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HUMAN RIGHTS COUNCIL BACKGROUND GUIDE 2016

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NATIONAL MODEL UNITED NATIONS





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Dear Delegates,

Welcome to the 2016 National Model United Nations Conference in New York (NMUN•NY)! We are pleased to introduce you to our committee, the United Nations (UN) Human Rights Council (HRC). This year's staff is: Directors Yih-Hsiang Tobias Holl (Conference A) and Jess Mace (Conference B), and Assistant Directors Tristan Rightnar (Conference A) and Maya Kazamel (Conference B). Tobias holds a B.A. in Political Science from the Ludwig-Maximilians-University in Munich, where he is currently pursuing Master's degrees in Political Science, Sociology, and Philosophy. This will be his third year on staff. Jess received her B.A. in Political Science from Bishop's University in 2010 and her Master's in Political Science from Laurier University in 2011. This will be her fifth year on staff, and she is excited to return to the conference. Tristan is a Kindergarten Teacher in Rancho Mirage, California, and received his B.A. in European History and Elementary Teaching Credential from the University of California Riverside. This is his seventh year at NMUN both as a delegate and on staff. Maya completed her B.Sc. in Architectural Engineering from the American University in Cairo in 2015, and currently works as a Design Coordinator in an interior design firm in Dubai, U.A.E. This is her second year on staff.

The topics under discussion for HRC are:

- I. Effects of Terrorism on the Enjoyment of Human Rights
- II. Human Rights and Climate Change
- III. The Realization of Rights of Persons with Disabilities

The HRC is a subsidiary body of the General Assembly. Since its creation in 2006, the HRC has played a unique role as the primary inter-governmental body within the UN system responsible for the promotion and protection of human rights as they are defined within the Charter of the UN, and subsequent international treaties and laws. Designated as a forum for dialogue on all human rights issues, the HRC possesses a comprehensive mandate which allows it to take proactive measures in order to address and provide recommendations on all human rights violations, and to foster international cooperation and coordination within the UN human rights system. This committee provides a great opportunity to develop innovative approaches and solutions to address current human rights issues.

We hope you will find this Background Guide useful as an introduction to the topics for this committee. However, it is not intended to replace individual research. We highly encourage you to explore your Member State's policies in-depth, as well as use the Annotated Bibliography and Bibliography to further your knowledge on these topics. In preparation for the conference, each delegation will submit a [position paper](#). Please take note of the [NMUN policies](#) on the website and in the [Delegate Preparation Guide](#) regarding plagiarism, codes of conduct, dress code, sexual harassment, and the awards philosophy and evaluation method. Adherence to these guidelines is mandatory.

The [NMUN Rules of Procedure](#) are available to download from the NMUN website. This document includes the long and short form of the rules, as well as an explanatory narrative and example script of the flow of procedure. It is thus an essential instrument in preparing for the conference, and a reference during committee.

If you have any questions concerning your preparation for the committee or the conference itself, feel free to contact the Under-Secretaries-General for the Human Rights and Humanitarian Affairs Department, Moritz Müller (Conference A) and Claudia Sanchez (Conference B). You can reach either USG by contacting them at: usg.hr_ha@nmun.org.

We wish you all the best in your preparations and look forward to seeing you at the conference!

Sincerely,

Conference A

Yih-Hsiang Tobias Holl, *Director*
Tristan Rightnar, *Assistant Director*

Conference B

Jess Mace, *Director*
Maya Kazamel, *Assistant Director*

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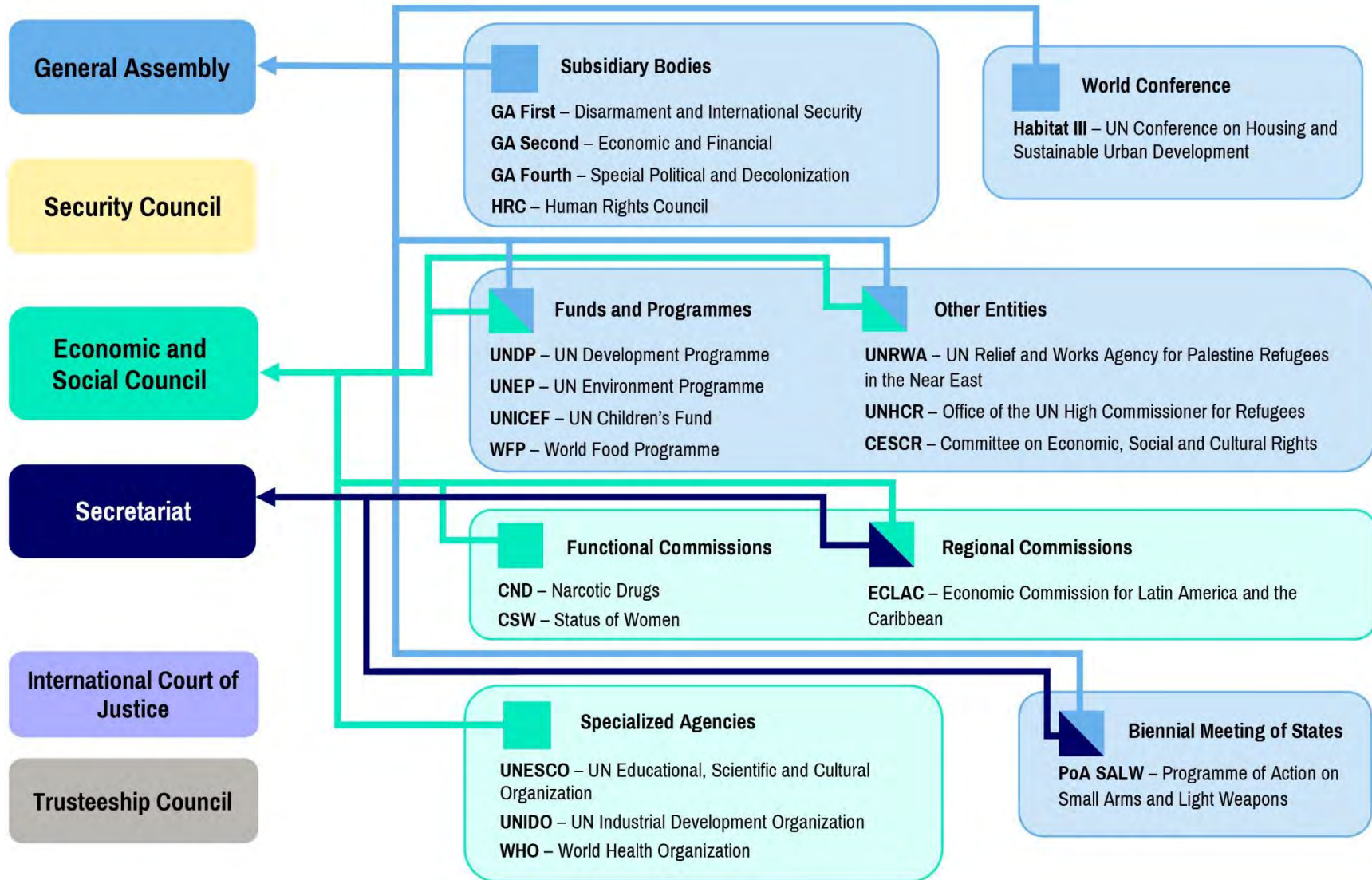


Abbreviations

AR	Assessment report
CHR	Commission on Human Rights
COP	Conference of the Parties
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil society organization
CTC	Counter-Terrorism Committee
CTED	Counter-Terrorism Committee Executive Directorate
CTITF	Counter-Terrorism Implementation Task Force
ECOSOC	Economic and Social Council
GA	General Assembly
GHG	Greenhouse gas
HRC	Human Rights Council
ICCPR	International Covenant on Economic, Social and Cultural Rights
IDEA	Individuals with Disabilities Education Act
IPCC	Intergovernmental Panel on Climate Change
ISIL	Islamic State in Iraq and the Levant
LDCs	Least Developed Countries
NGO	Non-governmental organization
NHRIs	National Human Rights Institutions
OHCHR	Office of the High Commissioner for Human Rights
oPt	Occupied Palestinian territories
Rio+20	United Nations Conference on Sustainable Development
SC	Security Council
SDGs	Sustainable Development Goals
UDHR	Universal Declaration of Human Rights
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
UNCED	United Nations Conference on Environment and Development
UNFCCC	United Nations Framework Convention on Climate Change
UPR	Universal Periodic Review
WHO	World Health Organization

United Nations System at NMUN·NY

This diagram illustrates the UN System simulated at NMUN·NY. It shows where each committee “sits” within the system, to help understand the reportage and relationships between the entities. Examine the diagram alongside the Committee Overview to gain a clear picture of the committee's position, purpose, and powers within the UN System.





Committee Overview

“All victims of human rights abuses should be able to look to the Human Rights Council as a forum and a springboard for action.”¹

Introduction

Over the past year, several significant security risks were discussed at the international level, including the emergence of the extremist group Islamic State in Iraq and the Levant (ISIL), China’s efforts in handling Uighurs in Xinjiang, and Mexico’s on-going war on drugs; all creating an elevated risk of human rights violations around the world.² The

The **United Nations Human Rights Council** (HRC) is a subsidiary body, reporting to the General Assembly.

Human Rights Council (HRC) is the main organ of the United Nations (UN) “responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and making recommendations on them.”³ Its duty entails responding to urgent human rights situations by addressing issues regarding accountability and liability for violations of international human rights and humanitarian law.⁴ The HRC’s attention is currently focused on several regions of Africa, the Middle East and South America and it continuously monitors on-going human rights violations as they are being reported.⁵

Since the signing of the *Universal Declaration of Human Rights* (UDHR) in 1948, the human rights agenda has expanded greatly.⁶ To facilitate the implementation of the UDHR, the UN Secretariat established a UN department that would be responsible for overseeing the its human rights program.⁷ This department expanded its scope in the 1980s, relocated to Geneva from New York, and became known as the Center for Human Rights.⁸ In 1993, at the World Conference on Human Rights, Member States created the Office of the United Nations High Commissioner for Human Rights (OHCHR) with the responsibility of coordinating the human rights agenda among all intergovernmental agencies and departments within the UN.⁹ OHCHR is responsible for catering to the substantive, logical, and administrative needs of all UN human rights mechanisms, including core treaty-based bodies, thematic working groups, and the HRC.¹⁰

With the evolvement of international human rights law, specialized agencies within the UN system emerged as a result of the urgent need to respond to violations of human rights.¹¹ Among these was the Commission on Human Rights (CHR), which was an intergovernmental organization of the UN developed in 1946 to address human rights challenges and concerns.¹² Over time, the CHR met despite increasing criticism from the international community for “excessive politicization.”¹³ Persistent controversy led to the CHR’s loss of credibility, which severely damaged the UN’s reputation and work in human rights.¹⁴ Reform efforts culminated in the creation of the HRC in 2006.¹⁵ Pursuant to resolution 60/251, the General Assembly (GA) “decide[d] to establish the Human Rights Council, based in Geneva, in replacement of the Commission on Human Rights.”¹⁶ The HRC had in essence the same responsibilities as the CHR, but possessed an enhanced scope of action under its new mandate.¹⁷ As stipulated by the

¹ Ban, *Secretary-General's video message for the opening of the Fourth Session of the Human Rights Council*, 2007.

² Human Rights Watch, *World Report 2015: Our annual review of human rights around the globe*, 2015.

³ UN OHCHR, *The 20th Anniversary of OHCHR – 20 human rights achievements*, 2013.

⁴ Ibid.

⁵ UN OHCHR, *Thematic/Country Chart*. 2015.

⁶ Trindade, *Universal Declaration of Human Rights*, 2014.

⁷ UN OHCHR, *Who we are: Brief History*, 2015.

⁸ Ibid.

⁹ Ibid.

¹⁰ UN OHCHR, *The Human Rights Council and the role of the Office of the High Commissioner for Human Rights*.

¹¹ UN OHCHR, *Who we are: Brief History*, 2015.

¹² Ibid.

¹³ UN DPI, *General Assembly establishes new Human Rights Council*, 2006.

¹⁴ UN General Assembly, *In larger freedom: towards development, security and human rights for all: Report of the Secretary-General (A/59/2005)*, 2005, p. 45.

¹⁵ Spohr, *United Nations Human Rights Council: Between Institution-Building Phase and Review of Status*, 2010, pp. 174-175.

¹⁶ UN General Assembly, *Human Rights Council (A/RES/60/251)*, 2006.

¹⁷ Ibid.

GA, the HRC submitted to a five-year review in 2011.¹⁸ All areas of the HRC were subject to scrutiny and critical assessment to ensure mechanisms and frameworks were streamlined and efficient.¹⁹ The review identified only minor areas for improvement; the HRC's "strong and largely well-functioning" nature led to its preservation as a subsidiary body of the GA without significant changes to its structure or operations.²⁰

Governance, Structure and Membership

Through a majority vote, the GA elects the HRC's 47 Member States, each of which serves for a period of three years.²¹ The 47 Member States are distributed in regional groups: 13 from Africa, 13 from Asia, six from Eastern Europe, 8 from Latin America and the Caribbean, and 7 from the Western European and Others Group.²² The GA Third Committee, which is responsible for evaluating questions related to human rights, considers the annual reports of the HRC and works closely with the 52 HRC-assigned Special Rapporteurs, chairs of working groups, and independent experts.²³

Each year in March, June, and September, the HRC holds regular sessions to discuss issues under its purview.²⁴ Combined, these sessions last a minimum of 10 weeks and, at any time, a special session may be requested by one third of the HRC's Member States "to address human rights violations and emergencies [related to human rights]."²⁵ There have been a total of 23 special sessions called during the HRC's history; the last session, held in April 2015, focused on the human rights abuses and violations committed by the terrorist group Boko Haram.²⁶ Each annual series of regular sessions is referred to as a "cycle," and every cycle is led by an elected Bureau whose members serve one-year terms.²⁷ At the start of each annual meeting, Member States elect a President, as well as four Vice-Presidents.²⁸ These five individuals make up what is known as the Bureau.²⁹ The Bureau is responsible for all issues relating to the organization and procedure of the HRC.³⁰ The President is responsible for convening and chairing organizational meetings and regular sessions, as well as proposing candidates to serve as Special Procedures mandate-holders.³¹ The Special Procedures are conducted by experts in the field of human rights who are mandated to assess human rights in regards to a specific Member State or on a specific topic.³² The current President is Joachim Rucker, a Permanent Representative to the UN from Germany.³³ The Vice Presidents are Filloreta Kodra, Juan Esteban Aguirre Martinez, Mukhtar Tileuberdi and Mothusi Bruce Rabasha Palai from Albania, Paraguay, Kazakhstan, and Botswana respectively.³⁴

Partnerships

One way that the HRC strengthens its efforts is by forming partnerships with non-governmental organizations (NGOs), National Human Rights Institutions (NHRIs), and other civil society actors.³⁵ Partnerships facilitate many of the HRC's initiatives, including specific programs or frameworks targeting groups that are deprived of their access to fundamental human rights and freedoms.³⁶ NGOs that have received Economic and Social Council (ECOSOC) consultative status, and NHRIs, are able to directly address the HRC during discussions and debates, to

¹⁸ UN General Assembly, *Review of the Human Rights Council*, 2015.

¹⁹ UN DPI, *Five Years after Creation, General Assembly Maintains Human Rights Council as Subsidiary Body, Concluding Review of Work, Functioning*, 2011.

²⁰ *Ibid.*

²¹ UN OHCHR, *About the Council*, 2015.

²² *UN Elects New Members of Human Rights Council*, RIA Novosti, 2012.

²³ UN General Assembly Third Committee, *Social, Humanitarian & Cultural – Third Committee*, 2015.

²⁴ UN OHCHR, *Sessions*, 2015.

²⁵ *Ibid.*

²⁶ UN OHCHR, *United Nations Human Rights Council: 23rd special session of the Human Rights Council in light of the terrorist attacks and human rights abuses and violations committed by the terrorist group Boko Haram*, 2015.

²⁷ UN OHCHR, *Sessions*, 2015.

²⁸ UN OHCHR, *Institution-building of the United Nations Human Rights Council (A/HRC/RES/5/1)*, 2007.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *Ibid.*; Spohr, *United Nations Human Rights Council: Between Institution-Building Phase and Review of Status*, 2010, p. 187.

³² UN OHCHR, *Special Procedures of the Human Rights Council*, 2015.

³³ UN OHCHR, *United Nations Human Rights Council: President of the 9th Cycle*, 2015.

³⁴ UN OHCHR, *United Nations Human Rights Council: Officers of the Human Rights Council Ninth Cycle (2015)*, 2015.

³⁵ UN OHCHR, *United Nations Human Rights Council: NGO and NHRI Information*, 2015.

³⁶ *Ibid.*

inform them of situations occurring in their home states.³⁷ These groups and NGOs that have not achieved ECOSOC consultative status, can also provide written documents on a Member State being reviewed as part of the Universal Periodic Review Process.³⁸

Mandate, Functions and Powers

The HRC possesses a unique and comprehensive mandate outlined in GA resolution 60/251.³⁹ The GA mandated the HRC to promote universal respect for human rights and fundamental freedoms; to address and provide recommendations on all, particularly grave and systematic, violations of human rights; and to promote an effective system of coordination within the UN system, including mainstreaming mechanisms, with respect to human rights issues.⁴⁰ Further, the GA designated the HRC as a forum for debate and dialogue on all human rights issues, including addressing violations and responding to emergencies, promoting cooperation and education on human rights, reviewing Member States' track records, and preventing abuses from occurring.⁴¹ The HRC is guided by the underlying principles of "universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation."⁴²

Also crucial in informing the mandate and work of the HRC is the *International Bill of Human Rights*, which comprises the UDHR, the *International Covenant on Economic, Social and Cultural Rights* (1966), and the *International Covenant on Civil and Political Rights* (1966) with its two Optional Protocols.⁴³ These documents are the pillars that guide the HRC in its recommendations, by outlining the fundamental obligations and commitments of Member States in international human rights law.⁴⁴ In addition, the work of the HRC is guided by the 17 Sustainable Development Goals (SDGs), developed as part of the post-2015 development agenda and adopted in September 2015.⁴⁵ In 2007, the HRC adopted resolution 5/1, which established mechanisms and structures to guide its program of work, rules of procedure, and other operational functions.⁴⁶ The Resolution also established the format for the Special Procedures, the Universal Periodic Review, and the Complaint Procedure, which comprise the main powers of the HRC.⁴⁷ Special Procedures are mechanisms that enable independent parties to report, monitor, and advise on country-specific or thematic situations for the HRC.⁴⁸ Each investigation has a mandate, namely the topic under advisement, and a mandate holder, who is typically a Special Rapporteur, an independent expert, or a working group, to carry out the investigation.⁴⁹ Special Procedures are empowered to undertake country or field visits, with the support of the OHCHR, and to bring specific cases and concerns to the attention of Member States.⁵⁰ They can send communications detailing accusations of violations or abuses of human rights, and often engage in advocacy efforts, and offer technical assistance when possible.⁵¹

The Universal Periodic Review (UPR) is one of the most important functions of the HRC.⁵² Through the HRC, each Member State of the UN submits to a periodic review to assess the fulfillment of its human rights obligations.⁵³ The cycle of the UPR process takes around four years and comprises several steps.⁵⁴ At the preparation stage, information is gathered that will form the basis of the review, including national reports from the state under review,

³⁷ UN OHCHR, *United Nations Human Rights Council: NGO and NHRI Information*, 2015.

³⁸ Ibid.

³⁹ UN OHCHR, *The Human Rights Council and the role of the Office of the High Commissioner for Human Rights*; UN General Assembly, *Human Rights Council (A/RES/60/251)*, 2006.

⁴⁰ UN General Assembly, *Human Rights Council (A/RES/60/251)*, 2006.

⁴¹ UN OHCHR, *The Human Rights Council and the role of the Office of the High Commissioner for Human Rights*.

⁴² UN General Assembly, *Human Rights Council (A/RES/60/251)*, 2006.

⁴³ UN OHCHR, *Fact Sheet No.2 (Rev.1), The International Bill of Human Rights*, 1996.

⁴⁴ UN OHCHR, *Human Rights: a basic handbook for UN staff*, 2002.

⁴⁵ UN General Assembly, *Transforming Our World: The 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2015.

⁴⁶ UN OHCHR, *Working with the United Nations Human Rights Programme - A Handbook for Civil Society*, 2008, p. 75.

⁴⁷ Ibid.

⁴⁸ UN OHCHR, *Special Procedures of the Human Rights Council*, 2015.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² UN OHCHR, *Universal Periodic Review*, 2015.

⁵³ UN OHCHR, *Working with the United Nations Human Rights Programme - A Handbook for Civil Society*, 2008, p. 80.

⁵⁴ Ibid.

stakeholder submissions, and information prepared by the OHCHR.⁵⁵ At the review stage, documents are presented at the regular sessions of the Working Group on the UPR, which is composed of all 47 Member States of the HRC.⁵⁶ At the adoption and considerations stage, each Member State provides comments, and the state under review can offer reservations on specific issues.⁵⁷ Finally, during the follow-up stage, each state under review demonstrates how effectively they have acted upon the recommendations received.⁵⁸

Recent Sessions and Current Priorities

The UN human rights program falls under the leadership of the OHCHR, which in turn reports directly to the Secretary-General.⁵⁹ During his initial address to the HRC on 10 September 2014, the newly-appointed High Commissioner for Human Rights, Mr. Zeid Ra'ad Al Hussein, highlighted the escalation of grave human rights violations in the Middle East and North Africa.⁶⁰ He underlined the consequences of the Syrian conflict for the region, as well as the situations in Iraq, the occupied Palestinian territories (oPt), the Central African Republic, the Democratic Republic of Congo, and South Sudan.⁶¹ He further highlighted the situation of migrants, who are often forced to endure ill treatment as a result of human trafficking, difficult border crossings, and prolonged detentions.⁶² He noted that the SDGs “should effectively integrate all human rights, including the right to development, and address discrimination and inequalities that hinder peoples’ progress.”⁶³

During the 29th session of the HRC from 15 June-2 July 2015, 25 resolutions were adopted, decisions were made regarding the periodic review of 14 Member States, and one presidential statement was issued.⁶⁴ Several resolutions focused on pressing security issues in countries such as Eritrea, Belarus, Ukraine, the Syrian Arab Republic, and South Sudan.⁶⁵ Others focused on the need to protect vulnerable groups in society, such as women, migrants in transit, and persons affected by leprosy.⁶⁶ Additionally, several overarching subjects were discussed, such as human rights in relation to terrorist activity, wherein a panel discussion was held, ensuring accountability through varying law enforcement methods, as well as the topic of climate change, as a follow-up to the full-day discussion that occurred in March 2015.⁶⁷ Also in this session, HRC members discussed the situation of Rohingya Muslims and other minorities in Myanmar, and “condemned the systematic gross violations of human rights and abuses committed against all... and called upon the Government of Myanmar to ensure the protection of human rights of all persons in Myanmar, including Rohingya Muslims.”⁶⁸ Furthermore, it called upon state officials to provide protections for refugees and displaced individuals, as well as to grant citizenship to Rohingya Muslims in Rakhine State.⁶⁹ Regarding the Palestinian situation, the HRC adopted a resolution highlighting the need for accountability and justice in regards to all forms of human rights violations occurring in the oPt.⁷⁰ In addition, the HRC held a general debate on racism, racial discrimination, xenophobia and all related forms of intolerance; highlighting several concerning situations worldwide.⁷¹ What is more, several Member States spoke about their own domestic initiatives to try to counter discrimination.⁷²

⁵⁵ Ibid.

⁵⁶ UN OHCHR, *Working with the United Nations Human Rights Programme - A Handbook for Civil Society*, 2008, p. 80.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ UN DPI, *UN Human Rights Chief Zeid addresses the 27th Human Rights Council session*, 2014.

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ UN OHCHR, *United Nations Human Rights Council: 29th session of the Human Rights Council (15 June-3 July 2015)*, 2015.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ UN OHCHR, *Human Rights Council adopts texts on enhancing the efficiency of the Council, Rohingya Muslims, the protection of the family, and Ukraine*, 2015.

⁶⁹ Ibid.

⁷⁰ UN OHCHR, *Human Rights Council adopts two resolutions and closes its twenty-ninth regular session*, 2015.

⁷¹ UN OHCHR, *Human Rights Council holds general debate on Racism, Racial Discrimination, Xenophobia and related intolerance*, 2015.

⁷² Ibid.



Conclusion

The HRC addresses human rights on global, regional, and national levels, endeavoring to ensure that all Member States safeguard the fundamental freedoms and rights articulated by international law.⁷³ The post-2015 development agenda and the SDGs present an important opportunity for significant progress to be made in the field of human rights.⁷⁴ As such, in light of the numerous challenges faced by the HRC and the human rights agenda, delegates must utilize all the tools and frameworks available to them in order to devise durable solutions to the problems at hand.

⁷³ UN OHCHR, *Working with the United Nations Human Rights Programme - A Handbook for Civil Society*, 2008, p. 75.

⁷⁴ UN OHCHR, *Human Rights and Post-2015 Development Agenda*, 2015.



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United Nations, Human Rights Council, Fifth session. (2007). *Institution-building of the United Nations Human Rights Council (A/HRC/RES/5/1)* [Resolution]. Retrieved 13 August 2014 from:

<http://unispal.un.org/UNISPAL.NSF/0/325B5DF6ABBFBF268525734100634561>

One of the most important and crucial resolutions of the HRC, resolution 5/1 details an agreed package that established the procedures, mechanisms, and structures to form the basis for its future work. This included the HRC's agenda, program of work, and rules of procedure. The resolution also modified the system of expert advice and the complaint procedure inherited from the Commission. This document is fundamental for delegates to understand how the HRC operates.

United Nations, Human Rights Council. (2015). *29th session of the Human Rights Council: Reports* [Website]. Retrieved 19 July 2015 from:

<http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Pages/ListReports.aspx>

This website provides delegates with access to all reports resulting from the 29th session of the Human Rights Council, including all country-specific reports. It also includes progress reports on a wide variety of topics, such as the Periodic Review of various Member States, an assessment of business and human rights, and the human rights of internally displaced persons. This forum provides an excellent starting point for delegates researching new topics in the area of human rights, a comprehensive list of all topics covered during the 29th session, as well as the most updated information coming from the council.

United Nations, Human Rights Council. (2015). *About the Council* [Website]. Retrieved 13 August 2014 from:

<http://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx#ftn1>

This Website provides delegates with a basic overview of the history and structure of the HRC. It also includes rules of procedure and key background documents that are crucial to the HRC's mandate and functions. Finally, the page provides information on Commissions of Inquiry and Special Procedures.

United Nations, Office of the United Nations High Commissioner for Human Rights. (2002). *Human Rights: a basic handbook for UN staff*. Retrieved 16 August 2014 from:

<http://www.ohchr.org/Documents/Publications/HRhandbooken.pdf>

This handbook provides delegates with a comprehensive view of the human rights system within the context of the UN. Even though some parts may be slightly outdated, the handbook provides a very detailed account of the UN's human rights instruments. The handbook also describes the international mechanisms that evolved to monitor the implementation of rights and process complaints, and the strategies engaged to promote and protect human rights within the UN.

United Nations, Office of the United Nations High Commissioner for Human Rights. (2015, July 3). *Human Rights Council adopts texts on enhancing the efficiency of the Council, Rohingya Muslims, the protection of the family, and Ukraine* [Press Release]. Retrieved 19 July 2015 from:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16196&LangID=E>

This document describes the four texts and the Presidential Statement adopted on the topic of enhancing the efficiency of the Council, as well as the three resolutions adopted on the topics of Rohingya Muslims in Myanmar, the Protection of the family, and the technical cooperation and assistance to Ukraine. Each section contains further details from Member States regarding statements made, as well as their position on the various topics. This article should be utilized as a basis for understanding the current priorities of the council, as well as the most recent work being done on these topics.

United Nations, Office of the United Nations High Commissioner for Human Rights. (2015, July 3). *Human Rights Council adopts two resolutions and closes its twenty-ninth regular session* [Press Release]. Retrieved 19 July 2015 from:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16200&LangID=E>

This news article was published following the closing of the twenty-ninth session of the HRC. The document details the two resolutions adopted during this session, and provides a breakdown of the voting distribution that took place. It also describes the rationale behind why these two resolutions

were brought forth and adopted. Delegates should utilize this article as a starting point in order to understand how the body adopts resolutions, as well as to gain a better understanding of the most recent topics discussed at the HRC.

United Nations, Office of the United Nations High Commissioner for Human Rights. (2008). *Working with the United Nations Human Rights Programme - A Handbook for Civil Society*. Retrieved 17 September 2014 from: http://www.ohchr.org/en/AboutUs/CivilSociety/Documents/Handbook_en.pdf

This handbook, which is designed to explain how civil society can engage with various UN human rights bodies and mechanisms, provides delegates with a comprehensive view of all human rights instruments within the UN system. It addresses how the UN human rights bodies and mechanisms can be used, provides information on funds and grants, lists key contacts at OHCHR, and includes links to other resources. This is an extremely useful tool for delegates to understand the mechanisms as a whole, and also how civil society engages with human rights at the UN.

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I. Effects of Terrorism on the Enjoyment of Human Rights

*“Terrorists attacks cannot destroy the values on which our societies are grounded – but laws and politics can.”*⁷⁵

Introduction

There is no universally accepted understanding or definition of the term “terrorism”; however, there have been several attempts to reach a common definition.⁷⁶ In 1995, United Nations (UN) General Assembly (GA) resolution 49/60 on “Measures to Eliminate International Terrorism” defined terrorism as “criminal acts intended...to provoke a state of terror in the general public, a group of persons or particular persons for political purposes.”⁷⁷ In 2004, Security Council (SC) resolution 1566 proposed the definition “criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act.”⁷⁸ To date, though, there has been no agreement on a single definition by the international community, limiting the ability of the UN and others to combat terrorism.⁷⁹

Terrorism is an especially crucial topic, as terrorist attacks by groups such as Boko Haram in Nigeria, al-Shabaab in Kenya and Somalia, and the Islamic State in Iraq and the Levant (ISIL) have increased exponentially.⁸⁰ From 2013 to 2014, terrorist attacks worldwide increased by 61%, claiming the lives of almost 18,000 people in that year.⁸¹ In addition, the number of countries with 50 or more deaths from terrorism in the same year rose from 15 to 24, illustrating the rate at which terrorism is rapidly growing, and the very real threat that it poses to human rights.⁸² Unfortunately, as Member States respond to the threat of terrorism through counter-terrorism measures, they also frequently violate human rights through such actions as: the torture of suspects, insufficient monitoring of detention systems, and the repression of a civil society that may have spoken out against these violations.⁸³ Terrorism and counter-terrorism measures may both violate an individual’s rights to life as well as their freedom and security.⁸⁴ Both affect the vast array of rights from basic fundamental rights such as the right to life, to the more complex political, cultural, social, and economic rights.⁸⁵ Furthermore, attacks often single out specific groups, and more acutely affect vulnerable populations such as migrants and victims of terrorism.⁸⁶ They also threaten the territorial integrity of Member States and negatively affect relationships between states.⁸⁷ Case studies of ISIL and Kenya in particular, provide practical examples of terrorism’s intersection with human rights; terrorism is both a pressing, current issue and a lasting threat if left unaddressed, one that a single Member State cannot solve alone.

International and Regional Framework

A number of international agreements have attempted to set the legal framework for addressing issues related to terrorism.⁸⁸ The *Universal Declaration of Human Rights* (UDHR) adopted by the GA in 1948, secured the right to “life, liberty and security of person,” in addition to prohibiting torture and degrading punishment.⁸⁹ The 1966 *International Covenant on Civil and Political Rights* (ICCPR) prohibits torture, advocates for liberty and security of person, and provides rules for the detention of persons.⁹⁰ Articles 9 and 10 state that all detained persons shall be

⁷⁵ UN OHCHR, *Opening Statement, Item 2, High Commissioner’s Annual Report*, 2015.

⁷⁶ UN DPI, *United Nations Action to Counter Terrorism*, 2015.

⁷⁷ UN General Assembly, *Measures to eliminate international terrorism (A/RES/49/60)*, 1995, p. 4.

⁷⁸ UN Security Council, *Threats to international peace and security caused by terrorist acts (S/RES/1566(2004))*, 2004.

⁷⁹ UN DPI, *United Nations Action to Counter Terrorism*, 2015.

⁸⁰ Institute for Economics & Peace, *Global Terrorism Index 2014: Measuring and Understanding the Impact of Terrorism*, 2015, p. 2.

⁸¹ *Ibid.*, p. 4.

⁸² *Ibid.*

⁸³ UN OHCHR, *Human Rights, Terrorism and Counter-Terrorism: Factsheet no. 32*, 2008, p. 1.

⁸⁴ *Ibid.*, p. 7.

⁸⁵ *Ibid.*, pp. 1-3.

⁸⁶ *Ibid.*, p. 7.

⁸⁷ *Ibid.*, p. 8.

⁸⁸ UN DPI, *International Legal Instruments*, 2015; UN DPI, *United Nations Action to Counter Terrorism*, 2015.

⁸⁹ UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A (III))*, 1948.

⁹⁰ UN General Assembly, *Optional Protocol to the International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*, 1966.

informed immediately at the time of arrest of the charges against them, shall be put on trial before a court authorized by law within reasonable time, and shall be treated with humanity throughout the period of their detention.⁹¹

Since 1963, 14 international legal documents have addressed the issue of international terrorism specifically.⁹² SC resolution 1373, following the terrorist attacks in New York on 11 September 2001, criminalized the financing of terrorist acts and the provision of support to terrorist entities by Member States or their nationals.⁹³ In addition, in 2005, GA resolution 60/158 on the “Protection of human rights and fundamental freedoms while countering terrorism,” established that all measures for countering terrorism must comply with international human rights and humanitarian law.⁹⁴ The 2006, the *UN Global Counter-Terrorism Strategy*, outlined in GA resolution 60/288 further promotes measures to counter the spread of terrorism.⁹⁵ The four main pillars of the strategy are measures to: “address conditions conducive to the spread of terrorism; counter terrorism; build Member States’ capacities to counter terrorism and strengthen the role of the UN system; and ensure respect for human rights for all and the rule of law.”⁹⁶ Integral to these pillars is the recognition that in certain contexts, the absence of basic rights, lack of rule of law, socio-economic marginalization, and discrimination, may breed terrorism.⁹⁷ Likewise, another essential aspect of this strategy is the recognition that not all Member States are equally capable of countering terrorism.⁹⁸

Regional organizations have also addressed the threat of terrorism in a number of legally-binding documents.⁹⁹ The 1998 *Arab Convention on the Suppression of Terrorism*, adopted by the League of Arab States, established three areas of cooperation between Arab states to suppress terrorism: security, the judiciary, and extradition of prisoners.¹⁰⁰ Security measures include strengthening systems for the detection of stockpiling weapons and surveillance systems, as well as the exchange of intelligence regarding activities and means of communication between terrorist groups.¹⁰¹ The *Treaty on Cooperation among the States Members of the Commonwealth of Independent States in Combating Terrorism* (1999), put forward a detailed description of areas of cooperation between states to “prevent, uncover, halt and investigate acts of terrorism.”¹⁰² The deployment of anti-terrorist units to assist in combating acts of terrorism, exchange of experience on the prevention of terrorism and joint financing on systems to protect facilities, are all measures suggested in the Treaty.¹⁰³ The 2005 Council of Europe *Convention on the Prevention of Terrorism* aims to assist Member States of the Council, and other signatories, in the prevention of terrorism.¹⁰⁴ It further suggests the implementation of national policies as well as international measures against public provocation to carry out an act of terror, recruitment of persons, and conduction of training for terrorism.¹⁰⁵

Laid out in the GA *Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power* are the rights of victims of terrorism.¹⁰⁶ States have an obligation to protect vulnerable witnesses and provide compensation.¹⁰⁷ In addition, the Council of Europe’s *Guidelines on the Protection of Victims of Terrorist Acts* identifies that Member States should treat the private and family life of victims of terrorism with respect, while

⁹¹ UN General Assembly, *Optional Protocol to the International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*, 1966.

⁹² UN DPI, *International Legal Instruments*, 2015.

⁹³ UN Security Council, *Threats to international peace and security caused by terrorist acts (S/RES/1373(2001))*, 2001.

⁹⁴ UN General Assembly, *Protection of human rights and fundamental freedoms while countering terrorism (A/RES/60/158)*, 2005.

⁹⁵ UN General Assembly, *The United Nations Global Counter-Terrorism Strategy (A/RES/60/288)*, 2006.

⁹⁶ UN CTITF, *Counter-Terrorism Implementation Task Force*.

⁹⁷ UN General Assembly, *The United Nations Global Counter-Terrorism Strategy (A/RES/60/288)*, 2006.

⁹⁸ *Ibid.*

⁹⁹ UNODC, *(Inter-) Regional Action Against Terrorism*, 2015.

¹⁰⁰ League of Arab States, *The Arab Convention on the Suppression of Terrorism*, 1998.

¹⁰¹ *Ibid.*

¹⁰² Commonwealth of Independent States, *Treaty on Cooperation among the States Members of the Commonwealth of Independent States in Combating Terrorism*, 1999.

¹⁰³ *Ibid.*

¹⁰⁴ Council of Europe, *Council of Europe Convention on the Prevention of Terrorism*, 2005.

¹⁰⁵ *Ibid.*

¹⁰⁶ UN General Assembly, *Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power (GA/RES/40/34)*, 1985.

¹⁰⁷ Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights, *Countering Terrorism, Protecting Human Rights: A Manual*, 2007, pp. 27-28.

investigating an attack.¹⁰⁸ Nevertheless, as stated within the Human Rights Council (HRC)'s "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism," Member States must provide "effective mechanisms for identifying potential future threats of terrorist attacks, to analyze the information with reasonable care, to reach an informed risk assessment and to take appropriate action."¹⁰⁹

Role of the International System

In 2005, the HRC appointed a Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.¹¹⁰ In this capacity, the Rapporteur makes recommendations, exchanges information, focuses on gender issues, identifies best practices and promotes dialogue between relevant bodies, while also providing regular reports on pressing issues in order to preserve human rights while countering terrorism.¹¹¹ The 2013 report of the Special Rapporteur on "the promotion and protection of human rights and fundamental freedoms while countering terrorism" recognized the gross violations of human rights carried out by Member States in their efforts to counter terrorism.¹¹² However, Member States are solely responsible for identifying accountable parties within their governments and ensuring that they are brought to justice.¹¹³ Since 2007, the HRC has adopted many resolutions relating to terrorism and human rights; these include resolutions 6/28 (2007), 7/7 (2008), 10/15 (2009), 13/26 (2010), 19/19 (2012), 25/7 (2014).¹¹⁴ Most recently, in 2015, the HRC adopted resolution 28/17 on "Effects of terrorism on the enjoyment of human rights," which addresses increasing terrorist attacks on population groups, public sites, and institutions.¹¹⁵ Following this Resolution, the HRC held a discussion panel for the purpose of highlighting areas of cooperation, with special emphasis on the growing threat of terrorism, the rights of victims of terrorism, and the rights of detainees.¹¹⁶

The SC established the Counter-Terrorism Committee (CTC) through SC resolution 1373 (2001) on "Threats to international peace and security caused by terrorist acts."¹¹⁷ As a subsidiary body of the SC, it supports Member States in countering terrorist acts by providing reports on counter-terrorism within their borders, and makes visits to countries to monitor progress and the technical assistance needed.¹¹⁸ In addition, the CTC informs Member States on best practices and strategies for countering terrorism, and links them with programs to further assist technically and financially.¹¹⁹ In 2001, the CTC established the CTC Executive Directorate (CTED), to cooperate with the UN

¹⁰⁸ Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights, *Countering Terrorism, Protecting Human Rights: A Manual*, 2007, p. 298.

¹⁰⁹ UN HRC, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson: Framework principles for securing the human rights of victims of terrorism (A/HRC/20/14)*, 2013, p. 7.

¹¹⁰ UN OHCHR, *Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, 2015.

¹¹¹ *Ibid.*

¹¹² UN HRC, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson Framework Principles for securing the accountability of public officials for gross or systematic human rights violations committed in the context of State counter-terrorism initiatives (A/HRC/22/52)*, 2013, p. 7.

¹¹³ *Ibid.*, pp. 9-11.

¹¹⁴ UN HRC, *Protection of human rights and fundamental freedoms while countering terrorism: mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/RES/6/28)*, 2007; UN HRC, *Protection of human rights and fundamental freedoms while countering terrorism (A/HRC/RES/7/7)*, 2008; UN HRC, *Protection of human rights and fundamental freedoms while countering terrorism (A/HRC/RES/10/15)*, 2009; UN HRC, *Protection of human rights and fundamental freedoms while countering terrorism (A/HRC/RES/13/26)*, 2010; UN HRC, *Protection of human rights and fundamental freedoms while countering terrorism (A/HRC/RES/19/19)*, 2012; UN HRC, *Protection of human rights and fundamental freedoms while countering terrorism (A/HRC/RES/25/7)*, 2014.

¹¹⁵ UN HRC, *Effects of Terrorism on the Enjoyment of Human Rights (A/HRC/RES/28/17)*, 2015.

¹¹⁶ UN HRC, *Panel discussion on the effects of terrorism on the enjoyment by all persons of human rights and fundamental freedoms: Report of the Office of the United Nations High Commissioner for Human Rights (A/HRC/30/64)*, 2015, pp. 9-11.

¹¹⁷ UN Security Council CTC, *UN Counter-Terrorism Committee: Our Mandate*, 2013.

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*

Office of the High Commissioner on Human Rights (OHCHR) and other human rights organizations.¹²⁰ The role of CTED is to provide advice to the CTC on international human rights, humanitarian and refugee law, and to assist the CTC in ensuring that all Member States comply with international laws.¹²¹

The Counter-Terrorism Implementation Task Force (CTITF) aims to provide policy support, information, and the necessary assistance to enable Member States to implement the four pillars of the *UN Global Counter-Terrorism Strategy*.¹²² It is responsible for coordinating the efforts of 36 international entities in different fields, both part of and external to the UN system, whose work relates to counter-terrorism efforts.¹²³ Among the projects that the CTITF works on is raising awareness of the strategy among Member States and government agencies, through workshops and targeted initiatives with regional organizations, governments, and civil society organizations (CSOs).¹²⁴ Moreover, the CTITF Working Group on Protecting Human Rights and the Rule of Law While Countering Terrorism ensures fair trials for accused persons in the context of counter-terrorism.¹²⁵ Currently, it is analyzing the obstacles to conducting fair trials as one of the essential rights of political detainees as laid out in the ICCPR.¹²⁶

Civil Society Organizations

As the severity and prevalence of terrorism escalates and increasingly spreads globally, CSOs are a core partner for monitoring and protecting human rights. Amnesty International does research, publishes reports, and conducts advocacy campaigns for a wide variety of causes concerned with human rights, including detention, disappearances, freedom of expression, living in dignity and torture, all topics directly impacted by terrorism and counter-terrorism efforts.¹²⁷ Likewise, Human Rights Watch periodically investigates and publishes information on the impact of terrorism and counter-terrorism measures on human rights.¹²⁸ It also monitors governments and international organizations, ensuring that they respect human rights in their efforts to address the issue.¹²⁹ Open Society Foundations addresses cases of human rights violations in the context of national security and counter-terrorism measures worldwide.¹³⁰ Finally, REDRESS solely attends to the rights of survivors of torture from counter-terrorism measures, to bring governments and individuals responsible for the acts to justice.¹³¹

Impact of Terrorism on Human Rights

Terrorist attacks violate an individual's right to life, freedom, and security, as guaranteed by the UDHR.¹³² The right to life is an essential right, which, if endangered, renders all other human rights meaningless.¹³³ Often, persons are singled out on the basis of ethnicity, religion, or similar reasons, resulting in violent action such as summary executions of religious minorities.¹³⁴ Terrorist groups can be responsible for incidents of "mass disappearances, torture and mutilation, gender-based violence, and rape," all of which constitute serious violations of human rights.¹³⁵ For example, attacks on girls attending schools are common in Afghanistan, where the Taliban is opposed to girls receiving education.¹³⁶ In 2013, seven attacks resulted in more than 160 deaths.¹³⁷

¹²⁰ UN Security Council CTC, *Protecting Human Rights While Countering Terrorism*, 2013.

¹²¹ UN Security Council CTC, *Protecting Human Rights While Countering Terrorism*, 2013.

¹²² UN CTITF, *Counter-Terrorism Implementation Task Force*, 2015.

¹²³ *Ibid.*

¹²⁴ UN CTITF, *Building In-depth Knowledge of the Strategy*, 2015.

¹²⁵ UN CTITF, *Right to Fair Trial - Counter-Terrorism Implementation Task Force*, 2015.

¹²⁶ *Ibid.*

¹²⁷ Amnesty International, *What we do*.

¹²⁸ Human Rights Watch, *Terrorism/ Counterterrorism*, 2015.

¹²⁹ *Ibid.*

¹³⁰ Open Society Foundations, *National Security & Counterterrorism*, 2015.

¹³¹ REDRESS, *About REDRESS*.

¹³² UN OHCHR, *Human Rights, Terrorism and Counter-Terrorism: Factsheet no. 32*, 2008, p. 7.

¹³³ *Ibid.*, p. 8.

¹³⁴ UN OHCHR, *Human Rights Council holds panel discussion on the effects of terrorism on the enjoyment by all persons of human rights*, 2015.

¹³⁵ *Ibid.*

¹³⁶ Institute for Economics & Peace, *Global Terrorism Index 2014: Measuring and Understanding the Impact of Terrorism*, 2015, p. 17.

¹³⁷ *Ibid.*

Terrorism also traumatizes societies, spreads a culture of fear, and adversely affects the rule of law, eroding the democratic bases of a country and the role of civil society.¹³⁸ In the wake of terrorist groups, occurrences of murder, kidnapping, assault, and rape, among other crimes, increase.¹³⁹ In Nigeria, kidnapping accounts for 12% of terrorist incidents; in early 2014 Boko Haram kidnapped over 200 Chibok girls to serve as wives and slaves for its members.¹⁴⁰ Overall, terrorist groups threaten the territorial integrity of Member States and negatively affect relationships between states.¹⁴¹ The most crippling, perhaps, is the effect terrorism can have on economic and social development, as they have a role in transnational organized crime and illegal trafficking of arms and drugs.¹⁴² Such threats cause many states to take a strong stance on terrorism and counter terrorism measures, which have the possibility of themselves violating human rights.¹⁴³

Violations of Human Rights from Counter-Terrorism Measures

Violence can increase in the wake of the instability generated by terrorist attacks including from counter-terrorism efforts.¹⁴⁴ These measures also play a role in violating economic rights, as they can contribute to increasing poverty, and are among the factors that can further promote the spread of terrorism.¹⁴⁵ For instance, where an individual is the primary income generator of a family, their disappearance or arrest can lead to severe economic problems for the family they support, which in turn affects the social and cultural rights of that family.¹⁴⁶ In 2008, the CTITF Working Group on Protecting Human Rights While Countering Terrorism held a seminar to examine the impact of terrorism and counter-terrorism measures on the enjoyment of economic, cultural, and social rights.¹⁴⁷ Through a study of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), participants of the seminar recognized the legal responsibility of Member States to implement counter-terrorism measures that do not negatively impact the economic, social, and cultural rights of citizens and non-citizens within their legal borders.¹⁴⁸

Political Rights

According to the ICCPR, all individuals are guaranteed political rights, such as the rights to liberty and security, the right to privacy, and to not be subjected to torture.¹⁴⁹ However, these rights are not always upheld by Member States.¹⁵⁰ In the United States of America, since the 11 September 2001 attacks, over 500 individuals have been prosecuted for crimes related to terrorist activity, many of whom later were found to have no links to terrorist organizations.¹⁵¹ In Algeria and Egypt, intelligence agencies are not overseen by the judiciary, and therefore may detain persons arbitrarily or violate a person's right to privacy, if they are suspected of terrorist activities.¹⁵² In countries like Morocco, Pakistan, and Jordan, the role of intelligence agencies is not coherently based on the rule of law, since domestic laws do not clarify their role and scope.¹⁵³ This allows for human rights violations to go by unnoticed, as no civilian oversight exists to curb them.¹⁵⁴ Even in cases where intelligence agencies have a strong

¹³⁸ UN OHCHR, *Human Rights, Terrorism and Counter-Terrorism: Factsheet no. 32*, 2008, p. 7.

¹³⁹ *Ibid.*, p. 8.

¹⁴⁰ Institute for Economics & Peace, *Global Terrorism Index 2014: Measuring and Understanding the Impact of Terrorism*, 2015, p. 19.

¹⁴¹ UN OHCHR, *Human Rights, Terrorism and Counter-Terrorism: Factsheet no. 32*, 2008, pp. 7 - 8.

¹⁴² UN OHCHR, *Human Rights Council holds panel discussion on the effects of terrorism on the enjoyment by all persons of human rights*, 2015; UN OHCHR, *Human Rights, Terrorism and Counter-Terrorism: Factsheet no. 32*, 2008, pp. 7 - 8.

¹⁴³ UN OHCHR, *Human Rights Council holds panel discussion on the effects of terrorism on the enjoyment by all persons of human rights*, 2015.

¹⁴⁴ Institute for Economics and Peace, *Global Terrorism Index 2014: Measuring and Understanding the Impact of Terrorism*, 2014, p. 3.

¹⁴⁵ UN CTITF Working Group 'Protecting Human Rights While Countering Terrorism', *Expert Seminar on 'The impact of terrorism and counter-terrorism measures on the enjoyment of economic, social and cultural rights (ECSR)'*, 2008, pp. 9, 11.

¹⁴⁶ *Ibid.*, p. 9.

¹⁴⁷ *Ibid.*

¹⁴⁸ *Ibid.*, pp. 4-5.

¹⁴⁹ UN General Assembly, *Optional Protocol to the International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*, 1966.

¹⁵⁰ Human Rights Watch, *Illusion of Justice: Human Rights Abuses in US Terrorism Prosecutions*.

¹⁵¹ *Ibid.*

¹⁵² Human Rights Advocates, *Counter-terrorism and the Protection of Humans*, 2010, pp. 8-9.

¹⁵³ *Ibid.*, pp. 8-9.

¹⁵⁴ *Ibid.*, p. 10.

legal basis and civilian oversight, laws can still infringe on privacy.¹⁵⁵ For instance, the United Kingdom (UK) Terrorism Act, issued in 2000, was extremely vague in language and gave authorities the right to search almost anyone for counter-terrorism purposes.¹⁵⁶ Finally, the right to a fair trial is preserved by the ICCPR.¹⁵⁷ This guarantees equality before a court of law, an impartial judge, and the presumption of innocence until proven guilty.¹⁵⁸ Thus, the use of military courts to try civilians and members of security forces (in cases where the accusation is one of a human rights abuse) is illegal.¹⁵⁹

Rights of Minorities

Terms like “terrorism” or “security” are often exploited to inflict punitive action against ethnic minorities or migrants, either as a form of collective punishment, ignoring proper procedures of investigation, or targeting entire minority groups as a threat.¹⁶⁰ Counter terrorism measures may also discriminate against CSOs and human rights defenders attempting to support and defend their causes, limiting their ability to properly defend these groups.¹⁶¹ In some cases, discriminatory means of investigation are used, such as invasive surveillance and fingerprinting campaigns targeted at specific ethnic groups.¹⁶² The UK Terrorism Act allowed police and the government to profile black people and people of Asian decent in arbitrary searches.¹⁶³ During the United States’ war on terror, the Federal Bureau of Investigation targeted American Muslims in particular, out of fear that Al-Qaida would seek to radicalize them and recruit them for major terrorist attacks.¹⁶⁴ Such actions marginalize entire communities and in response contribute to the emergence and support of terrorist activity in these communities.¹⁶⁵

Case studies: The Islamic State in Iraq and the Levant and Kenya

The Islamic State in Iraq and the Levant

Following the death of the Abu-Musab al-Zarqawi, leader of Al-Qaida, in 2006 ISIL was founded; it subsequently broke away from Al-Qaida.¹⁶⁶ ISIL follows an extremist Wahhabi ideology, focused on establishing a regional caliphate under Islamic law, and promotes the use of violence against those who oppose its ideology.¹⁶⁷ Led by Abu Bakr al-Baghdadi, it is among the wealthiest terrorist organizations.¹⁶⁸ ISIL has committed widespread human rights violations in Syria and Iraq, targeting religious and ethnic minorities through sanctions, expulsions, or the destruction of religious sites.¹⁶⁹ Young girls and women have been taken captive, sold, or sexually exploited.¹⁷⁰ In addition, government personnel and leaders opposing ISIL in Syria and Iraq are systematically found guilty of being heretics by ISIL, and are executed in extra-judicial processes.¹⁷¹ ISIL has also employed violence against civilians such as lashings and amputations, for actions such as smoking cigarettes or theft.¹⁷² Of the most violent attacks, in August 2014, 200 soldiers were captured and killed in the Tabqa airbase in al-Raqqa, and members of the Sheit

¹⁵⁵ Human Rights Advocates, *Counter-terrorism and the Protection of Humans*, 2010, pp. 8-9.

¹⁵⁶ Ibid.

¹⁵⁷ UN General Assembly, *Optional Protocol to the International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*, 1966.

¹⁵⁸ UN OHCHR, *Digest of Jurisprudence of the UN and Regional Organization on the Protection of Human Rights while Countering Terrorism*, 2003, p. 5.

¹⁵⁹ Ibid., p. 56.

¹⁶⁰ UN CTITF Working Group ‘Protecting Human Rights While Countering Terrorism’, *Expert Seminar on ‘The impact of terrorism and counter-terrorism measures on the enjoyment of economic, social and cultural rights (ECSR)’*, 2008, p. 9.

¹⁶¹ Ibid., p. 10.

¹⁶² Ibid., p. 9.

¹⁶³ Human Rights Advocates, *Counter-terrorism and the Protection of Humans*, 2010, p. 13.

¹⁶⁴ Human Rights Watch, *Illusion of Justice: Human Rights Abuses in US Terrorism Prosecutions*.

¹⁶⁵ Human Rights Advocates, *Counter-terrorism and the Protection of Humans*, 2010, p. 13.

¹⁶⁶ Institute for Economics & Peace, *Global Terrorism Index 2014: Measuring and Understanding the Impact of Terrorism*, 2014, p. 52.

¹⁶⁷ Ibid.

¹⁶⁸ Ibid.

¹⁶⁹ UN HRC, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson (A/HRC/29/51)*, 2015, p. 8.

¹⁷⁰ UN DPI, *ISIL may have committed war crimes, crimes against humanity and genocide: UN report*, 2015.

¹⁷¹ UN HRC, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson (A/HRC/29/51)*, 2015, p. 8.

¹⁷² Ibid.

tribe were also killed.¹⁷³ Both of these acts have been classified as crimes against humanity by the Independent International Commission of Inquiry on Syria.¹⁷⁴ In addition, through the systematic forced displacement of Kurdish citizens and the destruction of churches in al-Raqqa governorate in 2013 and 2014, ISIL has violated international humanitarian law and committed forcible displacement of civilians, which is considered a war crime.¹⁷⁵

Likewise, during the Special Session on abuses committed in Iraq by ISIL convened by the HRC, it was noted that the office has received several reports of violations to humanitarian law committed by Iraqi Security Forces, as well as anti-ISIL groups in the region.¹⁷⁶ This includes arbitrary executions and civilian deaths as a result of enforcement activities.¹⁷⁷ Following this session, the HRC adopted a resolution launching a fact-finding mission to Iraq in order to investigate human rights violations committed within the region.¹⁷⁸ The SC has not reached consensus regarding the accountability of ISIL for international crimes, and has rather focused on responding to it as a terrorist group.¹⁷⁹ By classifying it as an offshoot of Al-Qaida and adding it to the Al-Qaida Sanctions List, ISIL has become subject to asset-freezes, travel bans imposed on its members and supporters, and arms embargos.¹⁸⁰ Throughout 2014, an international coalition of over 60 states launched over 3,000 airstrikes against ISIL bases in both Syria and Iraq, at the request of the government of Iraq.¹⁸¹ Syria has also launched airstrikes in self-defense against ISIL; combined with ISIL's attacks, these have severely destabilized the region.¹⁸² In a recent statement, the Special Rapporteur on the protection and promotion of human rights while countering terrorism, Ben Emmerson, criticized the lack of action taken by the international community, and specifically the SC, regarding human rights violations by ISIL.¹⁸³ The actions of ISIL constitute gross human rights violations at a large scale and blatant violations of international humanitarian and human rights law.¹⁸⁴

Kenya

Since 2010, Kenya has suffered from increased terrorist attacks, the majority being perpetrated by the Somalia-based group, al-Shabaab, and targeting citizens, private property, government entities like the military and police, and religious figures and institutions.¹⁸⁵ Al-Shabaab is based on an extreme Wahhabist interpretation of Islam, and is affiliated with Al-Qaida.¹⁸⁶ In 2013, armed militants from al-Shabaab attacked and took hostages in the Westgate mall in Nairobi, resulting in 67 fatalities and 175 injured.¹⁸⁷ This was a response to participation of the Kenyan military in an operation against al-Shabaab in Somalia.¹⁸⁸ Following this, in late 2014, al-Shabaab targeted non-Muslim civilian workers in Mandera, a town on the Kenya-Somalia border in two consecutive attacks, the first killing 28 people on a bus, and the second killing over 30 people.¹⁸⁹ In April 2015, al-Shabaab attacked Garissa University College, leaving dozens dead, injured, and many others held hostage or unaccounted for – the majority being students.¹⁹⁰ In its attempts to counter the spread of terrorism, the Kenyan government has been accused of

¹⁷³ UN Independent International Commission of Inquiry on the Syrian Arab Republic, *Rule of Terror: Living under ISIS in Syria*, 2014, p. 9.

¹⁷⁴ UN OHCHR, *Independent International Commission of Inquiry on the Syrian Arab Republic*, 2015.

¹⁷⁵ UN Independent International Commission of Inquiry on the Syrian Arab Republic, *Rule of Terror: Living under ISIS in Syria*, 2014, pp. 4-5.

¹⁷⁶ UN OHCHR, *Human Rights Council convenes a Special Session on abuses committed in Iraq by ISIL*, 2014.

¹⁷⁷ *Ibid.*

¹⁷⁸ *Ibid.*

¹⁷⁹ UN HRC, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson (A/HRC/29/51)*, 2015, p. 12.

¹⁸⁰ *Ibid.*

¹⁸¹ *Ibid.*, pp. 15-16.

¹⁸² *Ibid.*

¹⁸³ UN OHCHR, *Act now to prevent industrial scale human rights violations by ISIL – UN expert calls on the Security Council*, 2015.

¹⁸⁴ *Ibid.*

¹⁸⁵ National Consortium for the Study of Terrorism and Responses to Terrorism, Global Terrorism Database, *GTD Search Results: Kenya*, 2015.

¹⁸⁶ Institute for Economics & Peace, *Global Terrorism Index 2014: Measuring and Understanding the Impact of Terrorism*, 2014, p. 22.

¹⁸⁷ *Ibid.*, pp. 10, 22.

¹⁸⁸ *Ibid.*, p. 22.

¹⁸⁹ UN DPI, *Ban deplores deadly terrorist attack against civilians in north-eastern Kenya*, 2014.

¹⁹⁰ UN DPI, *UN expresses 'outrage' at 'heinous' Al Shabaab attack on Kenyan university*, 2015.

committing significant human rights violations in the form of police abuse and torture.¹⁹¹ In 2006 and 2007, approximately 150 persons were detained, under suspicion of terrorist involvement without being formally charged.¹⁹² Additionally, ill-treatment of detainees ranged from beatings and inhumane incarceration conditions, to denial of medical treatment, even to children and pregnant women.¹⁹³ With the recent massacre in Garissa, Kenya is expected to take stronger counter-terrorist measures.¹⁹⁴ Kenya's human rights record has since been reviewed by the UPR in January 2015, with recommendations made to accede to key human rights instruments like the ICCPR, strengthen the judicial system, and adopt special measures to guarantee the rights of vulnerable groups.¹⁹⁵

Conclusion

In conclusion, the effects of terrorism on human rights are multifold, affecting people's political and social rights, as well as the most basic right to life as well as affecting states' cultural perspective towards whole groups of people and impacting economic development. Further, when Member States attempt to implement counter-terrorism measures, they may themselves often commit violations of human rights, as is the case in Kenya. The focus on counter-terrorism should not be a top-down approach; rather, the involvement of civil society is essential to unified and successful rights-based approaches to countering terrorism. The most important consideration is how to address terrorism in a manner that will recognize the inherent human rights of all persons, without leading to greater injustice that breeds terrorism in the future and continuing the destructive cycle of terrorism.

Further Research

In pursuing further research, delegates should consider the following: In the case of situations where the Security Council is a standstill, what can the HRC do to address issues of brutal human rights violations? What are alternative approaches that Member States can implement to address the issue of terrorism without jeopardizing human rights? What can be the role of governments, local communities, and CSOs in limiting the impact of terrorism on human rights? How can international policy and treaties be translated into action on the domestic level to prevent human rights violations? How can counter-terrorism measures by Member States ensure respect for human rights so that they do not result in future terrorism? In an increasingly globalized world, how can the rights of minorities and political rights of non-native inhabitants be safeguarded?

¹⁹¹ Amnesty International, *Kenya: Waning Accountability for Justice and Human Rights: Amnesty International Submission to the UN Universal Periodic Review, January 2015*, p. 3.

¹⁹² REDRESS and REPRIEVE, *Kenya and Counter-Terrorism: A Time for Change*, 2009, p. 4.

¹⁹³ *Ibid.*

¹⁹⁴ *Ibid.*

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Institute for Economics & Peace. (2014). *Global Terrorism Index 2014: Measuring and Understanding the Impact of Terrorism*. Retrieved 22 August 2015 from:

http://static.visionofhumanity.org/sites/default/files/Global%20Terrorism%20Index%20Report%202014_0.pdf

The Global Terrorism Index, published by the Institute for Economics and Peace, provides excellent information on terrorist attacks and trends in terrorism worldwide. It also assesses the risk of potential attacks in a number of countries, and has data sheets on the most influential terrorist groups worldwide. Finally, it correlates the increases in terrorism with global trends such as increase in number of deaths from terrorism, or the spread of terrorist incidents, providing delegates with an overview of the global situation as it concerns terrorism.

Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights.

(2007). *Countering Terrorism, Protecting Human Rights: A Manual*. Retrieved 21 July 2015 from:

<http://www.osce.org/odihr/29103?download=true>

This 2007 publication by the Organization for Security and Co-operation in Europe is important because it gives delegates perspective into reports by other intergovernmental organizations. Clearly divided into three parts and seventeen chapters, Part I lays out the basics and provides the international framework within which states operate; Part II elaborates on specific human rights of concern while countering terrorism, such as the right to life, the right to a fair trial and the right of respect for private life; while Part III discusses human rights and the guarantee of democracy.

United Nations, Counter-Terrorism Implementation Task Force, Working Group ‘Protecting Human Rights While Countering Terrorism’. (2008). *Expert Seminar on ‘The impact of terrorism and counter-terrorism measures on the enjoyment of economic, social and cultural rights (ECSR)’* [Meetings Summary]. Retrieved 21 July 2015 from:

http://www.un.org/en/terrorism/ctitf/pdfs/wg_protecting_human_rights.pdf

This document provides the summary of discussions between experts in the field of terrorism and ECSR, on the issue of protecting human rights while countering terrorism. Consisting of five sessions, the most relevant is session two, where the impact of counter-terrorism measures on economic, social and cultural rights is raised. Also of relevance is session four, where suggestions are put forward for monitoring the effect of counter-terrorism measures on these rights. Finally, participants propose recommendations for addressing this issue.

United Nations, General Assembly, Twenty-first session. (1966). *Optional Protocol to the International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*. Adopted on the report of the Third Committee (A/6546).

Retrieved 22 August 2015 from: [http://undocs.org/A/RES/2200\(XXI\)](http://undocs.org/A/RES/2200(XXI))

One of the basic documents in international law that establishes basic rights of citizens is the International Covenant on Civil and Political Rights. It is one of the essential documents for the topic given that, through this Protocol, governments recognize that all citizens have the right to express their opinions and to disagree with their governments, while retaining their rights as citizens. Individuals are to be treated with respect and dignity. Even as detainees, they have certain rights that should be observed.

United Nations, General Assembly, Sixtieth session. (2006). *The United Nations Global Counter-Terrorism Strategy (A/RES/60/288)* [Resolution]. Retrieved 21 July 2015 from: <http://undocs.org/A/RES/60/288>

This 2006 resolution provides the original text of the Global Counter-Terrorism Strategy, one of the first UN resolutions to address the issue of human rights while countering terrorism, by establishing four main pillars for a Global Counter-Terrorism Strategy. The Strategy is a very good starting point for delegates in order to understand international efforts in countering terrorism, and the effect of terrorism on human rights. In addition, it should be supported by further research into instruments later introduced to implement this strategy such as the Global Counter-Terrorism Strategy Reviews and the UN Counter-Terrorism Implementation Task Force.

United Nations, Human Rights Council, Twenty-eighth session. (2015). *Effects of Terrorism on the Enjoyment of Human Rights (A/HRC/RES/28/17)* [Resolution]. Retrieved 21 July 2015 from: <http://undocs.org/A/HRC/RES/28/17>

This recent resolution by the HRC addresses the issue of terrorism and its effect on human rights. It will give delegates insight into the existing organizations and agreements governing this topic. In addition, it provides the most recent information on decisions and action taken by the Human Rights Council with respect to this issue. Some of the points brought into focus in this resolution are the rights of detained persons and the rights of victims of terrorism.

United Nations, Human Rights Council, Twenty-ninth session. (2015). *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, Ben Emmerson (A/HRC/29/51) [Report]. Retrieved 21 July 2015 from: <http://undocs.org/A/HRC/29/51>

This report by the Special Rapporteur on the promotion and protection of human rights while countering terrorism is an essential tool that gives sufficient background information on the violations of ISIL, as well as the response of the international community. It establishes the legal background, details the most important aspects of the struggle on the ground, and informs about the impact of the international military response on civilians. Finally, it provides conclusions and recommendations for the international community to address the threat posed by ISIL.

United Nations, Independent International Commission of Inquiry on the Syrian Arab Republic. (2014). *Rule of Terror: Living under ISIS in Syria* [Report]. Retrieved 22 August 2015 from: <http://watchlist.org/wordpress/wp-content/uploads/HRC-CRP-ISIS-14-11-2014-FINAL.pdf>

This report published by the International Commission of Inquiry on Syria provides detailed information on the activities of ISIL. It is divided into seven sections outlining the rise of ISIL and then describing its impact of civilian life, the attacks it has carried out on civilians, and violence against women and children. Finally, it provides conclusions on the work of the Commission of Inquiry as well as recommendations for the international community, which delegates should pay special attention to.

United Nations, Office of the High Commissioner for Human Rights. (2003). *Digest of Jurisprudence of the UN and Regional Organizations on the Protection of Human Rights while Countering Terrorism* [Compilation of Findings]. Retrieved 21 July 2015 from: <http://www.ohchr.org/Documents/Publications/DigestJurisprudenceen.pdf>

This digest introduces the legal framework that the UN and Member States must adhere to in the ongoing battle against terrorism. It provides excellent background to the issue of combating terrorism and maintaining human rights. Specifically, section II deals with states of emergency, while section III focuses on specific human rights such as the right to life, rules concerning detention, a fair trial, and the rights of persons to freedom of thought, political participation and expression. It attempts to lay the path for policymakers to tackle terrorism without infringing on human rights. The digest addresses a number of basic rights and freedoms and will give delegates a fair background on the issue.

United Nations, Office of the High Commissioner for Human Rights. (2008). *Human Rights, Terrorism and Counter-Terrorism: Factsheet no. 32*. Retrieved 21 July 2015 from: <http://www.ohchr.org/Documents/Publications/Factsheet32EN.pdf>

Published by the UN OHCHR, this factsheet provides simple, straightforward information regarding terrorism, and the international legal framework governing terrorism and human rights law. Most relevant is its outline of the main human rights challenges due to both terrorism and counter-terrorism. Finally, the annex details action the UN has taken to implement the 2006 Global Counter-Terrorism Strategy.

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II. Human Rights and Climate Change

*“Any strategy to deal with climate change, whether in terms of adaptation or mitigation, must incorporate the consequences for humans, as individuals and communities, and the human rights framework is the most effective way to do so.”*¹⁹⁶

Introduction

The *United Nations Framework Convention on Climate Change* (UNFCCC) (1992), which serves as the international legal foundation governing issues relating to climate change, defines the climate change as “a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability over comparable time periods.”¹⁹⁷ According to the Intergovernmental Panel on Climate Change (IPCC), global warming is unequivocal, with most of the warming observed over the past 50 years caused by man-made greenhouse gas (GHG) emissions.¹⁹⁸ As a direct consequence, the likelihood of the occurrence of extreme weather phenomena such as cyclones, droughts, and floods increases and rising temperatures result in rising sea-levels, receding coastlines, melting permafrost, desertification, water shortages, and changes to precipitation patterns.¹⁹⁹ In addressing climate change, emphasis has traditionally been placed on the physical, environmental, and economic aspects.²⁰⁰ However, as understanding of climate change and its consequences evolved, the debate on the issue has progressively broadened to include human and social dimensions.²⁰¹ It is now generally recognized that the environmental changes from climate change have direct and immediate implications for the realization of fundamental, universally recognized human rights, such as the rights to life, food, health, and culture.²⁰² The first time that the United Nations (UN) Human Rights Council (HRC) explicitly drew the connection between human rights and climate change was through the adoption of resolution 7/23 of 2008, which ultimately brought the issue to the international agenda.²⁰³ In promoting the importance of this topic, the HRC, its special procedures mechanisms, and the Office of the High Commissioner for Human Rights have repeatedly addressed human rights in the contexts of different discussions related to the UNFCCC and the 2030 Agenda for Sustainable Development.²⁰⁴

International and Regional Framework

Historically, the two regimes of human rights and climate change have been governed by different international legal frameworks that follow different legal traditions.²⁰⁵ The international human rights system is founded in international law and is based on the *Universal Declaration of Human Rights* (UDHR) of 1948.²⁰⁶ The rights enshrined in the UDHR have been further articulated and specified in subsequent human rights treaties, such as the *International Covenant on Civil and Political Rights* (ICCPR) (1966) and the *International Covenant on Economic,*

¹⁹⁶ UN OHCHR, “Climate Change and Human Rights”, *Address by Ms. Kyung-wha Kang, Deputy High Commissioner for Human Rights, at the Conference of the Parties to the United Nations Framework Convention on Climate Change and its Kyoto Protocol, 3-14 December 2007, Bali, Indonesia*, 2007.

¹⁹⁷ *United Nations Framework Convention on Climate Change*, 1992, p. 3.

¹⁹⁸ *Ibid.*; Intergovernmental Panel on Climate Change, *Organization*; UN HRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)*, 2009, p. 4.

¹⁹⁹ The Center for International Environmental Law, *Climate Change and Human Rights: A Primer*, 2013, p. 2; UNFCCC, *Feeling the Heat: Climate Science and the Basis of the Convention*, 2014.

²⁰⁰ UN HRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)*, p. 3.

²⁰¹ *Ibid.*; Duyck & Johl, *Promoting Human Rights in the Future Climate Regime*, 2012, p. 1; UN OHCHR, *Human Rights and Climate Change*, 2015.

²⁰² Duyck & Johl, *Promoting Human Rights in the Future Climate Regime*, 2012, p. 1; The Center for International Environmental Law, *Climate Change and Human Rights: A Primer*, 2013, p. 1.

²⁰³ UN HRC, *Human Rights and Climate Change (A/HRC/RES/7/23 (2008))*, 2008.

²⁰⁴ UN OHCHR, *Human Rights and Climate Change*, 2015.

²⁰⁵ Humphreys, *Introduction: human rights and climate change*, 2010, p. 8.

²⁰⁶ UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A(III))*, 1948.

Social and Cultural Rights (ICESCR) (1966).²⁰⁷ While those treaties do not specifically refer to climate change, UN human rights treaty bodies and other entities on the international or regional level have long recognized the link between the environment and the enjoyment of a wide range of human rights.²⁰⁸ The *Declaration of the United Nations Conference on the Human Environment* (Stockholm Declaration) (1972) reflects a general recognition of the interrelation of human rights and the environment and emphasizes the fundamental right to adequate living conditions in an environment which allows for a life with human dignity and general well-being.²⁰⁹ Similarly, both the *Convention on the Rights of the Child* (CRC) (1989) as well as the *Committee on Economic, Social and Cultural Rights* have drawn the link between the environment and the rights to food and health, and highlighted the importance of a healthy environment as the underlying determinant of both.²¹⁰ At the regional level, the *African Charter on Human Rights and Peoples' Rights* (Banjul Charter) (1981) as well as the *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights* (Protocol of San Salvador) (1988) recognize the right to live in a healthy or satisfactory environment.²¹¹

Within the international environmental regime, climate change is traditionally framed as an ecological, meteorological, or more recently, economic problem.²¹² The main global framework that addresses the causes and consequences of climate change is the UNFCCC, which was negotiated and adopted in 1992 at the UN Conference on Environment and Development (UNCED).²¹³ With 195 countries having ratified the Convention, it today enjoys near-universal membership.²¹⁴ The main objective of the UNFCCC is the “stabilization of greenhouse gas concentration in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.”²¹⁵ Another outcome of UNCED was *Agenda 21*, which underscored the importance of atmospheric protection for development, thereby drawing a connection between climate change and development matters.²¹⁶ This connection has been reaffirmed at the following conferences on sustainable development in 2002 and 2012, resulting in the *Johannesburg Declaration on Sustainable Development* and the outcome document of the *United Nations Conference on Sustainable Development* (Rio+20) (2012).²¹⁷ Within the Sustainable Development Goals (SDGs), Goal 13 addresses the issue of climate change, albeit without any explicit reference to its human rights dimensions, by acknowledging the UNFCCC as the primary international forum for negotiating the global response to climate change.²¹⁸

Human rights and climate change were linked for the first time in 2005, when the Inuit people submitted a petition to the Inter-American Commission on Human Rights alleging that climate change has had severe impact on the lives, health, culture and livelihoods of the indigenous people in the arctic.²¹⁹ In 2007, representatives of small island

²⁰⁷ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights* (A/RES/21/2200 (XXI)), 1966.

²⁰⁸ UN HRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights* (A/HRC/10/61), 2009, p. 7.

²⁰⁹ UNCHE, *Declaration of the United Nations Conference on the Human Environment*, 1972, principle 1.

²¹⁰ UN General Assembly, *Convention of the Rights of the Child* (A/RES/44/25), 1989, art. 24, para. 2 (c); CESCR, *General Comment 12: The right to adequate food* (art. 11) (E/C.12/1999/5), 1999, p. 2; CESCR, *General Comment 14: The right to the highest attainable standard of health* (art. 12) (E/C.12/2000/4), 2000, p. 2

²¹¹ Organisation of African Unity, *African (Banjul) Charter on Human Rights and Peoples' Rights* (OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982)), 1981, p. 7; Organization of American States, *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights* (Protocol of San Salvador), 1988, p. 3.

²¹² Humphreys, *Introduction: human rights and climate change*, 2010, p. 4; UN HRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights* (A/HRC/10/61), 2009, p. 3.

²¹³ UNFCCC, *First steps to a safer future: Introducing The United Nations Framework Convention on Climate Change*, 2014.

²¹⁴ *Ibid.*

²¹⁵ *United Nations Framework Convention on Climate Change*, 1992, p. 3.

²¹⁶ UNCED, *Agenda 21*, 1992.

²¹⁷ World Summit on Sustainable Development, *Johannesburg Declaration on Sustainable Development* (A/Conf.199/20), 2002; UN General Assembly, *The Future We Want* (A/RES/66/288), 2012.

²¹⁸ UN General Assembly, *Transforming our world: The 2030 Agenda for Sustainable Development* (A/RES/70/1), 2015.

²¹⁹ Inuit Circumpolar Conference, *Petition to the Inter-American Commission on Human Rights Seeking Relief from Violations Resulting from Global Warming Caused by Acts and Omissions of the United States*, 2005.

developing states adopted the *Malé Declaration on the Human Dimensions of Global Climate Change*.²²⁰ The Declaration called on the UNFCCC to seek cooperation with the UN human rights bodies, requested the OHCHR to conduct a study on the relationship between human rights and climate change, and demanded the HRC to engage in a debate on the issue in its next session.²²¹ A year later, the HRC reacted to the requests of the *Malé Declaration* and adopted resolution 7/23 on “Human Rights and Climate Change” by consensus, forcing a wide array of entities within the international system to address the issue.²²² With this resolution, the international human rights framework for the first time explicitly addressed the relationship between human rights and climate change.²²³ Drawing on the *Malé Declaration*, it unequivocally states that climate change “poses an immediate and far-reaching threat to people and communities around the world and has implications for the full enjoyment of human rights.”²²⁴

Role of the International System

Human Rights Council

As requested by HRC resolution 7/23 (2008), the OHCHR, under consultation with Member States, international organizations, non-governmental organizations (NGOs), and other stakeholders, published the study entitled *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)* on 15 January 2009.²²⁵ The study asserts that climate change may impact all human rights and outlines how these effects relate to Member States’ human rights obligations under the international human rights treaties.²²⁶ The study comes to the conclusion that international human rights law and the UNFCCC complement one another, making cooperation by all members of the international community not only expedient, but also an obligation.²²⁷ Drawing on the scientific finding of the study, the HRC adopted resolution 10/4 (2009) which stresses the importance of implementing the UNFCCC and furthering the cooperation between the OHCHR and the secretariat of the UNFCCC in an effort to establish a rights-based approach towards climate change.²²⁸ The resolution notes that the implications of climate change on human rights are both direct and indirect in nature, while emphasizing that individuals and communities that are already in vulnerable situations will be most acutely affected.²²⁹ Pursuant to resolution 10/4, the HRC held a panel discussion on the human rights and climate change relationship, a summary of which was prepared by the OHCHR and made available to 15th Conference of the Parties to the UNFCCC (COP 15) for its consideration.²³⁰

The 2010 HRC Social Forum focused on human rights and climate change following the decision made through HRC resolution 13/17 of the same year.²³¹ Moreover, in accordance with HRC resolution 18/22 of 2011, a seminar was held by the HRC in 2012 to further discuss a human rights-based approach in climate change and encourage more cooperation in relation to human rights and climate change.²³² During HRC’s 28th session in March 2015, the HRC held a full-day discussion on the topic of human rights and climate change with the goal of identifying challenges posed by climate change to the realization of human rights as well as ways forward.²³³ The latest two

²²⁰ *Malé Declaration on the Human Dimensions of Global Climate Change*, 2007, p. 2; Limon, *Human Rights and Climate Change: Constructing a Case for Political Action*, 2009, p. 442.

²²¹ *Malé Declaration on the Human Dimensions of Global Climate Change*, 2007, p. 3; Limon, *Human Rights and Climate Change: Constructing a Case for Political Action*, 2009, p. 442.

²²² UN HRC, *Human Rights and Climate Change (A/HRC/RES/7/23)*, 2008.

²²³ *Ibid.*

²²⁴ *Ibid.*, p. 1-3.

²²⁵ UN HRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)*, 2009; UN OHCHR, *OHCHR study on the relationship between climate change and human rights: Submissions and reference documents received*, 2015.

²²⁶ UN HRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)*, 2009, pp. 8-15, 23-28.

²²⁷ *Ibid.*, p. 30.

²²⁸ UN HRC, *Human Rights and Climate Change (A/HRC/RES/10/4)*, 2009.

²²⁹ *Ibid.*

²³⁰ UN OHCHR, *Human Rights Council Panel Discussion on the Relationship between Climate Change and Human Rights, Summary of Discussions*, 2009.

²³¹ UN HRC, *The Social Forum (A/HRC/RES/13/17)*, 2010.

²³² UN HRC, *Human Rights and Climate Change (A/HRC/RES/18/22)*, 2011; UN OHCHR, *Concept Paper: Seminar on Addressing the Adverse Impacts of Climate Change on the Full Enjoyment of Human Rights*, 2012.

²³³ UN HRC, *Summary report of the Office of the United Nations High Commissioner for Human Rights on the outcome of the full-day discussion on specific themes relating to human rights and climate change (A/HRC/29/19)*, 2015.

resolutions on the topic, resolution 26/27 and 19/15 of 2015, focused on the right to development and the right to the highest attainable standard of health as they relate to climate change.²³⁴

Climate Change Actors

The IPCC is the leading body for the scientific assessment of climate change and has thus far published five Assessment Reports (ARs) in which the “most recent scientific, technical and socio-economic information relevant to the understanding of climate change” is assessed.²³⁵ The socio-economic impact of predicted climate change effects on agriculture and land use, energy demand, access to fresh water, food and housing, and health has been part of the ARs since its inception in 1990.²³⁶ Although no explicit reference to a human rights perspective was made at the time, findings on the socio-economic impact of climate change have largely informed the emerging debate about the relationship between human rights and climate change.²³⁷

The body tasked with implementing the UNFCCC’s objectives is the Conference of the Parties (COP) to the UNFCCC.²³⁸ In December 2010, the COP16 in Cancun saw the adoption of the Cancun Agreements.²³⁹ While the Cancun Agreements included several references to human rights and the human dimensions of climate change, the outcome of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention explicitly referred to HRC language as adopted in resolution 10/4 of 2009, thereby recognizing importance of human rights and its direct connection to climate change as well as the leadership role that HRC plays in the debate.²⁴⁰

Civil Society

Civil society organizations (CSOs) have played an essential role in the promotion of the young and fast-evolving international agenda of climate change and human rights.²⁴¹ Together with a number of vulnerable states and indigenous groups, CSOs have taken significant steps aimed at understanding those linkages and raising awareness for the issue by providing scientific expertise and legal advocacy.²⁴² The Inuit petition, for example, was submitted with the legal support of the independent Center for International Environmental Law and Earthjustice.²⁴³ Soon, a range of actors began to strengthen their efforts to understand the interface of climate change and human rights, including the International Council on Human Rights Policy and Oxfam International.²⁴⁴ These organizations provided legal advocacy for vulnerable groups, actively participated in the Social Forum of 2010, and conducted a range of scientific studies, many of which ultimately contributed to the OHCHR report 10/61.²⁴⁵

Effects on Specific Rights

Both the 2009 OHCHR report 10/61 and HRC resolution 10/4 specified “the right to life, the right to adequate food, the right to the highest attainable standard of health, the right to adequate housing, the right to self-determination, and human rights obligations related to safe drinking water and sanitation” as rights that are most directly threatened

²³⁴ UN HRC, *Human Rights and Climate Change (A/HRC/RES/26/27)*, 2015; UN HRC, *Human Rights and Climate Change (A/HRC/RES/29/15)*, 2015.

²³⁵ *United Nations Framework Convention on Climate Change*, 1992, p. 3; Intergovernmental Panel on Climate Change, *Organization*; UN HRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)*, 2009, p. 4.

²³⁶ Intergovernmental Panel on Climate Change, *First Assessment Report 1990 (AR1), Working Group II: Impacts Assessment of Climate Change*, 1990.

²³⁷ *United Nations Framework Convention on Climate Change*, 1992, p. 3; Intergovernmental Panel on Climate Change, *Organization*; UN HRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)*, 2009, p. 4.

²³⁸ *United Nations Framework Convention on Climate Change*, 1992, pp. 9-10.

²³⁹ UNFCCC, *The Cancun Agreements*.

²⁴⁰ UNFCCC, *Report of the Parties on its sixteenth session, held in Cancun from 29 November to 10 December 2010. Addendum Part Two: Action taken by the Conference of the Parties at its sixteenth session (FCCC/CP/2010/7/Add.1)*, 2011, p. 2.

²⁴¹ Limon, *Human Rights and Climate Change: Constructing a Case for Political Action*, 2009, p. 440.

²⁴² *Ibid.*

²⁴³ The Center for International Environmental Law, *Climate Change and Human Rights: A Primer*, 2013, p. 3.

²⁴⁴ International Council on Human Rights Policy, *Climate Change and Human Rights: A Rough Guide*, 2008; Oxfam International, *Climate Wrongs and Human Rights. Putting people at the heart of climate-change policy*, 2008.

²⁴⁵ UN OHCHR, *OHCHR study on the relationship between climate change and human rights: Submissions and reference documents received*, 2015.

by climate change.²⁴⁶ This was reflected by an extensive mapping report of the specific rights that are threatened by climate change compiled by the Independent Expert on human rights and the environment, which is a collection of all relevant parts of 14 different human rights treaties that relate to the issue of climate change.²⁴⁷

The increase of natural disasters caused by climate change has devastating effects on the enjoyment of the right to life, especially in developing countries.²⁴⁸ A number of observed or projected climate change effects as identified by the IPCC directly threaten human lives: heat-waves, floods, storms, and drought can all directly or indirectly cause disease, injury, malnutrition, and death.²⁴⁹ In order to address displacements and forced migration caused by climate change and natural disasters, the HRC has called for a human rights-based approach towards disaster management and risk reduction.²⁵⁰ As one of the most basic human rights, the right to food is severely threatened by projected decrease in crop productivity as a result of climate change.²⁵¹ How extreme climate events threaten livelihoods and food security has also been addressed by the Special Rapporteur on the right to food, demonstrating the need for cross-mandate action.²⁵² Closely linked to this is the right to a high standard of health.²⁵³ Climate change is projected to increase malnutrition and injury due to extreme weather phenomena, while rising temperatures are affecting the spread of infectious diseases such as malaria.²⁵⁴ This will affect the health of millions of people, especially in sub-Saharan Africa, South Asia, and the Middle East.²⁵⁵ The communities that are most at risk are those which are already suffering from poor health conditions and a lack of adaptive capacities.²⁵⁶ Confronting health issues in relation to climate change, therefore, requires a comprehensive approach that not only addresses climate change adaptation measures, but also non-climate related factors such as the general public health conditions of vulnerable communities.²⁵⁷ In order to gain further insights, the HRC, through resolution 29/15 (2015), requested OHCHR to conduct a study in collaboration with the Special Procedures and the World Health Organization and others on the connection between climate change and the enjoyment of the right to the highest attainable standard of health, which is to be presented at the HRC's 31st session in March 2016.²⁵⁸

Effects on Specific Groups

While the stated implications of climate change on human rights affect individuals and communities around the world, certain populations and countries are particularly vulnerable.²⁵⁹ Small island states, countries with low-lying coastal deltas, and those prone to floods and droughts are particularly in danger.²⁶⁰ These geographic vulnerabilities are made worse by the fact that these communities traditionally have lower capacities for adaptation measures as

²⁴⁶ UN HRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)*, 2009, p. 7; UN HRC, *Human Rights and Climate Change (A/HRC/RES/10/4)*, 2009.

²⁴⁷ UN OHCHR, *Mapping human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. Focus report on human rights and climate change*, 2014.

²⁴⁸ UN HRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)*, 2009, p. 8.

²⁴⁹ *Ibid.*

²⁵⁰ UN HRC, *Mandate of the Special Rapporteur on the human rights of internally displaced persons (A/HRC/RES/23/8)*, 2013, p. 3.

²⁵¹ UN HRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)*, 2009, pp. 8-10; UN General Assembly, *International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights (A/RES/21/2200 (XXI))*, 1966; UN General Assembly, *Convention of the Rights of the Child (A/RES/44/25)*, 1989.

²⁵² UN HRC, *Report of the Special Rapporteur on the right to food, Jean Ziegler (A/HRC/7/5)*, 2008, pp.19-20.

²⁵³ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights (A/RES/21/2200 (XXI))*, 1966.

²⁵⁴ UN HRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)*, 2009, p. 12.

²⁵⁵ *Ibid.*

²⁵⁶ *Ibid.*

²⁵⁷ *Ibid.*, p. 13.

²⁵⁸ UN HRC, *Human Rights and Climate Change (A/HRC/RES/29/15)*, 2015.

²⁵⁹ UN HRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)*, 2009, p. 7.

²⁶⁰ Limon, *Human Rights and Climate Change: Constructing a Case for Political Action*, 2009, pp. 446-447.

reaffirmed by HRC resolution 26/27 of 2015.²⁶¹ The Resolution places special emphasis on the situation of small island developing states and African countries, which are most vulnerable to climate change related human rights infringements but have historically contributed the least to global GHG emissions.²⁶² Several HRC Special Rapporteurs drafted the report *The Effects of Climate Change on the Full Enjoyment of Human Rights* on behalf of the April 2015 Climate Vulnerable Forum, which consists of a group of 20 countries that are most vulnerable to adverse climate change effects.²⁶³ The report was submitted to the COP of the UNFCCC, urging the future climate agreement strengthen efforts on behalf of the most vulnerable groups.²⁶⁴

Climate change exacerbates existing vulnerabilities that are based on gender, age, poverty, disabilities, and indigenous or minority status.²⁶⁵ Groups such as women, children, minorities, indigenous people, refugees and displaced persons, are disproportionately exposed to adverse effects of climate change.²⁶⁶ Women and children are especially affected by natural disasters because of preexisting gender-discrimination and vulnerabilities.²⁶⁷ In 2008 the Commission on the Status of Women recognized climate change as an emerging issue for women and it has been indicated that climate change will make health risks deepen, with primarily children in developing countries bearing the health burden.²⁶⁸ Extreme weather conditions and unsecure access to water have already led to high numbers of malnutrition and infant and child mortality.²⁶⁹ The impact on children's livelihoods will also deny many children their right to education.²⁷⁰ While children are disproportionately affected, girls will suffer even more because of pre-existing gender discrimination such as the need for girls to fulfill traditional household chores like collecting water and firewood, tasks which already take a high toll on their health.²⁷¹ In order to address these problems, the HRC has recommended in its key messages to the Rio+20 conference to underscore the role of women in climate change response activities by mainstreaming a gender perspective into sustainable development measures through gender-sensitive policies, equitable land and property governance, and education and training.²⁷²

Streamlining a Human Rights-Based Approach

The HRC has repeatedly highlighted the importance of a human rights-based approach towards climate change. HRC resolution 10/4 (2009) explicitly refers to a human rights-based approach by underscoring the potential of human rights obligations and commitments to inform policy-making in the area of climate change.²⁷³ A consistent human rights-based approach strives for the implementation of responses to climate change that do not infringe upon human rights and includes universal human rights standards and norms into any action or policy decision aimed at mitigating or adapting to climate change effects, be it the promotion of renewable energy, forest conservation, or resettlement schemes.²⁷⁴ This includes the participation of affected individuals and communities, especially the most vulnerable, in the design and implementation of the measures.²⁷⁵ Both mitigation and adaptation, the two main strategies to respond to climate change, bear the potential of infringing upon human rights.²⁷⁶ While mitigation aims

²⁶¹ Limon, *Human Rights and Climate Change: Constructing a Case for Political Action*, 2009, pp. 446-447; UN HRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)*, 2009, pp. 15-20; UN HRC, *Human Rights and Climate Change (A/HRC/RES/26/27)*, 2015.

²⁶² UN HRC, *Human Rights and Climate Change (A/HRC/RES/26/27)*, 2015.

²⁶³ UN OHCHR, *The Effects of Climate Change on the Full Enjoyment of Human Rights*, 2015.

²⁶⁴ *Ibid.*

²⁶⁵ UN HRC, *Human Rights and Climate Change (A/HRC/RES/10/4)*, 2009.

²⁶⁶ UN HRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)*, 2009, pp. 15-20.

²⁶⁷ *Ibid.*, pp. 15-16.

²⁶⁸ UN CSW, *Gender perspectives on climate change*, 2008; UN HRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)*, 2009, p. 16.

²⁶⁹ UN HRC I, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)*, 2009, p. 16.

²⁷⁰ *Ibid.*

²⁷¹ *Ibid.*

²⁷² UN OHCHR, *Rio plus 20: OHCHR's Key Messages*, 2012.

²⁷³ UN HRC, *Human Rights and Climate Change (A/HRC/RES/10/4)*, 2009.

²⁷⁴ Orellana, *A Human Rights-Based Approach to Climate Change*, 2012.

²⁷⁵ UN OHCHR, *Human Rights and Climate Change*, 2015.

²⁷⁶ *United Nations Framework Convention on Climate Change*, 1992; The Center for International Environmental Law, *Climate Change and Human Rights: A Primer*, 2013, p. 9.

at minimizing the extent of climate change itself through efforts to reduce and stabilize GHG emissions, adaptation refers to a set of practices that seek to strengthen the capacities and resiliencies of communities and ecosystems to adapt to adverse climate change effects.²⁷⁷ The production of agro-fuel is one example of mitigation adversely affecting the right to food: the intertwined markets for food, feed, and fuel contributed to the massive increase of food prices during the global food crisis in 2008.²⁷⁸

HRC Efforts to Promoting a Human Rights-Based Approach

In an effort to promote a rights-based approach in climate change discussions beyond the human rights framework, the HRC, its special procedures mechanisms, as well as the OHCHR have repeatedly made available its debates, studies, and open letters to the UNFCCC's COP sessions.²⁷⁹ Most recently, HRC Special Procedures mandate holders, independent experts on the full thematic spectrum, and a large number of NGOs have directly addressed the Ad-Hoc Working Group on the Durban Platform for Enhanced Action with open letters and, called for the inclusion of a human-based approach in any future climate agreement, including at the upcoming UNFCCC COP 21 to be held December 2015 in Paris.²⁸⁰ However, recommendations from the 2010 Social Forum to establish a Special Procedures mandate on climate change and human rights, which would provide more coherence within the human rights regime through enhanced coordination with other Special Procedure mandate holders, were not followed by action.²⁸¹ Thus, efforts aimed at streamlining a human-rights based approach towards climate change remain scattered and inconsistent.

A Human Rights-Based Approach within the SDGs

Goal 13 of the SDGs addresses climate change, and although the language does not contain any explicit reference to the human rights dimensions, the specific wording still provides for some interesting leverage points.²⁸² Target 3 of Goal 13 for example calls for the improvement of education, awareness-raising and human and institutional capacity on climate change mitigation and adaptation.²⁸³ Since the UNFCCC remains the primary body governing the trajectory of its climate change response measures, such education efforts could be used to streamline human rights perspectives into capacity building procedures.²⁸⁴

Conclusion

The past 10 years have seen a rapid development of the issue as it has been firmly established in the legal frameworks and practice of the international human rights regime. Following the increased public awareness and the work of the HRC as well as the OHCHR, the climate change framework under the UNFCCC has gradually adopted the language and perspective that the original Inuit Petition and the Malé Declaration initially put forward. However, with regard to the active and effective implementation of a human rights-based approach within the manifest practices and procedures of the UNFCCC, implementation efforts remain scattered. Against this background, it is vital for the HRC to use its human rights expertise and normative authority to further promote a human rights-based approach towards climate change. Further cooperation of the international entities involved in mainstreaming efforts, fostering existing partnerships and advising on the more intricate and complex matters related to the connection of climate change and human rights are all areas with remaining gaps both programmatically and normatively. Especially with regards to the issues of vulnerable groups such as women, displaced persons, and communities affected by geographic location more must be done. The Special Procedures mechanisms that are already in place can serve as excellent providers of expertise and best practices. However, the sheer number of

²⁷⁷ United Nations Framework Convention on Climate Change, 1992.

²⁷⁸ UN HRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)*, 2009, p. 22.

²⁷⁹ UN OHCHR, *Human Rights and Climate Change*, 2015.

²⁸⁰ UN OHCHR, *A new climate change agreement must include human rights protections for all. An Open Letter from Special Procedures mandate-holders of the Human Rights Council to the State Parties to the UN Framework Convention on Climate Change on the occasion of the meeting of the Ad Hoc Working Group on the Durban Platform for Enhanced Action in Bonn (20-25 October 2014)*, 2014; UN OHCHR, *Joint statement by UN Special Procedures on the occasion of World Environment Day (5 June 2015)*, 2015; UNFCCC, *Submission to the Ad-Hoc Working Group on the Durban Platform for Enhanced Action Calling for Human Rights Protections in the 2015 Climate Agreement*.

²⁸¹ UN HRC, *Report of the 2010 Social Forum (A/HRC/16/62)*, 2010, pp. 12-18; UN OHCHR, *Special Procedures: Thematic Mandates*.

²⁸² UN General Assembly, *Transforming our world: The 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2015.

²⁸³ *Ibid.*

²⁸⁴ Orellana, *A Human Rights-Based Approach to Climate Change*, 2012.



overlapping thematic mandates relating to climate change makes effective coordination a difficult task. Yet it is of utmost imperative that both the international community, under leader of the HRC continue to pursue this work.

Further Research

In preparing for this topic, delegates should consider both the mandate and limits of the HRC as well as the future possibilities for action. Such questions that should be considered are: How can the existing procedures and mechanisms of the HRC to exert influence on the climate change regime be utilized and strengthened? How can effective coordination between the Special Procedures mandates be ensured and improved? How can the cooperation set forth between the HRC, OHCHR and the secretariat of the UNFCCC be furthered and stabilized? Are there any further partnerships, be it with other international organizations, or public-private partnerships, that could be forged by the HRC? And finally: How can a comprehensive and coherent human-rights based approach to climate change be implemented and strengthened in a consistent manner, be it on international, regional, or national level?

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International Council on Human Rights Policy. (2008) *Climate Change and Human Rights: A Rough Guide*. Retrieved 21 July 2015 from: http://www.ohchr.org/Documents/Issues/ClimateChange/Submissions/136_report.pdf

The International Council on Human Rights Policy (IHRP) provides a forum for applied research, reflection, and thinking on matters of international human rights policy. This comprehensive report on a wide spectrum of human rights concerns raised by man-made climate change is primarily intended as a mapping exercise, laying out a range of research agendas that arise at the intersection of human rights and climate change. It provides a detailed scientific account of different views and perspective on the issue.

Limon, M. (2009). Human Rights and Climate Change: Constructing a Case for Political Action. *Harvard Environmental Review*, Vol. 33: 439-476. Retrieved 25 August 2015 from:

http://www.law.harvard.edu/students/orgs/elr/vol33_2/Limon.pdf

This journal article explores the topic of climate change and human rights from a historical as well as a political and analytical perspective. After a concise exploration of the history of the emergence of the issue, the author looks at the implications of HRC resolution 7/23 and OHCHR report 10/61 for the global climate change response measures. It then explores the question of the benefits and risks of a human rights-based approach within the climate change regime. Besides the very approachable summary of the historic events in regard to the topic at hand, the article also provides an interesting take on the connection between climate change and human rights.

Orellana, M. (2012). A Human Rights-Based Approach to Climate Change. In: Cifedhop (Coord. José Parra). *The Human Rights-Based Approach: A Field of Action for Human Rights Education*. Geneva: Cifedhop: pp. 53-63.

Retrieved 21 July 2015 from: http://www.ciel.org/Publications/HR_Approach_Climate_2012.pdf

Published by the International Training Center for Human Rights and Peace Teaching (Cifedhop), this paper provides a short and concise introduction to how a consistent human-rights approach towards climate change could look. It provides valuable information on how climate change policies and measures can affect human rights and offers solutions as to how a human rights perspective could be implemented within climate change approaches in an effective and equitable manner.

The Center for International Environmental Law. (2013). *Climate Change and Human Rights: A Primer*. Retrieved 21 July 2015 from: http://www.ciel.org/Publications/CC_HRE_23May11.pdf

As a non-profit organization, the Center for International Environmental Law (CIEL) is committed to strengthening and using international legal provisions in order to protect the environment and promote human rights, and it has been one of the most vocal advocacy group to promote the issue of human rights and climate change. This publication provides an in depth analysis of the linkage of human rights and climate change. This is an excellent resource to start independent research on the topic, as it provides a historic overview, a discussion of the main issue areas, as well as an exploration of the different actors and institutions involved.

United Nations Framework Convention on Climate Change. (2014). *First steps to a safer future: Introducing The United Nations Framework Convention on Climate Change* [Website]. Retrieved 25 August 2015 from:

http://unfccc.int/essential_background/convention/items/6036.php

The United Nations Framework Convention on Climate Change remains the international legal foundation for all activities governing climate change. This website provides a detailed introduction to the history, institutions and procedures of the Convention. An approachable navigation column offers an overview of all bodies, the historic background, and the scientific basis of the Convention. Additionally, the website offers a wide range of official documentation relevant to different climate change related themes.

United Nations, Human Rights Council, Seventh session. (2008). *Human Rights and Climate Change (HRC/RES/7/23)* [Resolution]. Retrieved 21 July 2015 from:

http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_7_23.pdf

This HRC resolution is the first international legal document that directly addresses the linkage of human rights and climate change. The resolution, adopted by acclamation, states that climate

change poses a far-reaching threat to communities around the world and has implications for the full enjoyment of human rights. Additionally, it requested the OHCHR conduct an analytical study on the climate and human rights linkage. It was this resolution that triggered the international debate on the topic and therefore can be understood as the international legal starting point of the topic.

United Nations, Human Rights Council, Tenth session. (2009). *Human Rights and Climate Change (A/HRC/RES/10/4)* [Resolution]. Retrieved 21 July 2015 from:

http://ap.ohchr.org/Documents/E/HRC/resolutions/A_HRC_RES_10_4.pdf

HRC resolution 10/4 was adopted within a month after the publication of OHCHR Report 10/61. The Resolution reaffirms and expands the content of the first resolution, HRC resolution 7/23. However, its importance lies in the reference and articulation to central findings of the OHCHR report. It can be considered as a more scientifically informed version of resolution 7/23 and contains references to the importance of a human rights-based approach towards climate change. Moreover, it addresses the exacerbated effects of climate change on vulnerable populations. Wording and language of this resolution coined the ongoing and evolving debate on the issue.

United Nations, Human Rights Council, Tenth session. (2009). *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)*.

Retrieved 21 July 2015 from: <http://undocs.org/A/HRC/10/61>

Following the first HRC resolution on climate change, this OHCHR report puts the different aspects of climate change in a human rights perspective. The study was drafted in consultation with a wide range of stakeholders and institutions, taking into account different views of Member States as well as the International Panel on Climate Change and the United Nations Framework Convention on Climate Change. The study provides the first in-depth UN report on the issue and is therefore a quintessential resource for the understanding of the topic and how it has been framed and discussed within the UN system.

United Nations Office of the High Commissioner for Human Rights. (2015). *Human Rights and Climate Change* [Website]. Retrieved 21 July 2015 from:

<http://www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/HRClimateChangeIndex.aspx>

The website of the OHCHR offers short summaries to specific human rights issues, including the issue of human rights and climate change. This website not only provides a concise summary of the issue and what has happened so far, but also features a valuable list of short links to relevant documents and other websites. A recent update of the page includes a short introduction to the concept of a human rights-based approach and highlights the actions taken by the HRC in this regard. This website serves as an excellent starting point for further research on this vital topic.

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III. The Realization of Rights of Persons with Disabilities

“For too long, they have been invisible...denied opportunity, victimized by prejudice, and excluded from everyday activities of society.”²⁸⁵

Introduction

Over 15% of the world population suffers from disability, with approximately 200 million people experiencing a highly restrictive form of disability.²⁸⁶ Persons with disabilities face widespread discrimination and marginalization; compared with non-disabled people, they experience higher rates of poverty, lower educational achievements, less legal protection, poorer health outcomes and less political and cultural participation.²⁸⁷ Disability is a multidimensional, dynamic, and contested concept.²⁸⁸ It has many forms and is addressed differently by individuals, Member States, and international organizations.²⁸⁹ Disability is defined by the World Health Organization (WHO) as, “any restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or within the range considered normal for a human being.”²⁹⁰ According to WHO, disability has two common forms, mental and physical.²⁹¹ Mental disability is any impairment or disability tied to the cognitive ability of the brain, which includes a wide variety of disorders from schizophrenia to depression to severe intellectual disability.²⁹² Physical disability is any structural impairment to the human body.²⁹³ While physical disability seems simpler to define than mental disability, the medical nature of its definition is extremely broad, encompassing disabilities that society traditionally recognizes, such as birth defects, loss of limbs, and also disabilities that do not fit into society’s typical understanding such as the need for glasses.²⁹⁴ In recognition of the discrimination and exclusion that persons with disabilities face throughout the world, the United Nations (UN) General Assembly adopted the *Convention on the Rights of Persons with Disabilities* (CRPD) in 2006, which marked a shift from the treatment of disability as a medical and charity issue towards a human rights-based approach that recognizes the social dimensions of disability.²⁹⁵ Reflecting this increased focus on social barriers as the main obstacles for persons with disabilities, the CRPD introduces disability as an evolving concept that is innately tied to the relation or the interaction between the impairment of persons and the social environment surrounding them; it is this relation, and not the physical condition alone, which hinders their full and effective participation in society.²⁹⁶

The current human rights situation of persons with disabilities is substantially better than in the past but is still far from ideal.²⁹⁷ The UN Human Rights Council (HRC) has shown strong commitment to the realization of the human rights of persons with disabilities since the 1970s, even establishing a Special Rapporteur mandate on the issue in 2012.²⁹⁸ The HRC’s current focus is primarily: the right to independence, the right to education and economic involvement, and the freedom from violence.²⁹⁹

International and Regional Framework

The foundational document of the international human rights regime is the *Universal Declaration of Human Rights* (UDHR) (1948).³⁰⁰ While the UDHR did not specifically target the rights of persons with disabilities, it did establish

²⁸⁵ Kennedy, *Statement of Senator Kennedy Praising Senate Passage of the Americans With Disabilities Act*, 1989.

²⁸⁶ UN DESA, *Factsheet on Persons with Disabilities*, 2015.

²⁸⁷ WHO, *World Report on Disability*, 2011, p. 9.

²⁸⁸ UN General Assembly, *World Program of Action concerning Disabled Persons*, 1982; WHO, *World Report on Disability*, 2011, pp. 3-4.

²⁸⁹ *Ibid.*

²⁹⁰ UN General Assembly, *World Program of Action concerning Disabled Persons*, 1982.

²⁹¹ WHO, *World Report on Disability*, 2011, pp. 3-13.

²⁹² *Ibid.*

²⁹³ *Ibid.*

²⁹⁴ *Ibid.*

²⁹⁵ UN General Assembly, *Convention on the Rights of Persons with Disabilities*, 2006.

²⁹⁶ WHO, *World Report on Disability*, 2011, pp. 3-13.

²⁹⁷ UN HRC, *The Rights of Persons with Disabilities to live independently and be included in the community on an equal basis with others (A/HRC/RES/28/4)*, 2015.

²⁹⁸ UN HRC, *Report of the Special Rapporteur on the Rights of persons with disabilities, Catalina Devandas-Aguilar*, 2015.

²⁹⁹ UN HRC, *The Rights of Persons with Disabilities to live independently and be included in the community on an equal basis with others (A/HRC/RES/28/4)*, 2015.

³⁰⁰ UN General Assembly, *Universal Declaration of Human Rights*, 1948.

the universality of human rights that would later inform policies of the international system on the realization of the rights of persons with disabilities.³⁰¹ *The Declaration on the Rights of Disabled Persons* (1975), formed the first international document on the rights of the persons with disabilities; it highlighted such rights as the right to human dignity and the right to medical care, which have been cornerstones of the international human rights regime since the initial declaration.³⁰² *The World Programme of Action concerning Disabled Persons* (1982), established the areas of prevention, rehabilitation and the equality of opportunities as the UN's primary focus, the last of which developed into the major push for the recognition of the human rights of persons with disabilities.³⁰³

Both texts documents were used to help develop the current guiding document and legal foundation on the rights of persons with disabilities: the 2006 CRPD.³⁰⁴ The Convention, ratified by 157 Member States, established the global standard for treatment of persons with disabilities, and prescribed the protection of the human rights of persons with disabilities.³⁰⁵ A major paradigm shift that is brought forth in the Convention is the focus on equity, namely those persons with disabilities need additional services and support to have the same standard of life as those without disability.³⁰⁶ The Convention guarantees a variety of rights, including civil, cultural, economic, social, and political rights, to persons with disabilities that in many cases had not previously been fully realized by the UN Member States.³⁰⁷ While many of these rights have long been recognized by existing human rights treaties, the CRPD makes those universal rights specific to persons with disabilities, thereby making those persons visible in a human rights context.³⁰⁸ The CRPD thus comprises the most comprehensive recognition of the rights of persons with disabilities, and as such represents an innovative human rights treaty with explicit development dimensions.³⁰⁹ However, some key states have yet to ratify the Convention, and only a few Member States have the level of capacity needed to fully implement and/or enforce the Convention.³¹⁰ The Convention is accompanied by the *Optional Protocol to the Convention on the Rights of Persons With Disabilities*, which provides for a complaint and inquiry procedure in cases of grave violations of the Convention.³¹¹

While the rights of persons with disabilities have been discussed regularly within the international system, the UN's key development agenda of the 21st century, the Millennium Development Goals, held no mention of disability issues.³¹² This has since been remedied in the Sustainable Development Goals (SDGs), which underscored that development must address the subject.³¹³ Within the SDGs, the UN has expanded its framework on the rights of persons with disabilities to include specific references to persons with disabilities in Goals 4, 8, 10, 11, and 17, particularly focusing on issues related to inclusive education, employment, accessibility within human settlements, as well as the role of data collection and monitoring.³¹⁴

Role of the International System

The UN and many of its subsidiary bodies have been highly involved in the promotion of the rights of persons with disabilities.³¹⁵ Most recently the General Assembly (GA) focused on economic rights and highlighted the need for regional and south-south cooperation.³¹⁶ The Economic and Social Council echoed this focus while also highlighting oversight strategies for promoting the rights of persons with disabilities.³¹⁷ The Special Rapporteur on the Rights of

³⁰¹ UN General Assembly, *Universal Declaration of Human Rights*, 1948.

³⁰² UN General Assembly, *Declaration of the rights of Disabled Persons*, 1975.

³⁰³ UN General Assembly, *World Program of Action concerning Disabled Persons*, 1982.

³⁰⁴ UN General Assembly, *Convention on the Rights of Persons with Disabilities*, 2006.

³⁰⁵ *Ibid.*

³⁰⁶ *Ibid.*

³⁰⁷ *Ibid.*

³⁰⁸ WHO, *World Report on Disability*, 2011, p. 9.

³⁰⁹ *Ibid.*, pp. 9-10.

³¹⁰ UN HRC, *Report of the Special Rapporteur on the Rights of persons with disabilities, Catalina Devandas-Aguilar*, 2015.

³¹¹ UN General Assembly, *Optional Protocol to the Convention on the Rights of Persons With Disabilities*, 2006.

³¹² Millennium Project, *About MDGs: What they are*, 2000.

³¹³ UN DESA, *Factsheet on Persons with Disabilities*, 2015

³¹⁴ UN General Assembly, *Transforming Our World: The 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2015.

³¹⁵ WHO, *World Report on Disability*, 2011, pp. 3-13.

³¹⁶ UN General Assembly, *Realizing the Millennium Development Goals and other internationally agreed development goals for persons with disabilities towards 2015 and beyond (A/RES/69/142)*, 2014.

³¹⁷ UN ECOSOC, *Promoting the rights of persons with disabilities and strengthening the mainstreaming of disability in the post-2015 development agenda (E/RES/2015/4)*, 2015.

Persons with Disabilities, established through HRC resolution 26/20 of 2014, works to design programs for people with disabilities.³¹⁸ The Special Rapporteur serves as the administrative head on this issue, providing policy directives and identifying programs for national governments and the international community to implement.³¹⁹

But it is the HRC that takes a leadership role in the development of policy recommendations regarding the issue.³²⁰ In its most recent sessions the HRC produced a significant variety of documents on the issue.³²¹ These include HRC report 28/37 of 2015, which stresses the role of inclusion into the community as an essential aspect of the realization of the rights of persons with disabilities and resolution 28/4 (2015) that highlights the need to address the findings and implement the recommendations report. 28/37.³²² HRC report 28/58 (2015), drafted by the Special Rapporteur on the rights of persons with disabilities, reaffirms the HRC's focus on promoting policy change and capacity-building of Member States to promote the human rights of persons with disabilities.³²³ HRC report 27/65 (2014) focuses specifically on the issues facing indigenous peoples with disabilities.³²⁴ Finally, the HRC works to promote domestic policy changes concerning the human rights of persons with disabilities within Member States.³²⁵ For example the HRC has regularly advocated for the implementation of a review panel for the CRDP, which has yet to be implemented due to disagreements over its design.³²⁶

The CRPD has also led to an increased attention on a variety of other UN programs, funds, and agencies to promote the rights of persons with disabilities.³²⁷ The UN Development Programme, for example, works to support national programs, aimed at providing these rights.³²⁸ WHO has developed partnership programs with Member States designed to improve health care for persons with disabilities, which include better mental health, expanding access to prosthetics, and increased regular checkups.³²⁹ Together with the UN Population Fund, WHO works to expand the sexual and reproductive rights of persons with disabilities.³³⁰ Finally, the International Labour Organization has established a labor inclusion policy for persons with disabilities.³³¹ Additionally, much work is done by non-governmental organizations (NGOs) in the promotion of the rights of persons with disabilities; for example Handicap International advocates for universal recognition of rights of persons with disabilities and partners with local groups to provide necessary and essential services to individuals with disabilities.³³² Additionally, the African Disability Alliance partners with the African Union to provide services to persons with disabilities in Africa.³³³ The HRC and other UN bodies also work regularly with NGOs and local governments to coordinate services to ensure persons with disabilities have access to state services, including education, public transportation as well as community services.³³⁴ In order to coordinate the efforts of the many different UN entities and NGOs working on the issue, two inter-agency mechanisms have been established: the *Inter-Agency Support Group on the Convention of the Rights of Persons with Disabilities* and the *UN Partnership to Promote the Rights of Persons with*

³¹⁸ UN HRC, *Special Rapporteur on the Rights of persons with disabilities (A/HRC/RES/26/20)*, 2014; UN OHCHR, *Special Rapporteur on the Rights of Persons with Disabilities*, 2015.

³¹⁹ UN OHCHR, *Special Rapporteur on the Rights of Disabilities*, 2015.

³²⁰ UN HRC, *Thematic Study on the Rights of Persons with Disabilities to live independently and be included in the community (A/HRC/28/37)*, 2015.

³²¹ *Ibid.*

³²² *Ibid.*; UN HRC, *The Rights of Persons with Disabilities to live independently and be included in the community on an equal basis with others (A/HRC/RES/28/4)*, 2015.

³²³ UN HRC, *Report of the Special Rapporteur on the Rights of persons with disabilities, Catalina Devandas-Aguilar (A/HRC/28/58)*, 2015.

³²⁴ UN HRC, *Access to justice in the promotion and protection of the rights of indigenous peoples: restorative justice, indigenous juridical systems and access to justice for indigenous women, children and youth, and persons with disabilities (A/HRC/27/65)*, 2014.

³²⁵ *Ibid.*

³²⁶ WHO, *World Report on Disability*, 2011.

³²⁷ UN HRC, *Report of the Special Rapporteur on the Rights of persons with disabilities, Catalina Devandas-Aguilar (A/HRC/28/58)*, 2015.

³²⁸ UNDP, *Disability Rights*, 2015.

³²⁹ WHO, *WHO Director General's Message on the International Day of Persons with Disabilities 2014*, 2014.

³³⁰ UNFPA, *Sexual and Reproductive Health*, 2015.

³³¹ ILO, *ILO's Inclusion Strategy and Action Plan 2014-17*, 2014.

³³² Handicap International, *About*, 2015.

³³³ African Disability Alliance, *Programmes*, 2015.

³³⁴ WHO, *World Report on Disability*, 2011.

Disabilities.³³⁵ By bringing in the expertise of different stakeholders on various levels, those mechanisms support capacity-development and coalition-building in order to facilitate the full implementation of the CRPD.³³⁶

Increasing Independence of Persons with Disabilities

The right to control one's own life, the freedom of movement, to engage in society socially, economically and politically are often taken for granted by those without disabilities.³³⁷ These rights are recursive, meaning that an increased presence of persons with disabilities in the community elevates the level of social acceptance while decreasing discrimination itself.³³⁸ However, for persons with disabilities these rights have yet to be realized universally due to social stigma and physical barriers.³³⁹

Deinstitutionalization

A major barrier to the realization of human rights for persons with disabilities is forced institutionalization and separation; these are when persons with disabilities are required or forced to be confined to medical institutions or separate communities.³⁴⁰ A cornerstone of the HRC's current policy is deinstitutionalization, or the removal of persons with disabilities, especially mental disabilities, from asylums, mental hospitals, and separate communities, and their re-integration into society.³⁴¹ The choice to institutionalize a person with a disability is rarely made by the person with the disability; rather, families or the government will often decide if a person is to be confined to an institution.³⁴² In order to support the policy of deinstitutionalization, two things must happen according to the HRC: the person with the disability must be allowed to decide on their living conditions, and those who serve as caregivers to persons with disabilities must receive the appropriate social and economic support.³⁴³

To support this policy, the HRC has provided policy recommendations to Member States.³⁴⁴ One example are the *Standard Rules on the Equalization of Opportunities for Persons with Disabilities* (1993), which have helped guide developed and developing countries alike to eliminate or substantially reform their institutional practices through rules towards accessibility (Rule 5), the preservation of family life and personal integrity (Rule 9), and ensuring income and social security (Rule 8).³⁴⁵ These rules have led to a marked shift in institutionalization practices in many high-income or transitioning countries.³⁴⁶ For example, some countries in Europe, especially in Eastern Europe, have moved to a community model of disability care, wherein the person with a disability remains in the care of their family or is placed into a non-restrictive group home that provides the needed care.³⁴⁷ However, these changes to policy are not common in least developed countries (LDCs) due to several factors.³⁴⁸ First, both the process of deinstitutionalization and the operating of community-based programs are more costly, thus states with fewer resources for implementing community-based programs have limited ability to implement this process.³⁴⁹ Second, in developing countries disability services generally lack regulatory oversight, which requires reform of often large and complex systems.³⁵⁰ Therefore, more must be done in all Member States to support de-institutionalization policies and specifically, to assist LDCs and other developing countries grow and successfully pursue such programs and policies.

³³⁵ UN HRC, *Report of the Special Rapporteur on the Rights of persons with disabilities, Catalina Devandas-Aguilar* (A/HRC/28/58), 2015.

³³⁶ *Ibid.*

³³⁷ UN HRC, *Thematic Study on the Rights of Persons with Disabilities to live independently and be included in the community* (A/HRC/28/37), 2014.

³³⁸ *Ibid.*

³³⁹ *Ibid.*

³⁴⁰ *Ibid.*

³⁴¹ *Ibid.*

³⁴² *Ibid.*

³⁴³ *Ibid.*

³⁴⁴ UN HRC, *Report on activities undertaken to support efforts by states to promote and protect the rights of persons with disabilities in their national legislation, policies and programmes. Report of the Office of the High Commissioner for Human Rights* (A/HRC/26/24), 2014.

³⁴⁵ UN General Assembly, *Standard Rules for the Equalization of Opportunities for Persons with Disabilities* (A/RES/48/96), 1993; WHO, *World Report on Disability*, 2011, pp. 147-150.

³⁴⁶ WHO, *World Report on Disability*, 2011, pp. 147-150.

³⁴⁷ *Ibid.*

³⁴⁸ *Ibid.*

³⁴⁹ *Ibid.*

³⁵⁰ *Ibid.*

Inclusion in the Community and the Availability of Services

To increase the independence of persons with disabilities it is important that they have the necessary support to have equal access to the community both socially and physically.³⁵¹ As cities expand and develop, especially in developing countries and LDCs, there is an imperative need to make the city's services, facilities, transportation, and public spaces accessible to persons with disabilities.³⁵² Without access to these physical aspects of society, a person with a disability does not have the ability to be truly independent and is thus unable to exercise their right to live how they choose.³⁵³ In addition to the physical ability to engage in the community, there are many social barriers that hinder the integration of persons with disabilities into their communities.³⁵⁴ While social opinion of persons with disabilities varies greatly between cultures, regions, and individuals, persons with disabilities are often viewed in many communities as second-class citizens, sometimes even feared, as is often the case for individuals with a disease or with a mental disability.³⁵⁵ Thus, the international community has regularly supported domestic policies that are responsive to these issues.³⁵⁶ In terms of transportation, for example, the UN Program on Disabilities advocates for universal designs for public transportation vehicles so that persons with disabilities have consistent access to public transport.³⁵⁷

While developed and most middle-income developing countries have seen progress with this approach, there are limitations that hinder LDCs from implementing these policy changes.³⁵⁸ These policies require extensive regulations and funding; therefore, states that are highly decentralized, in conflict, or that have underdeveloped tax and financial institutions face major restrictions on implementation of these policies.³⁵⁹ Existing community support for persons with disabilities, such as family and religious organizations, is a tool that can be employed to improve the situation of individuals with disabilities.³⁶⁰ Through increased visibility in the community, persons with disabilities can expedite the reduction in discrimination, as exposure has been shown to be a successful way to reduce such discrimination within societies.³⁶¹

The Right to Education

The UN has repeatedly identified the right to education as a basic human right, specifically in Article 26 of the UDHR.³⁶² Further, Article 24 of the CRPD reinforced this right as it pertains to persons with disabilities.³⁶³ The UN Education, Scientific and Cultural Organization has called for the inclusion of children with disabilities in compulsory education, the provisioning of these children with the tools and support necessary to learn, and for educators to be properly trained to educate children with disabilities.³⁶⁴ While the right to education is stressed, it is far from being universally realized.³⁶⁵ Currently, 90% of children with disabilities do not attend school, primarily due to the high cost of education in developing countries where investing in the education of children with disabilities is not highly valued by many.³⁶⁶

³⁵¹ UN HRC, *The Rights of Persons with Disabilities to live independently and be included in the community on an equal basis with others (A/HRC/RES/28/4)*, 2015.

³⁵² *Ibid.*

³⁵³ UN HRC, *Thematic Study on the Rights of Persons with Disabilities to live independently and be included in the community (A/HRC/28/37)*, 2015.

³⁵⁴ *Ibid.*

³⁵⁵ *Ibid.*

³⁵⁶ UN HRC, *Report on activities undertaken to support efforts by states to promote and protect the rights of persons with disabilities in their national legislation, policies and programmes. Report of the Office of the High Commissioner for Human Rights (A/HRC/26/24)*, 2014.

³⁵⁷ WHO, *World Report on Disability*, 2011, pp. 170-178.

³⁵⁸ *Ibid.*, pp. 147-150.

³⁵⁹ *Ibid.*, pp. 147-150.

³⁶⁰ UN HRC, *Thematic Study on the Rights of Persons with Disabilities to live independently and be included in the community (A/HRC/28/37)*, 2015.

³⁶¹ *Ibid.*

³⁶² UN General Assembly, *Universal Declaration of Human Rights*, 1948.

³⁶³ UN General Assembly, *Convention on the Rights of Persons with Disabilities*, 2006.

³⁶⁴ UNESCO, *People With Disabilities*, 2015.

³⁶⁵ *Ibid.*

³⁶⁶ *Ibid.*

The HRC is currently promoting inclusive education policies for children with disabilities, through which students with disabilities attend school alongside students without disabilities.³⁶⁷ The HRC recommends the implementation of free, or nearly free, open education that is inclusive and provides reasonable accommodation to those students with disabilities.³⁶⁸ A global model for the education of children with disabilities is the Individuals with Disabilities Education Act (IDEA) of the United States of America.³⁶⁹ Under IDEA, all public schools are required to meet the needs of children with disabilities in the least restrictive way and it is illegal to refuse enrollment to a student in any publicly funded school.³⁷⁰ Students with exclusively physical disabilities must be included in regular classes, and all school facilities must be accessible.³⁷¹ For students with mental disabilities, extensive interventions and protections are provided, and they retain the right to receive free education until their 23rd birthday.³⁷² For developing countries and in particular, LDCs, funding for programs like IDEA is one substantial limitation.³⁷³ Additional limitations on implementation include the high expenditures of providing teachers with the appropriate training to meet the needs of these students, as well as the accessibility of schools.³⁷⁴ Current work of the HRC in addressing these problems has focused on recommending to individual Member States specific policy that would be effective, however, support from regional NGO's have seen more practical success in their direct action.³⁷⁵

Violence Against Persons with Disabilities

The CRPD establishes in Article 16 “the right from exploitation, violence, and abuse.”³⁷⁶ While throughout the UN system many bodies have worked towards the realization of this right, success has been limited.³⁷⁷ Violence against persons with disabilities has many different facets, ranging from domestic violence, assault and rape, to violence perpetrated by security and police forces.³⁷⁸ Due to its complex and multifaceted nature, violence against persons with disabilities is difficult to address with one broad policy change; instead there has been a focus of addressing individual issues within Member States and expanded best practices.³⁷⁹

Abuse of persons with disabilities by their caregivers is also a common occurrence.³⁸⁰ For example, children with disabilities are abused at a 1.7 times higher rate than their peers without disabilities.³⁸¹ Persons with disabilities also experience more frequent instances of rape, with less police investigation, legal protection, and preventative care.³⁸² Currently, the HRC is working with individual Member States to promote an internal cultural shift.³⁸³ For example, in Uganda the HRC is working to address treatment of persons with mental disabilities through trainings and legislative change, which has shown promise in its early stages.³⁸⁴ Moreover, a special focus of the international system has been violence against women with disabilities.³⁸⁵ The General Assembly has established a set of recommendations for changes to legal policy and services towards this issue in order to eliminate legal loopholes and ensure appropriate medical and community response to such violence.³⁸⁶

³⁶⁷ UN HRC, *Report of the Special Rapporteur on the Rights of persons with disabilities, Catalina Devandas-Aguilar (A/HRC/28/58)*, 2015.

³⁶⁸ UN HRC, *The Right to Education for Persons With Disabilities (A/HRC/RES/25/20)*, 2014.

³⁶⁹ United States, *Individuals with Disabilities Education Act*, 1990.

³⁷⁰ *Ibid.*

³⁷¹ *Ibid.*

³⁷² *Ibid.*

³⁷³ UNESCO, *People With Disabilities*, 2015.

³⁷⁴ *Ibid.*

³⁷⁵ UN OHCHR, *Thematic Study on the Right of Persons with disabilities to Education*, 2015.

³⁷⁶ UN General Assembly, *Convention on the Rights of Persons with Disabilities*, 2006.

³⁷⁷ UN DESA, *Factsheet on Persons with Disabilities*, 2015

³⁷⁸ *Ibid.*

³⁷⁹ *Ibid.*

³⁸⁰ *Ibid.*

³⁸¹ *Ibid.*

³⁸² *Ibid.*

³⁸³ UN HRC, *Report on activities undertaken to support efforts by states to promote and protect the rights of persons with disabilities in their national legislation, policies and programmes. Report of the Office of the High Commissioner for Human Rights (A/HRC/26/24)*, 2014.

³⁸⁴ *Ibid.*

³⁸⁵ UN General Assembly, *Report of the Special Rapporteur on violence against women, its causes and consequences (A/67/150)*, 2012.

³⁸⁶ UN General Assembly, *Report of the Special Rapporteur on violence against women, its causes and consequences (A/67/150)*, 2012.



Conclusion

In order to fully realize the human rights of persons with disabilities, many cross-cutting issues must be considered, including the right to education, the right to independence, and the right to be free from violence. Both lack of funding and lack of regulation contribute substantially to many states being unable to provide or protect the human rights of persons with disabilities. Because of the limitations each issue faces, overarching themes must be considered in a layered effect. For example, addressing the cultural acceptance of persons with disabilities first will make it easier to address increasing public participation in various programs and policies because cultural acceptance is a key element of participation and support. Additionally, moving forward the HRC should look towards how to resolve the fiscal barriers to implementing these policies through increased international and regional cooperation. While it is known what policies work well in the promotion of the rights of persons with disabilities, many states are still unable to implement such policies. Thus, the HRC is in a unique position to support their rights through the expansion of policy recommendations to incorporate best practices, lessons learned, and innovative solutions to this issue.

Further Research

When researching their respective Member State's policies towards human rights and the rights of persons with disabilities delegates should address the the following questions: How can the HRC identify and implement best practices for the preservation and realization of the human rights of persons with disabilities? How can the HRC expand ratification of the *Convention on the Rights of Persons with Disabilities*? How can addressing specific rights violations improve the situation of other human rights issues for persons with disabilities? How can best practices of Member States be implemented in states struggling with expanding human rights programs for persons with disabilities in a manner that is both feasible and culturally aware? In what way can such programs be economically and fiscally beneficial? What more can be done to protect persons with disabilities from acts of violence, particular women and children?

Annotated Bibliography

International Labor Organization. (2015). *Disability and Work* [Website]. Retrieved 20 August 2015 from: <http://www.ilo.org/global/topics/skills-knowledge-and-employability/disability-and-work/lang--en/index.htm>

The ILO demonstrates on this website the role that work plays in the fulfillment of human rights as well as the need for persons with disabilities to find work. This site explains briefly the different programs that the ILO has implemented and explains the importance of those programs. Increased employment of persons with disabilities is a major indicator of the success of the programs that expand their human rights. Delegates should be highly aware of any increases in employment to mark if a program is successful.

Quinn, G. & T. Degener. (2002). Human Rights and Disability. *Office of the High Commissioner for Human Rights*. Retrieved 22 July 2015 from: <http://www.ohchr.org/Documents/Publications/HRDisabilityen.pdf>

This report is an excellent starting point for delegates; it provides the basic background and explains how disability interacts with human rights. It was written at a time when the debate on the issue accelerated, reflecting the efforts of the time to explore the potential of the UN system in taking the next step from a soft law framework towards a legally binding human rights treaty. Those efforts eventually resulted into the Convention on the Rights of Persons with Disabilities. Delegates should review this document to better acquaint themselves with the history of the topic and prepare themselves to debate the issue more fully. The report provides extensive background on the issue of disability and human rights and is essential for the understanding of the topic, how it evolved, and how it has been framed and discussed within the UN.

United Nations, Department of Economic and Social Affairs, Secretariat for the Convention on the Rights of Persons with Disabilities. (2007). *Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities* [Report]. United Nations Enable. Retrieved 22 July 2015 from: <http://www.ipu.org/PDF/publications/disabilities-e.pdf>

This document looks at the Convention on the Rights of Persons with Disabilities and explains its core tenants and policy frameworks in a manner useful to those who are developing domestic and international policy concerning the Convention. This is useful to delegates as it will support their understanding of the convention. It provides details on implementation strategies for Member States which can serve as a basis of research for delegates.

United Nations, Department of Economic and Social Affairs, Secretariat for the Convention on the Rights of Persons with Disabilities. (2015). *Sustainable Development Goals and Disability* [Website]. Retrieved 22 July 2015 from: <http://www.un.org/disabilities/default.asp?id=1618>

This website describes how the newly developed Sustainable Development Goals (SDGs) includes a perspective on the human rights of persons with disabilities. The five goals within the SDGs that address human right of persons with disabilities focus on economic rights and community involvement. These goals will help delegates in understanding some aspects of the future development goals of the United Nations in regards to persons with disabilities.

United Nations, General Assembly. (2006). *Convention on the Rights of Persons with Disabilities (A/RES/61/106)*. Retrieved 22 July 2015 from: www.un.org/disabilities/default.asp/default.asp?id=259

The Convention on the Rights of Persons with Disabilities provides the international legal foundation on the issue and serves as the basis of all international policy towards the rights of people with disabilities. Emphasizing a rights-based approach towards disabilities, this foundational document can be regarded as a human rights instrument with an explicit social development dimension. It catalyzed a shift in the treatment of persons with disabilities as objects of medical attention towards viewing them subjects with human rights and agency. The treaty foremost defines what disability means to the international system and to the states which ratify the treaty. Additionally, the treaty describes in great detail all of the areas in which the rights of persons with disabilities are guaranteed. Delegates should use this document as the basis of their research and look into areas that can improve implementation.

United Nations, Human Rights Council, Twenty-sixth session. (2014). *Report on activities undertaken to support efforts by states to promote and protect the rights of persons with disabilities in their national legislation, policies*

and programmes. *Report of the Office of the High Commissioner for Human (A/HRC/26/24)*. Retrieved 20 September 2015 from: <http://undocs.org/A/HRC/26/24>

This study reports on the activities undertaken by the OHCHR, the UN Partnership to Promote the Rights of Persons with Disabilities and other entities to support implementation efforts within the national legislation and policies of Member States. The document is useful to delegates in two ways: First, it provides them with a variety of different policy actions that can be studied and improved upon and expanded during their work. Second, if the state they represent partners with the HRC and the OHCHR, it will be included on this document, assisting them with their country specific research.

United Nations, Human Rights Council, Twenty-eighth session. (2015). *Report of the Special Rapporteur on the Rights of persons with disabilities, Catalina Devandas-Aguilar (A/HRC/28/58)*. Retrieved 22 July 2015 from: <http://undocs.org/A/HRC/28/58>

As a policy report of the special rapporteur on the topic this will help delegates guide their positions and proposals to be in line with the existing ideas held by the HRC. The document most importantly describes the mandate of the Special Rapporteur, who conducts most of the business of the HRC on the issue of the rights of persons with disabilities. Moreover, it defines the foundation for a human rights-based approach. Delegates will profit by learning about key terms and definitions. In order to address the topic adequately it is key to be familiar with the framework of the Rights of persons with disabilities.

United Nations, Human Rights Council, Twenty-eighth session. (2015). *Thematic Study on the Rights of Persons with Disabilities to live independently and be included in the community (A/HRC/28/37)*. Retrieved 22 July 2015 from: <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Pages/ListReports.aspx>

This report explains the current situation affecting the rights of persons with disabilities. Additionally, the report looks at what existing programs are in place and discusses their successes. This report furthermore highlights the areas of deinstitutionalization and social participation as specific targets of the HRC. Using this knowledge delegates can look towards what programs can be expanded or reformed in the future in order to improve rights of people with disabilities.

United Nations, Office of the High Commissioner for Human Rights. (2010). *Monitoring the Convention on the Rights of Persons with Disabilities [Training Material]*. Retrieved 22 July 2015 from: <http://www.refworld.org/docid/4eca07b82.html>

This document explains how the international system is to monitor the implementation of the Convention on the Rights of Persons with Disabilities. This document also explains how to work with people with disabilities, which will help delegates understand the preferred terminology of the UN and to better understand the negative attitudes and prejudices towards people with disabilities.

World Health Organization. (2011). *World Report on Disability [Report]*. Retrieved 20 August 2015 from: http://www.who.int/disabilities/world_report/2011/report.pdf

This report by the World Health Organization provides a detailed explanation of the term and the concept of disability and the current global situation concerning disability. While this document is a public health document, delegates will find it useful to develop their understanding of the health aspects of disability which are closely intertwined with the issue of the human rights of persons with disabilities. The report covers a wide array of topics from defining the term, a global perspective, general health care, rehabilitation, and assistance and support. This is a comprehensive source and delegates will profit from it by using it as a compendium.

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