2009; Egan 2011). Yet the work conducted by the OHCHR, particularly in mainstreaming human rights across the intergovernmental network, is

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<sup>1</sup> The authors note that this chapter was drafted in 2021.

rightly celebrated (Hunt 2017, 538). Moreover, the limited attention given to the OHCHR could even have positive implications on its ability to meet its mandate, as it can “fly under the radar” while achieving important goals (Seiderman 2019, 9). And yet, as Al Hussein’s decision demonstrates, it is no less susceptible to geopolitical influences.

These observations are borne out through a series of interviews which we have undertaken with an elite sample of individuals working within the OHCHR and those independent experts dependent upon it for support. Alongside existing academic literature and UN documentation, interview responses indicate that individuals working directly on the protection of human rights at the UN believe that power shifts are indeed taking place; and that these shifts affect human rights enforcement. While such tensions within the human rights system are not new to the discipline, and may not be entirely negative, our findings reveal that what is most concerning about the indicators of the current power shifts is their potential to undo much of the vital work that has gone into constructing the system. Thus, although they may not yet indicate an existential threat to the UN human rights project, combined with the post-pandemic climate, they could contribute to multiple problems in the future.

The chapter is divided into three substantive sections. Section 2 briefly introduces the OHCHR and its secretariat, and positions them within the wider human rights framework. As power shifts do not take place in a vacuum, Section 3 outlines the context of the work of the OHCHR by highlighting a number of contemporary influences at play within the UN human rights regime. Section 4 then highlights two particular challenges contemporary power transitions present to the OHCHR and its work: the amplification of the global pushback against human rights; and the exposure of existing vulnerabilities in the funding and resourcing of the OHCHR’s mandate. The final section offers some concluding remarks.

## 2. THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

The international human rights movement fought hard for the creation of the OHCHR. Earlier attempts to establish such a post failed to secure support across UN member states (Clark, 1972; MacDonald, 1973; Humphrey, 1973; Rycroft 1972–73).<sup>2</sup> It would take a lengthy process from “Mandating the Working Group to Working out a Mandate in Groups” (Clapham 1994, 560; UN, 1982) until the post of high commissioner was established by UN General Assembly Resolution 48/141. This had followed a recommendation made by member states in the Declaration and Programme of Action from the 1993 World Conference on Human Rights (Vienna 1993, para 18).

The OHCHR replaced the former Centre for Human Rights in Geneva, Switzerland. This geographically separated human rights from other core elements of the UN in New York (although there is an OHCHR presence in New York, headed by an assistant secretary-general).

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<sup>2</sup> Rene Cassin, a drafter of the Universal Declaration of Human Rights, initially proposed an attorney-general for human rights, in 1947. Thereafter, various proposals were made for such a body; but concerns remained among member states over concentrating power in one individual (rather than a committee), the powers such a post would enjoy, the relationship of the role with the secretary-general and other familiar arguments going to the very nature of human rights. The 1967 United Nations Economic and Social Council resolution arguably came closest to being adopted, having a formulated objective and rationale (ECOSOC Resolution 1237 XLII 1967).

The establishment of the OHCHR was initially described as “a small step forward” (Cerna, 1995), albeit a role which lacked specificity (Alston, 1997). It had a potentially wide mandate, framed to promote and protect all human rights and support human rights-related activities both internally—improving and coordinating human rights across the UN system—and externally, through working with governments (see UN Doc A/RES/48/141, para 4). So the fortunes and success of the OHCHR were to be determined by the effectiveness and commitment of the high commissioners and their staff. But trying to render efficient and effective a branch of the Secretariat with scant resources and inconsistent support from member states is not for the fainthearted. The post of high commissioner may be one of the more invidious roles within the UN, being variously termed a “poisoned chalice” (Petrasek, 2018), a “nearly impossible task” (Hernandez, 2018), and also the “conscience of the world” (Gaer and Broecker, 2014). The opening quote from Zeid Ra’ad Al Hussein shows the challenges faced by incumbents. Nonetheless, the track record of officeholders has been positive. The first high commissioner, José Ayala-Lasso, continuously exerted his presence and raised the visibility of the office, not least through the opening of field offices around the world—something continued by his successor, Louise Arbour. A program of human rights advisors was also initiated. Successive incumbents have each had to navigate unique challenges in their role in office. For instance, former Irish President Mary Robinson oversaw the office during an expansive period of Western military interventions, the 9/11 attacks, and the immediate shifts of the counter-terrorism age. South African Navi Pillay marshalled the role through the response to the global financial crash of 2008. Michelle Bachelet, the seventh office holder, will undoubtedly be associated with global and domestic responses to the COVID-19 pandemic—an event which has brought into focus the “levelling down” of human rights (Scheinin and Molbaek-Steensig, 2021). The current high commissioner, Volker Türk—who has a career rooted in the UN system—took up the role in October 2022.

An inherent tension must be acknowledged insofar as the OHCHR is a branch of the UN Secretariat. Rather than providing neutral administrative and logistical support, as would be expected of a civil service, it also investigates human rights violations should the high commissioner (and/or their representatives) so decide. It supports independent experts, whose *raison d’être* is often investigating and monitoring states. Those experts include ones appointed through UN special procedures (Gutter, 2006; Piccone 2012), and members of fact-finding missions and commissions of inquiry, as well as elected treaty body members. This chapter is focused on the work of the OHCHR itself and of UN special procedures, as they are appointed by the HRC to serve in their independent capacity but—in contrast to the treaty bodies and commissions of inquiry/fact-finding missions—may be tasked with investigating all UN member states; and indeed, may investigate international organizations and non-state actors (which are newly emerging players). They are also at the forefront of the pushback against human rights as tried and tested modalities, and protocols are proving difficult to sustain.

As of 2022, OHCHR in the field comprised 12 regional offices, 19 field/country (standalone) offices, and 54 human rights advisors (OHCHR 2022a, 7; 2021a, 32; 2020). In addition, hundreds of staff are deployed around the world embedded as a human rights component of 11 different peace missions. The total number of secretariat staff is approximately 1600; though

there are many consultants, interns, junior professional officers, and others in different working relationships with the OHCHR. More generally, staff are divided into broad areas of activity. In Geneva, where around half the staff are based, these are: the Field Operations and Technical Cooperation Division; the HRC and Treaty Mechanisms Division (previously two divisions); the Thematic Engagement, Special Procedures and Right to Development Division; and Executive Direction and Management. This supports central level areas (termed services) including policy, planning, monitoring, and evaluation, external outreach, program support and management, and, of course, a safety and security section (OHCHR 2022a, 420; 2021b, 449). As with any large organization, employees bring a range of skills and qualities. Many are very dedicated human rights specialists with strong, relevant skillsets. Many frequently go above and beyond in their work—something often required when there are people on medical leave, extended home leave, vacation, and so on. Working within country teams, there is definitely an implied hierarchy; and there can be clear evidence of issues being “siloeed,” with agencies keener to build success for themselves than to collaborate with others (Interviews 2021b to e). Within OHCHR, much depends on the personality of the representative in country. So too in Geneva, described sometimes as a “toxic” working environment for human rights in many ways—although arguably less toxic than New York (Interview, 2021c).

Overall, in terms of priorities and direction, it is from the high commissioner and, above that, the secretary-general that the Secretariat takes the lead. States themselves can also exercise control and offer direction—primarily through requesting reports and mandating investigations, most commonly in the HRC. In conjunction with a number of voluntary state contributions, whether earmarked or not, there can be a disproportionate focus on some topics/countries (OHCHR 2022a, 477–548).

These international civil servants are frequently pivotal in the international monitoring of human rights and, accordingly, they are witness to the impact of power shifts. Before considering these, it is important to note the existing influences on the OHCHR.

### 3. CONTEXTUALIZING HUMAN RIGHTS ENGAGEMENT

Power shifts tend to drive different behaviors, accentuate divisions, and accelerate change in existing orders. Indeed, it is often in the evidence of differences between past and current practice within a particular regime that the influence of a power shift can be clearly identified. Thus, context is an essential precursor to understanding the impact of a power shift.

Philip Alston (2017,1) noted how “[t]he world as we in the human rights movement have known it in recent years is no longer.” That world was, of course, not one of utopian uplands where states rigorously complied with their human rights commitments and international monitoring bodies scrutinized them effectively. As we all know, and as staff repeated to us many times, some states simply did not want their commitment to human rights externally monitored. And yet current circumstances appear to present a uniquely concerning playing field for human rights, accentuated by the unpredictability of global power shifts. This is for three reasons: one longstanding and two more recent.

First, and longstanding, the global human rights project is embroiled in an intergenerational struggle for institutional legitimacy. Questions of who should be able to scrutinize other states' human rights records have plagued intergovernmental bodies for decades. The toxicity of these questions ultimately led to the collapse of the UN Commission on Human Rights in 2006 and its replacement with the UN HRC, after the former had been characterized as suffering from a "credibility deficit" (Annan 2005, para 182). The introduction of the HRC—and specifically the Universal Periodic Review system, through which all states' human rights records are scrutinized—has somewhat quieted this complaint; yet HRC membership continues to serve as a sticking point for many (Mallory, 2013). This is compounded elsewhere by longstanding challenges of engagement, timeliness, and effectiveness of the treaty monitoring system. Moving elements of UN human rights monitoring and the general OHCHR's work online during the COVID-19 restrictions brought challenges, although it also offered some insights into effective efficiencies in working practices—practices which would not undermine the self-evident utility of fieldwork and face-to-face meetings in ensuring all voices are heard and high-level diplomatic discussions remain possible. Thus, some of the challenges faced by the institutional human rights system are not caused by power shifts or a geopolitical reordering, but are longstanding defects in need of meaningful remedial action (Seiderman 2017, 8).

Second, the rise of populism within domestic political orders is undoubtedly creating new obstacles for the global human rights movement to navigate (Helfer 2020, 243). These challenges are more complex than the simple, yet alluring, narrative that non-democratic states led by populist leaders will act with greater hostility toward existing norms at the global level. This has been a pervasive problem, and is increasingly seen in the politics even of longstanding supporters of the human rights movement, as well as traditional opponents (Helfer 2020, 243). The United States under Donald Trump, and rising populism within European Union (EU) members in particular (Neuman 2020, 11), have meant that the number of states that can be "considered human rights allies, or that maintain international human rights as a high international priority, has been ever shrinking" (Seiderman 2019, 13). Few populists reject the notion of human rights outright (Bilkova 2018 144). Instead, their ambitions may be to use the human rights machinery to suit their own needs (Bilkova 2018, 144) and foreign policy objectives (Neuman 2020, 8).

And yet some populist governments may go further, seeking to use their influence to hinder the institutions' effectiveness. After all, as Roth (2017, 18) notes, "[w]hen populists treat rights as an obstacle to their vision of the majority will, it is only a matter of time before they turn on those who disagree with their agenda." This could be either in isolation, through discrediting the work of the body, challenging its legitimacy, or questioning its impartiality; or as a collective with other populist-led governments, to obscure scrutiny from particular state action or reduce contributions to an organization in order to harm its working capacity. For the OHCHR Secretariat, these shifting sands of support present a challenging new landscape—a constant and never-ending struggle advocating for universal rights and freedoms.

Third, the COVID-19 pandemic, and in particular state responses to it, have the capacity to alter the playing field from which human rights monitoring takes place. As with all large

organizations, much of the work of the OHCHR and other UN human rights bodies went online in early 2020. While creating new opportunities, and in some respects provoking a much-needed move to the age of digitization within the UN (raised previously by Pillay 2012, 88–91 about treaty bodies), there are inherent problems with losing the personal interactions, chance meetings, and productive backroom engagement which take place when staff members and state representatives are assembled in Geneva. More problematic for the monitoring of states' commitments to their human rights obligations is that the pandemic has provided a justifiable excuse for many states to refuse, or reschedule, visits from experts and monitoring agencies. Those in prisons and detention facilities in particular could suffer from these recent developments. One of our interviewees commented on how the current lack of country visits by human rights experts is definitely allowing states to mask things (Interview, 2021c). Moreover, once the pandemic finally subsists, there will be a need to reboot the system, with states once again consenting to monitoring visits. Those traditionally reluctant to do so may need to be compelled to engage once again.

The upshot of these influences has commentators stating that, even if we are not in the end times of human rights, it is no longer wholly unthinkable for states to completely disengage from the international human rights system (Helfer 2020, 222). That presents a serious challenge to the OHCHR and its staff as the balance of monitoring, advocacy, and holding to account becomes ever more precarious. Disengagement not only can lead to realignments of political power among UN states, but risks millions of people being excluded from the purview of international human rights monitoring. This is the context within which power transitions impact on, and influence, the work of the OHCHR and its staff.

#### 4. POWER SHIFTS AND THE OHCHR

Power shifts are nothing new in international relations, as discussed above and in the introduction to this collection (Oestreich and Stiles, 2022). Nor are power shifts implicitly challenging to global human rights protection and monitoring. Indeed, the modern human rights system was born out of, and has since been shaped by, profound transitions in the global ordering. It was a reordering of global power in the early 1990s that gave renewed focus and attention to the human rights movement in the Vienna Declaration and Programme of Action 1993 (Vienna, 1993), and that contributed to the creation of the OHCHR. As such, contemporary power shifts should not, in themselves, be seen as giving rise to an outright hostility toward the OHCHR and its operations, or toward international cooperation more generally. Nonetheless, in this section we draw on interview responses to outline two considerable challenges faced by the OHCHR in light of the current global movements.

##### 4.1 Amplification of the Pushback against Human Rights

The content of our interviews evidences the impact of power shifts in amplifying the dangers posed by the most recent pushback against human rights at the global level. As we note above, while this pushback may be connected to the rise of populist regimes, the correlation is more complex than simply seeing populism as a driver of the pushback against human rights at the global level. Indeed, the pushback arguably began long before the most recent wave of populism

emerged globally. Instead, the main connection between power shifts and pushback against human rights felt at the OHCHR lies in the rise of powerful states more hostile toward international supervision, coinciding with a period when traditional champions of the global human rights regime are receding both in their commitment to the project and in their power to project their influence. One of our interviewees flagged that the “old guard” is now looked at as no better at human rights protection than others, explaining: “No one is very respectful of human rights now apart from perhaps some Scandinavian countries” (Interview 2021c). In this respect, our interviewees particularly noted the divergence and interplay between a receding United States and a rising China.

The United States has long had an uneasy relationship with international human rights (eg, Soohoo et al, 2009). From a reluctance to ratify treaties—the United States is famously the only UN member state not to accept the 1989 Convention on the Rights of the Child (Bartholet, 2010; Lee, 2010)—to a skepticism over the HRC, and a lack of willingness to accept human rights monitoring, the United States tended to appear keener on monitoring others than on being monitored itself. It was one of four states to vote against the UN General Assembly resolution establishing the HRC; though following a change in US government, it subsequently successfully presented its candidature in 2009, pledging a strong commitment to the UN human rights system (A/63/831). It then reapplied in 2012, referencing its commitment to universal periodic review (A/67/151). Thereafter, President Trump repeatedly criticized the UN system and the HRC, withdrawing from it (after a year’s warning) in 2018 (US Mission to UN, 2018). Trump’s presidency was distinctly hostile to the human rights agenda and indeed other multilateral initiatives at the UN, and thus to the work of the OHCHR. While Bush-era disengagement had still seen the United States keep an eye on the human rights project, even influencing behind the scenes (Interview 2021f), the Trump executive detached entirely. In 2021, the incoming government announced its intention to rejoin the HRC as an observer before (successfully) seeking election from 2022 through 2024 (US State, 2021). The United States has also proven hostile to reports of UN special procedures, including on extreme poverty in the United States following a visit to the United States by the special rapporteur on extreme poverty (Alston, 2018; US, 2018). Here we note that the Trump presidency proved reluctant to extend invitations to UN special procedures (the visit on extreme poverty was agreed by President Obama while he held office), and failed to engage with statements issued and concerns raised by them. Some of those statements—for example, on racism—raised concern over the language used by the president following civil unrest (Achieme et al, 2020; Achieme and WG African Descent, 2020). Despite this, the government remained more supportive of country mandates investigating countries of concern to the United States, such as the Democratic People’s Republic of Korea and Iran.

China’s increasing influence has been well charted in international relations literature (Eisenman and Heginbotham, 2018; Golley and Song, 2011; Kent, 2013; Piccone, 2018). Some of our interviewees were keen to stress the complexities of China’s engagement. For instance, one commented on how Chinese actions were not necessarily hostile toward international cooperation, and perhaps could be better characterized as hostile toward how certain institutions worked (Interview 2021a). On some levels, therefore, China cooperates exceptionally,



particularly where it wants to project its influence (and, of course, China was re-elected in 2020 to membership of the HRC). On others, however, it is more hostile. For the OHCHR, the tendency has been toward the latter. A recent report by the UK House of Commons Foreign Affairs Committee (2021, 18) accused China of using “bullying” tactics in multilateral institutions, including the OHCHR. Ben Ward, the deputy director of Human Rights Watch in Europe and Central Asia, specifically informed the Committee that China was interfering in the OHCHR (UK Parliamentary Committee OE 2020,7). He continued:

What China is seeking to do is something much more profound and pernicious, which is not just to mute criticism of its own record, but effectively to render the Human Rights Council and the Office of the High Commissioner unable to function and perform their mandate at all (UK Parliamentary Committee OE 2020, 10).

Of course, China has also advanced its own understanding of international human rights, emphasizing that monitors should understand and apply human rights with country “characteristics” (on “Chinese characteristics” see, for example, Chan, 2013; Ahl, 2015), the characteristics of developing countries, and so on. Moreover, China generally does not support UN investigation into the internal situation of states. For example, China famously joined Russia in double vetoes in the Security Council *vis-à-vis* Syria in the 2010s. More recently, China responded robustly to the report of the outgoing high commissioner on her landmark (and controversial) 2022 visit to China, including the Xinjiang Autonomous Region (OHCHR 2022). China also pushes back where states are within its perceived sphere of influence. Looking to the future, some of our interviewees commented on how China’s projection into the South China Sea area (Interview 2021e), and its Belt and Road initiative may yet give rise to further questions about how other states regard international human rights (Interview, 2021f).

Other states are engaging more robustly with international human rights monitoring, although not necessarily with the goal of improving the human rights situation. There is evidence of increased responses to UN special procedure communications (available after a couple of months on <https://spcommreports.ohchr.org/>), and more participatory involvement in treaty monitoring body periodic reviews from states which hitherto tended more toward disengagement or defensiveness. Until recently, “outright rejection of international human rights norms was mostly associated with non-democratic countries like China, Russia and Saudi Arabia, which have never shown anything but skepticism, at best, for universal human rights standards” (Klug, 2020, 25). Now, these states are overtly criticizing international human rights monitoring bodies in a way hitherto not witnessed in inter-state fora.

Denial of responsibility for human rights violations is on the rise. Zeid Ra’ad Al Hussein says that shame is in retreat (2018); while Klug observes that “the current articulation of a world-view, and mind set, which intentionally undermines the international human rights framework by countries [liberal democracies] that once claimed to be its biggest champion” is unprecedented in the era of the UN (Klug 2020, 25). With the rise in autocratic, populist governments, human rights are treated as optional by ever more states. Even the United Kingdom robustly disputed recent special procedure reports, although it used diplomatic language before the HRC (Smith,

2021); while Australia (Crepeau, 2015 and 2017) and the United States (Despuoy et al, 2005; Nowak, 2005) refused to guarantee UN special procedures mandate holders unfettered access.

There have been improvements in places. Our interviewees highlighted the increased use of the language of international human rights within states and the more sophisticated use of legal arguments before the HRC (Interviews 2021 c, e, f). But the ability to speak the language of human rights does not necessarily indicate a commitment to their normative goals. Rights violators are increasingly willing and able to use the language of human rights law to present justifications for their actions (Interview 2021e). Human rights defenders and those that work with and support them are ever more evidently under attack (Lawlor, 2020).

To sum up, the result is that the “best has been brought down and worst elevated with considerable bunching in the middle” (Interview 2021c), in terms of compliance with international human rights monitoring. Consequently, it can seem that fewer states are being held accountable for infringements (Interview 2021c).

The secretariat of the OHCHR has been responding to this pushback with both traditional and novel means. There are also now many more actors emerging internationally, including non-state actors, and they are engaging at the highest level with the OHCHR (Interview 2021e; McConnell, 2016). Efforts are ongoing to evolve methods of better engaging states with international human rights, and demonstrating the continued relevance and importance of respecting, protecting, and promoting rights and freedoms everywhere.

Middle powers like Turkey, India, and Brazil are rising and more easily projecting their influence (Interview 2021b). States have long used their projected power to block criticism of themselves and instead censure others (Interview, 2021a). This is continuing with the emerging powers and blocs. A good example is how China has utilized its wider connections to obstruct international oversight and the OHCHR in Xinjiang Province. In anticipation of a significant statement led by Canada, with 44 supporting states, on alleged human rights violations in Xinjiang (Canada, 2021), Chinese officials secured the support of 90 other nations to reject the criticism and launch an attack on Canada’s human rights record (Feng, 2021). This was particularly potent because the Canadian-led statement had also included a request for access for the OHCHR—access that was finally secured (with arguably some conditions) in 2022 (OHCHR 2022). This exchange followed one in March/April 2021, with special procedures delivering in excess of 100 communications to countries and companies concerning activities in Xinjiang (WG Business and Human Rights et al, 2021). China responded brusquely to these (China, 2021), as it did in the wake of the high commissioner’s 2022 assessment (OHCHR 2022).

Other examples of traditional tensions are seen in the HRC, where in early 2021 China and Russia had reportedly coordinated to initially block the anticipated Fijian candidate from taking up the presidency on account of her strong record as a human rights advocate (Farge, 2021). One of our interviewees flagged the possibility that states with more dubious human rights records will begin to nominate more of their nationals to important positions on rights-monitoring bodies (Interview, 2021f). A more sustained push by states to fill these positions could impact how these offices function at a time when the OHCHR is trying to diversify its workforce (Interview,

2021a). Nevertheless, many of the monitoring mechanisms which the OHCHR supports comprise people serving in their individual capacity, so there is not necessarily any correlation between the views of a state and those of any of its nationals who serve on UN mechanisms.

Another theme from our interviews is the location of the pushback. Sometimes, the pushback is felt more specifically against the UN as a whole than against the OHCHR in particular (Interview, 2021a). Yet where the OHCHR acts as a lightning rod for criticism, due to comments from the high commissioner or inherent tensions with special procedure holders, other offices could even benefit. One of our interviewees (Interview, 2021e) suggested the OHCHR and special procedure mandate holders were treated with greater hostility than, for example, the United Nations Children’s Fund (UNICEF) and the United Nations Development Programme (UNDP). Thus, while human rights-centric agents and nongovernmental organizations were offered lukewarm assistance and occasional harassment, others working on inherently human rights-based projects received support from the government. In a sense, then, this comes down to how work was badged. Of course, although the OHCHR has the potential to draw hostility away from other actors, it brands itself “UN Human Rights,” so removing the term “human rights” is not a viable strategy.

#### 4.2 Exposing Pre-existing Vulnerabilities in Funding and Resourcing

Our interviewees detailed the manner in which existing vulnerabilities and challenges within the OHCHR are being exposed and accentuated by the global transitions. In this section, we identify funding and resource allocation as one particular area which is acutely susceptible to power shifts.

Funding is a sensitive issue across the UN system. The OHCHR receives less than 4 percent of the UN regular budget, even though human rights are meant to be central to all the UN does (Ban, 2013; Guterres, 2020). The OHCHR’s work is therefore heavily supplemented through, and indeed reliant upon, fundraising for voluntary donations from states and others. Some of this is specifically for stipulated projects or areas (see <https://www.ohchr.org/EN/AboutUs/Pages/FundingBudget.aspx>; OHCHR 2022a, 477–548). Around two-thirds of the annual budget of the OHCHR is derived from voluntary contributions. In 2021, \$1.131 billion was received from the regular UN budget and \$227.7 million from voluntary contributions (2022a, 110; for the 2020 figures, see OHCHR AP, 2020).

Our interviewee responses varied in respect of how difficult the current funding situation is to the OHCHR; yet their comments uniformly highlighted the vulnerability of the office due to its meager budget. One described the funding crisis as “dire,” noting that staff were unable to travel last year and that much of the disarray was being hidden by the pandemic (Interview, 2021e). Others commented on how funding is better now than it was in 2020, when the OHCHR only had a budget available to exercise projects for two weeks and salaries needed to be paid (Interview, 2021c). Another explained that resources were a perennial problem within the human rights framework, noting that decreasing the OHCHR’s budget can be a straightforward way of suppressing its work (Interview, 2021f). The precarity of funding does contribute to stress among OHCHR staff members and those who rely on the OHCHR for logistical and related support. It

also directly impacts human rights monitoring. COVID-19 notwithstanding, funding deficits largely prevented UN special procedures from undertaking missions in much of 2020 (Coordinating Committee of Special Procedures, 2020). Treaty bodies also canceled sessions (UN Treaty Bodies, 2019).

Commentators note that populist governments use funding as a tool against international human rights institutions (Neuman, 2020). In the wake of the evolving COVID-19 pandemic, many states have already reduced contributions to the UN or indicated planned reductions in overseas development funding (e.g., UK Parliament, 2020), much of which directly or indirectly supports human rights initiatives. This means OHCHR activities will inevitably focus on those rights/freedoms, and those countries, which attract “earmarked” funds from governments. Moreover, many day-to-day decisions will have to be made on priorities for the OHCHR, drawing on the guidance offered by the high commissioner’s Strategic Management Plan, which prophetically begins with a section entitled “A Changing Global Context” (OHCHR 2018, 5).

Much attention was paid to the link between the OHCHR’s work and its funding. One of the responses we received described the OHCHR as being disorganized, using money quickly rather than in an organized strategy (Interview, 2021b); although again, some of the money received is attached *ab initio* to specific projects. In respect of global power shifts, we again see the close connection between resources, funding, and the work of the OHCHR. With so much of the OHCHR’s budget coming from voluntary contributions, states have a lot of control over its work by earmarking and allocating contributions. This at least partially explains the longstanding preoccupation within the OHCHR for engagement on civil and political rights, rather than economic social and cultural issues. While the OHCHR insists rights are indivisible, interdependent, and interrelated, (Vienna, 1993), there is a clear emphasis on the more egregious violations of civil and political rights (Interviews 2021). On the other hand, other UN entities have been more successful working on social, economic, and cultural rights (eg, UNICEF, the United Nations Educational, Scientific and Cultural Organization, the International Labour Organization, the UNDP and the World Health Organization), though their activities are generally less politicized. Invoking the UN Sustainable Development Goals, rather than UN human rights treaties, can prove more productive in securing not only funding, but also governmental support (for linkages, see DIHR explorer, <https://sdg.humanrights.dk/>).

The funding trends have again put pressure on the OHCHR to focus on more civil and political rights (Interview, 2021e). One interviewee gave a stark assessment of how these affect the day-to-day focus of the agency. They noted that as many of the “big donor” nations are Western states, where the mainstream media is mostly interested in civil and political rights, there is a direct correlation between this media focus and the work of the OHCHR (Interview, 2021d). Pervasive power shifts hold the potential for a more positive future engagement with human rights issues. Harnessing increasing influence within the traditional Global South and arising from east-Asian engagement is necessary, if challenging.

We also must not ignore the influence of the budget on staffing. Many staff at the OHCHR are on precarious contracts, regularly working in Geneva or field offices, often for decades, but only on yearly contracts. Permanent positions are highly valued in a work environment when so many

are offered no job security and, in the case of interns and UN volunteers, little or no monetary compensation. Funding thus affects work practices, which vary dramatically throughout the OHCHR and its offices. For instance, despite the moves to digitization and forays into developing its web presence, much of the work of the OHCHR remains paper-based and highly bureaucratic. While successive high commissioners have sought to implement efficiency drives, with varying success, the OHCHR remains woefully underfunded.

## 5. CONCLUSION

Although underpinning the apex of global human rights machinery, the OHCHR is somewhat less susceptible to global power shifts than either the HRC or the treaty-monitoring bodies, though it still feels their effects. In this chapter we have sought to identify how current power shifts are accentuating an existing global pushback against human rights, and exploiting pre-existing vulnerabilities related to the funding and resourcing of the office. The OHCHR as a Secretariat, and proactive global human rights advocates and defenders, will always have a near-impossible task reconciling elements of their roles. The diplomatic skills of the new high commissioner will prove critical in ensuring continued access to countries, renewing memoranda of understanding with states for field presences and securing support for investigations and fact-finding missions—not least when mandated by the HRC. Trying to balance advocacy, monitoring, and defending of human rights is difficult even with the acquiescence of the state concerned, and so much more challenging without. Entry into states for human rights experts and field officers can become harder; engagement with state representatives more belligerent and hostile. Populist-stoked tensions against international agencies can even render their work more dangerous. At the same time, the very ability of the OHCHR to conduct its work can become more challenging. And yet, against this backdrop—one accentuated by a particularly hostile attitude toward human rights more generally—the work continues.

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