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Human Rights Council Background Guide 2020

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NATIONAL MODEL UNITED NATIONS



Dear Delegates,

Welcome to the 2020 National Model United Nations Conference in Washington, DC (NMUN•DC)! We are pleased to introduce you to our committee, the Human Rights Council (HRC). This year's staff is: Director Miranda Coleman and Assistant Director Anthony Bassey. Miranda holds degrees in History and Education and is currently serving as an educator in Alberta, Canada. Anthony studied Biology at Arkansas State University, with a minor in Spanish. He currently works as an Administrative Assistant for the American Red Cross.

The topics under discussion for HRC are:

- I. The 25th Anniversary of the Beijing Declaration and Platform for Action: Progress on Women's Empowerment
- II. The Impact of Counter-Terrorism Practices on 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 conduct additional research, explore your Member State's policies in-depth, and examine the policies of other Member States to improve your ability to negotiate and reach consensus. In preparation for the conference, each delegation will use their research to draft and submit a position paper. Guidelines are available in the NMUN Position Paper Guide.

The NMUN website has many additional resources, including two that are essential both in preparation for the conference and as a resource during the conference. They are:

1. The NMUN Delegate Preparation Guide, which 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 discuss the topics or agenda with other members of their committee until the first committee session.
2. The NMUN Rules of Procedure, which includes 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-Secretary-General Adam Wolf at usgadam.dc@nmun.org or Secretary-General Daniel Sweeney at secgen.dc@nmun.org. We wish you all the best in your preparations and look forward to seeing you at the conference!

Sincerely,

Miranda Coleman, Director
Anthony Bassey, Assistant Director



TABLE OF CONTENTS

Committee Overview	1
Introduction	1
Governance, Structure, and Membership.....	2
Mandate, Functions, and Powers	3
Conclusion	6
Annotated Bibliography.....	6
Bibliography	7
I. The 25th Anniversary of the Beijing Declaration and Platform for Action: Program on Women’s Empowerment	10
Introduction	10
International and Regional Framework.....	11
Role of the International System.....	11
Challenges in Achieving Global Gender Equality	13
Gender Integration	13
Conclusion	15
Further Research.....	15
Annotated Bibliography.....	15
Bibliography	16
II. The Impact of Counter-Terrorism Practices on Human Rights	19
Introduction	19
International and Regional Framework.....	20
Role of the International System.....	21
Protecting Privacy in Counter Terrorism Efforts	21
Maintaining Human Rights Under Emergency Powers	23
Conclusion	24
Further Research.....	24
Annotated Bibliography.....	24
Bibliography	26



Committee Overview

Introduction

Within the United Nations (UN) system, the Human Rights Council (HRC) is the body “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 Since its establishment in 2006, the HRC “has responded to urgent human rights situations [through] special sessions; has taken measures to address the accountability for the grave violation of international human rights and humanitarian law by establishing commissions of inquiry or dispatching fact-[finding] missions.”² The HRC extends its purview to several regions of 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 The adoption of the UDHR led to the Centre for Human Rights, formed by the UN Secretariat to oversee the UN’s human rights program, located at the UN Headquarters in New York.⁵ In the 1980s, the office was relocated from New York City to Geneva, Switzerland.⁶ In 1993, the World Conference on Human Rights, in its *Vienna Declaration and Programme of Action*, recommended the General Assembly 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 Michelle Bachelet of Chile is the current High Commissioner for Human Rights.¹⁰ Ms. Bachelet is the seventh High Commissioner and has prioritized the advancement of gender equality within the OHCHR.¹¹

As international human rights law has evolved and multifarious human rights violation plague the world, specialized agencies within the UN system have emerged.¹² One of these was the Commission on Human Rights, or the Commission, which functioned as an intergovernmental organization of the UN.¹³ In 1946 the Commission was to address human rights challenges and concerns.¹⁴ After receiving critique for “excessive politicization”, recommendations were made to the General Assembly to replace the

¹ UN OHCHR, *Welcome to the Human Rights Council*, 2020.

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, *41st 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*, 2020.

⁶ *Ibid.*

⁷ UN General Assembly, *High Commissioner for the Promotion and Protection of all Human Rights (A/RES/48/141)*, 1994; *Ibid.*

⁸ *Ibid.*

⁹ UN OHCHR, *The Human Rights Council and the Role of the Office of the High Commissioner for Human Rights*, 2020.

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*.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

Commission with a new Human Rights Council.¹⁵ Resolution 60/251, confirmed this recommendation and the Commission was replaced by what is now the Human Rights Council.¹⁶ The newly established HRC holds the same responsibilities as the Commission once did, but its mandate was expanded upon.¹⁷ The OHCHR provides logistical, administrative and substantive support to the work of all UN human rights mechanisms, while the work of the HRC is supported by OHCHR and reports to the General Assembly.¹⁸ Five years after its foundations, the HRC's work was reviewed by an open-ended intergovernmental working group and the General Assembly decided it would remain as subsidiary body without substantial changes to its governance.¹⁹

Governance, Structure, and Membership

A vote made by the majority of Member States in the General Assembly, through a direct and secret ballot, elects 47 members to the HRC.²⁰ Each seat is staggered in the HRC, with one third of the allocated seats elected annually.²¹ All five geographic regions are represented in the HRC – 13 from African States, 13 Asia-Pacific states, eight Latin American and Caribbean states, seven Western European and others states, and six European states.²² The last election took place on 17 October 2019, during the General Assembly's 74th session.²³

In March, June, and September, HRC holds regular sessions to discuss issues under its purview and last a minimum of 10 weeks combined.²⁴ If necessary, one third of the HRC's member can request a special session to address any pressing human rights issues.²⁵ There have been 28 special sessions.²⁶ The latest special session was held on 18 May 2018 to address the "Deteriorating Human Rights Situation in the Occupied Palestinian Territory, Including East Jerusalem."²⁷ During the first regular session of each year, Member States elect a President and four Vice Presidents to serve on its Bureau, which is responsible for the organization and procedural function of the HRC.²⁸ The President is to summon and preside over organizational meetings and regular sessions, as well as propose candidates to serve as special procedures mandate holders.²⁹ The current President is Coly Seck, the Senegalese Permanent Representative to the UN Office in Geneva.³⁰

HRC established the Advisory Committee as a subsidiary body in 2007.³¹ The main function of the Advisory Committee is to provide policy advice and expertise to the HRC.³² It meets biannually and is composed of 18 human rights experts, who are elected by the HRC in proportion to the regional composition of the Council.³³ The Advisory Committee regularly publishes reports at the request of the

¹⁵ 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.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid; 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.

²⁰ UN OHCHR, *Membership of the Human Rights Council*, 2020.

²¹ Ibid.

²² Ibid.

²³ UN General Assembly, *Election of the Human Rights Council (17 October 2019)*, 2019.

²⁴ UN OHCHR, *Sessions*, 2020.

²⁵ Ibid.

²⁶ Ibid.

²⁷ 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.

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

²⁹ Ibid.

³⁰ UN OHCHR, *President of the 13th Cycle*, 2020.

³¹ Ibid.

³² UN OHCHR, *Background Information on the Advisory Committee*, 2020.

³³ Ibid.

HRC and discusses research proposals and studies in the field of human rights.³⁴ Moreover, As the committee allotted to address agenda items of social, humanitarian affairs and human rights issues, the Third Committee of the General Assembly is responsible for evaluating human rights questions and hears annual reports made by the HRC.³⁵

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.³⁶ Partnerships facilitate many of HRC's initiatives, including specific programs or frameworks targeting groups deprived of their access to fundamental human rights and freedoms.³⁷ 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.³⁸ 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.³⁹

Mandate, Functions, and Powers

General Assembly resolution 60/251 established the HRC's mandate.⁴⁰ The HRC serves to promote universal respect for all human rights and fundamental freedoms and effective governance within the UN system in regards to human rights issues, and if necessary, can provide recommendations on all human rights violations.⁴¹ HRC is "guided by the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue, and cooperation."⁴² The General Assembly also designated the HRC as a forum for discussing all human rights issues, including violations, emergency response, education and matters of prevention.⁴³ Also crucial to informing the mandate and work of the 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.⁴⁴ 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.⁴⁵ Additionally, the *2030 Agenda for Sustainable Development* (2030 Agenda) adopted in 2015, and its 17 Sustainable Development Goals (SDGs) guide the work of the HRC, and inform its current priorities.⁴⁶

The HRC's mandate has not been changed since its establishment in 2006, but HRC resolution 5/1 on "institution building" was adopted in 2007 to put in place mechanisms and structures to guide HRC's program of work, as well as rules of procedure, and other operational functions.⁴⁷ The resolution also established the format for Special Procedures, the UPR and Complaint Procedure.⁴⁸ Special Procedures are mechanisms that enable independent parties to report, monitor, and advise on country-specific or thematic situations of the HRC.⁴⁹ 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.⁵⁰

³⁴ UN HRC, *Report of the Advisory Committee on its Twentieth Session (A/HRC/AC/20/2)*, 2018.

³⁵ UN General Assembly, *Social, Humanitarian & Cultural Issues (Third Committee)*.

³⁶ UN OHCHR, *NGO and NHRI Information*, 2020.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ UN OHCHR, *Fact Sheet No. 2 (Rev. 1), The International Bill of Human Rights*, 1996.

⁴⁵ UN OHCHR, *Human Rights: A Basic Handbook for UN Staff*, 2000.

⁴⁶ 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*, 2020.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ UN OHCHR, *Special Procedures of the Human Rights Council*, 2020

⁵⁰ Ibid.

Special Procedures can take country or field visits endorsed by the OHCHR, and bring specific cases and concerns to the attention of Member States.⁵¹ They can send communications detailing accusations of violations or abuses of human rights, engage in advocacy efforts, and offer technical assistance.⁵²

The UPR is one of the most important functions of the HRC.⁵³ Each Member State of the UN submits to a periodic review to assess the fulfillment of its human rights obligations.⁵⁴ The full cycle of the UPR process takes around four years and includes several steps.⁵⁵ The UPR is unique in both its approach and its universality.⁵⁶ 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.⁵⁷ At the review stage, documents are presented at the regular sessions of the working group on the UPR, which is also composed of all 47 Member States.⁵⁸ At the stage of adoption and consideration, each Member State provides comments and the state under review can offer reservations on specific issues.⁵⁹ Finally, during the follow-up stage, each state under review shows how effectively it has acted upon the recommendations received.⁶⁰ The UPR has entered its third cycle (2017-2021).⁶¹

Recent Sessions and Current Priorities

From 9 to 27 September 2019, the HRC held its 42nd regular session.⁶² During its first week, the HRC received an updated the Report of the Independent Investigative Mechanism for Myanmar.⁶³ In September 2018, a report by the Independent Fact-Finding Mission believed to have found international crime committed in Myanmar that could no longer be lawfully ignored, leading to HRC resolution 39/2.⁶⁴ The Mechanism is at its initial stages and because of the consequential nature of investigation and the random temperament of life, its execution will have to be flexible.⁶⁵ Furthermore, as the Mechanism is to gather and analyze evidence of serious international crime and violation of international law in Myanmar, particularly since 2011, it also serves to build criminal case files to later be adjudicated in court from the national to international level.⁶⁶

Reports were made by the Special Rapporteur throughout the 42nd session such as “contemporary forms of slaving including its causes and consequence”, which provided an analysis of effective means to tackle emerging forms of slavery, distinguished pertinent stakeholders in the coordination of anti-slavery efforts, and suggested an integrated approach in light of international human rights law to address slavery substantially.⁶⁷ “The rights of indigenous peoples” was also made by the Special Rapporteur, and made recommendations to strengthen equity for indigenous peoples, along with heightened acknowledgement of their rights within ordinary and indigenous justice systems.⁶⁸ Working Group (WG) reports were acknowledged such as the WG “on Enforced or Involuntary Disappearances”, which informed the HRC of

⁵¹ Ibid.

⁵² Ibid.

⁵³ UN OHCHR, *Universal Periodic Review*, 2020.

⁵⁴ UN OHCHR, *Working with the United Nations Human Rights Programme: A Handbook for Civil Society*, 2008, p. 80.

⁵⁵ Ibid, p. 80.

⁵⁶ Ibid.

⁵⁷ Ibid, p. 81.

⁵⁸ Ibid, p. 81.

⁵⁹ Ibid, p. 81.

⁶⁰ Ibid, p. 81.

⁶¹ UN OHCHR, *Human Rights Council Universal Periodic Review (Third Cycle)*.

⁶² Ibid.

⁶³ UN HRC, *Report of the Independent Investigative Mechanism for Myanmar (A/HRC/42/66)*, 2019.

⁶⁴ UN HRC, *Statement to the Human Rights Council by Nicholas Koumjian Head of the Independent Investigative Mechanism for Myanmar, on the 42nd Regular Session of the Human Rights Council*, 2019.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Ibid.

its current examination of cases from 3 May 2018 to 22 May 2019, and WG “of Experts on People of African Descent on its twenty-third and twenty-fourth sessions”, focused on the theme “Data for racial justice”, acknowledging data should integrate both racial justice and injustice.⁶⁹

UPR outcomes were reported for Albania, Brunei Darussalam, Costa Rica, Cote d’Ivoire, the Democratic Republic of the Congo, the Democratic People of Korea, Equatorial Guinea, Ethiopia, Nicaragua, Norway, Portugal, and Qatar.⁷⁰ Some of the international obligations in light of humanitarian law that were made by Member States include responses to equality and non-discrimination, right to health, and the acknowledge of rights for women, children, and persons with disabilities.⁷¹ For instance, Albania has taken measures to prevent and reprimand all forms of hate speech and hate crimes against minorities, LGBTI persons, refugees, and migrants; The Democratic Republic of Korea aims to achieve universal health care; and Cote d’Ivoire has ensured persons with disabilities have access to education and employment opportunities.⁷²

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.⁷³ In January 2019, HRC hosted an intersessional meeting for dialogue and cooperation on the 2030 Agenda, focused on empowerment, inclusiveness and equality.⁷⁴ 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.⁷⁵ During the session, there was a widespread consensus that the SDGs can only be realized by a human rights-sensitive approach.⁷⁶ There must also be synergy between the implementation of SDGs – SDG 4 (quality education); SDG 8 (decent work and economic growth); SDG 10 (reduced inequalities); SDG 13 (climate change); SDG 16 (peace, justice and strong institutions); and SDG 17 (partnership for the goals) and human rights at the local, national, regional and global level.⁷⁷ In order to address this task there must be a unified message by the human rights community in Geneva and the developmental community in New York.⁷⁸ Suggested action to bridge this gap is to have a space for dialogue at the High-Level Political Forum on Sustainable Development, held in July 2019, to read the meeting’s summary report and provide a space for dialogue on human rights issues.⁷⁹

Though its 43rd regular session began on 24 February 2020 and planned to end on 20 March 2020, the HRC suspended this session on 13 March 2020 due to circumstances surrounding COVID-19.⁸⁰ However, the HRC has taken advantage of teleconferencing to conduct intersessional meetings in place of in person meetings due to COVID-19.⁸¹ The HRC, with the guidance of its Bureau, plans to hold meetings addressing its functionality, as the international community adapts to the global pandemic.⁸² With the help of the Special Procedures fact-finding mechanism, the HRC will continue to prioritize human rights and develop innovative means to assist states and pertinent stakeholders as they adapt to the

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ UN OHCHR, *Cycles of the Universal Periodic Review*, 2020.

⁷² UN OHCHR, *Letters* by the HC to the Foreign Ministers of Member States*, 2020.

⁷³ 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.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ 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.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ UN OHCHR, *43rd session of the Human Rights Council (24 February – 20 March 2020)*, 2020.

⁸¹ UN OHCHR, *Despite COVID-19, Human Rights Council carries on with its work virtually*, 2020.

⁸² Ibid.

COVID-19 crisis.⁸³ The Coordination Committee of Special Procedures also developed a COVID-19 web page, which it hopes to serve as a guide for Member States and advise them on proper human right practices in light of the global pandemic.⁸⁴

Conclusion

The HRC addresses human rights on global, regional, and national levels to ensure all Member States safeguard the fundamental freedoms and rights articulated by international law.⁸³ As it continues to invest in knowledge sharing and be informed by its various Mechanism, the HRC will always be abreast of the fact in its recommendation and decisions.⁸⁵ As human rights issues are multidimensional and at times relative, the HRC will always encourage desegregated dialogue in its forums.⁸⁶ As the right to health, adequate living and security are fundamental human rights, the HRC has ensured its guidance is still accessible to Member States, allowing them to take advantage of appropriate resources and the means to adapt during times of crisis.⁸⁷ The HRC will continue to remain steadfast in its mandate and work with NGOs, civil societies, working groups, inter-agency mechanisms, and coalitions as international human rights and its complexity evolve.⁸⁸

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

The work of the HRC is supported by the UN OHCHR, and this info sheet 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 the different human rights frameworks are. This source provides a very comprehensive overview of how HRC is connected to all the SDGs.

United Nations, Human Rights Council, Fifth session. (2007). *Institution-building of the United Nations Human Rights Council (A/HRC/RES/5/1)*. Retrieved 16 May 2020 from:

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

HRC resolution 5/1 established the procedures, mechanisms, and governance that is now the HRC today. The resolution details HRC's mandate and its rules of procedure. The resolution also modified the system of expertise for human rights issues and the adopted the Complaint Procedure from the old human rights council, the Commission. HRC resolution 5/2 helps delegates gain foundational knowledge of the HRC.

United Nations, World Conference on Human Rights. (1993). *Vienna Declaration and Programme of Action*. Retrieved 16 May 2020 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." The HRC considers the Vienna Declaration during all of their meetings, and they hold annual follow-up discussions about the Vienna Declaration and Programme of

⁸³ UN OHCHR, *Human Rights Council discusses human rights implications of the COVID-19 crisis with its special procedures mandate holders*, 2020.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ 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.

⁸⁷ Ibid.

⁸⁸ Ibid.



Action. The Vienna Declaration and Programme of Action can help delegates understand the HRC's governance and what their mandate is.

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I. The 25th Anniversary of the Beijing Declaration and Platform for Action: Program on Women's Empowerment

*"The human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in political, civil, economic, social, and cultural life at the national, regional, and international levels, and the eradication of all forms of discrimination on grounds of sex, are priority objectives of the international community."*⁸⁹

Introduction

The *Beijing Declaration and Platform for Action* was developed at the Fourth World Conference on Women in Beijing, China in 1995.⁹⁰ The conference was the largest gathering of gender advocates in history, and was adopted by 189 Member States.⁹¹ Although the status of women has improved generally, world leaders recognize that this progress is uneven, and that there are many challenges in achieving gender equality.⁹² Member States, and other stakeholders at the conference made the declaration to further emphasize, and build a roadmap towards achieving gender equality.⁹³ The declaration seeks to address inequalities between men and women, by providing a roadmap towards actualizing gender equality globally through women's empowerment.⁹⁴ The declaration enumerates several areas of development where women are denied an equal opportunity, and recommends specific actions for women's empowerment.⁹⁵

The 25th anniversary will serve as a forum to review the progress made by all Member States in the areas of women's empowerment, and gender equality, ensuring that the progress that has been made is not reversed, or slowed down.⁹⁶ The theme for the 25th anniversary is "Accelerating the Realization of Gender Equality and the Empowerment of all Women, on the United Nations (UN) 75th anniversary."⁹⁷ In line with the UN theme for its anniversary, the General Assembly encourages Member States to draft and present action plans and renew their commitments to accelerate the realization of gender equality.⁹⁸

The Beijing Declaration focuses on twelve areas concerning the implementation of women's rights and women's empowerment, one of which is the education and training of women by bridging the gaps that remain where women have no access to formal education.⁹⁹ Another area focuses on the advancement of women in leadership roles to increase their representation, and inclusion in decision-making, drawing more attention to the lack of women in policy-making.¹⁰⁰ The programs that build on the foundations of the Beijing Declaration seek to liberate women from poverty by providing training, loans, and practical skills for self-sustenance.¹⁰¹ Other programs aim to educate all women to better empower, and equip them to make economic decisions at different levels, and end practices that bring harm to women and girls, and safety for women fleeing from violence.¹⁰²

⁸⁹ UN World Conference on Human Rights, *Vienna Declaration and Programme of Action*, 1993.

⁹⁰ International Institute for Sustainable Development, *Governments Set Plans for Beijing+25 in 2020*, 2019.

⁹¹ Ibid.

⁹² UN Fourth World Conference on Women, *Beijing Declaration and Platform for Action*, 1995.

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ UN Human Rights Special Procedures, *25 Years in Review of the Beijing Platform for Action*, 2020.

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ UN Women, *12 Critical Areas*, 2015.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² Ibid.

International and Regional Framework

In 1993, the World Conference on Human Rights adopted the *Vienna Declaration and Programme of Action*.¹⁰³ This declaration serves as a framework to advance the implementation of human rights by all Member States, and reiterates the responsibility of Member States to promote the advancement of human rights, without discrimination of any sort.¹⁰⁴ The Vienna Declaration addresses the disparity in the global implementation of human rights among women.¹⁰⁵ The implementation of the declaration adds to several other international instruments such as the 1966 *International Covenant on Economic, Social, and Cultural Rights*, to advance gender equality and the empowerment of women.¹⁰⁶ During the 43rd session of the Human Rights Council (HRC) in February 2020, a High-Level Political discussion addressed the global actualization of gender equality since the inception of the Beijing Declaration.¹⁰⁷ This forum provided a medium for dialogue on the challenges that still hinder complete and global implementation.¹⁰⁸

In 1979, the UN General Assembly adopted the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, serving as a comprehensive framework to protect against the discrimination of women across the world.¹⁰⁹ The convention includes three aspects of women's empowerment, the legal status of women, human reproduction, and the impact of the cultural factor on gender.¹¹⁰ CEDAW draws attention to the plight of women, as it pertains to political participation and decision making, emphasizes the right of women to vote, and equal rights of women to represent their countries at international levels.¹¹¹ The convention also aims to expand general understanding of human rights, while drawing attention to the role played by culture and environment in limiting the fundamental rights of women.¹¹² Every four years Member States submit national reports to the CEDAW demonstrating their national efforts in the implementation of the convention.¹¹³

The 1953 *European Convention on Human Rights* was adopted by the Council of Europe to enhance the implementation of rights stated in the 1948 *Universal Declaration of Human Rights*.¹¹⁴ Moreover, the 2011 *Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention)* outlines measures to create legal framework the prevents and prosecutes violent acts against women.¹¹⁵ To continuously review and implement the convention, the Istanbul Convention has set up a dual monitoring mechanism to aid the implementation of the convention by state parties.¹¹⁶ These mechanisms are independent groups of experts that monitor and evaluate the implementation of the convention by the European Member States.¹¹⁷

Role of the International System

HRC focuses on the procedures, mechanisms, and implementation of the Beijing Declaration by Member States, through the work of its subsidiary bodies, including the Universal Periodic Review Working Group which reviews the human rights records of all Member States.¹¹⁸ The objective of this mechanism is to

¹⁰³ Ibid.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ HRC, *Human Rights Council Holds High-Level Panel Discussion on Commemorating the Twenty-fifth Anniversary of the Beijing Declaration and Platform for Action*, 2020.

¹⁰⁸ Ibid.

¹⁰⁹ UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women (A/RES/34/180)*, 1979.

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² Ibid.

¹¹³ Ibid.

¹¹⁴ Council of Europe, *European Convention on Human Rights*, 1957.

¹¹⁵ Council of Europe, *Gender Equality and Women's Rights*, 2016.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

¹¹⁸ HRC, *Universal Periodic Review*, 2020.

improve the realization of human rights in all countries, and address human rights violations when they occur.¹¹⁹ During the 27th session of the Universal Period Review (UPR) Working Group, 14 Member States were evaluated on their progress towards achieving gender equality, including women’s rights and the rights of the girl child, the right to education, and inclusion in decision-making.¹²⁰ The session included specific recommendations to Member States on how to better implement their commitments to the conventions relating to the rights and empowerment of women.¹²¹ The report recommends that Member States should criminalize violence against women in their national laws and focus on promote those enhancing the economic, social, and cultural rights of women.¹²² One of the ways in which HRC works to promote and defend women’s civil and political rights is through special procedures which submit reports and advise the council on country-specific matters from a national perspective.¹²³ Special procedures sometimes include visits to a given Member State, and dialogue when there are reports of human rights violations.¹²⁴ In 2013, the United Nations High Commissioner for Human Rights (UNHCR) submitted a report to the HRC that analyzed how women in some Member States are not allowed their full rights as citizens of these countries.¹²⁵ This report highlighted how gender equality was improved when legislation was made to improve women’s civil and political rights.¹²⁶ Some of these improvements include an increased number of women parliamentarians in some Member States, the integration of gender into national laws, and the establishment and strengthening of programs designed to train, educate, and empower women.¹²⁷

The United Nations Children’s Fund (UNICEF), works to build partnerships across the global community.¹²⁸ It partners with national health sectors to expand quality maternal care, and support the training of female grassroots health workers.¹²⁹ These partnerships, promote the role of women in the construction and use of water infrastructure, sanitation, and hygiene (WASH).¹³⁰ The UNICEF *Gender Action Plan 2018 – 2021* prioritizes the needs of adolescent girls across the world by working toward ending child marriage, advancing girls participation in science, technology, and math (STEM) fields, and preventing gender-based violence.¹³¹ As part of its efforts in promoting the rights of women, the Office of the High Commissioner for Human Rights (OHCHR) facilitates training and advocacy in partnership with Member States, civil society organizations, and other related groups.¹³² OHCHR works to promote and improve gender equality in areas of research and human rights mainstreaming, technical cooperation, and human rights mechanism support.¹³³ The gender integration work of the OHCHR also includes efforts to institutionalize gender equality in its organizational culture, and processes.¹³⁴ To help track progress of implementing progress towards eliminating discrimination against women, The Committee on the Elimination of Discrimination Against Women serves as body of independent experts that monitor the implementation of CEDAW.¹³⁵

¹¹⁹ Ibid.

¹²⁰ Universal Periodic Review, *Women’s Rights, Detention and Racial Discrimination Highlighted at UPR 27*, 2017.

¹²¹ Ibid.

¹²² Ibid.

¹²³ OHCHR, *Special Procedures of the Human Rights Council*, 2020.

¹²⁴ Ibid.

¹²⁵ OHCHR, *Women’s Civil and Political Rights*, 2020.

¹²⁶ HRC, *Report on Discrimination Against Women on Nationality-related Matters, Including the Impact on Children (A/HRC/23/23)*, 2020, pp. 11-13.

¹²⁷ Ibid, pp. 11-13.

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ UNICEF, *Gender Equality*, 2020.

¹³¹ UNICEF, *Gender Action Plan 2018 – 2021*, 2018.

¹³² OHCHR, *Violence Against Women*, 2020.

¹³³ OHCHR, *Gender Integration*, 2020.

¹³⁴ OHCHR, *Women’s Rights are Human Rights*, 2014.

¹³⁵ Ibid.

Challenges in Achieving Global Gender Equality

As the world continues to develop and change, there have been tangible improvements in gender equality, especially in terms of education.¹³⁶ From 1995 to 2020, the number of girls who are out of school has decreased from 65 million to 32 million at the primary school level, 52 to 30 million at the lower secondary school level, and 91 to 67 million at the upper secondary school level.¹³⁷ Within this time frame, female youth literacy has increased from 80% to 90% among girls aged 15–24, and girls life expectancy has increased from 67.5 years to 75.2 years globally.¹³⁸

While these figures show a general improvement, there are other areas which have lacked progress or have stagnated, especially in places where child marriage is prevalent and girls are denied the right to education.¹³⁹ Globally, girls aged 10-14 spend 50% more of their time than boys on household chores.¹⁴⁰ About one in three girls have undergone female genital mutilation in the 30 countries where it is most prevalent.¹⁴¹ Furthermore, 1 in 20 girls between the ages of 15 and 19 have faced forced sex in their lifetime.¹⁴² This has directly led to 1 in 4 girls between the ages of 15–19 being unemployed or not receiving education or training compared to 1 in 10 boys globally due to gender discriminatory teaching practices.¹⁴³ These challenges highlight how harmful cultural norms can still inhibit and halt progress in gender equality.¹⁴⁴

Nonetheless, women and girls across the world have persisted in their determination to have their voices heard, and to establish dialogue towards achieving gender equality.¹⁴⁵ Improvements in gender equality are often because women were involved in policy development and decision making at various levels of government.¹⁴⁶ Some women-led movement and initiatives, such as in Lebanon, have brought access to information and promoted the involvement of other women and girls in STEM.¹⁴⁷ These efforts have put more women in spaces where their impact can be felt as global citizens as world leaders.¹⁴⁸ With more widespread implementation of gender mainstreaming, women and girls are offered a clearer path towards gender equality and fair treatment.¹⁴⁹

Gender Integration

Gender integration, or gender mainstreaming, is a process meant to include women in all policy and future building initiatives.¹⁵⁰ Gender integration seeks to ensure that in the planning of policies and programs, women and men’s concerns and experiences form an integral part of the designs, implementation, monitoring and evaluation.¹⁵¹ The OHCHR began its efforts in gender integration by first implementing its Gender Equality Strategic Plan within its office.¹⁵² This plan equips its staff with the knowledge and resources needed to spread the goals of gender mainstreaming to the rest of the world.¹⁵³ It encourages gender integration achievement by ensuring the inclusion of women into office as departmental heads, and placing women in positions of authority to better monitor, and promote the

¹³⁶ Ibid.

¹³⁷ Ibid.

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ UNICEF, *Gender Equality Overview*, 2018.

¹⁴¹ Ibid.

¹⁴² Ibid.

¹⁴³ Ibid.

¹⁴⁴ Ibid.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ UNICEF, *GirlForce*, 2018, p. 17.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Ibid.

¹⁵³ Ibid.

advancement of women within OHCHR offices.¹⁵⁴ Gender integration also involves the assessment all planned actions, legislation, and programs, in all areas, at all levels, and the impacts on women during implementation.¹⁵⁵ Gender integration requires that women and men are equal contributors in policy-making to eliminate the consequences that arise when either group is not included in policy making and planning.¹⁵⁶ This is being achieved through guidance from the OHCHR's Gender Equality Policy of which serves as an update, and replacement for the Policy Statement on Gender Mainstreaming and Human Rights of Women that was instituted in year 2000.¹⁵⁷ This policy serves to ensure that integration of a gender perspective in policy formulation is consistent in all aspects of the work of the HRC and OHCHR.¹⁵⁸ HRC annually reviews, and evaluates its work in the integration of a gender perspective in its operations, and uses the outcome information to enhance its procedures.¹⁵⁹

The *United Nations System-Wide Action Plan on Gender Equality* (UN SWAP) is a mechanism that enhances the accountability of Member States, and monitor the progress made towards the realization of gender equality and the empowerment of women.¹⁶⁰ The implementation of this mechanism includes 15 performance indicators in achieving gender equality.¹⁶¹ Performance Indicator 7, Leadership, focuses on how senior managers can directly promote gender equality by prioritizing UN norms and standards, and implementing these without discrimination, fear, or favor.¹⁶² Performance Indicator 13, Organizational Culture, aims to promote a work environment that supports gender equality and the empowerment of women.¹⁶³ This indicator evaluates the extent to which decision-making involves staff, irrespective of rank, grade, or opinion, and the ways in which a given institution conduct its affairs and treats its employees and partners.¹⁶⁴ These fifteen performance indicators are based on the six elements of the 2006 *UN System-wide Policy on Gender Equality and the Empowerment of Women*, which consist of strengthening accountability, enhancing results-based management, and establishing oversight through monitoring, evaluation and reporting.¹⁶⁵ The second generation of the UN-SWAP framework was updated in 2018, and 66 UN entities utilized UN SWAP to report on their various mandates and objectives.¹⁶⁶ The new system involves more widespread consultation across the UN system, and dealings its objectives in line with the *2030 Agenda for Sustainable Development*.¹⁶⁷ The reports collectively showed that general improvements had been made on financial resource allocation, and knowledge and communication.¹⁶⁸ The results also showed a balance between socioeconomic empowerment and a technical focus in the advancement of gender equality.¹⁶⁹

Despite positive developments, the recent indicators of SDG 5 show that there is still much work to accomplish on gender equality, with many Member States lacking institutions that support or promote the inclusion of women in decision making.¹⁷⁰ Even where NGOs have partnered with national governments and the UN System, the success has not been unhindered.¹⁷¹ The need for more national governments to provide platforms for dialogue and partnership will further improve the success rate of gender

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

¹⁵⁶ Ibid.

¹⁵⁷ OHCHR, *Gender Equality Policy*, 2011.

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

¹⁶⁰ UN Women, *United Nations System-Wide Action Plan*, 2018.

¹⁶¹ Ibid.

¹⁶² UN Women, *Performance Indicator 07: Leadership*, 2018.

¹⁶³ UN Women, *Performance Indicator 13: Organisational Culture*, 2018.

¹⁶⁴ Ibid

¹⁶⁵ Ibid.

¹⁶⁶ UN Women, *United Nations System-Wide Action Plan 2.0 Performance Results*, 2018.

¹⁶⁷ UN Women, *Promoting UN Accountability (UN-SWAP and UNCT-SWAP)*, 2012.

¹⁶⁸ UN Women, *United Nations System-Wide Action Plan 2.0, Summary of 2018 System-Wide Reporting Results*, 2018.

¹⁶⁹ Ibid

¹⁷⁰ UN DESA, *Progress of Goal 5 in 2019*.

¹⁷¹ European Bank for Development and Reconstruction, *Strategy for the Promotion of Gender Equality*.

mainstreaming initiatives.¹⁷² Sponsorship of women empowerment initiatives at the highest levels of government, appointment of women into more senior national roles, monitoring and public evaluation, and gender responsiveness and sensitivity in all careers fields of study, serve as examples of areas in which national governments can enhance the gender integration in national planning.¹⁷³

Conclusion

Despite the obstacles in achieving the global actualization of gender equality, global leaders continue to work towards building a future where all women and men enjoy the same rights, resources, opportunities and protections.¹⁷⁴ The Gender Action Plan includes strategic goals aimed at eradicating specific challenges such as child marriage, gender-based marriage, and access to education.¹⁷⁵ These goals are closely linked with the Sustainable Development Goals (SDGs), and include access to learning for all children, an equal chance to life for boys and girls, safe environments.¹⁷⁶ Learning and development of adequate skills to enable women to thrive in every aspect of life also contribute to more independence and the advancements of women into higher positions in their various career paths.¹⁷⁷

Further Research

How can Member States promote gender equality, and contribute to global actualization? What are the challenges that hinder gender equality within the timeline of the 2030 Agenda? What can be done to improve the status of women in regions where women suffer from discrimination in political office, and government? How can national legislation be designed to build institutions that will promote the empowerment of women from early childhood? Where societal norms contribute to discrimination against women, what is a feasible roadmap for implementation of the Beijing Declaration?

Annotated Bibliography

Council of Europe. (2016). *Gender Equality and Women's Rights*. Retrieved 30 March 2020 from: <https://rm.coe.int/168058feef>

This publication provides delegates with several examples of regional work in the international system to promote gender equality. Delegates will find this useful when working towards outcome documents that reflect the objectives of their respective regions and blocs. Examples can be drawn from this publication on how these regional policies were drafted, adopted, and implemented. Delegates will be able to build on the foundations of the goals outlined herein as they draft their resolutions. It also serves as an evaluation of the effectiveness of the frameworks discussed within and will help delegates build stronger regional partnerships.

International Institute for Sustainable Development. (2019). *Governments Set Plans for Beijing+25 in 2020*. Retrieved 29 March 2020 from: <https://sdg.iisd.org/news/governments-set-plans-for-beijing25-in-2020/>

This publication gives one a background knowledge of the Beijing Declaration in a concise form. The information is direct and easy to understand. It also gives a good introduction to what is to be discussed or addressed at the conference. It addresses the history of the declaration, and the issues outlined for the 25th anniversary. It also contains resources on other specific topics and issues that relate to the declaration. Delegates will find this useful for their initial research when connecting the foundations of the

¹⁷² HRC, *Annual discussion on the Integration of a Gender Perspective in the Work of the Human Rights Council*, 2011.

¹⁷³ Ibid.

¹⁷⁴ Ibid.

¹⁷⁵ Ibid.

¹⁷⁶ Ibid.

¹⁷⁷ Ibid.

declaration to current global issues. The report also outlines access to other publications that pertain to gender equality.

United Nations, Office of the High Commissioner for Human Rights. (2014). *Women's Rights are Human Rights*. Retrieved 29 March 2020 from:

<https://www.ohchr.org/Documents/Events/WHRD/WomenRightsAreHR.pdf>

This publication provides delegates a common resource on information about the Beijing Declaration, and other framework documents. It shows the commonality they all share in the interest of gender equality and women's empowerment. The publication also discussed the difference between equality and equity. Delegates will find this useful when comparing the work done by different frameworks in the advancement of gender equality. It will also provide delegates with other resources pertaining to discrimination against women.

United Nations, Office of the High Commissioner for Human Rights. (2020). *Gender Integration*. Retrieved 29 March 2019 from: <https://www.ohchr.org/EN/Issues/Women/Pages/GenderIntegration.aspx>

This publication shows the importance of giving women an equal opportunity and decision-making power in policy planning. It highlights some ways in which women can be empowered to have equal opportunities as men. It is also loaded with other resources that deal with more specific aspects of gender integration. It is a good starting point for delegates to begin their research on current issues that hinder the actualization of gender equality. Delegates will find this publication to be concise and straight to the point.

United Nations Entity for Gender Equality and the Empowerment of Women. (2020). *12 Critical Areas*. Retrieved 30 March 2020 from: <https://www.unwomen.org/en/news/in-focus/csw59/feature-stories>

This publication will provide delegates with more in-depth knowledge about the objectives of the Beijing Declaration. The publication highlights the 12 critical areas of concern put forth by the declaration. Delegates will find in each area, information about the progress of global work in achieving the various objectives of the declaration. Delegates will also find numerous resources on case studies that show how work at national and local levels has contributed to implement the declaration. This publication will serve as a guiding tool when delegates deliberate on the different aspects of women's empowerment and gender equality.

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II. The Impact of Counter-Terrorism Practices on Human Rights

Introduction

The United Nations (UN) Commission on Human Rights (CHR) resolution 2005/80 on “Protection of Human Rights and Fundamental Freedoms While Countering Terrorism,” outlines that Member States have an obligation when utilizing counter-terrorism practices to act in accordance with international law and with respect to fundamental human rights.¹⁷⁸ Since the September 11th terrorist attacks on the United States in 2001, there has been a massive increase globally in counter terrorism practices which have and continue to violate these human rights.¹⁷⁹ After 2001, states in every region prioritized national security, many of which lacked strong legal safeguards to protect their most vulnerable citizens.¹⁸⁰ Surveillance dramatically increased, with states more likely to declare a state of emergency, granting governments exceptional powers.¹⁸¹ Amnesty International found, in a 2017 investigation into counter terrorism practices, that individuals accused of associating with members of the terrorist organization Boko Haram were detained for 32 weeks on average, often without viable evidence.¹⁸² During their questioning and incarceration, the accused were subject to torture, which often led to disappearances, accidental death, or extrajudicial executions.¹⁸³ According to the 2004 report of the Secretary-General on “Protecting Human Rights and Fundamental Freedoms while Countering Terrorism” (E/CN.4/2004/91), counter terrorism strategies such as mass surveillance and initiating emergency powers can delegitimize democratic institutions such as judicial and discriminatory constitutional protections.¹⁸⁴ A study published in 2017 found that states who are impacted the most by terrorism are developing states primarily in the Middle East, south Asia, and Africa who struggle with systematic discrimination and internal conflict, thus exacerbating threats to human rights under state sanctioned counter terrorism efforts.¹⁸⁵ States cannot arbitrarily remove or ignore human rights from persons without upholding their rights, as outlined in the ICCPR.¹⁸⁶ The *2030 Agenda for Sustainable Development* specifically outlines the importance of equality and legitimacy in judicial process in Sustainable Development Goal (SDG) 16 on Peace, Justice, and Strong Institutions, particularly in targets 16.3 and 16.6 which call for the application of the rule of law and transparency.¹⁸⁷

The UN Human Rights Council (HRC) and other UN bodies work with states to develop and implement strategies and provide technical assistance that protect human rights within civil society and on an individual level after acts of terror.¹⁸⁸ The HRC’s primary objective when working with states on counter terrorism is to incorporate safeguards that protect persons from human rights violations, largely through the work of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.¹⁸⁹ Mandated through HRC, the Special Rapporteur dialogues with state actors as well as other stakeholders to identify potential and active human rights violations as well as report on the implementation and progress on strategies in protecting human rights while addressing

¹⁷⁸ UNCHR, *Protection of Human Rights and Fundamental Freedoms While Countering Terrorism* (E/CN.4/RES/2005/80), 2005.

¹⁷⁹ HRC, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the human rights challenge of states of emergency in the context of countering terrorism* (A/HRC/37/52), 2018.

¹⁸⁰ UN Permissions, *5 fast facts about the High-Level Conference on Counter-Terrorism*, 2018.

¹⁸¹ *Ibid.*

¹⁸² Amnesty International, *Cameroon’s secret torture chambers: human rights violations and war crimes in the fight against Boko Haram*, 2017.

¹⁸³ *Ibid.*

¹⁸⁴ ECOSOC, *Protecting Human Rights and Fundamental Freedoms while Countering Terrorism* (E/CN.4/2004/91), 2004.

¹⁸⁵ Our World in Data, *Terrorism*, 2019.

¹⁸⁶ HRC, *Seventieth anniversary of the Universal Declaration of Human Rights and twenty-fifth anniversary of the Vienna Declaration and Programme of Action* (A/HRC/RES/35/1), 2017.

¹⁸⁷ UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development* (A/RES70/1), 2015.

¹⁸⁸ *Ibid.*

¹⁸⁹ *Ibid.*

terrorism.¹⁹⁰ HRC is mandated to protect and address violations of human rights, including the right to equality before the law as well as the right to be free of torture and cruel, inhuman or degrading treatment or punishment.¹⁹¹

International and Regional Framework

In 1948 the UN established the *Universal Declaration of Human Rights* (UDHR), outlining essential human rights for all peoples, including the right to freedom, dignity, security, freedom from slavery or servitude, freedom from torture, arbitrary arrest or detention, freedom from interference of one's privacy, and asylum from persecution.¹⁹² The *International Convention on the Elimination of All Forms of Racial Discrimination* (1969) prohibits discrimination based on race, gender, age, religion, and country of origin, highlighting the obligation of states to protect the human rights of all people outlined in the UDHR, even threat of terrorism.¹⁹³ The *International Covenant on Civil and Political Rights* (ICCPR) in 1966 further emphasized the importance of freedom of religion, speech, and rights to due process and a fair trial.¹⁹⁴ In 1993, Vienna hosted the World Convention on Human Rights where states and non-governmental bodies founded the *Vienna Declaration and Programme of Action*, which emphasized the interconnected nature of all human rights.¹⁹⁵ In highlighting this, the declaration discusses that human rights violations are not independent of one another, meaning that when human rights are violated, a precedent of systematic and continuing human rights violations is set, exacerbating the original violation.¹⁹⁶

Due to the global increase in of terrorist activities at the turn of the millennia, the CHR adopted resolution 2005/80, *Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*.¹⁹⁷ This resolution was the last document to be adopted by the CHR on addressing human rights violations as a direct result of state sanctioned counter-terrorism measures before the functional body was replaced by HRC in 2006.¹⁹⁸ Resolution 2005/80, references *Protecting Human Rights and Fundamental Freedoms while Countering Terrorism*, a document published by the Economic and Social Council (ECOSOC), calling attention to the need to honor the legitimacy of human rights while persecuting potential terrorist activities during a state of emergency.¹⁹⁹ The document explains that while states are able to suspend some rights for the purposes of dealing with an emergency crisis swiftly, that violating due process and fair trial protections delegitimizes the prosecution and may have greater implications for the human rights of all citizens.²⁰⁰ In 2017, HRC adopted resolution 34/8 on the *Effects of terrorism on the enjoyment of all human rights (A/HRC/RES/34/8)*, which emphasizes the importance of respecting human rights for persons under arrest on suspected terrorist acts or associations.²⁰¹ Then in 2018, HRC published the *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism on the Human Rights Challenge of States of Emergency in the Context of Countering Terrorism (A/HRC/37/52)* which further emphasized the need to maintain the human rights of all persons when a State of Emergency is issued after a terrorist threat.²⁰² The Special Rapporteur makes recommendations in the report for counter terrorism strategies that minimize threats to human rights the spread of xenophobia.²⁰³

¹⁹⁰ OHCHR, *Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, 2020.

¹⁹¹ OHCHR, *The 20th Anniversary of OHCHR – 20 human rights achievements*, 2016.

¹⁹² UN General Assembly, *Universal Declaration of Human Rights (A/RES/217 A (III))*, 1948.

¹⁹³ UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination (A/RES/2106 (XX))*, 1965.

¹⁹⁴ UN General Assembly, *International Covenant on Civil and Political Rights*, 1966.

¹⁹⁵ Ibid.

¹⁹⁶ Ibid.

¹⁹⁷ OHCHR, *Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, 2005.

¹⁹⁸ Ibid.

¹⁹⁹ Ibid.

²⁰⁰ Ibid.

²⁰¹ HRC, *Effects of terrorism on the enjoyment of all human rights (A/HRC/RES/34/8)*, 2017.

²⁰² Ibid.

²⁰³ Ibid.

Role of the International System

HRC is mandated to engage in international discussion to call attention to and prevent human rights abuses as well as identify gaps in maintaining and supporting human rights.²⁰⁴ The Office of the United Nations Commissioner for Human Rights (OHCHR) serves as the primary substantive and administrative support HRC.²⁰⁵ OHCHR works to empower individuals and state actors to realize fundamental human rights by providing technical assistance to local governments, such as training in legislative and judicial reform that supports human rights while strengthening counter-terrorism measures.²⁰⁶ The Security Council's Counter-Terrorism Committee (CTC) works with HRC and OHCHR, as well as other human rights organizations on recommending counter-terrorism practices that do not sacrifice the human rights of the accused or of civilians.²⁰⁷ The UN Counter-Terrorism Implementation Task Force (CTITF) established the Working Group on Protecting Human Rights and the Rule of Law While Countering Terrorism to promote information sharing and strategies on human rights, while improving the capacity of states to counter terrorism.²⁰⁸

The CHR, which was replaced by HRC in 2006, appointed a Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism in 2005.²⁰⁹ The rapporteur is tasked with making recommendations to members states, intergovernmental bodies, and UN agencies on strengthening human rights protections while improving terrorism threat interference.²¹⁰ In 2019 HRC expanded the mandate of the special rapporteur by three years to further support Member States in developing human rights sensitive counter-terrorism policies as an advisor or with technical assistance.²¹¹ The 2019 report of the Special rapporteur, *The Impact of measures to address terrorism and violent extremism on civic space and the rights of civil society actors and human rights defenders (A/HRC/40/52)*, criticizes the practice of targeting civil society in counter terrorism measures as it violates human rights and doesn't effectively combat terrorism.²¹² The special rapporteur is tasked with conducting investigations that outline counter terrorism practices that undermine the rights of civilians and encourages urgent change to threat interference practices that threaten human rights such as violations of privacy of the restriction of movement.²¹³

Protecting Privacy in Counter Terrorism Efforts

Article 12 of the UDHR outlines the right to privacy as fundamental to protecting the well-being of persons.²¹⁴ The ICCPR links the right to privacy as an inherent part of upholding the right to freedom of association, assembly, and speech, which should not be interfered with arbitrarily.²¹⁵ The right to privacy includes the identity of the person as well as their private life.²¹⁶ According to a report published in 2008 by the OHCHR, in the event of major terrorist attacks, states are more likely to increase their surveillance, particularly in airports, border crossings, around federal buildings, and major architectural structures like bridges.²¹⁷ OHCHR explains that states are also more likely to increase their collection of biometric data of citizens, such as finger printing, further interfering with privacy rights.²¹⁸ In accordance with the ICCPR, the search, surveillance and collection of private data must be prescribed in legislation ensuring that

²⁰⁴ OHCHR, *The Human Rights Council and the role of the Office of the High Commissioner for Human Rights*, 2020.

²⁰⁵ Ibid.

²⁰⁶ Ibid.

²⁰⁷ UN Security Council CTC, *Human Rights*, 2019.

²⁰⁸ Ibid.

²⁰⁹ Ibid.

²¹⁰ Ibid.

²¹¹ Ibid.

²¹² HRC, *The Impact of measures to address terrorism and violent extremism on civic space and the rights of civil society actors and human rights defenders*, 2019.

²¹³ Ibid.

²¹⁴ Ibid.

²¹⁵ Ibid.

²¹⁶ Ibid.

²¹⁷ OHCHR, *Human Rights, Terrorism and Counter-Terrorism*, 2008.

²¹⁸ Ibid.

obstruction of privacy is proportionate to exceptional circumstances, as well as predictable and is not arbitrary.²¹⁹ To protect individuals from arbitrary arrest or detention, the person being detained must be informed of their factual grounds for arrest, and is free to challenge the lawfulness of detainment.²²⁰ OHCHR recommends that counter terrorism legislation outline specific circumstances when a state will enact exceptional measures that result in privacy interference.²²¹ When data security is compromised information about a person's location, habits, and values can be exploited to target individuals or groups.²²² This information can be used nefariously by organized crime groups, terrorist organizations and oppressive regimes, even when collected by states for the purposes of countering terrorism.²²³ For example, compromised location data can inform a nefarious group where an individual's residence is, where the residences of family members are, as well as persons they have connected with, their schedule trends, political affiliations and habits.²²⁴ This information can be used for the purposes of robbery, violent attacks, suppression of free speech, suppression of freedom of association, blackmail, and censorship.²²⁵ OHCHR recommends that states protect the private information from disclosure and arbitrary or unlawful use, including from persons or groups who do not have legal access to the information or for use not listed in the ICCPR.²²⁶

At its twenty-seventh session in 2014, HRC published *The Right to Privacy in the Digital Age* which acknowledged that states frequently justify the surveillance and collection of private information as a counter terrorism measure.²²⁷ The document explains that digital communication technologies have been utilized for illegal purposes, such as recruitment and organization for terrorist attacks, and under the ICCPR is deemed legitimate when in line with state safeguards and is deemed a great benefit.²²⁸ The ICCPR states that violations of privacy must be the least intrusive forms of interference with a specific purpose or risk being addressed.²²⁹ *The Right to Privacy in the Digital Age* explains that to implement the recommendations in the ICCPR, privacy interference should be explicit and targeted as possible, otherwise that mass surveillance may be considered arbitrary.²³⁰ The High Commissioner of Human Rights made a call to action in 2014 for states to review their national policies and legislation on privacy and counter terrorism measures to ensure they are reflective of international rights standards, particularly when addressing digital surveillance.²³¹ With guidance from the OHCHR and HRC, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism conducts state specific reports to collect data and review national legislation on counter terrorism practices to work with states on protecting rights, such as privacy, while countering terrorism.²³² These revisions extend to intelligence agencies operating internationally as well as on the local level, to align with extraterritorial duties and must be transparent.²³³ Under the ICCPR, states should be accountable for privacy interference and protect any information collected diligently.²³⁴ The commissioner has also stressed that these expectations should be a legal requirement for private information agencies with strict consequences for violations, such as fines and imprisonment as determined and enforced by the Member States who's citizens have faced the violation.²³⁵

²¹⁹ Ibid.

²²⁰ Organization for Security and Co-Operation in Europe, *Human Rights In Counter-Terrorism Investigations*, 2013.

²²¹ Ibid.

²²² Chartered Institute for Information Technology, *The Dangers of Data Collection*, 2019.

²²³ Ibid.

²²⁴ Ibid.

²²⁵ Ibid.

²²⁶ Ibid.

²²⁷ HRC, *The Right to Privacy in the Digital Age*, 2014.

²²⁸ Ibid.

²²⁹ Ibid.

²³⁰ Ibid.

²³¹ Human Rights Watch, *Rein in Mass Surveillance*, 2014.

²³² Ibid.

²³³ Ibid.

²³⁴ Ibid.

²³⁵ Ibid.

Maintaining Human Rights Under Emergency Powers

In exceptional circumstances, such as a large or a series of terrorist attacks, democratic states can struggle to react swiftly to a crisis due to strong constitutional checks and balances.²³⁶ Many states choose to enact emergency provisional powers, by temporarily suspending the rights of civilians and concentrating executive powers, to efficiently safeguard national security and expediate a return to normalcy.²³⁷ Rights that are suppressed under these temporary provisions are referred to as “derogable,” meaning they are not absolute, as explained in Article 4 of the ICCPR.²³⁸ The ICCPR lists non-derogable rights as the right to life, the freedom from torture or cruel, inhuman and degrading treatment or punishment, and freedom of thought, conscience and religion.²³⁹ In the 2018 *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the human rights challenge of states of emergency in the context of countering terrorism*, the Special Rapporteur explains that declaring a state of emergency and implementing emergency powers should be reserved for extreme circumstances, where other measures have already been attempted with little success, and abuse of extra powers is prohibited.²⁴⁰

After the United States 2001 terrorist attacks, a global “war on terror” began, placing greater tensions on states and proliferating states of emergencies.²⁴¹ The 2018 *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the human rights challenge of states of emergency in the context of countering terrorism*, addresses the common threats to fundamental human rights when a State of Emergency is issued after a terrorist threat.²⁴² Marginalized groups are more likely to face the restricting of human rights after extenuating circumstances, such as acts of terror.²⁴³ Rights for cultural autonomy and freedom to speak minority languages are typically negotiated for constitutional recognition over decades but are derogable, meaning marginalized groups can lack cultural rights during emergency times.²⁴⁴ Without cultural protections, experts identify that individuals and groups are more likely to face an increase in systematic discrimination.²⁴⁵ In 2018, the UN Special Rapporteur on the protection of human rights conducted a visit to France where they commended the efforts made to counter terrorism, but determined that some state practices under emergency powers encroached on fundamental human rights such as freedom of religion.²⁴⁶ Local authorities in some regions called for the closure of places of worship for religious minorities to limit gatherings of marginalized groups.²⁴⁷ The Special Rapporteur determined these policies to be inappropriate and disproportionate, since it identified minorities as part of a “suspect group”, violating religious freedoms and exacerbating social and systematic discrimination.²⁴⁸

Some nations with robust emergency powers entrench counter-terrorism measures in their legislation to bypass declaring a state of emergency, allowing states implement counter terrorism strategies and practices without the temporary suspension of rights during emergency times.²⁴⁹ Safeguards, such as non-discrimination clauses, can be added under state of emergency articles in state constitutions to protect the rights of vulnerable and marginalized individuals and groups.²⁵⁰ The special rapporteur also suggests the overview, and in some cases approval, of a human rights body before declaring a state of

²³⁶ International Institute for Democracy and Electoral Assistance, *Emergency Powers: International IDEA Constitution-Building Primer 18*, 2018.

²³⁷ Ibid

²³⁸ Ibid.

²³⁹ Ibid.

²⁴⁰ Ibid.

²⁴¹ OHCHR, *Emergency powers should be limited and proportionate - UN anti-terrorism expert*, 2018.

²⁴² Ibid.

²⁴³ Ibid.

²⁴⁴ Ibid.

²⁴⁵ Ibid.

²⁴⁶ UN News, *France: New terrorism laws may undercut human rights and freedoms, says UN expert*, 2018.

²⁴⁷ Ibid.

²⁴⁸ Ibid.

²⁴⁹ Ibid.

²⁵⁰ Ibid.

emergency, to ensure a lawful and proportionate response to terrorist crisis.²⁵¹ States need continual oversight of emergency powers to ensure that the purpose of realizing exceptional powers is genuine and relational to the crisis without the intention of limiting fundamental rights.²⁵²

Conclusion

More than 140 states have created or strengthened policies on terror interference and counter terrorism since 2001.²⁵³ The UN has negotiated 16 international treaties on effective counter terrorism practices that minimize the suppression of human rights.²⁵⁴ These treaties have been essential in protecting victims of human rights violations as a direct result of counter terrorism practices and loopholes in policy.²⁵⁵ HRC is mandated to provide recommendations for effective and efficient counter terrorism efforts that safeguard and prevent the suppression of fundamental rights and freedoms.²⁵⁶ HRC, with the support of the OHCHR and Special Rapporteurs, works with Member States and other stakeholders to identify potential threats to human rights when countering terrorism, especially as it pertains to surveillance and emergency powers.²⁵⁷ This notion is supported through Security Council resolution 1566 (2004) which states that policies to combat terrorism must strengthen the rule of law by maintaining human rights.²⁵⁸ The threat of terrorism is a dynamic global issue that requires international commitments to both interfering with the threat as well as protecting all persons through robust safeguards.²⁵⁹ Member States are obliged by treaty commitments and international law to uphold and protect fundamental human rights, including under the threat of terrorism.²⁶⁰ Therefore, members of HRC have a responsibility to work cooperatively in protecting human rights, identifying gaps in framework commitments, and further protecting human rights.²⁶¹

Further Research

While researching, delegates should review the mandate of HRC to provide recommendations that promote and protect human rights, focusing on human rights violations as a result of counter-terrorism practices. While investigating this topic, delegates should consider the following questions: How can human rights be maintained in response to counterterrorism? How can human rights be strengthened and protected when states are accessing emergency powers? How can Member States ensure the rights of minority groups are protected when enacting emergency powers? What measures can be taken to protect the privacy of individuals? What other methods can be used in confronting terrorism without potentially suppressing fundamental rights?

Annotated Bibliography

Office of the United Nations High Commissioner for Human Rights. (2008). *Human Rights, Terrorism and Counter-Terrorism*. Retrieved 28 March 2020 from: <https://www.ohchr.org/Documents/Publications/Factsheet32EN.pdf>

This factsheet gives delegates a broad understanding on terrorism practices and how they might suppress fundamental rights. It outlines specific challenges in protecting human rights, including derogable rights. This factsheet summarizes the impacts of state policies on terrorism within broader international legal frameworks, giving details on treaty

²⁵¹ Ibid.

²⁵² Ibid.

²⁵³ Human Rights Watch, *In the name of security*, 2012.

²⁵⁴ Ibid.

²⁵⁵ Ibid.

²⁵⁶ Ibid.

²⁵⁷ Ibid.

²⁵⁸ UN Security Council, *Threats to international peace and security caused by terrorist acts (S/RES/1566 (2004))*, 2004.

²⁵⁹ Ibid.

²⁶⁰ Human Rights Watch, *No to Terrorism, Yes to Human Rights*, 2016.

²⁶¹ Ibid.

and international law obligations of Member States. Delegates will find this factsheet succinct and essential as in addressing the complexity of the topic.

Office of the United Nations High Commissioner for Human Rights. (2020). *Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*. Retrieved 28 March 2020 from: <https://www.ohchr.org/en/issues/terrorism/pages/srterrorismindex.aspx>

This source concisely outlines the history of the role of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. It explains how the role of Special Rapporteur has evolved to fit the changing policies of counter-terrorism practices. Delegates will find this source to be an essential component of research as HRC works closely with and mandates the work of the Special Rapporteur. This source also provides the reader with links to recent reports and documents published by the Special Rapporteur, including those specific to surveillance and emergency powers.

United Nations Commission on Human Rights. (2005). *Protection of Human Rights and Fundamental Freedoms While Countering Terrorism (E/CN.4/RES/2005/80)*. Retrieved 15 February 2020 from: <http://www.refworld.org/docid/429c57ad4.html>

This resolution is considered one of the founding documents on addressing human rights violations perpetrated under government sanctioned counter terrorism practices. The document is written in the context of the large increase of counter terrorism practices that spread globally after the major terrorist attacks in 2001. Delegates will find this document to be an informative source calling attention to human rights violations in counter terrorism practices, as well as outlining the importance of combatting discrimination and xenophobia among civil society and law enforcement while protecting states from acts of terrorism. The document outlines for delegates what the UN prioritizes in addressing during the rise of counter terrorism enforcement.

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 15 March 2020 from: [http://undocs.org/A/RES/2200\(XXI\)](http://undocs.org/A/RES/2200(XXI))

This Covenant lays the foundation for the protection of civil and political rights for all persons. Delegates will find this document to outline importance of protecting fundamental rights from state suppression during a crisis, such as the imminent threat of acts of terror. The covenant outlines the obligations that state actors have in upholding the right of their citizens. This is the guiding document for all recommendations made by HRC regarding this topic, therefore it is essential to the further research of delegates.

United Nations, Human Rights Council. (2017). *Effects of terrorism on the enjoyment of all human rights (A/HRC/RES/34/8)*. Retrieved 15 February 2020 from: <http://undocs.org/A/HRC/RES/34/8>

This resolution was passed by the Human Rights Council to provide an overview of how acts of terrorism and counter terrorism measures can restrict or violate human rights. The document discusses the importance of human rights for people under arrest on suspected terrorism or acting under terrorism associations. Delegates will find this resolution fundamental in understanding the work of the committee on this topic, as it discusses the progress protecting human rights while states continue fighting terrorism.

United Nations, Human Rights Council. (2018). *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism on the Human Rights Challenge of States of Emergency in the Context of Countering Terrorism (A/HRC/37/52)*. Retrieved 15 February 2020 from: <https://undocs.org/A/HRC/37/52>

This document is the 2018 report by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, which addresses the common human rights violations of the state when a State of Emergency is issued after a terrorist threat. This document is essential to the research of delegates as it gives highly detailed information and examples of human rights violations perpetrated by state governments and local law enforcement to combat terrorism. The

document also recommends less harmful counter terrorism strategies and discusses the importance in minimizing the spread of xenophobia after terrorist activities.

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