



NMUN • NY

HUMAN RIGHTS COUNCIL  
BACKGROUND GUIDE 2012

Written By: Patrick Parsons, Andrea Wong, Monika Milinauskyte, Jane Kim



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## CONTACT THE NMUN

Please consult the FAQ section of [nmun.org](http://nmun.org) for answers to your questions. If you do not find a satisfactory answer you may also contact the individuals below for personal assistance. They may answer your question(s) or refer you to the best source for an answer.

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### NMUN•NY 2012 Important Dates

**IMPORTANT NOTICE:** To make hotel reservations, you must use the forms at [nmun.org](http://nmun.org) and include a \$1,000 deposit. Discount rates are available until the room block is full or one month before the conference – whichever comes first. **PLEASE BOOK EARLY!**

31 January 2012	<ul style="list-style-type: none"> <li>• Confirm Attendance &amp; Delegate Count. (Count may be changed up to 1 March)</li> <li>• Make Transportation Arrangements - DON'T FORGET! (We recommend confirming hotel accommodations prior to booking flights.)</li> </ul>
15 February 2012	<ul style="list-style-type: none"> <li>• Committee Updates Posted to <a href="http://www.nmun.org">www.nmun.org</a></li> </ul>
1 March 2012	<ul style="list-style-type: none"> <li>• Hotel Registration with FULL PRE-PAYMENT Due to Hotel - Register Early! Group Rates on hotel rooms are available on a first come, first served basis until sold out. Group rates, if still available, may not be honored after that date. See hotel reservation form for date final payment is due.</li> <li>• Any Changes to Delegate Numbers Must be Confirmed to: <a href="mailto:outreach@nmun.org">outreach@nmun.org</a></li> <li>• Preferred deadline for submission of Chair / Rapp applications to Committee Chairs</li> <li>• All Conference Fees Due to NMUN for confirmed delegates. (\$125 per delegate if paid by 1 March; \$150 per delegate if received after 1 March. Fee is not refundable after this deadline.</li> <li>• Two Copies of Each Position Paper Due via E-mail (See Delegate Preparation Guide for instructions).</li> </ul>
NATIONAL MODEL UNITED NATIONS 2012	<p>1 - 5 April – Sheraton New York 3 - 7 April - New York Marriott Marquis</p> <p>The 2013 National Model UN Conference 17 - 21 March &amp; 24 - 28 March (both at Sheraton; Sun-Thurs)</p>

## POSITION PAPER INSTRUCTIONS

**Two copies of each position paper should be sent via e-mail by 1 MARCH 2012**

### 1. TO COMMITTEE STAFF

A file of the position paper (.doc or .pdf) for each assigned committee should be sent to the committee e-mail address listed below. Mail papers by 1 March to the e-mail address listed for your particular venue. These e-mail addresses will be active when background guides are available. Delegates should carbon copy (cc:) themselves as confirmation of receipt. Please put committee and assignment in the subject line (Example: GAPLEN\_Greece).

### 2. TO DIRECTOR-GENERAL

- Each delegation should send one set of all position papers for each assignment to the e-mail designated for their venue: positionpapers.sheraton@nmun.org or positionpapers.marriott@nmun.org.

This set (held by each Director-General) will serve as a back-up copy in case individual committee directors cannot open attachments.

*Note:* This e-mail should only be used as a repository for position papers.

- The head delegate or faculty member sending this message should cc: him/herself as confirmation of receipt. (Free programs like Adobe Acrobat or WinZip may need to be used to compress files if they are not plain text.)

- Because of the potential volume of e-mail, only one e-mail from the Head Delegate or Faculty Advisor containing all attached position papers will be accepted.

Please put committee, assignment and delegation name in the subject line (Example: Cuba\_U\_of\_ABC). If you have any questions, please contact the Director-General at dirgen@nmun.org.

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for more information

### COMMITTEE

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Organisation of Islamic Cooperation .....	oic.sheraton@nmun.org
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### COMMITTEE

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Security Council A .....	sca.marriott@nmun.org
Security Council B.....	scb.marriott@nmun.org
International Criminal Court .....	icc.marriott@nmun.org
Peacebuilding Commission.....	psc.marriott@nmun.org
Conference on the Arms Trade Treaty .....	att.sheraton@nmun.org

### OTHER USEFUL CONTACTS

Entire Set of Delegation Position Papers .....	positionpapers.sheraton@nmun.org
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Dear Delegates,

Welcome to the 2012 National Model United Nations (NMUN). We are very pleased to be serving as the Directors and Assistant Directors for the Human Rights Council (HRC).

We would like to introduce ourselves, as we will be your first contacts at the conference. Patrick Parsons, Director at the Sheraton Venue, holds degrees in international studies and animal and veterinary science from West Virginia University. This is his fourth year at NMUN and second year on staff. His Assistant Director, Monika Milinauskyte, studied politics and international relations at Royal Holloway, University of London. After graduating in 2011, she moved to Switzerland, where she is now working with the Lithuanian Mission to the UN Office at Geneva. This is her fourth year at NMUN and second year on staff. Andrea Wong, Director at the Marriott Venue, is a law student at the University of Toronto. This is her third year at NMUN and second year on staff. Her Assistant Director, Jane Kim, graduated from the University of Washington last year. She is currently living in Washington, DC, where she is tutoring Arabic and preparing for a trip across North Africa. This is her third year at NMUN and first year on staff.

This year, the HRC will consider the following topics:

1. Combating Violence and Discrimination against Persons Based on Sexual Orientation and Gender Identity
2. Human Rights in Nonviolent Protests and Demonstrations
3. Follow-up on the Durban Declaration and Program of Action

The rise of human rights has fundamentally transformed international relations, giving individuals a place on a stage traditionally reserved solely for sovereign states. While the United Nations has worked diligently to protect and promote human rights, the diversity of this year's topics reveals the broad scope of the work that remains to be done. Together with your peers, you will tackle some of the most difficult human rights issues currently facing the international community.

The following guide will provide merely an introduction to the topics. It is not comprehensive; rather, it will serve as a starting point for your own research. Developing familiarity with your country's policies in the context of the HRC as a whole will be essential to your participation in the conference. To this end, every delegation is required to submit a position paper via email by March 1<sup>st</sup>, 2012. Please refer carefully to the provided guidelines for position papers.

We are confident that you will find NMUN to be one of the most rewarding experiences of your academic career. Please do not hesitate to direct any questions or concerns that you may have toward your Director or the Under-Secretaries-General for the Department of the General Assembly, Alex Adriano (Marriott) and Roger Tseng (Sheraton). We wish you the best of luck in your conference preparation, and we earnestly look forward to meeting you in New York.

Sincerely,

*Sheraton Venue*  
Patrick Parsons  
Director

Monika Milinauskyte  
Assistant Director

[hrc.marriott@nmun.org](mailto:hrc.marriott@nmun.org)

*Marriott Venue*  
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## Message from the Directors-General Regarding Position Papers for the 2012 NMUN Conference

At the 2012 NMUN New York Conference, each delegation submits one position paper for each committee to which it is assigned. Delegates should be aware that their role in each committee affects the way a position paper should be written. While most delegates will serve as representatives of Member States, some may also serve as observers, NGOs, or judicial experts. To understand these differences, please refer to the Delegate Preparation Guide.

Position papers should provide a concise review of each delegation's policy regarding the topic areas under discussion and should establish precise policies and recommendations about the topics before the committee. International and regional conventions, treaties, declarations, resolutions, and programs of action of relevance to the policy of your State should be identified and addressed. Making recommendations for action by your committee should also be considered. Position papers also serve as a blueprint for individual delegates to remember their country's position throughout the course of the Conference. NGO position papers should be constructed in the same fashion as position papers of countries. Each topic should be addressed briefly in a succinct policy statement representing the relevant views of your assigned NGO. You should also include recommendations for action to be taken by your committee. It will be judged using the same criteria as all country position papers, and is held to the same standard of timeliness.

Please be forewarned, delegates must turn in entirely original material. *The NMUN Conference will not tolerate the occurrence of plagiarism.* In this regard, the NMUN Secretariat would like to take this opportunity to remind delegates that although United Nations documentation is considered within the public domain, the Conference does not allow the verbatim re-creation of these documents. This plagiarism policy also extends to the written work of the Secretariat contained within the Committee Background Guides. Violation of this policy will be immediately reported to faculty advisors and it may result in dismissal from Conference participation. Delegates should report any incident of plagiarism to the Secretariat as soon as possible.

Delegation's position papers can be awarded as recognition of outstanding pre-Conference preparation. In order to be considered for a Position Paper Award, however, delegations must have met the formal requirements listed below. Please refer to the sample paper on the following page for a visual example of what your work should look like at its completion. The following format specifications are **required** for all papers:

- All papers must be typed and formatted according to the example in the Background Guides
- Length must **not** exceed two single-spaced pages (one double-sided paper, if printed)
- Font must be Times New Roman sized between 10 pt. and 12 pt.
- Margins must be set at one inch for whole paper
- Country/NGO name, School name and committee name clearly labeled on the first page,
- The use of national symbols is highly discouraged
- Agenda topics clearly labeled in separate sections

To be considered timely for awards, please read and follow these directions:

1. **A file of the position paper** (.doc or .pdf format required) **for each assigned committee** should be sent to the committee email address listed in the Background Guide. These e-mail addresses will be active after November 15, 2011. Delegates should carbon copy (cc:) themselves as confirmation of receipt.
2. Each delegation should also send **one set of all position papers** to the e-mail designated for their venue: [positionpapers.sheraton@nmun.org](mailto:positionpapers.sheraton@nmun.org) or [positionpapers.marriott@nmun.org](mailto:positionpapers.marriott@nmun.org). This set will serve as a back-up copy in case individual committee directors cannot open attachments. These copies will also be made available in Home Government during the week of the NMUN Conference.

Each of the above listed tasks needs to be completed no later than **March 1, 2012 (GMT-5) for delegations attending the NMUN conference at either the Sheraton or the Marriott venue.**

**PLEASE TITLE EACH E-MAIL/DOCUMENT WITH THE NAME OF THE COMMITTEE, ASSIGNMENT AND DELEGATION NAME (Example: AU\_Namibia\_University of Caprivi)**

*A matrix of received papers will be posted online for delegations to check prior to the Conference. If you need to make other arrangements for submission, please contact Amanda D'Amico, Director-General, Sheraton venue, or Nicholas Warino, Director-General, Marriott venue at [dirgen@nmun.org](mailto:dirgen@nmun.org). There is an option for delegations to submit physical copies via regular mail if needed.*

Once the formal requirements outlined above are met, Conference staff use the following criteria to evaluate Position Papers:

- Overall quality of writing, proper style, grammar, etc.
- Citation of relevant resolutions/documents
- General consistency with bloc/geopolitical constraints
- Consistency with the constraints of the United Nations
- Analysis of issues, rather than reiteration of the Committee Background Guide
- Outline of (official) policy aims within the committee's mandate

Each delegation can submit a copy of their position paper to the permanent mission of the country being represented, along with an explanation of the Conference. Those delegations representing NGOs do not have to send their position paper to their NGO headquarters, although it is encouraged. This will assist them in preparation for the mission briefing in New York.

Finally, please consider that over 2,000 papers will be handled and read by the Secretariat for the Conference. Your patience and cooperation in strictly adhering to the above guidelines will make this process more efficient and it is greatly appreciated. Should you have any questions please feel free to contact the Conference staff, though as we do not operate out of a central office or location, your consideration for time zone differences is appreciated.

Sincerely yours,

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**Delegation from  
The United Mexican States**

**Represented by  
(Name of College)**

### ***Position Paper for the General Assembly Plenary***

The issues before the General Assembly Plenary are: The Use of Economic Sanctions for Political and Economic Compulsion; Democracy and Human Rights in Post-Conflict Regions; as well as The Promotion of Durable Peace and Sustainable Development in Africa. The Mexican Delegation first would like to convey its gratitude being elected and pride to serve as vice-president of the current General Assembly Plenary session.

#### **I. The Use of Economic Sanctions for Political and Economic Compulsion**

The principles of equal sovereignty of states and non-interference, as laid down in the Charter of the United Nations, have always been cornerstones of Mexican foreign policy. The legitimate right to interfere by the use of coercive measures, such as economic sanctions, is laid down in Article 41 of the UN-charter and reserves the right to the Security Council.

Concerning the violation of this principle by the application of unilateral measures outside the framework of the United Nations, H.E. Ambassador to the United Nations Enrique Berruga Filloy underlined in 2005 that the Mexico strongly rejects “the application of unilateral laws and measures of economic blockade against any State, as well as the implementation of coercive measures without the authorization enshrined in the Charter of the United Nations.” That is the reason, why the United Mexican States supported – for the 14th consecutive time – Resolution (A/RES/60/12) of 2006 regarding the *Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba*.

In the 1990s, comprehensive economic sanctions found several applications with very mixed results, which made a critical reassessment indispensable. The United Mexican States fully supported and actively participated in the “Stockholm Process” that focused on increasing the effectiveness in the implementation of targeted sanctions. As sanctions and especially economic sanctions, pose a tool for action “between words and war” they must be regarded as a mean of last resort before war and fulfill highest requirements for their legitimate use. The United Mexican States and their partners of the “Group of Friends of the U.N. Reform” have already addressed and formulated recommendations for that take former criticism into account. Regarding the design of economic sanctions it is indispensable for the success to have the constant support by all member states and public opinion, which is to a large degree dependent the humanitarian effects of economic sanctions. Sanctions must be tailor-made, designed to effectively target the government, while sparing to the largest degree possible the civil population. Sanction regimes must be constantly monitored and evaluated to enable the world-community to adjust their actions to the needs of the unforeseeably changing situation. Additionally, the United Mexican States propose to increase communication between the existing sanction committees and thus their effectiveness by convening regular meetings of the chairs of the sanction committees on questions of common interest. An example is the case of negative spill-over effects of economic sanctions on neighboring countries, in which affected countries additionally need to be enabled to voice their problems more effectively, as addressed in the resolution *Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions* (A/RES/54/107). Non-state actors have in the last years tremendously grown in their political importance, especially with regard to the international fight against terrorism. Their position and the possibilities of the application of economic sanction on non-state actors is another topic that urgently needs to be considered.

#### **II. Democracy and Human Rights in Post-Conflict Regions**

As a founding member of the United Nations, Mexico is highly engaged in the Promotion of Democracy and Human Rights all over the world, as laid down in the *Universal Declaration on Human Rights (UDHR)* in 1948. Especially since the democratic transition of Mexico in 2000 it is one of the most urgent topics to stand for Democratization and Human Rights, and Mexico implements this vision on many different fronts.

In the Convoking Group of the intergovernmental Community of Democracies (GC), the United Mexican States uphold an approach that fosters international cooperation to promote democratic values and institution-building at the national and international level. To emphasize the strong interrelation between human rights and the building of democracy and to fortify democratic developments are further challenges Mexico deals with in this committee. A key-factor for the sustainable development of a post-conflict-region is to hold free and fair election and thus creating a democratic system. Being aware of the need of post-conflict countries for support in the preparation of democratic elections, the United Mexican States contribute since 2001 to the work of the International Institute for Democracy

and Electoral Assistance (IDEA), an intergovernmental organization operating at international, regional and national level in partnership with a range of institutions. Mexico's foreign policy regarding human rights is substantially based on cooperation with international organizations. The Inter American Commission of Human Rights is one of the bodies, Mexico is participating, working on the promotion of Human Rights in the Americas. Furthermore, the Inter-American Court of Human Rights is the regional judicial institution for the application and interpretation of the *American Convention of Human Rights*.

The objectives Mexico pursues are to improve human rights in the country through structural changes and to fortify the legal and institutional frame for the protection of human rights on the international level. Underlining the connection between democracy, development and Human Rights, stresses the importance of cooperation with and the role of the High Commissioner on Human Rights and the reform of the Human Rights Commission to a Human rights Council.

Having in mind the diversity of challenges in enforcing democracy and Human Rights, Mexico considers regional and national approaches vital for their endorsement, as Mexico exemplifies with its *National Program for Human Rights* or the *Plan Puebla Panama*. On the global level, Mexico is encouraged in working on a greater coordination and interoperability among the United Nations and regional organizations, as well as the development of common strategies and operational policies and the sharing of best practices in civilian crisis management should be encouraged, including clear frameworks for joint operations, when applicable.

### **III. The Promotion of Durable Peace and Sustainable Development in Africa**

The United Mexican States welcome the leadership role the African Union has taken regarding the security problems of the continent. Our delegation is furthermore convinced that The New Partnership for Africa's Development (NEPAD) can become the foundation for Africa's economic, social and democratic development as the basis for sustainable peace. Therefore it deserves the full support of the international community.

The development of the United Mexican States in the last two decades is characterized by the transition to a full democracy, the national and regional promotion of human rights and sustainable, economic growth. Mexico's development is characterized by free trade and its regional integration in the North American Free Trade Agreement. Having in mind that sustainable development is based not only on economic, but as well on social and environmental development, President Vicente Fox has made sustainable development a guiding principle in the Mexican Development Plan that includes sustainability targets for all major policy areas.

The United Nations Security Council has established not less than seven peace-keeping missions on the African continent, underlining the need for full support by the international community. In post-conflict situations, we regard national reconciliation as a precondition for a peaceful development, which is the reason why Mexico supported such committees, i.e. in the case of Sierra Leone. The United Mexican States are convinced that an other to enhance durable peace in Africa is the institutional reform of the United Nations. We therefore want to reaffirm our full support to both the establishment of the peace-building commission and the Human Rights Council. Both topics are highly interrelated and, having in mind that the breach of peace is most often linked with severest human rights' abuses, thus need to be seen as two sides of one problem and be approached in this understanding.

As most conflicts have their roots in conflicts about economic resources and development chances, human development and the eradication of poverty must be at the heart of a successful, preventive approach. Lifting people out of poverty must be seen as a precondition not only for peace, but for social development and environmental sustainability.

The United Mexican States want to express their esteem for the decision taken by the G-8 countries for a complete debt-relief for many African Highly-Indebted-Poor-Countries. Nevertheless, many commitments made by the international community that are crucial for Africa's sustainable development are unfulfilled. The developed countries agreed in the *Monterrey Consensus of the International Conference on Financing for Development* (A/CONF.198/11) to increase their Official Development Aid (ODA) "towards the target of 0,7 per cent of gross national product (GNP) as ODA to developing countries and 0,15 to 0,20 per cent of GNP of developed countries to least developed countries". Furthermore, the United Mexican States are disappointed by the result of the Hong Kong Ministerial conference of the World Trade Organization, which once more failed to meet the needs of those, to whom the round was devoted: developing countries and especially African countries, who today, more than ever, are cut off from global trade and prosperity by protectionism.

With regard to the African Peer Review Mechanism, the United Mexican States want to underline that good governance is an integral part of sustainable development. Therefore, we support all efforts by African countries to make the mechanism obligatory to increase transparency and accountability in all African countries.



## Committee History

*“This Council represents a great new chance for the United Nations, and for humanity, to renew the struggle for human rights.”<sup>1</sup>*

### *Introduction*

In the wake of World War II, the United Nations (UN) created the first global standard for human rights known as the Universal Declaration of Human Rights.<sup>2</sup> This landmark document was adopted in 1948 out of the international community’s unanimous, elegiac pledge to never again allow the atrocities of the past world wars, and to complement the UN Charter with a “road map to guarantee the rights of every individual everywhere.”<sup>3</sup> The United Nations Commission on Human Rights (UNCHR), a subsidiary body of the Economic and Social Council, was created in 1946.<sup>4</sup> Through the decades, the UNCHR made notable accomplishments: drafting the Universal Declaration of Human Rights, the International Covenant on Economic, Social, and Cultural Rights (1966), and the International Covenant on Civil and Political Rights (1966).<sup>5</sup> However, the ongoing struggle to uphold human rights provoked criticism regarding the UNHCR’s open membership to human rights violators, failure at reform, and lack of infrastructure to promote changes in specific states – eventually leading to the abolition of the body in favor of a completely new organization.<sup>6</sup>

The creation of the Human Rights Council (HRC) in 2006 via General Assembly Resolution A/RES/60/251 emphasized the international community’s commitment to “principles of universality, impartiality, objectivity and non-selectivity,” while maintaining the goal of promoting and protecting civil, political, economic, social, and cultural rights, as well as the right to development.<sup>7</sup> The HRC would preserve the positive progress of the UNCHR, but become a subsidiary of the General Assembly and have more stringent rules to qualify for membership.<sup>8</sup> Furthermore, the Council would be able to convene for Special Sessions during emergency situations and create new techniques and procedures for examining and addressing human rights violations.<sup>9</sup>

### *Structure and Procedures of Committee*

The HRC is a charter-based body that is monitored by the Office of the High Commissioner on Human Rights (OHCHR), which oversees eleven bodies and provides support for the implementation of resolutions and reviews.<sup>10</sup> Membership in the Human Rights Council is a prestigious position determined by elections within regional blocs. In accordance with the General Assembly Resolution A/RES/60/251, the 47 Member States of the Council are elected directly by secret ballots by the majority of the members of the Assembly.<sup>11</sup> African states have thirteen seats; Asian states, thirteen seats; Eastern European states, six seats; Latin American and Caribbean States, eight seats; and Western European and other states, seven seats.<sup>12</sup> Council Members may serve for a period of three years and are not eligible for immediate re-election after two consecutive terms.<sup>13</sup> Currently, the President of the Human Rights Council is Laura Dupuy-Lasserre of Uruguay.<sup>14</sup>

The Universal Periodic Review (UPR) was established in 2008 with the intention of fairly reviewing the human rights conditions in each state, and holding governments accountable in implementing progress.<sup>15</sup> As a state-driven process, the UPR allows each state the opportunity to declare what steps it has taken since the last review to improve human rights. Taking place every four years, the UPR is mandatory for all Member States of the UN, “remind[ing]

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<sup>1</sup> Wright, *Annan Cautions Rights Council to Avoid Rifts*, 2006.

<sup>2</sup> United Nations, *The Universal Declaration of Human Rights: History of the Document*, 2006.

<sup>3</sup> United Nations, *The Universal Declaration of Human Rights: History of the Document*, 2006.

<sup>4</sup> Office of the United Nations High Commissioner for Human Rights, *Brief Historic Overview of the Commission on Human Rights*, 2007.

<sup>5</sup> Whelan, *Indivisible Human Rights: A History*, 2010, pp. 61-62.

<sup>6</sup> Council on Foreign Relations, *Troubles Plague UN Human Rights Council*, 2009.

<sup>7</sup> United Nations General Assembly, *Human Rights Council (A/RES/60/251)*, 2006.

<sup>8</sup> United Nations General Assembly, *Human Rights Council (A/RES/60/251)*, 2006.

<sup>9</sup> Human Rights Council, *Institution-building of the United Nations Human Rights Council (A/HRC/RES/5/1)*, 2007.

<sup>10</sup> Office of the United Nations High Commissioner for Human Rights, *Human Rights Bodies*, 2011.

<sup>11</sup> United Nations General Assembly, *Human Rights Council (A/RES/60/251)*, 2006.

<sup>12</sup> Human Rights Council, *Membership of the Human Rights Council*, 2011.

<sup>13</sup> United Nations General Assembly, *Human Rights Council (A/RES/60/251)*, 2006.

<sup>14</sup> Human Rights Council, *President of the 6<sup>th</sup> Cycle*, 2011.

<sup>15</sup> Office of the United Nations High Commissioner for Human Rights, *Universal Periodic Review*, 2010.

States of their responsibility to fully respect and implement all human rights and fundamental freedoms.”<sup>16</sup> Information provided by the state under review, reports of independent human rights experts and groups, and non-governmental organizations and national human rights institutions foment an interactive discussion between the state and other UN Member States during a meeting of the UPR Working Group.<sup>17</sup> As such, the HRC reviews 48 States each year, and all 47 members of the HRC are reviewed during their term of membership.<sup>18</sup> The fact that all 192 members of the UN are reviewed is one of the most important improvements from the UNHCR.<sup>19</sup> Former HRC President Luis Alfonso de Alba has deemed the creation of the UPR “the beginning of a new era for the United Nations and a new culture in dealing with human rights.”<sup>20</sup> Special Procedures is the term given to the mechanisms established by the HRC to address specific issues, whether they pertain to certain countries, regions, or themes in all parts of the world.<sup>21</sup> Currently, there are 33 thematic and 8 country mandates, and it is the OHCHR that provides these bodies with “personnel, policy, research and logistical support for the discharge of their mandates.”<sup>22</sup>

### *Human Rights Council in Recent Years*

Though the HRC has functioned for only six cycles thus far, the new format allows for more flexibility in prioritizing human rights in an unbiased manner, while also pushing the boundaries of new freedoms.<sup>23</sup> For example, in May 2011, the HRC declared Internet freedom to be a human right, discussing universal access, infrastructure, and censorship.<sup>24</sup> Frank La Rue, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, wrote a report underscoring “the unique and transformative nature of the Internet” to promote the “progress of society as a whole,” while also commending education in schools and the workforce that teaches Internet skills.<sup>25</sup> The report also encourages states imposing censorship to engage in transparency by clearly stating which websites are censored, and condemns state-sponsored cyber attacks as a violation of “the obligation to respect the right to freedom of opinion and expression.”<sup>26</sup>

In the year that protests swept across the Arab world, the HRC convened a Special Session on the situation in Syria, fueling critical debate about the HRC’s role in the Arab Spring demonstrations.<sup>27</sup> While some Member States argue that the HRC has been a positive force in establishing an independent international commission of inquiry, others have stated that the Council has behaved in a biased or selective manner.<sup>28</sup> In regards to Libya’s membership, which was revoked through unanimous consensus through General Assembly Resolution A/65/265, several think tanks, Member States, and NGOs expressed dismay at the fact that Libya had ever achieved membership in the HRC, especially since it is now undergoing a commission of inquiry to be reviewed in September 2011.<sup>29</sup> However, many groups also expressed satisfaction that the international community was taking steps to illustrate that human rights violations would not be tolerated, since Libya was the first country to ever have its membership revoked.<sup>30</sup> If an elected member of the HRC fails to uphold human rights within its state, the HRC may suspend its membership based on a two-thirds majority of the members present and voting in the General Assembly.<sup>31</sup>

The year 2011 was also significant due to the first review of the HRC’s work pursuant to the 2006 founding resolution, which stated that the HRC “shall review its work and functioning five years after its establishment and

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<sup>16</sup> United Nations General Assembly, *Human Rights Council (A/RES/60/251)*, 2006.

<sup>17</sup> UPR Info, *UPR Process*, 2011.

<sup>18</sup> UPR Info, *UPR Process*, 2011.

<sup>19</sup> Council on Foreign Relations, *Discordant UN Voices on Rights*. 2007.

<sup>20</sup> Council on Foreign Relations, *UN Report on Internet Freedom as a Human Right*. 2011.

<sup>21</sup> Office of the United Nations High Commissioner for Human Rights, *Special Procedures of the Human Rights Council*, 2011.

<sup>22</sup> Office of the United Nations High Commissioner for Human Rights, *Basic Facts About the OHCHR*. 2008.

<sup>23</sup> Council on Foreign Relations, *UN Report on Internet Freedom as a Human Right*. 2011.

<sup>24</sup> Council on Foreign Relations, *UN Report on Internet Freedom as a Human Right*. 2011.

<sup>25</sup> La Rue, *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression (A/HRC/17/27)*, 2011, p. 1.

<sup>26</sup> GMA News, *UN Report: Internet Access a Human Right*, 2011.

<sup>27</sup> Human Rights Watch, *Keeping the Momentum: One Year in the Life of the UN Human Rights Council*, 2011, p. 12.

<sup>28</sup> International Service for Human Rights, *Special Session of Human Rights Council Sets up Commission of Inquiry into the Situation in Syria*. 2011.

<sup>29</sup> CNS News, *China, Russia Insist Libya’s Suspension From UN Human Rights Council ‘Not a Precedent.’* 2011.

<sup>30</sup> United States Department of State, *UN General Assembly Suspends Libya’s Human Rights Council Membership*, 2011.

<sup>31</sup> United Nations General Assembly, *Human Rights Council (A/RES/60/251)*, 2006.

report to the General Assembly.”<sup>32</sup> The review of the HRC by the General Assembly has focused primarily on the clarification of specific mandates given to the advisory committee, budgeting issues, and technical improvements for the List of Speakers.<sup>33</sup> Though the review is not yet complete, most of the countries expressed their disappointment at the “minimalistic outcome” of the review.<sup>34</sup> For example, Israel stated that the HRC failed to achieve its mandate, the European Union professed that more drastic reform was necessary, and Russia called for more transparency measures in the Special Procedures.<sup>35</sup> It remains to be seen whether the HRC can rise above regional blocs and strengthen the UN’s primary human rights organ.<sup>36</sup> Despite criticism, several states such as Cuba and the U.S. have conceded that the HRC is currently more effective at protecting human rights and monitoring violations than it was in 2006.<sup>37</sup>

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*This article by the Council on Foreign Relations offers insight into the tumultuous status of the HRC as a new UN body in 2007 from different perspectives. The Council on Foreign Relations is an independent organization, and the article provides a non-UN summary of the problems within the UNHCR. This is an important source because it illustrates a short history behind the present day HRC, which is a relatively newer organ of the UN.*

Human Rights Watch. (2011). *Keeping the Momentum: One Year in the Life of the UN Human Rights Council*. Retrieved September 25, 2011 from <http://www.unhcr.org/refworld/docid/4e8ab1022.html>

*The Human Rights Watch is a renowned independent human rights organization, and hence the website is a great source for finding objective information about the Human Rights Council. Delegates may search for their countries and the Human Rights Council in order to find what the Human Rights Watch has said about either. For example, the Human Rights Watch releases statements about the Universal Periodic Review, often detailing what a country could have acknowledged and shedding light on human rights violations. “Keeping the Momentum” is a report that can be downloaded from the website, chronicling a one year cycle of the UNHRC and detailing several notable achievements.*

International Service for Human Rights. *Special Session of Human Rights Council Sets Up Commission of Inquiry into the Situation in Syria*. Retrieved August 25, 2011 from <http://www.ishr.ch/council/376-council/1132-special-session-of-human-rights-council-sets-up-commission-of-inquiry-into-the-situation-in-syria>

*The International Service for Human Rights (ISHR) is an NGO based in Geneva and New York that focuses on providing information, services and advice on human rights issues. This website can be a helpful resource because the organization has partnerships with many different international human rights organizations and facilitates NGO collaboration. As a monitor of the HRC’s work, delegates should look for themes in the HRC rather than single opinions of the countries they are representing.*

United Nations General Assembly. (2006). *Human Rights Council (A/RES/60/251)*. Retrieved August 22, 2011 from [http://www2.ohchr.org/english/bodies/hrcouncil/docs/a.res.60.251\\_en.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/a.res.60.251_en.pdf)

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<sup>32</sup> United Nations General Assembly, *Human Rights Council (A/RES/60/251)*, 2006.

<sup>33</sup> United Nations General Assembly, *Report of the Open-ended Intergovernmental Working Group on the Review of the Work and Functioning of the Human Rights Council (A/HRC/WG.8/2)*, 2011.

<sup>34</sup> United Nations General Assembly, *Report of the Open-ended Intergovernmental Working Group on the Review of the Work and Functioning of the Human Rights Council (A/HRC/WG.8/2)*, 2011.

<sup>35</sup> United Nations General Assembly, *Report of the Open-ended Intergovernmental Working Group on the Review of the Work and Functioning of the Human Rights Council (A/HRC/WG.8/2)*, 2011.

<sup>36</sup> United Nations General Assembly, *Report of the Open-ended Intergovernmental Working Group on the Review of the Work and Functioning of the Human Rights Council (A/HRC/WG.8/2)*, 2011.

<sup>37</sup> United Nations General Assembly, *Report of the Open-ended Intergovernmental Working Group on the Review of the Work and Functioning of the Human Rights Council (A/HRC/WG.8/2)*, 2011.

*As the founding document drafted by the United Nations to create the Human Rights Council, this source is critical to understanding the framework and intent of the Council. The Resolution also marks the end of the Commission of the Human Rights and adopts the HRC under the General Assembly instead of the Economic and Social Council. The resolution also allows delegates to see how the new HRC fits in with the General Assembly and other UN bodies.*

UPR Info. (2011). *UPR Process*. Retrieved August 18, 2011 from <http://www.upr-info.org/-UPR-Process-.html>  
*This website is a great place to start looking for information about your country's latest URP, which can be found in the Database. The article on the UPR process details the UPR three-step cycle into an easy format to understand. The website is the best source for more detailed information about the URP. For example there is a page on the role of NGOs who can lobby Working Groups, take the floor during the plenary before the outcome, and influence the outcome of the URP.*

## **I. Combating Violence and Discrimination against Persons based on Sexual Orientation and Gender Identity**

*"As men and women of conscience, we reject discrimination in general, and in particular discrimination based on sexual orientation and gender identity. When individuals are attacked, abused or imprisoned because of their sexual orientation, we must speak out. We cannot stand by. We cannot be silent."*<sup>38</sup>

### ***Introduction***

Violence targeted toward persons based on their sexual orientation and gender identity (SOGI) is a global issue and a serious violation of human rights.<sup>39</sup> Every day, around the world, individuals face discrimination and violent attacks because they are lesbian, gay, bisexual, transgender, or intersex (LGBTI).<sup>40</sup> In addition to this, individuals also face ill treatment, extra-judicial killings, torture, sexual assault, denial of employment and educational opportunities, and violence compounded by experiences of hatred and exclusion based upon race, religion, disability, or economic and social status.<sup>41</sup> In at least six countries, Iran, Mauritania, Saudi Arabia, Yemen, parts of Somalia and parts of Nigeria, same-sex practices are punishable by death.<sup>42</sup>

Transgender people are particularly likely to be targeted for violence.<sup>43</sup> For instance, in Nepal, metis (transgender persons) have been attacked by the police and subjected to sexual violence.<sup>44</sup> Transgender persons also encounter obstacles in seeking access to gender-appropriate services.<sup>45</sup> In addition, the participants in peaceful protests supporting diverse sexual orientations or gender identities have also experienced violence.<sup>46</sup> For example, during the Equality March in Poland, marchers faced harassment by the police and extremist nationalists who shouted obscenities at them.<sup>47</sup> In fact, more than 80 countries still maintain homosexuality as a criminal offense.<sup>48</sup> In Morocco, six men were convicted after allegations that the private party they hosted was a "gay marriage;" similarly, in Cameroon, 11 men were arrested in a bar that was believed to have a gay clientele and were sentenced to prison for a year.<sup>49</sup> Moreover, Iranian law states that "all sexual relations engaged in outside of traditional marriage" are

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<sup>38</sup> Secretary-General, *Confront Prejudice, Speak against Violence*, 2010.

<sup>39</sup> *The Yogyakarta Principles*, 2007, p. 6.

<sup>40</sup> OHCHR, *Speak Up – Stop Discrimination*, 2011.

<sup>41</sup> *The Yogyakarta Principles*, 2007, p. 6.

<sup>42</sup> O'Flaherty and Fisher, *Contextualizing the Yogyakarta Principles*, 2008, p. 208.

<sup>43</sup> Transgender Day of Remembrance, *About the Date of Remembrance*, 2007.

<sup>44</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 2006, para. 180 and 183.

<sup>45</sup> O'Flaherty and Fisher, *Contextualizing the Yogyakarta Principles*, 2008, p. 211-212.

<sup>46</sup> O'Flaherty and Fisher, *Contextualizing the Yogyakarta Principles*, 2008, p. 211-212.

<sup>47</sup> Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, 2006, para. 72.

<sup>48</sup> O'Flaherty and Fisher, *Contextualizing the Yogyakarta Principles*, 2008, p.210.

<sup>49</sup> O'Flaherty and Fisher, *Contextualizing the Yogyakarta Principles*, 2008, p.210.

crimes.<sup>50</sup> The law goes even further to explicitly prohibit all same-sex conduct, regardless of whether it is consensual or not. The punishment for same-sex relations is death for men and 100 lashes for women for the first three incidents, death for the fourth.<sup>51</sup> Iran is now notorious for issuing an exceptionally high number of sex reassignment surgeries (SRS) to its LGBTI community, since doing so allows them to exist legally and erase the stigma or “stain” surrounding LGBTI peoples.<sup>52</sup> All these actions violate the basic human rights of these individuals: the right to self-expression and privacy, the right to freedom, and the right to freedom from violence and torture.<sup>53</sup>

The *Universal Declaration of Human Rights* (UDHR) and United Nations (UN) human rights treaties do not explicitly encompass “sexual orientation” or “gender identity,” but they establish an obligation for Member States to protect people from discrimination on the basis of “sex” or “any other status.”<sup>54</sup> The UN treaty bodies, whose purpose is to monitor Member States’ compliance with their treaty obligations, have issued numerous decisions and general comments indicating that “sexual orientation” is prohibited from discrimination under relevant human rights treaties.<sup>55</sup> In addition, 17 special procedures (mechanisms established by the Commission on Human Rights and assumed by the Human Rights Council), as well as the High Commissioner for Human Rights and the Secretary-General, affirmed that individuals should not be discriminated against on grounds of SOGI.<sup>56</sup>

### ***The Development of Debates on SOGI Issues at the International Level***

Issues of sexual orientation have received the most attention in the monitoring body of the *International Covenant on Civil and Political Rights* (ICCPR), Article 26 of which includes the prohibition of discrimination on grounds of sexual orientation.<sup>57</sup> Previously, the Human Rights Committee, the monitoring body of the ICCPR, has refrained from using Article 26 when it could rule on discrimination under Article 2.1, the enjoyment of rights of discrimination.<sup>58</sup> In particular, during *Toonen v. Australia* of 1994, the Human Rights Committee made a groundbreaking decision and found that Tasmanian laws criminalizing all sexual relations between men breached the ICCPR, whose non-discrimination provisions were interpreted as including “sexual orientation.”<sup>59</sup> Nicholas Toonen, a gay Australian citizen residing in Tasmania, argued that Sections 122 and 123 of the Tasmania Criminal Code charging unnatural sexual intercourse and indecent practice between males violated several of his rights, including the right not to be discriminated against (Article 2.1 of the ICCPR), the right to privacy (Article 17 of the ICCPR), and the right to equal protection under the law without discrimination (Article 26 of the ICCPR).<sup>60</sup> The Toonen case gave some hope that the international human rights system might provide recourse against abusive laws and practices that criminalize those who do not fit the norms of SOGI.<sup>61</sup> Also of note in 1994, the UN initiated the International Conference on Population and Development (ICPD) in Cairo and emphasized women’s sexual and reproductive rights.<sup>62</sup> In addition, the UN Special Rapporteur on Violence Against Women was appointed in the same year, and the work conducted on the topic of control of female sexuality led to the affirmation of a woman’s right to sexual autonomy.<sup>63</sup> Sexuality was for the first time recognized as a positive aspect of human development, as it had previously only appeared on the UN agenda in terms of public health or morality.<sup>64</sup>

It is an emerging trend in human rights instruments and standards to include SOGI in the prohibited areas of discrimination.<sup>65</sup> The UN General Assembly (GA) urged all Member States to ensure protection of the right to life

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<sup>50</sup> Human Rights Watch, *We Are A Buried Generation: Discrimination and Violence Against Sexual Minorities in Iran*, 2010.

<sup>51</sup> Human Rights Watch, *We Are A Buried Generation: Discrimination and Violence Against Sexual Minorities in Iran*, 2010.

<sup>52</sup> Human Rights Watch, *We Are A Buried Generation: Discrimination and Violence Against Sexual Minorities in Iran*, 2010.

<sup>53</sup> Human Rights Watch, *The Gulf’s gender anxiety*, 2011.

<sup>54</sup> OHCHR, *Speak Up – Stop Discrimination*, 2011.

<sup>55</sup> OHCHR, *Speak Up – Stop Discrimination*, 2011.

<sup>56</sup> OHCHR, *Speak Up – Stop Discrimination*, 2011.

<sup>57</sup> O’Flaherty and Fisher, *Contextualizing the Yogyakarta Principles*, 2008, p. 216.

<sup>58</sup> International Commission of Jurists, *Sexual Orientation and Gender Identity and International Human Rights Law: Practitioners Guide No.4*, 2009, p. 33.

<sup>59</sup> CCPR, *Case of Nicholas Toonen v. Australia*, 1992.

<sup>60</sup> CCPR, *Case of Nicholas Toonen v. Australia*, 1992.

<sup>61</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p.4.

<sup>62</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p.4.

<sup>63</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p.4.

<sup>64</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p.4.

<sup>65</sup> International Commission of Jurists, *Sexual Orientation and Gender Identity and International Human Rights Law: Practitioners Guide No.4*, 2009, p. 29.

and investigate tendencies of discrimination against persons based on sexual orientation.<sup>66</sup> Furthermore, the Parliamentary Assembly of the Council of Europe has adopted several resolutions addressing discrimination on sexual orientation and gender identity.<sup>67</sup> In 2008, the General Assembly of the Organization of American States adopted its first resolution on human rights, sexual orientation, and gender identity.<sup>68</sup> The European Union (EU) has taken a number of legislative steps to combat discrimination based on sexual orientation.<sup>69</sup> In particular, Article 13 of the *1997 Treaty of Amsterdam* calls on the Member States of the EU to “take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.”<sup>70</sup> The European Court of Human Rights (ECtHR) has considered issues of discrimination with regard to sexual orientation and gender identity.<sup>71</sup> Unlike the ICCPR, Article 14 does not highlight an autonomous anti-discrimination provision, but rather one that can be applied in conjunction with a substantive provision of the European Convention on Human Rights, and the ECtHR has consistently stated that differences based on sex and sexual orientation must “have particularly serious reasons by way of justification.”<sup>72</sup>

In 2003, Brazil introduced a resolution at the UN Commission on Human Rights on *Human Rights and Sexual Orientation*, the first of its kind. However, this attempt was highly criticized by Pakistan, which described it as an insult to the world’s Muslims.<sup>73</sup> Further resolutions presented on SOGI issues in 2004 and 2005 were again criticized, especially by the Organization of the Islamic Conference (OIC), which proposed deleting all reference to sexual orientation in the drafts.<sup>74</sup> In 2008, the SOGI issue was addressed at the UN General Assembly.<sup>75</sup> France and the Netherlands initiated the discussion on LGBTI rights, and Argentina presented a statement that was endorsed by 66 Member States.<sup>76</sup> The Member States condemned “human rights violations based on sexual orientation or gender identity wherever they occur, in particular the use of the death penalty on this ground, extrajudicial, summary or arbitrary executions, the practice of torture and other cruel, inhuman and degrading treatment or punishment.”<sup>77</sup> The statement urged Member States to “ensure adequate protection of human rights defenders, and remove obstacles which prevent them from carrying out their work on issues of human rights and sexual orientation and gender identity.”<sup>78</sup>

### ***Review of the UN Human Rights Treaty Bodies and Special Procedures***

The Human Rights Committee, the Committee on Economic, Social and Cultural Rights (CESCR) and the Committee on the Elimination of Discrimination against Women (CEDAW) have repeatedly called for the change of laws that criminalize homosexuality in countries around the world.<sup>79</sup> The Human Rights Committee in particular emphasized the harmful implications of these laws when they result in the death penalty or other cruel punishment and do not allow the enjoyment of civil and political rights for the LGBTI community.<sup>80</sup> The Committee Against Torture (CAT) condemned ill treatment of people detained on the grounds of their sexual orientation in Egypt and the discrimination against gay prisoners in Brazil.<sup>81</sup> Both the Human Rights Committee and the CAT addressed abuses against LGBTI rights defenders, including attacks against activists that restricted their freedom of association, and violence committed by police.<sup>82</sup> In fact, the treaty bodies have also welcomed measures to protect refugees that have left their home countries due to discriminatory practices or violence committed against them based upon their sexual orientation.<sup>83</sup>

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<sup>66</sup> UNGA, *Extrajudicial, summary or arbitrary executions A/RES/61/173*, 2007.

<sup>67</sup> The Council of Europe, *Situation of lesbians and gays in Council of Europe member states*, 2000.

<sup>68</sup> Organization of American States, *Human rights, sexual orientation and gender identity, AG/RES/2435*, 2008.

<sup>69</sup> International Commission of Jurists, *Sexual Orientation and Gender Identity and International Human Rights Law: Practitioners Guide No.4*, 2009, p. 30.

<sup>70</sup> International Commission of Jurists, *Sexual Orientation and Gender Identity and International Human Rights Law: Practitioners Guide No.4*, 2009, p. 30.

<sup>71</sup> O’Flaherty and Fisher, *Contextualizing the Yogyakarta Principles*, 2008, p. 218.

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<sup>73</sup> International Lesbian, Gay, Bisexual, Trans and Intersex Association, *Brazilian Resolution*, 2003.

<sup>74</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p. 12.

<sup>75</sup> Intl Lesbian, Gay, Bisexual, Trans and Intersex Association, *UN General Assembly Statement Affirms Rights for All*, 2008.

<sup>76</sup> Intl Lesbian, Gay, Bisexual, Trans and Intersex Association, *UN General Assembly Statement Affirms Rights for All*, 2008.

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<sup>79</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p. 6.

<sup>80</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p. 6.

<sup>81</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p. 6.

<sup>82</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p. 6.

<sup>83</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p. 6-7.

The Committee on the Rights of the Child (CRC) has emphasized the harmful effects that sexual orientation discrimination has on adolescent health and has encouraged Member States to ensure homosexual and transsexual youths' access to information, support, and protection.<sup>84</sup> Moreover, the General Comment of the CESCR on the Rights to Health was the first of any treaty body to include explicit reference to sexual orientation.<sup>85</sup> The comments by treaty bodies has consolidated the principle of non-discrimination on grounds of sexual orientation and firmly grounded it in international standards requiring adoption or proactive anti-discrimination measures against the LGBTI community.<sup>86</sup>

UN Special Rapporteurs have also dealt with SOGI issues for a number of years. For example, the Special Rapporteur on Extrajudicial Arbitrary and Summary Executions has condemned the application of the death penalty for consensual sexual relations, state-sponsored and tolerated killings of sexual minorities, and threats against LGBTI rights defenders.<sup>87</sup> Additionally, the Working Group on Arbitrary Detention has condemned the detention and torture of 55 men in Egypt in relation to their perceived homosexuality.<sup>88</sup>

### *Case Studies*

#### *Turkey*

As a country that bridges the varying regions of the Middle East and Europe, "Turkey today is full of mixed signals."<sup>89</sup> Just one year before a new legal code was adopted, the Justice Commission of Turkey's Parliament "voted to include new language in the provision barring discrimination in a wide range of areas," which would have explicitly identified sexual orientation as a protected status.<sup>90</sup> The language containing the phrase "sexual orientation," however, was eventually dropped and replaced with a portion of Article 10 of Turkey's Constitution that promised equality "irrespective of language, race, color, sex, political opinion, philosophical belief, religion and sect, or any other reasons."<sup>91</sup>

In recent years, the prospect of EU membership initiated political liberalization in Turkey.<sup>92</sup> Turkey is the first Muslim country in history to hold a gay pride march.<sup>93</sup> Participation has skyrocketed from a mere 30 attendees to over 10,000 in just eight years.<sup>94</sup> Through these and other advancements, "civil society in Turkey is notably freer than it was a decade ago."<sup>95</sup> These newfound freedoms and improving attitudes towards LGBTI people generate hope that progressive legislation could be adopted in the near future. However, as in many cases, "violence has followed visibility."<sup>96</sup> LGBTI peoples' exposure has resulted in higher rates of violence and attacks against them.<sup>97</sup> In one study among Turkish gays and lesbians, 37% reported being victims of physical violence and 28% victims of sexual violence.<sup>98</sup> In the Turkish transvestite and transsexual community, 89% reported physical violence and 52% sexual violence.<sup>99</sup>

#### *The Netherlands*

The act of homosexuality has been legal in the Netherlands since 1811, but it took nearly 200 years for same-sex marriage to be legalized.<sup>100</sup> Even so, the Netherlands was the first country in history to do so in 2001.<sup>101</sup> In 2006, a poll was conducted by the EU on several social issues, among them same-sex marriage. An overwhelming 82% of

<sup>84</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p. 7.

<sup>85</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p. 7.

<sup>86</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p. 8.

<sup>87</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p. 10.

<sup>88</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p. 11.

<sup>89</sup> Human Rights Watch, *We Need A Law For Liberation: Gender, Sexuality, and Human Rights in a Changing Turkey*, 2008.

<sup>90</sup> Human Rights Watch, *We Need A Law For Liberation: Gender, Sexuality, and Human Rights in a Changing Turkey*, 2008.

<sup>91</sup> Human Rights Watch, *We Need A Law For Liberation: Gender, Sexuality, and Human Rights in a Changing Turkey*, 2008.

<sup>92</sup> Human Rights Watch, *Together, Apart: Organizing Around Sexual Orientation and Gender Identity Worldwide*, 2009.

<sup>93</sup> Euroasia News Network Photo Agency, *Gay Pride*, 2010.

<sup>94</sup> Euroasia News Network Photo Agency, *Gay Pride*, 2010.

<sup>95</sup> Human Rights Watch, *We Need A Law For Liberation: Gender, Sexuality, and Human Rights in a Changing Turkey*, 2008.

<sup>96</sup> Human Rights Watch, *We Need A Law For Liberation: Gender, Sexuality, and Human Rights in a Changing Turkey*, 2008.

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<sup>99</sup> Human Rights Watch, *We Need A Law For Liberation: Gender, Sexuality, and Human Rights in a Changing Turkey*, 2008.

<sup>100</sup> BBC News, *Netherlands legalizes gay marriage*, 2000.

<sup>101</sup> BBC News, *Netherlands legalizes gay marriage*, 2000.

Dutch citizens believe that same-sex marriage should be legal, as opposed to a mere 44% of the entire EU population.<sup>102</sup> Also in 2006, the Dutch government attempted to deport several LGBTI Iranians, in accordance with an immigration policy.<sup>103</sup> The general public's outcry stopped this, demonstrating the mass support for LGBTI people in the country.<sup>104</sup> However, a ban on Dutch LGBTI male citizens donating blood still exists, for fear of the presence of HIV/AIDS.<sup>105</sup>

### *Recent Developments*

The establishment of the Yogyakarta Principles has been an important step in strengthening international human rights law, and specifically protecting LGBTI people.<sup>106</sup> Compiled and drafted at the human rights expert meeting in Yogyakarta, Indonesia, the Principles set the obligations for Member States to ensure that LGBTI people enjoy the same rights as everyone else.<sup>107</sup> The Principles are based on international human rights law, as reflected in international and regional treaties, and seek to be comprehensive both in terms of the rights covered by law and in relation to the actual experiences of LGBTI people.<sup>108</sup> In the wording of the document, the drafters sought to uphold a universal nature of human rights and avoided wording that would limit rights to particular groups.<sup>109</sup> By expressing the rights in this way, the drafters also attempted to avoid the necessity of categorizing individuals according to the labels that may not be suitable for all cultural contexts.<sup>110</sup> None of the rights in the Principles can be considered particular to one group or the other but rather are enjoyed by all.<sup>111</sup>

In 2011, another important development in addressing SOGI issues was made at the 17<sup>th</sup> Human Rights Council session when South Africa, along with Brazil and 39 other sponsors, presented a resolution focusing specifically on human rights violations based on gender identity and sexual orientation.<sup>112</sup> The resolution requested the High Commissioner for Human Rights to prepare a study on violence and discrimination for a panel discussion to be held at the Human Rights Council session in March 2012.<sup>113</sup>

Since 2009, the world has witnessed significant legal developments related to SOGI issues, particularly in Latin America.<sup>114</sup> In 2009, the Federal District of Mexico passed several laws protecting LGBTI people from hate crimes and discrimination, followed by Ecuador in the same year, and Bolivia in 2011.<sup>115</sup> Mexico also approved a progressive law on gender recognition after gender reassignment treatment in 2009, and its Federal District opened marriage for same-sex couples in 2010.<sup>116</sup> There is also a potential for revising the widely criticized Anti-Homosexuality Bill in Uganda, which was introduced in 2009, as the Ugandan Parliament is considering reviewing it this year.<sup>117</sup>

The Universal Periodic Review (UPR) is a mechanism of the United Nations Human Rights Council that scrutinizes the human rights records of all UN Member States.<sup>118</sup> The UPR was set up as part of the reform of the Human Rights Council to respond to criticisms that consideration of Member States' human rights records had become politicized and focused only on certain states, while allowing more politically influential Member States to escape scrutiny.<sup>119</sup> The UPR mechanism has proved to be an effective tool in addressing violations against LGBTI people.<sup>120</sup> In particular, during the country reviews, the Council made recommendations to decriminalize same-sex relations.<sup>121</sup> As

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<sup>102</sup> The Associated Press, *Europe Split On Gay Marriage*, 2006.

<sup>103</sup> Human Rights Watch, *Together, Apart: Organizing Around Sexual Orientation and Gender Identity Worldwide*, 2009.

<sup>104</sup> Human Rights Watch, *Together, Apart: Organizing Around Sexual Orientation and Gender Identity Worldwide*, 2009.

<sup>105</sup> Sanquin, *Equal Treatment Commission Confirms Sanquin Policy*, 2007.

<sup>106</sup> International Commission of Jurists, *An Activists Guide to the Yogyakarta Principles*, 2010, p. 19.

<sup>107</sup> International Commission of Jurists, *An Activists Guide to the Yogyakarta Principles*, 2010, p. 19.

<sup>108</sup> International Commission of Jurists, *An Activists Guide to the Yogyakarta Principles*, 2010, p. 19.

<sup>109</sup> International Commission of Jurists, *An Activists Guide to the Yogyakarta Principles*, 2010, p. 23.

<sup>110</sup> International Commission of Jurists, *An Activists Guide to the Yogyakarta Principles*, 2010, p. 23.

<sup>111</sup> International Commission of Jurists, *An Activists Guide to the Yogyakarta Principles*, 2010, p. 23.

<sup>112</sup> United Nations General Assembly, *Human Rights, sexual orientation and gender identity* (A/HRC/17/L.9/Rev.1), 2011.

<sup>113</sup> United Nations General Assembly, *Human Rights, sexual orientation and gender identity* (A/HRC/17/L.9/Rev.1), 2011.

<sup>114</sup> ILGA, *A World Survey of Laws Criminalizing same-Sex Sexual Acts Between Consenting Adults*, 2011, p. 6.

<sup>115</sup> ILGA, *A World Survey of Laws Criminalizing same-Sex Sexual Acts Between Consenting Adults*, 2011, p. 6.

<sup>116</sup> ILGA, *A World Survey of Laws Criminalizing same-Sex Sexual Acts Between Consenting Adults*, 2011, p. 6.

<sup>117</sup> ILGA, *A World Survey of Laws Criminalizing same-Sex Sexual Acts Between Consenting Adults*, 2011, p. 6.

<sup>118</sup> Arc International. *Universal Periodic Review: A Guide for Sexual Orientation and Gender Identity Advocates*, 2011.

<sup>119</sup> Arc International. *Universal Periodic Review: A Guide for Sexual Orientation and Gender Identity Advocates*, 2011.

<sup>120</sup> Arc International. *Universal Periodic Review: A Guide for Sexual Orientation and Gender Identity Advocates*, 2011.

<sup>121</sup> Arc International. *Universal Periodic Review: A Guide for Sexual Orientation and Gender Identity Advocates*, 2011.



a result, Mauritius, Sao Tome and Principe, Nauru, Palau and Seychelles agreed to decriminalized same sex relations.<sup>122</sup> Additionally, these Member States were also pressured to include “sexual orientation” and “gender identity” in their anti-discriminatory laws, address hate crimes, recognize same-sex relationships, and apply the Yogyakarta Principles.<sup>123</sup>

### **Conclusion**

Rights relating to SOGI remain politically contested.<sup>124</sup> Sexuality and gender remain contested issues as the application of universal human rights is inconsistent and governments often seek protective barriers of cultural and national sovereignty.<sup>125</sup> A dilemma for human rights advocates is related with the formulation of claims to universal rights in languages that recognizes significance of cross-cultural constructions of sexuality and gender.<sup>126</sup> Despite the progress made at the UN, sexual orientation and gender identity are still not included in any binding UN human rights treaty.<sup>127</sup>

A number of steps that the UN’s expert human rights bodies could take to ensure that their findings are not ignored by Member States include undertaking specific studies on human rights and sexuality, showing best practices among different bodies in factoring information about sexuality, and strengthening cooperation with human rights defenders who are working on sexuality and gender related issues.<sup>128</sup> The right to dignity and respect applies to all people regardless of their sexual orientation and gender identity. However, everyday around the world LGBTI people are targeted for harassment, abuse, and arbitrary imprisonment, often by government authorities.<sup>129</sup> The continuation of these abuses stems from laws that criminalize same-sex relationships and make it a crime for LGBTI people to be who they are.

The elimination of laws that criminalize sodomy and gender nonconformity will not put an immediate end to violence against LGBTI people.<sup>130</sup> Regardless, decriminalization is an essential step towards promoting respect and legal equality for LGBTI people. In order to achieve this goal, public condemnation and pressure are needed to make governments accountable for violations against the rights of a marginalized group of people. Additionally, the state must actively protect all of its citizens, regardless of their sexual orientation and gender identity, and the UN should be at the forefront of helping states promote and protect the rights of LGBTI people.

How effectively have the UN treaty bodies used international human rights law to monitor, promote, and protect LGBTI rights? What other tools could be effective in making governments more accountable for protecting LGBTI people? How can the UN ensure that Member States include “sexual orientation” and “gender identity” in their anti-discrimination laws? How useful is the UPR mechanism and how to make states even more accountable towards it? What role can civil society play in encouraging the HRC to engage in the SOGI issues?

## **Annotated Bibliography**

### ***I. Combating Violence and Discrimination against Persons based on Sexual Orientation and Gender Identity***

Human Rights Watch. (2009, June 1). *Together, Apart: Organizing Around Sexual Orientation and Gender Identity Worldwide*. Retrieved September 1, 2011, from <http://www.hrw.org/reports/2009/06/10/together-apart>  
*This article reveals difficulties faced by LGBT rights defenders throughout the global South. It focuses on five regions: Eastern Europe and Central Asia, the Asia and Pacific region, Latin America and the Caribbean, sub-Saharan Africa, the Middle East and North Africa, and outlines patterns of human rights violations in all of those regions. This is an excellent source which*

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<sup>122</sup> Arc International. *Universal Periodic Review: A Guide for Sexual Orientation and Gender Identity Advocates*, 2011.

<sup>123</sup> Arc International. *Universal Periodic Review: A Guide for Sexual Orientation and Gender Identity Advocates*, 2011.

<sup>124</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p. 15.

<sup>125</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p. 15.

<sup>126</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p. 16.

<sup>127</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p. 17.

<sup>128</sup> Saiz, *Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*, 2005, p. 22.

<sup>129</sup> Johnson, *End the Criminal Treatment of LGBT People*, 2009.

<sup>130</sup> Johnson, *End the Criminal Treatment of LGBT People*, 2009.

*provides information and analysis of how civil society actors attempted to fight discrimination and stop the violence against LGBT people.*

International Commission of Jurists. (2009). *Practitioners Guide No 4: Sexual Orientation, Gender Identity and International Human Rights Law*. Retrieved August 23, 2011, from [http://icj.concepto.ch/default.asp?nodeID=349&sessID=&langage=1&myPage=Legal\\_Documentation&id=22929](http://icj.concepto.ch/default.asp?nodeID=349&sessID=&langage=1&myPage=Legal_Documentation&id=22929)

*The report gives an excellent overview of the UN treaty bodies and special procedures and how they addressed the issues related to sexual orientation and gender identity. The report also encompasses statements made by the High Commissioner for Human Rights in regards to refugee issues and observations of how Member States treat LGBTI people and human rights defenders. This guide explains how international law and standards should be used to provide protection for victims of human rights violations on the ground of sexual orientation and gender identity.*

International Commission of Jurists. (2010). *Sexual Orientation and Gender Identity in Human Rights Law: References to Jurisprudence and Doctrine of the United Nations Human Rights System*. Retrieved September 1, 2011, from <http://icj.org/dwn/database/UN-Compilations2010.pdf>

*The report by the International Commission of Jurists analyses human rights treaty bodies, general comments, jurisprudence, and makes references to SOGI issues in these documents. It also indicates the human rights violations faced by LGBTI people and provides analysis of why these violations occur. It is a very useful source for accessing speeches and reports made by government officials, the UN Special Rapporteurs, and independent experts in regards to human rights violations against LGBTI human rights defenders.*

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*The Activists Guide provides an introduction to the Yogyakarta Principles and international human rights law. The guide is targeted at human right activists working on LGBTI issues and gives an explanation of how to engage further with the Yogyakarta Principles. The guide gives an overview of the Principles and discusses why, how, and when they came into being. It also touches upon the international human rights framework and the articulation of rights for LGBTI people.*

International Lesbian, Gay, Bisexual, Trans and Intersex Association. (2011). *State-Sponsored Homophobia: A World Survey of Laws Criminalizing Same-Sex Sexual Acts Between Consenting Adults*. Retrieved September 19, 2011, from [http://old.ilga.org/Statehomophobia/ILGA\\_State\\_Sponsored\\_Homophobia\\_2011.pdf](http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2011.pdf)

*This report provides the latest research on the range of LGBTI legal issues. It presents a useful overview of the of trends of LGBTI rights around the world and also entails a summary of countries that still maintain legal provisions criminalizing same-sex sexual acts between consenting adults. The material gathered in this report is from governmental and non-governmental organizations, and provides primary information for the research and statements made by country officials and civil society.*

N.A. (2007). *The Yogyakarta Principles*. Retrieved August 10, 2011, from [http://www.yogyakartaprinciples.org/principles\\_en.pdf](http://www.yogyakartaprinciples.org/principles_en.pdf)

*The Yogyakarta Principles address a broad range of human rights standards and their application to the SOGI issues. The Principles affirm the primary responsibility of Member States to implement human rights, and each principle is accompanied by detailed recommendations to the States on how to achieve this aim. The recommendations are also addressed to the UN human rights system, media, and non-governmental organizations.*

Office of High Commissioner for Human Rights. (n.d.). *Human Rights Treaty Bodies*. Retrieved October 6, 2011, from <http://www2.ohchr.org/english/bodies/treaty/index.htm>

*The Web site contains all the information about the UN treaty bodies and their sessions. This site provides excellent resources and links to the annual reports, review of how states implement their commitments related with promotion of human rights. It also contains information on the procedures of how to report to various treaty bodies and provides a good overview about all the UN treaty bodies and human rights mechanisms.*

O'Flaherty, M. and J. Fisher. (2008). Sexual Orientation, Gender Identity and International Human Rights Law: Contextualizing the Yogyakarta Principles. *Human Rights Law Review*, 8 (2): 207- 248.

*O'Flaherty and Fisher's article provides an excellent overview of the issues and human rights violations related to LGBTI people. It also gives a good analysis of international human rights laws and how often they are limited in protecting LGBTI rights. The article then discusses the implications of the Yogyakarta Principles and how it advances rights of LGBTI people.*

Saiz, I. (2005). *Bracketing Sexuality: Human Rights and Sexual Orientation – A Decade of Development and Denial at the UN*. Retrieved August 30, 2011, from [http://www.idahomophobia.net/IMG/pdf/Ignacio\\_Saiz\\_-\\_Bracketing\\_Sexuality\\_at\\_the\\_UN.pdf](http://www.idahomophobia.net/IMG/pdf/Ignacio_Saiz_-_Bracketing_Sexuality_at_the_UN.pdf)

*The article gives an excellent review of how the debates on sexual orientation and gender identity developed on the international level and at the UN. It also provides a good analysis of the UN treaty bodies and special procedures and how they attempted to address SOGI issues and make Member States accountable for LGBTI rights. The article also identifies important gaps and limits in the international human rights law and provides good observations of how the situation could be improved in promoting LGBTI rights.*

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*This Web site contains national reports prepared by State concerned for the review under the UPR mechanism. It also has important and useful information about the UPR process, how it has developed and how the states implement the recommendations provided during the review. These is an excellent starting point for the research of states' human rights situation and understand what commitments they made or decided not to make in terms of improving their human rights record.*

## II. Human Rights in Nonviolent Protests and Demonstrations

*"We have seen many domestic, very violent domestic issues all around the world. Wherever this is happening or has happened, the position of the United Nations and the Secretary-General, myself, has been consistent and clear – that all the differences of opinion, whether domestic or international, must be resolved peacefully through dialogue. Governments concerned also must exercise extreme care and take necessary measures to protect the lives and safety of the civilian population and their citizens, and also protect their properties, and protect the freedom of speech, freedom of assembly and freedom of information. This is the basic principle of democracy and this is what I am urging, again, to all the countries of the world."*<sup>131</sup>

### *Introduction*

The diverse incarnations of civil resistance have risen to dramatic prominence in modern times.<sup>132</sup> During the early twentieth century, the "historical turning point for both the practice and the theory of civil resistance" took shape in the work of Mahatma Gandhi.<sup>133</sup> His ambitious "campaigns in South Africa in 1906-14, and in India in 1919-48, put non-violent methods on the political map" and legitimized civil resistance as a "conscious" alternative to power politics.<sup>134</sup> In the years since, nonviolent protests and demonstrations, which comprise one facet of civil resistance, have "in all regions [...] pav[ed] the way to achievements in human rights."<sup>135</sup> Peaceful protestors are "significant agents of social change," successfully championing causes as varied as pacifism, democratization, and minority rights.<sup>136</sup> Yet paradoxically, these forms of civil resistance both empower and imperil human rights defenders, who continually encounter a volatile tension between their right to protest and the right of the state to maintain public

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<sup>131</sup> Ban, *Secretary-General's Press Conference Following the Opening of the 2009 Substantive Session of the Economic and Social Council*, 2009.

<sup>132</sup> Roberts, *Introduction*, 2009, p. 1.

<sup>133</sup> Carter, *People Power and Protest: The Literature on Civil Resistance in Historical Context*, 2009, p. 25.

<sup>134</sup> Carter, *People Power and Protest: The Literature on Civil Resistance in Historical Context*, 2009, p. 25.

<sup>135</sup> Jilani, *Report of the Special Representative of the Secretary-General on Human Rights Defenders (A/62/225)*, 2007, p. 4.

<sup>136</sup> Redekop & Paré, *Beyond Control: A Mutual Respect Approach to Protest Crowd-Police Relations*, 2010, p. 11.

order.<sup>137</sup> Protestors must often endure the grim reality of “the continuing high level of human rights violations committed against persons engaged in promoting and defending human rights and fundamental freedoms.”<sup>138</sup> Contemporary developments strongly suggest that “the incidence and intensity of public demonstrations” are climbing, urgently necessitating a response from both the Human Rights Council (HRC) and the United Nations as a whole.<sup>139</sup>

### *The Right to Protest*

Alongside parties and elections, protest is now a standard feature of democratic political life.<sup>140</sup> It has gradually “diffus[ed] through all levels of society,” gaining widespread acceptance as a legitimate means of expressing opinions.<sup>141</sup> Social scientists generally acknowledge that the right to protest is “essential to the functioning of a democratic government”; within most democracies, approximately 90 percent of protests “take place without incident.”<sup>142</sup> Nonviolent, communicative protest “support[s] an informed, participatory and active electorate” by publicizing alternative viewpoints and stimulating healthy debate on issues of public policy.<sup>143</sup> Protest may also constitute a viable option for groups without sufficient resources or influence to engage in politics through more conventional processes, thereby promoting increased rates of political participation.<sup>144</sup> Notably, the democratic institutions of many countries owe their very existence to protest, markedly illustrating the need to ensure that the right to protest is both universally recognized and protected.<sup>145</sup>

While the right to protest is not explicitly enumerated in most human rights documents, it may be derived from a number of formally recognized human rights: freedom of expression and opinion, freedom of association, freedom of peaceful assembly, and trade union rights, including the right to strike.<sup>146</sup> At the domestic level, protection for the right to protest varies between states according to their respective mechanisms for safeguarding human rights.<sup>147</sup> At the regional and international levels, the set of rights giving rise to the right to protest is upheld by various binding and non-binding instruments. The rights to freedom of expression and opinion, association, and peaceful assembly are affirmed by, among others, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the International Convention on the Elimination of All Forms of Racial Discrimination.<sup>148</sup> The right to strike, the right to form and join trade unions, and the right of trade unions to operate freely are established in the International Covenant on Economic, Social and Cultural Rights.<sup>149</sup>

The Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders) is a seminal document that expressly provides for the right to protest.<sup>150</sup> While it does not create new rights, the Declaration on Human Rights Defenders rearticulates existing rights, which have already been recognized in many human rights instruments, in a manner more applicable to “the practical role and situation of human rights defenders.”<sup>151</sup> Article 5(a) states that, “[f]or the purpose of promoting and protecting human rights and fundamental

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<sup>137</sup> Gillham, *Securitizing America: Strategic Incapacitation and the Policing of Protest Since the 11 September 2001 Terrorist Attacks*, 2011, p. 636.

<sup>138</sup> United Nations General Assembly, *Resolution on the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (A/RES/62/152)*, 2008, p. 1.

<sup>139</sup> Heyns, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (A/HRC/17/28)*, 2011, p. 6.

<sup>140</sup> Johnston, *States and Social Movements*, 2011, p. 1.

<sup>141</sup> Della Porta & Fillieule, *Policing Social Protest*, 2004, p. 236.

<sup>142</sup> Redekop & Paré, *Beyond Control: A Mutual Respect Approach to Protest Crowd-Police Relations*, 2010, p. 167.

<sup>143</sup> Mead, *The New Law of Peaceful Protest: Rights and Regulation in the Human Rights Act Era*, 2010, p. 9.

<sup>144</sup> Johnston, *States and Social Movements*, 2011, p. 33.

<sup>145</sup> Redekop & Paré, *Beyond Control: A Mutual Respect Approach to Protest Crowd-Police Relations*, 2010, p. 168.

<sup>146</sup> Jilani, *Report of the Special Representative of the Secretary-General on Human Rights Defenders (A/62/225)*, 2007, p. 5-6.

<sup>147</sup> Redekop & Paré, *Beyond Control: A Mutual Respect Approach to Protest Crowd-Police Relations*, 2010, p. 76.

<sup>148</sup> Sekaggya, *Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, 2011, pp. 24, 34, 57.

<sup>149</sup> Jilani, *Report of the Special Representative of the Secretary-General on Human Rights Defenders (A/62/225)*, 2007, p. 6.

<sup>150</sup> United Nations General Assembly, *Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, 1998.

<sup>151</sup> Office of the United Nations High Commissioner for Human Rights, *Human Rights Defenders: Protecting the Right to Defend Human Rights*, 2004, p. 19.

freedoms, everyone has the right, individually and in association with others, at the national and international levels [...] to meet or assemble peacefully.”<sup>152</sup> Although not yet legally binding, the Declaration on Human Rights Defenders was adopted by the General Assembly by consensus, suggesting significant commitment of Member States to its principles.<sup>153</sup>

### *The Role of the State*

States are the primary guarantors of human rights, including the right to protest.<sup>154</sup> Consequently, the state should not interfere with protest, even when it involves public criticism of government policies or actions.<sup>155</sup> Yet many states unjustly limit the right to protest, resulting in “implementation gaps.”<sup>156</sup> As identified by the United Nations Human Rights Committee, these include:

(a) bans on demonstrations; (b) unjustified restrictions on demonstrations; (c) unnecessary requirements to obtain authorizations that affect the enjoyment of freedom of assembly; (d) lack of remedies to appeal decisions denying the authorization to hold demonstrations; (e) arrest of protestors amounting to arbitrary detention; (f) legislation not complying with international human rights law both because it obstructs and punishes the exercise of freedom of assembly and the right to protest and because it establishes procedures infringing on the actual ability to enjoy the right to peaceful assembly; (g) legislation on counter-terrorism with definitions of “terrorism” so broad that they might jeopardize legitimate activities in a democratic society, in particular participation in public demonstrations.<sup>157</sup>

The duties of the state may also include the positive obligation to protect those who choose to exercise the right to protest.<sup>158</sup> The Declaration on Human Rights Defenders mandates that “the State shall take all necessary measures to ensure the protection by the competent authorities of everyone [...] against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.”<sup>159</sup> If those who are protesting exhibit vulnerability — for instance, if their views are unpopular or controversial — the responsibility of the state to protect them is correspondingly heightened.<sup>160</sup> Some have interpreted the role of the state even more broadly. In 2007, Hina Jilani, who was then the Special Representative of the Secretary-General on Human Rights Defenders, contended that “respecting and fulfilling the right to protest [also] entails the obligation on the part of States to take deliberate, concrete and targeted steps to build, maintain and strengthen pluralism, tolerance and an open attitude to the expression of dissent in society.”<sup>161</sup>

### *Policing Protest*

Groups of protestors are not homogeneous.<sup>162</sup> Within a protest crowd, there may be various sub-groups of individuals with different motivations, and even a predominantly peaceful protest crowd may harbor demonstrators with violent intent.<sup>163</sup> The state cannot ignore the possibility of violence that accompanies protest, as it has the potential to “result

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<sup>152</sup> United Nations General Assembly, *Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, 1998.

<sup>153</sup> Office of the United Nations High Commissioner for Human Rights, *Human Rights Defenders: Protecting the Right to Defend Human Rights*, 2004, p. 19.

<sup>154</sup> United Nations General Assembly, *Resolution on the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (A/RES/62/152)*, 2008, p. 2.

<sup>155</sup> Sekaggya, *Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, 2011, p. 71.

<sup>156</sup> Jilani, *Report of the Special Representative of the Secretary-General on Human Rights Defenders (A/62/225)*, 2007, p. 7.

<sup>157</sup> Jilani, *Report of the Special Representative of the Secretary-General on Human Rights Defenders (A/62/225)*, 2007, p. 7.

<sup>158</sup> Jilani, *Report of the Special Representative of the Secretary-General on Human Rights Defenders (A/62/225)*, 2007, p. 22.

<sup>159</sup> United Nations General Assembly, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, 1998, art. 12.

<sup>160</sup> Sekaggya, *Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, 2011, p. 71.

<sup>161</sup> Jilani, *Report of the Special Representative of the Secretary-General on Human Rights Defenders (A/62/225)*, 2007, p. 22.

<sup>162</sup> Redekop & Paré, *Beyond Control: A Mutual Respect Approach to Protest Crowd-Police Relations*, 2010, p. 30-33.

<sup>163</sup> Redekop & Paré, *Beyond Control: A Mutual Respect Approach to Protest Crowd-Police Relations*, 2010, p. 32.

in social disruption, damage to property, injury and loss of life.”<sup>164</sup> The police are the state’s primary means of maintaining public order; however, “[w]hen compared to the police’s traditional crime fighting role of legitimate pursuit of criminal activities, the police’s order maintenance role is less clear, less supported and legally and morally contentious.”<sup>165</sup> This is partly because policing protest engages additional human rights, including the right to life and the prohibition against inhuman or degrading treatment.<sup>166</sup>

When dealing with protest crowds, the police have relatively straightforward objectives: “maintain public order; protect the target (along with public institutions); uphold the right to protest; ensure the safety of bystanders and crowd participants; and enforce the laws.”<sup>167</sup> To achieve these objectives, the police have at their disposal a plethora of protest control methods that may be loosely categorized according to their respective emphases. Coercive strategies involve using “weapons and physical force” to break up or contain protests aggressively; persuasive strategies incorporate contacting and communicating with protestors and organizers; and information strategies focus on gathering intelligence that can be used, for instance, either preventatively or to identify lawbreakers.<sup>168</sup> The police’s choices with respect to a given protest will characterize their approach as either one of escalated force, which applies coercive methods and downplays the right to protest, or one of negotiated management, which avoids coercion and works cooperatively with protestors to facilitate peaceful demonstrations.<sup>169</sup>

The diversity in possible approaches sustains the intense controversy that pervades the debate on policing protest, which focuses on determining the most appropriate tactics and the proper threshold for the use of force.<sup>170</sup> Since the 1960s, the favored approach to public order policing in most Western democracies has shifted from escalated force to negotiated management.<sup>171</sup> Yet in spite of an overall commitment to softer methods, these states have shown that they will still use the requisite means “to contain and [...] confront disaffected and dissenting sections of society.”<sup>172</sup> Throughout Europe and North America, police forces in established democracies “have been strongly criticized in the preparatory stage of movement demonstrations as well as for their actions on the streets and their treatment of persons detained.”<sup>173</sup> Hostility between protestors and the police has intensified in the context of transnational, anti-globalization protest, particularly in the wake of demonstrations associated with the 1999 World Trade Organization ministerial conference in Seattle.<sup>174</sup> Further, as states have granted more power to the police through antiterrorist laws, new “restrictions on individual freedoms and individual rights have been presented as necessary in order to defend democracy.”<sup>175</sup> In other parts of the world, many newer democracies and non-democracies continue to employ “more brutal” tactics.<sup>176</sup> A repressive regime may use “state penetration of everyday life [...] to channel, monitor, and control its citizens’ political behaviors.”<sup>177</sup> At the extreme, “challenges to public order [in authoritarian regimes] not infrequently end in massacres.”<sup>178</sup>

### *International Efforts*

The international community has yet to address comprehensively the confluence of nonviolent protest and human rights, though some United Nations bodies are now taking preliminary steps. For instance, at the request of the HRC in September 2011, the Office of the United Nations High Commissioner for Human Rights “organized [a] panel discussion on the promotion and protection of human rights in the context of peaceful protests.”<sup>179</sup> On the principle of sovereignty, the international community generally does not interfere with domestic situations, and states are

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<sup>164</sup> Heyns, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (A/HRC/17/28)*, 2011, p. 6.

<sup>165</sup> Baker, ‘Switch off Hazelwood’: *Policing, Protest and a ‘Polluting Dinosaur’*, 2010, p. 45.

<sup>166</sup> United Nations Office at Geneva, *Syria Must Stop Using Violent Strategies against Civilians Now*” *Say UN Human Rights Experts*, 2011.

<sup>167</sup> Redekop & Paré, *Beyond Control: A Mutual Respect Approach to Protest Crowd-Police Relations*, 2010, p. 56.

<sup>168</sup> Della Porta & Reiter, *The Policing of Global Protest: The G8 at Genoa and its Aftermath*, 2006, p. 13.

<sup>169</sup> Della Porta & Reiter, *The Policing of Global Protest: The G8 at Genoa and its Aftermath*, 2006, p. 13.

<sup>170</sup> Gillham, *Securitizing America: Strategic Incapacitation and the Policing of Protest Since the 11 September 2001 Terrorist Attacks*, 2011, p. 636-637.

<sup>171</sup> Waddington, *Policing Public Disorder: Theory and Practice*, 2007, p. 10.

<sup>172</sup> Waddington, *Policing Public Disorder: Theory and Practice*, 2007, p. 9.

<sup>173</sup> Della Porta & Reiter, *The Policing of Global Protest: The G8 at Genoa and its Aftermath*, 2006, p. 16.

<sup>174</sup> Della Porta, Peterson & Reiter, *Policing Transnational Protest: An Introduction*, 2006, p. 5.

<sup>175</sup> Della Porta, Peterson & Reiter, *Policing Transnational Protest: An Introduction*, 2006, p. 5.

<sup>176</sup> Della Porta, Peterson & Reiter, *Policing Transnational Protest: An Introduction*, 2006, p. 3.

<sup>177</sup> Johnston, *States and Social Movements*, 2011, p. 97.

<sup>178</sup> Della Porta, Peterson & Reiter, *Policing Transnational Protest: An Introduction*, 2006, p. 3.

<sup>179</sup> Office of the United Nations High Commissioner for Human Rights, *2011 – A Defining Geopolitical Moment*, 2011.

typically granted the discretion to handle protests that take place on their own territory.<sup>180</sup> However, if egregious human rights violations come to light, or if protests escalate into violence, the state in question may be subject to international intervention — as was Libya in March 2011.<sup>181</sup>

The HRC has addressed the right to protest primarily through Special Procedures, which are either appointed individuals or working groups who “examine, monitor, advise and publicly report on human rights situations in specific countries or territories [...] or on major phenomena of human rights violations worldwide.”<sup>182</sup> Currently, the Special Procedures with relevant mandates comprise Maina Kiai, the Special Rapporteur on the rights to freedom of peaceful assembly and of association; Frank La Rue, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Margaret Sekaggya, the Special Rapporteur on the situation of human rights defenders; Juan Mendez, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Christof Heyns, the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Enforced or Involuntary Disappearances, chaired by Jeremy Sarkin; and the Working Group on Arbitrary Detention, chaired by El Hadji Malick Sow.<sup>183</sup> All Special Procedures mandate-holders report regularly to the HRC and to the General Assembly Third Committee.<sup>184</sup> To fulfill their mandates, these independent experts in human rights engage in a variety of activities, which include conducting research, communicating directly with and making urgent appeals to Member States, undertaking fact-finding country visits, issuing public statements, and holding press conferences.<sup>185</sup>

The spectrum of possibilities available to the HRC, along with its commitment to protecting the right to protest, is evident in its recent actions with regard to the Syrian Arab Republic, where security forces have been violently suppressing peaceful protest since March 2011.<sup>186</sup> The HRC has received “reports on systematic use of excessive force resulting in killings and injuries; allegations of torture, enforced disappearances, arbitrary arrests and detention of protestors; targeting of human rights defenders; and unjustified limitations on freedoms of peaceful assembly and expression.”<sup>187</sup> In response, the HRC convened two Special Sessions – one in April and one in August – that brought members together on an emergency basis outside of the Council’s scheduled annual meetings.<sup>188</sup> Special Rapporteurs and Working Group chairs publicly issued multiple warnings to the Syrian government throughout August.<sup>189</sup> In September, HRC President Laura Dupuy Lasserre announced the members of an International Commission of Inquiry on Syria, chaired by Paulo Pinheiro and tasked with determining the extent and particulars of human rights violations within the state.<sup>190</sup> Subsequently, as part of its eighteenth regular session, the HRC also held an interactive dialogue on Syria, inviting representatives from states and non-governmental organizations to voice their opinions.<sup>191</sup>

### *Case Study: Egypt*

The ongoing revolution in Egypt began with largely nonviolent protests on January 25, 2011, when demonstrators gathered peacefully in Cairo to speak out against poverty, repression, government corruption, and police brutality.<sup>192</sup> In early February, hundreds of thousands celebrated in the streets when Hosni Mubarak stepped down from the

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<sup>180</sup> Heyns, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (A/HRC/17/28)*, 2011, p. 14-15.

<sup>181</sup> United Nations Security Council, *Security Council Approves ‘No-Fly Zone’ over Libya*, 2011.

<sup>182</sup> Office of the United Nations High Commissioner for Human Rights, *Special Procedures of the Human Rights Council*, 2011.

<sup>183</sup> Office of the United Nations High Commissioner for Human Rights, *Thematic Mandates: Special Procedures Assumed by the Human Rights Council*, 2011.

<sup>184</sup> Office of the United Nations High Commissioner for Human Rights, *Reports to the General Assembly*, 2011.

<sup>185</sup> Human Rights Council Special Procedures Mandate-Holders, *Manual of Operations of the Special Procedures of the Human Rights Council*, 2008, p. 11-22.

<sup>186</sup> Office of the United Nations High Commissioner for Human Rights, *Syria in Turmoil – The UN Human Rights Council Acts Again*, 2011.

<sup>187</sup> United Nations Office at Geneva, *Syria Must Stop Using Violent Strategies against Civilians Now” Say UN Human Rights Experts*, 2011.

<sup>188</sup> Office of the United Nations High Commissioner for Human Rights, *Syria in Turmoil – The UN Human Rights Council Acts Again*, 2011.

<sup>189</sup> Mendez, *Statement Delivered on Behalf of All Special Procedures Mandate-Holders on the Situation of Human Rights in the Syrian Arab Republic*, 2011.

<sup>190</sup> Office of the United Nations High Commissioner for Human Rights, *President of Human Rights Council Appoints International Commission of Inquiry to Investigate Human Rights Violations in Syria*, 2011.

<sup>191</sup> United Nations Office at Geneva, *Human Rights Council Holds Interactive Dialogues on Situation of Human Rights in Syria and in Sudan*, 2011.

<sup>192</sup> Beinín & Vairel, *Afterword: Popular Uprisings in Tunisia and Egypt*, 2011, p. 242.

Egyptian presidency, leading Secretary-General Ban Ki-Moon to “commend the people of Egypt for the peaceful and courageous and orderly manner in which they [...] exercised their legitimate rights.”<sup>193</sup>

But while the Egyptian revolution may have demonstrated the effectiveness of nonviolent protest, it also emphasized the severity of the risks that protestors often face. At the onset of the uprising, as protestors used social media outlets to communicate with each other, the Egyptian government retaliated by severing most Internet connections and shutting down cellular networks.<sup>194</sup> Human Rights Watch immediately expressed its concern that “Egypt’s information blackout” was allowing “the government [to] take unmonitored action against its citizens, which pose[d] a dire threat to human rights.”<sup>195</sup> Subsequently, violence erupted as the state attempted to quell growing unrest. In an attempt to restore order, the police and the military began using indiscriminate force against protest crowds.<sup>196</sup> Clashes between police and civilians resulted in hundreds of deaths and thousands of injuries.<sup>197</sup> Security forces employed unduly oppressive tactics, “subject[ing] demonstrators to physical abuse; punching or beating them; and readily [deploying] tear gas,” water cannons, and rubber bullets.<sup>198</sup> Mounted on horses and camels, supporters of Mubarak rode through crowds while brandishing whips.<sup>199</sup> Thugs and policemen in plainclothes threw stones at protestors, some of whom fought back with iron bars and sticks.<sup>200</sup> Civilians were further vulnerable to dangers emanating from protest crowds themselves. As protests continued, growing in size and momentum, numerous reports of assault and sexual violence surfaced.<sup>201</sup> While much of the most violent conflict has subsided, the challenge of bringing those responsible to justice persists.<sup>202</sup>

The plight of Egyptian protestors alludes to the importance of ensuring that a state carries out its positive human rights obligations. Arguably, the Egyptian government “should [have] promptly formulate[d] an interim code of conduct for policing demonstrations and order[ed] a thorough investigation into any improper use of firearms and riot control weapons by the riot police during the protests.”<sup>203</sup> Further, police forces might have been deployed more effectively to ensure the safety of protestors from one another.<sup>204</sup> Yet there are implicit difficulties. It may have been unreasonable to expect Egypt, in a state of revolution, to have had the necessary resources, capacity, or organization to fulfill positive obligations. Should the international community have intervened? How should it react to similar situations in the future?

### *Conclusion*

Through protest, ordinary citizens have “transformed the streets into a major arena of reform” — but it is clear that the HRC must take action to guarantee that these streets are safe and accessible.<sup>205</sup> Bahey El-Din Hassan, General Director of the Cairo Institute for Human Rights Studies, has recommended that the HRC “draw up a framework, expressed as a Declaration on guidelines and principles for the promotion and protection of human rights in the context of peaceful protests, as a guide for governments in responding to these situations.”<sup>206</sup> Similarly, Christof Heyns has proposed that the “basic principles for managing demonstrations should be elaborated more clearly, so as to set out the international law standards applicable to demonstrations [...] with special reference to the use of (deadly) force by the police during demonstrations.”<sup>207</sup> The creation of such a framework or set of guidelines will challenge the HRC to develop a comprehensive, consistent approach to human rights applicable by all Member States during nonviolent protests and demonstrations. In so doing, the HRC will need to integrate protection for the rights of protestors, recognition of the state’s right to preserve public order, and promotion of the state’s positive obligations to its citizens in any way involved in or affected by protest.

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<sup>193</sup> United Nations News Centre, *Egypt: UN Chief Urges Peaceful Transition after Mubarak Resignation*, 2011.

<sup>194</sup> Human Rights Watch, *Egypt: Nationwide Internet Blackout Endangers Rights*, 2011.

<sup>195</sup> Human Rights Watch, *Egypt: Nationwide Internet Blackout Endangers Rights*, 2011.

<sup>196</sup> Al Jazeera, *Timeline: Egypt’s Revolution*, 2011.

<sup>197</sup> BBC News, *Egypt Unrest: 846 Killed in Protests – Official Toll*, 2011.

<sup>198</sup> Beinín & Vairel, *Afterword: Popular Uprisings in Tunisia and Egypt*, 2011, p. 250.

<sup>199</sup> Beinín & Vairel, *Afterword: Popular Uprisings in Tunisia and Egypt*, 2011, p. 245.

<sup>200</sup> Beinín & Vairel, *Afterword: Popular Uprisings in Tunisia and Egypt*, 2011, p. 250.

<sup>201</sup> BBC News, *Lara Logan of CBS Attacked by Egyptian Mob in Cairo*, 2011.

<sup>202</sup> Human Rights Watch, *Egypt: Retry or Free 12,000 after Unfair Military Trials*, 2011.

<sup>203</sup> Human Rights Watch, *Egypt: Cairo Violence Highlights Need to Reform Riot Police*, 2011.

<sup>204</sup> Human Rights Watch, *Egypt: Cairo Violence Highlights Need to Reform Riot Police*, 2011.

<sup>205</sup> Vairel, *Protesting in Authoritarian Situations: Egypt and Morocco in Comparative Perspective*, 2011, p. 27.

<sup>206</sup> Office of the United Nations High Commissioner for Human Rights, *2011 – A Defining Geopolitical Moment*, 2011.

<sup>207</sup> Heyns, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (A/HRC/17/28)*, 2011, p. 22.



## Annotated Bibliography

### *II. Human Rights in Nonviolent Protests and Demonstrations*

Della Porta, D. & Fillieule, O. (2004). Policing Social Protest. In: D. A. Snow, S. A. Soule & H. Kriesi. *The Blackwell Companion to Social Movements* (pp. 217-241). Malden, MA: Blackwell Publishing.

*Any consideration of human rights as they relate to nonviolent protest will undoubtedly involve a debate on the role of the police. Della Porta is one of the foremost scholars in this area, and in conjunction with Fillieule, she outlines protest policing styles, their evolution over time, and the effects of policing on protest movements. The remainder of this volume includes similarly excellent supplementary resources. In particular, Part VI comprises articles on major social movements — labour, feminist, environmental, antiwar and peace, ethnic and nationalist, religious — that chronicle the remarkable historical developments that protest has fuelled.*

Della Porta, D., Peterson, A. & Reiter, H. (2006). Policing Transnational Protest: An Introduction. In: D. della Porta, A. Peterson & H. Reiter. *The Policing of Transnational Protest* (pp. 1-12). Aldershot, UK: Ashgate.

*In recent years, protest targeting international institutions has become increasingly prevalent, which will undoubtedly have consequences for the United Nations in its consideration of the right to protest in general. In the introduction to this text, della Porta, Peterson, and Reiter discuss transnational protest and the problematic aspects of policing protests that are not confined to domestic issues. In general, the text's transnational perspective provides deeper insight into the multifaceted nature of protest. It also emphasizes that policing protest is not controversial only in emerging democracies and non-democratic states — it remains problematic in the Western world, particularly with the rise of transnational elements.*

Jilani, H. (2007). *Report of the Special Representative of the Secretary-General on Human Rights Defenders (A/62/225)*. Retrieved September 3, 2011 from <http://www.un.org/Docs/journal/asp/ws.asp?m=A/62/225>

*The seventh annual report submitted by the Special Representative of the Secretary-General on Human Rights Defenders focused on the right to protest in the context of freedom of assembly. The first part of the report examines the foundation of the right to protest in various regional and international instruments, and the ways in which this right is enforced around the world. The second part of the report presents the work of the Special Representative and describes global trends in protest. As a whole, the document is a comprehensive introduction to the right to protest and associated human rights issues.*

Johnston, H. (2011). *States and Social Movements*. Malden, MA: Polity Press.

*Since the late eighteenth century, the evolution of the state has taken place simultaneously with the rise of protest as a means of political participation, resulting in the two becoming inextricably tied to one another. Johnston argues that the modern state cannot be understood without also examining protest, which is simply another form of politics — that of the people, rather than of the elite. The book follows protest through democratic states, repressive states, and the global community, contextualizing the application and effects of the right to protest within contemporary political environments. Importantly, questions are also raised regarding the potential threat that transnational protest may pose to the state as the fundamental constituent of international order.*

Office of the United Nations High Commissioner for Human Rights. (2011). *Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association*. Retrieved September 29, 2011 from

<http://www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/SRFreedomAssemblyAssociationIndex.aspx>

*Maina Kiai, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, represents one of the newest Special Procedures of the HRC. His mandate was created in 2010, partly in response to the human rights issues arising from the recent, incredible surge of nonviolent protest around the world. This web site serves as an index to Kiai's work thus far; it will be an invaluable reference point for the latest updates relevant to the right to protest.*

Redekop, V. N. & Paré, S. (2010). *Beyond Control: A Mutual Respect Approach to Protest Crowd-Police Relations*. London, UK: Bloomsbury Academic.

*Redekop and Paré suggest a model for policing protest crowds that incorporates mutual respect for protestors as principled dissenters and for police as agents of public order. Based on language, dialogue, and communication, their approach is highly relevant to a human rights perspective of policing protest. It attempts to foster respect and trust, and to be sensitive to the identity needs and interests of the parties involved. This model demonstrates the possibility of reconceptualizing the relationship between protest groups and the police in a way that upholds human rights and is beneficial for both citizens and the state.*

Roberts, A. (2009). Introduction. In: A. Roberts & T. G. Ash. *Civil Resistance and Power Politics: The Experience of Non-violent Action from Gandhi to the Present* (pp. 1-24). New York, NY: Oxford University Press.

*The importance of the right to protest is clearly visible upon examination of the extraordinary achievements of civil resistance. Since Gandhi, civil resistance has been used in support of innumerable causes, contributing significantly to the state of the world as it exists today. Roberts' introduction summarizes the development and theoretical underpinnings of civil resistance, providing a historical context in which to situate the right to protest. The remaining chapters cover some of the most significant civil resistance movements around the world, including the US civil rights movement and the Czechoslovakian Velvet Revolution.*

Sekaggya, M. (2011). *Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*. Retrieved September 4, 2011 from

<http://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf>

*The Declaration of Human Rights Defenders was drafted over a decade ago and subsequently adopted by the General Assembly by consensus. Yet many governments and human rights defenders remain unacquainted with the rights and responsibilities enumerated therein. In response to this deficiency, the Special Rapporteur on the situation of human rights defenders produced a commentary to the Declaration, which is an invaluable resource for developing familiarity with an important human rights instrument that supports the right to protest.*

United Nations General Assembly. (1998). *Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*.

Retrieved September 4, 2011 from <http://www2.ohchr.org/english/law/freedom.htm>

*The Declaration on Human Rights Defenders rearticulates recognized human rights to make them more applicable to the situation of human rights defenders. In so doing, it shows how the rights to freedom of expression and opinion, freedom of association, and freedom of peaceful assembly can be construed to support the right to protest. Importantly, the Declaration also reviews the obligations of states with respect to human rights defenders.*

Waddington, D. P. (2007). *Policing Public Disorder: Theory and Practice*. Portland, OR: Willan.

*Perhaps the most contentious aspect of the debate surrounding peaceful protest and human rights concerns the appropriate role and function of the police in protest situations. Understanding and accounting for public order policing is crucial to any discussion of how states should handle protest. Correspondingly, Waddington offers a comprehensive examination of the policing of crowds and social movements, first beginning with theory before moving on to discuss a number of case studies. He also provides policy recommendations and suggestions for improving police approaches to maintaining public order.*

### III. Follow-up on the Durban Declaration and Programme of Action

*“We must focus attention on outcomes and forward strategies [...] Durban will only be a landmark if there is substantial text adopted here and meaningful follow-up. The task which we must achieve before we leave is to have a clear understanding about the follow up which must be accomplished, about who is responsible for the necessary actions and how we can measure progress.”*<sup>208</sup>

#### **Introduction**

Following the adoption of the *Universal Declaration of Human Rights*, the world looked to technology and globalization as an ally in the fight against racism and discrimination.<sup>209</sup> In many ways, however, this increasing interconnectedness instead served to inflame xenophobia and magnify messages of racial superiority through the Internet and new media.<sup>210</sup> At the turn of the millennium, the international community noted this growing need for a new commitment against racism and intolerance through the unanimous passage of the *Durban Declaration and Programme of Action* (DDPA) at the World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance (WCAR) as a “road-map” for implementation of previous international agreements regarding human rights.<sup>211</sup>

Noting that “despite the efforts undertaken by the international community...racism, racial discrimination, xenophobia and related forms of intolerance, ethnic antagonism and acts of violence are showing signs of increase,” the General Assembly adopted *Resolution 52/111*, which both strengthened actions of the Third Decade to Combat Racism and Racial Discrimination and established the WCAR objectives:

“(a) To review progress made in the fight against racism, racial discrimination, xenophobia, and related intolerance, in particular since the adoption of the Universal Declaration of Human Rights, and to reappraise the obstacles to further progress in the field and ways to overcome them;

(b) To consider ways and means to better ensure the application of existing standards and the implementation of the existing instruments to combat racism, racial discrimination, xenophobia, and related intolerance.”<sup>212</sup>

Building upon the work of a 2009 implementation review of the DDPA, the General Assembly held a high-level meeting in September 2011 to mark the tenth anniversary of the DDPA’s adoption.<sup>213</sup> Under the theme “Victims of racism, racial discrimination, xenophobia, and related intolerance: recognition, justice, and development,” the anniversary meeting continued the ongoing work of the United Nations (UN) in evaluating the implementation of international human rights commitments.<sup>214</sup>

#### **Racial Discrimination in the UN System**

The DDPA serves as the most far-reaching and authoritative document in combating racism and discrimination.<sup>215</sup> Since its inception, the UN has emphasized fundamental human rights in core international documents and charges all Member States with the eradication of racism and discrimination.<sup>216</sup> The Preamble to the Charter of the UN first enshrines the importance of equality and affirms “faith in fundamental human rights, in the dignity and worth of the

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<sup>208</sup> Robinson, *Focus on Fundamental Aims, New Strategies Needed to Fight Racism*, UN High Commissioner for Human Rights Tells Conference, 2001.

<sup>209</sup> World Conference against Racism, *Basic Information*, 2001.

<sup>210</sup> Robinson & Mandela, *Tolerance and Diversity: A Vision for the 21<sup>st</sup> Century*, 2001.

<sup>211</sup> Zuma, *Durban Conference Marks Fresh Start and Sets New Road-Map in Fight Against Racism*, Conference President Says, 2001.

<sup>212</sup> United Nations General Assembly, *Resolution 52/111*, 1998, p. 5.

<sup>213</sup> United Nations Department of Public Information, *Information Note 1: General Assembly High-Level Meeting: Format and NGO Participation*, 2011.

<sup>214</sup> United Nations Department of Public Information, *10<sup>th</sup> Anniversary of the Durban Declaration and Programme of Action*, 2011.

<sup>215</sup> Office of the High Commissioner for Human Rights, *Combating Racial Discrimination*.

<sup>216</sup> Office of the High Commissioner for Human Rights, *Combating Racial Discrimination*.

human person” and further elaborates in Article 1 the “respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”<sup>217</sup>

Although the Universal Declaration of Human Rights further expanded the UN’s role in upholding human rights, growing anti-Semitism in the 1960s increased calls for a more concrete document to address racial discrimination. General Assembly *Resolution 1510 (XV)*:

“1. Resolutely condemns all manifestation and practices of racial, religious and national hatred in the political, economic, social, educational and cultural spheres of the life of society as violations of the Charter of the United Nations and the Universal Declaration of Human Rights;

2. Calls upon the Governments of all States to take all necessary measures to prevent all manifestations of racial, religious and national hatred.”<sup>218</sup>

In response to this call, the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD) was drafted and opened for signature in 1965. This document is divided into three parts: Part I binds parties to the elimination of all forms of discrimination while also providing for judicial remedies against acts of discrimination; Part II creates a reporting, monitoring, and dispute-settlement mechanisms overseen by the Committee on the Elimination of Racial Discrimination (CERD); and Part III establishes provisions for reservations and amendments.<sup>219</sup> Importantly, the ICERD sets a clear definition of racial discrimination in Article 1:

“... the term ‘racial discrimination’ shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”<sup>220</sup>

### ***Durban: Review and Re-evaluation***

Much like the ICERD, the 2001 World Conference against Racism and the DDPA were born out of calls for stronger international commitment in a time of increasing discrimination.<sup>221</sup> Following the endorsement of the DDPA as the “foundation for further action and initiatives towards the total elimination of the scourge of racism” (A/RES/56/266) and numerous calls for greater implementation of the DDPA (A/RES/58/160, A/RES/59/177, and A/RES/60/144), General Assembly *Resolution 61/149*:

“Decides to convene in 2009 a review conference on the implementation of the Durban Declaration and Programme of Action to be conducted within the framework of the General Assembly, and, to this end, requests the Human Rights Council to undertake preparations for this event...and welcomes in particular the identification and/or consideration of substantive and procedural gaps...to produce a base document that contains concrete recommendations on the means or avenues to bridge those gaps.”<sup>222</sup>

In the *Outcome Document of the Durban Review Conference*, parties praised the successes of the DDPA and Member States’ actions against racial discrimination, but they also highlighted a number of measures that could strengthen future efforts.<sup>223</sup> Importantly, Section 3 calls for universal ratification of the ICERD and full consideration of the ICERD’s recommendations — specifically noting that Member States should fully comply with reporting obligations in a timely manner to enhance implementation.<sup>224</sup> Sections 4 and 5 further elaborate recommendations, with Section 4 noting the need for greater sharing of best-practices to level uneven implementation success, while

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<sup>217</sup> United Nations, *Charter of the United Nations*, 1945.

<sup>218</sup> United Nations General Assembly, *Resolution 1510 (XV)*, 1960.

<sup>219</sup> United Nations, *International Convention on the Elimination of All Forms of Racial Discrimination*, 1965.

<sup>220</sup> United Nations, *International Convention on the Elimination of All Forms of Racial Discrimination*, 1965, p. 2.

<sup>221</sup> United Nations General Assembly, *Resolution 52/111*, 1998, p. 5.

<sup>222</sup> United Nations General Assembly, *Resolution 61,149*, 2007, p. 1-7.

<sup>223</sup> Office of the High Commissioner for Human Rights, *Durban Review Conference Outcome Document*, 2009.

<sup>224</sup> Office of the High Commissioner for Human Rights, *Durban Review Conference Outcome Document*, 2009, p. 10.

Section 5 provides 92 “concrete measures and initiatives” to address challenges in the DDPA’s full implementation.<sup>225</sup>

### *Victims: Recognition, Justice, and Development*

The second theme of the DDPA, as well as the focus of the recent tenth anniversary meeting, highlights victims of racism, racial discrimination, xenophobia, and related intolerance.<sup>226</sup> Within this theme, specific platforms of action are addressed to recognize discrimination against victims of pandemic diseases, Africans and people of African descent, indigenous peoples, migrants, refugees, Roma/Gypsies, peoples of Asian descent, women and children, and persons belonging to national or ethnic, religious, and linguistic minorities.<sup>227</sup>

In his opening address to the General Assembly High-level Meeting on the 10<sup>th</sup> Anniversary of the DDPA, Secretary-General Ban Ki-moon highlighted the successes of the past 10 years by the international community in protecting the victim groups addressed in the second theme of the DDPA.<sup>228</sup> Noting the controversy of the Durban process, he stressed that “victims of prejudice must be at the centre of our efforts” with emphasis on ensuring dignity, equality, and justice for all.<sup>229</sup>

In addressing the theme “victims: recognition, justice, and development,” the anniversary meeting roundtables acknowledged that justice is often the first step toward equality.<sup>230</sup> Furthermore, on the topic of justice, Member States agreed that there must be greater cooperation between governments and civil society, as well as the creation and strengthening of specialized national bodies to protect rights against discrimination.<sup>231</sup>

Reiterated by the roundtable discussions throughout the day, the first plenary session of the anniversary meeting adopted a political resolution by consensus.<sup>232</sup> In the declaration, the General Assembly reaffirms the DDPA’s central role in aggregating international efforts to combat racism and discrimination stresses a renewed political commitment to its full implementation.<sup>233</sup>

### *Case Study: Africans and People of African Descent*

Although not the only victim group highlighted by the DDPA, the international community’s efforts in addressing the needs of people of African descent stands as an example for further actions relating to other victim groups. Today the discriminatory effects of colonization and the slave trade can still be felt by the 200 million people of African descent living in the Americas and a global diaspora of immigrants numbering the millions beyond Africa’s borders.<sup>234</sup> Recognizing this continued discrimination against people of African descent, highlighted as a specific victim group in the DDPA, the UN General Assembly established 2011 as the International Year for People of African Descent (IYPAD).<sup>235</sup>

Studies by the Working Group of Experts on People of African Descent demonstrate that the greatest challenges faced by people of African descent include equality in the administration of justice and access to education,

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<sup>225</sup> Office of the High Commissioner for Human Rights, *Durban Review Conference Outcome Document, 2009*, p. 11-23.

<sup>226</sup> United Nations Department of Public Information, *World Conference against Racism Press Kit Background Information, 2001*.

<sup>227</sup> United Nations Department of Public Information, *Information Note 3: Recognizing victims of racism, 2011*.

<sup>228</sup> United Nations Secretary-General, *Remarks to General Assembly at Meeting Commemorating 10<sup>th</sup> Anniversary of the Adoption of the Durban Declaration and Programme of Action, 2011*, p. 1.

<sup>229</sup> United Nations Secretary-General, *Remarks to General Assembly at Meeting Commemorating 10<sup>th</sup> Anniversary of the Adoption of the Durban Declaration and Programme of Action, 2011*, p. 2-3.

<sup>230</sup> Dlamini, *Summary of Roundtable 1 and 2 to address the theme of “Victims of Racism, Racial Discrimination, Xenophobia and Related Intolerance: Recognition, Justice and Development,” 2011*, p. 2.

<sup>231</sup> Dlamini, *Summary of Roundtable 1 and 2 to address the theme of “Victims of Racism, Racial Discrimination, Xenophobia and Related Intolerance: Recognition, Justice and Development,” 2011*, p. 3-4.

<sup>232</sup> United Nations Department of Public Information, *10<sup>th</sup> Anniversary of the Durban Declaration and Programme of Action, 2011*.

<sup>233</sup> United Nations General Assembly, *United against racism, racial discrimination, xenophobia and related intolerance, 2011*, para. 1-2.

<sup>234</sup> United Nations Human Rights, *Info Note: International Year for People of African Descent, 2011*.

<sup>235</sup> United Nations General Assembly, *Resolution 64/169, 2010*.

healthcare, and housing.<sup>236</sup> Compounding these issues is discrimination against African migrants and Afro-descendants in employment and hiring practices.<sup>237</sup> Although both men and women of African descent face higher unemployment, women are also more likely to encounter gender discrimination in the workplace in addition to racism.<sup>238</sup> For example, domestic workers in Brazil, predominately women of African descent, often endure physical, psychological, and sexual abuse from the men in the households in which they work.<sup>239</sup> Additionally, the half a million domestic workers between the ages of five and seventeen generally do not receive wages.<sup>240</sup> Speaking at the 2009 Durban Review Conference, Creuza Oliveira, a former domestic worker since the age of ten, told of being beaten and taunted for breaking things and payment of used clothes and food until receiving a salary at age 21.<sup>241</sup> Now as President of the National Federation of Domestic Workers in Brazil, Oliveira has partnered with the Unified Black Movement and the Women's Movement to secure greater rights for workers, including guaranteed rest and vacation days, job security for pregnant women, the prohibition of housing and food expenses from salaries, and legislation prohibiting domestic work for children under the age of 18.<sup>242</sup>

The issue of employment is also inextricably linked to judicial equality; people of African descent often face harsher sentencing by state legal systems and once they have a criminal record are less likely to be hired by an employer.<sup>243</sup> Racial profiling, defined in the DDPA as “the practice of police and other law enforcement officers relying, to any degree, on race, colour, descent or national or ethnic origin as the basis for subjecting persons to investigatory activities or for determining whether an individual is engaged in criminal activity,” exacerbates the issue of legal equality by institutionalizing the stereotyping of people of African descent (and other minority groups) as having a greater propensity for criminality.<sup>244</sup>

Perhaps the greatest problem facing people of African descent—and on a wider scale all minority groups—is the issue of recognition; without recognition of the issues minority groups face, policies and solutions cannot be drafted.<sup>245</sup> In states like Chile, where the percentage of people of African descent is low, visibility and recognition is the greatest challenge to equality.<sup>246</sup> John Salgado of the Chilean Alliance for Afro-descendant Organizations further explains, “there is an invisibilization of our ethnicity, a denial of the other. It is impossible to acknowledge problems when you don't see the people who are suffering them.”<sup>247</sup> The Working Group of Experts on People of African Descent also views recognition as a matter of internal recognition of cultural heritage within a minority group.<sup>248</sup> In this manner, internal recognition gives a group a “sense of place and purpose” gained through cultural studies on a micro level in educational systems' curricula.<sup>249</sup>

### *Case Study: Christian Persecution and Islamophobia*

#### *Christianity*

Freedom of religion was initially affirmed in the 1948 *Universal Declaration of Human Rights* and further elaborated in the *International Covenant on Civil and Political Rights* in 1966.<sup>250</sup> Building upon these commitments, the *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief* condemns religious intolerance in Article 3:

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<sup>236</sup> United Nations Department of Public Information, *International Year for People of African Descent: Righting Past Wrongs*, 2011.

<sup>237</sup> Human Rights Council, *Report of the Working Group of Experts on People of African Descent on its eighth session*, p. 8-9.

<sup>238</sup> Human Rights Council, *Report of the Working Group of Experts on People of African Descent on its eighth session*, p. 9.

<sup>239</sup> United Nations Human Rights, *The story of Creuza Oliveira*, 2009.

<sup>240</sup> United Nations Human Rights, *The story of Creuza Oliveira*, 2009.

<sup>241</sup> United Nations Human Rights, *The story of Creuza Oliveira*, 2009.

<sup>242</sup> United Nations Human Rights, *The story of Creuza Oliveira*, 2009.

<sup>243</sup> United Nations Human Rights, *Info Note: International Year for People of African Descent*, 2011.

<sup>244</sup> United Nations Human Rights, *Info Note: International Year for People of African Descent*, 2011.

<sup>245</sup> United Nations Human Rights, *Bringing visibility to the plight of African descendants in the Americas*, 2011.

<sup>246</sup> United Nations Human Rights, *Bringing visibility to the plight of African descendants in the Americas*, 2011.

<sup>247</sup> United Nations Human Rights, *Bringing visibility to the plight of African descendants in the Americas*, 2011.

<sup>248</sup> Human Rights Council, *Report of the Working Group of Experts on People of African Descent on its eighth session*, p. 5-6.

<sup>249</sup> Human Rights Council, *Report of the Working Group of Experts on People of African Descent on its eighth session*, p. 5.

<sup>250</sup> Human Rights Council Special Rapporteur on freedom of religion or belief, *Rapporteur's Digest on Freedom of Religion or Belief*, 2011.

“Discrimination between human beings on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations, and shall be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and enunciated in detail in the International Covenants on Human Rights, and as an obstacle to friendly and peaceful relations between nations.”<sup>251</sup>

Although the persecution of Christians, and arguably all religions, has occurred since the birth of the Abrahamic religions, recent violent actions in the Middle East have highlighted the plight of an estimated 200 million Christians in 60 states that are at risk of or currently facing persecution.<sup>252</sup> On October 31, 2010, gunmen from the al-Qaeda affiliated Islamic State of Iraq militant group seized the Our Lady of Salvation Syriac Catholic cathedral in Baghdad, Iraq.<sup>253</sup> The resulting hostage situation, lasting through the night, ended with 58 dead and dozens wounded after police raided the church.<sup>254</sup> Although Christians at one time comprised roughly half the population of Iraq, today that number has dropped to less than 5%.<sup>255</sup> According to a report by the UN High Commissioner for Refugees, despite Christians only constituting 5% of Iraqis, nearly 40% of the refugees fleeing Iraq are Christian.<sup>256</sup>

In light of the attack, Pope Benedict XVI declared “at present, Christians are the religious group which suffers most from persecution on account of its faith” in his World Day of Peace address.<sup>257</sup> Only two months after the siege of Our Lady of Salvation, and coinciding with the Pope’s address, a car bomb exploded in Alexandria, Egypt, as Coptic Orthodox Christians were leaving the New Year’s Eve midnight mass at the al-Qiddissin Church, escalating long-standing tensions between Christian Copts and Muslims.<sup>258</sup>

### *Islamophobia*

During the twelfth session of the Human Rights Council, Special Rapporteur Githu Muigai reported on the “manifestations of defamation of religions, and in particular on the serious implications of Islamophobia, on the enjoyment of all rights by their followers.”<sup>259</sup> In his report, Muigai cites findings of the *European Union Minorities and Discrimination Survey* that one in three Muslims felt they had been discriminated against in the previous year.<sup>260</sup> Alarming, the data also shows that 11% believed they were victims of racially motivated assault or harassment.<sup>261</sup>

The Organization of Islamic Cooperation’s (OIC) *Third OIC Observatory Report on Islamophobia* asserts that political and social campaigns against Islam and Muslims increased by five times from May 2009 to April 2010.<sup>262</sup> In 2009, a national referendum to ban the construction of mosque minarets in Switzerland, put forward by the right-wing Swiss People’s Party, passed with 57.5% of the public’s and 22 of 26 cantons’ support.<sup>263</sup> Likewise, citing secularism and national unity, France recently banned Muslims from praying in the streets and previously banned Muslim women from wearing face veils.<sup>264</sup> Importantly, the 2004 law bans wearing all “ostensibly” religious signs defined as large Christian crosses, Jewish yarmulkes, and Muslim headscarves in public schools.<sup>265</sup> Although legitimate state concerns regarding the cultural integration of immigrants and minorities exist, the DDPA calls on Member States to guarantee the rights of religious minorities to freely profess and practice their religion in public and in private without interference.<sup>266</sup>

<sup>251</sup> United Nations General Assembly, *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, 1981, p. 2.

<sup>252</sup> The Sunday Times, *Praying for a miracle*, 2007.

<sup>253</sup> Reuters, *Iraq church raid ends with 52 dead*, 2010.

<sup>254</sup> The Guardian, *Baghdad church siege survivors speak of taunts, killings and explosions*, 2010.

<sup>255</sup> USA Today, *Christians, targeted and suffering, flee Iraq*, 2007.

<sup>256</sup> USA Today, *Christians, targeted and suffering, flee Iraq*, 2007.

<sup>257</sup> Libreria Editrice Vaticana, *Message of His Holiness Pope Benedict XVI for the celebration of the World Day of Peace*, 2011.

<sup>258</sup> BBC, *Egypt bomb kills 21 at Alexandria Coptic Church*, 2011.

<sup>259</sup> Human Rights Council, *Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance: Follow-Up to and Implementation of the Durban Declaration and Programme of Action*, 2001, p. 1-2.

<sup>260</sup> Human Rights Council, *Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance: Follow-Up to and Implementation of the Durban Declaration and Programme of Action*, 2001, p. 9.

<sup>261</sup> Human Rights Council, *Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance: Follow-Up to and Implementation of the Durban Declaration and Programme of Action*, 2001, p. 9.

<sup>262</sup> Organization of Islamic Cooperation, *Third OIC Observatory Report on Islamophobia*, 2010, p. 2.

<sup>263</sup> RIA Novosti, *Swiss ban on minarets sparks international controversy*, 2009.

<sup>264</sup> Reuters, *France bans street prayers*, 2011.

<sup>265</sup> New York Times, *French Assembly Votes to Ban Religious Symbols in Schools*, 2004.

<sup>266</sup> World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. *Declaration and Programme of Action*, 2001, para. 47.

## Conclusion

Despite the DDPA's cornerstone role in eradicating racism, discrimination, and intolerance, the Durban "process" has not been without controversy. After attempts by the Arab states to equate Zionism with racism, delegations from the United States of America and Israel walked out of the conference.<sup>267</sup> A further obstacle centered on the issue of slavery, with European Member States agreeing to apologize for slavery as a "crime against humanity," but, along with the United States of America, refusing any language regarding slavery reparations.<sup>268</sup> Furthermore, the terrorist attacks of September 11, 2001 in the United States of America, occurring three days after the conference concluded, overshadowed the outcome documents in international media.<sup>269</sup> Controversy continued into the Durban Review Conference when 10 Member States boycotted the conference, and 23 remaining European Union Member States sent only low-level delegations.<sup>270</sup> Likewise, many of the same Member States that have boycotted the previous Durban conferences have again boycotted the latest tenth anniversary meeting.<sup>271</sup>

Yet through the controversy, Member States active in the Durban process continue to enhance the work of the Durban Declaration and Programme of Action in eradicating racial discrimination, xenophobia, and intolerance through continual review and re-assessment. General Assembly *Resolution 61/149*, Article 34 "reaffirms that the Human Rights Council shall have a central role in the monitoring of the implementation of the Durban Declaration and Programme of Action within the United Nations system and in advising the General Assembly thereon."<sup>272</sup> In addressing the topic of a follow-up to the Durban Declaration and Programme of Action, delegates must focus their research and attention on how the DDPA can be more fully implemented. What actions and policies by Member States have been successful in fulfilling the provisions of the DDPA? How can those successes be shared and expanded to other Member States? In a broader scope, what gaps remain in the DDPA? Are there victim groups that are not addressed in the document or new forms of discrimination that have evolved since the original drafting in 2001? Can the Human Rights Council, and the broader UN system, do more to coordinate efforts to end racial discrimination? In light of Durban's controversy, what measures can be taken to regain the participation of all Member States to fully reach the DDPA's goal of universal equality?

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*This summary document provides an in-depth review of the discussions during the 10<sup>th</sup> anniversary meeting of the DDPA. Although it does not specifically cite which Member States raised which specific points, the document provides key insights into the deliberations of the meeting. The summary also provides an important look at controversial topics and how the roundtable groups addressed them.*

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*Paragraph 7 of the DDPA and subsequent actions by the Commission on Human Rights established the Working Group of Experts on People of African Descent in 2002 to study issues of discrimination faced by people of African descent and propose measures to combat those forms of racism. In 2008 the Human Rights Council extended the working group's mandate a further three years and expanded its duties to include fact-finding country visits, by invitation of Member States. This latest annual report highlights forms of discrimination against people of African descent and possible measures to correct them.*

<sup>267</sup> BBC News, *Mixed emotions as Durban winds up*, 2001.

<sup>268</sup> BBC News, *Mixed emotions as Durban winds up*, 2001.

<sup>269</sup> Deutsche Welle, *Controversy over Israel dogs UN racism conference – again*, 2009.

<sup>270</sup> Reuters, *Western boycott threatens U.N. racism forum*, 2009.

<sup>271</sup> JTA, *Poland, currently heading EU, withdraws from Durban III*, 2011.

<sup>272</sup> United Nations General Assembly, *Resolution 61/149*, 2007, p. 6.



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*The Special Rapporteur on freedom of religion or belief is charged with identifying obstacles to religious freedom and presenting proposals to the Human Rights Council to address those issues. Marking the 25<sup>th</sup> anniversary of the Special Rapporteur's mandate, this framework document combines information from 25 years of annual reports. Importantly, this document outlines a myriad of topics related to religious intolerance and international documents that address those topics.*

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*The Durban Review Conference, themed United Against Racism: Dignity and Justice for All, was held in 2009 to address shortcomings in the implementation of the DDPA. Now, nearly three years later, delegates will again assess the successes and shortcomings in realizing the DDPA's goal of eradicating all forms of discrimination and intolerance. Upon familiarity with the DDPA, this document provides a solid foundation for delegates in assessing the effectiveness of the DDPA.*

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*This Web site serves as the main page for information regarding the 2011 IYPAD. As a specific victim group highlighted in the DDPA, this international year demonstrates one way that the international community can work to end racism and meet the commitments of the DDPA. Initiatives and policies resulting from the IYPAD may also serve as first steps in addressing means to end racism and discrimination toward other victim groups noted in the DDPA.*

United Nations Department of Public Information. (2011). *Tenth Anniversary of the Durban Declaration and Programme of Action*. Retrieved August 25, 2011, from <http://www.un.org/en/ga/durbanmeeting2011/index.shtml>

*This Web site contains information and documents from the latest review conference of the DDPA, held in September 2011 on the tenth anniversary of the DDPA's adoption. This conference serves to re-affirm the commitments and review of the most current work of the international community in combating discrimination. The Web site also provides useful links to documents from the first Durban conference as well as the 2009 review conference.*

United Nations General Assembly. (1998, February 18). *Resolution 52/111 (1998)*. Retrieved August 24, 2011, from <http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/52/111>

*This resolution primarily established the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. It also sought to strengthen and coordinate global action against racism during the Third Decade to Combat Racism and Racial Discrimination. Furthermore, the resolution outlines the need for greater global commitment against racism by noting the rise of xenophobia, discrimination, and other forms of intolerance in the time period since the adoption of the Universal Declaration of Human Rights.*

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[http://www.un.org/ga/search/view\\_doc.asp?symbol=A/66/L.2](http://www.un.org/ga/search/view_doc.asp?symbol=A/66/L.2)

*On September 22, 2011, the UN General Assembly commemorated the tenth anniversary of the adoption of the DDPA during a one-day high-level meeting. This document, adopted during the*

*opening session of the meeting, serves as a political declaration for Member States to reaffirm their commitment to the protection of victims of racism, racial discrimination, xenophobia, and other intolerance. Despite the criticism and controversy of the anniversary proceedings, this document's adoption by consensus represents a continued international commitment to the Durban process.*

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*The Durban Declaration and Programme of Action forms a roadmap for the international community to implement previous human rights agreements and commitments. In addressing the issue of a "follow-up" to the DDPA, delegates must familiarize themselves with this document to better address deficiencies and areas where further action is needed. With the document now over ten years old, and with two review conferences held in recent years, it is also important to note the evolution of the DDPA through Durban I, II, and III.*

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# **Rules of Procedure Human Rights Council**

## ***Introduction***

1. These rules shall be the only rules which apply to the Human Rights Council (hereinafter referred to as “the Council”) and shall be considered adopted by the Commission prior to its first meeting.
2. For purposes of these rules, the Plenary Director, the Assistant Director(s), the Under-Secretaries-General, and the Assistant Secretaries-General, are designates and agents of the Secretary-General and Director-General, and are collectively referred to as the “Secretariat.”
3. Interpretation of the rules shall be reserved exclusively to the Director-General or her or his designate. Such interpretation shall be in accordance with the philosophy and principles of the National Model United Nations and in furtherance of the educational mission of that organization.
4. For the purposes of these rules, “President” shall refer to the chairperson or acting chairperson of the Council.

## I. SESSIONS

### ***Rule 1 - Dates of convening and adjournment***

The Council shall meet every year in regular session, commencing and closing on the dates designated by the Secretary-General.

### ***Rule 2 - Place of sessions***

The Council shall meet at a location designated by the Secretary-General.

## II. AGENDA

### ***Rule 3 - Provisional agenda***

The provisional agenda shall be drawn up by the Secretary-General and communicated to the Members of the Council at least sixty days before the opening of the session.

### ***Rule 4 - Adoption of the agenda***

The agenda provided by the Secretary-General shall be considered adopted as of the beginning of the session. The order of the agenda items shall be determined by a majority vote of those present and voting. Items on the agenda may be amended or deleted by the Council by a two-thirds majority of the members present and voting.

*The vote described in this rule is a procedural vote and, as such, observers are permitted to cast a vote. For purposes of this rule, those present and voting means those delegates, including observers, in attendance at the meeting during which this motion comes to a vote.*

### ***Rule 5 - Revision of the agenda***

During a session, the Council may revise the agenda by adding, deleting, deferring or amending items. Only important and urgent items shall be added to the agenda during a session. Permission to speak on a motion to revise the agenda shall be accorded only to three representatives in favor of, and three opposed to, the revision. Additional items of an important and urgent character, proposed for inclusion in the agenda less than thirty days before the opening of a session, may be placed on the agenda if the Council so decides by a two-thirds majority of the members present and voting. No additional item may, unless the Council decides otherwise by a two-thirds majority of the members present and voting, be considered until a committee has reported on the question concerned.

*For purposes of this rule, the determination of an item of an important and urgent character is subject to the discretion of the Secretariat, and any such determination is final. If an item is determined to be of such a character, then it requires a two-thirds vote of the Council to be placed on the agenda. It will, however, not be considered by the Council until a committee has reported on the question. The votes described in this rule are substantive vote, and, as such, observers are not permitted to cast a vote. For purposes of this rule, the members present and voting means members (not including observers) in attendance at the session during which this motion comes to vote.*

### ***Rule 6 - Explanatory memorandum***

Any item proposed for inclusion in the agenda shall be accompanied by an explanatory memorandum and, if

possible, by basic documents.

### III. SECRETARIAT

#### ***Rule 7 - Duties of the Secretary-General***

1. The Secretary-General or her/his designate shall act in this capacity in all meetings of the Council.
2. The Secretary-General shall provide and direct the staff required by the Council and be responsible for all the arrangements that may be necessary for its meetings.

#### ***Rule 8 - Duties of the Secretariat***

The Secretariat shall receive, print, and distribute documents, reports, and resolutions of the Council, and shall distribute documents of the Council to the Members, and generally perform all other work which the Council may require.

#### ***Rule 9 - Statements by the Secretariat***

The Secretary-General, or her/his representative, may make oral as well as written statements to the Council concerning any question under consideration.

***Rule 10 - Selection of the President*** The Secretary-General or her/his designate shall appoint, from applications received by the Secretariat, a President who shall hold office and, *inter alia*, chair the Council for the duration of the session, unless otherwise decided by the Secretary-General.

***Rule 11 - Replacement of the President*** If the President is unable to perform her/his functions, a new President shall be appointed for the unexpired term at the discretion of the Secretary-General.

### IV. LANGUAGE

#### ***Rule 12 - Official and working language***

English shall be the official and working language of the Council.

#### ***Rule 13 - Interpretation (oral) or translation (written)***

Any representative wishing to address any body or submit a document in a language other than English shall provide interpretation or translation into English.

*This rule does not affect the total speaking time allotted to those representatives wishing to address the body in a language other than English. As such, both the speech and the interpretation must be within the set time limit.*

### V. CONDUCT OF BUSINESS

#### ***Rule 14 – Quorum***

The President may declare a meeting open and permit debate to proceed when representatives of at least one third of the members of the Council are present. The presence of representatives of a majority of the members of the Council shall be required for any decision to be taken.

*For purposes of this rule, —members of the Council means the total number of members (not including observers) in attendance at the first night's meeting.*

**Rule 15 - General powers of the President**

In addition to exercising the powers conferred upon him or her elsewhere by these rules, the President shall declare the opening and closing of each meeting of the Council, direct the discussions, ensure observance of these rules, accord the right to speak, put questions to the vote and announce decisions. The President, subject to these rules, shall have complete control of the proceedings of the Council and over the maintenance of order at its meetings. He or she shall rule on points of order. He or she may propose to the Council the closure of the list of speakers, a limitation on the time to be allowed to speakers and on the number of times the representative of each member may speak on an item, the adjournment or closure of the debate, and the suspension or adjournment of a meeting.

*Included in these enumerated powers is the President's power to assign speaking times for all speeches incidental to motions and amendment. Further, the President is to use her/his discretion, upon the advice and at the consent of the Secretariat, to determine whether to entertain a particular motion based on the philosophy and principles of the NMUN. Such discretion should be used on a limited basis and only under circumstances where it is necessary to advance the educational mission of the Conference. For purposes of this rule, the President's power to propose to the Council entails her/his power to entertain motions, and not to move the body on his or her own motion.*

**Rule 16**

The President, in the exercise of her or his functions, remains under the authority of the Council.

**Rule 17 - Points of order**

During the discussion of any matter, a representative may rise to a point of order, which shall be decided immediately by the President. Any appeal of the decision of the President shall be immediately put to a vote, and the ruling of the President shall stand unless overruled by a majority of the members present and voting.

*Such points of order should not under any circumstances interrupt the speech of a fellow representative. Any questions on order arising during a speech made by a representative should be raised at the conclusion of the speech, or can be addressed by the President, sua sponte, during the speech. For purposes of this rule, the members present and voting mean those members (not including observers) in attendance at the meeting during which this motion comes to vote.*

**Rule 18**

A representative may not, in rising to a point of order, speak on the substance of the matter under discussion.

**Rule 19 - Speeches**

1. No one may address the Council without having previously obtained the permission of the President. The President shall call upon speakers in the order in which they signify their desire to speak.
2. Debate shall be confined to the question before the Council, and the President may call a speaker to order if her/his remarks are not relevant to the subject under discussion.
3. The Council may limit the time allowed to speakers and all representatives may speak on any question. Permission to speak on a motion to set such limits shall be accorded only to two representatives favoring and two opposing such limits, after which the motion shall be put to the vote immediately. When debate is limited and a speaker exceeds the allotted time, the President shall call her or him to order without delay.

*In line with the philosophy and principles of the NMUN, in furtherance of its educational mission, and for the purpose of facilitating debate, if the President determines that the Council in large part does not want to deviate from the limits to the speaker's time as it is then set, and that any additional motions will not be well received by the body, the President, in her/his discretion, and on the advice and consent of the Secretariat, may rule as dilatory any additional motions to change the limits of the speaker's time.*

**Rule 20 - Closing of list of speakers**

Members may only be on the list of speakers once but may be added again after having spoken. During the course of a debate the President may announce the list of speakers and, with the consent of the Council, declare the list closed. When there are no more speakers, the President shall declare the debate closed. Such closure shall have the same effect as closure by decision of the Council.

*The decision to announce the list of speakers is within the discretion of the President and should not be the subject of a motion by the Council. A motion to close the speakers' list is within the purview of the Council and the President should not act on her/his own motion.*

***Rule 21 - Right of reply***

If a remark impugns the integrity of a representative's State, the President may permit that representative to exercise her/his right of reply following the conclusion of the controversial speech, and shall determine an appropriate time limit for the reply. No ruling on this question shall be subject to appeal.

*For purposes of this rule, a remark that impugns the integrity of a representative's State is one directed at the governing authority of that State and/or one that puts into question that State's sovereignty or a portion thereof. All interventions in the exercise of the right of reply shall be addressed in writing to the Secretariat and shall not be raised as a point of order or motion. The reply shall be read to the Council by the representative only upon approval of the Secretariat, and in no case after voting has concluded on all matters relating to the agenda topic, during the discussion of which, the right arose.*

***Rule 22 - Suspension of the meeting***

During the discussion of any matter, a representative may move the suspension of the meeting, specifying a time for reconvening. Such motions shall not be debated but shall be put to a vote immediately, requiring the support of a majority of the members present and voting to pass.

***Rule 23 - Adjournment of the meeting***

During the discussion of any matter, a representative may move the adjournment of the meeting. Such motions shall not be debated but shall be put to the vote immediately, requiring the support of a majority of the members present and voting to pass. After adjournment, the Council shall reconvene at its next regularly scheduled meeting time.

*As this motion, if successful, would end the meeting until the Council's next regularly scheduled session the following year, and in accordance with the philosophy and principles of the NMUN and in furtherance of its educational mission, the President will not entertain such a motion until the end of the last meeting of the Council.*

***Rule 24 - Adjournment of debate***

A representative may at any time move the adjournment of debate on the topic under discussion. Permission to speak on the motion shall be accorded to two representatives favoring and two opposing adjournment, after which the motion shall be put to a vote immediately, requiring the support of a majority of the members present and voting to pass. If a motion for adjournment passes, the topic is considered dismissed and no action will be taken on it.

***Rule 25 - Closure of debate***

A representative may at any time move the closure of debate on the item under discussion, whether or not any other representative has signified her/his wish to speak. Permission to speak on the motion shall be accorded only to two representatives opposing the closure, after which the motion shall be put to the vote immediately. Closure of debate shall require a two-thirds majority of the members present and voting. If the Council favors the closure of debate, the Council shall immediately move to vote on all proposals introduced under that agenda item.

***Rule 26 - Order of motions*** Subject to rule 23, the motions indicated below shall have precedence in the following order over all proposals or other motions before the meeting:

- a) To suspend the meeting;
- b) To adjourn the meeting;
- c) To adjourn the debate on the item under discussion;
- d) To close the debate on the item under discussion.

***Rule 27 - Proposals and amendments***

Proposals and substantive amendments shall normally be submitted in writing to the Secretariat, with the names of twenty percent of the members of the Council would like the Council to consider the proposal or amendment. The Secretariat may, at its discretion, approve the proposal or amendment for circulation among the delegations. As a general rule, no proposal shall be put to the vote at any meeting of the Council unless copies of it have been circulated to all delegations. The President may, however, permit the discussion and consideration of amendments or of motions as to procedure, even though such amendments and motions have not been circulated. If the sponsors

agree to the adoption of a proposed amendment, the proposal shall be modified accordingly and no vote shall be taken on the proposed amendment. A document modified in this manner shall be considered as the proposal pending before the Council for all purposes, including subsequent amendments.

*For purposes of this rule, all proposals shall be in the form of working papers prior to their approval by the Secretariat. Working papers will not be copied, or in any other way distributed, to the Council by the Secretariat. The distribution of such working papers is solely the responsibility of the sponsors of the working papers. Along these lines, and in furtherance of the philosophy and principles of the NMUN and for the purpose of advancing its educational mission, representatives should not directly refer to the substance of a working paper that has not yet been accepted as a draft resolution. After approval of a working paper, the proposal becomes a draft resolution and will be copied by the Secretariat for distribution to the Council. These draft resolutions are the collective property of the Council and, as such, the names of the original sponsors will be removed. The copying and distribution of amendments is at the discretion of the Secretariat, but the substance of all such amendments will be made available to all representatives in some form.*

**Rule 28 - Withdrawal of motions**

A proposal or a motion may be withdrawn by its sponsor at any time before voting has commenced, provided that it has not been amended. A motion thus withdrawn may be reintroduced by any representative.

**Rule 29 - Reconsideration of a topic**

When a topic has been adjourned, it may not be reconsidered at the same session unless the Council, by a two-thirds majority of those present and voting, so decides. Reconsideration can only be moved by a representative who voted on the prevailing side of the original motion to adjourn. Permission to speak on a motion to reconsider shall be accorded only to two speakers opposing the motion, after which it shall be put to the vote immediately.

*For purposes of this rule, those present and voting means those representatives, including observers, in attendance at the meeting during which this motion is voted upon by the body.*

## VI. VOTING

**Rule 30 - Voting rights**

Each member of the Council shall have one vote.

*This rule applies to substantive voting on amendments, draft resolutions, and portions of draft resolutions divided out by motion. As such, all references to member(s) do not include observers, who are not permitted to cast votes on substantive matters.*

**Rule 31 - Request for a vote**

A proposal or motion before the Council for decision shall be voted upon if any member so requests. Where no member requests a vote, the Council may adopt proposals or motions without a vote.

*For purposes of this rule, proposal means any draft resolution, an amendment thereto, or a portion of a draft resolution divided out by motion. Just prior to a vote on a particular proposal or motion, the President may ask if there are any objections to passing the proposal or motion by acclamation, or a member may move to accept the proposal or motion by acclamation. If there are no objections to the proposal or motion, then it is adopted without a vote.*

**Rule 32 - Majority required**

1. Unless specified otherwise in these rules, decisions of the Assembly shall be made by a majority of the members present and voting.
2. For the purpose of tabulation, the phrase “members present and voting” means members casting an affirmative or negative vote. Members which abstain from voting are considered as not voting.

*All members declaring their representative States as “present and voting” during the attendance role call for the meeting during which the substantive voting occurs, must cast an affirmative or negative vote, and cannot abstain.*

**Rule 33 - Method of voting**

1. The Council shall normally vote by a show of placards, except that a representative may request a roll call, which shall be taken in the English alphabetical order of the names of the members, beginning with the member whose name is randomly selected by the President. The name of each present member shall be called in any roll call, and one of its representatives shall reply "yes," "no," "abstention," or "pass."

*Only those members who designate themselves as present or present and voting during the attendance roll call, or in some other manner communicate their attendance to the President and/or Secretariat, are permitted to vote and, as such, no others will be called during a roll-call vote. Any representatives replying pass, must, on the second time through, respond with either yes or no. A pass cannot be followed by a second pass for the same proposal or amendment, nor can it be followed by an abstention on that same proposal or amendment.*

2. When the Council votes by mechanical means, a non-recorded vote shall replace a vote by show of placards and a recorded vote shall replace a roll-call vote. A representative may request a recorded vote. In the case of a recorded vote, the Council shall dispense with the procedure of calling out the names of the members.
3. The vote of each member participating in a roll call or a recorded vote shall be inserted in the record.

#### ***Rule 34 - Explanations of vote***

Representatives may make brief statements consisting solely of explanation of their votes after the voting has been completed. The representatives of a member sponsoring a proposal or motion shall not speak in explanation of vote thereon, except if it has been amended, and the member has voted against the proposal or motion.

*All explanations of vote must be submitted to the President in writing before debate on the topic is closed, except where the representative is of a member sponsoring the proposal, as described in the second clause, in which case the explanation of vote must be submitted to the President in writing immediately after voting on the topic ends.*

#### ***Rule 35 - Conduct during voting***

After the President has announced the commencement of voting, no representatives shall interrupt the voting except on a point of order in connection with the actual process of voting.

#### ***Rule 36 - Division of proposals and amendments***

Immediately before a proposal or amendment comes to a vote, a representative may move that parts of a proposal or of an amendment should be voted on separately. If there are calls for multiple divisions, those shall be voted upon in an order to be set by the President where the most radical division will be voted upon first. If objection is made to the motion for division, the request for division shall be voted upon, requiring the support of a majority of those present and voting to pass. Permission to speak on the motion for division shall be given only to two speakers in favor and two speakers against. If the motion for division is carried, those parts of the proposal or of the amendment which are involved shall then be put to a vote. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

*For purposes of this rule, most radical division means the division that will remove the greatest substance from the draft resolution, but not necessarily the one that will remove the most words or clauses. The determination of which division is most radical is subject to the discretion of the Secretariat, and any such determination is final.*

#### ***Rule 37 - Amendments***

An amendment is a proposal that does no more than add to, delete from, or revise part of another proposal.

*An amendment can add, amend, or delete operative clauses, but cannot in any manner add, amend, delete, or otherwise affect perambulatory clauses.*

#### ***Rule 38 - Order of voting on amendments***

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the amendment furthest removed in substance from the original proposal shall be voted on first and then the amendment next furthest removed there from, and so on until all the amendments have been put to



the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted on.

*For purposes of this rule, furthest removed in substance means the amendment that will have the most significant impact on the draft resolution. The determination of which amendment is furthest removed in substance is subject to the discretion of the Secretariat, and any such determination is final.*

**Rule 39 - Order of voting on proposals**

If two or more proposals, other than amendments, relate to the same question, they shall, unless the Council decides otherwise, be voted on in the order in which they were submitted.

**Rule 40 - The President shall not vote**

The President shall not vote but may designate another member of her/his delegation to vote in her/his place.

## VII. CREDENTIALS

**Rule 41 - Credentials**

The credentials of representatives and the names of members of a delegation shall be submitted to the Secretary-General prior to the opening of a session.

**Rule 42**

The Council shall be bound by the actions of the General Assembly in all credentials matters and shall take no action regarding the credentials of any member.

## VII. PARTICIPATION OF NON-MEMBERS OF THE COUNCIL

**Rule 43 - Participation of non-Member States**

1. The Council shall invite any Member of the United Nations that is not a member of the Council and any other State, to participate in its deliberations on any matter of particular concern to that State.
2. A committee or sessional body of the Council shall invite any State that is not one of its own members to participate in its deliberations on any matter of particular concern to that State.
3. A State thus invited shall not have the right to vote, but may submit proposals which may be put to the vote on request of any member of the body concerned.

*If the Council considers that the presence of a Member invited according to this rule is no longer necessary, it may withdraw the invitation again. Delegates invited to the Council according to this rule should also keep in mind their role and obligations in the committee that they were originally assigned to. For educational purposes of the NMUN Conference, the Secretariat may thus ask a delegate to return to his or her committee when his or her presence in the Council is no longer required.*

**Rule 45 - Participation of national liberation movements**

The Council may invite any national liberation movement recognized by the General Assembly to participate, without the right to vote, in its deliberations on any matter of particular concern to that movement.

**Rule 46 - Participation of and consultation with specialized agencies**

In accordance with the agreements concluded between the United Nations and the specialized agencies, the specialized agencies shall be entitled: a) To be represented at meetings of the Council and its subsidiary organs; b) To participate, without the right to vote, through their representatives, in deliberations with respect to items of concern to them and to submit proposals regarding such items, which may be put to the vote at the request of any member of the Council or of the subsidiary organ concerned.

**Rule 47 - Participation of non-governmental organization and intergovernmental organizations**

Representatives of non-governmental organizations/intergovernmental organizations accorded consultative observer status by the General Assembly and other non-governmental organizations/intergovernmental organizations designated on an ad hoc or a continuing basis by the Council on the recommendation of the Bureau, may participate, with the procedural right to vote, but not the substantive right to vote, in the deliberations of the Council on questions within the scope of the activities of the organizations.