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Human Rights Council Background Guide 2020

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Dear Delegates,

Welcome to the 2020 National Model United Nations New York Conference (NMUN•NY)! We are pleased to introduce you to our committee, the Human Rights Council (HRC). This year's staff is: Directors Kiki Tamis-Noordman (Conference A) and Yannick Stiller (Conference B), and Assistant Directors Alexandra Bogdasarow (Conference A) and Kimberly Sanchez (Conference B). Kiki is currently pursuing an LLB in International and European Law at the Hague University of Applied Sciences. Yannick completed his MSc in International Political Economy at the London School of Economics and is currently pursuing a PhD in International Relations at the University of Salzburg, focusing on international trade agreements. Alexandra completed her BA in Political Science and Chinese Studies at the University of Trier and is enrolled in a Masters on European and East Asian Governance at the University of Trier. Kimberly completed her BS in Linguistics, Translation and Interpretation from the University of San Carlos de Guatemala. She is currently working for a transnational corporation.

The topics under discussion for the Human Rights Council are:

1. The Right to Privacy in the Digital Age
2. Combating Racism, Racial Discrimination, Xenophobia, and Related Intolerance
3. Business and Human Rights

HRC is a subsidiary body of the General Assembly that plays a unique role as the primary United Nations body tasked with protecting and promoting human rights. The United Nations Charter and subsequent international treaties and laws serve as a basis for HRC's mandate. HRC is charged with taking proactive measures and fostering international cooperation in order to prevent violations of human rights. In addressing human rights issues, HRC may initiate studies, call international conferences, submit draft conventions to the General Assembly, and make recommendations.

This Background Guide serves as an introduction to the topics for this committee. However, it is not intended to replace individual research. We encourage you to explore your Member State's policies in depth and 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 by 11:59 p.m. (Eastern) on 1 March 2020 in accordance with the guidelines in the [Position Paper Guide](#) and the [NMUN•NY Position Papers](#) website.

Two resources, available to download from the [NMUN website](#), that serve as essential instruments in preparing for the Conference and as a reference during committee sessions are the:

1. [NMUN Delegate Preparation Guide](#) - explains each step in the delegate process, from pre-Conference research to the committee debate and resolution drafting processes. Please take note of the information on plagiarism, and the prohibition on pre-written working papers and resolutions. Delegates should not start discussion on the topics with other members of their committee until the first committee session.
2. [NMUN Rules of Procedure](#) - include the long and short form of the rules, as well as an explanatory narrative and example script of the flow of procedure.

In addition, please review the mandatory [NMUN Conduct Expectations](#) on the NMUN website. They include the Conference dress code and other expectations of all attendees. We want to emphasize that any instances of sexual harassment or discrimination based on race, gender, sexual orientation, national origin, religion, age, or disability will not be tolerated. If you have any questions concerning your preparation for the committee or the Conference itself, please contact the Under-Secretaries-General for the Human Rights and Humanitarian Affairs Department, Tobias Dietrich (Conference A) and Estefani Morales (Conference B), 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

Kiki Tamis-Noordman, Director
Alexandra Bogdasarow, Assistant Director

Conference B

Yannick Stiller, Director
Kimberly Sanchez, Assistant Director

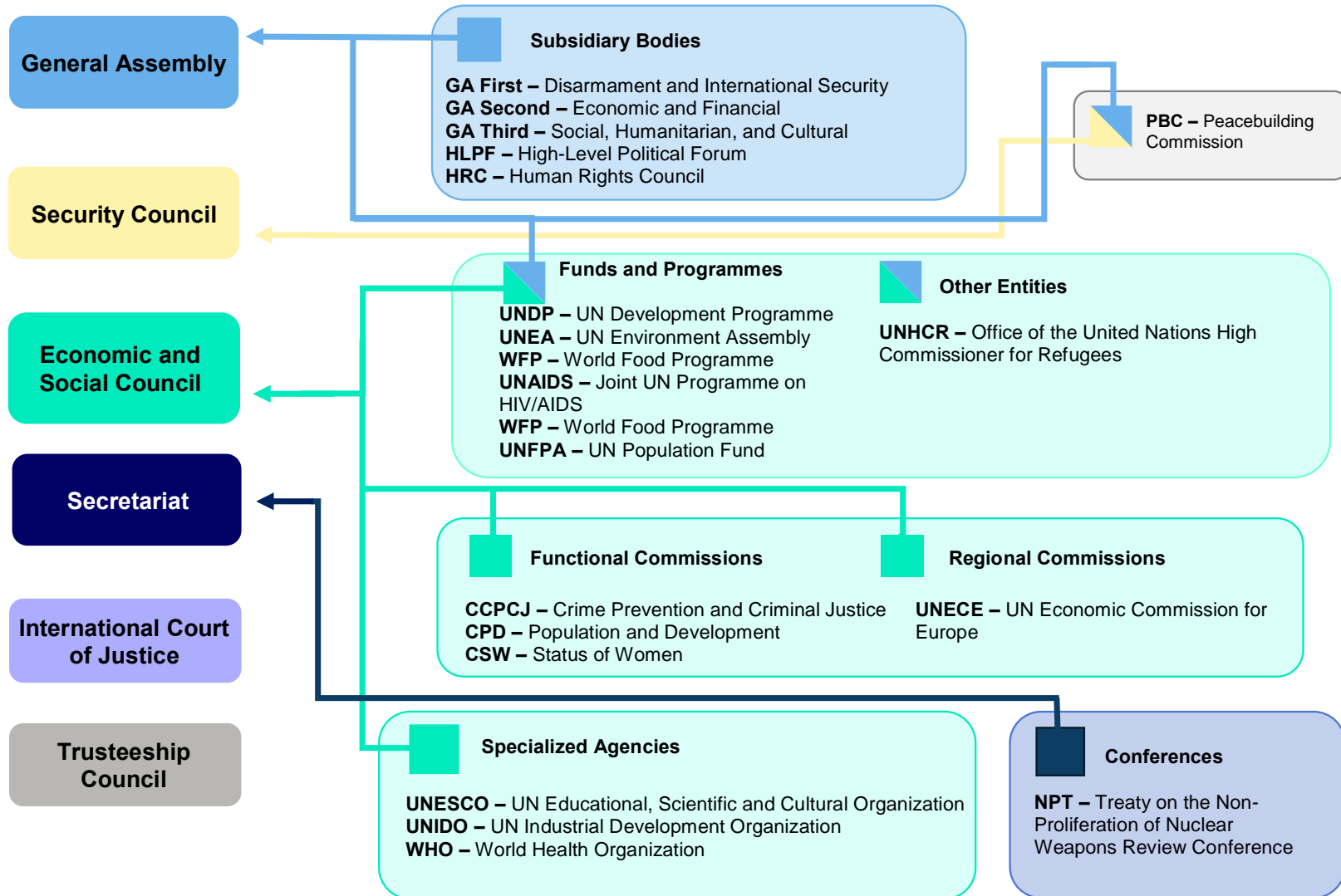


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United Nations System at NMUN•NY

This diagram illustrates the UN system simulated at NMUN•NY and demonstrates the reportage and relationships between 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

Introduction

The 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.”¹ 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.”² HRC has a global scope, working to promote and protect all human rights; the Council currently focuses on several regions in Africa, Asia, Latin America, Eastern Europe and the Middle East, with special attention placed on the situation in Palestine and other occupied Arab territories.³

The international human rights agenda has been shaped by two important documents: the *Universal Declaration of Human Rights* (UDHR) adopted in 1948 and the *Vienna Declaration and Programme of Action* adopted in 1993.⁴ After the adoption of the UDHR, the UN Secretariat formed a division to oversee their human rights program, the Centre for Human Rights, seated in New York City.⁵ In the 1980s, they decided to relocate, and moved from New York City to Geneva.⁶ In 1993, the World Conference on Human Rights, in its *Vienna Declaration and Programme of Action*, recommended the General Assembly to establish the UN Office of the High Commissioner for Human Rights (OHCHR), which was done so through General Assembly resolution 48/141.⁷ The resolution states that OHCHR’s main responsibilities are to coordinate the human rights agenda across all intergovernmental agencies and all departments within the UN itself.⁸ OHCHR is responsible for the substantive, logistical, and administrative needs of all UN human rights mechanisms, including core treaty-based bodies, thematic working groups, and for HRC.⁹ On 10 August 2018, Secretary-General António Guterres appointed Michelle Bachelet of Chile as High Commissioner for Human Rights upon approval of the General Assembly.¹⁰ Ms. Bachelet is the seventh High Commissioner for Human Rights, succeeding Zeid Ra’ad Al Hussein of Jordan.¹¹ When serving as the first female President of Chile, Ms. Bachelet focused on the human rights of all, but especially the most vulnerable groups, such as children, women and the Lesbian, Gay, Bisexual, and Transgender community.¹² This is something she brought to OHCHR as well, currently committed to advance gender equality within OHCHR, while she at the same time also serves as Chair of the Partnership for Maternal, Newborn, and Child Health.¹³

As international human rights law has evolved, specialized agencies within the UN system have also emerged due to the urgent need to respond to human rights violations.¹⁴ One of these was the

¹ UN OHCHR, *Welcome to the Human Rights Council*, 2019.

² UN OHCHR, *The 20th Anniversary of OHCHR – 20 Human Rights Achievements*, 2018.

³ UN General Assembly, *Human Rights Council (A/RES/60/251)*, 2006; UN HRC, *Agenda and Annotations (A/HRC/41/1)*, 2019; UN OHCHR, *41th Session of the Human Rights Council (24 June 2019 - 12 July 2019)*, 2019.

⁴ UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A (III))*, 1948; UN World Conference on Human Rights, *Vienna Declaration and Programme of Action*, 1993.

⁵ UN OHCHR, *Who we are: Brief History*, 2019.

⁶ Ibid.

⁷ UN General Assembly, *High Commissioner for the Promotion and Protection of all Human Rights (A/RES/48/141)*, 1994; UN World Conference on Human Rights, *Vienna Declaration and Programme of Action*, 1993.

⁸ UN General Assembly, *High Commissioner for the Promotion and Protection of all Human Rights (A/RES/48/141)*, 1994.

⁹ UN OHCHR, *The Human Rights Council and the Role of the Office of the High Commissioner for Human Rights*.

¹⁰ UN DGC, *Secretary-General Appoints Michelle Bachelet of Chile United Nations High Commissioner for Human Rights (SG/A/1824)*, 2018.

¹¹ UN OHCHR, *About us: High Commissioner – Michelle Bachelet Jeria*, 2019.

¹² Ibid.

¹³ Ibid.

¹⁴ UN OHCHR, *Who we are: Brief History*, 2019.

Commission on Human Rights, also called the Commission, which functioned as an intergovernmental organization of the UN.¹⁵ The Commission was established in 1946 to address human rights challenges and concerns. After receiving critique for “excessive politicization”, recommendations were made to the General Assembly to replace the Commission with a human rights council.¹⁶ In resolution 60/251, the General Assembly “decide[d] to establish the Human Rights Council, based in Geneva, in replacement of the Commission.”¹⁷ The newly established HRC had the same responsibilities as the Commission, but its scope of action was larger under its new mandate.¹⁸ As OHCHR provides logistical, administrative and substantive support to the work of all UN human rights mechanisms, the work of HRC is strongly supported by OHCHR, and it reports to the General Assembly.¹⁹ General Assembly resolution 60/251 states that HRC shall review its work and functioning five years after its foundation.²⁰ An open-ended intergovernmental working group on the review of the work and functioning of HRC was created, and in 2011 identified only minor areas for improvement in the five-year existence of the Council.²¹ The General Assembly decided that due to its “strong and largely well-functioning” nature, HRC was to be kept as a subsidiary body to the General Assembly without any major changes to its structure or operations.²²

Governance, Structure, and Membership

Through a majority vote, the General Assembly elects 47 Member States to HRC, with each seat serving a three-year term.²³ Elections are staggered, so that one third of the seats are elected each year.²⁴ The 47 Member States are distributed in regional groups: 13 from Africa, 13 from Asia, six from Eastern Europe, eight from Latin America and the Caribbean, and seven from the Western European and Others Group.²⁵ The last election took place in October 2018, during the General Assembly’s 73rd session.²⁶ Additionally, Iceland was elected by the General Assembly in July 2018 to serve on HRC until 31 December 2019, filling the vacant seat left by the United States of America.²⁷ The General Assembly Third Committee, which is responsible for evaluating questions related to human rights, considers the annual reports of HRC and works closely with HRC’s Special Procedures mandate holders.²⁸

Each year in March, June, and September, HRC holds regular sessions to discuss issues under its purview.²⁹ Combined, these sessions last a minimum of 10 weeks and at any time one third of HRC’s Member States can request a special session “to address human rights violations and emergencies [related to human rights].”³⁰ There have been 28 special sessions, the latest was held in May 2018 to address the “Deteriorating Human Rights Situation in the Occupied Palestinian Territory, Including East Jerusalem.”³¹ At the first regular session of each year, Member States elect a President and four Vice

¹⁵ Ibid.

¹⁶ UN DGC, *General Assembly Establishes New Human Rights Council by Vote of 170 in Favour to 4 Against, with 3 Abstentions (GA/10449)*, 2006; 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.

¹⁷ UN General Assembly, *Human Rights Council (A/RES/60/251)*, 2006.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ UN HRC, *Report of the Open-ended Intergovernmental Working Group on the Review of the Work and Functioning of the Human Rights Council (A/HRC/WG.8/2/1)*, 2011.

²² UN DGC, *General Assembly Establishes New Human Rights Council by vote of 170 in Favour to 4 Against, with 3 Abstentions (GA/10449)*, 2006.

²³ UN OHCHR, *Membership of the Human Rights Council*, 2019.

²⁴ Ibid.

²⁵ Ibid.

²⁶ UN DGC, *General Assembly Elects 18 Member States to Human Rights Council, Allowing Vote by 3 Member States in Article 19 Exemption over Financial Dues*, 2018.

²⁷ UN DGC, *Iceland to Take Vacated US Seat on Human Rights Council*, 2018.

²⁸ UN General Assembly, *Social, Humanitarian & Cultural Issues (Third Committee)*.

²⁹ UN OHCHR, *Sessions*, 2019.

³⁰ Ibid.

³¹ UN OHCHR, *28th Special Session of the Human Rights Council on the Deteriorating Human Rights Situation in the Occupied Palestinian Territory, Including East Jerusalem - 18 May 2018*, 2018.

Presidents that make up the Bureau, which is responsible for all issues relating to the organization and procedures of HRC.³² 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.³³ The current President is Coly Seck, the Senegalese Permanent Representative to the UN Office in Geneva.³⁴

In addition, HRC established the Advisory Committee as its subsidiary body.³⁵ The main functions of the Advisory Committee are to provide policy advice and serve as a “think tank” to HRC.³⁶ It meets biannually and is comprised of 18 human rights experts, which are elected by HRC in proportion to the regional composition of the Council.³⁷ The Advisory Committee regularly publishes reports at the request of HRC and discusses research proposals and studies in the field of human rights.³⁸

Partnerships

HRC strengthens its efforts in upholding human rights by forming partnerships with non-governmental organizations (NGOs), National Human Rights Institutions (NHRIs), and other civil society actors.³⁹ Partnerships facilitate many of HRC’s initiatives, including specific programs or frameworks targeting groups deprived of their access to fundamental human rights and freedoms.⁴⁰ NGOs that have received Economic and Social Council (ECOSOC) consultative status and NHRIs can directly address HRC during discussions and debates and inform the Council of situations occurring in their home states.⁴¹ Groups and NGOs without ECOSOC consultative status can still provide written documents on a Member State as part of the Universal Periodic Review (UPR) Process.⁴²

Mandate, Functions, and Powers

General Assembly resolution 60/251 of 2006 lays down the mandate for HRC.⁴³ Its mandate is to promote universal respect for all human rights and fundamental freedoms, to address and if necessary provide recommendations on all violations of human rights, in particular the grave and systematic violations, and to promote effective governance within the UN system in regards to human rights issues.⁴⁴ HRC is “guided by the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue, and cooperation.”⁴⁵ The General Assembly also designated HRC as a forum to discuss all human rights issues, including violations hereof, emergency response, education and prevention.⁴⁶ Also crucial to informing the mandate and work of HRC is the *International Bill of Human Rights*, a framework which encompasses 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.⁴⁷ These documents are the pillars that guide HRC in its recommendations by outlining the fundamental obligations and commitments of Member States in international human rights law.⁴⁸

³² UN HRC, *Institution-building of the United Nations Human Rights Council (A/HRC/RES/5/1)*, 2007.

³³ Ibid.

³⁴ UN HRC, *President of the 13th Cycle*, 2019.

³⁵ UN HRC, *Institution-building of the United Nations Human Rights Council (A/HRC/RES/5/1)*, 2007.

³⁶ UN OHCHR, *Background Information on the Advisory Committee*, 2019.

³⁷ UN HRC, *Institution-building of the United Nations Human Rights Council (A/HRC/RES/5/1)*, 2007.

³⁸ UN HRC, *Report of the Advisory Committee on its Twentieth Session (A/HRC/AC/20/2)*, 2018.

³⁹ UN OHCHR, *NGO and NHRI Information*, 2019.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ UN General Assembly, *Human Rights Council (A/RES/60/251)*, 2006.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ UN OHCHR, *The Human Rights Council and the Role of the Office of the High Commissioner for Human Rights*.

⁴⁷ UN OHCHR, *Fact Sheet No. 2 (Rev. 1), The International Bill of Human Rights*, 1996.

⁴⁸ UN OHCHR, *Human Rights: A Basic Handbook for UN Staff*, 2000.

Additionally, the *2030 Agenda for Sustainable Development* (2030 Agenda) adopted in 2015, and its 17 Sustainable Development Goals (SDGs) guide the work of HRC, and inform its current priorities.⁴⁹

HRC's mandate has not been changed since its establishment in 2006, but in 2007, HRC resolution 5/1 on "institution building" was adopted, where mechanisms and structures to guide HRC's program of work were established, as well as rules of procedure, and other operational functions.⁵⁰ The resolution also established the format for Special Procedures, the UPR, and the Complaint Procedure.⁵¹ Special Procedures are mechanisms that enable independent parties to report, monitor, and advise on country-specific or thematic situations for HRC.⁵² Each investigation has a mandate and a mandate holder, who is typically a Special Rapporteur, an independent expert, or a working group, to carry out the investigation.⁵³ Special Procedures can undertake country or field visits with the support of OHCHR, and bring specific cases and concerns to the attention of Member States.⁵⁴ They can send communications detailing accusations of violations or abuses of human rights, engage in advocacy efforts, and offer technical assistance.⁵⁵

The UPR is one of the most important functions of HRC.⁵⁶ Through HRC, each Member State of the UN submits to a periodic review to assess the fulfillment of its human rights obligations.⁵⁷ The full cycle of the UPR process takes around four years and includes several steps.⁵⁸ The UPR is unique in both its approach and its universality.⁵⁹ At the preparation stage, information is gathered that will form the basis of the review, including national reports from the state under review, stakeholder submissions, and information prepared by OHCHR.⁶⁰ At the review stage, documents are presented at the regular sessions of the Working Group on the UPR, which consists of all 47 Member States of HRC.⁶¹ At the adoption and considerations stage, each Member State provides comments and the state under review can offer reservations on specific issues.⁶² Finally, during the follow-up stage, each state under review shows how effectively it has acted upon the recommendations received.⁶³ The UPR has entered its third cycle (2017-2021).⁶⁴ In 2019, three sessions will be held, and 14 national reports will be read at each session.⁶⁵

Recent Sessions and Current Priorities

The 38th regular session was held between 18 June and 6 July 2018 and focused on women's rights.⁶⁶ HRC held panel discussions, which connected women's rights to information and communications technology (ICTs).⁶⁷ Similarly, HRC adopted resolution 38/1 on the "Elimination of all Forms of Discrimination Against Women and Girls," which called upon states to ensure that their national

⁴⁹ UN General Assembly, *Transforming our world: The 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2015; UN OHCHR, *Sustainable Development Goals - Related Human Rights*.

⁵⁰ UN HRC, *Institution-building of the United Nations Human Rights Council (A/HRC/RES/5/1)*, 2007.

⁵¹ *Ibid.*

⁵² UN OHCHR, *Special Procedures of the Human Rights Council*, 2019.

⁵³ *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ UN OHCHR, *Universal Periodic Review*, 2019.

⁵⁷ UN OHCHR, *Working with the United Nations Human Rights Programme: A Handbook for Civil Society*, 2008, p. 80.

⁵⁸ *Ibid.*

⁵⁹ UN OHCHR, *Universal Periodic Review*, 2019.

⁶⁰ UN OHCHR, *Working with the United Nations Human Rights Programme: A Handbook for Civil Society*, 2008, p. 81.

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ UN OHCHR, *Human Rights Council Universal Periodic Review (Third Cycle)*.

⁶⁵ *Ibid.*

⁶⁶ UN OHCHR, *38th Session of the Human Rights Council (18 June - 6 July 2018)*, 2018; UN OHCHR, *38th session of the Human Rights Council: Resolutions, Decisions and President's Statements*, 2018.

⁶⁷ UN OHCHR, *38th Session of the Human Rights Council (18 June - 6 July 2018)*, 2018.

legislature guarantees the human rights of women and enables the participation of civil society organizations for women.⁶⁸ Additionally, the Special Rapporteur on the Human Rights of Migrants presented his report at the 38th session, in which he stressed that the *Global Compact for Safe, Orderly and Regular Migration* (2018) should reinforce migrant-centered approaches to regulation and enforcement.⁶⁹

The 39th regular session was held from 10 - 28 September 2018.⁷⁰ At this session, the Special Rapporteur on the human rights to safe drinking water and sanitation presented his report.⁷¹ In his report, the Special Rapporteur recommended that states should ensure the human rights to water and sanitation of forcibly displaced persons and provide adequate access to water and sanitation for them.⁷² Furthermore, the agenda item of the “Human Rights Situation in Palestine and other Occupied Arab Territories” was considered at this session.⁷³ In addition, HRC held panel discussions at this event: one panel discussion on the topic “Human Rights and Indigenous Peoples,” one on the “Prevention of Genocide,” and one on “Integrating the Human Rights of Women throughout the United Nations System.”⁷⁴

HRC held its 40th regular session from 25 February 2019 to 22 March 2019.⁷⁵ It focused on the 2030 Agenda, human rights and business, racism, racial discrimination, xenophobia and related forms of intolerance and the *Durban Declaration*, the *Vienna Declaration and Programme of Action* and discussed country-specific human rights situations.⁷⁶ During the 40th session, the report on the fourth session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights was presented.⁷⁷ The working group had a first reading of the draft standards on the topic, which is based on four pillars: prevention, victims’ rights and access to justice, international cooperation, and monitoring mechanisms.⁷⁸

The 41st regular session was held from 24 June 2019 to 12 July 2019.⁷⁹ HRC continued discussions on human rights in specific areas.⁸⁰ Racism, racial discrimination, xenophobia and related forms of intolerance and the *Durban Declaration* were also discussed, with the addition of discussing combating glorification of Nazism, neo-Nazism and other practices that contribute to fueling contemporary forms thereof.⁸¹ HRC adopted resolution 41/11 on “New and Emerging Digital Technologies and Human Rights,” recognizing the technological changes that affect states, the private sector, civil society and other stakeholders.⁸² In this resolution, HRC requests the Advisory Committee to prepare a report on the impacts, opportunities and challenges of new and emerging digital technologies, also seeking input from and taking into account work done by stakeholders.⁸³

⁶⁸ UN HRC, *Elimination of all Forms of Discrimination against Women and Girls (A/HRC/RES/38/1)*, 2018.

⁶⁹ UN HRC, *Report of the Special Rapporteur on the Human Rights of Migrants (A/HRC/38/41)*, 2018.

⁷⁰ UN HRC, *Agenda and Annotations (A/HRC/39/1)*, 2018, p. 14.

⁷¹ *Ibid.*, p. 17.

⁷² UN HRC, *Report of the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation (A/HRC/39/55)*, 2018, pp. 17-20.

⁷³ UN HRC, *Agenda and Annotations (A/HRC/39/1)*, 2018, p. 14.

⁷⁴ *Ibid.*, p. 17.

⁷⁵ *Ibid.*

⁷⁶ UN HRC, *Report of the Human Rights Council on its Fortieth Session (A/HRC/40/2)*, 2019.

⁷⁷ *Ibid.*, p. 37.

⁷⁸ UN HRC, *Report on the Fourth Session of the Open-ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights (A/HRC/40/48)*, 2019.

⁷⁹ UN OHCHR, *41st Session of the Human Rights Council (24 June - 12 July 2019)*, 2019.

⁸⁰ UN HRC, *Agenda and Annotations (A/HRC/41/1)*, 2019, p. 11.

⁸¹ *Ibid.*

⁸² UN HRC, *New and Emerging Digital Technologies and Human Rights (A/HRC/RES/41/11)*, 2019.

⁸³ *Ibid.*

During its 40th and 41st regular sessions, HRC considered the in the context of the follow-up to the *Vienna Declaration and Programme of Action*.⁸⁴ In their annual follow-up, HRC discussed the experiences and practices of NHRIs.⁸⁵ In its report on this follow-up, OHCHR concludes that NHRIs play a key role in raising public awareness on the 2030 Agenda and in the promotion of a human rights-based approach to the implementation of the SDGs.⁸⁶

Outside of its sessions, HRC coordinated with the Global Alliance of National Human Rights Institutions to support the establishment and maintenance of inclusive societies and the implementation of the 2030 Agenda.⁸⁷ In January 2019, HRC hosted an intersessional meeting for dialogue and cooperation on the 2030 Agenda, focused on empowerment, inclusiveness and equality.⁸⁸ This meeting was attended by Member States, but also by NGOs, such as The Civil Society Reflection Group on the 2030 Agenda for Sustainable Development, LGTBI Stakeholder Group, Equal Rights Trust, and ATD-Fourth World.⁸⁹ During the session, there was a widespread consensus that the SDGs can only be realized through a human rights-based approach to their implementation on the local, national, regional and global level.⁹⁰ The group found that there is a gap between the human rights community in Geneva and the development community in New York City.⁹¹ Their first action to bridge this gap was to bring strong human rights messages to the High-Level Political Forum on Sustainable Development, which was held in July 2019, including a reading of the summary report of this meeting.⁹²

In addition to regular sessions, HRC held its 28th special session on “The Deteriorating Human Rights Situation in the Occupied Palestinian Territory (oPt), Including East Jerusalem” on 18 May 2018.⁹³ Following the escalation of violence during civilian demonstrations in the Gaza Strip in March 2018, HRC adopted resolution S-28/1.⁹⁴ In this resolution, HRC “condemn[ed] the disproportionate and indiscriminate use of force by the Israeli occupying forces against Palestinian civilians” and “dispatch[ed] an independent, international commission of inquiry [...] to investigate all alleged violations and abuses of international humanitarian law and international human rights law” in the oPt.⁹⁵

Conclusion

HRC addresses human rights on global, regional, and national levels by endeavoring to ensure all Member States safeguard the fundamental freedoms and rights articulated by international law.⁹⁶ As HRC looks ahead to future sessions, working together with NGOs, civil society, working groups, inter-agency mechanisms or coalitions is a priority for HRC, as can also be seen from the amount of special sessions, forums, special procedures, advisory committees, and special procedures that HRC is employing.⁹⁷ Yearly focus is on the *Vienna Declaration and Programme of Action*, and a current focus on business and

⁸⁴ UN HRC, *Agenda and Annotations (A/HRC/41/1)*, 2019; UN HRC, *Report of the Human Rights Council on its Fortieth Session (A/HRC/40/2)*, 2019.

⁸⁵ UN HRC, *Consultation on the Experiences and Practices of National Human Rights Institutions in Working to Support the Establishment and Maintenance of Inclusive Societies and the Implementation of the 2030 Agenda for Sustainable Development (A/HRC/41/30)*, 2019.

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ UN HRC, *Summary of the Intersessional Meeting for Dialogue and Cooperation on Human Rights and the 2030 Agenda for Sustainable Development (A/HRC/40/34)*, 2019.

⁹¹ Ibid.

⁹² Ibid.

⁹³ UN OHCHR, *28th special session of the Human Rights Council on the Deteriorating Human Rights Situation in the Occupied Palestinian Territory, Including East Jerusalem*, 2018.

⁹⁴ UN HRC, *Violations of International Law in the Context of Large-scale Civilian Protests in the Occupied Palestinian Territory, Including East Jerusalem (A/HRC/RES/2-28/1)*, 2018.

⁹⁵ Ibid.

⁹⁶ UN OHCHR, *Working with the United Nations Human Rights Programme: A Handbook for Civil Society*, 2008, p. 75.

⁹⁷ UN HRC, *Institution-building of the United Nations Human Rights Council (A/HRC/RES/5/1)*, 2007.

human rights, the 2030 Agenda and the SDGs, women's rights and climate change can be seen.⁹⁸ The 42nd regular session took place from 9 to 27 September 2019.⁹⁹

Annotated Bibliography

Office of the United Nations High Commissioner for Human Rights. (n.d.). *Sustainable Development Goals - Related Human Rights*. Retrieved 20 July 2019 from:

https://www.ohchr.org/Documents/Publications/Session5_OHCHR_SDG_HR_Table.pdf

The work of HRC is strongly supported by the UN OHCHR, and this infosheet was published by OHCHR as a guide to connect the SDGs to human rights. This guide gives an overview of all SDGs, and a list of human rights which correspond with each SDG. Besides that, it also describes which human right can be found in which document, also explaining what different human rights frameworks are. This source provides a very comprehensive overview of how HRC is connected to all the SDGs, which can prove very helpful when conducting research on the topics that HRC will discuss during the conference.

Office of the United Nations High Commissioner for Human Rights. (2000). *Human Rights: A Basic Handbook for UN Staff*. Retrieved 22 August 2019 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, as well as the strategies engaged to promote and protect human rights within the UN.

Office of the United Nations High Commissioner for Human Rights. (2019). *41st Session of the Human Rights Council (24 June – 12 July 2019)*. Retrieved 18 July 2019 from:

<https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session41/Pages/41RegularSession.aspx>

This website functions as the main webpage where all documentation regarding the 41st session of the HRC can be found. This is the most comprehensive website to see all documents, reports and resolutions that are considered by HRC in one of their sessions, which is something very valuable to know and see when conducting research on HRC and their working, mandate, etc. This website can be used as a starting point for delegates to do their research. Since similarly structured web pages can be found for other regular sessions as well and this website additionally allows delegates to navigate through the various documentation of the other regular sessions.

United Nations, Human Rights Council, Fifth session. (2007). *Institution-building of the United Nations Human Rights Council (A/HRC/RES/5/1)*. Retrieved 21 August 2019 from:

https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_5_1.doc

One of the most important resolutions of HRC, resolution 5/1 details an agreed package that established the procedures, mechanisms, and structures to form the basis for its future work. This includes 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 HRC operates.

United Nations, Human Rights Council, Twenty-eighth special session. (2018). *Violations of International Law in the Context of Large-scale Civilian Protests in the Occupied Palestinian Territory, Including East*

⁹⁸ UN HRC, *Agenda and Annotations (A/HRC/41/1)*, 2019; UN HRC, *Report of the Human Rights Council on its Fortieth Session (A/HRC/40/2)*, 2019.

⁹⁹ UN OHCHR, *Sessions*, 2019.

Jerusalem (A/HRC/RES/S-28/1). Retrieved 22 September 2019 from: <http://undocs.org/A/HRC/RES/S-28/1>

At the 28th special session, HRC adopted this resolution as a response to use of excessive force by the Israeli Defense Force against Palestinian protesters in the Gaza Strip in March 2018. This resolution emphasizes the lack of humanitarian access in the Gaza strip and also established an international commission of inquiry to investigate any alleged violations of international humanitarian law and human rights in the oPt after 30 March 2018. For delegates, this resolution provides a solid understanding of a timely issue and introduces them to possible approaches of HRC to this topic.

United Nations, Human Rights Council, Forty-first session. (2019). *New and Emerging Digital Technologies and Human Rights (A/HRC/RES/41/11)*. Retrieved 22 September 2019 from: <https://undocs.org/A/HRC/RES/41/11>

At the 41st regular session, HRC adopted this resolution, recognizing the effects of rapid technological change on Member States, business and individuals. This resolution requests the Advisory Committee to prepare a report on the rapid growth of technological possibilities and the existing impact, possibilities and challenges concerning human rights. HRC seeks input from all relevant stakeholders, including Member States, international and regional organizations, all relevant UN agencies, civil society and private actors, amongst others. In this resolution, HRC decides to convene a panel discussion on the topic during its forty-fourth session. For delegates, this resolution shows a possible approach of HRC towards a topic that they will potentially be discussing themselves, while also showing a very recent resolution which helps understand the workings of HRC.

United Nations, World Conference on Human Rights. (1993). *Vienna Declaration and Programme of Action*. Retrieved 18 July 2019 from: <http://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

The Vienna Declaration and Programme of Action was adopted by the World Conference on Human Rights in 1993, recommending the creation of the UN OHCHR, which was then created through General Assembly resolution 48/121. In addition, the Vienna Declaration reaffirmed the UDHR and the Charter of the United Nations, with its main principle being "all human rights are universal, indivisible and interdependent and interrelated." HRC considers the Vienna Declaration during all of their meetings, and they hold annual follow-up discussions about the Vienna Declaration and Programme of Action. Not only is there a yearly focus on the Vienna Declaration and Programme of Action, there is also a focus on the 2030 Agenda and the SDGs. The Vienna Declaration and Programme of Action can help delegates understand what HRC does, what their mandate is and what one of their yearly focus points is. This is helpful when conducting research on HRC, the topics for this years' conference or the connection between HRC, the topics and the interlinking SDGs.

Bibliography

Office of the United Nations High Commissioner for Human Rights. (n.d.). *The Human Rights Council and the Role of the Office of the High Commissioner for Human Rights*. Retrieved 21 August 2019 from: http://www2.ohchr.org/english/press/hrc/kit/hrcs_fs2.pdf

Office of the United Nations High Commissioner for Human Rights. (n.d.). *Human Rights Council Universal Periodic Review (Third Cycle)*. Retrieved 22 August 2019 from: https://www.ohchr.org/Documents/HRBodies/UPR/UPR_3rd_cycle.pdf

Office of the United Nations High Commissioner for Human Rights. (n.d.). *Sustainable Development Goals - Related Human Rights*. Retrieved 20 July 2019 from: https://www.ohchr.org/Documents/Publications/Session5_OHCHR_SDG_HR_Table.pdf

Office of the United Nations High Commissioner for Human Rights. (1996). *Fact Sheet No.2 (Rev.1), The International Bill of Human Rights*. Retrieved 22 August 2019 from: <http://www.ohchr.org/Documents/Publications/FactSheet2Rev.1en.pdf>

Office of the United Nations High Commissioner for Human Rights. (2000). *Human Rights: A Basic Handbook for UN Staff*. Retrieved 22 August 2019 from: <http://www.ohchr.org/Documents/Publications/HRhandbooken.pdf>

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 21 August 2019 from: http://www.ohchr.org/en/AboutUs/CivilSociety/Documents/Handbook_en.pdf

Office of the United Nations High Commissioner for Human Rights. (2018). *The 20th Anniversary of OHCHR – 20 Human Rights Achievements*. Retrieved 20 August 2019 from: <https://at20.ohchr.org/achievements.html>

Office of the United Nations High Commissioner for Human Rights. (2018). *38th Session of the Human Rights Council (18 June - 6 July 2018)*. Retrieved 23 August 2019 from: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session38/Pages/38RegularSession.aspx>

Office of the United Nations High Commissioner for Human Rights. (2018). *38th Session of the Human Rights Council: Resolutions, Decisions and President's Statements*. Retrieved 22 August 2019 from: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session38/Pages/ResDecStat.aspx>

Office of the United Nations High Commissioner for Human Rights. (2018). *28th Special Session of the Human Rights Council on the Deteriorating Human Rights Situation in the Occupied Palestinian Territory, Including East Jerusalem - 18 May 2018*. Retrieved 20 August 2019 from: <https://www.ohchr.org/EN/HRBodies/HRC/SpecialSessions/Session28/Pages/28thSpecialSession.aspx>

Office of the United Nations High Commissioner for Human Rights. (2019). *About us: High Commissioner - Michelle Bachelet Jeria*. Retrieved 21 August 2019 from: <https://www.ohchr.org/EN/AboutUs/Pages/HighCommissioner.aspx>

Office of the United Nations High Commissioner for Human Rights. (2019). *Background Information on the Advisory Committee*. Retrieved 21 August 2019 from: <https://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/AboutAC.aspx>

Office of the United Nations High Commissioner for Human Rights. (2019). *41st Session of the Human Rights Council (24 June - 12 July 2019)*. Retrieved 18 July 2019 from: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session41/Pages/41RegularSession.aspx>

Office of the United Nations High Commissioner for Human Rights. (2019). *Membership of the Human Rights Council*. Retrieved 21 August 2019 from: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Membership.aspx>

Office of the United Nations High Commissioner for Human Rights. (2019). *NGO and NHRI Information*. Retrieved 20 August 2019 from: <http://www.ohchr.org/EN/HRBodies/HRC/Pages/NgoNhrInfo.aspx>

Office of the United Nations High Commissioner for Human Rights. (2019). *Sessions*. Retrieved 31 July 2019 from: <http://www.ohchr.org/EN/HRBodies/HRC/Pages/Sessions.aspx>

Office of the United Nations High Commissioner for Human Rights. (2019). *Special Procedures of the Human Rights Council*. Retrieved 21 August 2019 from: <https://www.ohchr.org/EN/HRBodies/SP/Pages/Introduction.aspx>

Office of the United Nations High Commissioner for Human Rights. (2019). *Universal Periodic Review*. Retrieved 22 August 2019 from: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRmain.aspx>

Office of the United Nations High Commissioner for Human Rights. (2019). *Welcome to the Human Rights Council*. Retrieved 20 August 2019 from: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx>

Office of the United Nations High Commissioner for Human Rights. (2019). *Who we are: Brief History*. Retrieved 21 August 2019 from: <http://www.ohchr.org/EN/ABOUTUS/Pages/BriefHistory.aspx>

United Nations, Department of Global Communications. (2006, March 15). *General Assembly Establishes New Human Rights Council by Vote of 170 in Favour to 4 Against, with 3 Abstentions (GA/10449)*. Retrieved 21 August 2019 from: <http://www.un.org/press/en/2006/ga10449.doc.htm>

United Nations, Department of Global Communications. (2018, July 13). *Iceland to Take Vacated US Seat on Human Rights Council*. Retrieved 21 August 2019 from: <https://news.un.org/en/story/2018/07/1014672>

United Nations, Department of Global Communications. (2018, August 10). *Secretary-General Appoints Michelle Bachelet of Chile United Nations High Commissioner for Human Rights (SG/A/1824)*. Retrieved 20 August 2019 from: <https://www.un.org/press/en/2018/sqa1824.doc.htm>

United Nations, Department of Global Communications. (2018, October 12). *General Assembly Elects 18 Member States to Human Rights Council, Allowing Vote by 3 Member States in Article 19 Exemption over Financial Dues (GA/12077)*. Retrieved 20 August 2019 from: <https://www.un.org/press/en/2018/ga12077.doc.htm>

United Nations, General Assembly. (n.d.). *Social, Humanitarian & Cultural Issues (Third Committee)*. Retrieved 21 August 2019 from: <https://www.un.org/en/ga/third/>

United Nations, General Assembly, Third session. (1948). *Universal Declaration of Human Rights (A/RES/217 A (III))*. Retrieved 21 August 2019 from: <http://www.un.org/en/documents/udhr/>

United Nations, General Assembly, Fifty-ninth session. (2005). *In Larger Freedom: Towards Development, Security and Human Rights for All: Report of the Secretary-General (A/59/2005)*. Retrieved 21 August 2019 from: <http://undocs.org/A/59/2005>

United Nations, General Assembly, Sixtieth session. (2006). *Human Rights Council (A/RES/60/251)*. Retrieved 20 August 2019 from: <http://undocs.org/A/RES/60/251>

United Nations, General Assembly, Seventieth session. (2015). *Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1)*. Retrieved 22 August 2019 from: <http://undocs.org/A/RES/70/1>

United Nations, Human Rights Council, Fifth session. (2007). *Institution-building of the United Nations Human Rights Council (A/HRC/RES/5/1)*. Retrieved 21 August 2019 from: https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_5_1.doc

United Nations, Human Rights Council. (2011). *Report of the Open-ended Intergovernmental Working Group on the Review of the Work and Functioning of the Human Rights Council (A/HRC/WG.8/2/1)*. Retrieved 21 August 2019 from: <https://undocs.org/A/HRC/WG.8/2/1>

United Nations, Human Rights Council, Thirty-ninth session. (2018). *Agenda and Annotations (A/HRC/39/1)*. Retrieved 23 August 2019 from: <http://undocs.org/A/HRC/39/1>

United Nations Human Rights Council, Thirty-eighth session. (2018). *Elimination of all Forms of Discrimination against Women and Girls (A/HRC/RES/38/1)*. Retrieved 22 August 2019 from: <http://undocs.org/A/HRC/RES/38/1>

United Nations, Human Rights Council. (2018). *Report of the Advisory Committee on its Twentieth Session (A/HRC/AC/20/2)*. Retrieved 20 August 2019 from: <http://undocs.org/A/HRC/AC/20/2>

United Nations, Human Rights Council, Thirty-eighth session. (2018). *Report of the Special Rapporteur on the Human Rights of Migrants (A/HRC/38/41)*. Retrieved 23 August 2019 from: <http://undocs.org/A/HRC/38/41>

United Nations, Human Rights Council, Thirty-ninth session. (2018). *Report of the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation (A/HRC/39/55)*. Retrieved 22 August 2019 from: <http://undocs.org/A/HRC/39/55>

United Nations, Human Rights Council, Twenty-eighth special session. (2018). *Violations of International Law in the Context of Large-scale Civilian Protests in the Occupied Palestinian Territory, Including East Jerusalem (A/HRC/RES/S-28/1)*. Retrieved 24 August 2019 from: <http://undocs.org/A/HRC/RES/S-28/1>

United Nations, Human Rights Council, Fortieth session. (2019). *Agenda and Annotations (A/HRC/40/1)*. Retrieved 18 July 2019 from: <https://undocs.org/A/HRC/40/1>

United Nations, Human Rights Council, Forty-first session. (2019). *Agenda and Annotations (A/HRC/41/1)*. Retrieved 16 July 2019 from: <https://www.undocs.org/A/HRC/41/1>

United Nations, Human Rights Council, Forty-first session. (2019). *Consultation on the Experiences and Practices of National Human Rights Institutions in Working to Support the Establishment and Maintenance of Inclusive Societies and the Implementation of the 2030 Agenda for Sustainable Development (A/HRC/41/30)*. Retrieved 20 July 2019 from: <https://undocs.org/A/HRC/41/30>

United Nations, Human Rights Council. (2019). *Human Rights Council Intersessional Meeting for Dialogue and Cooperation on Human Rights and the 2030 Agenda for Sustainable Development*. Retrieved 18 July 2019 from: <https://www.ohchr.org/EN/Issues/SDGS/Pages/HRCIntersessionalMeeting.aspx>

United Nations, Human Rights Council, Forty-first session. (2019). *New and Emerging Digital Technologies and Human Rights (A/HRC/RES/41/11)*. Retrieved 23 August 2019 from: <https://undocs.org/A/HRC/RES/41/11>

United Nations, Human Rights Council. (2019). *Officers of the Human Rights Council's Thirteenth Cycle*. Retrieved 21 August 2019 from: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Bureau.aspx>

United Nations, Human Rights Council. (2019). *President of the 13th Cycle*. Retrieved 21 August 2019 from: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Presidency.aspx>

United Nations, Human Rights Council, Fortieth session. (2019). *Report on the Fourth Session of the Open-ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights (A/HRC/40/48)*. Retrieved 23 August 2019 from: <https://undocs.org/A/HRC/40/48>

United Nations, Human Rights Council, Fortieth Session. (2019). *Report of the Human Rights Council on its Fortieth Session (A/HRC/40/2)*. Retrieved 18 July 2019 from: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session40/Pages/ListReports.aspx>



United Nations, Human Rights Council, Fortieth session. (2019). *Summary of the Intersessional Meeting for Dialogue and Cooperation on Human Rights and the 2030 Agenda for Sustainable Development (A/HRC/40/34)*. Retrieved 22 September 2019 from: <https://undocs.org/A/HRC/40/34>

United Nations, World Conference on Human Rights. (1993). *Vienna Declaration and Programme of Action*. Retrieved 18 July 2019 from: <http://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

I. The Right to Privacy in the Digital Age

*“[...] no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, and the right to the protection of the law against such interference, and recognizing that the exercise of the right to privacy is important for the realization of the right to freedom of expression and to hold opinions without interference, and is one of the foundations of a democratic society.”*¹⁰⁰

Introduction

The right to privacy in the digital age has become an important aspect since the improvement of information and communication technology (ICT), real-time communication, and information-sharing.¹⁰¹ Article 16 of the *Convention on the Rights of the Child* (CRC) of 1989 states that “no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.”¹⁰²

Mass surveillance and communication interception includes the “collecting, storing, and analyzing [of] data of all users relating to a broad range of means of communication.”¹⁰³ The rapid transformation of society through digital technologies defines the digital age and thereby also leads to new challenges, like the violation of privacy and threats to security.¹⁰⁴ The collection of personal data and the tracking of digital communication can affect human rights such as the freedom of expression and the freedom of assembly and association.¹⁰⁵ Meta-Data is data that is produced when using electronic communication tools, such as email, mail groups, chat rooms, texting, video calls and of course social media.¹⁰⁶ It can reveal information about people’s habits and associations.¹⁰⁷ This data can be used for various purposes such as specific commercials or adjusting offers.¹⁰⁸ This proves a challenge to privacy in the digital age because of the risks that come with data collection or mass surveillance.¹⁰⁹

Member States have voiced their concerns that the vulnerability of digital communication technologies can be exploited by certain policies or practices.¹¹⁰ There are also concerns that mass surveillance will be used more and more by private entities and can be used unlawfully.¹¹¹ Therefore, it is important to promote the protection of personal data and foster education about the risks that come with sharing personal data.¹¹²

To guarantee the protection of the right to privacy by legislative, administrative, and judicial authorities, effective legal frameworks are crucial.¹¹³ These frameworks need to be updated to match developments

¹⁰⁰ UN General Assembly, *The Right to Privacy in the Digital Age* (A/RES/68/167), 2014.

¹⁰¹ UN OHCHR, *The Right to Privacy in the Digital Age*, 2019.

¹⁰² UN General Assembly, *Convention on the Rights of a Child* (A/RES/44/25), 1989.

¹⁰³ UN HRC, *The Right to Privacy in the Digital Age* (A/HRC/RES/37/2), 2018.

¹⁰⁴ UN OHCHR, *The Right to Privacy in the Digital Age*, 2019.

¹⁰⁵ Ibid.

¹⁰⁶ European Parliamentary Research Service, *Mass Surveillance: Part I – Risks, Opportunities and Mitigation Strategies*, 2015.

¹⁰⁷ Ibid.

¹⁰⁸ UN OHCHR, *The Right to Privacy in the Digital Age*, 2019.

¹⁰⁹ UN HRC, *The Right to Privacy in the Digital Age: Report of the Office of the United Nations High Commissioner for Human Rights* (A/HRC/27/37), 2014.

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² Ibid.

¹¹³ UN OHCHR, *Opening Remarks by Ms. Navi Pillay, United Nations High Commissioner for Human Rights to the Side-Event at the 24th Session of the UN Human Rights Council How to Safeguard the Right to Privacy in the Digital Age?*, 2013; UN OHCHR, *Opening Remarks by Ms. Navi Pillay United Nations High Commissioner for Human Rights to the Expert Seminar: The Right to Privacy in the Digital Age*, 24 February 2014, Room XXI, Palais des Nations, Geneva, 2014.

of communication technologies and surveillance measures.¹¹⁴ Communication technology (CT) can lead to “a blurring of lines between the public and private sphere.”¹¹⁵ CT can improve the enjoyment of human rights but can also become a threat to human rights.¹¹⁶ That is why the right to privacy requires special attention in the digital age.¹¹⁷

Risks to privacy in the digital age are heightened for some risk groups, one of these groups being children.¹¹⁸ Children’s right to privacy is extremely vulnerable when using the internet, because of their lack of knowledge about the processing of personal data, online surveillance, or pre-existing risks such as bullying and stalking.¹¹⁹

International and Regional Framework

The *Universal Declaration of Human Rights* (UDHR) (1948) defines the right to privacy in Article 12: “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.”¹²⁰ Articles 16 and 40 of the CRC extend on the UDHR definition of the right to privacy and stress that “the child has the right to the protection of the law against such interference or attacks.”¹²¹

Digital communication also plays a crucial role in achieving the Sustainable Development Goals (SDGs).¹²² The United Nations Development Programme released a guidance note which emphasizes the influence that big data will have on the achievement of the *2030 Agenda on Sustainable Development* (2030 Agenda).¹²³ The document not only sets out principles for “operational use of big data for achievement of the SDGs,” but also sets “principles for obtaining, retention, use and quality control for data from the private sector.”¹²⁴ The right to privacy as a fundamental human right has an important role in achieving the 2030 Agenda.¹²⁵

The first resolution that was adopted on “The Right to Privacy in the Digital Age” was General Assembly resolution 68/167 in 2013.¹²⁶ The resolution not only focuses on the protection and enjoyment of human rights on the internet but also on the respect of privacy in the context of digital communication.¹²⁷ The resolution calls upon Member States to take measures to protect the right to privacy, also in the context of digital communication, and “to review their procedures, practices and legislation regarding the surveillance of communication, their interception, and the collection of personal data.”¹²⁸ In this resolution, the General Assembly requested the Office of the United Nations High Commissioner for Human Rights

¹¹⁴ UN OHCHR, *Opening Remarks by Ms. Navi Pillay, United Nations High Commissioner for Human Rights to the Side-Event at the 24th Session of the UN Human Rights Council How to Safeguard the Right to Privacy in the Digital Age?*, 2013.

¹¹⁵ Ibid.

¹¹⁶ UN OHCHR, *The Right to Privacy in the Digital Age*, 2019.

¹¹⁷ UN OHCHR, *Opening Remarks by Ms. Navi Pillay, United Nations High Commissioner for Human Rights to the Side-Event at the 24th Session of the UN Human Rights Council How to Safeguard the Right to Privacy in the Digital Age?*, 2013.

¹¹⁸ UNICEF, *Child Privacy in the Age of Web 2.0 and 3.0: Challenges and Opportunities for Policy*, 2017.

¹¹⁹ Ibid.

¹²⁰ UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A (III))*, 1948.

¹²¹ UN General Assembly, *Convention on the Rights of a Child (A/RES/44/25)*, 1989.

¹²² UN Development Group, *Data Privacy, Ethics and Protection: Guidance Note on Big Data for Achievement of the 2030 Agenda*, 2017.

¹²³ Ibid.

¹²⁴ Ibid.

¹²⁵ UN Development Group, *Data Privacy, Ethics and Protection: Guidance Note on Big Data for Achievement of the 2030 Agenda*, 2017.

¹²⁶ UN General Assembly, *The Right to Privacy in the Digital Age (A/RES/68/167)*, 2014.

¹²⁷ Ibid.

¹²⁸ Ibid.

(OHCHR) to submit a report to the Human Rights Council (HRC) and the General Assembly.¹²⁹ The report on the topic of *The Right to Privacy in the Digital Age* was published in June 2014 and focused on the protection and promotion of the right to privacy in the digital age.¹³⁰

More recently, General Assembly resolution 71/199 on “The Right to Privacy in the Digital Age” (2016) expressed the need to further discuss and analyze issues that occur in the context of the promotion and protection of the right to privacy in the digital age.¹³¹ The resolution emphasizes that Member States should further review their practices, legislations, and procedures to ensure that privacy is respected in the context of mass surveillance, or interception, and that measures are taken to prevent violations of the right to privacy.¹³² Business enterprises are called upon to respect human rights and are recommended to follow the *Protect, Respect and Remedy Framework*.¹³³ The *Protect, Respect and Remedy Framework* is the annex of the Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, which was submitted to the HRC in 2011.¹³⁴ These guiding principles ask Member States to provide principles and clear expectations for businesses to protect human rights.¹³⁵ Further operational principles are included in the framework that suggest Member States to implement regulatory and policy functions.¹³⁶

In 2016, the European Union adopted regulation 2016/679 on *The Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data* (General Data Protection Regulation - GDPR).¹³⁷ This regulation should be seen as a reform package, which updates and modernizes the principles of the 1995 *Data Protection Directive*.¹³⁸ It establishes the rights and obligations of individuals and those responsible for processing data, methods for compliance, and the scope of sanctions for those that breach the rules laid out in this regulation.¹³⁹

The *European Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data* (Convention 108) was drafted by the Council of Europe and entered into force in 1985.¹⁴⁰ The convention protects the right to privacy in regard to the automatic processing of personal data.¹⁴¹ Automatic processing is the storage of data and the “alteration, erasure, retrieval or dissemination” of data.¹⁴² In 2018, a protocol amending and modernizing Convention 108 was opened for signature.¹⁴³ The modernized convention has not entered into force yet, but the modernization is regarded necessary to deal with new challenges that come with the use of new information and communication technologies, and to strengthen the effective implementation of the convention.¹⁴⁴

¹²⁹ UN General Assembly, *The Right to Privacy in the Digital Age* (A/RES/68/167), 2014.

¹³⁰ UN HRC, *The Right to Privacy in the Digital Age: Report of the Office of the United Nations High Commissioner for Human Rights* (A/HRC/27/37), 2014.

¹³¹ UN General Assembly, *The Right to Privacy in the Digital Age* (A/RES/71/199), 2017.

¹³² *Ibid.*

¹³³ *Ibid.*

¹³⁴ UN HRC, *Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and other Business Enterprises, John Ruggie* (A/HRC/17/31), 2011.

¹³⁵ *Ibid.*

¹³⁶ *Ibid.*

¹³⁷ European Commission, *Questions and Answers – Data Protection Reform Package*, 2017; European Union, *Regulation (EU) 2016/679 of the European Parliament and of the Council*, 2016; European Union Agency for Fundamental Rights and Council of Europe, *Handbook on European Data Protection Law*, 2018.

¹³⁸ European Commission, *Questions and Answers – Data Protection Reform Package*, 2017; European Union, *Regulation (EU) 2016/679 of the European Parliament and of the Council*, 2016.

¹³⁹ *Ibid.*

¹⁴⁰ Council of Europe, *Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data*, 1981.

¹⁴¹ *Ibid.*

¹⁴² *Ibid.*

¹⁴³ *Ibid.*

¹⁴⁴ Council of Europe, *Modernisation of Convention 108*, 2019.

Role of the International System

The Human Rights Council adopted resolution 28/16 on “The Right to Privacy in the Digital Age” (2015) at its twenty-eighth session, creating the mandate of a Special Rapporteur on the right to privacy for a period of three years.¹⁴⁵ The rapporteur reports annually to HRC and the General Assembly.¹⁴⁶ He submitted a report at the end of his term in 2018 which outlines five thematic action streams the rapporteur works on, such as security and surveillance, big data and open data, health data, use of personal data by corporations, and privacy and personality.¹⁴⁷ Further the rapporteur makes country visits and consultations.¹⁴⁸ Achievements of the work of the Special Rapporteur are thematic reports such as most recently HRC report 37/62, and General Assembly report 74/277.¹⁴⁹ In 2018, HRC adopted resolution 37/2 which extends the mandate of the Special Rapporteur on the right to privacy for a period of three years.¹⁵⁰

HRC is aware of the difficulties that come with the improvement of ICT and works on the creation of frameworks and best practices to use these technologies to ensure the right of privacy in the digital age.¹⁵¹ In 2012 HRC adopted resolution 20/8 on “The Promotion, Protection and Enjoyment of Human Rights on the internet,” which affirms that rights that are granted to people offline, also need to be protected in an online environment.¹⁵² In 2017, HRC adopted resolution 34/7 on “The Right to Privacy in the Digital Age”, which calls upon Member States to develop or maintain preventive measures regarding the right to privacy.¹⁵³ The Council requested with this resolution, in Paragraph 10, OHCHR to organize an expert workshop that clarifies and identifies the “principles, standards and best practices regarding the promotion and protection of the right to privacy in the digital age” and to prepare a report on the outcome.¹⁵⁴ Further, the resolution asks Member States to review their best practices and mechanisms to protect the right of privacy in the context of mass surveillance, interception, and collection of data.¹⁵⁵

Working closely with HRC, the General Assembly adopted resolution 73/179 on “The Right to Privacy in the Digital Age” in 2018, which recognizes violations of privacy of vulnerable and marginalized groups such as women and children, as they are specifically affected by gender-based violence, abuse and sexual harassment.¹⁵⁶ Member States are called upon to establish preventive measures and remedies in the context of the right to privacy in the digital age.¹⁵⁷ These measures are meant to prevent violations and abuses of the right to privacy of marginalized groups such as women and children that are higher at risk for unlawful interference with their personal data.¹⁵⁸ More generally the resolution calls for Member States to create mechanisms that ensure transparency of data sharing, expand informal dialogues with civil society organizations (CSOs), and to promote education to protect privacy.¹⁵⁹ Business enterprises are called upon to provide transparent information about the use of data.¹⁶⁰

In 2018, the United Nations Children’s Fund (UNICEF) launched the “Industry Toolkit” on Children’s online privacy and freedom of expression, which provides five principles to respect, protect, and realize

¹⁴⁵ UN HRC, *The Right to Privacy in the Digital Age (A/HRC/RES/28/16)*, 2015.

¹⁴⁶ UN HRC, *Report of the Special Rapporteur on the Right to Privacy (A/HRC/37/62)*, 2018.

¹⁴⁷ *Ibid.*

¹⁴⁸ *Ibid.*

¹⁴⁹ *Ibid.*

¹⁵⁰ UN HRC, *The Right to Privacy in the Digital Age (A/HRC/RES/37/2)*, 2018.

¹⁵¹ UN OHCHR, *The Right to Privacy in the Digital Age*, 2019.

¹⁵² UN HRC, *The Promotion, Protection and Enjoyment of Human Rights on the Internet (A/HRC/RES/20/8)*, 2015.

¹⁵³ UN HRC, *The Right to Privacy in the Digital Age (A/HRC/RES/34/7)*, 2017.

¹⁵⁴ *Ibid.*

¹⁵⁵ *Ibid.*

¹⁵⁶ UN General Assembly, *The Right to Privacy in the Digital Age (A/RES/73/179)*, 2019.

¹⁵⁷ *Ibid.*

¹⁵⁸ *Ibid.*

¹⁵⁹ *Ibid.*

¹⁶⁰ *Ibid.*

the rights of children.¹⁶¹ These principles include that children should have the right to privacy and the protection of their personal data as well as the right to freedom of expression and access to remedies for rights violations.¹⁶²

Non-governmental organizations (NGOs) like Privacy International argue that the right to privacy was largely unaddressed within the United Nations (UN) human rights monitoring mechanisms and only few mechanisms exist to address threats to privacy in the digital age.¹⁶³ They also led the CSO campaign for the creation of the UN Special Rapporteur on the right to privacy in the digital age.¹⁶⁴ Besides supporting campaigns about the issue, the NGO provides HRC with country reports that document concerns about “state surveillance, protection of personal data, exploitation and vulnerability of data by governments and companies.”¹⁶⁵

The Internet Democracy Project is an NGO working on the promotion of free speech, democracy and social justice on the Internet.¹⁶⁶ The Democracy Project focuses on issues that are a threat to the freedom of expression and privacy in the digital age such as censorship, online hate speech, and the collection of data.¹⁶⁷ Another issue that needs to be monitored, according to the Internet Democracy Project, is that most of the internet infrastructure is owned by private businesses that follow their own interests.¹⁶⁸ These interests can be different to public interests and could potentially be of harm to privacy or other human rights.¹⁶⁹

Mass Surveillance, Data Collection, and the Question of Privacy

The report of OHCHR on the right to privacy in the digital age names several issues including mass surveillance and data collection.¹⁷⁰ Concerns are that global mass surveillance can influence human rights, including the right to privacy.¹⁷¹ Furthermore, it is unclear to what extent users are aware about the data they are sharing when using the internet.¹⁷² The collection of data can interfere with the privacy of someone and further lead to violations of human rights such as the freedom of expression or association.¹⁷³ This can especially be a problem if users are not aware of what data is shared.¹⁷⁴ When a person feels that their privacy has been invaded, measures are needed to report such violations.¹⁷⁵ To heighten the awareness that data is shared while using the internet, the European Court of Justice decided that an active consent to the use of cookies is necessary.¹⁷⁶ While cookies, which are small files created when using websites, are needed for many internet services to work properly, they can for example also be used to identify a user’s habits when moving from one website to another.¹⁷⁷

HRC resolution 34/7 on “The Right to Privacy in the Digital Age” recognizes the need to evaluate the lawfulness of surveillance practices.¹⁷⁸ A report of HRC from 2015 on mass surveillance states concerns

¹⁶¹ UNICEF, *Industry Toolkit: Children’s Online Privacy and Freedom of Expression*, 2018.

¹⁶² *Ibid.*

¹⁶³ Privacy International, *United Nations Recognition of Privacy*.

¹⁶⁴ *Ibid.*

¹⁶⁵ *Ibid.*

¹⁶⁶ Internet Democracy Project, *About*, 2019.

¹⁶⁷ Internet Democracy Project, *Issues*, 2019.

¹⁶⁸ *Ibid.*

¹⁶⁹ *Ibid.*

¹⁷⁰ UN HRC, *The Right to Privacy in the Digital Age: Report of the Office of the United Nations High Commissioner for Human Rights (A/HRC/27/37)*, 2014.

¹⁷¹ *Ibid.*

¹⁷² *Ibid.*

¹⁷³ *Ibid.*

¹⁷⁴ *Ibid.*

¹⁷⁵ *Ibid.*

¹⁷⁶ Ekblom, Internet Users Must Actively Consent to Use of Cookies, EU Court Rules, *Reuters*, 2019.

¹⁷⁷ Mozilla, *HTTP Cookies*, 2019.

¹⁷⁸ UN HRC, *The Right to Privacy in the Digital Age (A/HRC/RES/34/7)*, 2017.

about the effects of mass surveillance on fundamental human rights, including the right to privacy.¹⁷⁹ The main concern is that intelligence services are creating “back doors” to exploit weaknesses in security standards.¹⁸⁰ These weaknesses can be also exploited by terrorists or other criminals.¹⁸¹ Other main points of the report state that surveillance by governments should only be utilized when necessary and legitimate, and that Member States have extraterritorial duties since the internet has no boundaries.¹⁸² Further, the report points out the importance of transparency and accountability of data collection and it emphasizes that technology companies are important to maintain and uphold the right to privacy as well.¹⁸³

The NGO Access Now defends and extends the digital rights of users at risk, such as children, around the world.¹⁸⁴ It gives recommendations to OHCHR about surveillance and communication interception.¹⁸⁵ These recommendations include that mass surveillance should only be used when necessary, such as in the context of fighting terrorism.¹⁸⁶ Access Now recommends that vulnerable groups such as children should not be targeted by surveillance, that governments should use surveillance responsibly, and that hacking by governments should be banned.¹⁸⁷ According to Access Now, the growing reliance on data-driven technology and biometric data asks for regulatory frameworks that concern governments and private businesses.¹⁸⁸

Child Privacy in the Digital Age

In 2017 UNICEF released a report that shows the opportunities and challenge for children in the digital world.¹⁸⁹ In 2019, UNICEF published the Innocenti Research Brief, which shows that most children between the ages of 9 and 17 have internet access and undertake various activities on the internet.¹⁹⁰ This exposure to a new environment holds challenges to the right to privacy, access to information, and public participation.¹⁹¹ Threats to children’s privacy in the digital age can be children’s lack of knowledge in context of collection and processing of personal data, online surveillance which captures personal data, and the use of biometrics.¹⁹² The lack of knowledge is part of why children are more at risk in the digital age than adults.¹⁹³ There are also pre-existing risks that gained new dimensions online such as “cyberbullying, online stalking, identity theft, and exposure to unwanted or inappropriate advertising content.”¹⁹⁴ Children are especially at risk caused by a lack of knowledge about data collection in general, and further what happens when their data gets shared without their consent.¹⁹⁵

In 2018, the Child Rights International Network (CRIN), a think tank focusing on children’s rights, submitted a paper towards OHCHR’s report on the right to privacy in the digital age.¹⁹⁶ In this paper,

¹⁷⁹ Council of Europe, *Mass Surveillance*, 2015.

¹⁸⁰ Ibid.

¹⁸¹ Ibid.

¹⁸² Ibid; Human Rights Watch, *United Nations: Rein in Mass Surveillance*, 2014.

¹⁸³ Council of Europe, *Mass Surveillance*, 2015; Human Rights Watch, *United Nations: Rein in Mass Surveillance*, 2014.

¹⁸⁴ Access Now, *Submission to Report on the Right to Privacy in the Digital Age by the Office of the UN High Commissioner for Human Rights*, 2018.

¹⁸⁵ Ibid.

¹⁸⁶ Ibid.

¹⁸⁷ Ibid.

¹⁸⁸ Ibid.

¹⁸⁹ UNICEF, *The State of the World’s Children 2017: Children in a Digital World*, 2017.

¹⁹⁰ UNICEF, *Innocenti Research Brief: Is there a Ladder of Children’s Online Participation?*, 2019.

¹⁹¹ UNICEF, *Child Privacy in the Age of Web 2.0 and 3.0: Challenges and Opportunities for Policy*, 2017.

¹⁹² Ibid.

¹⁹³ Ibid.

¹⁹⁴ Ibid.

¹⁹⁵ Ibid.

¹⁹⁶ Child Right International Network, *CRIN’s Submission for OHCHR’s Report on the Right to Privacy in the Digital Age*, 2018.

CRIN gives recommendations to ensure the right to privacy in the digital age for children.¹⁹⁷ These recommendations include that terms and conditions of websites should be written in clear language to ensure that children understand them.¹⁹⁸ Further, the collection of children’s data while using the internet should be minimal and there should be an option for children and adults to request that their data gets deleted.¹⁹⁹ Article 17 of the GDPR addresses the right to erasure, which means that, upon someone’s request, their collected data should be deleted.²⁰⁰ However, the erasure of some personal information on the internet can be hard to put into practice.²⁰¹ In the context of the collection and use of children’s data, CRIN gives recommendations and best practices to parents, caregivers, and Member States.²⁰² Children’s use of digital communication tools should never be monitored without their knowledge, the scope and nature of information that is accessible to children should be appropriate without interfering with the decision-making of children.²⁰³ Data also gets collected for commercial use, which raises further privacy questions such as how private entities use the data, or questions concerning the purpose of the data collection.²⁰⁴ CRIN recommends that data should only be collected and/or shared with the child’s consent, which should also apply to adults.²⁰⁵ According to CRIN, personal information shouldn’t be sold for profit and targeted advertisements should be clearly marked as such.²⁰⁶ Furthermore, CRIN recommends that children should learn in school about their rights in the digital world, to ensure the protection of privacy in the digital age.²⁰⁷ Understanding how personal data is collected and processed can be difficult, therefore digital literacy education should take place from an early age, also keeping in mind further technological growth.²⁰⁸

There are many challenges for the international community to ensure the right of privacy of children in the digital age.²⁰⁹ Data collection, storage and processing without the child’s understanding of what this might entail is one of those challenges.²¹⁰ Children’s restricted access to information that influences their ability to make independent decisions is another challenge.²¹¹ Children might not be aware how the sharing of personal information online can influence their offline reputation and further influence, for instance, their ability to employment as they enter adulthood.²¹² The right to privacy needs to be further promoted to ensure a safe use of the internet and the digital world, especially for marginalized and high-risk groups, such as children.²¹³

Conclusion

The right to privacy in the digital age is an increasingly important topic. One of the main concerns is that mass surveillance is used more by private entities, which can be unlawful.²¹⁴ Member States are especially worried that CT can be exploited by certain policies or practices because these new technologies are vulnerable to unlawful exploitation.²¹⁵

¹⁹⁷ Ibid.

¹⁹⁸ Ibid.

¹⁹⁹ Ibid.

²⁰⁰ Ibid.

²⁰¹ Ibid.

²⁰² Ibid.

²⁰³ Ibid.

²⁰⁴ Ibid.

²⁰⁵ Ibid.

²⁰⁶ Ibid.

²⁰⁷ Ibid.

²⁰⁸ Ibid.

²⁰⁹ UNICEF, *Industry Toolkit: Children’s Online Privacy and Freedom of Expression*, 2018.

²¹⁰ Ibid.

²¹¹ Ibid.

²¹² Ibid.

²¹³ Ibid.

²¹⁴ UN HRC, *The Right to Privacy in the Digital Age: Report of the Office of the United Nations High Commissioner for Human Rights (A/HRC/27/37)*, 2014.

²¹⁵ Ibid.

To prevent unlawful use, and to guarantee the protection of the right to privacy, effective legal frameworks are crucial.²¹⁶ Existing frameworks need to be updated by legislative, administrative, or judicial authorities to match developments of ICT and surveillance measures.²¹⁷ General Assembly resolution 73/179 on “The Right to Privacy in the Digital Age” of 2019 asks Member States to work closely with CSOs to promote education about ICT.²¹⁸ Business enterprises are called upon to provide transparent information about their use of data.²¹⁹

Children are specifically at risk for violations of their privacy, which is partly caused by their lack of knowledge about data collection and processing, or pre-existing risks such as bullying, stalking or negative effects on their future.²²⁰ Member States are called upon to uphold the five principles of the UNICEF “Industry Toolkit.”²²¹ Personal data of children should be protected, and the access to a variety of information sources for children on the internet should be ensured.²²² It should be easy, especially for children, to find remedies for violations or abuse of their rights.²²³ The right to erasure should be ensured for children as well as adults, which is however difficult to put into practice.²²⁴ Further work of all stakeholders, including NGO’s, the business sector and Member States, is necessary to be able to enjoy, and maintain, the right to privacy in the digital age.²²⁵

Further Research

As delegates begin researching this topic they should consider: How can the same access for all children to the same information on the internet be ensured? How can education regarding personal data be assured? How can the lawful use of mass surveillance be ensured by Member States? How can illegal use of mass surveillance or other communication technology be prevented? How can the private use of mass surveillance be regulated? What regulatory frameworks are needed to ensure the right to privacy in the digital age?

Annotated Bibliography

United Nations Children’s Fund. (2017). *Child Privacy in the Age of Web 2.0 and 3.0: Challenges and Opportunities for Policy*. Retrieved 14 September 2019 from: https://www.unicef-irc.org/publications/pdf/Child_privacy_challenges_opportunities.pdf

This document from UNICEF describes challenges and risks to children’s privacy. Challenges can be children’s lack of knowledge, online surveillance, use of biometrics, and pre-existing risks that get accelerated by new technologies. Further, the document explains national, regional and international regulatory mechanisms, providing examples from mechanisms from Member States such as Spain, the United States of America, and a European Union regulatory mechanism. Also, children’s online rights and challenges in that context are explained in the document. This source is helpful to delegates to explore

²¹⁶ UN OHCHR, *Opening Remarks by Ms. Navi Pillay, United Nations High Commissioner for Human Rights to the Side-Event at the 24th Session of the UN Human Rights Council How to Safeguard the Right to Privacy in the Digital Age?*, 2013; UN OHCHR, *Opening Remarks by Ms. Navi Pillay United Nations High Commissioner for Human Rights to the Expert Seminar: The Right to Privacy in the Digital Age, 24 February 2014, Room XXI, Palais des Nations, Geneva, 2014.*

²¹⁷ Ibid.

²¹⁸ UN General Assembly, *The Right to Privacy in the Digital Age (A/RES/73/179)*, 2019.

²¹⁹ Ibid.

²²⁰ UNICEF, *Child Privacy in the Age of Web 2.0 and 3.0: Challenges and Opportunities for Policy*, 2017.

²²¹ UNICEF, *Industry Toolkit: Children’s Online Privacy and Freedom of Expression*, 2018.

²²² Ibid.

²²³ Ibid.

²²⁴ European Union Agency for Fundamental Rights and Council of Europe, *Handbook on European Data Protection Law*, 2018.

²²⁵ Ibid.

the challenges and opportunities that the access to internet and the digital bear for children.

United Nations, Human Rights Council, Twenty-seventh session. (2014). *The Right to Privacy in the Digital Age: Report of the Office of the United Nations High Commissioner for Human Rights (A/HRC/27/37)*. Retrieved 14 September 2019 from: <https://undocs.org/A/HRC/27/37>

The Report of the Office of the UN High Commissioner for Human Rights on the Right to Privacy in the Digital Age provides background information to the topic and explains issues in various areas in regard to the right to privacy in the digital age. Further, the report recognizes that to address the challenges for privacy in the digital age, a multi-stakeholder engagement is necessary, including Member States, civil society, NGOs, academia, technical communities and the business sector. Finally, the report notes recommendations to Member States, businesses, and CSOs in how to ensure the right to privacy in the digital age. This source is helpful because it helps delegates to understand the role of private businesses and how Member States should act to ensure the right to privacy in the digital age.

United Nations, Human Rights Council, Twenty-eighth session. (2015). *The Right to Privacy in the Digital age (A/HRC/RES/28/16)*. Retrieved 22 July 2019 from: <https://undocs.org/A/HRC/RES/28/16>

In this resolution, the Human Rights Council decided to appoint a Special Rapporteur on the right to privacy for a period of three years. The special rapporteurs' task is "to gather relevant information, including on international and national frameworks, national practices and experience, to study trends, developments and challenges in relation to the right to privacy and to make recommendations to ensure its promotion and protection, including in connection with the challenges arising from new technologies." This source is helpful to delegates to get familiar with the task of the Special Rapporteur, as well as to define relevant areas of issues in the context of privacy in the digital age such as the unlawful use or sharing of data.

United Nations, Human Rights Council, Thirty-fourth session. (2017). *The Right to Privacy in the Digital Age (A/HRC/RES/34/7)*. Retrieved 22 July 2019 from: <https://undocs.org/A/HRC/RES/34/7>

This HRC resolution was adopted in 2017 and asks Member States, CSOs, NHRIs, and business entities to share their best practices, principles and standards regarding the right to privacy in the digital age. With this information, a report is to be prepared. This source is helpful to start the research on individual Member States' position as well as the positions of NGOs, CSOs on the topic.

United Nations, Human Rights Council, Thirty-seventh session. (2018). *Report of the Special Rapporteur on the Right to Privacy (A/HRC/37/62)*. Retrieved 14 September 2019 from:

<https://undocs.org/A/HRC/37/62>

The Special Rapporteur is an expert appointed by HRC to examine and report back on the right to privacy. The report lists achievements of the UN and the international community in the field of privacy in the digital age such as HRC report 31/64, HRC report 31/64, and General Assembly report 72/540. The Special Rapporteur gathers information and creates thematic action streams to further point out areas of interest to work on for the right to privacy. Finally, the report gives recommendations to Member States such as develop standards, promote principles, best practices, and implement human right norms. This source is helpful to delegates to get to know the work of the Special Rapporteur and get to know different areas where issues arise.

Bibliography

Access Now. (2018). *Submission to Report on the Right to Privacy in the Digital Age by the Office of the UN High Commissioner for Human Rights*. Retrieved 22 July 2019 from:

<https://www.ohchr.org/Documents/Issues/DigitalAge/ReportPrivacyinDigitalAge/AccessNow.pdf>

- Child Rights International Network. (2018). *CRIN's Submission for OHCHR's Report on the Right to Privacy in the Digital age*. Retrieved 22 July 2019 from: <https://www.ohchr.org/Documents/Issues/DigitalAge/ReportPrivacyinDigitalAge/CRIN%20.pdf>
- Council of Europe. (1981). *Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data*. Retrieved 29 September 2019 from: <https://www.coe.int/de/web/conventions/full-list/-/conventions/rms/0900001680078b37>
- Council of Europe. (2015). *Mass Surveillance*. Retrieved 20 October 2019 from: https://www.academia.edu/36996471/Committee_on_Legal_Affairs_and_Human_Rights_Mass_surveillance
- Council of Europe. (2019). *Modernisation of Convention 108*. Retrieved 20 October 2019 from: <https://www.coe.int/en/web/data-protection/convention108/modernised>
- Ekblom, J. (2019, October 1). Internet Users Must Actively Consent to Use of Cookies, EU Court Rules. *Reuters*. Retrieved 20 October 2019 from: <https://www.reuters.com/article/us-eu-court-cookies/internet-users-must-actively-consent-to-use-of-cookies-eu-court-rules-idUSKBN1WG3NF>
- European Commission. (2017, May 24). *Questions and Answers – Data Protection Reform Package*. Retrieved 23 October 2019 from: https://europa.eu/rapid/press-release_MEMO-17-1441_en.htm
- European Parliamentary Research Service. (2015). *Mass Surveillance: Part 1 – Risks, Opportunities and Mitigation Strategies*. Retrieved 29 September 2019 from: http://www.europarl.europa.eu/RegData/etudes/STUD/2015/527409/EPRS_STU%282015%29527409_R_EV1_EN.pdf
- European Union. (2016). *Regulation (EU) 2016/679 of the European Parliament and of the Council*. Retrieved 23 October 2019 from: <https://eur-lex.europa.eu/legal-content/NL/TXT/?uri=CELEX%3A32016R0679>
- European Union Agency for Fundamental Rights and Council of Europe. (2018). *Handbook on European Data Protection Law*. Retrieved 29 September 2019 from: <https://fra.europa.eu/en/publication/2018/handbook-european-data-protection-law>
- Human Rights Watch. (2014, July 17). *United Nations: Rein in Mass Surveillance*. Retrieved 20 October 2019 from: <https://www.hrw.org/news/2014/07/17/united-nations-rein-mass-surveillance>
- Internet Democracy Project. (2019). *About*. Retrieved 16 September 2019 from: <https://internetdemocracy.in/about/>
- Internet Democracy Project. (2019). *Issues*. Retrieved 16 September 2019 from: <https://internetdemocracy.in/issues/>
- Kwasny, S. (2019). *Convention 108+ and the GDPR*. Retrieved 29 September 2019 from: <https://rm.coe.int/convention-108-era-sophie-kwasny/168093b851>
- Mozilla. (2019). *HTTP Cookies*. Retrieved 29 October 2019 from: <https://developer.mozilla.org/en-US/docs/Web/HTTP/Cookies>
- Office of the United Nations High Commissioner for Human Rights. (2013). *Opening Remarks by Ms. Navi Pillay, United Nations High Commissioner for Human Rights to the Side-event at the 24th Session of the UN Human Rights Council How to Safeguard the Right to Privacy in the Digital Age?*. Retrieved 26 October 2019 from: <https://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13758&LangID=E>

Office of the United Nations High Commissioner for Human Rights. (2014). *Opening Remarks by Ms. Navi Pillay United Nations High Commissioner for Human Rights to the Expert Seminar: The Right to Privacy in the Digital Age, 24 February 2014, Room XXI, Palais des Nations, Geneva*. Retrieved 20 October 2019 from:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14276&LangID=E>

Office of the United Nations High Commissioner for Human Rights. (2015, June 17). *Human Rights Council Discusses Freedom of Opinion and Expression and Freedoms of Peaceful Assembly and of Association*. Retrieved 9 September 2019 from:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16095&LangID=E>

Office of the United Nations High Commissioner for Human Rights. (2019). *The Right to Privacy in the Digital Age*. Retrieved 9 September 2019 from:

<https://www.ohchr.org/EN/Issues/DigitalAge/Pages/DigitalAgeIndex.aspx>

Privacy International. (n.d.). *United Nations Recognition of Privacy*. Retrieved 16 September 2019 from:

<https://privacyinternational.org/impact/united-nations-recognition-privacy>

United Nations Children's Fund. (2017). *Child Privacy in the Age of Web 2.0 and 3.0: Challenges and Opportunities for Policy*. Retrieved 14 September 2019 from: https://www.unicef-irc.org/publications/pdf/Child_privacy_challenges_opportunities.pdf

United Nations Children's Fund. (2017). *The State of the World's Children 2017: Children in a Digital World*. Retrieved 20 October 2019 from:

https://www.unicef.org/publications/files/SOWC_2017_ENG_WEB.pdf

United Nations Children's Fund. (2018). *Industry Toolkit: Children's Online Privacy and Freedom of Expression*. Retrieved 14 September 2019 from:

[https://www.unicef.org/csr/files/UNICEF_Childrens_Online_Privacy_and_Freedom_of_Expression\(1\).pdf](https://www.unicef.org/csr/files/UNICEF_Childrens_Online_Privacy_and_Freedom_of_Expression(1).pdf)

United Nations Children's Fund. (2019). *Innocenti Research Brief: Is there a Ladder of Children's Online Participation?*. Retrieved 14 September 2019 from: <https://www.unicef-irc.org/publications/pdf/IRB-2019-02.pdf>

United Nations Development Group. (2017). *Data Privacy, Ethics and Protection: Guidance Note on Big Data for Achievement of the 2030 Agenda*. Retrieved 29 October 2019 from: https://undg.org/wp-content/uploads/2017/11/UNDG_BigData_final_web.pdf

United Nations, General Assembly, Third session. (1948). *Universal Declaration of Human Rights (A/RES/217 A (III))*. Retrieved 20 October 2019 from: <http://www.un.org/en/documents/udhr/>

United Nations, General Assembly, Sixty-first session. (1989). *Convention on the Rights of a Child (A/RES/44/25)*. Adopted on the report of the Third Committee (A/44/736). Retrieved 29 September 2019 from: <https://undocs.org/A/RES/44/25>

United Nations, General Assembly, Sixty-eighth session. (2014). *The Right to Privacy in the Digital Age (A/RES/68/167)*. Adopted on the report of the Third Committee (A/68/456/Add.2). Retrieved 14 September 2019 from: <https://undocs.org/A/RES/68/167>

United Nations, General Assembly, Sixty-eighth session. (2014). *Construction of a new Facility for the International Residual Mechanism for Criminal Tribunals, Arusha branch (A/RES/68/267)*. Adopted on the report of the Fifth Committee (A/68/683/Add.1). Retrieved 9 September 2019 from:

<https://www.undocs.org/A/RES/68/267>

United Nations, General Assembly, Seventy-first session. (2017). *The Right to Privacy in the Digital Age (A/RES/71/199)*. Adopted on the report of the Third Committee (A/71/484/Add.2). Retrieved 14 September 2019 from: <https://undocs.org/A/RES/71/199>

United Nations, General Assembly, Seventy-third session. (2019). *The Right to Privacy in the Digital Age (A/RES/73/179)*. Adopted on the report of the Third Committee (A/73/589/Add.2). Retrieved 14 September 2019 from: <https://undocs.org/A/RES/73/179>

United Nations, Human Rights Council, Seventeenth session. (2011). *Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, John Ruggie (A/HRC/17/31)*. Retrieved 14 September 2019 from: <https://undocs.org/A/HRC/17/31>

United Nations, Human Rights Council, Twenty-seventh session. (2014). *The Right to Privacy in the Digital Age: Report of the Office of the United Nations High Commissioner for Human Rights (A/HRC/27/37)*. Retrieved 14 September 2019 from: <https://undocs.org/A/HRC/27/37>

United Nations, Human Rights Council, Twentieth session. (2015). *The Promotion, Protection and Enjoyment of Human Rights in the Internet (A/HRC/RES/20/8)*. Retrieved 14 September 2019 from: <https://undocs.org/A/HRC/RES/20/8>

United Nations, Human Rights Council, Twenty-eighth session. (2015). *The Right to Privacy in the Digital Age (A/HRC/RES/28/16)*. Retrieved 22 July 2019 from: <https://undocs.org/A/HRC/RES/28/16>

United Nations, Human Rights Council, Thirty-fourth session. (2017). *The Right to Privacy in the Digital Age (A/HRC/RES/34/7)*. Retrieved 14 September 2019 from: <https://undocs.org/A/HRC/RES/34/7>

United Nations, Human Rights Council, Thirty-seventh session. (2018). *Report of the Special Rapporteur on the Right to Privacy (A/HRC/37/62)*. Retrieved 14 September 2019 from: <https://undocs.org/A/HRC/37/62>

United Nations, Human Rights Council, Thirty-seventh session. (2018). *The Right to Privacy in the Digital Age (A/HRC/RES/37/2)*. Retrieved 14 September 2019 from: <https://undocs.org/A/HRC/RES/37/2>

II. Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance

*"It is a collective responsibility - but primarily that of States - to address racism, racial discrimination, xenophobia and related intolerance before these problems explode into open conflict. We must see those warning signs. We must see those vibrations in the ground when we start to divide humanity into us and them."*²²⁶

Introduction

Racial discrimination is happening on a daily basis, not only threatening world peace and security by potentially inciting genocide or civil war, but also in undermining society and hindering the universal fulfillment of basic human rights.²²⁷ Discrimination represents a dangerous weapon because its practice can lead to hate crimes.²²⁸ Even though there is no universal consensus about reported hate crimes, Member States have seen an increase in the number of hate crimes.²²⁹ According to police records in England and Wales, there has been an increase of 17% in the number of hate crimes in the United Kingdom from 2016-2018.²³⁰ Meanwhile, in the United States of America, reports from 2015 to 2017 show an increase of 30% in the number of hate crimes.²³¹ The Human Rights Council (HRC) has raised its concern over the increasing extremism and hate crimes that are results of racism, racial discrimination, xenophobia and related intolerance.²³²

The Office of the United Nations High Commissioner for Human Rights (OHCHR) has defined xenophobia as an "intense dislike or hatred against people that are perceived as outsiders, strangers or foreigners to a group, community or nation, based on their presumed or real descent, national, ethnic or social origin, race, color, religion, gender, sexual orientation or other grounds."²³³ The *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD) describes racial discrimination as: "any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."²³⁴ The Council of Europe has defined intolerance as "a lack of respect for practices or beliefs other than one's own."²³⁵

Even though the impact of discrimination is difficult to measure, such practices can trigger consequences including diminishing socio-economic opportunities, hindering education success, abetting violent acts, and contravening many rights devoted in the *Universal Declaration of Human Rights* (UDHR) (1948).²³⁶ The United Nations (UN) has adopted many resolutions addressing how to combat racial discrimination, showing the importance of this issue on a global scale.²³⁷ In addition, Member States have combat this issue by developing national action plans, as well as educational and awareness programs, and projects

²²⁶ UN General Assembly, *Elimination of Racism, Racial Discrimination, Xenophobia and Related Intolerance* (A/68/PV.76), 2014, p. 3.

²²⁷ UN OHCHR, *Combating Racial Discrimination*.

²²⁸ OSCE, *Prosecuting Hate Crimes: A Practical Guide*, 2014, p. 24.

²²⁹ OSCE, *Hate Crime Data-Collection and Monitoring Mechanisms*, 2014, p. 1.

²³⁰ Home Office of the United Kingdom, *Hate Crime, England and Wales, 2017/18*, 2018, p. 7.

²³¹ Stack, *Over 1,000 Hate Groups Are Now Active in United States, Civil Rights Group Says*, 2019.

²³² UN HRC, *Human Rights Council Holds General Debate on Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance*, 2018.

²³³ UN OHCHR, *Xenophobia*, 2013, p. 1

²³⁴ UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 1965.

²³⁵ Council of Europe, *Discrimination and Intolerance*, 2017.

²³⁶ National Academies Press, *Measuring Racial Discrimination*, 2004, pp. 15-22.

²³⁷ UN General Assembly, *Global Efforts for the Total Elimination of Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Comprehensive Implementation of and Follow-up to the Durban Declaration and Programme of Action* (A/RES/61/149), 2007, p. 1.

that aim to prevent and combat racial discrimination.²³⁸ However, several Member States have not fully implemented necessary anti-discrimination legislation to lessen racism, racial discrimination, and xenophobia.²³⁹ Hate groups are still growing in numbers and membership, and are committing racial crimes and stigmatizing vulnerable groups including migrants, women, and other minorities.²⁴⁰

International and Regional Framework

The *Charter of the United Nations* proclaims the importance of promoting and encouraging respect for human rights and fundamental freedoms for all without any discrimination.²⁴¹ The UDHR, adopted in 1948 by the UN General Assembly, is a comprehensive document that sets out basic individual rights and fundamental freedoms.²⁴² Through its Article 1, the UDHR establishes that “All human beings are born free and equal in dignity and rights”.²⁴³ The core of this article is equality and non-discrimination.²⁴⁴ Furthermore, UDHR’s Article 7 reaffirms a non-discrimination principal by establishing everyone is equal before the law and entitled to have equal protection under the law without any type of discrimination.²⁴⁵

In 1966, the General Assembly adopted the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).²⁴⁶ Both treaties declare that human rights are equal for every single person and forbids discrimination.²⁴⁷ Moreover, the ICCPR established a HRC through Article 28.²⁴⁸ HRC is responsible for evaluating the reports of member parties, which are mandatory and submitted regularly.²⁴⁹ In addition, the committee monitors the implementation of ICCPR.²⁵⁰

The *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD) is the most comprehensive legal document related to the fight against racial discrimination.²⁵¹ The ICERD was adopted by over three quarters of the world’s countries and it requires signatories to create and enforce laws that prohibit and eradicate racial discrimination.²⁵² The ICERD condemns any superiority doctrine founded on racial differentiation, including racial segregation and apartheid.²⁵³ Furthermore, the ICERD establishes State Parties are committed to guarantee the right of every individual, without any distinction on the subject of color, race or ethnic origin.²⁵⁴ Combined with the adoption of the ICERD, the Committee on the Elimination of Racial Discrimination (CERD) was launched in 1969 and since then supervises the implementation of this convention.²⁵⁵ CERD is comprised of 18 experts, from different Member States that signed the ICERD.²⁵⁶ It is mandatory for all signatories of the ICERD to submit reports detailing actions taken to combat racial discrimination.²⁵⁷ The CERD studies each report and make recommendations for

²³⁸ UN OHCHR, *National Action Plans Against Racial Discrimination*, 2013, p. 1.

²³⁹ Council of Europe, *Legislation Against Racism and Intolerance*, 2019.

²⁴⁰ UN HRC, *Combating Glorification of Nazism, neo-Nazism and Other Practices That Contribute to Fuelling Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/HRC/41/55)*, 2019, p. 2.

²⁴¹ *Charter of the United Nations*, 1945.

²⁴² UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A (III))*, 1948.

²⁴³ Kingdom of Belgium Federal Public Service Foreign Affairs, *Fight Against Racism and Discrimination*, 2016.

²⁴⁴ Ibid.

²⁴⁵ Petrova, *Article 7: The Equality and Non-Discrimination Provision*, 2016, pp. 3-4.

²⁴⁶ Canadian Civil Liberties Association, *Summary: International Covenant on Civil and Political Rights (ICCPR)*, 2015.

²⁴⁷ UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A (III))*, 1948.

²⁴⁸ UN General Assembly, *International Covenant on Civil and Political Rights*, 1966.

²⁴⁹ UN OHCHR, *Human Rights Committee*.

²⁵⁰ Ibid.

²⁵¹ UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 1965.

²⁵² Banton, *International Action Against Racial Discrimination*, 1996, p. 73.

²⁵³ UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 1965.

²⁵⁴ Ibid.

²⁵⁵ Shirane, *ICERD and CERD: A Guide for Civil Society Actors*, 2011, p. 1

²⁵⁶ UN OHCHR, *Committee on the Elimination of Racial Discrimination*.

²⁵⁷ Shirane, *ICERD and CERD: A Guide for Civil Society Actors*, 2011, p. 13.

each Member State in question.²⁵⁸ As well, Non-Governmental Organizations (NGOs) might take the opportunity to submit reports about how their governments are combating this issue, and the Committee will consider these reports too when making recommendations.²⁵⁹

In 1979, the UN adopted the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), which addresses women's rights and emphasized the eradication of discrimination towards women and girls.²⁶⁰ In 1984, the General Assembly adopted the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*.²⁶¹ Through Article 1, this convention provides the definition of torture and acknowledges the motives to which torture could be committed which would be identified as based on discrimination.²⁶² The General Assembly adopted the *Convention on the Rights of the Child* in 1989.²⁶³ This convention promotes children rights, and it addresses any discrimination towards children in Article 2.²⁶⁴ The *International Convention on the Protection of the Rights of All Migrant Workers* was adopted by the General Assembly in 1990, and its principal objective is to protect migrant workers' rights and it establishes the prevention of national or racial hatred, which promotes discrimination against these workers.²⁶⁵ The *Durban Declaration and Programme of Action* (DDPA) was adopted in 2001 by consensus at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, South Africa.²⁶⁶ The DDPA is a document proposing specific measures to counteract the problem of racism, racial discrimination, xenophobia and related intolerance.²⁶⁷ This includes creating national action plans to tackle racial discrimination, reinforcing national and international laws that prohibit discrimination and intolerance, and setting up programs that prevent citizens from inciting hatred on the basis of racial discrimination.²⁶⁸

Role of the International System

In 1993, the predecessor to HRC, the Human Right Commission, created a mandate for a Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance to oversee progress in tackling these issues.²⁶⁹ The Special Rapporteur's duties include communicating important petitions to Member States concerning violations of human rights.²⁷⁰ In addition, the Special Rapporteur is in charge of visiting countries to monitor how they are managing racial discrimination issues, as well as writes, and submits reports to HRC and General Assembly regularly.²⁷¹

HRC adopted resolution 38/19 in 2018, entitled "The Incompatibility Between Democracy and Racism" strongly advises Member States to build holistic approaches by establishing solid legal frameworks to address violent manifestations of racial discrimination.²⁷² This resolution also calls for the implementation of other measures to combat the issue of racial discrimination, including through education and

²⁵⁸ UN OHCHR, *Committee on the Elimination of Racial Discrimination*.

²⁵⁹ UN General Assembly, *Report of the Committee on the Elimination of Racial Discrimination (A/61/18)*, 2006, p. 7.

²⁶⁰ UN-Women, *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) for Youth*, 2016, p. 2.

²⁶¹ UN General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (A/RES/39/46)*, 1984.

²⁶² Wendland, *A Handbook on State Obligations Under the UN Convention against Torture*, 2002.

²⁶³ UN General Assembly, *Convention on the Rights of the Child (A/RES/44/25)*, 1989.

²⁶⁴ *Ibid.*

²⁶⁵ UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (A/RES/45/158)*, 1990.

²⁶⁶ UN General Assembly, *Report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12)*, 2001, p. 5.

²⁶⁷ UN DGC, *At a Glance: The Durban Declaration and Programme of Action*, 2011, p. 1.

²⁶⁸ *Ibid.*, p. 10.

²⁶⁹ UN Special Rapporteur on Racism, Racial Discrimination, Xenophobia and Related Intolerance, *The Mandate*, 2018.

²⁷⁰ *Ibid.*

²⁷¹ *Ibid.*

²⁷² UN General Assembly, *The Incompatibility Between Democracy and Racism (A/HRC/RES/38/19)*, 2018, pp. 2-3.

awareness-raising programs, and a the use of a victim-centered approach.²⁷³ In addition, a high-level panel discussion is convoked in this resolution to address the topic of the incompatibility between democracy and racism.²⁷⁴

OHCHR has held various high-level panels aimed at tackling discrimination, for example the Panel on the Mitigation and Countering of Rising Nationalist Populism and Extreme Supremacist Ideologies, which encouraged governments and companies to protect human rights on online platforms.²⁷⁵ OHCHR provides technical assistance to countries that are building, implementing or planning to implement national action plans to combat racial discrimination.²⁷⁶ OHCHR, along with its Anti-Discrimination Unit, have been building national capacities to deal with the issue of racial discrimination through the provision of advisory services, capacity to investigate racism, and through supporting activities that prohibit racial discrimination.²⁷⁷ In particular, the OHCHR's Anti-Discrimination Unit is in charge of supporting governments and other stakeholders in the implementation of the DDPA and the *Outcome Document of the Durban Review Conference*.²⁷⁸ Collaborating with others on the elaboration of national action plans to address discrimination, and supporting non-discrimination legislation and educational materials are some of the main tasks the Anti-Discrimination Unit is responsible for.²⁷⁹ OHCHR further supports the CERD's activities to address racial discrimination, including prohibiting propaganda that incites racist practices.²⁸⁰ OHCHR also assists the Independent Expert on Minority Issues, an expert body established by the UN in order to promote rights of minorities by enhancing society integration and respect for cultural diversity.²⁸¹ Furthermore, OHCHR helps the Working Group of Experts on People of African Descent, which was established through HRC resolution 2002/68 on "Racism, Racial Discrimination, Xenophobia, and Related Intolerance".²⁸² One of its main purposes is to build proposals on the eradication of racial discrimination against Africans and people of African descent across the globe.²⁸³

In 2019, the General Assembly adopted resolution 73/262 entitled "A Global Call for Concrete Action for the Total Elimination of Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Comprehensive Implementation of and Follow-up to the Durban Declaration and Programme of Action."²⁸⁴ In this resolution, the General Assembly recognized actions made by Member States to prohibit racial discrimination and to promote the full realization of economic, social, and cultural rights for all.²⁸⁵ This resolution highlighted that there are millions of people who are victims of racism, xenophobia, and racial discrimination.²⁸⁶ Also in this resolution, the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance is encouraged within her mandate to continue to pursue anti-discrimination measures, and to submit reports on her findings on this issue.²⁸⁷

²⁷³ Ibid., pp. 2-3.

²⁷⁴ Ibid., p 3.

²⁷⁵ UN OHCHR, *Discrimination*, 2013, p. 18.

²⁷⁶ UN OHCHR, *National Action Plans Against Racial Discrimination*, 2013, p. 2.

²⁷⁷ UN OHCHR, *Combating Racial Discrimination*, 2009.

²⁷⁸ UNHCR, *Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance Through a Strategic Approach*, 2009, p. 4.

²⁷⁹ Ibid.

²⁸⁰ UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*.

²⁸¹ UN OHCHR, *Special Rapporteur on Minority Issues*.

²⁸² UN Commission on Human Rights, *Racial Discrimination, Xenophobia, and Related Intolerance (E/CN.4/RES/2002/68)*, 2002.

²⁸³ UN OHCHR, *Working Group of Experts on People of African Descent*.

²⁸⁴ UN General Assembly, *A Global Call for Concrete Action for the Total Elimination of Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Comprehensive Implementation of and Follow-up to the Durban Declaration and Programme of Action (A/RES/73/262)*, 2019, p. 1.

²⁸⁵ Ibid., p. 2.

²⁸⁶ Ibid., p. 2.

²⁸⁷ Ibid., p. 6.

In its resolution 73/262, the General Assembly requested HRC to examine the possibility of creating a multi-year program in support of the *DDPA*.²⁸⁸ HRC was also requested to intensify awareness on its contribution to address racism, racial discrimination, xenophobia and related intolerance, in collaboration with Member States, national human rights institutions, relevant civil society organizations and UN agencies, funds and programs.²⁸⁹ Moreover, the General Assembly requested HRC to carry out an investigation on evaluating the *International Convention on the Elimination of All Forms of Racial Discrimination*, and at the same time identify gaps in the convention that need to be addressed.²⁹⁰

The international community recognizes that Member States bear the greatest responsibility for combating racial discrimination.²⁹¹ The UN encourages Member States to establish national human rights bodies to handle the issue of racial discrimination.²⁹² The European Union (EU) for example, has rules covering inter alia the problem of racism in its *Framework Decision on Combating Certain Forms of Expressions of Racism and Xenophobia by Virtue of Criminal Law*.²⁹³ This Framework Decision requires EU States to penalize practices of racism and xenophobia.²⁹⁴ In particular, it obligates EU States to punish Holocaust denial.²⁹⁵ Additionally, the European Commission against Racism and Intolerance (ECRI) was established in 1994 as a part of the Council of Europe.²⁹⁶ ECRI is responsible for visiting all Member States of the Council of Europe, and then prepares and submits specific reports on how countries are dealing with the issue of racism and intolerance.²⁹⁷ ECRI also develops recommendations focused on a non-discrimination environment, and also participates actively in the European and World Conferences against Racism.²⁹⁸ Furthermore, ECRI created a comprehensive Programme of Action designed to raise awareness within civil society of its work and activities.²⁹⁹

NGOs also play an important role in monitoring the implementation of measures to defeat discrimination, like the International Movement Against All Forms of Discrimination and Racism (IMADR).³⁰⁰ It has focused on carrying out activities that involve grassroots community empowerment, sensitization, action-oriented research, sharing information and experiences, and other methods.³⁰¹ IMADR also disseminates information on mechanisms to address racial discrimination, such as the promotion of human rights in school curricula.³⁰² In addition, at a local level, IMADR in Japan represents a crucial organization for campaigns that call for the effective implementation of ICERD.³⁰³

Combating Racism, Xenophobia and Related Intolerance on Online Platforms

Live streamed on Facebook, a large social media platform that hosts 2.4 billion users monthly, the whole world was able to witness the tragic mass shooting that took place in New Zealand in March 2019.³⁰⁴ In addition to it being livestreamed on Facebook, a feature which allows for videos to be viewed by other

²⁸⁸ Ibid., p. 6.

²⁸⁹ Ibid., p. 6.

²⁹⁰ Ibid., p. 6.

²⁹¹ UN DGC, *All States Have 'Primary Responsibility' to Protect Against Hate Attacks*, 2019.

²⁹² Council of Europe, *Paris Principles at 25: Strong National Human Rights Institutions Needed More Than Ever*, 2018.

²⁹³ European Commission, *Combating Racism and Xenophobia*.

²⁹⁴ Official Journal of the European Union, *Acts Adopted Under Title VI of The EU Treaty*, 2008, p. 2.

²⁹⁵ Weiler, *The Law of Holocaust Denial in Europe: Towards a (qualified) EU-wide Criminal Prohibition*, 2009, p. 1.

²⁹⁶ Council of Europe, *The European Commission Against Racism and Intolerance*, 2019

²⁹⁷ Kelly, *ECRI 10 Years of Combating Racism in Europe: A Review of the Work of the European Commission Against Racism and Intolerance*, 2004, p. 14.

²⁹⁸ Ibid.

²⁹⁹ Ibid.

³⁰⁰ IMADR, *About IMADR*.

³⁰¹ Ibid.

³⁰² Ibid.

³⁰³ Ibid.

³⁰⁴ Macklin, *The Christchurch Attacks: Livestream Terror in the Viral Video Age*, 2019; Clement, *Number of Facebook Users Worldwide*, 2019.

Facebook members in real time, the event was also reposted on YouTube and other online platforms including Twitter and Instagram.³⁰⁵ That event highlighted the way in which online platforms can be misused to not only spread hate speech and incite violence and abuse, but to propagate racism, racial discrimination, xenophobia and related intolerance.³⁰⁶

The report entitled “Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Comprehensive Implementation of the Follow-up to the Durban Declaration and Programme of Action” highlights educational and research activities which can be used as measures to combat racial discrimination.³⁰⁷ Within the report, the Special Rapporteur mentions additional measures to effectively tackle racism including carrying out research about the consequences of spreading and posting racist ideas on social media, promoting internet literacy, as well as implementing legal standards to prohibit hate speech.³⁰⁸ The United Nations Educational, Scientific and Cultural Organization has built a strategy that focuses on combating racism, discrimination, xenophobia and related intolerance, including measures in response to racist and xenophobic ideas spreading in online platforms.³⁰⁹ Furthermore, the UN has launched a strategy and plan of action on hate speech, which shall be implemented at an international and country level.³¹⁰ This strategy promotes coordinated data collection and investigation of the principal motives that result in spreading hate speech.³¹¹ This strategy also takes into account the right of freedom of expression, rejects hate speech, and establishes that combating racism is everyone’s responsibility, including governments, the private sector, and every individual in society.³¹²

The Council of Europe ran the No Hate Speech campaign between 2013 and 2017, a campaign which aimed at fighting against online racism and discrimination.³¹³ Critically, this campaign was started by youth representatives in the Joint Council on Youth and was mostly led by youth.³¹⁴ It intended to eliminate hate speech from the internet while fostering freedom of expression, especially amongst the youth.³¹⁵ This campaign also aimed to reduce the acceptance and spread of hate speech both online and offline.³¹⁶ In addition, the campaign hosted Hate Speech Watch, which is a tool to report, monitor and educate the public about hate speech online.³¹⁷ Concerning offline activities, the campaign engages and disseminates its messaging on the dangers of hate speech online through training courses, conferences, seminars, as well as youth events, such as festivals and any other inclusive activities.³¹⁸

There are countries that have also already implemented legislative measures that aim to tackle racism and xenophobia in online platforms.³¹⁹ For example, France passed a law against online hate speech, which consists of giving online platforms 24 hours to remove any type of hate speech, otherwise there will be financial penalties.³²⁰ Another country with legislative measures that contribute to prevent hate speech

³⁰⁵ Macklin, *The Christchurch Attacks: Livestream Terror in the Viral Video Age*, 2019.

³⁰⁶ UN General Assembly, *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Mutuma Ruteere** (A/HRC/26/49), 2014, p. 3.

³⁰⁷ UN General Assembly, *Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Comprehensive Implementation of the Follow-up to the Durban Declaration and Programme of Action* (A/72/287), 2017, p. 21.

³⁰⁸ *Ibid.*

³⁰⁹ UN General Assembly, *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Mutuma Ruteere** (A/HRC/26/49), 2014, p. 8.

³¹⁰ Special Advisor on the Prevention of Genocide, *United Nations Strategy and Plan of Action on Hate Speech*, 2019.

³¹¹ *Ibid.*

³¹² *Ibid.*

³¹³ Council of Europe, *About the Campaign(s)*.

³¹⁴ *Ibid.*

³¹⁵ *Ibid.*

³¹⁶ *Ibid.*

³¹⁷ *Ibid.*

³¹⁸ *Ibid.*

³¹⁹ Rosemain & Pineau, *French Lawmakers Vote to Target Online Hate Speech in Draft Bill*, 2019.

³²⁰ *Ibid.*

is Germany, with the German Network Enforcement Act, which establishes that online platforms must remove potential hate material within 24 hours or a fine will be imposed.³²¹ In addition, there has been a summit about online extremism organized by New Zealand's Prime Minister Jacinda Ardern, in Paris.³²² This summit had participation from governments and online platforms, including Google, Facebook and Twitter.³²³ Measures were proposed and agreed to such as increasing media education and funding for law enforcement in the hopes of better monitoring and removing online extremism.³²⁴ Another outcome of this summit included social media companies promising to work together to find new tools or mechanisms for extremist content to be identified and quickly removed from online platforms.³²⁵

The Special Rapporteur on Contemporary Forms of Racism had concluded that in many Member States, there is lack of punishment for violations of laws related to spreading racist, xenophobic and related ideologies.³²⁶ Due to the lack of adequate data on racism and xenophobia practices online, the Special Rapporteur recommended to Member States and human rights institutions to implement effective measures to identify, investigate, and register information on such practices that incite hate or violent crimes.³²⁷ Moreover, the Special Rapporteur acknowledges that there are limitations and challenges to adopting laws and policies to tackle the dissemination of racism, xenophobia and related intolerance on online platforms given that incitement of violence, racism, and racial hatred that takes place on the internet can be hosted and created in one location, and the hate crime itself can occur in another.³²⁸ Due to the nature of the internet, crimes that take place and are propagated online can fall under multiple jurisdictions, highlighting the need for continued international cooperation.³²⁹

Combating Xenophobia against Migrants

From 2000 to 2017, there has been an increase of almost 50% in the number of migrants, with an estimated number of 258 million migrants around the world.³³⁰ Migrants often experience violent attacks, which can be motivated by xenophobia.³³¹ Xenophobia towards migrants affects civil, cultural, economic, political, and the social rights of migrants negatively.³³² In addition, any type of discrimination against migrants can contribute to the jeopardizing of democratic values, social stability and peace.³³³

In September 2016 the General Assembly adopted the *New York Declaration for Refugees and Migrants*.³³⁴ Through this Declaration Member States reiterated their engagement to protect the human rights of all migrants, irrespective of their status.³³⁵ The UN has also held high-level meetings on human rights of migrants and OHCHR has participated in those meetings, including round table 5 entitled "Global Compact for Safe, Regular and Orderly Migration: Towards Realizing the 2030 Agenda for

³²¹ *France Online Hate Speech Law to Force Social Media Sites to act Quickly*, The Guardian, 2019.

³²² Ibid.

³²³ Ibid.

³²⁴ Ibid.

³²⁵ *Macron and Ardern Announce Measures Against Online Extremism*, France 24, 2019.

³²⁶ UN HRC, *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance Submitted Pursuant to General Assembly Resolution 71/179 (A/HRC/35/41)*, 2017, p. 6.

³²⁷ UN General Assembly, *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Mutuma Ruteere** (A/HRC/26/49), 2014, p. 3.

³²⁸ Ibid.

³²⁹ Ibid.

³³⁰ UN DESA, *The World Counted 258 Million International Migrants in 2017, Representing 3.4 per Cent of Global Population*, 2017, p. 1.

³³¹ Humans Right First, *Combating Xenophobic Violence A Framework for Action*, 2011, p. 3.

³³² UN DGC, *Let's Fight Racism!*.

³³³ UN General Assembly, *Commemorative Meeting on the Occasion of the International Day for the Elimination of Racial Discrimination (A/73/PV.71)*, 2019, p. 2.

³³⁴ UN OHCHR, *In Search of Dignity*, 2017, p.13.

³³⁵ Ibid.

Sustainable Development and Achieving Full Respect for the Human Rights of Migrants”.³³⁶ The Global Compact advocates for the principles of non-discrimination, aiming fulfillment, protection and respect for human rights of all migrants.³³⁷ In addition, it reiterates the engagement of eliminating all forms of discrimination, including xenophobia against migrants.³³⁸

In the fight against discrimination towards migrants, OHCHR has appointed a Special Rapporteur on the Human Rights of Migrants.³³⁹ OHCHR has also joined efforts with other bodies, including the Committee on Migrant Workers, CERD, and the Committee on the Rights of the Child to address discrimination against migrants.³⁴⁰ Furthermore, OHCHR works with the Global Migration Group in the field of migration challenges and supported one of its publications on the same topic.³⁴¹

OHCHR has raised awareness and contributed to facilitating meetings about the violations of the human rights of migrants in relation to discrimination, racism, and xenophobia.³⁴² In October 2009, OHCHR organized a meeting to study the connection between the human rights of migrants, including acceptance, inclusion, and integration of migrants in society.³⁴³ The objective of that meeting was to prepare Member States and stakeholders for a round table, taking place at the Third Global Forum on Migration and Development entitled “Inclusion, Protection and Acceptance of Migrants in Society - Linking Human Rights and Migrant Empowerment for Development”.³⁴⁴

OHCHR’s purpose is to build national capacities to eradicate discrimination towards migrants by providing advisory services, researching, and supporting anti-discrimination actions, like governments enacting laws, policies and programs.³⁴⁵ The International Organization for Migration, the International Labour Organization (ILO), along with OHCHR, advocates for the implementation of core principles of action to achieve an effective commitment to combat racism and xenophobia against migrants.³⁴⁶ Those core principles include supporting measures to make any type of behavior triggering racist and xenophobic actions against migrants unacceptable, promote positive facts about diversity, eradicate negative stereotypes, incorporate multi-cultural subjects in schools, increase civil society cooperation, and implement and monitor anti-discrimination standards.³⁴⁷

Some Member States have already implemented measures to fight against xenophobia towards migrants.³⁴⁸ The United Kingdom has launched a campaign named “Better Than That,” which encourages people to stand up against racism towards migrants.³⁴⁹ Belgium has adopted a “multiple community policing” policy focusing on diversity, combined with educational measures to counter racism.³⁵⁰ Spain

³³⁶ UN General Assembly, *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related intolerance (A/HRC/ 35/41)*, 2017, p. 3; UN General Assembly, *Global Compact for Safe, Orderly and Regular Migration (A/RES/73/195)*, 2019, p. 1.

³³⁷ UN General Assembly, *Global Compact for Safe, Orderly and Regular Migration (A/RES/73/195)*, 2019, p. 4.

³³⁸ Ibid.

³³⁹ UN OHCHR, *Expert Requests Full Investigation of Migrant Girl’s Death in the US, Urges end to Migration Detention of Children*, 2018.

³⁴⁰ UN OHCHR, *Combating Discrimination Against Migrants*, 2009.

³⁴¹ Ibid.; UN OHCHR, *Background Paper by the Office of the United Nations High Commissioner for Human Rights to The Eighth Coordination Meeting on International Migration*, p. 2.

³⁴² UN OHCHR, *Background Paper by The Office of The United Nations High Commissioner for Human Rights to The Eighth Coordination Meeting on International Migration*, p. 2.

³⁴³ UN OHCHR, *Expert Seminar on Linking Human Rights and Migrant Empowerment for Development, 8 October 2009, Geneva*.

³⁴⁴ Ibid.

³⁴⁵ UN OHCHR, *Combating Discrimination Against Migrants*.

³⁴⁶ ILO et al., *International Migration, Racism, Discrimination and Xenophobia*, 2001, p. 7.

³⁴⁷ Ibid.

³⁴⁸ OSCE, *Challenges and Perspectives on Hate Crime Against Migrants*, 2018.

³⁴⁹ Ibid., p. 3

³⁵⁰ Ibid., p. 4

passed new legislation focusing on social integration and establishing new institutions.³⁵¹ France created an anti-discrimination initiative that focuses on identifying discriminatory actions and responses to handle them and on developing adequate measures to raise awareness.³⁵² The European Court of Human Rights has required Member States to investigate and enact sanctions that are related to crimes rooted in racism or xenophobia.³⁵³

The 2017 Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance highlighted the importance of collecting data and statistics to combat racism, racial discrimination and xenophobia.³⁵⁴ In addition, the Special Rapporteur mentioned that the lack of consolidated data on discrimination practices resulted in information gaps that hinder effective policymaking.³⁵⁵ Another gap identified by the Special Rapporteur in combating xenophobia against migrants was the absence of information about migrants generally.³⁵⁶

Conclusion

Coordinated efforts are necessary from all the involved parties, including the UN system, Member States, NGOs as well as international and regional organizations, and civil society to combat racism, racial discrimination, xenophobia, and related intolerance.³⁵⁷ The OHCHR together with its partners, including the UN High Commissioner for Refugees, have developed a strategy to combat this issue which include key elements such as monitoring racial discrimination, xenophobia and related intolerance indicators; reporting and registering hate crimes; establishing legal obligations to protect people from any type of discrimination, and various others.³⁵⁸ However, this problem cannot be tackled just by building or running campaigns, strategies, and programs; a follow-up process is required to assess the effectiveness of implementing those programs, laws and campaigns.³⁵⁹ Combating racism, racial discrimination, xenophobia and related intolerance is important as it jeopardizes the overall protection of human rights.³⁶⁰

Further research

With these issues in mind, delegates should further research the following: What can HRC do to encourage the universal implementation of the ICERD? How can Member States implement effective measures to combat racism? What are the challenges for a legal framework that will severely punish racism and xenophobia on online platforms? How can HRC guide Member States to combat racism, racial discrimination, xenophobia and related intolerance, particularly against marginalized groups? What specific actions can HRC request from Member States to address xenophobia that might be targeting migrants? How can Member States and the international community collect data to help with effective policy making that combats racism, racial discrimination, xenophobia, and related intolerance?

Annotated Bibliography

International Labour Organization et al. (2001). *International Migration, Racism, Discrimination and Xenophobia*. Retrieved 19 September 2019 from: <https://www2.ohchr.org/english/issues/migration/taskforce/docs/wcar.pdf>

³⁵¹ Ibid., p. 9

³⁵² ILO et al., *International Migration, Racism, Discrimination and Xenophobia*, 2001, p. 16.

³⁵³ OSCE, *Prosecuting Hate Crimes: A Practical Guide*, 2014, pp. 40-54.

³⁵⁴ UN HRC, *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/HRC/35/41)*, 2017, p. 10.

³⁵⁵ Ibid., p. 10.

³⁵⁶ Ibid., p. 5.

³⁵⁷ UNHCR, *Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance Through a Strategic Approach*, 2009, p. 4.

³⁵⁸ Ibid., p. 4.

³⁵⁹ Ibid.

³⁶⁰ Ibid., p.13.

This document contains important information about migrants, racism, racial discrimination and xenophobia. It includes forecasts on this matter, as well as a human rights approach to international migration. It includes anti-discrimination measures, mechanisms, and policies. In addition, it makes a comprehensive comparison between xenophobia and diversity. Delegates will find this report useful as it provides examples about countries that have already implemented measures to combat racism, discrimination and xenophobia in the context of migration.

Office of the United Nations High Commissioner for Human Rights. (2013). *Discrimination*. Retrieved 16 September 2019 from:

https://www2.ohchr.org/english/OHCHRReport2013/WEB_version/allegati/3_Discrimination.pdf

This document reflects the role of OHCHR in the fight against racism. It also provides concrete information about various countries on how they are progressing on eliminating racism. It covers topics such as discrimination against indigenous peoples and minorities. It also recognizes challenges and underlying issues related to discrimination and inequality. This document also references other important documents that delegates might find useful in furthering their research.

United Nations, General Assembly. (2014). *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Mutuma Ruteere** (A/HRC/26/49).

Retrieved 19 September 2019 from: <https://undocs.org/A/HRC/26/49>

This report presents trends and manifestations of racism on online platforms. It mentions legal measures taken at international and national levels. This report provides examples about measures to combat racism on online platforms. This report outlines the positive contribution about social media. In addition, this report highlights that online platforms can be used as effective tool in the fight against racism, discrimination, xenophobia and related intolerance.

United Nations, General Assembly. (2018). *The Incompatibility Between Democracy and Racism* (A/HRC/RES/38/19). Retrieved 16 September 2019 from: <https://undocs.org/A/HRC/RES/38/19>

This resolution presents important information in the field of racism. It highlights the importance of establishing a solid legal framework to address racial discrimination. This resolution mentions efforts that have been made by the international community. In addition, it proposes the implementation of certain measures, and it request certain actions to be performed by the HRC.

United Nations High Commissioner for Refugees. (2009). *Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance Through a Strategic Approach*. Retrieved 19 September 2019 from:

<https://www.refworld.org/pdfid/4b30931d2.pdf>

This document not only provides a background about racial discrimination and related intolerance, but it also provides concrete measures to tackle this issue through a strategy approach. It outlines seven key elements for this strategy. As well it highlights the role and responsibility of other bodies, governments, the private sector and civil society. It highlights the importance of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as the Outcome Document of the Durban Review Conference. This document will be useful for delegates have a better understating on how to develop effective strategies to contribute combating the issue of racism, racial discrimination, xenophobia and related intolerance.

Bibliography

Agnew, H. (2019). *French MPs Back Bill to Tackle Online Hate Speech*. Retrieved 18 September 2019 from: <https://www.ft.com/content/12e987c6-9e6d-11e9-b8ce-8b459ed04726>

United Nations, Department of Global Communications. (2019.) *All States Have 'Primary Responsibility' to Protect Against Hate Attacks*. Retrieved 18 October 2019 from: <https://news.un.org/en/story/2019/08/1043791>

Banton, M. (1996). *International Action Against Racial Discrimination*. Retrieved 18 September 2019 from: [https://books.google.com.gt/books?id=NXbnCwAAQBAJ&printsec=frontcover&dq=Banton,+M.+\(1996\).+International+Action+Against+Racial+Discrimination&hl=en&sa=X&ved=0ahUKEwi8k9_1xdTIAhXowVvKHw5sD4AQ6AEIjzAA#v=onepage&q=Banton%2C%20M.%20\(1996\).%20International%20Action%20Against%20Racial%20Discrimination&f=false](https://books.google.com.gt/books?id=NXbnCwAAQBAJ&printsec=frontcover&dq=Banton,+M.+(1996).+International+Action+Against+Racial+Discrimination&hl=en&sa=X&ved=0ahUKEwi8k9_1xdTIAhXowVvKHw5sD4AQ6AEIjzAA#v=onepage&q=Banton%2C%20M.%20(1996).%20International%20Action%20Against%20Racial%20Discrimination&f=false)

Canadian Civil Liberties Association. (2015). *Summary: International Covenant on Civil and Political Rights (ICCPR)*. Retrieved 18 September 2019 from: <https://ccla.org/summary-international-covenant-on-civil-and-political-rights-iccpr/>

Charter of the United Nations. (1945). Retrieved 18 September 2019 from: <http://www.un.org/en/documents/charter/index.shtml>

Clement, J. (2019, August 9). Number of Facebook users worldwide 2008-2019. *Statista*. Retrieved 28 October 2019 from: <https://www.statista.com/statistics/264810/number-of-monthly-active-facebook-users-worldwide/#targetText=With%202.41%20billion%20monthly%20active,the%20biggest%20social%20network%20worldwide>

Council of Europe. (n.d.). *About the Campaign(s)*. Retrieved 18 September 2019 from: <https://www.coe.int/en/web/no-hate-campaign/about-the-campaigns>

Council of Europe. (2002). *Proceedings: European Ministerial Conference on Human Rights and Commemorative Ceremony of the 50th Anniversary of the European Convention on Human Rights (Rome, 3-4 November 2000)*. Retrieved 13 October 2019 from: <https://rm.coe.int/0900001680695ab9>

Council of Europe. (2017). *Discrimination and Intolerance*. Retrieved 13 October 2019 from: <https://www.coe.int/en/web/compass/discrimination-and-intolerance>

Council of Europe. (2018). *Paris Principles at 25: Strong National Human Rights Institutions Needed More Than Ever*. Retrieved 13 October 2019 from: <https://www.coe.int/en/web/commissioner/-/paris-principles-at-25-strong-national-human-rights-institutions-needed-more-than-ever>

Council of Europe. (2019). *Legislation Against Racism and Intolerance*. Retrieved 18 September 2019 from: <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/legislation-to-combat-racism-and-racial-discrimination>

Council of Europe. (2019). *The European Commission Against Racism and Intolerance*. Retrieved 16 September 2019 from: <https://www.coe.int/en/web/no-hate-campaign/european-commission-against-racism-and-intolerance-ecri1>

European Commission (n.d.). *Combating racism and Xenophobia*. Retrieved 16 September 2019 from: https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/combating-racism-and-xenophobia_en

France Online Hate Speech Law to Force Social Media Sites to act Quickly. (2019, July 9). *The Guardian*. Retrieved 18 September 2019 from: <https://www.theguardian.com/world/2019/jul/09/france-online-hate-speech-law-social-media>

Home Office of the United Kingdom. (2018). *Hate Crime, England and Wales*. Retrieved 18 September 2019 from:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/748598/hate-crime-1718-hosb2018.pdf

Humans Right First. (2011). *Combating Xenophobic Violence A Framework for Action*. Retrieved 18 September 2019 from: https://www.humanrightsfirst.org/wp-content/uploads/pdf/UNHCR_Blueprint.pdf

International Labour Organization et al. (2001). *International Migration, Racism, Discrimination and Xenophobia*. Retrieved 19 September 2019 from: <https://www2.ohchr.org/english/issues/migration/taskforce/docs/wcar.pdf>

International Network Against Cyber Hate. (n.d.). *Cyber Hate Legislation*. Retrieved 18 September 2019 from: <http://www.inach.net/cyber-hate-legislation/>

Kelly, M. (2004) *ECRI 10 Years of Combating Racism in Europe: A Review of the Work of the European Commission Against Racism and Intolerance*. Retrieved 15 October 2019 from: <https://rm.coe.int/ecri-10-years-of-combating-racism-in-europe-a-review-of-the-work-of-th/16808c1feb>

Kingdom of Belgium Federal Public Service Foreign Affairs. (2016). *Fight Against Racism and Discrimination*. Retrieved 15 October 2019 from: https://diplomatie.belgium.be/en/policy/policy_areas/human_rights/specific_issues/fight_against_racism_and_discrimination

Macklin, G. (2019). *The Christchurch Attacks: Livestream Terror in the Viral Video Age*. Retrieved 18 September 2019 from: <https://ctc.usma.edu/christchurch-attacks-livestream-terror-viral-video-age/>

Macron and Arden Announce Measures Against Online Extremism. (2019, May 15). France 24, Retrieved 18 September 2019 from: <https://www.france24.com/en/20190515-live-macron-ardern-christchurch-call-initiative-measures-against-online-extremism>

National Academies Press. (2004). *Measuring Racial Discrimination*. Retrieved 13 October 2019 from: <https://www.nap.edu/read/10887/chapter/3>

Office of the United Nations High Commissioner for Human Rights. (n.d.). *Background Paper by The Office of The United Nations High Commissioner for Human Rights to The Eighth Coordination Meeting on International Migration*. Retrieved 18 September 2019 from: https://www.un.org/en/development/desa/population/events/pdf/8/P12_OHCHR.pdf

Office of the United Nations High Commissioner for Human Rights. (n.d.). *Combating Discrimination against Migrants*. Retrieved 18 September 2019 from: <https://www.ohchr.org/EN/AboutUs/Pages/DiscriminationAgainstMigrants.aspx>

Office of the United Nations High Commissioner for Human Rights. (n.d.). *Committee on the Elimination of Racial Discrimination*. Retrieved 18 September 2019 from: <https://www.ohchr.org/en/hrbodies/cerd/pages/cerdindex.aspx>

Office of the United Nations High Commissioner for Human Rights. (n.d.). *Human Rights Committee*. Retrieved 18 September 2019 from: <https://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx>

Office of the United Nations High Commissioner for Human Rights. (n.d.). *Special Rapporteur on Minority Issues*. Retrieved 19 October 2019 from: <https://www.ohchr.org/EN/Issues/Minorities/SRMinorities/Pages/SRminorityissuesIndex.aspx>

Office of the United Nations High Commissioner for Human Rights. (2018, December 24). *UN Expert Requests Full Investigation of Migrant Girl's Death in the US, Urges end to Migration Detention of*

Children. Retrieved 19 October 2019 from:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24045&LangID=E>

Office of the United Nations High Commissioner for Human Rights. (n.d.). *Working Group of Experts on People of African*. Retrieved 19 October 2019 from:

<https://ohchr.org/EN/Issues/Racism/WGAfricanDescent/Pages/WGEPADIndex.aspx>

Office of the United Nations High Commissioner for Human Rights. (2003). *Dimensions of Racism*. Retrieved 19 September 2019 from:

<https://www.ohchr.org/Documents/Publications/DimensionsRacismen.pdf>

Office of the United Nations High Commissioner for Human Rights. (2009). *Combating Racial Discrimination*. Retrieved 16 September 2019 from:

https://www.ohchr.org/EN/Issues/Discrimination/Pages/discrimination_racial.aspx

Office of the United Nations High Commissioner for Human Rights. (2009). *Expert Seminar on Linking Human Rights and Migrant Empowerment for Development*. Retrieved 19 September 2019 from:

https://www2.ohchr.org/english/issues/migration/taskforce/expert_seminar.htm

Office of the United Nations High Commissioner for Human Rights. (2013). *Discrimination*. Retrieved 16 September 2019 from:

https://www2.ohchr.org/english/OHCHRReport2013/WEB_version/allegati/3_Discrimination.pdf

Office of the United Nations High Commissioner for Human Rights. (2013). *National Action Plans Against Racial Discrimination*. Retrieved 21 September 2019 from:

<https://www.ohchr.org/Documents/Issues/Racism/NAPARD.pdf>

Office of the United Nations High Commissioner for Human Rights. (2013). *Xenophobia*. Retrieved 21 September 2019 from: <https://nhri.ohchr.org/EN/Themes/Racial/Documents/Xenophobia.pdf>

Office of the United Nations High Commissioner for Human Rights. (2017). *In Search of Dignity*.

Retrieved 19 October 2019 from: https://www.ohchr.org/Documents/Issues/Migration/InSearchofDignity-OHCHR_Report_HR_Migrants_at_Europes_Borders.pdf

Official Journal of the European Union. (2008). *Acts Adopted under Title VI of The EU Treaty*. Retrieved 19 October 2019 from: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008F0977>

Organization for Security and Co-operation in Europe (2014). *Hate Crime Data-Collection and Monitoring Mechanisms*. Retrieved 13 October 2019 from:

<https://www.osce.org/odihr/datacollectionguide?download=true>

Organization for Security and Co-operation in Europe (2014). *Prosecuting Hate Crimes: A Practical Guide*. Retrieved 13 October 2019 from:

<https://www.osce.org/odihr/prosecutorsguide?download=true>

Organization for Security and Co-operation in Europe. (2018). *Challenges and Perspectives on Hate Crime Against Migrants*. Retrieved 19 September 2019 from:

<https://www.osce.org/odihr/379102?download=true>

Petrova, D. (2016). *Article 7: The Equality and Non-Discrimination Provision*. Retrieved 19 October 2019 from: <https://www.openbookpublishers.com/shopimages/The-UDHR-21st-C-AppendixE3.pdf>

Rosemain, M., & E. Pineau. (2019, June 5). French Lawmakers Vote to Target Online Hate Speech in Draft Bill. *Reuters*. Retrieved 13 October 2019 from: <https://www.reuters.com/article/us-france-tech-regulation/french-lawmakers-vote-to-target-online-hate-speech-in-draft-bill-idUSKCN1U01UQ>

Shirane, D. (2011). *ICERD and CERD: A Guide for Civil Society Actors*. Retrieved 22 September 2019 from: <https://www2.ohchr.org/english/bodies/cerd/docs/ICERDManual.pdf>

Stack, L. (2019, February 20). Over 1,000 Hate Groups Are Now Active in United States, Civil Rights Group Says. *The New York Times*. Retrieved 13 October 2019 from: <https://www.nytimes.com/2019/02/20/us/hate-groups-rise.html>

The International Movement Against All Forms of Discrimination and Racism. (n.d.). *About IMADR*. Retrieved 16 September from: <https://imadr.org/about/>

United Nations, Special Advisor on the Prevention of Genocide. (2019). *United Nations Strategy and Plan of Action on Hate Speech*. Retrieved 18 September from: <https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20Plan%20of%20Action%20on%20Hate%20Speech%2018%20June%20SYNOPSIS.pdf>

United Nations, Department of Economic and Social Affairs. (2017) *The World Counted 258 million International Migrants in 2017, Representing 3.4 per Cent of Global Population*. Retrieved 18 October 2019 from: https://www.un.org/en/development/desa/population/publications/pdf/popfacts/PopFacts_2017-5.pdf

United Nations, Department of Global Communications (n.d.) *Let's Fight Racism!* Retrieved 18 October 2019 from: <https://www.un.org/en/letsfightracism/migrants.shtml>

United Nations, Department of Global Communication. (2011). *At a Glance: The Durban Declaration and Programme of Action*. Retrieved 18 September 2019 from: <https://www.un.org/en/ga/durbanmeeting2011/pdf/infonote2.pdf>

United Nations Entity for Gender Equality and the Empowerment of Women. (2016). *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) for Youth*. Retrieved 15 October 2019 from: <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2016/cedaw-for-youth.pdf?la=en&vs=657>

United Nations, General Assembly, Third session. (1948). *Universal Declaration of Human Rights (A/RES/217 A (III))*. Retrieved 19 September 2019 from: <http://www.un.org/en/documents/udhr/>

United Nations, General Assembly, Twentieth session. (1965). *International Convention on the Elimination of All Forms of Racial Discrimination (A/RES/2106 (XX))*. Adopted on the report of the Third Committee (A/6181 and A/L.479). Retrieved 19 September 2019 from: [http://undocs.org/A/RES/2106\(XX\)](http://undocs.org/A/RES/2106(XX))

United Nations, General Assembly, Twenty-first session. (1966). *International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*. Adopted on the report of the Third Committee. Retrieved 19 September 2019 from: [http://undocs.org/A/RES/2200\(XXI\)](http://undocs.org/A/RES/2200(XXI))

United Nations, General Assembly, Thirty-ninth session. (1984). *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (A/RES/39/46)*. Adopted on the report of the Third Committee (A/39/708). Retrieved 19 October 2019 from: <http://undocs.org/A/RES/39/46>

United Nations, General Assembly, Forty-fourth session. (1989). *Convention on the Rights of the Child (A/RES/44/25)*. Adopted on the report of the Third Committee (A/45/753). Retrieved 19 October 2019 from: <http://undocs.org/A/RES/44/25>

United Nations, General Assembly, Forty-fifth session. (1990). *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (A/RES/45/158)*. Adopted on the report of the Third Committee (A/45/838). Retrieved 19 October 2019 from: <http://undocs.org/A/RES/45/158>

United Nations, General Assembly, Sixty-first session (2006). *Report of the Committee on the Elimination of Racial Discrimination (A/61/18)*. Retrieved 18 September from: <https://undocs.org/A/61/18>

United Nations, General Assembly, Sixty-first session. (2007). *Global Efforts for the Total Elimination of Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Comprehensive Implementation of and Follow-up to the Durban Declaration and Programme of Action (A/RES/61/149)*. Adopted on the report of the Third Committee (A/61/441). Retrieved 18 September from: <https://undocs.org/en/A/RES/61/149>

United Nations, General Assembly, Sixty-eighth session (2014). *Elimination of Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/68/PV.76)*. Retrieved 18 September from: <https://undocs.org/A/68/PV.76>

United Nations, General Assembly, Twenty-sixth session. (2014). *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Mutuma Ruteere* (A/HRC/26/49)*. Retrieved 19 September 2019 from: <https://undocs.org/A/HRC/26/49>

United Nations, General Assembly, Seventy-second session. (2017). *Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Comprehensive Implementation of the Follow-up to the Durban Declaration and Programme of Action (A/72/287)*. Retrieved 18 September from: <https://undocs.org/A/72/287>

United Nations, General Assembly, Seventy-third session. (2019). *A Global Call for Concrete Action for the Total Elimination of Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Comprehensive Implementation of and Follow-up to the Durban Declaration and Programme of Action (A/RES/73/262)*. Adopted on the report of the Third Committee (A/73/587). Retrieved 18 September from: <https://undocs.org/en/A/RES/73/262>

United Nations, General Assembly, Seventy-third session. (2019). *Commemorative meeting on the occasion of the International Day for the Elimination of Racial Discrimination (A/73/PV.71)*, Retrieved 18 September from: <https://undocs.org/pdf?symbol=en/A/73/PV.71>

United Nations, General Assembly, Seventy-third session. (2019). *Global Compact for Safe, Orderly and Regular Migration (A/RES/73/195)*. Retrieved 16 October 2019 from: <https://undocs.org/a/res/73/195>

United Nations High Commissioner for Refugees. (2009). *Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance Through a Strategic Approach*. Retrieved 19 September 2019 from: <https://www.refworld.org/pdfid/4b30931d2.pdf>

United Nations High Commissioner for Refugees. (2013). *Xenophobia*. Retrieved 18 September 2019 from: <https://www.unhcr.org/55cb153f9.pdf>

United Nations, Commission on Human Rights. (2002). *Racism, Racial Discrimination, Xenophobia and Related Intolerance (E/CN.4/RES/2002/68)*. Retrieved 5 November 2019 from: https://ap.ohchr.org/documents/alldocs.aspx?doc_id=4940

United Nations, Human Rights Council, Thirty-fifth session. (2017). *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/HRC/35/41)*. Retrieved 18 October 2019 from: <https://undocs.org/A/HRC/35/41>

United Nations, Human Rights Council. (2018, March 20). *Human Rights Council holds general debate on Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance*. Retrieved 18 September 2019 from: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=22867>



United Nations, Human Rights Council, Thirty-eighth session. (2018). *The Incompatibility Between Democracy and Racism (A/HRC/RES/38/19)*. Retrieved 18 October 2019 from: <https://undocs.org/A/HRC/RES/38/19>

United Nations, Human Rights Council, Forty-first session. (2019). *Combating Glorification of Nazism, neo-Nazism and Other Practices that Contribute to Fueling Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/HRC/41/55)*. Retrieved 18 September from: <https://undocs.org/en/A/HRC/41/55>

United Nations Special Rapporteur on Racism, Racial Discrimination, Xenophobia and Related Intolerance. (2018). *The Mandate*. Retrieved 14 October 2019 from: <https://antiracismsr.org/>

Weiler, J. (2009). *The Law of Holocaust Denial in Europe: Towards a (qualified) EU-wide Criminal Prohibition*. Retrieved 18 October 2019 from: <http://jeanmonnetprogram.org/wp-content/uploads/2014/12/091001.pdf>

Wendland, L. (2002). *A Handbook on State Obligations Under the UN Convention Against Torture*. Retrieved 18 October 2019 from: https://www.apr.ch/content/files_res/A%20Handbook%20on%20State%20Obligations%20under%20the%20UN%20CAT.pdf

III. Business and Human Rights

“Businesses already have a framework in the form of the UN Guiding Principles on Business and Human Rights, and a timetable in the form of the 2030 Agenda for Sustainable Development. There is no more crucial way for businesses to contribute than to ensure respect for human rights throughout their supply chains at every step of their business operations.”³⁶¹

One of the major human rights abuses conducted by businesses is forced labor, which is regarded as a form of modern slavery and is defined by the International Labour Organization (ILO) as “all work or service that is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”³⁶² The ILO estimates that about 16 million people are currently forced by private businesses to work as domestic workers, on construction sites, in factories, or in agriculture.³⁶³ 58% of the victims of forced labor are women and 18% are children.³⁶⁴ The ILO further estimates that throughout all economic sectors 2.3 million workers die each year because of work-related injuries and diseases, with another 473 million employees suffering from non-fatal work-related injuries or diseases per year.³⁶⁵ Business activities can also negatively impact multiple other human rights of their employees such as gender equality and non-discrimination, the right to form associations and bargain collectively, the right to fair wages, as well as the right to rest and leisure.³⁶⁶ Businesses are also responsible for ensuring that their activities do not harm the human rights of wider society, including property and privacy rights.³⁶⁷ Furthermore, the United Nations (UN) Human Rights Council (HRC) has recognized that the protection of the environment, including ecosystems, contributes to the enjoyment of human rights.³⁶⁸ HRC therefore calls upon Member States to adopt laws that prevent businesses from violating human rights by engaging in activities that pollute the environment.³⁶⁹ Especially in the case of transnational corporations (TNCs), which operate in many different countries and have complex supply chains involving multiple other companies, the question of ultimate responsibility and the ability to pursue reparations in case of human rights violations is still not resolved and will require international cooperation.³⁷⁰

HRC has a mandate to lead the business and human rights agenda within the UN system and serve as a forum for the international community to develop norms that set out the human rights responsibilities of businesses.³⁷¹ This work is synthesized in the *Guiding Principles on Business and Human Rights*, which were unanimously endorsed by HRC in 2011.³⁷² Article 13 of the *Guiding Principles on Business and Human Rights* requires that businesses avoid causing or contributing to adverse human rights impacts through their own activities and requires that they seek to prevent adverse human rights impacts resulting from their activities, even if, they have not contributed to these impacts.³⁷³ The business sector is also indispensable in achieving the Sustainable Development Goals (SDGs), which were adopted by the UN General Assembly in the *2030 Agenda for Sustainable Development* (2030 Agenda) in 2015.³⁷⁴ Business

³⁶¹ UN Global Compact, *Human Rights: The Foundation of Sustainable Business*, 2018, p. 4.

³⁶² ILO, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*, 2017, p. 16.

³⁶³ *Ibid.*, p. 9.

³⁶⁴ *Ibid.*, p. 10.

³⁶⁵ ILO, *Health and Safety at the Workplace*, 2019.

³⁶⁶ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights (A/RES/2200 (XXI))*, 1966, p. 49.

³⁶⁷ UN HRC, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (A/HRC/17/31)*, 2011, p. 8.

³⁶⁸ UN HRC, *Human Rights and the Environment (A/HRC/RES/37/8)*, 2018, p. 2.

³⁶⁹ UN HRC, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (A/HRC/17/31)*, 2011, p. 8.

³⁷⁰ UN OHCHR, *Revised Draft Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises*, 2019, p. 2.

³⁷¹ UN OHCHR, *Business and Human Rights*, 2019.

³⁷² *Ibid.*

³⁷³ UN HRC, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (A/HRC/17/31)*, 2011, p. 14.

³⁷⁴ UN General Assembly, *Transforming Our World: the 2030 Agenda for Sustainable Development (A/RES/70/1)*, 2015, p. 29.

and human rights, specifically, affect SDG 3 (good health and well-being), SDG 5 (gender equality), and SDG 8 (decent work and economic growth).³⁷⁵

International and Regional Framework

The *Universal Declaration of Human Rights* (UDHR) was adopted in 1948 and set out the most fundamental human rights to be universally protected.³⁷⁶ Article 23 of the UDHR recognizes the rights to equal pay for equal work and the right to form and join trade unions.³⁷⁷ Article 24 states that everyone has the right to rest and leisure.³⁷⁸ In 1966, the international community built upon the UDHR by adopting the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).³⁷⁹ Article 7 reiterates the rights linking business and human rights set out in the UDHR and adds the right to safe and healthy working conditions, the right to periodic paid holidays, and the right of women to being guaranteed conditions of work not inferior to those enjoyed by men.³⁸⁰ Also in 1966, the UN General Assembly adopted the *International Covenant on Civil and Political Rights*, which explicitly bans any form of forced or compulsory labor.³⁸¹ In 1979, the UN General Assembly adopted the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) (1979), whose Article 11 clearly states that women have the right to equal remuneration, equal treatment at the workplace, and social security.³⁸²

In 1977, the ILO developed the *ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy*, which provides clear guidance on how businesses can contribute to the realization of human rights and good labor standards.³⁸³ In 1998, the ILO adopted the *ILO Declaration on Fundamental Principles and Rights at Work*, which commits the 187 Member States of the ILO to respect and promote the freedom of association and the right to collective bargaining, the abolition of forced labor, the elimination of child labor, and the end of discrimination at the work place.³⁸⁴ The Organisation for Economic Co-operation and Development (OECD) has adopted the *OECD Declaration on International Investment and Multinational Enterprises* in 1976.³⁸⁵ The *OECD Guidelines for Multinational Enterprises* are annexed to the this declaration and include a chapter with recommendations on how businesses should act to adhere to all human rights.³⁸⁶

In 2005, the UN Commission on Human Rights, which is the predecessor of HRC, requested the appointment of a Special Representative of the Secretary-General on human rights and TNCs and other business enterprises.³⁸⁷ The Special Representative formulated the *Protect, Respect and Remedy Framework*, which was welcomed by HRC in its resolution 8/7 of 2008.³⁸⁸ On the basis of this framework, the Special Representative developed the *Guiding Principles on Business and Human Rights* during six years of research and extensive consultations, which involved governments, companies, business associations, and civil society.³⁸⁹ HRC unanimously endorsed the *Guiding Principles* in its resolution 17/4

³⁷⁵ Ibid., pp. 16-19, 29.

³⁷⁶ UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A (III))*, 1948.

³⁷⁷ Ibid.

³⁷⁸ Ibid.

³⁷⁹ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights (A/RES/2200 (XXI))*, 1966, p. 49.

³⁸⁰ Ibid.

³⁸¹ UN General Assembly, *International Covenant on Civil and Political Rights (A/RES/2200 (XXI))*, 1996, p. 50.

³⁸² UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women (A/RES/34/180)*, 1979, p. 195.

³⁸³ ILO, *Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy*, 2017, p. V.

³⁸⁴ ILO, *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up*, 2010, p. 7.

³⁸⁵ OECD, *Text of the OECD Declaration on International Investment and Multinational Enterprises*, 2019.

³⁸⁶ OECD, *OECD Guidelines for Multinational Enterprises*, 2011, p. 32.

³⁸⁷ UN OHCHR, *Business and Human Rights*, 2019.

³⁸⁸ Ibid.

³⁸⁹ UN OHCHR, *Special Representative of the Secretary-General on Human Rights and Transnational Corporations and Other Business Enterprises*, 2019.

of 2011 and thus concluded the mandate of the Special Representative.³⁹⁰ The *Guiding Principles* framework is the first global standard for preventing business activity from having adverse impacts on human rights and is the core document used by HRC.³⁹¹ The *Guiding Principles* consist of three pillars, which address the duty of states to protect human rights by regulating business activities in National Action Plans (NAPs), the responsibility of business corporations to avoid infringing on the human rights of others by applying due diligence in their activities, and the improvement of access to remedy for victims.³⁹²

Role of the International System

Within the UN system, HRC is the body responsible for setting the agenda on business and human rights.³⁹³ In practice, this means HRC serves as a forum for the international community to develop non-binding guidelines and to discuss the creation of binding legal requirements that set out the responsibilities businesses have to respect and observe human rights.³⁹⁴ On 18 July 2018, HRC adopted resolution 38/13 titled “Business and Human Rights: Improving Accountability and Access to Remedy”.³⁹⁵ In this latest resolution on the topic of business and human rights, HRC emphasized the need to develop access to remedy for business-related human rights abuses.³⁹⁶ It welcomed the report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on improving accountability and access to non-judicial remedy for business-related human rights abuses and recommended that Member States and businesses implement the recommendations of the report.³⁹⁷ OHCHR also conducts on the ground missions.³⁹⁸ These missions have, inter alia, provided technical assistance to a mediation process between the SOCFIN Company and the Bunong Indigenous Peoples in Cambodia in a land dispute, or advised Mexico’s largest mining company Grupo México on the incorporation of a human rights-based approach into their community involvement policies.³⁹⁹

In 2011, HRC established in resolution 17/4 the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises (WGBHR).⁴⁰⁰ The Working Group is composed of five independent experts and holds the mandate to promote the implementation of the *Guiding Principles on Business and Human Rights*, identifying best practices, and support capacity-building.⁴⁰¹ It also guides the work of the Forum on Business and Human Rights, which was also established by HRC in resolution 17/4 (2011).⁴⁰² The Forum is organized annually and assembles over 2,000 representatives from governments, businesses, non-governmental organizations (NGOs), academia, and international organizations.⁴⁰³ It serves as an opportunity for participants to share experiences and learn about the latest initiatives to promote corporate respect for human rights.⁴⁰⁴ On 1 May 2019, the WGBHR released the report on the seventh Forum on Business and Human Rights,

³⁹⁰ UN HCR, *Human Rights and Transnational Corporations and Other Business Enterprises (A/HRC/17/4)*, 2011, p. 2.

³⁹¹ UN OHCHR, *Special Representative of the Secretary-General on Human Rights and Transnational Corporations and Other Business Enterprises*, 2019.

³⁹² UN HRC, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (A/HRC/17/31)*, 2011.

³⁹³ UN OHCHR, *Business and Human Rights*, 2019.

³⁹⁴ *Ibid.*

³⁹⁵ UN HCR, *Business and Human Rights: Improving Accountability and Access to Remedy (A/HRC/RES/38/13)*, 2018.

³⁹⁶ *Ibid.*, pp. 1-2.

³⁹⁷ UN HCR, *Business and Human Rights: Improving Accountability and Access to Remedy (A/HRC/RES/38/13)*, 2018, p.3.

³⁹⁸ UN OHCHR, *Human Rights Report 2018*, 2018, p. 24.

³⁹⁹ *Ibid.*

⁴⁰⁰ UN OHCHR, *Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises*, 2019.

⁴⁰¹ *Ibid.*

⁴⁰² UN OHCHR, *About the UN Forum on Business and Human Rights*, 2019.

⁴⁰³ *Ibid.*

⁴⁰⁴ *Ibid.*

whose main focus was on the requirement that companies exercise due diligence in human rights to prevent adverse impacts on people.⁴⁰⁵

In 2014, HRC additionally created the Open-Ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights (OEIGWG) in resolution 26/9, which consists of representatives of Member States, international organizations, and NGOs.⁴⁰⁶ It convenes annually and is mandated to create an “international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises.”⁴⁰⁷ On 2 January 2019, the OEIGWG released the report on its fourth session, which centered upon the debate of the recently released draft legally binding instrument on business activities and human rights.⁴⁰⁸ On 16 July 2019, the Chairmanship of the OEIGWG released a revised draft legally binding instrument on business activities and human rights, which was debated during intergovernmental negotiations at the fifth session of the OEIGWG in October 2019.⁴⁰⁹ The revised draft covers the rights of victims of human rights violations, the responsibilities of states to regulate business activities to prevent human rights violations, and the legal liability for human rights violations.⁴¹⁰

The UN Global Compact was launched in 2000 as a non-binding pact between the UN system and nearly 10,000 private businesses, which commit themselves to incorporate labor standards, environmental protection, human rights, and anti-corruption actions.⁴¹¹ The Global Compact promotes tools and resources based on the *UN Guiding Principles on Business and Human Rights* and the first two principles of the Global Compact state that “Businesses should support and respect the protection of internationally proclaimed human rights” and that “businesses should make sure that they are not complicit in human rights abuses.”⁴¹² The Global Compact offers online courses providing simple guidelines for companies to apply the *Guiding Principles*, human rights training projects, templates for human rights risk assessments, and capacity training for businesses to comply with the NAPs of their respective governments.⁴¹³

Other international organizations such as ILO and OECD and regional organizations such as the European Union (EU) are also active in promoting responsible business activities like the EU-ILO-OECD Programme on Promoting Responsible Supply Chains in Asia.⁴¹⁴ The Programme hosted a session in which Japanese companies were supported in restructuring their supply chains according to the *Guiding Principles*, and organized a technical seminar to raise awareness about key responsible business concepts among Chinese companies.⁴¹⁵ National human rights organizations play a key role in supporting their governments in setting up NAPs and helping companies implementing the *Guiding Principles*.⁴¹⁶ The Danish Institute for Human Rights (DIHR) has developed the *Human Rights Compliance Assessment* (HRCA) to assist businesses to identify and address human rights risks in business units.⁴¹⁷

⁴⁰⁵ UN HCR, *Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises on the Seventh Forum on Business and Human Rights (A/HRC/41/49)*, 2019, p. 1.

⁴⁰⁶ UN OHCHR, *Open-Ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises With Respect to Human Rights*, 2019.

⁴⁰⁷ UN HCR, *Elaboration of an International Legally Binding Instrument on Transnational Corporations and Other Business Enterprises With Respect to Human Rights (A/HRC/RES/26/9)*, 2014, p. 2.

⁴⁰⁸ UN HCR, *Report on the Fourth Session of the Open-Ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises With Respect to Human Rights (A/HRC/40/48)*, 2019, p. 1.

⁴⁰⁹ UN OHCHR, *Revised Draft Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises*, 2019.

⁴¹⁰ *Ibid.*

⁴¹¹ UN Global Compact, *Human Rights*.

⁴¹² UN Global Compact, *Human Rights: The Foundation of Sustainable Business*, 2018, p. 24.

⁴¹³ *Ibid.*, p. 10.

⁴¹⁴ OECD, *Annual Report on the OECD Guidelines for Multinational Enterprises 2018*, 2018, p. 70

⁴¹⁵ *Ibid.*, p. 70

⁴¹⁶ UN Global Compact, *Human Rights: The Foundation of Sustainable Business*, 2018, p. 15.

⁴¹⁷ *Ibid.*, p. 15.

For example, the DIHR has been working with the oil and gas producer Total to implement the HRCA and Total now assesses the human rights impact of its operations in regards to gender issues in the South Pacific as well as on land acquisition from indigenous people in Africa.⁴¹⁸

Civil society organizations (CSOs) such as the International Corporate Accountability Roundtable (ICAR), which is composed of multiple human rights groups such as Amnesty International and Human Rights Watch, play an important role in monitoring the observance of human rights.⁴¹⁹ ICAR has collaborated with the DIHR to develop a *Toolkit for the Development, Implementation and Review of State Commitments to Business and Human Rights Frameworks*.⁴²⁰ The toolkit provides criteria to assess the existing regulation, outlines ways to develop a NAP based on the prior assessment, and involves monitoring the efforts made.⁴²¹ The Business & Human Rights Resource Centre is a CSO that tracks the human rights impact of companies and provides news about key developments in the process of creating legally binding regulations for business activities.⁴²²

Transnational Corporations and Human Rights Violations

TNCs are the main actors of globalization and are complex entities, which usually have their headquarters in industrialized countries but have set up multiple subsidiary companies to produce and sell their products around the world.⁴²³ Given their vast size, complex structure, and financial resources, TNCs can often circumvent the weak legislation in the countries in which they have set up their subsidiaries.⁴²⁴ Because there is no international law regulating TNCs and because individual states cannot exercise total control over the TNC's subsidiaries in other countries, human rights violations by TNCs are often not punished.⁴²⁵ A number of TNCs are currently accused of committing human rights violations, including using child labor and modern forms of slavery, expropriating land, preventing their workers from forming associations to uphold labor standards, as well as polluting drinking water and agricultural land.⁴²⁶ The oil and petroleum producer Shell, was accused of supporting the Nigerian military regime and being complicit in human rights violations against the Ogoni people, which involved summary execution, crimes against humanity, and torture.⁴²⁷ Shell was also accused of having contaminated the local water supply, the agricultural land, and the air in the Ogoni ecosystem.⁴²⁸

In 2013, 1,138 workers were killed in the collapse of a garment factory in Bangladesh that had been producing apparel for several international companies.⁴²⁹ The global supply chains of TNCs, such as the one involving this garment factory, consist of multiple companies in various countries and often directly affect the lives of millions of people.⁴³⁰ In 2017, the Working Group on Business and Human Rights made recommendations on how to regulate supply chains and prevent human rights violations.⁴³¹ Specifically, the Working Group called upon Member States to lead by example in their role as economic actors, for example by ensuring that all State-owned Enterprises (SOEs) respect human rights and by controlling all activities of their SOEs.⁴³² Governments should also award public procurement contracts only to

⁴¹⁸ Ibid., p. 15.

⁴¹⁹ ICAR, *Partners*, 2019.

⁴²⁰ ICAR, *National Action Plans on Business and Human Rights: A Toolkit for the Development, Implementation and Review of State Commitments to Business and Human Rights Frameworks*, 2017.

⁴²¹ Ibid.

⁴²² Business & Human Rights Resource Centre, *About us*, 2019.

⁴²³ Weillert, *Taming the Untamable? Transnational Corporations in United Nations Law and Practice*, 2010, p. 447.

⁴²⁴ Ibid.

⁴²⁵ Ibid.

⁴²⁶ Ibid., pp. 450-453.

⁴²⁷ Ibid., p. 451.

⁴²⁸ Ibid. p. 452.

⁴²⁹ Burke, Rana Plaza: One Year on From the Bangladesh Factory Disaster, *The Guardian*, 2014.

⁴³⁰ OHCHR, *UN Experts Call on G20 Leaders to Protect Human Rights in Global Supply Chains*, 2017.

⁴³¹ OHCHR, *To the Members of the G20 Employment Working Group*, 2017, p. 1.

⁴³² Ibid., pp. 5-6.

companies that adhere to all human rights.⁴³³ The working group also suggests that Member States should require that all companies headquartered in their territory exercise due diligence on human rights across their supply chain, to ensure that none of their suppliers or subsidiaries is engaged in human rights violations.⁴³⁴

In 2014, HRC created the Open-Ended Intergovernmental Working Group on Transnational Corporations (OEIGWG) in resolution 29/9 tasked it to develop a legally binding treaty to regulate TNC activities that go beyond the *Guiding Principles*, which are a voluntary framework intending to entice TNCs to self-regulate their activities.⁴³⁵ It is important to note that there is major disagreement within the international community and HRC resolution 26/9 was not adopted by acclamation as most other HRC resolutions, but passed with 20 votes in favor, 14 against, and 13 abstentions.⁴³⁶ In July 2019, the Chairmanship of the OEIGWG presented the revised draft of this treaty, which, if adopted, would provide far-reaching rights for victims of human rights violations committed by TNCs as well as create new responsibilities for Member States to prevent, investigate, and punish such violations.⁴³⁷ The draft treaty would commit all businesses regardless of their size to adhere to human rights and would require Member States to introduce legislation to make human rights observance mandatory and would require businesses to take appropriate actions to prevent human rights violations.⁴³⁸

Accountability and Access to Remedy

Victims of human rights violations committed by or resulting from business activities often struggle to access effective remedies for the harm they have suffered and face significant obstacles to hold the responsible businesses accountable.⁴³⁹ Remedies sought by victims will often include financial compensation.⁴⁴⁰ Among the most common obstacles to accountability are fragmented, poorly designed, or incomplete laws, lack of funding and knowledge of the victim to submit private legal claims, as well as a lack of law enforcement by local authorities.⁴⁴¹

One example of the obstacles faced by victims of human rights abuses committed by businesses, is the case of the Bunong Indigenous Peoples in Cambodia, whose traditional tribal lands were granted by the Cambodian government to the French rubber company SOCFIN.⁴⁴² The Bunong community not only lost their farmland, but also lost sacred places without warning or financial compensation.⁴⁴³ In this instance, the Bunong community lacked both the financial resources and the legal knowledge to seek remedy, which prevented them from getting compensation for the human rights violations they already suffered and also made it difficult for them to stop SOCFIN from further violating their human rights.⁴⁴⁴ Moreover, local authorities and courts ignored their complaints.⁴⁴⁵ In 2015, OHCHR began to support a non-judicial mediation process between SOCFIN and the Bunong community and OHCHR provided financial support

⁴³³ Ibid., p. 6.

⁴³⁴ Ibid., p. 7.

⁴³⁵ UN HRC, *Elaboration of an International Legally binding Instrument on Transnational Corporations and Other Business Enterprises With Respect to Human Rights (A/HRC/RES/26/9)*, 2014, p. 2.

⁴³⁶ Ibid., p. 3.

⁴³⁷ UN OHCHR, *Revised Draft Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises*, 2019, p. 5.

⁴³⁸ Hood, *UN Working Group Publishes Revised Draft of Business and Human Rights Treaty: Commentary on Scope, Prevention and Legal Liability*, 2019.

⁴³⁹ UN HRC, *Improving Accountability and Access to Remedy for Victims of Business-Related Human Rights Abuse Through State-Based Non-judicial Mechanisms (A/HRC/38/20)*, 2018, p. 3.

⁴⁴⁰ Zerk, *Corporate Liability for Gross Human Rights Abuses*, 2014, p. 57.

⁴⁴¹ UN HRC, *Improving Accountability and Access to Remedy for Victims of Business-Related Human Rights Abuse Through State-Based Non-judicial Mechanisms (A/HRC/38/20)*, 2018, p. 3.

⁴⁴² UN OHCHR, *Human Rights Report 2018*, 2018, p. 24.

⁴⁴³ Foster & Gray, Cambodia's Land Concessions Are Harming Indigenous People, *The Huffington Post*, 2016.

⁴⁴⁴ Ibid.

⁴⁴⁵ Ibid.

and legal training to Bunong representatives to remove the power imbalance.⁴⁴⁶ However, this mediation process failed and a group of Bunong representatives filed a complaint against SOCFIN at a French court, but they were unable to receive visas to present their case.⁴⁴⁷

Access to effective remedy is one of the three pillars of the *Guiding Principles*, which promote three different types of mechanisms to implement this access: state-based judicial mechanisms, state-based non-judicial grievance mechanisms, and non-state-based grievance mechanisms.⁴⁴⁸ In 2014, OCHCR and the Working Group on Business and Human Rights launched the Accountability and Remedy Project in which UN officials, academics, business representatives, and civil society experts developed credible and workable recommendations to enhance the access to remedy through the three types of mechanisms mentioned above.⁴⁴⁹ In 2016, the project published 19 recommendations on how to enhance the effectiveness of state-based judicial mechanisms.⁴⁵⁰ These recommendations included enhancing the resources of law enforcement authorities, increasing the penalties for human rights violations, and ramping up cooperation in cross-border cases.⁴⁵¹ In 2018, the Accountability and Remedy Project published 13 recommendations to improve the effectiveness of state-based, non-judicial mechanisms such as state ombudsman services, labor inspectorates, employment tribunals, environmental tribunals, and national human rights institutions.⁴⁵² This guidance also aimed at making these mechanisms more accessible, predictable, equitable, and transparent.⁴⁵³ Furthermore, it was recommended that Member States adopt laws that guarantee the effective implementation of outcomes of non-judicial mechanisms.⁴⁵⁴ The Accountability and Remedy Project is still developing its recommendations for a strengthening of non-state-based grievance mechanisms, such as those based at companies or multi-stakeholder approaches.⁴⁵⁵

Ending Gender Discrimination within the Workplace

Human rights violations committed by businesses disproportionately affect women, and 58% of victims of forced labor are women.⁴⁵⁶ Women also suffer from gender discrimination at the workplace and they hold only 27% of managerial positions despite constituting 39% of the workforce worldwide.⁴⁵⁷ Article 11 of CEDAW clearly states that women have the right to equal remuneration, equal treatment at the workplace, and social security.⁴⁵⁸ It also calls upon Member States to prohibit dismissal on the grounds of pregnancy or maternity leave, as well as discrimination due to marital status.⁴⁵⁹ The *Guiding Principles* call upon states and businesses to implement the principles with due regard to the different risks faced by women.⁴⁶⁰ In 2018, HRC underlined in resolution 37/16 that women are disproportionately exposed to the most precarious working conditions, have lower levels of representation in decision-making positions, and lower levels of remunerations.⁴⁶¹ In resolution 28/1 (2018), HRC called upon Member States to adopt

⁴⁴⁶ UN OHCHR, *Human Rights Report 2018*, 2018, p. 24.

⁴⁴⁷ Foster & Gray, Cambodia's Land Concessions Are Harming Indigenous People, *The Huffington Post*, 2016.

⁴⁴⁸ OHCHR, *Access to Remedy*, 2019.

⁴⁴⁹ OHCHR, *OHCHR Access to Remedy Project*, 2019.

⁴⁵⁰ UN HCR, *Improving Accountability and Access to Remedy for Victims of Business-Related Human Rights Abuse*, 2016.

⁴⁵¹ *Ibid.*, pp. 12-21.

⁴⁵² UN HRC, *Improving Accountability and Access to Remedy for Victims of Business-Related Human Rights Abuse Through State-Based Non-judicial Mechanisms (A/HRC/38/20)*, 2018, p. 3.

⁴⁵³ *Ibid.*, p. 14.

⁴⁵⁴ *Ibid.*, p. 11.

⁴⁵⁵ UN OHCHR, *OHCHR Access to Remedy Project III: Enhancing Effective of non-State-Based Grievance Mechanisms in Cases of Business-Related Human Rights Abuse*, 2019.

⁴⁵⁶ ILO, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*, 2017, p. 10.

⁴⁵⁷ UN-Women, *Progress on the Sustainable Development Goals: The Gender Snapshot 2019*, 2019, p. 11.

⁴⁵⁸ UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women (A/RES/34/180)*, 1979, p. 195.

⁴⁵⁹ *Ibid.*, p. 195.

⁴⁶⁰ UN HRC, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (A/HRC/17/31)*, 2011, p. 6.

⁴⁶¹ UN HRC, *Right to Work (A/HRC/RES/37/16)*, 2018, p. 3.

legislation that ensures equal pay for equal work and prohibit all forms of discrimination against women in the workplace.⁴⁶²

In 2010, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) published the *Women's Empowerment Principles*, which provide guidance for business on how to achieve gender equality.⁴⁶³ The *Women's Empowerment Principles* call upon businesses to establish positions within their leadership structure that are responsible for gender equality, respect human rights and the non-discrimination of women, and measure and publicly report on progress to achieve gender equality.⁴⁶⁴

Conclusion

The SDGs include a total of 169 targets, and 90% of them are linked to international human rights and labor standards.⁴⁶⁵ Business activities touch upon nearly every aspect of human life and are consequently extremely important in fulfilling the *2030 Agenda*.⁴⁶⁶ The existing frameworks such as the *UN Guiding Principles on Business and Human Rights* need to be implemented into concrete actions and put human rights at the center of every business decision.⁴⁶⁷ HRC is uniquely positioned to take on a leadership role in facilitating the global discussion about the most effective ways to move forward.⁴⁶⁸

Further Research

When researching the topic at hand, delegates should focus on the following questions: What are the most effective policies Member States can implement to better regulate business activities and ensure that they always adhere to human rights? How can businesses be further encouraged and incentivized to protect human rights? How can the international community address the unique challenge of TNCs, which operate globally and have subsidiaries in multiple countries? What are the best strategies to improve accountability and access to remedy for victims of human rights violations by businesses? How can the international community prevent that women suffer disproportionately from human rights violations by businesses and end gender discrimination at the workplace?

Annotated Bibliography

Office of the United Nations High Commissioner for Human Rights. (2018). *Human Rights Report 2018*. Retrieved 21 July 2019 from: <https://www.ohchr.org/Documents/Publications/OHCHRreport2018.pdf>

The most recent human rights report published by OHCHR includes a global overview and various country reports. The topic of business and human rights is mentioned very often and includes both examples of how OHCHR supports human rights activists in their fight against human rights violations committed by businesses. The report also contains examples of how businesses can positively contribute to the universal fulfillment of the human rights by implementing the UN Guiding Principles on Business and Human Rights.

Office of the United Nations High Commissioner for Human Rights. (2019). *Business and Human Rights*. Retrieved 20 July 2019 from: <https://www.ohchr.org/EN/Issues/Business/Pages/BusinessIndex.aspx>

This website contains a short overview of the topic of business and human rights. It also provides information on the activities of HRC and OHCHR and links to the websites of the various working groups. Delegates will find this page useful as starting point for their research into the mandate and activities of HRC. Delegates might want to explore the OHCHR Accountability and Remedy Project or the information on the fifth session of the

⁴⁶² UN HRC, *Elimination of all Forms of Discrimination Against Women and Girls (A/HRC/RES/38/1)*, 2018, p. 4.

⁴⁶³ UN-Women, *Women's Empowerment Principles*, 2010, p. 1.

⁴⁶⁴ Ibid.

⁴⁶⁵ UN Global Compact, *Human Rights: The Foundation of Sustainable Business*, 2018, p. 2.

⁴⁶⁶ Ibid.

⁴⁶⁷ Ibid., p. 23.

⁴⁶⁸ UN OHCHR, *Business and Human Rights*, 2019.

OEIGWG on the draft legally binding instrument to regulate the activities of TNCs. These webpages provide frequently updated overviews of ongoing processes within the topic and will allow delegates to create action plans that are linked to the current international discussion.

Office of the United Nations High Commissioner for Human Rights. (2019). *Revised Draft Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises*. Retrieved 20 July 2019 from:

https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/OEIGWG_RevisedDraft_LBI.pdf

This document is the revised draft legally binding instrument published by the OEIGWG in July 2019. This draft is not adopted by the OEIGWG and is subject to an ongoing debate within the OEIGWG. Nevertheless, this process has the potential to result in a legally binding international treaty regulating business activities of TNCs. Its scope is far-reaching and especially the proposed legal rights of victims of human rights violations are noteworthy. This resource will allow delegates insight into possible future developments of the norms regulating business activities and what is potentially achievable in HRC.

United Nations, Human Rights Council, Seventeenth session. (2011). *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (A/HRC/17/31)*. Retrieved 20 July 2019 from: <https://undocs.org/A/HRC/17/31>

The Guiding Principles are the core document of HRC on this topic and are widely referenced by other international organizations, governments, and businesses. They are the result of the work of the Special Rapporteur and constitute the baseline of internationally agreed responsibilities of states to regulate business activities as well as business responsibilities. Although they are not legally binding and not nearly as far-reaching as the draft legal instrument, the Guiding Principles are a good example for the norm-developing work done by HRC. This is a crucial resource for delegates as it represents the status-quo of the norms governing business activities.

United Nations, Human Rights Council, Thirty-eighth session. (2018). *Business and Human Rights: Improving Accountability and Access to Remedy (A/HRC/RES/38/13)*. Retrieved 20 July 2019 from:

<https://undocs.org/A/HRC/RES/38/13>

This is the most recent resolution adopted by HRC on the topic at hand. The resolution focuses on ways to improve accountability and access to remedy for human rights violations, It therefore welcomes the respective report written by the UN High Commissioner for Human Rights (A/HRC/38/20) and recommends to both Member States and businesses to implement the recommendations of the report. This resolution exemplifies the mandate and work of HRC and can provide delegates with important insights both into current priorities of the committee and the style in which HRC resolutions are written.

Bibliography

Business & Human Rights Research Centre. (2019). *About us*. Retrieved 23 August 2019 from:

<https://www.business-humanrights.org>

Foster, M. & D. Gray (2016, March 26). Cambodia’s Land Concessions Are Harming Indigenous People. *The Huffington Post*. Retrieved 21 September 2019 from:

https://www.huffingtonpost.ca/2016/03/26/cambodia-bunong-socfin_n_9551184.html

International Corporate Accountability Roundtable. (2017). *National Action Plans on Business and Human Rights: A Toolkit for the Development, Implementation, and Review of State Commitments to Business and Human Rights Frameworks*. Retrieved 23 August 2019 from:

<https://www.icar.ngo/publications/2017/1/4/national-action-plans-on-business-and-human-rights-a-toolkit-for-the-development-implementation-and-review-of-state-commitments-to-business-and-human-rights-frameworks>

International Corporate Accountability Roundtable. (2019). *Partners*. Retrieved 24 August 2019 from: <https://www.icar.ngo/partners>

International Labour Organization. (2010). *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up*. Retrieved 20 July 2019 from: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_467653.pdf

International Labour Organization. (2017). *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*. Retrieved 20 August 2019 from: https://www.ilo.org/wcmsp5/groups/public/---dgreports/-dcomm/documents/publication/wcms_575479.pdf

International Labour Organization. (2017). *Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy*. Retrieved 20 July 2019 from: https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---multi/documents/publication/wcms_094386.pdf

International Labour Organization. (2019). *About the ILO*. Retrieved 22 August 2019 from: <https://www.ilo.org/global/about-the-ilo/lang--en/index.htm>

International Labour Organization. (2019). *Health and Safety at the Workplace*. Retrieved 20 August 2019 from: <https://www.ilo.org/global/topics/dw4sd/themes/osh/lang--en/index.htm#46>

Hood, P. (2019). *UN Working Group Publishes Revised Draft of Business and Human Rights Treaty: Commentary on Scope, Prevention and Legal Liability*. Retrieved 19 August 2019 from: <https://www.jdsupra.com/legalnews/un-working-group-publishes-revised-24130/>

Office of the United Nations High Commissioner for Human Rights. (2017). *To the Members of the G20 Employment Working Group*. Retrieved 22 September 2019 from: https://www.ohchr.org/Documents/Issues/TransCorporations/20170324_UNWG_Open_Letter_G20.pdf

Office of the United Nations High Commissioner for Human Rights. (2017). *UN Experts Call on G20 Leaders to Protect Human Rights in Global Supply Chains*. Retrieved 22 September 2019 from: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21450>

Office of the United Nations High Commissioner for Human Rights. (2018). *Human Rights Report 2018*. Retrieved 21 July 2019 from: <https://www.ohchr.org/Documents/Publications/OHCHRreport2018.pdf>

Office of the United Nations High Commissioner for Human Rights. (2019). *About the UN Forum on Business and Human Rights*. Retrieved 20 July 2019 from: <https://www.ohchr.org/EN/Issues/Business/Forum/Pages/ForumonBusinessandHumanRights.aspx>

Office of the United Nations High Commissioner for Human Rights. (2019). *Access to Remedy*. Retrieved 21 September 2019 from: <https://www.ohchr.org/EN/Issues/Business/Pages/AccessToRemedy.aspx>

Office of the United Nations High Commissioner for Human Rights. (2019). *OHCHR Accountability and Remedy Project*. Retrieved 21 September 2019 from: <https://www.ohchr.org/EN/Issues/Business/Pages/OHCHRaccountabilityandremedyproject.aspx>

Office of the United Nations High Commissioner for Human Rights. (2019). *OHCHR Accountability and Remedy Project III: Enhancing Effectiveness of non-State-Based Grievance Mechanisms in Cases of Business-Related Human Rights Abuse*. Retrieved 21 October 2019 from: https://www.ohchr.org/EN/Issues/Business/Pages/ARP_III.aspx

Office of the United Nations High Commissioner for Human Rights. (2019). *Business and Human Rights*. Retrieved 20 July 2019 from: <https://www.ohchr.org/EN/Issues/Business/Pages/BusinessIndex.aspx>

Office of the United Nations High Commissioner for Human Rights. (2019). *Open-ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights*. Retrieved 20 July 2019 from: <https://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOntnc.aspx>

Office of the United Nations High Commissioner for Human Rights. (2019). *Revised Draft Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises*. Retrieved 20 July 2019 from: https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/OEIGWG_RevisedDraft_LBI.pdf

Office of the United Nations High Commissioner for Human Rights. (2019). *Special Representative of the Secretary-General on Human Rights and Transnational Corporations and Other Business Enterprises*. Retrieved 21 August from: <https://www.ohchr.org/EN/Issues/Business/Pages/SRSGTransCorpIndex.aspx>

Office of the United Nations High Commissioner for Human Rights. (2019). *Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises*. Retrieved 20 July 2019 from: <https://www.ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporationsandotherbusiness.aspx>

Organisation for Economic Co-operation and Development. (2011). *OECD Guidelines for Multinational Enterprises*. Retrieved 20 July 2019 from: <http://www.oecd.org/daf/inv/mne/48004323.pdf>

Organisation for Economic Co-operation and Development. (2018). *Annual Report on the OECD Guidelines for Multinational Enterprises 2018*. Retrieved 22 August 2019 from: <https://mneguidelines.oecd.org/2017-Annual-Report-MNE-Guidelines-EN.pdf>

Organisation for Economic Co-operation and Development. (2019). *Text of the OECD Declaration on International Investment and Multinational Enterprises*. Retrieved 22 August 2019 from: <https://www.oecd.org/daf/inv/investment-policy/oecddeclarationoninternationalinvestmentandmultinationalenterprises.htm>

Burke, J. (2014, April 19). Rana Plaza: One year on from the Bangladesh Factory Disaster.. *The Guardian*. Retrieved 22 September 2019 from: <https://www.theguardian.com/world/2014/apr/19/rana-plaza-bangladesh-one-year-on>

United Nations Entity for Gender Equality and the Empowerment of Women. (2010). *Women's Empowerment Principles*. Retrieved 22 September 2019 from: https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2011/10/women-s-empowerment-principles_en%20pdf.pdf?la=en&vs=1504

United Nations Entity for Gender Equality and the Empowerment of Women. (2019). *Progress on the Sustainable Development Goals: The Gender Snapshot 2019*. Retrieved 22 September 2019 from: <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2019/progress-on-the-sdgs-the-gender-snapshot-2019-two-page-spreads-en.pdf?la=en&vs=5814>

United Nations, General Assembly, Third session. (1948). *Universal Declaration of Human Rights (A/RES/217 A (III))*. Retrieved 20 July 2019 from: <http://www.un.org/en/documents/udhr/>

United Nations, General Assembly, Twenty-first session. (1966). *International Covenant on Economic, Social and Cultural Rights (A/RES/2200 (XXI))*. Adopted on the report of the Third Committee (A/6546). Retrieved 20 July 2019 from: [http://undocs.org/A/RES/2200\(XXI\)](http://undocs.org/A/RES/2200(XXI))

United Nations, General Assembly, Thirty-fourth session. (1979). *Convention on the Elimination of All Forms of Discrimination against Women (A/RES/34/180)*. Adopted on the report of the Third Committee (A/34/830). Retrieved 21 October 2019 from: <http://undocs.org/A/RES/34/180>

United Nations, General Assembly, Seventieth session. (2015). *Transforming our World: the 2030 Agenda for Sustainable Development (A/RES/70/1)*. Retrieved 20 August 2019 from: <http://undocs.org/A/RES/70/1>

United Nations Global Compact. (n.d.). *Human Rights*. Retrieved 20 July 2019 from: <https://www.unglobalcompact.org/what-is-gc/our-work/social/human-rights>

United Nations Global Compact. (2018). *Human Rights: The Foundation of Sustainable Business*. Retrieved 21 August from: <https://www.unglobalcompact.org/docs/publications/Human-Rights-The-Foundation-of-Sustainable-Business.pdf>

United Nations, Human Rights Council, Seventeenth session. (2011). *Human Rights and Transnational Corporations and Other Business Enterprises (A/HRC/17/4)*. Retrieved 20 July 2019 from: <https://undocs.org/A/HRC/res/17/4>

United Nations, Human Rights Council, Seventeenth session. (2011). *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (A/HRC/17/31)*. Retrieved 20 July 2019 from: <https://undocs.org/A/HRC/17/31>

United Nations, Human Rights Council, Twenty-sixth session. (2014). *Elaboration of an International Legally Binding Instrument on Transnational Corporations and Other Business Enterprises with Respect to Human Rights (A/HRC/RES/26/9)*. Retrieved 20 July 2019 from: <https://undocs.org/A/HRC/RES/26/9>

United Nations, Human Rights Council, Thirty-second session. (2016). *Improving Accountability and Access to Remedy for Victims of Business-Related Human Rights Abuse (A/HRC/32/19)*. Retrieved 21 September 2019 from: <https://undocs.org/A/HRC/32/19>

United Nations, Human Rights Council, Thirty-fifth session. (2017). *Business and Human Rights: Mandate of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises (A/HRC/RES/35/7)*. Retrieved 20 July 2019 from: <https://undocs.org/A/HRC/RES/35/7>

United Nations, Human Rights Council, Thirty-seventh session. (2018). *Human Rights and the Environment (A/HRC/RES/37/8)*. Retrieved 22 September 2019 from: <https://undocs.org/A/RES/37/8>

United Nations, Human Rights Council, Thirty-seventh session. (2018). *Right to Work (A/HRC/RES/37/16)*. Retrieved 22 September 2019 from: <https://undocs.org/a/HRC/RES/37/16>

United Nations, Human Rights Council, Thirty-eighth session. (2018). *Business and Human Rights: Improving Accountability and Access to Remedy (A/HRC/RES/38/13)*. Retrieved 20 July 2019 from: <https://undocs.org/A/HRC/RES/38/13>

United Nations, Human Rights Council, Thirty-eighth session. (2018). *Elimination of all Forms of Discrimination Against Women and Girls (A/HRC/RES/38/1)*. Retrieved 22 September 2019 from: <https://undocs.org/a/HRC/RES/38/1>

United Nations, Human Rights Council, Thirty-eighth session. (2018). *Improving Accountability and Access to Remedy for Victims of Business-Related Human Rights Abuse Through State-Based non-Judicial Mechanisms (A/HRC/38/20)*. Retrieved 20 July 2019 from: <https://undocs.org/A/HRC/38/20>

United Nations, Human Rights Council, Fortieth session. (2019). *Report on the Fourth Session of the Open-Ended Intergovernmental Working Group on Transnational Corporations and Other Business*



Enterprises With Respect To Human Rights (A/HRC/40/48). Retrieved 20 July 2019 from:
<https://undocs.org/A/HRC/40/48>

United Nations, Human Rights Council, Forty-first session. (2019). *Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises on the Seventh Forum on Business and Human Rights (A/HRC/41/49)*. Retrieved 20 July 2019 from:
<https://undocs.org/A/HRC/41/49>

Weilert, K. (2010). Taming the Untamable? Transnational Corporations in United Nations Law and Practice. *Max Planck Yearbook of United Nations Law*, 14 :445-506.. Retrieved 22 August 2019 from:
https://www.mpil.de/files/pdf3/mpunyb_11_weilert_14.pdf

Zerk, J. (2014). *Corporate Liability for Gross Human Rights Abuses*. Retrieved 21 September 2019 from:
<https://www.ohchr.org/Documents/Issues/Business/DomesticLawRemedies/StudyDomesticLawRemedies.pdf>